



Supreme Court of the Philippines Philippine Judicial Academy



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Judges: Undue delay in rendering decision; violation of the Rules of Procedure for Small Claims Cases

Section 22 of the Rules of Procedure for Small Claims Cases provides for the period within which judgment shall be rendered to wit:

Sec. 22. *Failure of Settlement* – If efforts at settlement fail, the hearing shall proceed in an informal and expeditious manner and be terminated within one (1) day. Either party may move in writing to have another judge hear and decide the case. The reassignment of the case shall be done in accordance with existing issuances.

The referral by the original judge to the Executive Judge shall be made within the same day the motion is filed and granted, and by the Executive Judge to the designated judge within the same day of the referral. ***The new judge shall hear and decide the case within five (5) days from the receipt of the order of reassignment.***

Respondent judge violated the said rule when he decided the small claims case of complainant after two (2) months due to the series of postponements he granted during the hearing of the case.

For undue delay in rendering a decision and violation of the Rules of Procedure for Small Claims Cases, respondent was fined P5,000.00 and sternly warned. **(A.M. No. MTJ-11-17-92, October 3, 2011)**

Judges: Gross misconduct; abandonment

In *Mercado v. Salcedo, A.M. No. RTJ-03-1781, October 16, 2009*, the Supreme Court ruled that unauthorized absences and irregular attendance are detrimental to the dispensation of justice and, often than not, result in undue delay in the disposition of cases; they also translate to waste of public funds when the absent officials and employees are nevertheless paid despite their absence.

Respondent judge should have been more conscious of his court duties. As a judge and a court official, he has the duty to perform his functions promptly and regularly. He should have been aware that, in frequently leaving his station, he has caused great disservice to many litigants and has denied them speedy justice. His continued absence for more than four (4) years has caused disservice to numerous litigants.

For gross misconduct and abandonment of office, respondent judge was dismissed from the service with forfeiture of all benefits and with prejudice to reemployment in the government including GOCC's **(A.M. No. 07-9-214-MTCC, July 26, 2011)**

Clerk of Court; Gross misconduct

The Code of Conduct for Court Personnel stresses that employees of the Judiciary serve as sentinels of justice and any act of impropriety on their part immeasurably affects the honor and dignity of the Judiciary and the people's confidence in it.

Respondent committed gross misconduct when he prepared an affidavit of relinquishment stating therein that the original claimant of a piece of land, grandfather of complainant herein, and who died earlier has relinquished all his rights to the said lot in favor of respondent clerk of court.

Said act of respondent was a willful perversion of the truth that greatly prejudiced the rights and interests of complainant and his co-heirs.

As respondent compulsorily retired on September 28, 2010, the penalty of dismissal can no longer be imposed upon him. Instead, he was fined P40,000.00 to be deducted from his retirement benefits. **(A.M. No. P-09-2703, September 5, 2011)**

Clerk of Court: Simple misconduct

Supreme Court Circular No. 26-27 dated May 5, 1997, mandates the issuance of official receipts for payments received.

Respondent clerk of court issued a mere acknowledgment receipt in lieu of the official receipt for the process server fee she received in violation of said Circular No. 26-27.

For simple misconduct respondent was fined P1,000.00 and sternly warned. **(A.M. No. P-11-2970, September 14, 2011)**

Sheriff: Negligence and grave misconduct

In a contract of mortgage, the debtor retains beneficial interest over the property notwithstanding the encumbrance, since the mortgage only serves to secure the fulfillment of the principal obligation. Even if the debtor defaults, this fact does not operate to vest in the creditor the ownership of the property; the creditor must still resort to foreclosure proceedings. Thus, a mortgaged property may still be levied upon by the sheriff to satisfy the judgment debtor's obligation.

In light of the foregoing, the Supreme Court ruled that respondent sheriff did not violate any rule when he levied on the car of the judgment debtor despite the fact that said car has been previously encumbered in another case involving the same debtor-owner of the car.

The encumbrance until foreclosed does not in any way affect the judgment debtor's rights over the levied car or exempts it from the levy. Even the pendency of the proceedings for replevin that the complainant instituted would not serve to prevent respondent sheriff from levying on the car, since the default of the owner-debtor and the complainants' right to foreclose still had to be settled in a proceeding for the purpose.

For lack of merit, the case against respondent sheriff was dismissed. **(A.M. No. P-11-2888, July 27, 2011)**

Philippine Judicial Academy

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Head, Research, Publication and Linkages Office (RPLO)

Prof. Sedfrey M. Candelaria

Editors

Dean Eulogia M. Cueva

Atty. Orlando B. Cariño

Staff

Nennette G. Zaldivar

Rodrigo G. Javier

The *PHILJA Fax/Electronic Alerts* is issued monthly by the RPLO of the Philippine Judicial Academy with offices at the 3rd Floor of the Supreme Court Centennial Building, Taft Avenue, Manila. Tel. No. (02)552-9518; Telefax; (02)552-9621
E-mail address: research_philja@yahoo.com. For link to e-library: www.supremecourt.gov.ph.

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