



# Supreme Court of the Philippines Philippine Judicial Academy



## ***PHILJA Fax/Electronic Alerts***

Issue 12-10  
October 2012

### **Judges: Gross ignorance of the law**

In *Tam vs. Regencia*, A.M. No. MTJ-05-1604, June 27, 2006, the Court ruled that issuances in the exercise of judicial prerogatives may only be questioned through judicial remedies under the Rules of Court and not by way of an administrative inquiry, absent fraud, ill intentions, or corrupt motive.

Sections 2 and 11 of Rule 71 of the Rules of Court lay down the proper remedies from a judgment in direct and indirect contempt proceedings to wit:

“2. *Remedy therefrom.* – The person adjudged in direct contempt by any court may not appeal therefrom, but may avail himself of the remedies of certiorari or prohibition. The execution of the judgment shall be suspended pending resolution of such petition, provided such person files a bond fixed by the court which rendered the judgment and conditioned that he will abide by and perform the judgment should the petition be decided against him.

In indirect contempt proceedings, the Rule states:

Sec. 11. *Review of judgment or final order; bond for stay.* – The judgment or final order of a court in a case of indirect contempt may be appealed to the proper court as in criminal cases. But execution of the judgment or final order shall not be suspended until a bond is filed by the person adjudged in contempt, in an amount fixed by the court from which the appeal is taken, conditioned that if the appeal be decided against him he will abide by and perform the judgment or final order.”

Complainant who was cited for contempt by respondent judge did not avail himself of the correct remedies provided in said Rule 71 of the Rules of Court. Instead he filed this administrative case, a wrong remedy, hence, the case against respondent judge was dismissed. **(A.M. No. RTJ-09-2179, September 24, 2012).**

### **Judges: Gross ignorance of the law**

A motion to render judgment based on the pleadings is a litigious motion because the grant of such motion will eliminate trial and the case will be considered submitted for decision. For this reason, service to the adverse parties of such litigious motion should be made at least three days before the date of the hearing as mandated by Section 4, Rule 15 of the Rules of Court.

Respondent judge granted a contentious motion which contained a defective notice of hearing. Said notice of hearing was defective because it was only served two (2) days before the hearing date, in violation of the mandatory three-day notice rule.

For gross ignorance of the law, respondent judge was fined P40,000.00 and sternly warned. **(A.M. No. RTJ-12-2321, October 3, 2012)**

### **Judges: Gross ignorance of the law**

The Revised Rule on Summary Procedure does not provide for a preliminary investigation prior to the filing of a criminal case falling under its provision to promote a more expeditious and inexpensive determination of cases, and to enforce the constitutional rights of litigants to the speedy disposition of cases.

Respondent judge conducted a preliminary investigation in a criminal case falling under the Revised Rule on Summary Procedure.

For gross ignorance of the law, respondent judge was suspended for three months and one day without salary and sternly warned. **(A.M. No. MTJ-6-1666, September 5, 2012)**

**Judges: Gross ignorance of the law**

Section 24 of Rule 119 of the 2000 Revised Rules of Criminal Procedure provides as follows:

“Section 24. *Reopening*. – At any time before finality of the judgment of conviction, the judge may, *motu proprio* or upon motion, with hearing in either case, reopen the proceedings to avoid a miscarriage of justice. The proceedings shall be terminated within thirty (30) days from the order granting it. [italics supplied]

It is clear then that a motion to reopen a criminal case is not the proper procedural recourse when there is already a final judgment of conviction. This is consistent with the doctrine of finality of judgment. The doctrine dictates that at the risk of occasional error, the judgments of the courts must become final and executory at some definite date set by law.

Respondent judge violated the doctrine of finality of judgment when she granted the motion to reopen Criminal Case No. 91-937 because the decision of the Court of Appeals which affirmed the accused-movant's conviction had become final and executory. She should have respected the final decision of a higher court. Respondent's utter disregard to apply settled laws and rules of procedure constitutes gross ignorance of the law.

The Supreme Court after considering respondent's previous administrative cases for which she was penalized, ordered her dismissal from the service with forfeiture of all retirement benefits with prejudice to re-employment in the government including GOCC's. **(A.M. No. RTJ-11-2289, October 2, 2012)**

**Judges: Undue delay in rendering an order**

Section 7 of the Revised Rules on Summary Procedure provides that a preliminary conference should be held not later than 30 days after the last answer is filed.

Respondent set the case for preliminary conference way beyond the required thirty (30) day period in clear violation of said Rule.

For undue delay in rendering an order, respondent judge was fined P20,000.00. **(A.M. No. MTJ-11-1779, July 16, 2012)**

***Philippine Judicial Academy***

***Chancellor***

*Adolfo S. Azcuna*

***Founding Chancellor Emeritus***

*Ameurfina A. Melencio Herrera*

***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 3<sup>rd</sup> 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](mailto:research_philja@yahoo.com). For link to e-library: [www.supremecourt.gov.ph](http://www.supremecourt.gov.ph).

If you have any Fax No. or E-mail address, please let us know so we could send the "Alerts" direct to you.