



PHILJA E-Alerts

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JUDGES

• Ignorance of the Law

The accomplishment of a PDS is a requirement under the Civil Service Rules and Regulations in connection with employment in the government. The making of untruthful statements therein is, therefore, connected with such employment. As such, making a false statement therein amounts to dishonesty and falsification of an official document. Dishonesty and falsification are considered grave offenses.

The Court has not hesitated to impose the extreme penalty of dismissal from the service on employees found guilty of such offenses.

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Relative to respondent judge's argument that she had honestly believed that the term 'guilty' in the question meant final and executory judgment, the OCA correctly stated that respondent judge ought to have been familiar with the categorical ruling by the Court in the case of *Alday v. Cruz, Jr.*, citing *Development Bank of the Philippines v. Malaya*, which were decided as early as 2002 and 1999 respectively, holding that penalties imposed in administrative cases are immediately executory.

Even granting that respondent judge had been motivated by good intentions leading her to disregard the laws governing PDS forms, these personal motivations cannot relieve her from the administrative consequences of her actions as they affect her competency and conduct as a judge in the discharge of her official functions.

To be able to render substantial justice and maintain public confidence in the legal system, judges should be embodiments of competence, integrity and independence. Judges should exhibit more than just a cursory acquaintance with the statutes and procedural rules, and should be diligent in keeping abreast with developments in law and jurisprudence.

The Court has previously held that when a law or rule is basic, judges owe it to their office to simply apply the law. Anything less is ignorance of the law. There is gross ignorance of the law when an error committed by the judge was "gross or patent, deliberate or malicious." It may also be committed when a judge ignores, contradicts or fails to apply settled law and jurisprudence because of bad faith, fraud, dishonesty, or corruption. Gross ignorance of the law or incompetence cannot be excused by a claim of good faith.

In this case, respondent judge's utter disregard to apply the settled laws and jurisprudence on the accomplishment of PDS forms constitutes gross ignorance of the law which merits administrative sanction. x x x

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The Court also cannot close its eyes to the fact that respondent judge had been previously reprimanded by the Court, on several occasions, putting her competency in the discharge of official duties into very serious doubt.

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The **totality** of all these findings underscores the fact that respondent judge's actions served to erode the people's faith and confidence in the judiciary. She has been remiss in the fulfillment of the duty imposed on all members of the bench in order to avoid any impression of impropriety to protect the image and integrity of the judiciary.

Time and time again, the Court has stressed that "the behavior of all employees and officials involved in the administration of justice, from judges to the most junior clerks, is circumscribed with a heavy responsibility." As visible representation of the law, respondent judge should have conducted herself in a manner which would merit the respect of the people to her in particular and to the Judiciary in general. By her blameworthy conduct, she has tainted the image of the judiciary and no longer deserves to be a member thereof.

Respondent judge was found guilty of gross ignorance of the law and was ordered dismissed from the service, with forfeiture of retirement benefits, except accrued leave credits, and with prejudice to reemployment in any branch, agency or instrumentality of the government, including government-owned or controlled corporations. **[A.M. No. RTJ-15-2440 (Formerly A.M. No. 14-10-338-RTC), September 4, 2018]**

- **Failure to comply with Supreme Court Administrative Circular No. 20-95 requiring notice and hearing in the issuance of TROs**

The Court has ruled that a *status quo ante* order has "the nature of a temporary restraining order." Thus, respondent judge erred in issuing the TRO without the required notice and hearing.

Supreme Court Administrative Circular No. 20-95 specifically mandates that all applications for a TRO shall be acted upon only after all parties are heard in a summary hearing conducted within 24 hours after the records are transmitted to the branch selected by raffle. In case of extreme urgency, the TRO shall be issued by the Executive Judge, effective only for 72 hours from issuance and the latter shall immediately summon the parties for conference and immediately raffle the case in their presence.

In *Borja v. Salcedo*, the Court emphasized that only the executive judge may issue a TRO *ex parte*, under exceptional circumstances and following a specified procedure as mentioned above, thus:

The rule holds that before a temporary restraining order may be issued, all parties must be heard in a summary hearing first, after the records are transmitted to the branch selected by raffle. The only instance when a TRO may be issued *ex parte* is when the matter is of such extreme urgency that grave injustice and irreparable injury will arise unless it is issued immediately. Under such circumstance, the Executive Judge shall issue the TRO effective for 72 hours only. The Executive Judge shall then summon the parties to a conference during which the case should be raffled in their presence. Before the lapse of the 72 hours, the Presiding Judge to whom the case was raffled shall then conduct a summary hearing to determine whether the TRO can be extended for another period until the application for preliminary injunction can be heard, which period shall in no case exceed 20 days including the original 72 hours.

Doubtless, respondent judge issued a 10-day TRO without the requisite notice and hearing and despite the fact that the urgent motion for clarification did not pray for a TRO. There was also no showing or allegation in the said motion of the existence of extreme urgency that would justify the issuance of the TRO *ex parte*. In addition, respondent was a mere Acting Presiding Judge of RTC-Branch XX, the pairing court of RTC-Branch YY where the subject case was pending.

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In *Abundo v. Judge Manio, Jr.*, the Court reprimanded respondent therein and warned him for failing to comply with Administrative Circular No. 20-95. The Court explained that while a judge's disregard of the Court's pronouncement on TRO constitutes not just ignorance of the prevailing rule, but misconduct, conduct prejudicial to the proper administration of justice, and grave abuse of authority, such act, however, must also be motivated by bad faith, fraud, dishonesty or corruption to be punishable.

Wherefore, respondent judge was admonished with a stern warning that repetition of the same or similar acts in the future will be dealt with more severely. **[A.M. No. RTJ-17-2499 (Formerly OCA I.P.I. No. 17-4681-RTJ), June 13, 2018]**

- **Filing of an administrative complaint is not an appropriate remedy where judicial recourse is available.**

The determination of whether the January 3, 2017 Resolution pertains to the performance of respondent judge's judicial functions, is not proper in an administrative complaint. The Court has consistently held that an administrative or disciplinary complaint is not the proper remedy to assail the judicial acts of magistrates of the law, particularly those related to their adjudicative functions.

Further, the filing of an administrative complaint is not an appropriate remedy where judicial recourse is still available. As in this case, complainant has filed a petition for *certiorari* of the subject resolution which is still pending before this Court. Thus, the filing of the instant administrative complaint is premature as there is yet no final decision on the matter. Also, the Court in *Re: Bueser* held that:

Disciplinary proceedings against judges do not complement, supplement or substitute judicial remedies and, thus, cannot be pursued simultaneously with the judicial remedies accorded to parties aggrieved by their erroneous orders or judgments.

In *Equitable PCI Bank, Inc. v. Laviña*, we ruled that **resort to and exhaustion of judicial remedies and a final ruling on the matter, are prerequisites for the taking of appropriate measures against the judges concerned, whether of criminal, civil or administrative nature.** If the assailed act is subsequently found and declared to be correct, there would be no occasion to proceed against him at all.

It is improper for complainant to question the issuance of the assailed resolution as the same is the subject of a petition for *certiorari* before the Court. Moreover, there is no basis for respondent judge's alleged improper conduct. Even if the assailed resolution turns out to be erroneous, administrative liability will only attach upon proof that the actions of the respondent were motivated by bad faith, dishonesty or hatred, or attended by fraud or corruption, which were not sufficiently shown to exist in this case. To hold otherwise would be to render judicial office untenable, for no one called upon to try the facts or interpret the law in the process of administering justice can be infallible in his judgment.

Finally, resort to administrative disciplinary action prior to the final resolution of the judicial issues involved constitutes an abuse of court processes that serves to disrupt rather than promote the orderly administration of justice and further clog the courts' dockets. Those who seek relief from the courts must not be allowed to ignore basic legal rules and abuse of court processes in their efforts to vindicate their rights.

Wherefore, the administrative complaint against respondent judge was dismissed for lack of merit. **[OCA I.P.I. No. 17-4696-RTJ, June 6, 2018]**

- **Judges must avoid impropriety and the appearance of impropriety in all their activities; violation of Guidelines for the Conduct of Elections of Judges' Association.**

With this Decision, the Court hopes to impress upon the judges the strict standards of conduct of their office. Section 1, Canon 4 of the New Code of Judicial Conduct enjoins judges to "avoid impropriety and the appearance of impropriety in **all of their activities**." A judge's behavior, not only while in the performance of official duties but also outside the court, must be beyond reproach. While all judges are required to hold themselves to the strictest standards of conduct, it is only reasonable to expect more of those who seek elective office in judges' associations as they can best lead by example.

The events surrounding the 2013 PJA elections were indeed unfortunate and disappointing, but hopefully, these will no longer be repeated in the future with the faithful adherence by judges not just to the plain language, but also to the spirit of the Guidelines for the Conduct of Elections of Judges' Associations.

The Guidelines were approved by the Court in a Resolution dated May 3, 2007 in A.M. No. 07-17-17-SC in recognition that "aspects of the elections of judges' associations have the capacity to affect adversely the public perception of the judges' professional and personal behavior"; and that "there is need to structure the elections of these judges' associations along lines that would depoliticize this important activity and redirect efforts towards acceptable and non-partisan interests[.]" There was a need for the Guidelines to "ensure that the different judges' associations would prudently manage as well as undertake honest, simple, clean, transparent and orderly elections of their officers"; and "to keep the amount of campaigning and electioneering within reasonable limits and to assist in the maintenance of a spirit of collegiality and essential fairness in such elections[.]"

The Guidelines had been disseminated to the judges through OCA Circular No. 54-2007 dated May 21, 2007, and again through OCA Circular No. 120-13 dated September 30, 2013 with a reminder for the judges to strictly comply with the provisions thereof on the elections of officers of their respective judges' associations.

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The Court writes *finis* to these cases with the following reminder to judges from *In re: Solicitation of Donations by Judge Benjamin H. Virrey*:

A judge should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary. Public confidence in the judiciary is eroded by irresponsible or improper conduct of judges. A judge must avoid all impropriety and the appearance thereof. Being the subject of constant public scrutiny, a judge should freely and willingly accept restrictions on conduct that might be viewed as burdensome by the ordinary citizen.

A magistrate must comport himself at all times in such a manner that his conduct, official and otherwise, can bear the most searching scrutiny of the public that looks up to him as the epitome of integrity and justice. x xx The office of a judge exists for one

solemn end—to promote justice and thus aid in securing the contentment and happiness of the people. A judge, so it has been often said, is like Ceasar’s wife, and like her, he must be above suspicion and beyond reproach. x x x

[A.M. Nos. RTJ-15-2413, RTJ-15-2414, RTJ-15-2415 and RTJ-15-2416, September 25, 2018]

CLERKS OF COURT

- **Gross dishonesty; grave misconduct**

The respondent was the Clerk of Court of the MTCC in the province of Laguna. She was the custodian and officer responsible for the safekeeping and custody of the funds, revenues, properties and premises of the court she served. She was clearly bound to perform the duty and responsibility to the utmost of her abilities. In *Re: Report on the Financial Audit Conducted at the Municipal Trial Court, Baliuag, Bulacan*, the Court stressed the vitality of the role and office of the Clerk of Court in the discharge by the Judiciary of its primary responsibility in the administration of justice, to wit:

Clerks of Court perform a delicate function as designated custodians of the court’s funds, revenues, records, properties, and premises. As such, they are generally regarded as treasurer, accountant, guard, and physical plant manager thereof. It is the duty of the Clerks of Court to faithfully perform their duties and responsibilities. They are the chief administrative officers of their respective courts. It is also their duty to ensure that the proper procedures are followed in the collection of cash bonds. Clerks of Court are officers of the law who perform vital functions in the prompt and sound administration of justice. Thus, an unwarranted failure to fulfil these responsibilities deserves administrative sanctions and not even the full payment of the collection shortages will exempt the accountable officer from liability.

But the respondent did not faithfully perform and discharge her duty and responsibility as the Clerk of Court of the MTCC of being the custodian of the funds, revenues, properties and premises of the court she served. Her attempt to explain herself by claiming that she had been confronted with various circumstances that had rendered her unable to faithfully comply with her duties, such as the absence of a permanent judge in her court that had led to the piling up of her workload, a series of office transfers that had caused the loss of some receipts, and the financial difficulties that her family had experienced was vain and futile. Compounding her situation was that despite committing to submit her reports and the receipts for the cashbonds withdrawn from the Fiduciary Fund, she did not submit anything to the OCA in direct disobedience to the directives of the Court issued through the resolution promulgated on February 18, 2002, and did not also reconstitute the shortage of her cash collections.

The respondent clerk of court’s failure to remit her cash collections and to submit her monthly financial reports constituted gross dishonesty and grave misconduct. She was also administratively liable for gross neglect of duty. x x x

x x x x

For her failure to live up to the high ethical standards expected of her as a court employee and accountable officer, the respondent’s dismissal from the service with forfeiture of all retirement benefits, excluding accrued leave credits, with prejudice to reemployment in any government office, including government-owned and government-controlled corporations

is in order and fully warranted. **[A.M. No. P-18-3841 (Formerly A.M. No. 01-12-323-MTC), September 18, 2018]**

SHERIFFS

- **Gross inefficiency and incompetence**

Respondent sheriff did not comply with the orders issued for her to comment on the complaint. She thereby impliedly admitted that she had no reasonable explanation to give or offer for the serious charges upon which she was being held accountable. The graver violation she committed, as the OCA justifiably found, concerned her omission from the notice of sheriff's sale of the correct number of the Torrens title of the property to be sold. Thereby, she was administratively liable for inefficiency and incompetence in the performance of her official duties as the sheriff. In our view, the omission of such important and significant details was apparently deliberate, and necessarily invalidated the notice and the ensuing sheriff's sale of the property. We cannot tolerate her omission considering that the issuance and publication of the notice of the sheriff's sale were not idle ceremonies to be casually made. The notice was intended to serve the public interest attendant to the sheriff's sale in order to widely disseminate the date, time, and place of the execution sale of the real property subject of the notice not only to avoid the forced disposition through the auction from becoming a fire sale to the prejudice of the owner but also to invite the public to participate and compete with the judgment creditor as far as bidding for the property during the sheriff's auction was concerned.

We cannot overemphasize that the sheriff is one of the front-line representatives of the justice system, and if, by her lack of care and diligence in the implementation of judicial writs, she should lose the trust reposed on her, she inevitably diminishes the faith of the people in the Judiciary. Hence, we cannot tolerate, least of all condone, any act of a sheriff like the respondent herein for if we did so we would permit her to diminish the faith of the people in the entire Judiciary.

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Respondent sheriff, being guilty of gross inefficiency and incompetence in the performance of her official duties, as well as simple neglect of duty, would be penalized with suspension from office for one year, but in view of her dismissal from the service having mooted the imposition of suspension as the penalty, she should be punished with a straight fine of P50,000.00 as the OCA has recommended. **[A.M. No. P-16-3507 (Formerly OCA I.P.I. No. 14-4365-P), September 25, 2018]**

- **Serious dishonesty, dereliction of duty**

Time and again, the Court has ruled against the acceptance by sheriffs of voluntary payments from parties in the course of the performance of their duties. Doing so would be inimical to the best interests of the service, as it might create the suspicion that the payments were made for less than noble purposes.

Clearly, in this case, the purpose for which respondent sheriff allegedly received the money was not sanctioned under the rules. He might have thought that his claim of voluntary

payment was sufficient defense for his failure to remit the amount to the court. Such voluntary payments or gratuities, however, are proscribed under the rules and covered by settled jurisprudence. "A sheriff cannot just unilaterally demand sums of money from a party-litigant without observing the proper procedural steps otherwise, it would amount to dishonesty and extortion. And any amount received in violation of Section 10, Rule 141 of the Rules of Court constitutes unauthorized fees." Even as the Rules of Court allows payments to sheriffs, it limits the amounts they could receive from parties in relation to the execution of writs, and likewise prescribes the manner by which the sums should be handled. x x x

x x x x

The claim of gratuity or mere appreciation for the efforts that respondent sheriff undertook during execution was also inconsistent with the fact that proceedings were still ongoing at the time the payments were made to him.

There is greater merit in complainant's claim that the two payments of P50,000.00 each were made upon respondent sheriff's demands, and believed by the payor to be part of the sheriff's fees that were required from them under the rules. Such purpose was particularly indicated in the vouchers covering the amounts. Respondent sheriff acted wrongly by the mere act of personally and directly receiving the money, and even more by his failure to comply with the processes required for the handling of the fees or expenses.

"The rules on sheriff's expenses are clear-cut and do not provide procedural shortcuts." The OCA correctly observed that having been a sheriff for over 17 years at the time of his receipt of the payments, respondent sheriff should have known fully well the bounds of his authority when it came to demands for, receipt and handling of fees. A sheriff's failure to turn over amounts received from a party in his official capacity constitutes an act of misappropriation of funds amounting to dishonesty.

Respondent sheriff's failure to observe the procedural rules further classifies as dereliction of duty. "The rule requires the sheriff executing writs or processes to estimate the expenses to be incurred. Upon the approval of the estimated expenses, the interested party has to deposit the amount with the Clerk of Court and *ex officio* sheriff. The expenses shall then be disbursed to the executing sheriff subject to his liquidation within the same period for rendering a return on the process or writ. Any unspent amount shall be refunded to the party who made the deposit." This procedure was not observed in this case.

The Court found respondent sheriff to be guilty of serious dishonesty and dereliction of duty. He is ordered dismissed from the service with forfeiture of all retirement benefits and privileges, except accrued leave credits, if any, with prejudice to reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations. **[A.M. No. P-18-3865 (Formerly OCA I.P.I. No. 11-3735-P), October 9, 2018]**