



PHILJA E-Alerts

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JUDGES

- **Undue delay in rendering an order**

Complainant questions the propriety of the following acts taken by respondent judge in SRC Case No. SRC-XXX-CEB, to wit: (1) issuing the January 20, 2016 Order, allowing the defendants to post a counter-bond; (2) not issuing a writ of preliminary injunction in favor of the plaintiffs, which allegedly defeated the purpose of the November 6, 2015 Order; and (3) allowing the defendants to file a motion for reconsideration and setting the same for hearing on a shorter notice.

The Court agrees with the OCA that these matters are judicial in nature, the determination of which are beyond the ambit of an administrative proceeding as it will involve the evaluation of factual matters and the interpretation of applicable laws.

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The Court agrees with the OCA that whether or not the arguments offered by respondent judge are correct, it is not for the Court to determine because the determination thereof is a judicial function that belongs to the regular court. A judge is allowed reasonable latitude for the operation of his own individual view of the case, his appreciation of facts and his understanding of the applicable law on the matter. Thus, not every error or mistake committed by a judge in the performance of his official duties renders him administratively liable. In this case, if there is any error committed by respondent judge, the Court is not inclined to characterize the same as so depraved as to constitute gross ignorance of the law, but may be tantamount to error of judgment only which cannot be corrected through an administrative proceeding.

The Court likewise finds no merit in the charge of gross ignorance of the law against respondent judge. As respondent judge aptly explained in his January 20, 2016 Order, while a motion for reconsideration is a prohibited pleading under the Interim Rules, the same rules do not proscribe the filing of an urgent prayer to post a counter-bond.

Be that as it may, the Court finds that respondent judge demonstrated inefficiency in handling the pending incidents in SRC Case No. SRC-YYY-CEB, which resulted in undue and inordinate delay in the resolution of the application for a writ of preliminary injunction. The November 6, 2015 Order was rendered beyond the 90-day period within which a judge should decide a case or resolve a pending matter, reckoned from the date of the filing of the last pleading, in accordance with Section 15, paragraphs (1) and (2), Article 8 of the 1987 Constitution.

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The Court has been consistent in holding that the delay of a judge of a lower court in resolving motions and incidents within the reglementary period as prescribed by the Constitution is not excusable and constitutes gross inefficiency.

The Court found respondent judge guilty of undue delay in rendering an order for which he was imposed a fine in the amount of P5,000 with a stern warning that a repetition of the same or a similar offense shall be dealt with more severely. **[A.M. No. RTJ-18-2527 (Formerly OCA I.P.I. No. 16-4563-RTJ), June 18, 2018]**

- **Undue delay in resolving a case**

Article VIII, Section 15(1) of the 1987 Constitution mandates that the first and second level courts should decide every case within three months from its submission for decision or resolution. “A case or matter shall be deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the *Rules of Court* or by the court itself.”

The *Code of Judicial Conduct* mirrors this constitutional edict by requiring all judges to administer justice impartially and without delay, and to promptly dispose of their courts’ business and to decide their cases within the required periods. x x x

x x x x

The period for disposing of judicial matters is mandatory. Yet, the Court recognizes that the extension of the period may sometimes be proper or necessary, but the judge concerned must request the extension in writing, and state therein the meritorious ground for the request. The extension is not loosely granted. The respondent judge did not request any extension of his period to resolve the second appeal. He also did not tender in his comment on the administrative complaint the ground to justify or explain his inability to resolve the appeal within the period mandated by the Constitution.

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In not resolving the appeal until this administrative case was brought, the respondent judge let five years from the time he should have resolved it to elapse. In other words, he would have incurred further delay in the resolution of the appeal were it not for the filing of the complaint.

The Court found respondent judge guilty of undue delay in resolving Civil Case No. N-XXXX and imposed upon him a fine amounting to P11,000 to be charged against the P40,000 withheld from his retirement benefits. **[A.M. No. RTJ-13-2350 (Formerly OCA I.P.I. No. 10-3507-RTJ), August 14, 2018]**

- **Gross Misconduct**

In addition, respondent judge’s claim that he was not occupying a portion of the subject property is plainly belied by the verification plan prepared by the DENR, which forms part of the records of this case. Proceeding therefrom, the Court so finds that respondent judge was indeed an illegal occupant of the subject property.

In any case, even assuming that respondent judge did not occupy a portion of the subject property, he is still liable due to his admission in his Letter dated December 13, 2013 that he was then occupying a portion of the RRW of the DPWH Nueva Vizcaya–Isabela National Road. As aptly observed in the OCA Memorandum, such act nevertheless constitutes a violation of PD No. 17, which makes it unlawful for any person to “usurp any portion of a right-of-way, to convert any part of any public highway, bridge, wharf or trail to his own private use or to obstruct the same in any manner, or to use any highway ditch for irrigation or other private purposes x x x.”

Aside from the foregoing, the Court also notes several other acts of respondent judge that renders him administratively liable.

By his own admission, respondent judge acquired the occupied portion of the subject property (subject of Civil Case No. ZZZ, entitled “Province of Nueva Vizcaya v. AAA, et al.” in August of 2008—**only a few months after dismissing Civil Case No. ZZZ**. As stated earlier, it bears stressing that one of the vendors in the alleged transaction was AAA, one of the respondents in Civil Case No. ZZZ and the accused in Criminal Case No. AABB.

Lastly, the Court also notes that despite repeated demands from the DA, respondent judge refused to cease his illegal occupation of the subject property.

Persons involved in the administration of justice are expected to uphold the strictest standards of honesty and integrity in the public service; their conduct must always be beyond reproach and circumscribed with the heavy burden of responsibility. In this regard, the Court has consistently admonished any act or omission that would violate the norm of public accountability and diminish the faith of the people in the judiciary.

At the outset, respondent judge’s continued illegal settlement erodes the public’s confidence in its agents of justice considering that such act amounts to an arbitrary deprivation of the DA’s ownership rights over the subject property. Even worse, his continued refusal to vacate instigated the continued illegal occupation of other informal settlers residing therein. Canon 2 of the New Code of Judicial Conduct requires that the conduct of judges must reaffirm the people’s faith in the integrity of the judiciary and that their conduct must, at the least, be perceived to be above reproach in the view of a reasonable observer. Based on the foregoing acts alone, it is clear the respondent judge fell short of the required conduct of all members of the bench.

In the same vein, the Court faults respondent judge for his act of acquiring a portion of the subject property from a respondent in a case pending before his *sala*. His act is further aggravated by the fact that the respondent therein, AAA, received a favorable judgment just a few months before the purported sale.

Impartiality is essential to the proper discharge of the judicial office. Section 2 of Canon 3 of the New Code of Judicial Conduct mandates that a judge shall ensure that his conduct, both in and out of court, maintains and enhances the confidence of the public and litigants in his impartiality and that of the judiciary. In this respect, respondent judge’s conduct incites intrigue and puts into question his impartiality in deciding the cases then pending before him. Such conduct unquestionably gives rise to the impression that he was motivated by extraneous factors in ruling on the said cases.

Respondent judge was found guilty of gross misconduct for violating the New Code of Judicial Conduct and was ordered dismissed from the service, with forfeiture of all his benefits, except accrued leave credits. He was likewise declared disqualified from reinstatement or appointment to any public office or employment, including to one in any government-owned or government-controlled corporations. **[A.M. No. MTJ-16-1879 (Formerly OCA I.P.I. No. 14-2719-MTJ), July 24, 2018]**

SHERIFF

- **Simple Neglect of Duty**

Conformably with the foregoing disquisition, herein respondent should have submitted the inventory of the attached properties as directed by the trial court; in addition, he should have made updates on the attached properties in his custody while these were awaiting judgment and execution. Furthermore, there is no merit in respondent's claim that he could not make a true and accurate account of plaintiff's withdrawals from the attached properties. Respondent should have made another inventory of the attached properties and compared this second inventory with the first inventory that he had submitted with his return as required under the above-quoted Section 6, Rule 57 of the Rules of Court. The items listed in his first inventory which were no longer in his later inventory should thus appear as the items removed by the plaintiff.

Respondent must be reminded of his general functions and duties as sheriff, to wit:

[a] serves and/or executes all writs and processes of the Courts and other agencies, both local and foreign

[b] keeps custody of attached properties or goods;

[c] maintains his own record books on writs of execution, writs of attachment, writs of replevin, writs of injunction, and all other processes executed by him.

[d] submits periodic reports to the Clerk of Court;

[e] does related tasks and performs other duties that may be assigned by the Executive Judge and/or Clerk of Court.

Clearly, not only was respondent obliged to submit his periodic reports; he was also expected to perform tasks as may be assigned by the judge, such as the directive to submit an inventory to determine the withdrawals made by the plaintiff. Respondent cannot validly argue that the withdrawals made by the plaintiff were proper and in accordance with the compromise agreement entered by the parties; it is for the judge to determine the propriety of the withdrawals. Also, he cannot validly justify his inaction based on the fact that the RTC-Cebu already rendered judgment on Civil Case No. CEB-XXYZZ. Respondent himself stated that the RTC-Cebu rendered its judgment on January 28, 2014 but the Order directing him to submit an inventory was issued on October 20, 2014. Simply put, respondent had no authority or discretion to decide whether to comply or not, or to declare whether the order had already become moot.

Respondent sheriff was found guilty of simple neglect of duty for which he was meted a fine equivalent to 1 month and 1 day of his salary, computed on the basis of his salary at the time the decision becomes final and executory. **[A.M. No. P-18-3848 (Formerly OCA I.P.I. No. 15-4490-P), June 27, 2018]**

UTILITY WORKER

- **Violation of OCA Circular No. 49-2003**

As regards respondent utility worker's travels abroad, the Court finds sufficient ground to discipline her for failing to secure travel authorities for 13 foreign trips within a span of three years.

OCA Circular No. 49-2003 provides that “[j]udges and court personnel who wish to travel abroad must secure a travel authority from the [OCA]” and that those who leave the country without the required travel authority shall be “subject to disciplinary action.”

The Certificate issued by the Bureau of Immigration on October 7, 2015 shows that respondent utility worker went on 13 trips abroad from June 18, 2010 to September 21, 2013. Meanwhile, the Certificate dated July 29, 2013 issued by the Office of Administrative Services (OAS), OCA, disclosed that from December 22, 1997 up to the present, respondent utility worker did not file any application for travel authority, although she submitted applications for leave. Clearly, respondent utility worker violated the directive under OCA Circular No. 49-2003, rendering her administratively liable.

x x x x

In the present case, however, while this is the first administrative case of respondent utility worker, the case covers 13 separate incidents all relating to her failure to comply with the OCA’s directive within a span of three years. In all these travels, records are bereft of showing any attempt on her part to secure a travel authority for any of her foreign trips. Case law states that unawareness of the circular is not an excuse for non-compliance therewith. In view of the substantial number of times that she failed to comply with the circular, the Court finds it proper to impose a higher penalty of suspension without pay for 30 days.

The Court found respondent utility worker guilty of violating paragraph B(4) of OCA Circular No. 49-2003 and ordered her suspended for a period of 30 days without pay with a stern warning that a repetition of the same or similar offense shall be dealt with more severely. ***[A.M. No. P-18-3843 (Formerly OCA I.P.I. No. 16-4612-P), June 25, 2018]***