



# PHILJA E-Alerts

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## JUDGE

- **Gross ignorance of the law and gross misconduct**

After a perusal of the records, We find no compelling reason to deviate from the findings and recommendations of the OCA.

The foregoing are undisputed facts as they are based on court records. The irregularities speak for themselves and require no in-depth discussion. In effect, the evidence against respondent judge speaks of his grave infractions where the application of the doctrine of *res ipsa loquitur* may be applied. As can be gathered from the cases decided in this jurisdiction, *res ipsa loquit[u]r* has been defined as “the thing speaks for itself” and “the fact speaks for itself.” It is even asserted that in cases like the one at bar, there is no more need for any further investigation as the determination of administrative liability can be determined on the basis of court records alone.

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In the instant case, the audit report is replete with findings showing that respondent judge continued to try and resolve cases despite the parties’ dubious circumstances which should have instead put him on guard. There were certifications which showed that most of the nullity of marriage cases that were identified did not comply with the rule on venue as provided in Section 4 of the Rule on Declaration of Nullity of Void Marriages and Annulment of Voidable Marriages. Respondent judge failed to ascertain the true residence of the parties even though the marriage certificates that were appended to the petitions clearly showed different addresses from the ones stated in the petitions.

Indeed, respondent judge could have required the petitioners to submit their respective proof of residency, such as utility bills or government-issued IDs, which are now required to be attached to the petitions pursuant to OCA Circular 63-2019 on the Guidelines to Validate Compliance with the Jurisdictional Requirement Set Forth in A.M. No. 02-11-10-SC, but failed to do so.

The audit team also reported that respondent judge continued with the court proceedings despite the absence of the Report on Collusion Investigation. In Civil Case No. XX-XXX, entitled x x x, no copy of the report on the collusion investigation was attached to the records despite the directive to conduct the same pursuant to the Order dated May 21, 2015 of respondent judge. Case hearings proceeded even without said report until the case was decided. Likewise, in Civil Case No. XXX-KC entitled x x x, the Collusion Report dated October 10, 2018 was belatedly submitted on October 12, 2018, or after the petitioner already rested her case by the filing of her Formal Offer of Evidence on October 4, 2018.

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During the investigation, the OCA also found that in Civil Case Nos. XX-X28 and XX-X29, among others, respondent judge proceeded with the court hearings and eventually rendered judgment therein without any record that the cases underwent pre-trial. Considering that no notices of pre-trial and pre-trial orders were found in the records of the said cases, it gives the conclusion that no pre-trial was held, thus, the same was in violation of Section 11 of the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages where it is stated that pre-trial is mandatory.

Moreover, the OCA reported that they found no proof that the Office of the Solicitor General was furnished with copies of the petitions for annulment. In Civil Case Nos. XX-X41 and XX-X13, no proofs of service were attached to the said petitions, in violation of Section 5(4) of the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages which requires that the Office of the Solicitor General and the Public Prosecutor be furnished with a copy of the petition for declaration of nullity of void marriages. However, notwithstanding the glaring absence of the required proofs of service, respondent judge, instead of dismissing the same for non-compliance with the foregoing provision, proceeded in hearing the cases and eventually rendered judgment therein on August 20, 2015 and January 22, 2015, respectively.

Likewise, in Civil Case No. XX-X15, respondent judge concluded the trial therein despite the absence of the notice of appearance of the OSG and the delegation of the public prosecutor to represent the said office which again runs counter to Section 5(4) of the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages.

There were also cases with notices or orders for the setting of hearings where no proof of service or registry receipts were attached, and those where the minutes of the proceedings were not signed by the counsels and parties which gives the impression that those cases were neither set for hearing nor ever conducted.

The OCA also reported the questionable and suspicious haste in hearing and resolving cases under the jurisdiction of Branch X, RTC, X, Ilocos Sur. In Civil Case No. YYY-KC, respondent judge rendered judgment therein within a period of only 3 months, 2 weeks and 1 day. Indeed, as noted by the OCA, the filing of the Report on the Investigation of Collusion between the parties, the pre-trial and the initial trial which all happened on the same day, *i.e.*, July 12, 2017, put in serious doubt the integrity of the proceedings in the said case.

Equally disturbing are the reports which alleged the *modus* of respondent judge and his wife, Atty. AAA in offering clients who wished to have their marriage annulled. Based on the reports, such petitions were filed even without the knowledge of the lawyer whose signatures were merely falsified so it would appear that such were personally prepared and filed by them. Upon examination of the records of the above cases in question, the OCA reported that there might be truth to the said *modus* as shown more particularly in the case where the counsel of record is Atty. BBB.

The OCA, likewise, reported suspicious notations in the copies of the decisions in Civil Case Nos. XX-X28 and XX-X29 which showed that the same were received "for Atty. AAA," as evidenced by the photocopies of the decisions in Civil Case Nos. XX-X28 and XX-X29. Indeed, while Atty. AAA was not the counsel of record of the said cases, why would she need a copy of the decisions if she had no interest in them. The affidavits which respondent judge submitted to refute the allegations against his wife, indeed, fails to convince. Although admissible in evidence, affidavits being self-serving must be received with caution. This is because the adverse party is not afforded any opportunity to test their veracity. By themselves, generalized

and *pro forma* affidavits cannot constitute relevant evidence which a reasonable mind may accept as adequate. There must be some other relevant evidence to corroborate such affidavits. Likewise, it did not help either that in a recent administrative case against him, respondent judge was reprimanded with warning for failing to compulsorily inhibit himself from acting on his wife's application for notarial commission, which now, thus, shows his apparent propensity to abuse his authority.

While there was no concrete evidence presented to prove respondent judge's partiality and malice, it must be emphasized that Canon 2 of the Code of Judicial Conduct provides: "A judge should avoid impropriety and the appearance of impropriety in all activities." The failure to present evidence that the respondent acted with partiality and malice can only negate the allegation of impropriety, but not the appearance of impropriety. x x x

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In fine, based on all the foregoing findings, it is undisputed that respondent judge violated the Code of Judicial Conduct, which enjoins judges to uphold the integrity of the Judiciary, avoid impropriety or the appearance of impropriety in all activities and to perform their duties honestly and diligently.

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In the instant case, respondent judge's blatant disregard of the provisions of A.M. No. 02-11-10-SC shows not only a lack of familiarity with the law but a gross ignorance thereof. However, when there is persistent disregard of well-known rules, judges not only become liable for gross ignorance of the law, they commit gross misconduct as well. It is then that a mistake can no longer be regarded as a mere error of judgment, but one purely motivated by a wrongful intent. The fact that in many instances, respondent judge chose to ignore if not completely disregard the glaring irregularities and non-compliance of the rules, and mindlessly proceeded with the court proceeding breeds a suspicion that he has personal interest in those cases before him. His unusual interest in the cases before him, not only displayed his utter lack of competence and probity but also make him liable for gross misconduct.

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As a judge, more than anyone else, they are required to uphold and apply the law. They should maintain the same respect and reverence accorded by the Constitution to our society's institutions, particularly marriage. Instead, their actuations relegated marriage to nothing more than an annoyance to be eliminated. In the process, they also made a mockery of the rules promulgated by this Court.

A judge should observe the usual and traditional mode of adjudication requiring that he should hear both sides with patience and understanding to keep the risk of reaching an unjust decision at a minimum. Thus, he must neither sacrifice for expediency's sake the fundamental requirements of due process nor forget that he must conscientiously endeavor each time to seek the truth, to know and aptly apply the law, and to dispose of the controversy objectively and impartially.

Respondent judge's act of issuing decisions that voided marital unions despite irregularities and non-compliance with the rules not only made a mockery of marriage and its life-changing consequences but likewise violated the basic norms of truth, justice, and due process. His conduct greatly undermines the people's faith in the Judiciary and betrays public trust and confidence in the courts.

Thus, it must be once again emphasized that everyone in the Judiciary, from the presiding judge to the clerk, must always be beyond reproach, free of any suspicion that may taint the Judiciary. Public service requires utmost integrity and discipline. A public servant must exhibit at all times the highest sense of honesty and integrity, for no less than the Constitution mandates the principle that “a public office is a public trust and all public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency.” As the administration of justice is a sacred task, the persons involved in it ought to live up to the strictest standards of honesty and integrity. Their conduct, at all times, must not only be characterized by propriety and decorum, but must also be above suspicion. Thus, every employee of the Judiciary should be an example of integrity, uprightness, and honesty.

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Finally, let this be a **warning** to those judges who continuously disregard the rules and guidelines pertaining to cases of annulment of marriage, as particularly provided in A.M. Nos. 02-11-10-SC and 02-11-11-SC, that any brazen disregard of the existing rules is an *indicium* of a judge’s unfitness to continue as member of the bench, as such acts erode public’s trust and confidence, and creates disrespect to the Judiciary, in general. Moreover, even if the erring judge has opted to resign or retire, it would not extricate him/her from the consequences of the offenses he/she committed, as resignation or retirement has never been a way out to evade administrative liability.

The Court found respondent judge guilty of gross ignorance of the law and gross misconduct for which he was dismissed from the service, with forfeiture of all benefits due him, except accrued leave benefits, if any, with prejudice to reemployment in any branch of the government, including government-owned or controlled corporations.

Let a copy of this Decision be entered into respondent judge’s record as a member of the bar and notice of the same be served on the Integrated Bar of the Philippines and on the Office of the Court Administrator for circulation to all courts in the country.

The Office of the Bar Confidant was ordered to investigate Atty. AAA (respondent judge’s wife), on her alleged participation in the questioned Decisions on the annulment of marriage cases issued by respondent judge.

This Decision was immediately executory. **[A.M. No. 19-01-15-RTC, September 1, 2020]**

## **CLERK OF COURT**

### **• Simple misconduct**

In the present case, it is worthy to note that the Order dated April 17, 2015 issued by the trial court which granted the *ex parte* motion for a writ of possession, directed the Branch Clerk of Court to issue the writ of possession. On April 20, 2015, respondent clerk of court issued the Writ of Possession which was addressed to the court’s Deputy Sheriff, Sheriff A. Evidently, the circumstances of the case do not warrant the exercise of respondent clerk of court’s function as an *ex officio* sheriff. It bears emphasis that the writ of possession which respondent clerk of court himself issued, was addressed to the court’s Deputy Sheriff A, who was already present at the time of the implementation of the writ.

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Time and again, the Court has held that “bare denial of respondent that he did not commit the acts complained of cannot overcome the clear and categorical assertion of the complainant.” An assiduous scrutiny of the records of the case would reveal substantial evidence showing that respondent clerk of court was at the subject property and actively participated in the implementation of the writ of possession. It must be noted however that no countervailing evidence was offered by respondent clerk of court. As aptly found by the OCA, respondent clerk of court’s mere presence at the implementation of the writ alone is highly questionable, especially considering that Sheriff A was already present at the time of the implementation of the writ.

The Court cannot simply turn a blind eye to what is clearly a conduct which tends to derogate the trust reposed in government officials, who are expected to uphold the highest degree of standards of efficiency in the exercise of their functions. As a court employee, respondent clerk of court is bound to know that the conduct required of court personnel must be beyond reproach and must always be free from suspicion that may taint the Judiciary.

Respondent clerk of court’s actuation of being present during the implementation of the writ of possession in an intimidating manner and hurling invectives on the complainants is clearly an act of simple misconduct. Misconduct has been defined as an unacceptable behavior that transgresses the established rules of conduct for public officers. A misconduct is grave where the elements of corruption, a clear intent to violate the law, or a flagrant disregard of established rules are present. Otherwise, a misconduct is only simple. Since there is no showing that the elements of corruption, a clear intent to violate the law, or a flagrant disregard of established rules are present in this case, the respondent clerk of court’s act is considered as a simple misconduct.

Clerks of court, whose functions are vital to the prompt and sound administration of justice, cannot be allowed to overstep their powers and responsibilities. Thus, for his improper behavior, the Court finds respondent clerk of court liable for simple misconduct.

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Since respondent is a clerk of court, the Code of Conduct for Court Personnel, which incorporates the RRACCS, shall apply in this case. Hence, for being liable for simple misconduct, We shall refer to the pertinent provisions of the RRACS as regards the proper penalty to be imposed upon respondent.

Section 46(D), Rule 10 of the RRACS classify simple misconduct as a less grave offense with a corresponding penalty of suspension for 1 month and 1 day to 6 months for the first offense, and the penalty of dismissal for the second offense.

In the present case, the OCA’s Report revealed that this is not the first time that respondent clerk of court was found guilty of simple misconduct. In A.M. No. P-12-13102 (*Formerly OCA IPI No. 07-2562-P*) (*Jose S. Villanueva v. Respondent Clerk of Court*), respondent clerk of court was suspended from the service for a period of three months, and admonished for violating the Code of Conduct for Court Personnel and Section 4(e), Republic Act No. 6713.

Considering that respondent clerk of court is being charged for his second offense of simple misconduct, the penalty of dismissal is deemed proper.

The Court has repeatedly stressed that it will not hesitate to rid its ranks of undesirables who undermine its efforts towards an effective and efficient administration of justice, thus, tainting its image in the eyes of the public. The Court cannot countenance any act or omission which diminishes or tends to diminish the faith of the people in the Judiciary.

Respondent clerk of court was found guilty of simple misconduct and was dismissed from the service, with forfeiture of his retirement benefits, except accrued leave credits, with prejudice to reemployment in any branch or instrumentality of the government, including government-owned or controlled corporation, considering that this is the second time that he has been found guilty of simple misconduct. **[A.M. No. P-17-3652 (Formerly OCA IPI No. 15-4445-P), June 23, 2020]**

## **PROCESS SERVER**

- **Dishonesty and falsification of official document**

Dishonesty is defined as the “disposition to lie, cheat, deceive, or defraud; untrustworthiness, lack of integrity.” It involves intentionally making a false statement to deceive or commit a fraud. Here, respondent process server represented himself as having the capacity to secure a marriage certificate for complainant, when in truth and in fact, his duties as a process server do not even include this function. Atty. B explained that as a process server, respondent was only tasked to serve notices of the OCC and other related functions, and not the processing of marriage papers which was the duty of another court personnel. Consequently, even the receipt of an application of solemnization of marriage is outside the purview of his job.

Dishonesty is a serious offense which reflects a person’s character and exposes the moral decay which virtually destroys his honor, virtue, and integrity. It is a malevolent act that has no place in the judiciary, as “no other office in the government service exacts a greater demand for moral righteousness from an employee than a position in the judiciary.” While it cannot be gainsaid that there is no direct evidence that it was respondent process server who actually forged Judge A’s signature, the surrounding circumstances herein undoubtedly show his direct participation in procuring a marriage certificate for complainant. Notably, the records of this case are bereft of any showing that complainant was impelled by any improper motive as to falsely accuse respondent process server with such a serious offense. On the other hand, falsification of an official document, as an administrative offense, is knowingly making false statements in official or public documents. The affixing of Judge A’s purported signature on the marriage certificate made it appear that the former officiated complainant’s marriage when in truth, he was on official leave and outside of the country. Aside from Judge A’s testimony disavowing his signature, documents submitted in court, *i.e.*, photocopies of the stamps in his passport, show that he was abroad from April 9 to May 19, 2011. Clearly, Judge A could neither have solemnized complainant’s wedding on April 18, 2011 nor signed the marriage certificate.

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By his acts of dishonesty and falsification of an official document, respondent process server has failed to measure up to the high and exacting standards set for judicial employees and must therefore be dismissed from service. It cannot be overstressed that the image of a court of justice is mirrored in the conduct, official and otherwise, of the personnel who work thereat, from the judge to the lowest of its personnel.

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The Court found respondent process server guilty of dishonesty and falsification of official document. He was dismissed from service, with cancellation of eligibility, forfeiture of all benefits, except accrued leave credits, and disqualification for reemployment in the government service, including in government-owned or controlled corporations. **[A.M. No. 11-7-76-MeTC, July 14, 2020]**

## **UTILITY WORKER**

- **Gross misconduct and serious dishonesty**

It must be emphasized that those in 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. The Institution demands the best possible individuals in the service and it had never and will never tolerate nor condone any conduct which would violate the norms of public accountability, and diminish, or even tend to diminish, the faith of the people in the justice system. As such, the Court will not hesitate to rid its ranks of undesirables who undermine its efforts towards an effective and efficient administration of justice, thus tainting its image in the eyes of the public.

In this case, it was established that respondent utility worker was an accountable officer, being the custodian of all the property and financial collections of the court. Respondent utility worker's tasks included safekeeping of important and financial documents that required his utmost trustworthiness.

The Court concurs with the OCA that his act of stealing, forging the signature of CCC in the endorsement of the check, and finally, encashing the check for personal gain, constituted grave misconduct and serious dishonesty.

Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. To warrant dismissal from service, the misconduct must be grave, serious, important, weighty, momentous, and not trifling. The misconduct must imply wrongful intention and not a mere error of judgment and must also have a direct relation to and be connected with the performance of the public officer's official duties amounting either to maladministration or willful, intentional neglect, or failure to discharge the duties of the office. In order to differentiate [grave] misconduct from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule, must be manifest in the former.

On the other hand, dishonesty means "a disposition to lie, cheat, deceive or defraud; untrustworthiness; lack of integrity, lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray." Although dishonesty covers a broad spectrum of conduct, Civil Service Commission (CSC) Resolution No. 06-0538 sets the criteria for determining the severity of dishonest acts.

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Grave misconduct and dishonesty are grave offenses each punishable by dismissal on the first offense under Section 46(A), Rule 10 of the Revised Rules on Administrative Cases in the Civil Service (RRACCS). Corollary thereto, the penalty of dismissal from service carries with it the following administrative disabilities: (a) cancellation of civil service eligibility; (b) forfeiture of retirement and other benefits, except accrued leave credits, if any; and (c) perpetual disqualification from reemployment in any government agency or instrumentality, including any government-owned and controlled corporation or government financial institution.

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Jurisprudence is replete with rulings that in order for the Court to acquire jurisdiction over an administrative proceeding, the complaint must be filed during the incumbency of the respondent public official or employee. This is because the filing of an administrative case is predicated on the holding of a position or office in the government service. However, once jurisdiction has attached, the same is not lost by the mere fact that the public official or

employee was no longer in office during the pendency of the case. In fine, cessation from office by reason of resignation, death or retirement is not a ground to dismiss the case filed against the said officer or employee at the time that he was still in the public service or render it moot and academic.

The Court found the late respondent utility worker guilty of gross misconduct and serious dishonesty, with forfeiture of all benefits, including retirement gratuity, exclusive of his accrued leaves, which shall be released to his legal heirs. **[A.M. No. P-15-3290, September 1, 2020]**