



# PHILJA E-Alerts

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### **Clerks: Serious Dishonesty.**

Respondent's claim – that he only found on his desk the spurious decision dated April 14, 2008 and Certificate of Finality dated June 11, 2008, purportedly signed by the Judge and Branch Clerk of Court, respectively – is highly suspect. Even absent direct evidence that respondent himself falsified the spurious decision and Certificate of Finality without his satisfactory explanation, his being in possession of the forged document warranted the presumption of him being himself the forger or the person who had caused the forgery.

Moreover, respondent admitted in paragraph 5.d. of his Answer/Comment that he certified the photocopies of the decision and Certificate of Finality as true copies of the documents on file. He acted without authority when he made such certifications considering that the duty to certify true copies of decisions and orders of the RTC belongs to the Branch Clerk of Court as provided for in "The 2002 Revised Manual for Clerks of Courts."

Respondent's certifications of the photocopies of the decision and Certificate of Finality gave the false impression that: (a) the said Decision and Certificate themselves were authentic and officially executed by the Judge and Branch Clerk of Court, respectively; and (b) he had the authority to make such certifications, consequently, favoring or benefitting Roy, his townmate and acquaintance. In fact, the photocopies of the said Decision and Certificate of Finality were already submitted by Roy to the Office of the Civil Registrar.

His act of certifying the photocopies of the decision and Certificate of Finality constitutes Serious Dishonesty under Section 3(e) of Resolution No. 06-0538, as amended, because he "employed fraud and/or falsification of official documents in the commission of the dishonest act related to his/her employment."

For Serious Dishonesty, respondent clerk was fined equivalent to his salary for six (6) months and one (1) day. **(A.M. No. P-15-3321 [Formerly OCA I.P.I. No. 08-2966-P], October 21, 2015)**

## **Judges: Ignorance of the Law.**

Respondent Judge issued her order of September 26, 2005 to enable the posting of the *supersedeas* bond by the Falames during the pendency of their appeal in her court in order to prevent the immediate execution of the adverse decision of the MTCC. She thereby disregarded Section 19, *supra*, which allowed the filing of the *supersedeas* bond only with the MTCC as the trial court. She should have instead granted the complainant's *Motion for Execution Pending Appeal* filed on June 21, 2005 for it had become her ministerial duty to do so upon the failure of the Falames to move to stay the immediate execution of the decision in accordance with Section 19.

Respondent Judge could not sincerely insist that the order of September 26, 2005 was regular. The actions she could or could not take as an appellate judge in an ejectment case were fully outlined in Section 19, *supra*. A rule as plain and explicit as Section 19 is not liable to be misread or misapplied, but should only be implemented without hesitation or equivocation. Her issuance of the order of September 26, 2005 thus constituted gross ignorance of the law or procedure, for she was not a trial judge bereft of pertinent experience on dealing with issues on immediate execution in ejectment cases.

This case presents the opportune occasion to remind judges of the first level courts to always adhere to the mandate of Section 19, *supra*, by issuing writs of execution upon motion of the plaintiffs in actions for ejectment whenever the defendants have failed to stay execution. They should not leave to the appellate courts the action on the motions for execution because that action would be too late in the context of Section 19. The trial and appellate judges should constantly be mindful of the summary nature of the ejectments actions, and of the purpose underlying the mandate for immediate execution, which is to prevent the plaintiffs from being further deprived of their rightful possession. Otherwise, they stand liable for gross ignorance of the law or procedure.

For gross ignorance of the law, respondent judge was fined P21,000.00 **(A.M. No. RTJ-08-2102 [Formerly A.M. OCA I.P.I. No. 07-2762-RTJ], October 14, 2015)**

**Judges: Violation of guidelines for relieved detailed judges; Violation not censurable in the absence of the substantial showing of her having done so with malice, or in bad faith, or with fraud or dishonesty, or with a corrupt motive.**

The basic postulate is for all judges to follow the guidelines set by the Court in A.M. No. 04-5-19-SC to ensure the just, speedy and inexpensive administration of justice. The non-observance of the guidelines inevitably results in unfairness and inefficiency. Respondent Judge had been definitely aware of her relief as the detailed Presiding Judge of the issuing court since October 6, 2005, the date she received via fax the copy of Administrative Order 159-2005 dated October 3, 2005 revoking her designation as the Acting Presiding Judge of Branch 10 of the RTC. She actually conceded in the order of November 8, 2005 that she had ceased "to hold the position" of Acting Presiding Judge by October 6, 2005. Under the aforementioned guidelines, she could no longer competently act in the case once relieved as the Acting Presiding Judge. Her correct course of action would have been to desist from taking any further action in the case, including denying the complainant's *Motion to Dismiss Appeal* through the order of November 8, 2005, until the specific guidelines set under items 5 and 6 of A.M. No. 04-5-19-SC were first complied with.

Respondent Judge sought to justify her issuance of the order of November 8, 2005 by citing the guideline under item 2 of A.M. No. 04-5-19-SC. The justification should fail, however, because the guidelines under items 5 and 6 were those that were directly applicable.

Nonetheless, respondent Judge's issuance of the order of November 8, 2005 should not be considered as censurable conduct in the absence of the substantial showing of her having done so with malice, or in bad faith, or with fraud or dishonesty, or with a corrupt motive. Considering that her good faith was presumed, the complainant carried the burden to establish her having acted with malice, or bad faith, or with fraud, or with dishonesty, or with a corrupt motive. Yet, the complainant did not discharge its burden.

For issuing the order even after the revocation of his designation as Acting Presiding Judge, respondent judge acted without authority but was not held accountable in the absence of proof of her malice, bad faith, fraud, dishonesty and corrupt motives. **(A.M. No. RTJ-08-2102 [Formerly A.M. OCA I.P.I. No. 07-2762-RTJ], October 14, 2015)**

**Judges: Mere allegation of corruption, bias and partiality is insufficient to establish accusation.**

The investigation report acknowledged that the complainant did not substantiate the charge of corruption against respondent Judge after its lone witness did not appear at the scheduled hearings. The complainant did not also substantiate its charge of bias and partiality against her. Mere allegation of corruption, bias and partiality is insufficient to establish the accusation. Dismissal of the accusation should follow.

For lack of evidence, respondent judge was absolved of the charges of corruption, bias, and partiality. **(A.M. No. RTJ-08-2102 [Formerly A.M. OCA I.P.I. No. 07-2762-RTJ], October 14, 2015)**