

**EN BANC**

**[ A.M. RTJ-23-031 [Formerly OCA IPI No. 09-3288-RTJ]. March 28, 2023 ]**

**PILIPINAS SHELL PETROLEUM CORPORATION, *COMPLAINANT*, VS. JUDGE GEORGE E. OMELIO, *RESPONDENT*.**

**R E S O L U T I O N**

**HERNANDO, J.:**

For Our resolution is an administrative Complaint<sup>[1]</sup> dated October 20, 2009 filed by Pilipinas Shell Petroleum Corporation (PSPC) charging Judge George E. Omelio (Judge Omelio) with gross ignorance of the law, grave abuse of authority, and violation of the New Code of Judicial Conduct (Code).

**The Antecedents**

This case stemmed from the incidents of Civil Case No. 95-45 entitled *Abenon*<sup>[2]</sup> v. *Shell Oil Company* (Abenon Case), wherein Judge Omelio, in his capacity as the Presiding Judge of Regional Trial Court, Davao City, Branch 14 (RTC Br. 14), issued orders which directed the execution and garnishment of the amount of US\$ 17,000,000.00 against the subsidiaries and affiliates of Shell Oil Company (Shell)—including herein complainant PSPC.

At this juncture, We take judicial notice of *Chiquita Brands, Inc. v. Judge Omelio*<sup>[3]</sup> (*Chiquita*), a case with the same factual backdrop. In *Chiquita*,<sup>[4]</sup> We aptly summarized the background of the Abenon Case in the following manner:

On August 31, 1993, thousands of banana plantation workers from over 14 countries instituted class suits for damages in the United States against 11 foreign corporations, namely: (1) Shell Oil Company; (2) Dow Chemical Company; (3) Occidental Chemical Corporation; (4) Standard Fruit Company; (5) Standard Fruit and Steamship Co.; (6) Dole Food Company, Inc.; (7) Dole Fresh Fruit Company; (8) Chiquita Brands, Inc.; (9) Chiquita Brands International, Inc.; (10) Del Monte Fresh Produce, N.A.; and (11) Del Monte Tropical Fruit Co.

The banana plantation workers claimed to have been exposed to dibromochloropropane (DBCP) in the 1970s up to the 1990s while working in plantations that utilized it. As a result, these workers suffered serious and permanent injuries to their reproductive systems.

DBCP is a pesticide used against roundworms and threadworms that thrive on and damage tropical fruits such as bananas and pineapples. It was first introduced in 1955 as a soil fumigant. Early studies have shown that prolonged exposure to DBCP causes sterility. DBCP was also found to have mutagenic properties.

The United States courts dismissed the actions on the ground of *forum non conveniens* and directed the claimants to file actions in their respective home countries.

On May 3, 1996, 1,843 Filipino claimants filed a complaint for damages against the same foreign corporations before the Regional Trial Court in Panabo City, Davao del Norte, Philippines. The case was ratted to Branch 4, presided by Judge Jesus L. Grageda (Judge Grageda), and was docketed as Civil Case No. 95-45.

Before pre-trial, Chiquita Brands, Inc., Chiquita Brands International, Inc. (collectively, Chiquita), Dow Chemical Company (Dow), Occidental Chemical Corporation (Occidental), Shell Oil Company (Shell), Del Monte Fresh Produce, N.A., and Del Monte Tropical Fruit Co. (collectively, Del Monte) entered into a worldwide settlement in the United States with all the banana plantation workers. The parties executed a document denominated as the 'Compromise Settlement, Indemnity, and Hold Harmless Agreement' (Compromise Agreement). x x x.

The Compromise Agreement provided, among others, that the settlement amount should be deposited in an escrow account, which should be administered by a mediator. After the claimants execute individual releases, the mediator shall give the checks representing the settlement amounts to the claimants' counsel, who shall then distribute the checks to each claimant[.]<sup>[5]</sup>

The compromise agreement referred to in *Chiquita*<sup>[6]</sup> was approved by the RTC of Panabo

City in a December 20, 2002 Omnibus Order.<sup>[7]</sup>

On December 26, 2002, the complainants in the Abenon Case moved for execution of the compromise judgment against Shell and the other defendants who were signatories thereto.<sup>[8]</sup> On April 15, 2003, the RTC of Panabo City granted the motion due to the signatories' failure to present proof of compliance with the terms of the compromise agreement.<sup>[9]</sup> Thereafter, as narrated in *Chiquita*:<sup>[10]</sup>

During the hearing of [the Abenon Case], the claimants picketed outside the courtroom. x x x. [They] accused Judge Grageda<sup>[11]</sup> as a corrupt official who delayed the execution of the judicially approved Compromise Agreement. [They] allegedly harassed and intimidated Judge Grageda 'by shouting insults and invectives at him when he went to and left the courtroom.' Judge Grageda was [then] forced to inhibit from hearing [the Abenon Case].

Chiquita requested for a change of venue from Panabo City to Davao City due to security issues. This Court granted the request and ordered the transfer from Panabo City to Davao City of [the Abenon Case]. The case was raffled to [RTC Br. 14], presided by x x x (Judge Omelio).<sup>[12]</sup>

The Compromise Settlement, Indemnity, and Hold Harmless Agreement<sup>[13]</sup> referred to in *Chiquita*<sup>[14]</sup> is the same compromise agreement that RTC Br. 14, through Judge Omelio, sought to execute against PSPC. It ruled that PSPC is an affiliate of Shell—hence it is solidarily liable with the latter to pay the settlement amount of US\$17,000,000.00.<sup>[15]</sup>

For its part, PSPC maintained that it was deprived of its right to due process when Judge Omelio unceremoniously included it in the execution of the compromise agreement. It argued that it was not a signatory to such agreement and that it was not an affiliate of Shell. Thus, it cannot be made solidarily liable for the liabilities of the latter.<sup>[16]</sup>

Aggrieved, PSPC applied for the issuance of a writ of preliminary injunction from the Court of Appeals (CA) docketed as CA G.R. SP No. 03101-MIN.<sup>[17]</sup> On October 16, 2009, the CA granted PSPC's application in a Resolution,<sup>[18]</sup> the *fallo* of which reads in part:

**WHEREFORE**, the Court resolves the application for a Writ of Preliminary Injunction and Opposition thereto as follows:

1. In so far as it seeks to enjoin the Writ and Alias Writ of Execution from garnishing the assets and deposits in Philippine banks of Shell Oil Company and its subsidiaries, affiliates, controlled and related entities, successors or assigns which are doing business in the Philippines or registered in the Securities and Exchange Commission, the Writ of Preliminary Injunction is hereby **GRANTED**.

X X X X

SO ORDERED.<sup>[19]</sup>

On October 19, 2009, the CA issued a Writ of Preliminary Injunction<sup>[20]</sup> pursuant to the above Resolution,<sup>[21]</sup> the *fallo* of which reads:

**NOW THEREFORE, the court a quo, Regional Trial Court, Branch 14, Davao City, presided by Hon. George E. Omelio, and his successor, the sheriffs and their agents, and all persons acting under their authority or behalf to CEASE and DESIST from enforcing or implementing the assailed Writ of Execution dated July 17, 2009, Amended Writ of Execution dated July 31, 2009 and Alias Writ of Execution dated August 12, 2009 against the deposits in Philippine banks of Shell Oil Company and its subsidiaries, affiliates, controlled and related entities, successors or assigns which are doing business in the Philippines or registered in the Securities and Exchange Commission, namely: PILIPINAS SHELL PETROLEUM CORPORATION, SHELL GAS EASTERN, INC., SHELL GAS TRADING (Asia Pacific), INC., SHELL CHEMICALS PHILIPPINES, INC., SHELL RENEWABLE PHILIPPINES CORP., THE SHELL COMPANY OF THE PHILIPPINES, LIMITED and SHELL PHILIPPINES EXPLORATION, B.V. (SPEX), until further orders from this Court.**

**GIVEN BY THE AUTHORITY** of the Honorable TWENTY-THIRD DIVISION, Court of Appeals, **Mr. Rodrigo F. Lim, Jr.**, Chairman, **Mr. Justice Ruben C. Ayson**, Member and **Mme. Justice Leoncia R. Dimagiba**, Acting Member (ON LEAVE), this **19<sup>th</sup> day of October, 2009**, at Cagayan de Oro City, Philippines.<sup>[22]</sup>

On the same date, the RTC Br. 14 issued an Order<sup>[23]</sup> signed by Judge Omelio stating that the

CA Resolution,<sup>[24]</sup> which was sent via fax machine, was not official. Further, it ruled that the same has no force and effect since it was signed by only two Members of the CA Division, the other Member (Justice Dimagiba) thereof being on leave, thus:

The resolution of the Hon. Court of Appeals 23<sup>rd</sup> Division sent via fax machine hence not official [sic], dated October 16, 2009 [sic] in C.A. G.R. Sp. No. 03101-MIN is not regular and therefore has no force and effect as it is not in accordance with Section 11, Batas Pambansa Blg. 129, as amended, being signed by only two (2) members of the Division. Thus, 'x-x-x- The affirmative votes of three (3) members of a division shall be necessary for the pronouncement of a decision, or final resolution which shall be reached in consultation before writing of the opinion by any member of the division' (Second Sentence). The instant resolution of October 16, 2009 which is final in character was signed to repeat with by only two (2) members of the division Hon. Justice Ruben C. Ayson and Hon. Justice Rodrigo F. Lim, Jr., - the other member of the division Hon. Justice Leoncia Real-Dimagiba being on leave.

x x x x

SO ORDERED.<sup>[25]</sup>

Aside from the foregoing order, RTC Br. 14 also issued a Warrant of Arrest<sup>[26]</sup> signed by Judge Omelio which directed the apprehension of the officials of Banco De Oro (BDO) due to indirect contempt of court<sup>[27]</sup> for their reluctance in releasing PSPC' s garnished funds.<sup>[28]</sup>

The following day, or on October 20, 2009, PSPC immediately filed the present Complaint.<sup>[29]</sup> It alleged that Judge Omelio's refusal to heed the injunction issued by the CA—due to his conclusion that it was irregular and has no force and effect—constitutes gross ignorance of the law.<sup>[30]</sup> Moreover, his unjustified issuance of a warrant of arrest against BDO's officials constitutes abuse of authority.<sup>[31]</sup> All told, PSPC concluded that Judge Omelio's actuations fall short of that required from members of the judiciary and prayed for his dismissal from service and for the forfeiture of all his benefits.<sup>[32]</sup>

**Report and  
Recommendation of the  
Judicial Integrity Board  
(JIB)**

In a February 16, 2022 Report and Recommendation,<sup>[33]</sup> the JIB recommended the imposition of fine in the amount of PHP 40,000.00 against Judge Omelio, the *fallo* of which reads:

WHEREFORE, it is respectfully **RECOMMENDED** to the Honorable Supreme Court that:

1. this administrative complaint be **RE-DOCKETED** as a regular administrative matter against former Presiding Judge George E. Omelio, Branch 14, Regional Trial Court, Davao City; and
2. respondent be found **GUILTY** of Gross Ignorance of the Law and be **FINED** in the sum of **P40,000.00** which may be deducted from the money value of his accrued leave credits, if any.<sup>[34]</sup>

The JIB found that Judge Omelio's insistence that the writ of preliminary injunction issued by the CA is a final resolution that constitutes gross ignorance of the law. As a judge, he should know that it is a mere interlocutory order which may be acted upon by the *ponente* alone or two members of the CA Division because of its urgent nature. The subsequent ratification of the other members is allowed under Section 5, Rule VI of the 2002 Internal Rules of the CA,<sup>[35]</sup> which states:

**Section 5. Action by a Justice.**—All members of the Division shall act upon an application for a temporary restraining order and writ of preliminary injunction. However, if the matter is of extreme urgency, and a Justice is absent, the two other justices shall act upon the application. If only the *ponente* is present, then he [or she] shall act alone upon the application. The action of the two Justices or of the *ponente* shall however be submitted on the next working day to the absent member or members of the Division for ratification, modification or recall.<sup>[36]</sup>

With respect to the charges of grave abuse of authority and violation of the Code, the JIB found that they are already absorbed in Judge Omelio's liability or gross ignorance of the law. According to the JIB, were it not for his gross ignorance of the law, he would not have issued the writ of execution and the warrant of arrest.<sup>[37]</sup>

As to the penalty, the JIB noted the case of *Peralta v. Judge Omelio*<sup>[38]</sup> wherein this Court found Judge Omelio guilty of gross ignorance of the law and dismissed him from service

with forfeiture of all retirement benefits, except accrued leave credits, and perpetually disqualified him from re-employment in any branch, agency or instrumentality of the government, including government-owned and controlled corporations.<sup>[39]</sup> Thus, considering that the penalty of dismissal or suspension could no longer be effected, it recommended that a penalty of fine in the amount of P40,000.00 is in order.<sup>[40]</sup>

## Issue

Is Judge Omelio liable for the charges against him?

## Our Ruling

We adopt with modification the legal conclusions and recommendation of the JIB. Consequently, We hold Judge Omelio liable for two counts of gross ignorance of the law, one count of grave abuse of authority, and one count of gross misconduct constituting violations of the Code.

It is well-settled that “[f]or liability to attach for ignorance of the law, the assailed order, decision or actuation of the judge in the performance of official duties must not only be found erroneous but, most importantly, it must also be established that he [or she] was moved by bad faith, dishonesty, hatred, or some other like motive.”<sup>[41]</sup>

Here, the facts are well-established that RTC Br. 14, presided by Judge Omelio, was already ordered by the CA to cease and desist from implementing the writs of execution in relation to the Abenon Case. Despite this, he refused to obey and justified such refusal with an inapplicable legal provision and an erroneous interpretation of a basic concept of law. As pointed out by the JIB, his line of reasoning is anchored on his interpretation that a writ of preliminary injunction is a final resolution or disposition governed by Section 11 of Batas Pambansa Blg. 129<sup>[42]</sup> (BP 129) which provides:

**Section 11. Quorum.**—A majority of the actual members of the Court shall constitute a quorum for its session *en banc*. Three members shall constitute a quorum for the session of a division. The unanimous vote of the three members of a division shall be necessary for the pronouncement of a decision or final resolution, which shall be reached in consultation before the writing of the

opinion by any members of the division. In the event that the three members do not reach a unanimous vote, the Presiding Justice shall request the Raffle Committee of the Court for the designation of two additional Justices to sit temporarily with them, forming a special division of five members and the concurrence of a majority of such division shall be necessary for the pronouncement of a decision or final resolution. The designation of such additional Justice shall be made strictly by raffle.

Judge Omelio is gravely mistaken. In *Pahila-Garrido v. Tortogo*,<sup>[43]</sup> We held:

The distinction between a final order and an interlocutory order is well known. The first disposes of the subject matter in its entirety or terminates a particular proceeding or action, leaving nothing more to be done except to enforce by execution what the court has determined, but the latter does not completely dispose of the case but leaves something else to be decided upon.<sup>[44]</sup> An interlocutory order deals with preliminary matters and the trial on the merits is yet to be held and the judgment rendered.<sup>[45]</sup> The test to ascertain whether or not an order or a judgment is interlocutory or final is: *does the order or judgment leave something to be done in the trial court with respect to the merits of the case?* If it does, the order or judgment is interlocutory; otherwise, it is final.

The order dated November 12, 2002, which granted the application for the writ of preliminary injunction, was an interlocutory, not a final, order, and should not be the subject of an appeal x x x<sup>[46]</sup>

The subject writ of preliminary injunction is a mere interlocutory order and not a final order. It was validly issued pursuant to Section 5, Rule VI of the 2002 Internal Rules of the CA which is the applicable provision on the issuance of writs of preliminary injunction by the CA, and not Section 11 of BP 129 which explicitly governs the pronouncement of decisions and final resolutions.

Time and again, We have held that “[j]udges are expected to exhibit more than just cursory acquaintance with statutes and procedural laws. They must know the laws and apply them properly in all good faith. Judicial competence requires no less. x x x When the inefficiency springs from a failure to recognize such a basic and elemental rule, a law or a principle in



the discharge of his [or her] functions, a judge is either too incompetent and undeserving of the position and the prestigious title he [or she] holds or he [or she] is too vicious that the oversight or omission was deliberately done in bad faith and in grave abuse of judicial authority.”<sup>[47]</sup>

While records show that in an October 20, 2009 Order,<sup>[48]</sup> Judge Omelio recalled and set aside the assailed Order<sup>[49]</sup> and Warrant of Arrest<sup>[50]</sup> due to receipt of Associate Justice Dimagiba’s ratification of the CA’s October 16, 2009 Resolution,<sup>[51]</sup> this would not absolve him from liability since it was apparent that the basis for the recall was hinged on his insistence on the applicability of Section 11 of BP 129.

Moreover, it bears stressing that in *Chiquita*,<sup>[52]</sup> this Court, upon a finding of grave abuse of discretion, declared as void the writs of execution issued by RTC Br. 14 through Judge Omelio. We ruled:

Clearly, the Compromise Agreement did not impose solidary liability on the parties’ subsidiaries, affiliates, controlled, and related entities, successors, and assigns but merely allowed them to benefit from its effects. Thus, respondent **Judge Omelio gravely abused his discretion in holding that the petitioners’ subsidiaries and affiliates were solidarity liable under the Compromise Agreement.**

x x x x

**Consequently, the Amended Order dated August 11, 2009, the Amended Writ of Execution, and the Alias Writ of Execution are void for having been issued by respondent court with grave abuse of discretion.**<sup>[53]</sup>

(Emphases supplied)

Hence, in this aspect, We uphold the JIB’s finding of Judge Omelio’s gross ignorance of the law.

On the other hand, We disagree with the JIB’s legal conclusion that Judge Omelio’s liability for gross ignorance of the law absorbs his liabilities for grave abuse of authority and violation of the Code.

In contrast, We find him separately liable for the following: (1) another count of gross

ignorance of the law for citing BDO officials in indirect contempt through a mere motion; (2) grave abuse of authority for issuing a warrant of arrest pursuant to a summary citation of indirect contempt; and (3) gross misconduct constituting violations of the Code due to his manifest acts of partiality in favor of the complainants in the Abenon Case.

Grave abuse of authority is defined as a “misdemeanor committed by a public officer, who under color of his [or her] office, wrongfully inflicts upon any person any bodily harm, imprisonment or other injury;’ it is an ‘act of cruelty, severity, or excessive use of authority.’”<sup>[54]</sup>

In *Uematsu v. Balinon*,<sup>[55]</sup> We discussed the procedural requirements for the institution of indirect contempt proceedings, thus:

In *Arriola, et al. v. Arriola (Arriola)*,<sup>[56]</sup> the Court emphasized that the indirect contempt, not initiated by the court *motu proprio*, must be commenced by a verified petition. It ratiocinated that even if the contempt proceedings emanated from a principal case, still, the governing rules require that a petition be filed and treated independently of the main action. It stressed that it is beyond doubt that the requirement of a verified petition in initiating an indirect contempt proceeding is a **mandatory** requirement quoting the Court’s earlier pronouncement in *Regalado v. Go*,<sup>[57]</sup> viz.:

x x x x

Henceforth, except for indirect contempt proceedings initiated *motu proprio* by order of or a formal charge by the offended court, all charges shall be commenced by a verified petition with full compliance with the requirements therefore [sic] and shall be disposed in accordance with the second paragraph of this section.

x x x x

**Even if the contempt proceedings stemmed from the main case over which the court already acquired jurisdiction, the rules direct that the petition for contempt be treated independently of the principal action. Consequently, the necessary prerequisites for the filing of initiatory pleadings, such as the**

**filing of a verified petition, attachment of a certification on non-forum shopping, and the payment of the necessary docket fees, must be faithfully observed.**<sup>[58]</sup> (Emphasis in the original.)

Like in *Arriola*, the indirect contempt charge against respondent was initiated by petitioner's mere motion; thus, without compliance with the mandatory requirements under Section 4, Rule 71 of the Rules of Court. Specifically, not only did petitioner fail to file a verified petition, he, likewise, did not comply with the requirements for the filing of initiatory pleadings. This being so, the RTC-Tagum had improperly taken cognizance of the charge and conversely, it should have dismissed the motion.<sup>[59]</sup>

Here, there is no showing that the BDO officials' citation for indirect contempt was preceded by a petition or that it was initiated by the court *motu proprio*. Interestingly, the records lack any explanation or evidence from Judge Omelio to apprise this Court of the procedure on how the indirect contempt proceeding was initiated and ruled upon. This, considering the numerous pleadings he filed to refute PSPC's claims.

In *Sison v. Judge Caoibes, Jr.*,<sup>[60]</sup> We explained:

[T]he power to declare a person in contempt of court and in dealing with him [or her] accordingly is an inherent power lodged in courts of justice, to be used as a means to protect and preserve the dignity of the court, the solemnity of the proceedings therein, and the administration of justice from callous misbehavior, offensive personalities, and contumacious refusal to comply with court orders. Indeed, the power of contempt is power assumed by a court or judge to coerce cooperation and punish disobedience, disrespect or interference with the court's orderly process by exacting summary punishment. The contempt power was given to the courts in trust for the public, by tradition and necessity, in as much as respect for the courts, which are ordained to administer the laws which are necessary to the good order of society, is as necessary as respect for the laws themselves. And, as in all other powers of the court, the contempt power, *however plenary it may seem, must be exercised judiciously and sparingly*. [Judges] should never allow [themselves] to be moved by pride, prejudice, passion, or pettiness in the performance of [their] duties.<sup>[61]</sup>

Relatedly, in *Atty. Gomos v. Judge Adiong*,<sup>[62]</sup> We suspended the respondent for summarily citing persons for indirect contempt, thus:

Respondent judge is likewise guilty of gross ignorance of the law for summarily punishing FAPE's president and employees without any written charge for indirect contempt or giving them any opportunity to explain their refusal to obey the court's order, as mandated by Section 3, Rule 71 of the 1997 Rules of Civil Procedure. What makes the act more reprehensible was the four FAPE employees cited for contempt, two of whom were arrested and detained with the exception of Dr. Borromeo, were not even impleaded in Special Civil Action No. 690-10. Worse, the arrest of the said employees was made despite the issuance by the Court of Appeals of a TRO enjoining the respondent from enforcing the Order of February 26, 2001.

x x x x

The seeming eagerness and haste with which respondent judge demonstrated in issuing the assailed orders, warrants and writ betray a design to railroad judicial processes to favor a preferred litigant. The act of a judge in citing a person in contempt of court in a manner which displays obvious partiality is deplorable and violative of Rule 2.01 of the Code of Judicial Conduct which requires a judge to behave at all times to promote public confidence in the integrity and impartiality of the judiciary. A judge is guilty of gross ignorance of the law and grave abuse of judicial authority for having precipitately adjudged guilty of indirect contempt in disregard of the elementary rules of procedure.<sup>[63]</sup>

In this case, Judge Omelio's unceremonious issuance of a warrant of arrest pursuant to a summary citation for indirect contempt is evidently marred with grave abuse of judicial authority and gross ignorance of the law. Further, We held in *Chiquita*:<sup>[64]</sup>

Respondent court's fervor in ordering the execution of the compromise agreement appears to be fueled by its compassion towards the workers who have allegedly been exposed to DBCP. However, prudence and judicial restraint dictate that a court's sympathy towards litigants should yield to established legal rules x x x.<sup>[65]</sup>

Indeed, Judge Omelio's partiality in favor of the complainants in the Abenon Case have not gone unnoticed. Records reveal that his wife, Ma. Florida Omelio, was one of the claimants in another case for alleged DBCP-related injuries.<sup>[66]</sup> His insistence that this fact could not have influenced him in presiding over the Abenon Case<sup>[67]</sup> deserves scant consideration. Worse, he summarily denied Shell Oil Company's Urgent Motion for Inhibition (with Motion to Suspend Proceedings)<sup>[68]</sup> in an Order<sup>[69]</sup> dated January 7, 2009 despite a previous Notice<sup>[70]</sup> setting such motion for hearing on January 21, 2009.

Consequently, We hold him liable for gross misconduct constituting violations of the following provisions of the Code:

### **CANON 3**

#### *Impartiality*

x x x x

**Section 1.** Judges shall perform their judicial duties without favor, bias or prejudice.

x x x x

**Section 5. Judges shall disqualify themselves from participating in any [proceeding]** in which they are unable to decide the matter impartially or **in which it may appear to a reasonable observer that they are unable to decide the matter impartially.** Such proceedings include, but are not limited to, instances where[:]

x x x x

(g)The judge knows that his or her spouse or child has a financial interest, as heir, legatee, creditor, fiduciary, or otherwise, in the subject matter in controversy or in a party to the proceeding, **or any other interest that could be substantially affected by the outcome of the proceedings[.]** (Emphases supplied)

## **CANON 4**

### *Propriety*

x x x x

**Section 1.** Judges shall avoid impropriety and the appearance of impropriety in all of their activities.

x x x x

**Section 4.** Judges shall not participate in the determination of a case in which any member of their family represents a litigant or is associated in any manner with the case.

Undoubtedly, Judge Omelio utterly failed to abide by the “[w]ell-known x x x judicial norm that ‘judges should not only be impartial but should also appear impartial.’ Jurisprudence repeatedly teaches that litigants are entitled to nothing less than the cold neutrality of an impartial judge. The other elements of due process, like notice and hearing, would become meaningless if the ultimate decision is rendered by a partial or biased judge. Judges must not only render just, correct[,] and impartial decisions, but must do so in a manner free of any suspicion as to their fairness, impartiality[,] and integrity.”<sup>[71]</sup>

### **Penalty**

On February 22, 2022, this Court approved Administrative Matter (A.M.) No. 21-08-09-SC entitled “Further Amendments to Rule 140 of the Rules of Court” (Rule 140), which took effect on April 18, 2022 after its publication in two newspapers<sup>[72]</sup> of national circulation on April 3, 2022.<sup>[73]</sup> Section 24<sup>[74]</sup> thereof expressly provides for retroactivity, thus its provisions are applicable “to all pending and future administrative cases involving the discipline of Members, officials, employees, and personnel of the Judiciary.” As discussed in Our explanatory note:

Jurisprudence provides that, as a rule, all laws are prospective in application unless the contrary is expressly provided, or unless the law is procedural or curative in nature.<sup>[75]</sup> By expressly stating that these new provisions will apply to ‘all pending and future administrative cases,’ the Court effectively abandons the ruling in *Dela Rama v. De Leon*<sup>[76]</sup> (i.e., ‘if the application of Rule 140, as

amended, would be prejudicial to the employee, then the framework of rules prevailing at the time of the commission of the offense should apply.’) It bears noting that no vested rights are impaired by increasing the imposable periods of suspension or by making Rule 140 applicable to court personnel. Moreover, the Court may, in its discretion, make the necessary changes in this regard pursuant to its constitutional power to exercise administrative supervision and to discipline justices and judges of the lower courts, as well as all court personnel.<sup>[77]</sup>

Accordingly, We impose the stiffer sanctions under Rule 140’s amendments against Judge Omelio.

Gross ignorance of the law, grave abuse of authority, and gross misconduct constituting violations of the Code are all classified as serious charges under Section 14<sup>[78]</sup> of Rule 140. The imposable sanctions for these charges are provided under Section 17 of Rule 140, namely:

Section 17. *Sanctions.* —

(1) If the respondent is guilty of a serious charge, any of the following sanctions shall be imposed:

(a) Dismissal from service, forfeiture of all or part of the benefits as the Supreme Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or -controlled corporations. Provided, however, that the forfeiture of benefits shall in no case include accrued leave credits;

(b) Suspension from office without salary and other benefits for more than six (6) months but not exceeding one (1) year; or

(c) A fine of more than P100,000.00 but not exceeding P200,000.00.

Corollarily, Section 21 of Rule 140 provides that “[i]f the respondent is found liable for more than one (1) offense arising from separate acts or omissions in a single administrative

proceeding, the Court shall impose separate penalties for each offense.” As previously mentioned, this Court already dismissed Judge Omelio from service in *Peralta v. Judge Omelio*<sup>[79]</sup> for gross ignorance of the law. Hence, in lieu of dismissal, We impose the following fines pursuant to Sections 18<sup>[80]</sup> and 21<sup>[81]</sup> of Rule 140:

- a. P150,000.00 for each count of gross ignorance of the law, or a total of P300,000.00 for two (2) counts,
- b. P100,000.00 for one (1) count of grave abuse of authority, and
- c. P100,000.00 for one (1) count of gross misconduct constituting violations of the Code.

In addition, Sections 19 and 20 of Rule 140 provide:

Section 19. *Modifying Circumstances*. — In determining the appropriate penalty to be imposed, the Court may, in its discretion, appreciate the following mitigating and aggravating circumstances:

x x x x

(2) Aggravating Circumstances:

- (a) Finding of previous administrative liability where a penalty is imposed, regardless of nature and/or gravity[.]

x x x x

Section 20. *Manner of Imposition*. — If one (1) or more aggravating circumstances and no mitigating circumstances are present, the Supreme Court may impose the penalties of suspension or fine for a period or amount not exceeding double of the maximum prescribed under this Rule.

This Court is well-aware of the series of administrative cases<sup>[82]</sup> wherein Judge Omelio was sanctioned for his disreputable acts, and cases<sup>[83]</sup> wherein his issuances were declared as void due to grave abuse of discretion. Consequently, We consider his previous administrative cases as an aggravating circumstance in the present case and deem it proper



to impose an additional fine of P200,000.00 against him.

“Our conception of good judges has been, and is, of men [and women] who have a mastery of the principles of law, who discharge their duties in accordance with law. Judges are the visible representations of law and justice, from whom the people draw the will and inclination to obey the law. They are expected to be circumspect in the performance of their tasks, for it is their duty to administer justice in a way that inspires confidence in the integrity of the justice system.”<sup>[84]</sup>

“The Court condemns and would never countenance any conduct, act or omission on the part of all those involved in the administration of justice which would violate the norm of public accountability or tend to diminish the faith of the people in the Judiciary, as in the case at bar.”<sup>[85]</sup>

**WHEREFORE**, the Court finds former Judge George E. Omelio **GUILTY** of two (2) counts of gross ignorance of the law, one (1) count of grave abuse of authority, and one (1) count of gross misconduct constituting violations of the Code of Judicial Conduct. He is **ORDERED** to pay a **FINE** in the aggregate amount of P700,000.00 within a period not exceeding three (3) months from the date of promulgation of this Resolution. If unpaid, such amount shall be deducted from his accrued leave credits.

**SO ORDERED.**

*Gesundo, C.J., Caguioa, Lazaro-Javier, Inting, Zalameda, M. Lopez, Gaerlan, Rosario, J. Lopez, Dimaampao, Marquez, Kho, Jr., and Singh, JJ., concur.*  
*Leonen, \* SAJ., on official leave.*

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\* On official leave.

<sup>[1]</sup> *Rollo*, Vol. 1, pp. 1-14.

<sup>[2]</sup> Also spelled as Abenion in some parts of the records.

<sup>[3]</sup> 810 Phil. 497 (2017).

<sup>[4]</sup> *Supra*.

<sup>[5]</sup> *Id.* at 502-504. Citations omitted.

<sup>[6]</sup> *Supra* note 3.

<sup>[7]</sup> *Rollo*, Vol. 1, pp. 66-88. Penned by Judge Jesus L. Grageda.

<sup>[8]</sup> See *rollo*, Vol. 2, p. 872.

<sup>[9]</sup> See *id.* at 872-873.

<sup>[10]</sup> *Supra* note 3.

<sup>[11]</sup> Judge Jesus L. Grageda was the Judge previously assigned to the case prior to its transfer to RTC Br. 14.

<sup>[12]</sup> **Chiquita Brands, Inc. v. Judge Omelio**, *supra* note 3 at 516. Citations omitted.

<sup>[13]</sup> *Rollo*, Vol. 1, pp. 354-366.

<sup>[14]</sup> *Supra* note 3.

<sup>[15]</sup> See *rollo*, Vol. 1, pp. 60-61.

<sup>[16]</sup> See *id.* at 132-133.

<sup>[17]</sup> See *id.* at 4.

<sup>[18]</sup> *Id.* at 30-40. Penned by Associate Justice Ruben C. Ayson and concurred in by Associate Justice Rodrigo F. Lim, Jr., Justice Leoncia Real-Dimagiba (then on leave) was furnished a copy of the Resolution for ratification, modification, or recall pursuant to Section 5, Rule VI of the 2002 Internal Rules of the Court of Appeals, as amended.

<sup>[19]</sup> *Id.* at 38-39.

<sup>[20]</sup> *Id.* at 41-43.

<sup>[21]</sup> *Id.* at 30-40.

<sup>[22]</sup> *Id.* at 43.

<sup>[23]</sup> See *id.* at 44.

<sup>[24]</sup> *Id.* at 30 to 40.

<sup>[25]</sup> *Id.* at 44.

<sup>[26]</sup> *Id.* at 45.

<sup>[27]</sup> See *id.* at 7.

<sup>[28]</sup> See *rollo*, Vol. 2, p. 904.

<sup>[29]</sup> *Rollo*, Vol. 1, pp. 1-14.

<sup>[30]</sup> See *id.* at 9-10.

<sup>[31]</sup> See *id.* at 10-12.

<sup>[32]</sup> See *id.* at 12-14.

<sup>[33]</sup> *Rollo*, Vol. 3, pp. 1498-1517. Penned by Justice Rodolfo A. Ponferrada (Ret.) and concurred in by Justices Romeo J. Callejo, Sr. (Ret.), Angelina Sandoval-Gutierrez (Ret.), and Sesinando E. Villon (Ret.).

<sup>[34]</sup> *Id.* at 1516.

<sup>[35]</sup> **A.M. No. 02-6-13-CA**. Approved: July 31, 2002.

<sup>[36]</sup> See *rollo*, Vol. 3, p. 1512.

<sup>[37]</sup> See *id.* at 1515.

<sup>[38]</sup> 720 Phil. 60 (2013).

<sup>[39]</sup> See *id.* at 104.

<sup>[40]</sup> See *rollo*, Vol. 3, p. 1515.

<sup>[41]</sup> **Department of Justice v. Judge Misleng**, 791 Phil. 219, 228 (2016), citing **Re: Complaint Against Justice John Elvi S. Asuncion of the Court of Appeals**, 547 Phil. 418, 439 (2007). Further citation omitted.

<sup>[42]</sup> Entitled "AN ACT REORGANIZING THE JUDICIARY, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES." Approved: August 14, 1981.

<sup>[43]</sup> 671 Phil. 320 (2011).

<sup>[44]</sup> *Id.* at 334, citing **Tan v. Republic**, 551 Phil. 201, 210 (2007).

<sup>[45]</sup> *Id.*, citing **Miranda v. Court of Appeals**, 163 Phil. 285, 321 (1976).

<sup>[46]</sup> *Id.*

<sup>[47]</sup> **Department of Justice v. Judge Misleng**, *supra* at 228, citing **Re: Complaint Against Justice John Elvi S. Asuncion of the Court of Appeals**, *supra* at 438. Further citations omitted.

<sup>[48]</sup> *Rollo*, Vol. 1, pp. 92-93.

<sup>[49]</sup> *Id.* at 44.

<sup>[50]</sup> *Id.* at 45.

<sup>[51]</sup> *Id.* at 30-40.

<sup>[52]</sup> *Supra* note 3.

<sup>[53]</sup> *Id.* at 537-538.

<sup>[54]</sup> **Rafael v. Sualog**, 577 Phil. 159, 169 (2008). Citation omitted.

<sup>[55]</sup> **G.R. No. 234812**, November 25, 2019.

<sup>[56]</sup> *Id.*, citing 566 Phil. 654, 662-663 (2008).

<sup>[57]</sup> *Id.*, citing 543 Phil. 578, 596-597 (2007).

<sup>[58]</sup> *Id.*

<sup>[59]</sup> *Id.*

<sup>[60]</sup> 473 Phil. 251 (2004).

<sup>[61]</sup> *Id.* at 260-261. (Italics provided).

<sup>[62]</sup> 484 Phil. 116 (2004).

[63] *Id.* at 125-126. Citations omitted.

[64] *Supra* note 3.

[65] *Id.* at 538.

[66] See *rollo*, Vol. 3, pp. 1246-1247.

[67] See *id.* at 1525-1526.

[68] *Rollo*, Vol. 1, pp. 253-275.

[69] *Id.* at 282-283.

[70] *Id.* at 280-281.

[71] **Rallos v. Judge Lee Gako, Jr.**, 385 Phil. 4, 20 (2000). Citation omitted.

[72] Manila Bulletin and Philippine Star.

[73] See OCA Circular No. 82-2022, April 7, 2022.

[74] Section 24. *Retroactive Effect*. — All the foregoing provisions shall be applied to all pending and future administrative cases involving the discipline of Members, officials, employees, and personnel of the Judiciary, without prejudice to the internal rules of the Committee on Ethics and Ethical Standards of the Supreme Court insofar as complaints against Members of the Supreme Court are concerned.

[75] Re: Further Amendments to Rule 140 of the Rules of Court (Annotated Version), citing **Eastern Mediterranean Maritime Ltd. v. Surio**, 693 Phil. 193, 202 (2012) and Article 4 of the Civil Code.

[76] *Id.*, citing A.M. No. P-14-3240, March 23, 2021.

[77] *Id.*, citing the CONSTITUTION, Art. VIII, Secs. 6 and 11.

[78] Section 14. *Serious Charges*. — Serious charges include:

- (a) Gross misconduct constituting violations of the Code of Judicial Conduct or of the Code of Conduct for Court Personnel;  
x x x x

- (j) Gross ignorance of the law or procedure;  
x x x x
- (l) Grave abuse of authority, and/or prejudicial conduct that gravely besmirches or taints the reputation of the service[.]

<sup>[79]</sup> *Supra* note 38.

<sup>[80]</sup> Section 18. *Penalty in lieu of Dismissal on Account of Supervening Resignation, Retirement, or Other Modes of Separation of Service.* — If the respondent is found liable for an offense which merits the imposition of the penalty of dismissal from service but the same can no longer be imposed due to the respondent's supervening resignation, retirement, or other modes of separation from service except for death, he or she may be meted with the following penalties in lieu of dismissal:

- Forfeiture of all or part of the benefits as the Supreme Court may determine, and disqualification from reinstatement or appointment to any public office,
- (a) including government owned or -controlled corporations. Provided, however, that the forfeiture of benefits shall in no case include accrued leave credits; and/or
- (b) Fine as stated in Section 17 (1) (c) of this Rule.

<sup>[81]</sup> Section 21. *Penalty for Multiple Offenses.* — If the respondent is found liable for more than one (1) offense arising from separate acts or omissions in a single administrative proceeding, the Court shall impose separate penalties for each offense. Should the aggregate of the imposed penalties exceed five (5) years of suspension or P1,000,000.00 in fines, the respondent may, in the discretion of the Supreme Court, be meted with the penalty of dismissal from service, forfeiture of all or part of the benefits as may be determined, and disqualification from reinstatement or appointment to any public office, including government-owned or -controlled corporations. Provided, however, that the forfeiture of benefits shall in no case include accrued leave credits.

On the other hand, if a single act/omission constitutes more than one (1) offense, the respondent shall still be found liable for all such offenses, but shall, nonetheless, only be meted with the appropriate penalty for the most serious offense.

<sup>[82]</sup> See **Palma v. Judge Omelio**, 817 Phil. 320 (2017); **Peralta v. Judge Omelio**, *supra* note 38; **Spouses Crisologo v. Judge Omelio**, 696 Phil. 30 (2012).

<sup>[83]</sup> See **Chiquita Brands, Inc. v. Judge Omelia**, *supra* note 3; **Barroso v. Judge Omelio**, 771 Phil. 199 (2015); **Spouses Crisologo v. JEWMA Agro-Industrial Corp.**, 728 Phil. 315 (2014).

<sup>[84]</sup> **Philippine National Construction Corp. v. Judge Mupas, A.M. No. RTJ-20-2593**, November 10, 2020. Citations omitted.

<sup>[85]</sup> **Atty. Gandeza, Jr. v. Judge Tabin**, 669 Phil. 536, 544-545 (2011). Citation omitted.

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