

GREENSTAR BOCAY MANGANDINGAN, Complainant, vs. JUDGE SANTOS B. ADIONG, Regional Trial Court (RTC), Branch 8, Marawi City; ATTY. CAIRODING P. MARUHOM, Clerk of Court VI and MR. M...

A.M. No. RTJ-04-1826. February 06, 2008

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PER CURIAM

In his Affidavit-Complaint[1] dated April 15, 2003, complainant Greenstar Bocay Mangandingan charges respondent Judge Santos B. Adiong, presiding judge of the Regional Trial Court (RTC) of Lanao del Sur, Marawi City, Branch 8, with gross ignorance of the law or procedure; manifest unfaithfulness to a basic legal rule as well as injudicious conduct; grave abuse of authority; grave misconduct; conduct prejudicial to the administration of justice; violation of Rules 3.01[2] and 3.02[3] of the Code of Judicial Conduct; knowingly rendering an unjust interlocutory order; and bias and partiality.

Complainant was proclaimed the Punong Barangay of Basak-Bangco, Madalum, Lanao del Sur during the special election on August 13, 2002 by virtue of Commission on Elections (COMELEC) En Banc Resolution No. 03-0062.

On March 3, 2003, the losing candidate, Alizaman S. Sangcopan, filed with the RTC of Lanao del Sur an action for damages with prayer for preliminary injunction and/or preliminary mandatory injunction and temporary restraining order (TRO) against the seven commissioners of the COMELEC; the winning and duly proclaimed barangay officials of Barangay Basak-Bangco including herein complainant; the Acting Election Officer; the Board of Election Tellers of Precinct No. 68A; the Land Bank of the Philippines (LBP); and the Chief of Barangay Affairs-Department of Interior and Local Government (DILG), Province of Lanao del Sur. Said case was docketed as Civil Case No. 1912-03.[4]

On March 5, 2003, the respondent Clerk of Court Atty. Cairoding P. Maruhom issued the summons.[5] Before these could be served on any of the defendants, however, Judge Adiong issued a TRO without conducting a hearing. He also set the hearing on the application for the issuance of a preliminary injunction on March 20, 2003.[6] Complainant claims that there is no showing in the records that the case was raffled to Branch 8 of the RTC presided by Judge Adiong when said TRO was issued.[7]

On March 7, 2003, the sheriff made a return of service which partly provides that the defendants were served with summons through Datu Hassan Mangondaya at his residence in Madalum, Lanao del Sur.[8]

Complainant claims that there was no valid service of summons on the defendants in accordance with Sections 6 and 7 of Rule 14 of the Rules of Court since the same was given to a certain Datu Hassan Mangondaya of Madalum, Lanao del Sur who had absolutely nothing to do with the case and was not even authorized by the court to receive summons for the defendants.

Complainant also alleges that on March 11, 2003, or barely six days after issuing the TRO, Judge Adiong, without notice or hearing, issued another order extending the effectivity of the illegally issued TRO for another twenty

(20) days, prior to the expiration of the TRO's effectivity and in blatant and open violation of Section 5 of Rule 58 of the Rules of Court and Batas Pambansa Blg. 224.[9]

On March 20, 2003, Judge Adiong considered the application for a writ of preliminary injunction submitted for resolution. The following day, he granted plaintiff's application for a writ of preliminary injunction then issued the writ on March 25, 2003.[10]

Complainant avers that it was only on March 28, 2003 when he received a copy of the summons at the Municipal Hall of Madalum, Lanao del Sur.

In his Supplemental Affidavit-Complaint[11] dated May 7, 2003, complainant charges respondents Atty. Cairoding P. Maruhom and Masbod Sybil with dishonesty, grave misconduct in office, conduct prejudicial to the orderly administration of justice, and violation of Section 3, paragraph (e) of Republic Act No. 3019.[12]

Complainant claims that Maruhom and Sybil conspired with Judge Adiong and Atty. Edgar Masorong, counsel for the plaintiff, to manipulate the raffle of the case. Based on the record of the raffling proceedings conducted at the Office of the Executive Clerk of Court of Marawi City on April 1, 2003, Civil Case No. 1912-03 was raffled only on said date and to Branch 10, not to Branch 8.[13] Complainant also alleges that instead of immediately notifying and/or summoning the parties pursuant to Supreme Court Administrative Circular No. 20-95,[14] Maruhom delivered the record of the case to Judge Adiong on March 5, 2003. After the Writ of Preliminary Injunction was issued on March 25, 2003, the record of the case was returned to the Office of the Executive Clerk of Court where it was finally raffled to Branch 10 on April 1, 2003.

Complainant avers that he filed his Answer with Special and Affirmative Defenses[15] with Branch 10, on April 3, 2003, but his Most Urgent Motion to Dissolve Writ of Preliminary Injunction,[16] which he scheduled for hearing on April 29, 2003, was not heard on that date because it was not included in the court calendar of Branch 10. Upon inquiry, it was discovered that Sybil had taken the records of the case from Branch 10 without the knowledge and authority of the branch clerk of court and the presiding judge, and replaced the case with Civil Case No. 1916-03 entitled "Amer D. Bantuas, Jr. v. Felix Taranao, Jr." Complainant also alleges that Sybil manipulated which branch of the RTC the case would be assigned for hearing, in conspiracy with Maruhom, Judge Adiong and Atty. Masorong.

The complaint and supplemental complaint having been filed directly with the Office of the Court Administrator (OCA), then Court Administrator[17] Presbitero J. Velasco, Jr. directed respondents, Judge Adiong, Atty. Maruhom and Mr. Sybil, to submit their respective comments.

In his Comment[18] dated June 25, 2003, Judge Adiong claims that there was valid service of summons or if there was any defect the same had been cured when the defendant filed his answer. According to Judge Adiong, the summons were served through Datu Hassan Mangondaya, the former Municipal Vice Mayor of Madalum, Lanao del Sur. As such, he is certainly a man of suitable age and discretion as well as a prominent citizen who literally knows everybody in the community. Judge Adiong claims that he relied upon the belief that the court sheriff had regularly done his job.

Judge Adiong argues that the issuance of the TRO on March 5, 2003 without prior notice and hearing was valid pursuant to Supreme Court Administrative Circular No. 20-95, which authorizes the ex parte issuance of a TRO by an executive judge in matters of extreme urgency, in order to prevent grave injustice and irreparable injury. He claims that such circumstance was clearly obtaining at the time he issued the TRO.

He also claims that when he extended the TRO to its maximum duration of twenty (20) days from its issuance, no violation of Section 5 of Rule 58 of the Rules of Court or B.P. Blg. 224 was committed. He adds that if indeed

notice of the preliminary hearing was not received by complainant before March 11, 2003, that matter should have been brought to the attention of the court by the defendants in Civil Case No. 1912-03 when the latter's counsel appeared at the Office of the Clerk of Court on March 20, 2003 to complain about the improper service of summons. But they did not; hence, the same is considered waived.

Judge Adiong maintains that the grant and issuance of the writ of preliminary injunction were perfectly valid. Complainant's claim that he was not properly served a summons is belied by the appearance of his counsel at the Office of the Clerk of Court in the morning of March 20, 2003, shortly before the hearing of the application for issuance of a writ of preliminary injunction was called.

Sybil in his Comment[19] dated August 5, 2003 admits that sometime in April 2003, plaintiff Sangcopan came to see him and asked if it was possible to have his complaint heard by RTC Branch 8, since the case was already started there. Sangcopan was concerned he might not have an impartial trial at RTC Branch 10 because the presiding judge therein was involved in the political career of his son, Yusoph Pangadapun, Jr., the incumbent Vice Mayor of Marawi City, and especially considering that the principal defendants in the case are the members of the COMELEC.

Because the case had just been raffled and there was no other sala to which it can be re-raffled, Sybil told Sangcopan that they will have to ask RTC Branch 10 if said branch is willing to exchange Civil Case No. 1912-03 with a Branch 8 case. He also said that they will have to ask Judge Adiong's permission for the case to be reassigned to his sala.

Candidato Dayondong, a court personnel of Branch 10 in charge of civil cases, allegedly agreed subject to the conformity of the parties. Upon request, Judge Adiong also agreed to the exchange.

Shortly after the exchange, Dayondong informed Sybil that complainant's counsel had objected to the transfer prompting Sybil to immediately retrieve the complete case file from Branch 8 and return it to Branch 10.

In his Comment[20] dated July 31, 2003, Clerk of Court Maruhom avers that he had no participation or knowledge of what transpired during the court proceedings from the time Civil Case No. 1912-03 was filed, much less did he conspire with the other respondents in the performance of all acts complained of. The alleged switching of cases by Sybil was done without his knowledge, consent or instruction.

Judge Adiong in his Supplemental Comment[21] dated August 4, 2003 admits acquiescing to Sybil and Sangcopan's request because he was satisfied "that no malice could be entertained from the Sangcopan's request" and no prejudice can be inflicted upon the rights of any of the parties since the case would have to be totally heard on its merits. Thereafter, the urgent motion to dissolve the issued injunctive writ was set for hearing. But before that could take place, the case was returned to Branch 10 because the complainant's counsel had allegedly objected to the reassignment of the case to respondent Judge's sala.

Upon evaluation of the case, the OCA found the complaint partly meritorious. It found that the summons served through the former vice mayor of Madalum, Lanao del Sur was not the valid substituted service contemplated by law. It also found that "[t]here could be no way to avoid the impression of irregularity when the raffling procedure is circumvented. For which reason, Judge Adiong and Sybil should be held administratively liable." [22] It recommended that the complaint against Maruhom be dismissed for lack of merit and that both Judge Adiong and Sybil be held liable for violation of Supreme Court rules, directives and circulars and each be fined in the amount of twenty thousand pesos (P20,000).

We agree with the findings of the OCA that respondents Judge Adiong and Sybil should be held administratively liable. However, we find the recommended penalties too light under the circumstances of this case and find it

more appropriate to impose heavier penalties. We likewise find that the complaint against respondent Maruhom should not be dismissed because he is also administratively liable.

We start with the determination of the extent of liability of Judge Adiong. We find Judge Adiong's justifications for his acts unconvincing. No matter how urgent a case may be, this fact cannot justify the procedural shortcuts employed by respondent judge, i.e. dispensing with the proper service of summons,[23] and the violation of Section 5 of Rule 58 of the Rules of Court.

Rule 14 of the Rules of Court provides:

RULE 14

SUMMONS

X X X X

SEC. 6. Service in person on defendant.—Whenever practicable, the summons shall be served handing a copy thereof to the defendant in person, or, if he refuses to receive and sign for it, by tendering it to him.

SEC. 7. Substituted service.—If, for justifiable causes, the defendant cannot be served within a reasonable time as provided in the preceding section, service may be effected (a) by leaving copies of the summons at the defendant's residence with some person of suitable age and discretion then residing therein, or (b) by leaving the copies at defendant's office or regular place of business with some competent person in charge thereof.

It is glaringly obvious from the service return[24] of the sheriff that the proper service as provided for in the rules was not followed. No copy of the summons was handed to any of the defendants who were natural persons. Neither was a copy left at any of their residences or offices. What the sheriff did was to leave a copy of the summons at the residence of Datu Hassan Mangondaya, a total stranger to the case. The sheriff also left a copy of the summons for defendant LBP with the manager of the LBP Marawi City Branch, although the latter is not one of those enumerated in Section 11[25] of Rule 14 of the Rules of Court upon whom service may be made when the defendant is a corporation. In the face of contrary evidence clearly showing that there was defective service of summons, Judge Adiong could not be justified in assuming that the sheriff regularly performed his duties.

Worth stressing, Section 5, Rule 58 of the Rules of Court states that:

SEC. 5. Preliminary injunction not granted without notice; exception. – No preliminary injunction shall be granted without hearing and prior notice to the party or person sought to be enjoined. If it shall appear from facts shown by affidavits or by the verified application that great or irreparable injury would result to the applicant before the matter can be heard on notice, the court to which the application for preliminary injunction was made, may issue ex parte a temporary restraining order to be effective only for a period of twenty (20) days from service on the party or person sought to be enjoined, except as herein provided. Within the said twenty-day period, the court must order said party or person to show cause, at a specified time and place, why the injunction should not be granted, determine within the same period whether or not the preliminary injunction shall be granted, and accordingly issue the corresponding order.

However, and subject to the provisions of the preceding sections, if the matter is of extreme urgency and the applicant will suffer grave injustice and irreparable injury, the executive judge of a multiple-sala court or the presiding judge of a single-sala court may issue ex parte a temporary restraining order effective for only seventy-two (72) hours from issuance but he shall immediately comply with the provisions of the next preceding section as to service of summons and the documents to be served therewith. Thereafter, within the aforesaid seventy-two (72) hours, the judge before whom the case is pending shall conduct a summary hearing to determine whether the temporary restraining order shall be extended until the application for preliminary injunction can be heard. In no case shall the total period of effectivity of the temporary restraining order

exceed twenty (20) days, including the original seventy-two hours provided herein.

In the event that the application for preliminary injunction is denied or not resolved within the said period, the temporary restraining order is deemed automatically vacated. The effectivity of a temporary restraining order is not extendible without need of any judicial declaration to that effect and no court shall have authority to extend or renew the same on the same ground for which it was issued.

X X X X

Judge Adiong disregarded these provisions of the Rules. He could not plausibly claim that he issued a 72-hour TRO under the second paragraph of the rule quoted above because, first, he was not the executive judge. Second, his order did not state that the TRO was effective for 72 hours only. On the contrary, the defendants were ordered to desist from releasing the subject funds “until further orders from this Court.” Third, there was no showing that the order was being issued because of extreme urgency to justify the issuance of a 72-hour TRO. Judge Adiong only stated in his order that he was “[a]cting on the prayer for the issuance of a Writ of Preliminary Injunction, without finding that the plaintiff was entitled thereto.”[26]

Judge Adiong’s violations of the Rules in issuing the TRO are patent and inexcusable.

This Court already ruled that failure to abide by Administrative Circular No. 20-95[27] constitutes the offense of grave abuse of authority, misconduct and conduct prejudicial to the proper administration of justice. Indeed, a judge is presumed to know this Circular. Judge Adiong’s failure to comply with the clear provisions on issuing TROs constitutes gross ignorance and gross inefficiency.[28]

We also agree that the presumptions of good faith and regularity in the performance of judicial functions on the part of Judge Adiong were negated by the circumstances on record. First, there was no proper notice to the herein complainant and the other defendants in Civil Case No. 1912-03 that an application for the issuance of a TRO had been filed. Second, Judge Adiong did not conduct a summary hearing before granting the TRO. Third, as will be discussed hereafter, he contravened the circular on the raffle of cases. All these systematically deprived complainant and the other defendants of knowledge of and participation in the TRO proceedings and ensured the unchallenged victory of Sangcopan therein. These three points, taken together, paint a picture of bias or partiality on the part of Judge Adiong. His acts amount to gross misconduct[29] constituting violations of the following provisions of the Code of Judicial Conduct:

CANON 2—A JUDGE SHOULD AVOID IMPROPRIETY AND APPEARANCE OF IMPROPRIETY IN ALL ACTIVITIES.

Rule 2.01 – A judge should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary.

X X X X

CANON 3—A JUDGE SHOULD PERFORM OFFICIAL DUTIES HONESTLY, AND WITH IMPARTIALITY AND DILIGENCE.

X X X X

Gross ignorance of the law or procedure and gross misconduct are classified as serious charges under Section 8[30] of Rule 140 of the Rules of Court for which any of the following sanctions under Section 11 of Rule 140 may be imposed:

- Dismissal from the service, forfeiture of all or part of the benefits as the 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;

- Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or
- A fine of more than P20,000.00 but not exceeding P40,000.00.

The Court notes that Judge Adiong was previously fined P20,000 for ignorance of the law in *Bantuas v. Pangadapun*[31] and P5,000 for gross ignorance of the law in *Mutlan v. Adiong*.[32] He was also warned in the latter case that repetition of the same or similar acts in the future will be dealt with most severely. In *Gomos v. Adiong*,[33] Judge Adiong was again found guilty of gross ignorance of the law for issuing a writ of preliminary injunction in violation of Section 21(1)[34] of B.P. Blg. 129[35] and Sections 4(c)[36] and 5, Rule 58 of the Rules of Court and for citing FAPE employees in contempt of court in disregard of Section 3,[37] Rule 71. Accordingly, he was suspended from office without salary and other benefits for six (6) months with a warning that a repetition of the same or similar acts shall be dealt with more severely. In *De la Paz v. Adiong*,[38] Judge Adiong was found guilty of gross ignorance of the law and abuse of authority and was suspended for a period of six (6) months without pay, with a warning that the commission of a similar act in the future will warrant his dismissal from the service.

This Court cannot countenance the complacency of Judge Adiong manifested in his gross ignorance and his deliberate misapplication or misinterpretation of the very basic procedures subject of the present case to justify his actions that favor certain litigants. Under the circumstances, and considering his propensity for disregarding elementary rules of procedure, the extreme sanction of dismissal is called for.

Next, we discuss the liability of respondent Maruhom, the Clerk of Court of RTC, Marawi City. In his Comment, he states that the complaint in Civil Case No. 1912-03 was filed on March 3, 2003 at 2:30 p.m. He referred it to Judge Adiong on March 5, 2003.[39] He alleges that Judge Adiong was the only available RTC Judge at that time. We find such referral unjustified. The case had already waited for more than a day after being filed in court. From all indications, the case was not so urgent that irreparable injury would be caused if the case was not acted upon in the first hours of March 5, 2003. It could have waited some hours more for the arrival of the proper official, the Executive Judge, to act on it. The undue haste of Maruhom in referring the case to Judge Adiong for action, without a raffle being first conducted, is a blatantly unjustified violation of the circulars of the Court which makes him administratively liable. His act was instrumental in the resulting series of anomalous events leading to the issuance of a temporary restraining order by an unauthorized judge. By his act he made a mockery of settled procedure for the orderly dispensation of justice. Time and again, this Court has emphasized the heavy burden and responsibility of court personnel. They have been constantly reminded that any impression of impropriety, misdeed or negligence in the performance of their official functions must be avoided. The Court does not hesitate to condemn and sanction such improper conduct, act or omission of those involved in the administration of justice that violates the norm of public accountability and diminishes or tends to diminish the faith of the public in the judiciary.[40]

For his prejudicial acts in the conduct of his official tasks, we find Maruhom guilty of simple misconduct.[41] The Uniform Rules on Administrative Cases in the Civil Service reveals that simple misconduct carries with it a penalty of suspension from one (1) month and one (1) day to six (6) months for the first offense. In our view, his misconduct calls for the imposition of three (3) months suspension from office.

Finally, we now consider the acts of Sybil.

Supreme Court Circular No. 7[42] pertinently provides:

I. Raffling of Cases

All cases filed with the Court in stations or groupings where there are two or more branches shall be assigned or distributed to the different branches by raffle. No case may be assigned to any branch without being raffled. The raffle of cases should be regularly conducted at the hour and on the day or days to be fixed by the Executive Judge....

The importance of assigning cases by raffle is obvious. Such method of assignment safeguards the right of the parties to be heard by an impartial and unbiased tribunal, while protecting judges from any suspicion of impropriety. For this reason, disregard of Circular No. 7, which requires such raffle of cases, cannot be taken lightly.[43]

Parenthetically, Judge Adiong apparently sees nothing wrong with Sybil's highly irregular act of exchanging the records of two cases in violation of the rules on raffle. This is a reflection of moral obtuseness which further renders respondent judge unfit to continue in the judicial office.

Going back to Sybil, he should bear in mind that employees of the judiciary must be mindful and should tread carefully when assisting other persons.[44] Court employees should maintain a hands-off attitude where dealings with party-litigants are concerned to maintain the integrity of the courts and to free court employees from suspicion of any misconduct.[45]

In *Macalua v. Tiu, Jr.*, [46] this Court held:

...[A court employee] is expected to do no more than what duty demands and no less than what privilege permits. Though he may be of great help to specific individuals, but when that help frustrates and betrays the public's trust in the system it cannot and should not remain unchecked. The interests of the individual must give way to the accommodation of the public – *Privatum incommodum publico bono pensatur*. [47] (Emphasis supplied.)

By not abiding by the rules on raffle, Sybil opened himself to the suspicion that he is biased and that he acted to favor the plaintiff. His highly improper conduct subjected the court's integrity to distrust. For this, the Court finds respondent Sybil guilty of simple misconduct.

WHEREFORE, the Court finds:

- Judge Santos B. Adiong GUILTY of gross ignorance of the law as well as gross misconduct constituting violation of the Code of Judicial Conduct. He is DISMISSED from the service with forfeiture of all benefits except his accrued leave credits, if any. He is further disqualified from reinstatement or appointment to any public office, including government-owned or controlled corporations.
- Atty. Cairoding P. Maruhom GUILTY of simple misconduct. He is SUSPENDED from office for three (3) months, effective immediately.
- Mr. Masbod M. Sybil GUILTY of simple misconduct. He is SUSPENDED from office for three (3) months, effective immediately.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Azcuna, Tinga, Velasco, Jr., Nachura, Reyes, and Leonardo-De Castro, JJ., concur.
Chico-Nazario, J., on official leave.

[1] Rollo, pp. 2-10.

[2] Rule 3.01.—A judge shall be faithful to the law and maintain professional competence.

[3] Rule 3.02.—In every case, a judge shall endeavor diligently to ascertain the facts and the applicable law unswayed by partisan interests, public opinion or fear of criticism.

[4] Rollo, pp. 11-31.

[5] Id. at 138.

[6] Id. at 3 and 81.

[7] Id. at 4.

[8] Id. at 69.

[9] AN ACT REGULATING THE ISSUANCE OF RESTRAINING ORDERS, AMENDING FOR THE PURPOSE, SECTION FIVE OF RULE FIFTY-EIGHT OF THE RULES OF COURT, approved on April 16, 1982.

[10] Rollo, pp. 72-79.

[11] Id. at 97-100.

[12] Also known as the Anti-Graft and Corrupt Practices Act, approved on August 17, 1960.

Section 3. Corrupt practices of public officers. – In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

x x x x

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

x x x x

[13] Rollo, p. 101.

[14] RE: SPECIAL RULES FOR TEMPORARY RESTRAINING ORDERS AND PRELIMINARY INJUNCTIONS, effective October 1, 1995.

- Where an application for temporary restraining order (TRO) or writ of preliminary injunction is included in a complaint or any initiatory pleading filed with the trial court, such complaint or initiatory pleading shall be raffled only after notice to the adverse party and in the presence of such party or counsel.

- The application for a TRO shall be acted upon only after all parties are heard in a summary hearing conducted within twenty-four (24) hours after the records are transmitted to the branch selected by raffle. The records shall be transmitted immediately after raffle.

- If the matter is of extreme urgency, such that unless a TRO is issued, grave injustice and irreparable injury will arise, the Executive Judge shall issue the TRO effective only for seventy-two (72) hours from issuance but shall

immediately summon the parties for conference and immediately raffle the case in their presence. Thereafter, before the expiry of the seventy-two (72) hours, the Presiding Judge to whom the case is assigned shall conduct a summary hearing to determine whether the TRO can be extended for another period until a hearing in the pending application for preliminary injunction can be conducted. In no case shall the total period of the TRO exceed twenty (20) days, including the original seventy-two (72) hours, for the TRO issued by the Executive Judge. (Emphasis and underscoring supplied.)

x x x x

[15] Rollo, pp. 142-152.

[16] Id. at 102-112.

[17] Now an Associate Justice of the Supreme Court.

[18] Rollo, pp. 119-136.

[19] Id. at 157-162.

[20] Id. at 164-167.

[21] Id. at 175-182.

[22] Id. at 188.

[23] Re: An Undated Letter with the Heading “Exposé” of a Concerned Mediaman on the Alleged Illegal Acts of Judge Julian C. Ocampo III, A.M. No. 00-10-230-MTCC, June 20, 2001, 359 SCRA 1, 15.

[24] Rollo, p. 69.

SERVICE RETURN

This is to certify that on March 06, 2003 the undersigned sheriff had cause the service of order/summons together with the copy of complaint and the annexes issued by this court in the above-entitled case served to the herein defendants GREENSTAR BOCAY MANGANDINGAN, NAIFA B. MANGANDINGAN, AGAKHAN G. MACALUPANG, ABOLKHAIR T. ALAWI, SAIDOMAR A. ALI, SAMSODEN G. MACADATO, NORAIN A. MACMOD, MACAPUNDAG G. MACMOD all are thru DATU HASSAN MANGONDAYA at his residence in Madalum, Lanao del [S]ur he acknowledge the copies of order but he r[e]fused to sign the original copy of said order. [sic]

Further certify, that defendant Land Bank of the Phil. Marawi City Branch was serve the same date thru the Manager he refused to receive the copy of summons but he acknowledge the copy of order and noted that all summons are to be address to LBP-Legal Department, Manila pursuant to [S]ec. 11[,], [R]ule 14, of the [R]ules of [C]ourt. [sic]

WHEREFORE, that the original copy of said order is hereby respectfully returned, DULY SERVED.

Marawi City, March 07, 2003.

(SGD.)

OTTO B. GOMAMPONG

Sheriff IV

x x x x

[25] Sec. 11. Service upon domestic private juridical entity.—When the defendant is a corporation, partnership or association organized under the laws of the Philippines with a juridical personality, service may be made on the president, managing partner, general manager, corporate secretary, treasurer, or in-house counsel. (Emphasis supplied.)

[26] Rollo, p. 67.

[27] The pertinent provisions of which were incorporated in Section 5 of Rule 58 of the Rules of Court.

[28] *Marcos-Manotoc v. Agcaoili*, A.M. No. RTJ-98-1405, April 12, 2000, 330 SCRA 268, 276.

[29] To constitute grave misconduct, the acts complained of should be corrupt or inspired by an intention to violate the law, or constitute a flagrant disregard of well-known legal rules (*Aquino, Jr. v. Miranda*, A.M. No. P-01-1453, May 27, 2004, 429 SCRA 230, 240, citing *Amosco v. Magro*, A.M. No. 439-MJ, September 30, 1976, 73 SCRA 107, 109). It is a transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, willful in character and implies wrongful intent and not a mere error in judgment. (*Baquerfo v. Sanchez*, A.M. No. P-05-1974, April 6, 2005, 455 SCRA 13, 21.)

[30] SEC. 8. Serious charges. – Serious charges include:

x x x x

3. Gross misconduct constituting violations of the Code of Judicial Conduct;

x x x x

9. Gross ignorance of the law or procedure;

x x x x

[31] A.M. No. RTJ-98-1407, July 20, 1998, 292 SCRA 622, 630.

[32] A.M. No. RTJ-00-1581 (Formerly OCA IPI No. 98-635-RTJ), July 2, 2002, 383 SCRA 513, 519.

[33] A.M. No. RTJ-04-1863, October 22, 2004, 441 SCRA 162, 171-172.

[34] SEC. 21. Original jurisdiction in other cases.—Regional Trial Courts shall exercise original jurisdiction:

(1) In the issuance of writs of certiorari, prohibition, mandamus, quo warranto, habeas corpus and injunction which may be enforced in any part of their respective regions; and

x x x x

[35] Also known as “The Judiciary Reorganization Act of 1980.”

[36] SEC. 4. Verified application and bond for preliminary injunction or temporary restraining order.—A preliminary injunction or temporary restraining order may be granted only when:

x x x x

(c) When an application for a writ of preliminary injunction or a temporary restraining order is included in a complaint or any initiatory pleading, the case, if filed in a multiple-sala court, shall be raffled only after notice to and in the presence of the adverse party or the person to be enjoined. In any event, such notice shall be preceded, or contemporaneously accompanied by service of summons, together with a copy of the complaint or initiatory pleading and the applicant’s affidavit and bond, upon the adverse party in the Philippines.

However, where the summons could not be served personally or by substituted service despite diligent efforts, or the adverse party is a resident of the Philippines temporarily absent therefrom or is a nonresident thereof, the requirement of prior or contemporaneous service of summons shall not apply.

x x x x

[37] SEC. 3. Indirect contempt to be punished after charge and hearing.—After a charge in writing has been filed, and an opportunity given to the respondent to comment thereon within such period as may be fixed by the court and to be heard by himself or counsel, a person guilty of any of the following acts may be punished for indirect contempt:

- (a) Misbehavior of an officer of a court in the performance of his official duties or in his official transactions;
- (b) Disobedience of or resistance to a lawful writ, process, order, or judgment of a court, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto;
- (c) Any abuse of or any unlawful interference with the processes or proceedings of a court not constituting direct contempt under section 1 of this Rule;
- (d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice;
- (e) Assuming to be an attorney or an officer of a court, and acting as such without authority;
- (f) Failure to obey a subpoena duly served;
- (g) The rescue, or attempted rescue, of a person or property in the custody of an officer by virtue of an order or process of a court held by him.

But nothing in this section shall be so construed as to prevent the court from issuing process to bring the respondent into court, or from holding him in custody pending such proceedings.

[38] A.M. No. RTJ-04-1857, July 29, 2005, 465 SCRA 34, 36.

[39] Rollo, p. 164.

[40] Ito v. De Vera, A.M. No. P-01-1478, December 13, 2006, 511 SCRA 1, 11.

[41] Aquino v. Israel, A.M. No. P-04-1800 (Formerly OCA-IPI No. 01-1243-P), March 25, 2004, 426 SCRA 266, 269. Misconduct is defined as a transgression of some established or definite rule of action; more particularly, it is an unlawful behavior by the public officer.

[42] Effective September 23, 1974.

[43] Re: An Undated Letter with the Heading “Exposé” of a Concerned Mediaman on the Alleged Illegal Acts of Judge Julian C. Ocampo III, *supra* note 23, at 16.

[44] Prak v. Anacan, A.M. No. P-03-1738, July 12, 2004, 434 SCRA 110, 116.

[45] Office of the Court Administrator v. Bucoy, A.M. No. P-93-953, August 25, 1994, 235 SCRA 588, 593.

[46] 341 Phil. 317 (1997).

[47] *Id.* at 323-324.

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