ROLLY C. CASTILLO, COMPLAINANT, VS. HON. MIGUEL S. ASUNCION, PRESIDING JUDGE, BRANCH 99, REGIONAL TRIAL COURT, ANTIPOLO CITY, RIZAL, RESPONDENT.

A.M. No. RTJ-23-039 (Formerly JIB FPI No. 21-075-RTJ). August 20, 2024

Ponente: INTING, J.

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INTING, J.:

Before the Court is a Complaint[1] filed by Rolly C. Castillo (Castillo) against Hon. Miguel S. Asuncion (Judge Asuncion), Presiding Judge of Branch 99, Regional Trial Court of Antipolo City, Rizal (RTC) for Dishonesty and Gross Inefficiency.

The Antecedents
Castillo and the other stall holders at the New Cubao Central Market in Cainta, Rizal (plaintiffs) filed a Complaint for Damages with Prayer for the Issuance of a Writ of Preliminary Injunction against Princeville Construction and Development Corporation and Engineer Alfred Figueras (defendants) before the RTC for forcibly driving them out of the market and taking possession and control over it. The case, docketed as Civil Case No. 15-10803, was raffled to the RTC presided by Judge Asuncion.[2]

On April 1, 2016, Judge Asuncion conducted a hearing on the plaintiffs' prayer for the issuance of a writ of preliminary injunction. He ordered the parties to file their respective memoranda within 15 days from receipt of the ruling of the court on the formal offer of evidence, after which, the matter shall be deemed submitted for resolution.[3] Judge Asuncion issued separate Orders,[4] dated February 12, 2016, and April 27, 2016, respectively admitting the exhibits formally offered by the plaintiffs and the defendants in relation to the issuance of a writ of preliminary injunction. The plaintiffs submitted their Memorandum[5] on July 14, 2016, while the defendants did not.[6]

On July 20, 2017, the plaintiffs filed a Motion to Re-Open Hearing on Plaintiffs' Prayer for Issuance of a Writ of Preliminary Mandatory Injunction[7] (motion to re-open) praying for the reopening of the hearing on the issuance of a writ of preliminary injunction in view of the plaintiffs' newly discovered evidence. Judge Asuncion then required the parties to submit their pleadings. Despite compliance with this Order, the plaintiffs' motion was not resolved[8] so they filed an Ex-Parte Motion to Resolve Prayer for Writ of Preliminary Injunction[9] dated June 5, 2017, a Second Ex-Parte Motion to Resolve[10] dated November 2, 2017, an Ex Parte Motion to Resolve[11] dated April 23, 2018, and an Ex Parte Motion for Resolution of Prayer for Writ of Injunction[12] dated December 7, 2018.

Thereafter, the plaintiffs filed a Motion to Transfer Case to Another Sala[13] (motion to transfer) dated February 19, 2020, and a Motion for Inhibition[14] dated August 20, 2020.

Due to Judge Asuncion's continued failure to resolve their prayer for the issuance of a writ of preliminary injunction, Castillo filed the present Complaint against him. He argued that Judge Asuncion is guilty of Gross Inefficiency for his failure to resolve their prayer for issuance of a writ of preliminary injunction, and Dishonesty

for certifying, in relation to receiving his salary, that he has no pending matters to resolve.[15]

In its 1st Indorsement[16] dated November 16, 2021, the Judicial Integrity Board (JIB), through the Office of its Acting Executive Director (OED), required Judge Asuncion to file a verified comment to the verified Complaint within 10 days from his receipt of the Indorsement. The JIB issued another Indorsement[17] dated February 2, 2023, reiterating that Judge Asuncion should file his verified comment, as well as to show cause why he should not be disciplined as a member of the Bar for violation of Canon 12, Rule 12.04[18] of the Code of Professional Responsibility (CPR).

Judge Asuncion finally filed his Motion to Admit[19] with Comment[20] on April 17, 2023. He averred that he had to attend to an influx of equally important and pressing matters that demanded his immediate attention: (1) his designation as Executive Judge for the RTC Antipolo City from October 16, 2020, to November 3, 2022, or during the COVID-19 pandemic; (2) the conduct of hearings for applications of search warrants during said period; (3) pending applications for bail; (4) various meetings with local government offices; (5) his assignment as Assisting Judge[21] in January 2021; (6) his additional designation as Special Commercial Court and Cybercrime Court; and (7) the issuance of various circulars directing judges to give preference to criminal cases. Judge Asuncion explained that the foregoing contributed to the lapse of time that it took to resolve Civil Case No. 15-10803.[22]

In addition, Judge Asuncion averred that Castillo filed several motions that prayed for different reliefs. In any event, Judge Asuncion issued an Order[23] dated April 11, 2023, denying the plaintiffs' prayer for the issuance of a writ of preliminary injunction. Judge Asuncion pointed out that the present Complaint is not the proper remedy to assail his ruling in the civil case. Finally, he stated that he was adopting his Comment as to why he should not be penalized as a member of the Bar.[24]

The Recommendation of the OED
The OED made the following recommendation in its May 29, 2023 Report and Recommendation:[25]

> IN VIEW OF THE FOREGOING, it is respectfully submitted for the consideration of the Honorable Board that the instant administrative matter be RE-DOCKETED as a regular administrative matter and DOCKETED as an administrative case and the following recommendations be made to the Supreme Court:
>
> 1) respondent Presiding Judge Miguel S. Asuncion, Branch 99, Regional Trial Court, Antipolo City, Rizal, be found GUILTY of gross neglect of duty and FINED in the amount of Two Hundred Fifty Thousand Pesos ([PHP] 250,000.00), payable within three (3) months from receipt of the decision or resolution;
>
> 2) respondent Judge Asuncion, as a member of the Philippine Bar, be found GUILTY of violation of Section 2, Canon III and Sections 3 and 4, Canon IV of the Code of Professional Responsibility and Accountability and FINED in the amount of Eighteen Thousand Pesos ([PHP] 18,000.00), payable within three (3) months from the time of his receipt of the decision or resolution; and
>
> 3) respondent Judge Asuncion be STERNLY WARNED that a repetition of the same or similar offense shall be dealt with more severely by the Supreme Court.[26]

The OED opined that pursuant to Article VIII, Section 15(1) of the Constitution, Judge Asuncion should have resolved the issue on the writ of preliminary injunction within three months from July 14, 2016, or when the plaintiffs submitted their memorandum. It noted that Judge Asuncion resolved it seven years later, or on April 11, 2023, and he similarly failed to act on the plaintiffs' ex parte motions or motion to reopen.[27]

Thus, the OED found that Judge Asuncion was clearly negligent in timely resolving the matter, in accordance with Canon 6, Section 5 of the New Code of Judicial Conduct for the Philippine Judiciary (New Code of Judicial

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Conduct) and Office of the Court Administrator (OCA) Circular No. 243-2022.[28]

The OED did not find acceptable the reasons given by Judge Asuncion for the delay as the case was deemed submitted for resolution before the COVID-19 pandemic took place. It explained that the delay constitutes Gross Neglect of Duty because his failure to resolve the matter for seven years was simply inexcusable.[29]

The OED took into consideration the other administrative cases involving Judge Asuncion, some of which are still under evaluation, in determining the recommended penalty. In Pelaez v. Hon. Asuncion,[30] Judge Asuncion was reprimanded for undue delay in rendering a decision/order.[31]

The OED recommended that Judge Asuncion be held liable as a member of the Bar in line with Rule 140, Section 4 of the Rules of Court. There being no corruption, clear intent to violate the law, or flagrant disregard of established rules, the OED opined that Judge Asuncion committed Simple Misconduct under Canon VI, Section 34(a) of the Code of Professional Responsibility and Accountability for failing to comply with Canon III, Section 2[32] and Canon IV, Sections 3 and 4[33] thereof. The OED considered the mitigating circumstance of the absence of bad faith or malice on the part of Judge Asuncion in recommending the penalty for this violation.[34]

The Recommendation of the JIB
The JIB recommended as follows in its June 8, 2023 Report:[35]

> ACCORDINGLY, we respectfully RECOMMEND to the Honorable Supreme Court that:
>
> - The instant administrative matter be RE-DOCKETED as a regular administrative matter;
>
> - Respondent Presiding JUDGE MIGUEL S. ASUNCION, Branch 99, Regional Trial Court, Antipolo City, Rizal, be found GUILTY of gross neglect of duty and FINED in the amount of Four Hundred Thousand Pesos ([PHP] 400,000.00), payable within three (3) months from receipt of the decision or resolution; and
>
> - Respondent Judge Asuncion be STERNLY WARNED that a repetition of the same or similar offense shall be dealt with more severely by the Supreme Court.[36]

According to the JIB, the plaintiffs' prayer for the issuance of a writ of preliminary injunction was submitted for resolution on April 1, 2016, but it was only resolved on April 11, 2023. The JIB agreed with the OED's observation that the matter was submitted for resolution long before the COVID-19 pandemic took place. Canon 6, Section 5 of the New Code of Judicial Conduct and OCA Circular No. 243-2022 require the timely resolution of pending incidents. Hence, the JIB found Judge Asuncion guilty of Gross Neglect of Duty. The JIB took note of the other administrative cases involving Judge Asuncion in recommending a penalty of a fine of PHP 400,000.00.[37]

The Issue
The issue before the Court is whether Judge Asuncion is guilty of Gross Neglect of Duty in the Performance or Non-Performance of Official Functions under Rule 140 of the Rules of Court, as amended by A.M. No. 21-08-09-SC.

The Ruling of the Court
The Court agrees with the findings of the JIB but modifies the penalty imposed.

Preliminarily, the Court clarifies that the subject of the Complaint is the alleged delay of Judge Asuncion in resolving the plaintiffs' prayer for the issuance of a writ of preliminary injunction. Castillo does not assail the denial of their prayer in his Complaint before the Court. Accordingly, the principle that judicial remedies must first be exhausted before resorting to an administrative complaint,[38] does not apply here.

The timely resolution of pending matters before the court is required by no less than Article VIII, Section 15 of the Constitution:

> SECTION 15. (1) All cases or matters filed after the effectivity of this Constitution must be decided or resolved within twenty-four months from date of submission for the Supreme Court, and, unless reduced by the Supreme Court, twelve months for all lower collegiate courts, and three months for all other lower courts.
>
> (2) A case or matter shall be deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the Rules of Court or by the court itself.
>
> (3) Upon the expiration of the corresponding period, a certification to this effect signed by the Chief Justice or the presiding judge shall forthwith be issued and a copy thereof attached to the record of the case or matter, and served upon the parties. The certification shall state why a decision or resolution has not been rendered or issued within said period.
>
> (4) Despite the expiration of the applicable mandatory period, the court, without prejudice to such responsibility as may have been incurred in consequence thereof, shall decide or resolve the case or matter submitted thereto for determination, without further delay.

Thus, Canon 6, Section 5 of the New Code of Judicial Conduct enjoins judges to promptly rule on cases pending before the court:

> SECTION 5. Judges shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly, and with reasonable promptness.

In relation thereto, OCA Circular No. 243-2022 reminded judges to observe the following guidelines:

> 1. To strictly observe the reglementary or prescribed periods to decide pending cases and/or resolve incidents, and if in the mind of the Judge he or she could not comply with the aforementioned prescribed period/s, he or she may ask the Court, through the Office of the Court Administrator, for an extension of time to do so. Appended herein for your guidance is a list of reglementary periods to decide cases and/or resolve incidents (see Annex "A");
>
> 2. Except in certain situations under the Rules of Expedited Procedure in the First Level Courts in which memoranda are prohibited, cases are deemed submitted for decision upon admission of the evidence, unless the court directs the parties to argue or to submit their respective memoranda or any further pleadings; and
>
> 3. The "[f]ailure to decide cases within the reglementary period constitutes a ground for administrative liability except when there are valid reasons for the delay."

The plaintiffs in Civil Case No. 15-10803 filed their Complaint for Damages with Prayer for the Issuance of a Writ of Preliminary Injunction on November 11, 2015. Judge Asuncion issued an Order dated April 1, 2016, which required the parties to file their memoranda within 15 days from receipt of the ruling of the court on the formal offer of evidence, and declared the matter deemed submitted for resolution upon the lapse of such period. Judge Asuncion issued an Order dated February 12, 2016, and April 27, 2016, respectively, admitting the pieces of evidence of the plaintiffs and the defendants. Only the plaintiffs filed their memorandum on July 14, 2016. Nonetheless, Judge Asuncion only ruled on the plaintiffs' prayer for the issuance of a writ of preliminary injunction on April 11, 2023, or almost seven years after it was submitted for resolution.

Judge Asuncion avers that the plaintiffs filed several motions which contributed to the delay in the resolution of their prayer for the issuance of a writ of preliminary injunction. However, the plaintiffs cannot be blamed for such delay as it was already existent even before they filed their various motions a year after they submitted their memorandum, or on July 20, 2017. Further, the motions filed by the plaintiffs were consistent with their previous

prayer for the issuance of a writ of preliminary injunction. The various ex parte motions merely urged Judge Asuncion to finally rule on the matter, while the motion to reopen allegedly presented new evidence in support of their prayer. The motion to transfer and motion for inhibition were likewise filed for the purpose of securing the preliminary injunction, albeit through another court. Furthermore, Judge Asuncion still incurred delay even if the period is counted from the plaintiffs' motion to reopen, as it was filed in 2017, but he issued an order only in 2023.

Judge Asuncion also tries to excuse the delay on the ground that he had other pressing matters to deal with during the height of the COVID-19 pandemic. But as duly observed by the JIB, the plaintiffs' prayer for the issuance of a writ of preliminary injunction was submitted for resolution long before the COVID-19 pandemic began. While the COVID-19 pandemic was surely a challenging time for all members of the Judiciary, it cannot be used as a justification for wrongful acts or omissions that took place prior to or during this period.

Undue delay in rendering an order is now subsumed under neglect of duty in Rule 140 of the Rules of Court, as further amended. On the one hand, it is considered Gross Neglect of Duty when it is "characterized by the want of even slight care, or by acting or omitting to act in a situation where there is a duty to act, not inadvertently but [willfully] and intentionally, with a conscious indifference to the consequences, insofar as other persons may be affected."[39] On the other hand, it is Simple Neglect of Duty when there is failure to give proper attention to a required task or a disregard of duty due to carelessness or indifference.[40]

Judge Asuncion's seven-year delay is inexcusable considering that the prayer for the issuance of a writ of preliminary injunction, by its nature, implies that it must be addressed urgently. Castillo explained in the pleadings that their very livelihood was at stake.[41] Judge Asuncion did not offer any sufficient justification for his delay, such as the complexity of the case or the filing of dilatory motions by the parties. Taking these circumstances into consideration, Judge Asuncion is guilty of gross neglect of duty.

Gross Neglect of Duty in the Performance or Non-performance of Official Functions is a serious charge under Rule 140, Section 14(d) of the Rules of Court, as further amended, that is punishable by first, dismissal from the service together with its accessory penalties; second, suspension from office without salary and other benefits for more than six months but not exceeding one year; or third, a fine of more than PHP 100,000.00 but not exceeding PHP 200,000.00.

Rule 140, Section 19(2)(a) of the Rules of Court, as further amended, considers the finding of previous administrative liability where a penalty is imposed, regardless of nature and/or gravity, as an aggravating circumstance that may increase the penalty of suspension or fine for a period or amount not exceeding double of the maximum prescribed under the Rules. To reiterate, Judge Asuncion was reprimanded by the Court in Pelaez for his undue delay in resolving a motion. The Court sternly warned Judge Asuncion that "a repetition of the same or similar offense shall be dealt with more severely."[42] As such, the Court finds that Judge Asuncion should be penalized with a fine of PHP 201,000.00 for his Gross Neglect of Duty in the case.

Notably, Castillo also accused Judge Asuncion of committing Dishonesty by certifying that he had no pending matters to resolve in order to receive his salary.[43] Neither the OED nor the JIB addressed this issue. In any event, the Court cannot give credence to Castillo's allegation in the absence of any evidence to support it.

The Court further notes that the OED of the JIB recommended that Judge Asuncion likewise be penalized in his capacity as a member of the Bar. Considering that the JIB only acted on Judge Asuncion's violation under Rule 140 of the Rules of Court, as amended, the ruling in the present case shall not include Judge Asuncion's alleged violation of the Code of Professional Responsibility and Accountability.

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Judiciary. While the Court is mindful of the challenges faced by our judges in performing their duties, it shall not hesitate to hold them accountable when they fail to do so without any acceptable reason. Thus, the Court cannot countenance Judge Asuncion's negligence in acting on the plaintiffs' prayer for the issuance of a writ of preliminary injunction. He must be held liable for his failure to comply with his duty as a judge.

ACCORDINGLY, the Court FINDS respondent Hon. Miguel S. Asuncion, Presiding Judge, Branch 99, Regional Trial Court, Antipolo, Rizal, GUILTY of Gross Neglect of Duty in the Performance or Non-Performance of Official Functions under Rule 140, Section 14(d) of the Rules of Court, as further amended by A.M. No. 21-08-09-SC, and hereby ORDERS him to pay a FINE of PHP 201,000.00. Respondent Hon. Miguel S. Asuncion is STERNLY WARNED that a repetition of the same or similar acts shall be dealt with more severely.

SO ORDERED.

Gesmundo, C.J., Leonen, SAJ., Hernando, Lazaro-Javier, Zalameda, M. Lopez, Gaerlan, Rosario, J. Lopez, Dimaampao, Marquez, Kho, Jr., and Singh, JJ., concur.
Caguioa, J., see concurring opinion.

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[1] Rollo, pp. 2-7, dated August 20, 2021.

[2] Id. at 166-167.

[3] Id. at 167.

[4] Id. at 38 and 51, respectively.

[5] Id. at 52-62.

[6] Id. at 167.

[7] Id. at 63-67.

[8] Id. at 167.

[9] Id. at 124-125.

[10] Id. at 126-127.

[11] Id. at 128-129.

[12] Id. at 130-131.

[13] Id. at 132-133.

[14] Id. at 134-135.

[15] Id. at 6, 168.

[16] Id. at 136.

[17] Id. at 137-138.

[18] CODE OF PROF. RESPONSIBILITY, Canon 12 states:

CANON 12 — A lawyer shall exert every effort and consider it his duty to assist in the speedy and efficient administration of justice.

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RULE 12.04 A lawyer shall not unduly delay a case, impede the execution of a Judgment or misuse Court processes.

[19] Rollo, pp. 141-143.

[20] Id. at 144-147.

[21] Id. at 144. Judge Asuncion did not identify which branch he was assigned to as Assisting Judge.

[22] Id. at 144-145.

[23] Id. at 148-155.

[24] Id. at 145-146.

[25] Id. at 158-165. Penned by Deputy Clerk of Court at-Large, OCA and Acting Executive Director, JIB James D.V. Navarrete.

[26] Id. at 164-165.

[27] Id. at 161.

[28] Reiteration on the Directive to Comply with the Reglementary Periods to Decide Cases and/or Resolve Incidents, OCA Circular No. 243-2022. Approved on September 19, 2022.

[29] Rollo, p. 162.

[30] A.M. No. RTJ-20-2592 [Formerly OCA IPI-4957-RTJ], July 6, 2021 [Notice, First Division].

[31] Rollo, p. 163.

[32] CODE OF PROF. RESPONSIBILITY AND ACCOUNTABILITY, Canon III, sec. 2 states:

SECTION 2. The responsible and accountable lawyer. — A lawyer shall uphold the constitution, obey the laws of the land, promote respect for laws and legal processes, safeguard human rights, and at all times advance the honor and integrity of the legal profession.

As an officer of the court, a lawyer shall uphold the rule of law and conscientiously assist in the speedy and efficient administration of justice.

As an advocate, a lawyer shall represent the client with fidelity and zeal within the bounds of the law and the CPRA.

[33] CODE OF PROF. RESPONSIBILITY AND ACCOUNTABILITY, Canon IV, secs. 3 and 4 state:

SECTION 3. Diligence and punctuality. — A lawyer shall diligently and seasonably act on any legal matter entrusted by a client.

A lawyer shall be punctual in all appearances, submissions of pleadings and documents before any court, tribunal or other government agency, and all matters professionally referred by the client, including meetings and other commitments.

SECTION 4. Diligence in all undertakings. — A lawyer shall observe diligence in all professional undertakings, and shall not cause or occasion delay in any legal matter before any court, tribunal, or other agency.

A lawyer shall appear for trial adequately familiar with the law, the facts of the case, and the evidence to be presented. A lawyer shall also be ready with the object and documentary evidence, as well as the judicial

affidavits of the witnesses, when required by the rules or the court.

[34] Rollo, pp. 163-164.

[35] Id. at 166-175. Penned by Vice Chairperson Justice Angelina Sandoval-Gutierrez (Ret.) and concurred in by Chairperson Justice Romeo J. Callejo, Sr. (Ret.), First Regular Member Justice Sesinando E. Villon (Ret.), Second Regular Member Justice Rodolfo A. Ponferrada (Ret.), and Third Regular Member Justice Cielito N. Mindaro-Grulla (Ret.).

[36] Id. at 174.

[37] Id. at 170-174.

[38] Tallado v. Racoma, A.M. No. RTJ-22-022, August 23, 2022 at 8-10. This pinpoint citation refers to the copy of the Resolution uploaded to the Supreme Court website.

[39] Re: Darwin A. Reci, 805 Phil. 290, 292 (2017).

[40] Office of the Court Administrator v. Montero, A.M. No. RTJ-20-2582 [Formerly A.M. No. 20-06-74-RTC], August 16, 2022 [Per Curiam, En Banc] at 9. This pinpoint citation refers to the copy of the Resolution uploaded to the Supreme Court website.

[41] Rollo, p. 6.

[42] Pelaez v. Asuncion, A.M. No. RTJ-20-2592 [Formerly OCA IPI No. 19-4957-RTJ], July 6, 2021 [Notice, First Division].

[43] Rollo, p. 6.

CONCURRING OPINION

CAGUIOA, J.:

The ponencia finds respondent Hon. Miguel S. Asuncion (Judge Asuncion) guilty of Gross Neglect of Duty in the Performance or Non-Performance of Official Functions under Rule 140, Section 14(d) of the Rules of Court, as amended by A.M. No. 21-08-09-SC, and imposes upon him a fine of PHP 201,000.00. On the other hand, the ponencia refuses to also find Judge Asuncion guilty of Gross Negligence under Canon VI, Section 33(d) of the Code of Professional Responsibility and Accountability (CPRA) on the ground that the Judicial Integrity Board (JIB) in its Report and Recommendation no longer saw it fit to make a finding thereon.

I fully concur with the disposition in this case. I offer this opinion to only emphasize my view on the propriety of finding a respondent judge guilty as a member of the Bar, as well, in the same administrative case against him or her pertaining to his or her judicial functions.

To recall, the instant case against Judge Asuncion stemmed from a complaint for damages with prayer for the issuance of a writ of preliminary injunction filed by complainant Rolly C. Castillo (Castillo) and the other stall holders at the New Cubao Central Market in Cainta, Rizal against Princeville Construction and Development Corporation and Engineer Alfred Figueras. The said case was raffled to the sala of Judge Asuncion.

Due to Judge Asuncion's continued failure to resolve the prayer for the issuance of a writ of preliminary injunction in the civil case for seven (7) years, Castillo filed the present administrative complaint against him for gross inefficiency, as well as for dishonesty in certifying that he has no pending matters to resolve. Judge

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Asuncion was directed by the JIB to comment on the present complaint and to show cause why he should not also be disciplined under the then Code of Professional Responsibility (CPR).

In his Comment, Judge Asuncion essentially explained that he had to attend to an influx of equally important and pressing matters that demanded his immediate attention. He also manifested that he was adopting said Comment as to why he should not be penalized as a member of the Bar.

Indeed, Section 4, Rule 140 of the Rules of Court, as amended, allows for a disciplinary action against a respondent as a member of the Bar:

> SECTION 4. Administrative Case Considered as Disciplinary Actions Against Members of the Philippine Bar. — An administrative case against any of those mentioned in Section 1 (1) of this Rule shall also be considered as a disciplinary action against him or her, provided that the complaint specifically states that the imputed acts or omissions therein likewise constitute a violation of the Lawyer's Oath, the Code of Professional Responsibility, the Canons of Professional Ethics, or such other forms of breaches of conduct that have been traditionally recognized as grounds for the discipline of lawyers.
>
> If the complaint fails to include such specific statement, or if the disciplinary proceedings are instituted motu propio, the respondent, in the interest of due process, must first be required to show cause in this respect before he or she is likewise disciplined as a member of the Philippine Bar as may be warranted by the circumstances of the case. (Emphasis supplied)

I draw attention, however, to the abovementioned proviso in the first paragraph and to the phrase in the second paragraph "as may be warranted by the circumstances of the case." To my mind, these cautionary provisions mean that not every offense under Rule 140 ipso facto merits a similar disciplinary action against a respondent as a member of the Bar.

Parenthetically, before the amendment of Rule 140 and the inclusion of Section 4 therein, what was in effect was A.M. No. 02-9-02-SC.[1] This resolution was entitled "Re: Automatic Conversion of Some Administrative Cases Against Justices of the Court of Appeals and the Sandiganbayan; Judges of Regular and Special Courts; and Court Officials Who are Lawyers as Disciplinary Proceedings Against Them Both as Such Officials and as Members of the Philippine Bar." It relevantly provides in part that "[s]ome administrative cases against [J]ustices of the Court of Appeals and the Sandiganbayan Judges of regular and special courts; and the court officials who are lawyers are based on grounds which are likewise grounds for the disciplinary action of members of the Bar for violation of the Lawyer's Oath, the Code of Professional Responsibility[,] and the Canons of Professional Ethics, or for such other forms of breaches of conduct that have been traditionally recognized as grounds for the discipline of lawyers." This only goes to show that, historically—and by the very language of the Court—the recognition has always been that not all administrative cases against a judge call for a concomitant disciplinary action against him or her as a member of the Bar.

Several cases would show the correct application of A.M. No. 02-9-02-SC and Section 4 of Rule 140 of the Rules of Court, as amended.

In Cañada v. Judge Suerte,[2] respondent judge therein was charged with grave abuse of authority, grave misconduct, grave coercion, dishonesty, harassment, oppression, and violation of Article 215 of the Revised Penal Code and the Canons of Judicial Ethics. The case stemmed from an agent--broker arrangement between respondent judge and therein complainant that went awry. The Court ultimately found respondent judge guilty of dishonesty. At the same time, the Court applied A.M. No. 02-9-02-SC, disbarring respondent judge after ruling that he also violated Rule 1.01, Canon 1 of the CPR, which enjoins a lawyer from engaging in unlawful, dishonest or deceitful conduct, and Rule 10.01 of Canon 10, which enjoins a lawyer from doing any falsehood or from

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misleading the court.

In Samson v. Judge Caballero,[3] an administrative complaint for dishonesty and falsification of a public document was filed against respondent judge therein when, during his interviews before the Judicial and Bar Council (JBC), he allegedly concealed the fact that he had pending administrative charges against him and checked the box indicating "No" to the question "Have you ever been formally charged?" in his March 21, 2006 Personal Data Sheet. In dismissing respondent judge from service, the Court was convinced of his capacity to lie and evade the truth, which misled the JBC and tarnished the image of the Judiciary. Furthermore, the Court also considered the administrative case against respondent judge as a disciplinary proceeding against him as a member of the Bar, pursuant to A.M. No. 02-9-02-SC. In disbarring respondent judge, the Court ruled that his dishonest act was against the Lawyer's Oath to "do no falsehood, nor consent to the doing of any in court," and likewise constituted a contravention of Section 27, Rule 138 of the Rules of Court, which strictly enjoins a lawyer from committing acts of deceit.

In Office of the Court Administrator v. Judge Indar,[4] respondent judge therein was charged with and found guilty of gross misconduct and dishonesty for issuing decisions on numerous cases for annulment of marriage without conducting any judicial proceedings. At the same time, the Court held that the administrative case shall also be considered as a disciplinary proceeding against respondent judge as a member of the Bar, in accordance with A.M. No. 02-9-02-SC. The Court then disbarred respondent judge after ruling that his gross misconduct and dishonesty likewise constituted a breach of Rule 1.01,[5] Canon 1,[6] and Canon 7[7] of the CPR and violated the Lawyer's Oath to "do no falsehood, nor consent to the doing of any in court."[8]

In Office of the Court Administrator v. Judge Alinea,[9] respondent judge therein was administratively charged for demanding and receiving the amount of PHP 15,000.00 from plaintiffs therein in a land dispute case pending before his court. The Court found that not only did respondent judge gravely violate his duty to dispense justice solely in accordance with the merits of the case, but also put the trust and confidence of the people in the judiciary and the rule of law into serious peril, thereby rendering him utterly unfit to continue dispensing his duties as a public official and a member of the Bar. Hence, the Court did not only impose upon respondent judge the extreme penalty under Rule 140, but also disbarred him, pursuant to A.M. No. 02-9-02-SC.

Finally, in Cobarrubias-Nabaza v. Lavandero,[10] respondent therein was a Court Attorney from the Legal Office of the Office of the Court Administrator and was a litigant in a Batas Pambansa Blg. 22 case pending before the sala of therein complainant. A ruling favorable to respondent was made and some of the properties of the defendant in the case were placed in custodia legis for levy, execution, and auction sale. One of these properties was a sedan. Complainant therein discovered that despite the absence of any public auction, respondent had taken the subject vehicle in and out of court premises on three (3) occasions without her prior knowledge and approval, as evidenced by various CCTV footages. This prompted complainant to write a letter to the Office of the Court Administrator, which in turn, referred the same to the Office of Administrative Services-Supreme Court for formal investigation and was docketed as a regular administrative case against respondent. Subsequently, the Court docketed the matter as a separate administrative case against respondent and thereafter, required him to show cause as to why he should not be sanctioned as a member of the Bar. The Court eventually found respondent guilty of Conduct Prejudicial to the Best Interest of the Service. As a lawyer, respondent was also found guilty of failing to fulfill his solemn oath of upholding and obeying the law and its legal processes, and even misused court processes for his own personal gain. In so doing, he committed an act of falsehood and engaged in unlawful, dishonest, and deceitful conduct—for which he was duly sanctioned.

In the above body of jurisprudence, the fact that the grounds relied upon in the administrative cases are also grounds for violation of the Lawyer's Oath and the CPR or CPRA was, at once, apparent. The charges did not

have anything to do with the official functions or duties of the respondents, but more with their moral fitness or character as a judge. In other words, the charges were far from being considered judicial in nature or even remotely judicial in nature.

Verily, at this juncture, I submit that in determining whether a respondent charged under Rule 140 should also be disciplined as a lawyer, the Court's treatment of disbarment complaints filed against government lawyers who do not fall under the coverage of Rule 140 may similarly be applied in such instances. The consideration should, therefore, be whether the allegations in the complaint, assuming them to be true, make the respondent unfit to practice the law profession. While this consideration is being made in such cases in order to determine which between the Court or the appropriate government agency shall have jurisdiction over the administrative case, I submit that there is no reason why it should not apply with equal force in cases such as the one at bar. After all, in both cases, the Court is called upon to determine whether the allegations in the complaint would warrant a disbarment case against the respondent which may proceed independently of or alongside an administrative case under either Rule 140 or the Civil Service Rules.

Notably, the Court in Guevarra-Castil v. Trinidad[11] (Guevarra-Castil) stated that while it takes an apprehensive stance towards certain disbarment complaints against government lawyers, it has nevertheless refused to shirk from its constitutional mandate to discipline, suspend, or even disbar misbehaving members of the legal profession, whenever proper and called for. Indeed, the Court explained, "if the government official's misconduct is of such character as to affect his [or her] qualification as a lawyer[,] or to show moral delinquency, he [or she] may be disciplined as a member of the [B]ar on such ground."[12] To my mind, this statement bolsters the conclusion that not every administrative offense, regardless of its nature, consequentially justifies a similar disciplinary action against a respondent as a lawyer.

Thus, in fact, the Court in Guevarra-Castil observed further that in disbarment cases against government lawyers which were eventually dismissed by the Court for lack of jurisdiction, the common element was the fact that said government lawyers committed acts and omissions primarily involving their official duties.[13] The Court elaborated that while they were lawyers, their offenses had more to do with their government position, and less with them being lawyers. In other words, they were charged in their capacity as public servants, and not as members of the Bar. In applying this assessment, the Court in Guevarra-Castil, which involved a respondent lawyer/police officer who had an illicit affair with another married police officer, held that therein respondent's conduct did not relate to, or was not remotely accomplished by virtue of, her position as a police officer. Simply put, before proceeding with a ruling on the merits, the Court determined that the allegations in the complaint therein had explicitly established that the respondent should be disciplined in her capacity as a lawyer, not as a public employee or official.[14] This should also hold true in some cases where a respondent is being charged under Rule 140 as a court official or personnel and, at the same time, under applicable rules as a member of the Bar; for in the same vein, when a respondent is charged under Rule 140, their offense may certainly have more to do with their position and responsibilities as an official or employee of the Judiciary, and less with them being lawyers.

It is in the foregoing light, therefore, that Section 4 of Rule 140 of the Rules of Court, as amended, must be interpreted. I submit that this provision should not automatically hold a respondent liable for violating the CPRA or the Lawyer's Oath. Rather, it is important to look into the context of each administrative case in determining whether a respondent charged under Rule 140 should also be charged as a member of the Bar under applicable rules. Otherwise, a mechanical application of Section 4 of Rule 140 may not only unwittingly allow the effective forum shopping the Court wants to curb, but may unfairly force a respondent to defend himself or herself twice in the discharge of his or her officials functions, both in the administrative proceedings under Rule 140 and in

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disbarment proceedings.[15]

As this very case illustrates, Castillo charged Judge Asuncion with gross inefficiency for the issuance of a writ of preliminary injunction in the civil case for seven (7) years, and for dishonesty in certifying that he has no pending matters to resolve. There was no other allegation by Castillo that Judge Asuncion should also be found guilty as a member of the Bar, but the JIB Office of the Executive Director (JIB-OED) also included a directive for him to show cause why he should not be disciplined under the then CPR.

Subsequently, the JIB-OED found Judge Asuncion liable for Gross Neglect of Duty under the New Code of Judicial Conduct in his undue delay in resolving a prayer for the issuance of a writ of preliminary injunction and motions filed in a civil case involving Castillo. Under these same facts, however, the JIB-OED also found Judge Asuncion administratively liable as a member of the Bar under Section 2, Canon III and Section 3 and 4, Canon IV of the CPRA, which partly read:

> CANON III
>
> FIDELITY
> ....
>
> SECTION 2. The responsible and accountable lawyer. —
>
> ....
>
> As an officer of the court, a lawyer shall uphold the rule of law and conscientiously assist in the speedy and efficient administration of justice.
>
> ....
>
> CANON IV
>
> COMPETENCE AND DILIGENCE
>
> ....
>
> SECTION 3. Diligence and punctuality. —
>
> ....
>
> A lawyer shall be punctual in all appearances, submissions of pleadings and documents before any court, tribunal or other government agency, and all matters professionally referred by the client, including meetings and other commitments.
>
> SECTION 4. Diligence in all undertakings. — A lawyer shall observe diligence in all professional undertakings, and shall not cause or occasion delay in any legal matter before any court, tribunal, or other agency.
>
> A lawyer shall appear for trial adequately familiar with the law, the facts of the case, and the evidence to be presented. A lawyer shall also be ready with the object and documentary evidence, as well as the judicial affidavits of the witnesses, when required by the rules or the court.

Evidently, however, the case brought by Castillo against Judge Asuncion arose from the latter's exercise of his functions as a magistrate of the court, and not as a lawyer. Simply put, when Judge Asuncion is being held liable under the CPRA for failing to conscientiously assist in the speedy and efficient administration of justice and to be punctual and diligent, he is, essentially, being held liable for the acts he committed as a judge. The acts he committed as a judge, by all means, similarly accounted for his failure to conscientiously assist in the speedy and efficient administration of justice and to be diligent in his work. It would surely be unfair to punish Judge

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Asuncion under both Rule 140 as a member of the Judiciary and under the CPRA as a member of the Bar for the lone reason that a violation of the basic tenets of judicial conduct embodied in the New Code of Judicial Conduct for the Philippine Judiciary and the Code of Judicial Conduct also constitutes a breach of the CPRA.[16] As emphasized earlier, whether an administrative case also calls for a disbarment case has to be assessed for context. It doesn't happen as a matter of course. The context and threshold that must be obtained is that the government official's misconduct is of such character as to affect his or her qualification as a lawyer, or to show moral delinquency.

Here, the charges against Judge Asuncion clearly do not require a probe into his character or moral fitness as a member of the Judiciary, which may be said to also, inexorably, go into his character or moral fitness as a member of the Bar. To hold him liable under the same facts, therefore, is to essentially punish him twice in connection with his undue delay in resolving a prayer for the issuance of a writ of preliminary injunction in a civil case.

To be sure, the Court is extraordinarily strict with judges because, being the visible representation of the law, they should set a good example to the bench, bar, and students of the law. The standard of integrity imposed on them is—and should be—higher than that of the average person for it is their integrity that gives them the right to judge.[17] The right and duty to be extraordinarily strict, however, should be balanced with fairness as well. This balance is required if the Court is called upon to put a blemish on both records of a respondent in government service and in his or her personal record as a member of the Bar.

ACCORDINGLY, I concur that respondent Hon. Miguel S. Asuncion should only be held GUILTY of Gross Neglect of Duty in the Performance or Non-Performance of Official Functions under Rule 140, Section 14(d) of the Rules of Court, as further amended by A.M. No. 21-08-09-SC, for which he should pay a fine of PHP 201,000.00.

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[1] Resolution dated September 17, 2002. It took effect on October 1, 2002.

[2] 570 Phil. 25 (2008) (Resolution) [Per Curiam, En Banc].

[3] 612 Phil. 737 (2009) (Resolution) [Per Curiam, En Banc].

[4] 685 Phil. 272 (2012) [Per Curiam, En Banc].

[5] Rule 1.01 – A lawyer shall not engage in unlawful, dishonest, immoral or deceitful act.

[6] Canon 1 – A lawyer shall uphold the Constitution, obey the laws of the land and promote respect for law and for legal processes.

[7] Canon 7 – A lawyer shall at all times uphold the integrity and dignity of the legal profession and support the activities of the Integrated Bar.

[8] Office of the Court Administrator v. Judge Indar, supra note 4 at 292.

[9] 820 Phil. 417 (2017) [Per Curiam, En Banc].

[10] A.M. No. 2017-07-SC, March 14, 2022 [Per J. Perlas-Bernabe, Second Division]. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[11] A.C. No. 10294, July 12, 2022 [Per Curiam, En Banc]. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[12] Id. citing Sismaet v. Cruzabra, A.C. No. 5001, September 7, 2020, citing Olazo v. Justice Tinga (Ret.), 651 Phil. 290 (2010).

[13] See id.

[14] See Mendoza v. Nobleza, A.C. No. 11433 (Formerly CBD Case No. 17-5301), June 5, 2024 [J. Caguioa, Third Division]. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[15] Id.

[16] See Dela Cruz v. Judge Carretas, 559 Phil. 5 (2007) (Resolution) [Per J. Corona, First Division].

[17] Samson v. Judge Caballero, 612 Phil. 737, 752 (2009) (Resolution) [Per Curiam, En Banc].

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