EDNA S.V. OGKA BENITO, COMPLAINANT, VS. RASAD G. BALINDONG, PRESIDING JUDGE, REGIONAL TRIAL COURT, MALABANG, LANAO DEL SUR, BRANCH 12, RESPONDENT.

A.M. No. RTJ-08-2103 (Formerly OCA I.P.I. No. 07-2664-RTJ). February 23, 2009

Ponente: CORONA, J.

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CORONA, J.:

In a complaint dated April 30, 2007, complainant Dr. Edna S.V. Ogka Benito, then acting mayor of the Municipality of Balabagan, Lanao del Sur, charged respondent Judge Rasad G. Balindong of the Regional Trial Court (RTC), Malabang, Lanao del Sur, Branch 12, with gross ignorance of the law.

Complainant alleged that on May 3, 2005, she filed administrative and criminal complaints against Mamarinta G. Macabato, then municipal treasurer of Balabagan, Lanao del Sur, for grave misconduct in the Office of the Ombudsman-Mindanao (Ombudsman) docketed as OMB-M-A-05-175-E. On September 15, 2005, the Ombudsman impleaded then Mayor Hadji Amer R. Sampiano as co-respondent. Complainant claimed that these respondents refused to pay her salary as vice mayor since July 1, 2004 despite repeated demands.[1]

On May 16, 2006, the Ombudsman rendered a decision in that case finding respondents therein guilty of conduct prejudicial to the best interest of the service and imposing on them the penalty of suspension from office without pay for a period of nine months. It further directed the Regional Secretary[2] of the Department of the Interior and Local Government, Autonomous Region in Muslim Mindanao (DILG-ARMM) in Cotabato City to immediately implement the decision.[3]

In compliance with the decision of the Ombudsman, the Regional Secretary of the DILG-ARMM issued Department Order (D.O.) No. 2006-38 dated September 1, 2006 implementing said decision.[4] Due to the suspension of Mayor Sampiano, complainant was sworn in as acting mayor.[5]

Meanwhile, on September 4, 2006, respondents in OMB-M-A-05-175-E filed a petition for certiorari and prohibition[6] in the RTC of Malabang, Lanao del Sur, Branch 12. The petition was raffled to the sala of herein respondent and docketed as Special Civil Action (SCA) No. 12-181. Their prayer was to annul and set aside D.O. No. 2006-38 of the DILG-ARMM and prohibit its implementation.[7]

On the same date, respondent issued an order granting a temporary restraining order (TRO) effective for 72 hours directing the Regional Secretary of the DILG-ARMM to cease, desist and refrain from implementing the D.O.[8]

In an order dated September 6, 2006, respondent extended the TRO for a period of 20 days.[9]

On September 25, 2006, respondent issued another order for the issuance of a writ of preliminary injunction directing the Regional Secretary to cease, desist and refrain from implementing D.O. No. 2006-38.

On October 5, 2006, respondent rendered an "order"/decision annulling D.O. No. 2006-38.[10] This decision and the writ of preliminary injunction were annulled by the Court of Appeals (CA) in its February 8, 2007

decision.[11] The CA held that the RTC had no jurisdiction over the petition filed by the respondents in OMB-M-A-05-175-E pursuant to Sections 14 and 27 of Republic Act No. (RA) 6770[12] (Ombudsman Act of 1989) and Section 7, Rule III of the Rules of Procedure of the Ombudsman, as amended by Administrative Order No. 17-03.

Complainant asserted that, despite the clear provisions of the law and procedure, respondent took cognizance of SCA No. 12-181 and issued the TROs, writ of preliminary injunction and October 5, 2006 decision. Hence, she submitted that respondent should be administratively disciplined because of his gross ignorance of the law which prejudiced the rights of her constituents in Balabagan, Lanao del Sur. [13]

Respondent countered that he issued the orders in good faith. He was not moved by corrupt motives or improper considerations. This could be shown by the fact that complainant filed this complaint only after eight months from the resolution of SCA No. 12-181. Considering that complainant failed to establish bad faith or malevolence on his part, the complaint against him should be dismissed.

The Office of the Court Administrator (OCA), in its evaluation dated September 24, 2007, found that the pertinent provisions of the law were clear. It stated that:

> ... the issuance of a TRO and writ of preliminary injunction is not a mere deficiency in prudence, or lapse of judgment by respondent judge but is a blatant disregard of basic rules constitutive of gross ignorance of the law. In the first place, respondent Judge should have refrained from taking cognizance of the said special civil action when it was raffled to his court, he ought to know this, yet he did otherwise.

It recommended that respondent be held administratively liable for gross ignorance of the law and fined P21,000.[14]

We agree with the findings and evaluation of the OCA but we modify the penalty.

A patent disregard of simple, elementary and well-known rules constitutes gross ignorance of the law.[15] Judges are expected to exhibit more than just cursory acquaintance with laws and procedural rules.[16] They must know the law and apply it properly in good faith.[17] They are likewise expected to keep abreast of prevailing jurisprudence.[18] For a judge who is plainly ignorant of the law taints the noble office and great privilege vested in him. Respondent's gross ignorance of the law constituted inexcusable incompetence which was anathema to the effective dispensation of justice.

In SCA No. 12-181, respondents in OMB-M-A-05-175-E sought to annul and set aside D.O. No. 2006-38 of the DILG-ARMM and prohibit its implementation. Since D.O. No. 2006-38 was issued merely to implement the decision of the Ombudsman, respondents in OMB-M-A-05-175-E were actually questioning this decision and seeking to enjoin its implementation by filing a petition for certiorari and prohibition in the RTC.

This is not allowed under the law, rules and jurisprudence. Under Sections 14 and 27 of RA 6770, no court shall hear any appeal or application for a remedy against the decision or findings of the Ombudsman, except the Supreme Court, on a pure question of law.

> Section 14. Restrictions. — No writ of injunction shall be issued by any court to delay an investigation being conducted by the Ombudsman under this Act, unless there is a prima facie evidence that the subject matter of the investigation is outside the jurisd7iction of the Office of the Ombudsman.
>
> No court shall hear any appeal or application for remedy against the decision or findings of the Ombudsman, except the Supreme Court, on [a] pure question of law.
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> xxx xxx xxx

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> Section 27. Effectivity and Finality of Decisions. — (1) All provisionary orders of the Office of the Ombudsman are immediately effective and executory. A motion for reconsideration of any order, directive or decision of the Office of the Ombudsman must be filed within five (5) days after receipt of written notice and shall be entertained only on any of the following grounds:
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> xxx xxx xxx
>
> Findings of fact by the Office of the Ombudsman when supported by substantial evidence are conclusive. Any order, directive or decision imposing the penalty of public censure or reprimand, suspension of not more than one (1) month's salary shall be final and unappealable.
>
> In all administrative disciplinary cases, orders, directives, or decisions of the Office of the Ombudsman may be appealed to the Supreme Court by filing a petition for certiorari within ten (10) days from receipt of the written notice of the order, directive or decision or denial of the motion for reconsideration in accordance with Rule 45 of the Rules of Court.
>
> The above rules may be amended or modified by the Office of the Ombudsman as the interest of justice may require.

However, in Fabian v. Desierto,[19] we enunciated the rule that appeals from the decisions of the Ombudsman in administrative disciplinary cases should be taken to the CA. Following our ruling in Fabian, the Ombudsman issued Administrative Order No. 17[20] amending Section 7, Rule III[21] of Administrative Order No. 07:[22]

> Section 7. Finality and execution of decision. — Where the respondent is absolved of the charge, and in case of conviction where the penalty imposed is public censure or reprimand, suspension of not more than one month, or a fine not equivalent to one month salary, the decision shall be final, executory and unappealable. In all other cases, the decision may be appealed to the Court of Appeals on a verified petition for review under the requirements and conditions set forth in Rule 43 of the Rules of Court, within fifteen (15) days from receipt of the written Notice of the Decision or Order denying the Motion for Reconsideration.
>
> An appeal shall not stop the decision from being executory. In case the penalty is suspension or removal and the respondent wins such appeal, he shall be considered as having been under preventive suspension and shall be paid the salary and such other emoluments that he did not receive by reason of the suspension or removal.
>
> A decision of the Office of the Ombudsman in administrative cases shall be executed as a matter of course. The Office of the Ombudsman shall ensure that the decision shall be strictly enforced and properly implemented. The refusal or failure by any officer without just cause to comply with an order of the Office of the Ombudsman to remove, suspend, demote, fine, or censure shall be a ground for disciplinary action against said officer. (Emphasis supplied)

These provisions clearly show that respondent had no jurisdiction to take cognizance of the petition and to issue his subsequent orders. He proceeded against settled doctrine, an act constituting gross ignorance of the law or procedure.[23]

Respondent's defense of good faith has no merit. Indeed, good faith and absence of malice, corrupt motives or improper considerations, are sufficient defenses in which a judge charged with ignorance of the law can find refuge.[24] However

> ... good faith in situations of fallible discretion inheres only within the parameters of tolerable judgment and does not apply where the issues are so simple and the applicable legal principles evident and basic as to be beyond possible margins of error.[25]

If ordinary people are presumed to know the law,[26] judges are duty-bound to actually know and understand it. A contrary rule will not only lessen the faith of the people in the courts but will also defeat the fundamental role

of the judiciary to render justice and promote the rule of law.

Gross ignorance of the law or procedure is a serious charge under Section 8, Rule 140 of the Rules of Court, as amended by A.M. No. 01-8-10-SC,[27] punishable by either dismissal from service, suspension or a fine of more than P20,000 but not exceeding P40,000.[28] Since this is respondent's first offense, we deem it proper to impose upon him a fine of P30,000.

Members of the bench are enjoined to behave at all times in a way that promotes public confidence in the integrity and impartiality of the judiciary.[29] Respondent's act of taking cognizance of a case which was plainly not within his court's jurisdiction failed to meet the high standards of judicial conduct.

Pursuant to A.M. No. 02-9-02-SC,[30] this administrative case against respondent as a judge, based on grounds which are also grounds for disciplinary action against members of the Bar, shall be considered as disciplinary proceedings against such judge as a member of the Bar.[31]

When respondent entertained SCA No. 12-181, issued a TRO and writ of preliminary injunction and subsequently granted the petition, he acted contrary to law, rules and jurisprudence. In doing so, he consented to the filing of an unlawful suit, in violation of the Lawyer's Oath. A judge who falls short of the ethics of the judicial office tends to diminish the people's respect for the law and legal processes.[32] He also fails to observe and maintain the esteem due to the courts and to judicial officers.[33] Thus, respondent violated Canons 1 and 11 of the Code of Professional Responsibility (CPR):

> Canon 1. A lawyer shall uphold the Constitution, obey the laws of the land and promote respect for law and legal processes.
>
> xxx xxx xxx
>
> Canon 11. A lawyer shall observe and maintain the respect due to the courts and to judicial officers and should insist on similar conduct by others. (Emphasis supplied)

Respondent's gross ignorance of the law also runs counter to Canons 5 and 6 of the CPR:

> Canon 5. A lawyer shall keep abreast of legal developments, participate in continuing legal education programs, support efforts to achieve high standards in law schools as well as in the practical training of law students and assist in disseminating information regarding the law and jurisprudence.
>
> Canon 6. These Canons shall apply to lawyers in government service in the discharge of their official tasks. (Emphasis supplied)

Judges should be well-informed of existing laws, recent amendments and current jurisprudence, in keeping with their sworn duty as members of the bar (and bench) to keep abreast of legal developments.

For such violation of the Lawyer's Oath and Canons 1, 5, 6 and 11 of the CPR, respondent is fined in the amount of P10,000.[34]

WHEREFORE, Rasad G. Balindong, Presiding Judge of the Regional Trial Court, Malabang, Lanao del Sur, Branch 12 is hereby found GUILTY of gross ignorance of the law. He is FINED P30,000.

Respondent is further hereby FINED P10,000 for his violation of the Lawyer's Oath and Canons 1, 5, 6 and 11 of the Code of Professional Responsibility.

He is STERNLY WARNED that the commission of the same or similar acts shall be dealt with more severely.

Let this resolution be attached to the personal files of respondent in the Office of the Court Administrator and the

Office of the Bar Confidant.

SO ORDERED.

RENATO C. CORONA

Associate Justice

WE CONCUR:

REYNATO S. PUNO
Chief Justice

LEONARDO A. QUISUMBING
Associate Justice

(On Official Leave)
CONSUELO YNARES-SANTIAGO
Associate Justice

ANTONIO T. CARPIO
Associate Justice

MA. ALICIA M. AUSTRIA-MARTINEZ
Associate Justice

CONCHITA CARPIO MORALES
Associate Justice

(On Leave)
DANTE O. TINGA
Associate Justice

MINITA V. CHICO-NAZARIO
Associate Justice

(On Official Leave)
PRESBITERO J. VELASCO, JR.
Associate Justice

ANTONIO EDUARDO B. NACHURA
Associate Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

ARTURO D. BRION
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

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[1] Rollo, pp. 1 and 20.

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[2] Ansaruddin Alonto Adiong.

[3] Rollo, p. 44.

[4] Id., p. 1.

[5] Id., p. 84.

[6] Under Rule 65 of the Rules of Court.

[7] Rollo, pp. 1-2.

[8] Id., p. 2.

[9] Id.

[10] Id., pp. 72-80.

[11] Id., pp. 82-94. Docketed as CA-G.R. SP No. 01277.

[12] Entitled "An Act Providing for the Functional and Structural Organization of the Office of the Ombudsman and for Other Purposes."

[13] Rollo, p. 2.

[14] Id., pp. 3-7.

[15] Rivera v. Mirasol, A.M. No. RTJ-04-1885, 14 July 2004, 434 SCRA 315, 320, citing Aurillo, Jr. v. Francisco, A.M. No. RTJ-93-1097, 12 August 1994, 235 SCRA 283, 289.

[16] Boiser v. Aguirre, Jr., A.M. No. RTJ-04-1886, 16 May 2005, 458 SCRA 430, 438.

[17] Id.

[18] Id., p. 439, citing Office of the Court Administrator v. Judge Lorenzo B. Veneracion, A.M. No. RTJ-99-1432, 21 June 2000, 334 SCRA 145.

[19] G.R. No. 129742, 16 September 1998, 295 SCRA 470.

[20] Dated September 15, 2003.

[21] Procedure in Administrative Cases.

[22] Rules of Procedure of the Office of the Ombudsman.

[23] Zuno v. Cabredo, A.M. No. RTJ-03-1779, 30 April 2003, 402 SCRA 75, 82, citing Conducto v. Monzon, A.M. No. MTJ-98-1147, 2 July 1998, 291 SCRA 619.

[24] Santos v. How, A.M. No. RTJ-05-1946, 26 January 2007, 513 SCRA 25, 36-37, citing Balsamo v. Suan, A.M. No. RTJ-01-1656, 17 September 2003, 411 SCRA 189, 200.

[25] Id., citing Dantes v. Caguioa, A.M. No. RTJ-05-1919, 27 June 2005, 461 SCRA 236, 246.

[26] This is embodied in the maxim "ignorantia legis non excusat" and finds statutory expression in Article 3 of the Civil Code which provides:

Article 3. Ignorance of the law excuses no one from compliance therewith.

[27] Took effect on October 1, 2001.

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[28] Section 11, Rule 140.

[29] Universal Motors Corporation v. Rojas, Sr., A.M. No. RTJ-03-1814, 26 May 2005, 459 SCRA 14, 25, citing Rivera v. Mirasol, A.M. No. RTJ-04-1885, 14 July 2004, 434 SCRA 315, 320.

[30] Dated September 17, 2002 and took effect on October 1, 2002.

[31] Maddela v. Dallong-Galicinao, A.C. No. 6491, 31 January 2005, 450 SCRA 19, 25.

[32] See Juan de la Cruz (Concerned Citizen of Legazpi City) v. Carretas, A.M. No. RTJ-07-2043, 5 September 2007, 532 SCRA 218, 232.

[33] Id.

[34] Francia, Jr. v. Power Merge Corporation, G.R. No. 162461, 23 November 2005, 476 SCRA 62, 72-73; People v. Hon. Gacott, Jr., 312 Phil. 603, 611-613 (1995).

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