

MA. TERESA H. DE JESUS, COMPLAINANT, VS. JUDGE RENATO J. DILAG, PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 73, OLONGAPO CITY, RESPONDENT.

A.M. NO. RTJ-05-1921 (FORMERLY OCA IPI NO. 04-1973-RTJ). September 30, 2005

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SANDOVAL-GUTIERREZ, J:

In a complaint[1] dated February 4, 2004 filed with the Office of the Court Administrator (OCA), complainant Maria Teresa H. De Jesus charged respondent Judge Renato J. Dilag of the Regional Trial Court of Olongapo City, Branch 73, with gross ignorance of the law, rendering unjust orders, abuse of authority and misuse of court processes.

Complainant alleged inter alia that on August 26, 2002, her husband Wolfgang Heinrich Konrad Harlinghausen (Harlinghausen) filed a petition for declaration of nullity of their marriage with the Regional Trial Court of Olongapo City, Branch 73, docketed as Civil Case No. 364-0-2002.

On August 27, 2002, Harlinghausen, through counsel, filed an "Urgent Ex-Parte Motion to Preserve Properties to be Collated." On the same day, respondent judge issued an Order[2] setting the hearing of the motion on August 30, 2002.

On August 29, 2002, complainant received summons in Civil Case No. 364-0-2002. Forthwith, she filed a motion to dismiss the complaint on the ground of improper venue. This was denied by respondent judge.

On August 30, 2002, respondent judge considered the "Urgent Ex-Parte Motion to Preserve Properties to be Collated" submitted for resolution after hearing the testimonies of Harlinghausen's attorney-in-fact, Harry E. Joost, and his counsel of record, Atty. Edmundo S. Carian.

On September 3, 2002, respondent judge issued an Order[3] granting the urgent ex-parte motion and placing under legal custody the properties enumerated therein. The Register of Deeds of Tarlac, among others, was directed to annotate the Order on the 62 land titles allegedly purchased by Harlinghausen's wife using his money without his consent.

On October 2, 2002, Harlinghausen, through counsel, filed another Ex-Parte Motion praying for the issuance of an Order directing the Bureau of Immigration and Deportation (BID) to allow him to enter this country in order to prosecute his petition for declaration of nullity of marriage.

On October 4, 2002, respondent judge issued an Order granting Harlinghausen's Ex-Parte Motion.

Eventually, complainant filed with the Court of Appeals a petition for certiorari assailing respondent judge's Order dated September 3, 2002 granting Harlinghausen's Urgent Ex-Parte Motion to Preserve Properties to be Collated; Order dated October 4, 2002 granting his Urgent Ex-Parte Motion to enter this country; and Order denying her (complainant's) motion to dismiss the complaint for improper venue. Complainant averred that in issuing the challenged Orders, respondent judge acted with grave abuse of discretion tantamount to lack or excess

of jurisdiction. The petition was docketed as CA-G.R. SP No. 74167.

On February 20, 2003, the Court of Appeals rendered a Decision[4] granting complainant's petition, declaring void the assailed Orders dated September 3 and October 4, 2002 and dismissing the complaint in Civil Case No. 364-0-2002 for declaration of marriage for improper venue.

Harlinghausen filed a motion for reconsideration, but it was denied by the Appellate Court. He then filed with this Court a petition for review on certiorari, docketed as G.R. No. 158333. In a Resolution of June 23, 2003, we denied the petition for his failure to show that the Court of Appeals committed a reversible error. Upon finality of our Resolution on August 12, 2003, an Entry of Judgment was made on October 3, 2003.[5]

Complainant now contends that respondent judge, in issuing the Order of September 3, 2002 granting Harlinghausen's Urgent Ex-Parte Motion to Preserve Properties to be Collated, is ignorant of the law and abused his authority. The motion lacks the notice of hearing to be served upon the adverse party three (3) days before the hearing; and proof of service of the motion upon the adverse party.

Complainant further contends that in issuing the Order dated October 4, 2002 directing the BID to allow Harlinghausen to enter this country, respondent judge abused his authority and misused court processes.

In his comment, respondent judge explained that he did not disregard the basic procedural rules. Although the Urgent Ex-Parte Motion to Preserve Properties to be Collated lacks a notice of hearing, nevertheless he set the motion for hearing to enable the adverse party, herein complainant, to participate therein or to file an opposition. Besides, the Rules allow him to act upon an ex-parte motion requiring "quick action," like the motion before him. There was urgency considering that the conjugal funds are being misappropriated by complainant. Moreover, he conducted clarificatory hearing. At any rate, his questioned Order is not tainted with "bad faith or fraud."

With respect to the Order of October 4, 2002, respondent judge explained that he did not overstep his jurisdiction. He recognized the authority of the BID. In fact, he stated in his questioned Order that it is without prejudice to the authority of the BID over Harlinghausen.

In his Report and Recommendation, Court Administrator Presbitero J. Velasco, Jr. stated inter alia that:

"A thorough examination of the instant case reveals abuse of authority bordering on gross ignorance of the law. Records show that, relative to the petition for declaration of nullity of marriage, respondent Judge issued at least two orders that were bluntly nullified by the appellate court. The rules and principles ignored were so basic, and haste was characteristically palpable from the incidents.

x x x

Likewise, respondent cannot take shield from the fact that his assailed orders were already set aside by the appellate court through the proper judicial remedies. Precisely, his cited jurisprudence itself explicitly states, "It is only after the available judicial remedies have been exhausted or when the appellate tribunal have spoken with finality that the door to an inquiry to his administrative liability may be said to have opened or closed." A display of haste and disregard of basic rules is a norm incompatible with the prudent attitude and sobriety expected of a good judge."

He recommended that:

- "1. The instant complaint be RE-DOCKETED as a regular administrative matter;
2. The respondent Judge, for abuse of authority and gross ignorance of the law, be accordingly meted a FINE in the amount of twenty thousand pesos (P20,000.00) with a WARNING that future similar infractions shall be dealt with more severely."

In our Resolution[6] dated January 24, 2005, we required the parties to manifest whether they are submitting the case for resolution on the basis of the pleadings and records filed.

Subsequently, both parties submitted their respective Manifestations stating their willingness to submit the case for decision based on the records.

On the challenged Order of September 3, 2002, Sections 4, 5 and 6, Rule 15 of the 1997 Rules of Civil Procedure, as amended, are pertinent, thus:

SECTION 4. Hearing of motion. – Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.

Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice.

SECTION 5. Notice of hearing. – The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion.

SECTION 6. Proof of service necessary. – No written motion set for hearing shall be acted upon by the court without proof of service thereof.

Obviously, respondent judge blatantly disregarded the above provisions. Instead of denying the motion outright for being manifestly defective, he granted the same. While he set the motion for hearing, still the three-day notice was not observed, thus complainant failed to attend the hearing. Clearly, she was deprived of her right to due process.

When a judge fails to consider so basic and elemental a rule, a law, or a principle in the discharge of his duties, he is either too incompetent and undeserving of his position, or is too vicious that the oversight or omission was deliberately done in bad faith and in grave abuse of judicial authority. In both instances, the judge's dismissal is in order.[7]

Likewise, respondent's failure to afford complainant the opportunity to be heard as a matter of due process of law deserves administrative sanction.[8]

Relative to the challenged Order dated October 4, 2002, respondent judge shows his ignorance of the Philippine Immigration Act of 1940, as amended. This law confers upon the Commissioner of the BID, to the exclusion of the courts of justice, the power and authority to enforce its provisions, specifically the admission of foreigners to this country.

We sustain the observation of the Court of Appeals[9] that the Order of respondent judge directing the BID to allow the entry of Harlinghausen to this country would effectively countermand the order of detention[10] issued by the BID and "constitutes an intrusion into its prerogatives as regards the entry, admission, exclusion, registration, repatriation, monitoring and deportation of foreigners within our national territory."

In his desperate attempt to evade administrative sanction, respondent judge maintains that since complainant has already resorted to a proper remedy, i.e., by filing a petition for certiorari with the Court of Appeals questioning his twin Orders, she is barred from filing the instant administrative complaint involving the same Orders. He cited our ruling in *Hilario vs. Ocampo III*, 371 SCRA 260 (2001) that "where some judicial means is available, an administrative complaint is not the appropriate remedy for an act of a judge deemed aberrant or irregular."

While it is true that the Court of Appeals has set aside the questioned twin Orders, the fact remains that

respondent judge has shown his ignorance of both substantive and procedural laws which warrants an administrative sanction.

The Court recognizes that "not every judicial error bespeaks ignorance of the law and that, if committed in good faith, does not warrant administrative sanction, but only in cases within the parameters of tolerable misjudgment. Where, however, the procedure is so simple and the facts so evident as to be beyond permissible margins of error, as in this case, to still err thereon amounts to ignorance of the law."^[11]

In this case, respondent judge displayed a deplorable deficiency in his grasp of the basic principles governing motions, specifically, the three-day notice rule and the requisite proof of service. Also, he showed his utter lack of knowledge and understanding of our immigration laws.

As an advocate of justice and a visible representation of the law, a judge is expected to keep abreast with and be proficient in the application and interpretation of the law.^[12] When the law is sufficiently basic, as what is involved in the present case, a judge owes it to his office to simply apply it; anything less than that would be gross ignorance of the law.^[13]

In *Tugot v. Coliflores*,^[14] we held that judicial competence demands that judges should be proficient in both procedural and substantive aspects of the law. Anything less than this strict standard would subject them to administrative sanction.

It is imperative that judges be conversant with basic legal principles. The Code of Judicial Conduct, in fact, enjoins judges to "be faithful to the law and maintain professional competence."^[15]

Under Section 1, Rule 140 of the Revised Rules of Court on the Discipline of Justices and Judges, gross ignorance of the law is classified as a serious charge punishable by either dismissal from the service, suspension from office or a fine of more than P20,000.00 but not exceeding P40,000.00.

We believe that an imposition of P30,000.00 fine upon respondent judge is in order.

WHEREFORE, respondent Judge Renato J. Dilag is hereby found GUILTY of gross ignorance of the law and is ordered to pay a FINE of THIRTY THOUSAND PESOS (P30,000.00) upon notice.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, and Garcia, JJ., concur.

[1] Rollo at 16.

[2] Id. at 32.

[3] Id. at 17-20.

[4] Id. at 35-60.

[5] Id. at 50-52.

[6] Id. at 84.

[7] *Castañeros v. Escaño, Jr.*, A.M. No. RTJ-93-955, December 12, 1995, 251 SCRA 174.

[8] Id.

[9] Decision of the Court of Appeals in CA-G.R. SP No. 73893, Petition for Habeas Corpus filed by Harlinghausen.

[10] Records show that Harlinghausen entered this county without authority. He was arrested by the BID Agents on October 10, 2002 at the Justice Hall, Olongapo City after attending a hearing of Civil Case No. 364-0-2002 for declaration of annulment of marriage he filed against his wife.

[11] Mupas v. Español, A.M. No. RTJ-04-1850, July 14, 2004, 434 SCRA 303, citing Alib v. Labayen, 360 SCRA 29, 32 (2001); Development Bank of the Philippines v. Llanes, Jr., 266 SCRA 212, 222-223 (1997).

[12] Paragraph 31, Code of Judicial Ethics.

[13] De Los Santos v. Mangino, A.M. No. MTJ-03-1496, July 10, 2003, 405 SCRA 521.

[14] A.M. No. MTJ-00-1332, February 16, 2004, 423 SCRA 1.

[15] Canon 3, Rule 3.01.

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