# ATTY. HUGOLINO V. BALAYON, JR., COMPLAINANT, VS. JUDGE OSCAR E. DINOPOL, REGIONAL TRIAL COURT, BRANCH 24, KORONADAL CITY, RESPONDENT.

*A.M. NO. RTJ-06-1969 (FORMERLY OCA IPI NO. 05-2159-RTJ). June 15, 2006*

Ponente: CHICO-NAZARIO, J.

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**CHICO-NAZARIO, J.:**

This is an administrative complaint against Judge Oscar E. Dinopol of the Regional Trial Court of Koronadal City, Branch 24, for Gross Ignorance of the Law, relative to his issuance of Search Warrant No. 01-03. The complainant is Atty. Hugolino V. Balayon, Jr., a private practicing lawyer.

Complainant alleged that on 6 January 2003, Filoteo B. Arcallo, a public school teacher, submitted his sworn statement before SPO2 Carlito Lising accusing Tito Cantor of Illegal Possession of Firearms. Based on the said sworn statement, P/S Insp. Virgilio Carreon, Intelligence and Investigation Officer of the South Cotabato Police Provincial Office, filed an application for search warrant against Tito Cantor. On 13 January 2003, respondent Judge issued the search warrant. In the evening of the same day, a team of policemen headed by P/Supt. Fred Juan Bartolome implemented the search warrant. After the search conducted by the raiding team, a written report/information was submitted by P/S Insp. Virgilio Carreon, where it was stated therein that the search was negative, meaning not a single firearm was found inside the house of Tito Cantor.

Claiming that the search warrant was issued in violation of Sections 4 and 5 of Rule 126 of the Rules of Court and A.M. No. 02-1-06-SC,[1] the instant complaint[2] was filed.

In his comment[3] dated 22 March 2005, respondent Judge denied the charge of gross ignorance of the law. He alleged that complainant is not the proper party to file the instant complaint as the aggrieved party in said case should have been Tito Cantor, and not the complainant, who was not authorized by the former to file the complaint in his behalf. Respondent Judge likewise negated the fact that he issued the search warrant based alone on the sworn statement of complainant and the application of P/S Insp. Carreon for the issuance thereof. He maintained that it was only after he made exhaustive clarificatory interviews of Filoteo B. Arcallo in his chambers that the subject search warrant was issued on 13 January 2003. He alleged further that complainant is not privy nor does he have actual knowledge of the implementation of the search warrant in question.

Respondent Judge surmised that the instant complaint was the result of the ill-will and hatred the complainant had against him due to his dismissal, without prejudice, for nonpayment of docket fees, of the Petition for Issuance of Writ of Possession filed by the same complainant, in behalf of Sta. Teresita Multi-Purpose Cooperative, in another unrelated case.

In his Reply[4] dated 26 August 2005, complainant emphasized the alleged highly reprehensible attitude of respondent Judge when he requested for an extension of ten days to file his comment without informing complainant. Respondent Judge did not also bother to furnish complainant a copy of his comment when he did finally file one. Moreover, respondent Judge failed to comply with the directives of the Honorable Court

Administrator to file his comment within ten days from receipt of the Order granting his request for extension. Complainant believes this constitute additional grounds to warrant respondent Judge's administrative liability.

As to respondent Judge's allegation that complainant had no legal personality to file the instant complaint against him as the complainant is neither the aggrieved party nor a relative of Tito Cantor, complainant counters that whether or not he is a relative of Tito Cantor, he can file this administrative complaint against the respondent Judge. Allegedly, Tito Cantor already filed a criminal complaint against Filoteo Arcallo and P/S Insp. Virgilio Carreon for perjury before the City Court of Koronadal City, on the basis of malicious lies they made in their sworn statements involving the issuance of the search warrant by the respondent Judge.

Additionally, complainant reiterated in his reply respondent Judge's noncompliance with Sections 4 and 5 of Rule 126 of the Rules of Court by not conducting and attaching the written searching questions and answers he made before issuing the search warrant.

On 22 November 2005,[5] the Office of the Court Administrator (OCA) submitted its recommendation, thus:

> Respectfully submitted for the consideration of the Honorable Court is our recommendation that the instant administrative complaint be:
>
> - RE-DOCKETED as regular administrative matter;
>
> - That Judge Oscar E. Dinopol of Regional Trial Court, Branch 24, Koronadal City be found GUILTY of Gross Ignorance of the Rules, in which case, he should be meted with a penalty of a FINE in the amount P20,000.00, with a STERN WARNING that a repetition of similar infraction in the future should be dealt with more severely.

We must first resolve the propriety of the filing of the instant administrative complaint by the complainant. Respondent Judge alleged that complainant is not the proper party to file the instant administrative complaint, as he was not the person aggrieved by the issuance of the search warrant nor a relative thereof.

We rule in the negative.

Section 1, Rule 140 of the Rules of Court (as amended by A.M. No. 01-8-10-SC, which took effect on 1 October 2001) provides that:

> Section 1. How instituted. - Proceedings for the discipline of Judges of regular and special courts and Justices of the Court of Appeals and the Sandiganbayan may be instituted motu proprio by the Supreme Court or upon a verified complaint, supported by affidavits of persons who have personal knowledge of the facts alleged therein or by documents which may substantiate said allegations, or upon an anonymous complaint, supported by public records of indubitable integrity. The complaint shall be in writing and shall state clearly and concisely the acts and omissions constituting violations of standards of conduct prescribed for Judges by law, the Rules of Court, or the Code of Judicial Conduct. (Underscoring supplied)

A careful perusal of the above-cited provision shows that the complainant need not be the person allegedly aggrieved by the actuations of a court officer or employee or someone related thereto. The rule does not mention that the complainant must be the aggrieved party or his relative so as to initiate the prosecution of an administrative case. As correctly observed by the OCA, the above-quoted rule allows the filing by even an anonymous complainant as the rule merely requires that it should be supported by public records of indubitable integrity.

We shall now discuss the liability of respondent Judge in issuing the search warrant without complying with the requirements of the law.


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Section 4, Rule 126 of the Rules of Criminal Procedure provides that:

> Section 4. Requisites for issuing search warrant. - A search warrant shall not issue except upon probable cause in connection with one specific offense to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the things to be seized which may be anywhere in the Philippines. (Underscoring supplied)

Corollarily, Section 5 of the same rule further states that:

> Section 5. Examination of complainant; record. - The judge must, before issuing the warrant, personally examine in the form of searching questions and answers, in writing and under oath, the complainant and the witnesses he may produce on facts personally known to them and attach to the record their sworn statements, together with the affidavits submitted. (Underscoring supplied)

The foregoing provisions provides that the judge must, before issuing the warrant, personally examine, under oath or affirmation, the complainant and any witnesses he may produce and take their testimonies in writing, and attach them to the record, in addition to any affidavits presented to him.

Mere affidavits of the complainant and his witnesses are thus not sufficient. The examining Judge has to make searching questions and elicit answers of the complainant and the witnesses he may produce in writing and to attach them to the record. [6]

The searching questions propounded to the applicant of the search warrant and his witnesses must depend to a large extent upon the discretion of the Judge just as long as the answers establish a reasonable ground to believe the commission of a specific offense, and that the applicant is one authorized by law, and that said answers particularly described with certainty the place to be searched and the persons or things to be seized. The examination or investigation which must be under oath may not be in public. It may even be held in the secrecy of his chambers. Far more important is that the examination is not merely routinary but one that is thorough and elicits the required information. To repeat, it must be under oath and must be in writing.[7] Such searching questions and answers are necessary in order that the judge may be able to properly determine the existence or non-existence of the probable cause, to hold for perjury the person giving it if it will be found later that his declarations are false.[8]

In the case at bar, respondent Judge failed to observe his mandate as required by the rules. There was no record of searching questions and answers attached to the records of the case in palpable disregard of the statutory requirement previously quoted. This was admitted by respondent Judge in his comment to the effect that there were no written searching questions and answers to support the issuance of the search warrant because the peace officer who accompanied the complainant requested not to take down the exhaustive searching inquiry of Filoteo Arcallo, thus:

> It (sic) no written searching questions were done to support the issuance of a search warrant, it did not mean that no searching questions were accomplished. The peace officer who accompanied the complainant personally requested that court personnel as much as possible not take down the exhaustive searching inquiry of the respondent upon Filoteo Arcallo due to the past experiences of the police that given the texting technology and as it had been proven by respondent that old time residents of Koronadal City know each other, the impending search can reach the attention of the person to be searched before the search warrant can be implemented. Respondent found wisdom and practicability in the request of the police officer. x x x[9] (Underscoring supplied).

Also, Filoteo Arcallo, in his affidavit dated 24 February 2005, confirmed the fact that the inquiry conducted by the respondent was an oral one, pertinent portion of which reads:

> On January 13, 2003, with P/Insp. Bing Carreon we went to the Hall of Justice to file the application for search warrant. Judge Oscar Dinopol instructed us to have my statement and that of P/Insp. Bing Carreon subscribed first by the City Prosecutor, but he already left home. When we returned to the Chamber of the Executive Judge, he interviewed P/Insp. Carreon and asked me to narrate in detail the history and I narrated to him the above information. The Executive Judge asked further questions and mentioned of securing further written questions and answer from P/Insp. Bing Carreon and I, but the former proposed instead an oral one as he had previous experiences that the search team returned empty handed because it was easy for court staff to text the person to be searched if the staff knows the person. The Executive Judge concurred to the request because, other police members he said also shared the same experience; x x x[10] (Underscoring Supplied).

We uphold the OCA's findings that respondent Judge professed gross ignorance of the law for his failure to reduce the examination in writing. When the law is so elementary, such as the provisions of the Constitution and the Rules of Court on search warrant issuance, not to know it or as if one does not know it constitutes gross ignorance of the law. Specifically, respondent Judge failed to conform to the high standards of competence required of judges under the Code of Judicial Conduct, which mandates that:

> Rule 1.01. - A judge should be the embodiment of competence, integrity, and independence.
>
> Rule 3.01- A judge shall x x x maintain professional competence.

Competence is a mark of a good judge. When a judge displays an utter lack of familiarity with the rules, he erodes the public's confidence in the competence of our courts.[11] It is highly imperative that judges be conversant with the law and basic legal principles.[12] Basic legal procedures must be at the palm of a judge's hands.[13]

A judge owes it to himself and his office to know by heart basic legal principles and to harness his legal know-how correctly and justly. When a judge displays utter unfamiliarity with the law and the rules, he erodes the confidence of the public in the courts. Ignorance of the law by a judge can easily be the mainspring of injustice. As an advocate of justice and a visible representation of the law, a judge is expected to be proficient in the interpretation of our laws. When the law is so elementary, not to know it constitutes gross ignorance of the law. Ignorance of the law, which everyone is bound to know, excuses no one - not even judges. Ignorantia juris quod quisque scire tenetur non excusdat.[14] As we held in Monterola v. Judge Caoibes, Jr.[15]:

> Observance of the law, which respondent ought to know, is required of every judge. When the law is sufficiently basic, a judge owes it to his office to simply apply it; anything les than that is either deliberate disregard thereof or gross ignorance of the law. It is a continuing pressing responsibility of judges to keep abreast with the law and changes therein. Ignorance of the law, which everyone is bound to know, excuses no one -not even judges - from compliance therewith x x x. Canon 4 of the Canons of Judicial Ethics requires that the judge should be studious in the principles of law. Canon 18 mandates that he should administer his office with due regard to the integrity of the system of the law itself, remembering that he is not a depository of arbitrary power, but a judge under the sanction of law. Indeed, it has been said that when the inefficiency springs from a failure to consider a basic and elementary rule, a law or principle in the discharge of his duties, a judge is either too incompetent and undeserving of the position and the title he holds or is to vicious that the oversight or omission was deliberately done in bad faith and in grave abuse of judicial authority.[16]

Clearly then, the respondent Judge displayed gross ignorance of the law in failing to observe the requirements in issuing a search warrant. He was ignorant of the basic and simple procedural rules in issuing the said warrant. Verily, respondent Judge's actions visibly indicate his lack of sufficient grasp of the law.

Under Rule 140, Section 8, of the Rules of Court, as amended by A.M. No. 01-8-10 SC, gross ignorance of the law or procedure is classified as a serious charge. As to the penalty imposed, Section 11 of the same Rule provides:

> SEC. 11. Sanctions. - A. If the respondent is guilty of a serious charge, any of the following sanctions may be imposed:
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> - 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;
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> - Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or
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> - A fine of more than P20,000.00 but not exceeding P40,000.00.

Guided by our rulings in Gamas v. Oco,[17] and Sule v. Biteng,[18] a fine of P20,000.00 is justified in the case at bar.

WHEREFORE, the Court finds respondent Judge Oscar E. Dinopol, of the Regional Trial Court, Br. 24, Koronadal City, guilty of gross ignorance of the law. He is ordered to pay a fine of P20,000.00 with the WARNING that a repetition of the same or similar acts in the future will be dealt with more severely.

**SO ORDERED.**

Panganiban, C.J., (Chairperson), Ynares-Santiago, Austria-Martinez, and Callejo, Sr., JJ., concur.

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[1] Rule on Search and Seizure in Civil Action for Infringement of Intellectual Property Rights.[2] Rollo, pp. 2-3.[3] Rollo, pp. 24-30.[4] Rollo, pp. 85-86.[5] Rollo, pp. 91-95.[6] Mata v. Hon. Bayona, 213 Phil. 348, 352 (1984).[7] Id., p. 354.[8] Id., p. 352.[9] Rollo, p. 26.[10] Id., p. 29.[11] Fr. Guillen v. Judge Caï¿½on, 424 Phil. 81, 88 (2002).[12] Borja-Manzano v. Sanchez, A.M. No. MTJ-00-1329, 8 March 2001, 354 SCRA 1, 6.[13] Pesayco v. Layague, A.M. No. RTJ-04-1889, 22 December 2004, 447 SCRA 450, 459.[14] Español v. Mupas, A.M. No. MTJ-01-1348, 11 November 2004, 442 SCRA 13, 44-45.[15] 429 Phil. 509.[16] Id., pp. 66-67.[17] A.M. No. MTJ-99-1231, 17 March 2004, 425 SCRA 588. In this case, respondent Judge was found guilty of gross ignorance of the law for failure to comply with the requirements of Section 1(a) of Rule 116 of the Revised Rules of Criminal Procedure, by failing to furnish complainants therein a copy of the information with the list of the witnesses and was meted a fine of P20,000.00.[18] 313 Phil. 399 (1995). In this case, respondent Judge was found guilty of gross ignorance of the law when he granted bail solely on account of the voluntary surrender of the accused and was meted a fine of P20,000.00.


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