

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. JUDGE CADER P. INDAR, PRESIDING JUDGE AND ACTING PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, BRANCH 14, COTABATO CITY AND BR...

A.M. No. RTJ-10-2232. April 10, 2012

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PER CURIAM:

This is an administrative complaint for gross misconduct and dishonesty against respondent Judge Cader P. Indar, Al Haj (Judge Indar), Presiding Judge of the Regional Trial Court (RTC), Branch 14, Cotabato City and Acting Presiding Judge of the RTC, Branch 15, Shariff Aguak, Maguindanao.

This case originated from reports by the Local Civil Registrars of Manila and Quezon City to the Office of the Court Administrator (OCA) that they have received an alarming number of decisions, resolutions, and orders on annulment of marriage cases allegedly issued by Judge Indar.

To verify the allegations against Judge Indar, the OCA conducted a judicial audit in RTC-Shariff Aguak, Branch 15, where the Audit Team found that the list of cases submitted by the Local Civil Registrars of Manila and Quezon City do not appear in the records of cases received, pending or disposed by RTC-Shariff Aguak, Branch 15. Likewise, the annulment decisions did not exist in the records of RTC-Cotabato, Branch 14. The Audit Team further observed that the case numbers in the list submitted by the Local Civil Registrars are not within the series of case numbers recorded in the docket books of either RTC-Shariff Aguak or RTC-Cotabato.

At the same time, the Audit Team followed-up Judge Indar's compliance with Deputy Court Administrator (DCA) Jesus Edwin A. Villazor's 1st Indorsement, dated 15 February 2010, relative to the letter[1] of Ms. Miren Galloway, Manager-Permanent Entry Unit, Australian Embassy, Manila (Australian Embassy letter), asking confirmation on the authenticity of Judge Indar's decision, dated 23 May 2007, in Spec. Proc. No. 06-581, entitled "Chona Chanco Aguiling v. Alan V. Aguiling," for Declaration of Nullity of Marriage. As regards this case, the Audit Team found that Spec. Proc. No. 06-584 does not exist in the records of cases filed, pending or disposed by RTC-Shariff Aguak.

Subsequently, the Audit Team made the following conclusions:

1. The list in Annexes A; A-1; A-2 and A-3 are not found in the list of cases filed, pending or decided in the Regional Trial Court, Branch 15, Shariff Aguak [Maguindanao] which is based in Cotabato City, nor in the records of the Office of the Clerk of Court of Regional Trial Court, Cotabato City;
2. There are apparently decisions of cases which are spurious, as these did not pass through the regular process such as filing, payment of docket fees, trial, etc. which are now circulating and being registered in Local Civil Registrars throughout the country, the extent of which is any body's guess;
3. The authenticity of the signatures appearing thereon could only be validated by handwriting experts of the National Bureau of Investigation (NBI);

4. The participation of any lower court officials and/or employees could not be ascertained except probably through a more thorough discreet investigation and or entrapment; [and]
5. There is a possibility that more of this (sic) spurious documents may appear and cause damage to the Court's Integrity.[2]

Meanwhile, in compliance with DCA Villasor's Indorsement and in response to the Australian Embassy letter, Judge Indar explained, in a Letter dated 10 March 2010, that "this court is a Court of General Jurisdiction and can therefore act even on cases involving Family Relations. Hence, the subject decision rendered by this Court annulling the marriage of your client is VALID and she is free to marry." [3]

In a Memorandum dated 26 April 2010, the OCA recommended that (1) the matter be docketed as a regular administrative matter; (2) the matter be assigned to a Court of Appeals Justice for Investigation, Report, and Recommendation; and (3) Judge Indar be preventively suspended, pending investigation.

In a Resolution dated 4 May 2010, the Court En Banc (1) docketed this administrative matter as A.M. No. RTJ-10-2232,[4] and (2) preventively suspended Judge Indar pending investigation of this case.

The case was initially raffled to Justice Rodil V. Zalameda of the Court of Appeals, Manila for investigation. The case was re-raffled to Justice Angelita A. Gacutan (Justice Gacutan) of the Court of Appeals, Cagayan de Oro due to its proximity to the Regional Trial Courts involved.

Justice Gacutan set the case for hearing on several dates and sent the corresponding notices of hearing to Judge Indar at his known addresses, namely, his official stations in RTC-Cotabato and RTC-Shariff Aguak and residence address.

The first notice of hearing dated 21 June 2010, which was sent via registered mail and private courier LBC, scheduled the hearings on 14, 15, and 16 July 2010 and directed Judge Indar to submit in affidavit form his explanation. The LBC records show that this notice, which was delivered to Judge Indar's official stations, was received by one Mustapha Randang on 28 June 2010.

The scheduled hearing was postponed and reset to 20, 21 and 22 July 2010. The notice of postponement was sent to Judge Indar via registered mail on 6 July 2010 to his official stations and was received again by Mustapha Randang on 8 July 2010.

Judge Indar failed to attend the hearing as rescheduled and to submit the affidavit as required. Thus, in an Order of 23 July 2010, Justice Gacutan directed Judge Indar to explain his non-appearance, and reset the hearing to 10 and 11 August 2010. The Order was sent to his residence address in M. Tan Subdivision, Gonzalo Javier St., Rosary Heights, Cotabato City. The LBC report indicated that the Order was received by a certain Mrs. Asok.

Justice Gacutan also sent a letter dated 23 July 2010 addressed to Atty. Umaima L. Silongan (Atty. Silongan), Acting Clerk of Court of RTC-Cotabato, directing her to serve the notice of hearing scheduled on 10 and 11 August 2010 to Judge Indar and to report the steps taken to effect service of the same. Atty. Silongan submitted a Return of Service, informing that the notices sent to Judge Indar had remained unserved, as the latter left Cotabato City in April 2010 and his location since then was unknown.

In a Resolution of 28 September 2010, this Court directed Justice Gacutan to conduct further investigation to determine the authenticity of the questioned decisions allegedly rendered by Judge Indar annulling certain marriages. The Court required Justice Gacutan to ascertain whether the cases were properly filed in court, and who are the parties responsible for the issuance of the questioned decisions, and to submit a report thereon within 60 days from receipt of the Resolution.

In compliance with the Court's Resolution, Justice Gacutan directed the Local Civil Registrars of Manila and Quezon City and Atty. Silongan to submit certified true copies of the questioned decisions and to testify thereon.

Only the Civil Registrars were present during the hearings on 4 and 5 November 2010. Their testimonies are summarized as follows:

“Testimonies of Ma. Josefina Encarnacion A. Ocampo, City Civil Registrar of Manila

TSN, November 4, 2010

As City Civil Registrar, she is mandated to receive all registered documents that will affect the status of the person like the birth, death and marriage contract, court decrees regarding annulment, adoption, legitimization, the affidavit using the surname of the father, naturalization, the selection of citizenship, etc. The documents are forwarded to their office after they are being registered by the concerned parties.

In the case of annulment of marriage, a copy of the decision is submitted to the Civil Registrar by the one who had his marriage annulled. Per administrative order, it is the duty of the Clerk of Court to furnish them a copy of the Decision. After the copies of decisions are submitted to them, they are mandated to verify the authenticity of the decision by writing a verification letter to the Clerk of Court before making the annotation or changing the parties' status.

She identified the list of cases of annulment of marriages and petitions changing status of persons (annexes “A-1” and “A-2”) which all came from a court in Cotabato. All the cases listed in A-2 have already been confirmed or annotated in the records of the Manila Civil Registry. She affirmed that the said cases in the list were certified true by the clerk of court. As their duty to annotate the said decrees to their records are merely ministerial, they do not question the decrees however peculiar they may seem.

The cases listed in the document marked as Annex A-2 were also cases that came from Cotabato City for their annotation. Although these cases have been certified true by the Clerk of Court, their annotation and confirmation were held in abeyance due to the on-going investigation of Judge Indar.”

“Testimony of Salvador Cariño,
Chief of Records Division, City Civil Registrar of Quezon City
TSN, November 4, 2010

He generally supervises the retrieval of all the records or documents in their office. He also signs certified true copies of birth, marriage contract, death certificate and certified true copies of Court's decisions furnished to them by different courts.

With regards the decisions issued by the Court in provinces, once the Judge issued the decision regarding the annulment, the parties concern should first register the decision to the Local Civil Registrar where the court is situated. After they receive the decision from the Administrative Division, they would call or write the concerned Local Civil Registrar to authenticate or verify the records. He identified the cases coming from a Cotabato court that were submitted to them for annotation.

The subject decisions listed in the annexes which were decided by a court in Cotabato City were already annotated and verified. However he could not ascertain who from the court verified the authenticity or existence of such decisions as he was not the one who personally called to verify and authenticate them from the court where the listed Decisions/Orders originate.”[5]

The Civil Registrar of Manila submitted copies of Decisions, Orders and Resolutions, all signed by Judge Indar, in forty three (43) cases for annulment of marriage, correction of entry and other similar cases from RTC-Cotabato City, Branch 15. All the decisions were accompanied by the corresponding Letter of Atty. Silongan, affirming each of the decisions as true and authentic based on the records, while thirty six (36) of such

decisions are accompanied by Atty. Silongan's certification affirming the genuineness of Judge Indar's signature affixed on the Decisions.[6]

On the other hand, the Civil Registrar of Quezon City submitted twenty five (25) Decisions, Orders, and Resolutions issued by RTC-Cotabato City, Branch 15, which were transmitted to the Registrar's office for annotation and recording. All the Decisions were signed by Judge Indar, and accompanied by Certificates of Finality affirming the genuineness of Judge Indar's signature appearing above the name of Judge Cader P. Indar. The Certificates of Finality were issued by Atty. Silongan and in one case, by Abie Amilil, the OIC-Branch Clerk of Court.[7]

Meanwhile, Atty. Silongan, despite notice, failed to attend the hearing. She explained in a Manifestation of 8 November 2010 that she received the Notice only on 8 November 2010 because she was on leave from 1 October 1 to 30 November 2010. Thus, the hearing was reset to 11 and 12 January 2011. However, on the scheduled hearing, Atty. Silongan still failed to appear.

Justice Gacutan sought the assistance of the National Bureau of Investigation (NBI) to locate the whereabouts of Judge Indar, as well as of Atty. Silongan. After several exchanges of correspondence, the NBI, in a Letter dated 22 March 2011, provided the residence addresses of both Judge Indar and Atty. Silongan.

Meanwhile, Judge George C. Jabido (Judge Jabido), Acting Presiding Judge of RTC-Shariff Aguak, Branch 15, was directed to verify the authenticity of the records of the subject Decisions and to appear at the hearing on 29 March 2011. The hearing was canceled due to the judicial reorganization in the Court of Appeals.

This administrative matter was re-raffled to Justice Abraham B. Borreta (Justice Borreta) since Justice Gacutan was reassigned to Manila effective 11 April 2011. Justice Borreta set the hearing on 27 to 29 June 2011. Notices of hearing were sent to Judge Indar and Atty. Silongan at the addresses provided by the NBI and at their previous mailing addresses. The registered mails addressed to Judge Indar were returned for the following reasons: (1) "addressee out of town, move to another place" and (2) addressee "unknown." The Notice sent to Atty. Silongan was also returned and per LBC report, the consignee has moved to an unknown address.

Judge Jabido, who was notified of the hearing, testified that:

In compliance with the directive of the Investigating Justice to verify the authenticity of the records of the listed decisions, judgments and orders, he issued memos to the officers of the Court, the Branch Clerk of Court, the docket clerk, directing them to produce and secure copies of the minutes and other documents related therein. He personally checked the records of the RTC. The Records of the RTC are bereft of evidence to show that regular and true proceedings were had on these cases. There is no showing that a docket fee has been paid for each corresponding cases. There is also no showing that the parties were notified of a scheduled hearing as calendared. There is also no record that a hearing was conducted. No stenographic notes of the actual proceedings were also made. He could not also determine when the said cases were submitted for decision as it was not calendared for that purpose.[8]

Judge Jabido also submitted a report, portions of which read:

The undersigned took extra efforts to locate any record of the cases involving the parties as enumerated in the list. The undersigned even issued Memorandum to the Branch Clerk of Court, the docket clerk and other responsible officers of the Court to produce and secure copies of any pleading/documents related to these cases enumerated in the list but his efforts proved futile, hence:

- a) to this Court, there is no record on file of all the enumerated cases contained in the list.
- b) to this Court, it is bereft of any evidence on whether the Hon. Judge Indar conducted a hearing in these

cases.

x x x x

There is absence of any record showing compliance of the same. It is hereby submitted that the manner upon which the questioned annulment and correction cases, as contained herein in the attached list, allegedly decided by the Hon. Judge Indar were commenced are clearly doubtful.

Firstly, there is no showing of compliance on the rules prescribed.

x x x x

There is no showing that a verified Petition was officially filed in writing and giving (sic) an opportunity for the Respondents to be heard by himself or by counsel. x x x[9]

To support his findings, Judge Jabido submitted: (1) copies of the Letters and Memoranda mentioned in the report; (2) the Calendar of Cases in RTC-Cotabato, Branch 15, on various dates from the period starting April 2007 to 20 October 2009; and (3) the Docket Inventory in Civil Cases, Criminal Cases and Other Cases for the period of January to December 2009 in RTC-Cotabato, Branch 15.

Subpoenas were sent to some of the parties in the questioned decisions, namely: Grace Elizarde Reyes (Special Case No. 1049), Buenaventura Mojica (Apl. Proc. No. 08-1931), Marie Christine N. Florendo (Civil Case No. 519), Jesse Yamson Faune, Jr. (Special Civil Case 08-2366), Rosemarie Tongson Ramos (Special Case No. 08-1871) and Melissa Sangan-Demafelis (Spl. Proc. 07-2262) to determine whether they filed the petitions for annulment of marriage and whether proceedings were actually had before Judge Indar's sala in relation to their cases. All the subpoenas were returned to the Court of Appeals.

In his Report dated 2 September 2011, Justice Borreta first determined whether the requirements of due process had been complied with since there was no proof that Judge Indar personally and actually received any of the notices sent to him in the course of the investigation.

Justice Borreta differentiated administrative due process with judicial due process. He stated that "while a day in court is a matter of right in judicial proceedings, it is otherwise in administrative proceedings since they rest upon different principles."

Justice Borreta noted that all possible means to locate Judge Indar and to personally serve the court notices to him were resorted to. The notices of hearing were sent to Judge Indar's known addresses, namely, his sala in RTC-Cotabato Branch 14 and RTC-Shariff Aguak Branch 15, and at his residence address. However, none of the notices appeared to have been personally received by Judge Indar.

Notwithstanding, Justice Borreta concluded that the requirements of due process have been complied with. Justice Borreta stated that Judge Indar was aware of a pending administrative case against him. The notice of this Court's Resolution of 4 May 2010, preventively suspending Judge Indar, was mailed and sent to him at his sala in RTC-Shariff Aguak, Branch 15.

Justice Borreta proceeded to determine Judge Indar's administrative liability, and found the latter guilty of serious misconduct and dishonesty.

According to Justice Borreta, Judge Indar's act of issuing decisions on annulment of marriage cases without complying with the stringent procedural and substantive requirements of the Rules of Court for such cases clearly violates the Code of Judicial Conduct. Judge Indar made it appear that the annulment cases underwent trial, when the records show no judicial proceedings occurred.

Moreover, Judge Indar's act of "affirming in writing before the Australian Embassy the validity of a decision he allegedly rendered," when in fact that case does not appear in the court's records, constitutes dishonesty.

Justice Borreta recommended the dismissal of Judge Indar from service, and the investigation of Atty. Silongan, who is not included as respondent in this case, on her participation in the certification of the authenticity of the spurious Decisions.

The sole issue in this case is whether Judge Indar is guilty of gross misconduct and dishonesty.

We agree with the findings of the Investigating Justice.

The Uniform Rules on Administrative Cases in the Civil Service, which govern the conduct of disciplinary and non-disciplinary proceedings in administrative cases, clearly provide that technical rules of procedure and evidence do not strictly apply to administrative proceedings. Section 3, Rule I of the Uniform Rules states:

Section 3. Technical Rules in Administrative Investigations. –Administrative investigations shall be conducted without necessarily adhering strictly to the technical rules of procedure and evidence applicable to judicial proceedings.

In *Cornejo v. Gabriel*,^[10] the Court held that notice and hearing are not indispensable in administrative investigations, thus:

The fact should not be lost sight of that we are dealing with an administrative proceeding and not with a judicial proceeding. As Judge Cooley, the leading American writer on constitutional Law, has well said, due process of law is not necessarily judicial process; much of the process by means of which the Government is carried on, and the order of society maintained, is purely executive or administrative, which is as much due process of law, as is judicial process. While a day in court is a matter of right in judicial proceedings, in administrative proceedings it is otherwise since they rest upon different principles. In certain proceedings, therefore, of an administrative character, it may be stated, without fear of contradiction, that the right to a notice and hearing are not essential to due process of law. x x x^[11] (Emphasis supplied; citations omitted)

It is settled that "technical rules of procedure and evidence are not strictly applied to administrative proceedings. Thus, administrative due process cannot be fully equated with due process in its strict judicial sense."^[12] It is enough that the party is given the chance to be heard before the case against him is decided.^[13] Otherwise stated, in the application of the principle of due process, what is sought to be safeguarded is not lack of previous notice but the denial of the opportunity to be heard.^[14]

The Court emphasized in *Cornejo*^[15] the Constitutional precept that public office is a public trust,^[16] which is the underlying principle for the relaxation of the requirements of due process of law in administrative proceedings, thus:

Again, for this petition to come under the due process of law prohibition, it would be necessary to consider an office as "property." It is, however, well settled in the United States, that a public office is not property within the sense of the constitutional guaranties of due process of law, but is a public trust or agency.^[17] (Emphasis supplied)

In this case, Judge Indar was given ample opportunity to controvert the charges against him. While there is no proof that Judge Indar personally received the notices of hearing issued by the Investigating Justices, the first two notices of hearing were received by one Mustapha Randang of the Clerk of Court, RTC-Cotabato, while one of the notices was received by a certain Mrs. Asok, who were presumably authorized and capable to receive notices on behalf of Judge Indar.

Further, Judge Indar cannot feign ignorance of the administrative investigation against him because aside from the

fact that the Court's Resolution suspending him was mailed to him, his preventive suspension was reported in major national newspapers.[18] Moreover, Judge Indar was repeatedly sent notices of hearings to his known addresses. Thus, there was due notice on Judge Indar of the charges against him. However, Judge Indar still failed to file his explanation and appear at the scheduled hearings. Consequently, the investigation proceeded ex parte in accordance with Section 4, Rule 140 of the Rules of Court.[19]

Public office is a public trust.[20] This constitutional principle requires a judge, like any other public servant and more so because of his exalted position in the Judiciary, to exhibit at all times the highest degree of honesty and integrity.[21] As the visible representation of the law tasked with dispensing justice, a judge should conduct himself at all times in a manner that would merit the respect and confidence of the people.[22]

Judge Indar miserably failed to live up to these exacting standards.

In *Office of the Court Administrator v. Lopez*,[23] the Court explained the difference between simple misconduct and grave misconduct, thus:

The Court defines misconduct as "a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer." The misconduct is grave if it involves any of the additional elements of corruption, willful intent to violate the law, or to disregard established rules, which must be established by substantial evidence. As distinguished from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule, must be manifest in a charge of grave misconduct.

In this case, Judge Indar issued decisions on numerous annulment of marriage cases which do not exist in the records of RTC-Shariff Aguak, Branch 15 or the Office of the Clerk of Court of the Regional Trial Court, Cotabato City. There is nothing to show that (1) proceedings were had on the questioned cases; (2) docket fees had been paid; (3) the parties were notified of a scheduled hearing as calendared; (4) hearings had been conducted; or (5) the cases were submitted for decision. As found by the Audit Team, the list of case titles submitted by the Local Civil Registrars of Manila and Quezon City are not found in the list of cases filed, pending or decided in RTC, Branch 15, Shariff Aguak, nor in the records of the Office of the Clerk of Court of the Regional Trial Court, Cotabato City. In other words, Judge Indar, who had sworn to faithfully uphold the law, issued decisions on the questioned annulment of marriage cases, without any showing that such cases underwent trial and complied with the statutory and jurisprudential requisites for voiding marriages. Such act undoubtedly constitutes gross misconduct.

The Court condemns Judge Indar's reprehensible act of issuing Decisions that voided marital unions, without conducting any judicial proceedings. Such malfeasance not only makes a mockery of marriage and its life-changing consequences but likewise grossly violates the basic norms of truth, justice, and due process. Not only that, Judge Indar's gross misconduct greatly undermines the people's faith in the judiciary and betrays public trust and confidence in the courts. Judge Indar's utter lack of moral fitness has no place in the Judiciary. Judge Indar deserves nothing less than dismissal from the service.

The Court defines dishonesty as:

x x x a "disposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray." [24]

In this case, Judge Indar issued Decisions on numerous annulment of marriage cases when in fact he did not conduct any judicial proceedings on the cases. Not even the filing of the petitions occurred. Judge Indar made it appear in his Decisions that the annulment cases complied with the stringent requirements of the Rules of Court

and the strict statutory and jurisprudential conditions for voiding marriages, when quite the contrary is true, violating Canon 3 of the Code of Judicial Conduct which mandates that a judge “perform official duties honestly.”

As found by the Audit Team, the list of cases submitted by the Local Civil Registrars of Manila and Quezon City do not appear in the records of cases received, pending, or disposed by RTC-Shariff Aguak, Branch 15, which Judge Indar presided. The cases do not likewise exist in the docket books of the Office of the Clerk of Court, RTC-Cotabato. The Audit Team also noted that the case numbers in the list are not within the series of case numbers recorded in the docket books of either RTC-Shariff Aguak or RTC-Cotabato.

Moreover, Judge Jabido, Acting Presiding Judge of RTC-Shariff Aguak, Branch 15, verified the records of the trial court and found nothing to show that proceedings were had on the questioned annulment cases. There was nothing in the records to show that (1) petitions were filed; (2) docket fees were paid; (3) the parties were notified of hearings; (4) hearings were calendared and actually held; (5) stenographic notes of the proceedings were taken; and (6) the cases were submitted for decision.

Among the questioned annulment decrees is Judge Indar’s Decision dated 23 May 2007, in Spec. Proc. No. 06-581, entitled “Chona Chanco Aguiling v. Alan V. Aguiling.” Despite the fact that no proceedings were conducted in the case, Judge Indar declared categorically, in response to the Australian Embassy letter, that the Decision annulling the marriage is valid and that petitioner is free to marry. In effect, Judge Indar confirms the truthfulness of the contents of the annulment decree, highlighting Judge Indar’s appalling dishonesty.

The Court notes that this is not Judge Indar’s first offense. In A.M. No. RTJ-05-1953,[25] the Court imposed on him a fine of P10,000 for violating Section 5, Rule 58 of the Rules of Court, when he issued a preliminary injunction without any hearing and prior notice to the parties. In another case, A.M. No. RTJ-07-2069,[26] the Court found him guilty of gross misconduct for committing violations of the Code of Judicial Conduct and accordingly fined him P25,000.

Since this is Judge Indar’s third offense, showing the depravity of his character and aggravating[27] the serious offenses of gross misconduct and dishonesty,[28] the Court imposes on Judge Indar the ultimate penalty of dismissal from the service, with its accessory penalties, pursuant to Section 11, Rule 140 of the Rules of Court.[29]

This administrative case against Judge Indar shall also be considered as a disciplinary proceeding against him as a member of the Bar, in accordance with AM. No. 02-9-02-SC.[30] This Resolution 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,” provides:

Some administrative cases against Justices 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.

In any of the foregoing instances, the administrative case shall also be considered a disciplinary action against the respondent justice, judge or court official concerned as a member of the Bar. The respondent may forthwith be required to comment on the complaint and show cause why he should not also be suspended, disbarred or otherwise disciplinary sanctioned as a member of the Bar. Judgment in both respects may be incorporated in one decision or resolution. (Emphasis supplied)

Indisputably, Judge Indar's gross misconduct and dishonesty likewise constitute a breach of the following Canons of the Code of Professional Responsibility:

CANON 1 - A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND FOR LEGAL PROCESSES.

Rule 1.01 - A lawyer shall not engage in unlawful, dishonest, immoral or deceitful act.

CANON 7 - A LAWYER SHALL AT ALL TIMES UPHOLD THE INTEGRITY AND DIGNITY OF THE LEGAL PROFESSION.

In addition, Judge Indar's dishonest act of issuing decisions making it appear that the annulment cases underwent trial and complied with the Rules of Court, laws, and established jurisprudence violates the lawyer's oath to "do no falsehood, nor consent to the doing of any in court." Such violation is also a ground for disbarment. Section 27, Rule 138 of the Rules of Court provides:

SEC. 27. Disbarment and suspension of attorneys by Supreme Court, grounds therefor. - A member of the bar may be disbarred or suspended from his office as attorney by the Supreme Court for any deceit, malpractice, or other gross misconduct in such office, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before admission to practice, or for a willful disobedience of any lawful order of a superior court, or for corruptly or willfully appearing as an attorney for a party to a case without authority so to do. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice. (Emphasis supplied)

In *Samson v. Caballero*,^[31] where the Court automatically disbarred the respondent judge, pursuant to the provisions of AM. No. 02-9-02-SC, the Court held:

Under the same rule, a respondent "may forthwith be required to comment on the complaint and show cause why he should not also be suspended, disbarred or otherwise disciplinary sanctioned as member of the Bar." The rule does not make it mandatory, before respondent may be held liable as a member of the bar, that respondent be required to comment on and show cause why he should not be disciplinary sanctioned as a lawyer separately from the order for him to comment on why he should not be held administratively liable as a member of the bench. In other words, an order to comment on the complaint is an order to give an explanation on why he should not be held administratively liable not only as a member of the bench but also as a member of the bar. This is the fair and reasonable meaning of "automatic conversion" of administrative cases against justices and judges to disciplinary proceedings against them as lawyers. This will also serve the purpose of A.M. No. 02-9-02-SC to avoid the duplication or unnecessary replication of actions by treating an administrative complaint filed against a member of the bench also as a disciplinary proceeding against him as a lawyer by mere operation of the rule. Thus, a disciplinary proceeding as a member of the bar is impliedly instituted with the filing of an administrative case against a justice of the Sandiganbayan, Court of Appeals and Court of Tax Appeals or a judge of a first- or second-level court.

It cannot be denied that respondent's dishonesty did not only affect the image of the judiciary, it also put his moral character in serious doubt and rendered him unfit to continue in the practice of law. Possession of good moral character is not only a prerequisite to admission to the bar but also a continuing requirement to the practice of law. If the practice of law is to remain an honorable profession and attain its basic ideals, those counted within its ranks should not only master its tenets and principles but should also accord continuing fidelity to them. The requirement of good moral character is of much greater import, as far as the general public is concerned, than the possession of legal learning. (Emphasis supplied)

Considering that Judge Indar is guilty of gross misconduct and dishonesty, constituting violations of the Lawyer's Oath, and Canons 1 and 7 and Rule 1.01 of the Code of Professional Responsibility, Judge Indar deserves

disbarment.

In so far as Atty. Silongan, is concerned, we adopt Justice Borreta's recommendation to conduct an investigation on her alleged participation in the authentication of the questioned Decisions.

WHEREFORE, the Court finds respondent Judge Cader P. Indar, Al Haj, Presiding Judge of the RTC, Branch 14, Cotabato City and Acting Presiding Judge of the RTC, Branch 15, Shariff Aguak, Maguindanao, guilty of Gross Misconduct and Dishonesty for which he is DISMISSED from the service, with forfeiture of all benefits due him, except accrued leave benefits, if any, with prejudice to re-employment in any branch of the government, including government-owned or controlled corporations.

Judge Indar is likewise DISBARRED for violation of Canons 1 and 7 and Rule 1.01 of the Code of Professional Responsibility and his name ORDERED STRICKEN from the Roll of Attorneys.

Let a copy of this Decision be entered into Judge Indar's record as a member of the bar and notice of the same be served on the Integrated Bar of the Philippines and on the Office of the Court Administrator for circulation to all courts in the country.

The Office of the Court Administrator is ORDERED to investigate Atty. Umaima L. Silongan, Acting Clerk of Court of the Regional Trial Court, Cotabato City, on her alleged participation in the authentication of the questioned Decisions on the annulment of marriage cases issued by Judge Indar.

Let copies of this Decision be forwarded to the Local Civil Registrars of the City of Manila and Quezon City, the same to form part of the records of Decisions of Judge Indar on the annulment of marriages filed with their offices.

This Decision is immediately executory.

SO ORDERED.

Corona, C.J., Carpio, Velasco, Jr., Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, Mendoza, Sereno, Reyes, and Perlas-Bernabe, JJ., concur.

[1] Dated 25 November 2009 and addressed to then Court Administrator Jose P. Perez (now a member of this Court).

[2] Contained in the Memorandum addressed to then Chief Justice Reynato S. Puno and signed by Court Administrator Jose Midas P. Marquez and Deputy Court Administrator Jesus Edwin A. Villasor.

[3] Addressed to Ms. Miren Galloway, Manager-Permanent Entry Unit, Australian Embassy, Manila and copy furnished to DCA Villasor.

[4] Formerly A.M. No. 10-4-21-SC (Re: Several Decisions In Annulment of Marriage Cases Received by the Local Civil Registrars of Manila and Quezon City Allegedly Issued by Judge Cader P. Indar, Acting Presiding Judge, Regional Trial Court, Branch 15, Shariff Aguak, Maguindanao).

[5] Report of Justice Borreta, pp. 5-6.

[6] Id. at 6-7.

[7] Id. at 7.

[8] Id. at 8-9.

[9] Id. at 9.

[10] 41 Phil. 188, 193-194 (1920).

[11] Id., cited in *De Bisschop v. Galang*, 118 Phil. 246 (1963).

[12] *Office of the Court Administrator v. Canque*, A.M. No. P-04-1830, 4 June 2009, 588 SCRA 226, 236.

[13] *Montemayor v. Bundalian*, 453 Phil. 158, 167 (2003), citing *Ocampo v. Office of the Ombudsman*, 379 Phil. 21 (2000). See *Hernando v. Francisco*, 123 Phil. 938, 947 (1966).

[14] See *Gannapao v. Civil Service Commission*, G.R. No. 180141, 31 May 2011, 649 SCRA 595, citing *Montoya v. Varilla*, G.R. No. 180146, 18 December 2008, 574 SCRA 831, 841.

[15] *Supra* note 10.

[16] Section 1, Article XI of the 1987 Constitution provides:

Section 1. Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives.

[17] *Supra* note 10 at 194.

[18] The Philippine Star, Cotabato RTC judge suspended (<http://www.philstar.com/Article.aspx?articleId=572643&publicationSubCategoryId=67>; accessed 9 March 2012); Malaya, Cotabato judge sacked over annulment cases (<http://www.malaya.com.ph/05062010/news9.html>; accessed 9 March 2012); Manila Bulletin, Judge gets indefinite suspension (<http://www.mb.com.ph/articles/256119/judge-gets-indefinite-suspension>; accessed 9 March 2012).

[19] SEC. 4. Hearing. – The Investigating Justice or Judge shall set a day for the hearing and send notice thereof to both parties. At such hearing, the parties may present oral and documentary evidence. If after due notice the respondent fails to appear, the investigation shall proceed *ex parte*.

The Investigating Justice or Judge shall terminate the investigation within ninety (90) days from the date of its commencement or within such extension as the Supreme Court may grant.

[20] Section 1, Article XI of the 1987 Constitution provides:

Section 1. Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives.

[21] *Mercado v. Salcedo*, A.M. No. RTJ-03-1781, 16 October 2009, 604 SCRA 4, 19-20.

[22] Id. at 20.

[23] A.M. No. P-10-2788, 18 January 2011, 639 SCRA 633, 638.

[24] *De Vera v. Rimas*, A.M. No. P-06-2118, 12 June 2008, 554 SCRA 253, 259.

[25] *Entitled Sampiano v. Indar*, 21 December 2009, 608 SCRA 597.

[26] *Entitled Espina & Madarang, Co. v. Indar*, 14 December 2011.

[27] Sections 53 and 54 of the Uniform Rules on Administrative Cases in the Civil Service provide:

Section 53. Extenuating, Mitigating, Aggravating, or Alternative Circumstances. – In the determination of the penalties imposed, mitigating, aggravating and alternative circumstances attendant to the commission of the offense shall be considered.

The following circumstances shall be appreciated:

- Physical illness
- Good faith
- Taking undue advantage of official position
- Taking undue advantage of subordinate
- Undue disclosure of confidential information
- Use of government property in the commission of the offense
- Habituality
- Offense is committed during office hours and within the premises of the office or building
- Employment of fraudulent means to commit or conceal the offense
- Length of service in the government
- Education, or
- Other analogous circumstances. (Emphasis supplied)

Section 54. Manner of imposition. When applicable, the imposition of the penalty may be made in accordance with the manner provided herein below:

- The minimum of the penalty shall be imposed where only mitigating and no aggravating circumstances are present.
- The medium of the penalty shall be imposed where no mitigating and aggravating circumstances are present.
- The maximum of the penalty shall be imposed where only aggravating and no mitigating circumstances are present.
- Where aggravating and mitigating circumstances are present, paragraph (a) shall be applied where there are more mitigating circumstances present; paragraph (b) shall be applied when the circumstances equally offset each other; and paragraph (c) shall be applied when there are more aggravating circumstances.

[28] Section 8, Rule 140 of the Rules of Court provides:

SEC. 8. Serious charges. – Serious charges include:

- Bribery, direct or indirect;
- Dishonesty and violations of the Anti-Graft and Corrupt Practices Law (R.A. No. 3019);
- Gross misconduct constituting violations of the Code of Judicial Conduct;
- Knowingly rendering an unjust judgment or order as determined by a competent court in an appropriate proceeding;

- Conviction of a crime involving moral turpitude;
- Willful failure to pay a just debt;
- Borrowing money or property from lawyers and litigants in a case pending before the court;
- Immorality;
- Gross ignorance of the law or procedure;
- Partisan political activities; and
- Alcoholism and/or vicious habits. (Emphasis supplied)

[29] Section 11, Rule 140 of the Rules of Court provides:

SEC. 11 . Sanctions. – A. If the respondent is guilty of a serious charge, any of the following sanctions may be imposed.

1. 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;
2. Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or
3. A fine of more than P20,000.00 but not exceeding P40,000.00.

[30] Cañada v. Suerte, A.M. No. RTJ-04-1884, 22 February 2008, 546 SCRA 414; Samson v. Caballero, A.M. No. RTJ-08-2138, 5 August 2009, 595 SCRA 423; Office of the Court Administrator v. Ismael, A.M. No. RTJ 07-2045, 19 January 2010, 610 SCRA 281.

[31] A.M. No. RTJ-08-2138, 5 August 2009, 595 SCRA 423, 435-436.

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