

**ATTY. LAURO D. GACAYAN AND NOEL SAROL, COMPLAINANTS, VS.
HON. FERNANDO VIL PAMINTUAN IN HIS CAPACITY AS PRESIDING
JUDGE, REGIONAL TRIAL COURT, BRANCH 3, BAGUIO CITY,
RESPONDENT.**

A.M. No. RTJ-99-1483 (OCA IPI No. 98-578-RTJ). September 17, 1999

Ponente: YNARES_SANTIAGO, J.

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YNARES_SANTIAGO, J.:

In this administrative complaint, respondent stands charged with Gross Ignorance of the Law, Incompetence, Partiality and Conduct Unbecoming of a Judge.

The factual and procedural antecedents as summed by the Office of the Court Administrator (OCA) are as follows:

“Complainant Noel Sarol is the accused in Criminal Case No. 14549-R, for Homicide, which was filed before the Regional Trial Court, Branch 3, Baguio City, in an information dated September 26, 1996.

On October 14, 1996, complainant Sarol was allegedly arraigned and thereafter, trial followed. The Honorable Joven Costales was then the Acting Presiding Judge of the Regional Trial Court, Branch 3, Baguio City.

After the prosecution rested its case, the then Presiding Judge Hon. Joven Costales, directed the accused to present his evidence on March 2, 1998 at 8:30 in the morning. Complainant Sarol through counsel instead of presenting his evidence filed a Motion for Leave to File Demurrer to Evidence with the Demurrer to Evidence already attached to said Motion.

On March 2, 1998, the Demurrer to Evidence was scheduled for hearing. The Trial Prosecutor, however, asked for ten (10) days within which to submit his Opposition thereto. Thus, Judge Costales was constrained to set the hearing on the Demurrer to Evidence on May 4, 1998 at 8:30 in the morning.

Meanwhile, the Honorable Fernando Vil Pamintuan took over as the Presiding Judge of the Regional Trial Court, Branch 3, Baguio City. For the first time he presided in the hearing of the case. He then inquired from the Trial Prosecutor about his announced Opposition to the Demurrer to Evidence and the latter manifested off-the-record that he is not submitting anymore said Opposition. Thereafter respondent directed the trial prosecutor and complainant Atty. Gacayan to see him in his chambers where he reportedly said the following:

“You see somebody died here and I can not just dismiss this case as a result of insufficiency of evidence. I want to talk to the mother of the deceased.”

or words to that effect.

Consequently, he issued an order which directed the mother and the brother of the deceased who were not listed as witnesses in the information to appear in the ‘HEARING ON THE DEMURRER TO EVIDENCE’ scheduled for May 25, 1998 at 8:30 in the morning. No other persons were required to appear on May 25, 1998.

On May 25, 1998, complainants herein were surprised to see inside the courtroom the witnesses who were already presented by the prosecution, namely, Restituto Abuan and Alejandro Castaneda. The record of the case shows that a subpoena was issued to all prosecution witnesses, including the policemen who already testified to appear on said date without any motion from the prosecution or from the accused requesting for their appearance considering that the same was for the hearing on the Demurrer to Evidence only. It was allegedly based purely on the initiative of the respondent judge.

The mother and brother of the deceased as well as the other 'witnesses' subpoenaed by respondent Judge on his own discretion, were absent on said day thus, he set the hearing on the Demurrer to Evidence on June 23, 1998 at 8:30 o'clock in the morning sharp. Thereafter, complainant Atty. Gacayan made the observation that the proceedings then taking place was unprocedural. He was warned that he would be cited for contempt if he shall say that again.

Complainant Atty. Gacayan claims that at about 10:30 in the morning of May 25, 1998 while he was about to leave the sala of RTC, Branch 4, Baguio City, which is next to RTC, Branch 3, he observed that the prosecution witnesses (Alejandro Castaneda and Restituto Abuan) who allegedly testified for the prosecution were seen talking to the respondent Judge. Thus, he (Atty. Gacayan) went near the door of the Session Hall of RTC Branch 3 and when seen by respondent Judge, asked him to approach the bench. Thereafter respondent Judge continued asking questions to said witnesses on whether they saw complainant Sarol stabbed (sic) the victim, which they answered 'no'.

Complainant contends that when said witnesses testified, they categorically stated under oath that they did not witness the incident. It was obvious that the Honorable Respondent Judge wanted the said witnesses to admit that they saw the killing. Thereupon, he again manifested his objections to the procedure being followed by the Honorable Respondent judge considering that:

1]

the prosecution had long rested its case;

2.]

the Court had long granted the accused's Motion for Leave to File Demurrer to Evidence and that the hearing being conducted is supposed to be a hearing on the Demurrer to Evidence, not [the] presentation of prosecution's evidence; and

3]

the hearing for that day insofar as the Sarol case had been adjourned and terminated.

On June 17, 1998, respondent Judge ordered the arrest of one Mirriam Dominguez whom he described as an "eyewitness" to the incident. This was done without any motion from the Prosecution and though there is no record whatsoever supporting said conclusion that she is an eyewitness. Thereafter respondent Judge talked alone to said witness in his chambers

In view of the unusual interest exhibited by the respondent Judge in favor of the prosecution and the highly unusual procedure he was then conducting the hearing on the Demurrer to Evidence, they filed a Motion to Suspend further Proceedings on the Demurrer to Evidence until the Motion for Inhibition is resolved by the Honorable Court.

Considering that there is no resolution yet on his Motion for Inhibition as well as the pending Motion to Suspend Further Proceedings, complainant Atty. Gacayan did not appear in the hearing on the Demurrer to Evidence.

The minutes of the hearing on June 23, 1998 shows that the respondent Judge made the following orders

a.

DENYING the Motion for Inhibition;

b.

DENYING the Motion to Suspend Further Proceedings;

c.

ORDERING the prosecution to present the witness who was ordered arrested by the Honorable Court though:

1.

There was no valid motion complying with the requisites of Rule 15 of the Rules of Court, filed by the prosecution praying that it be allowed to present further evidence – assuming such a procedure is allowed considering that it had long rested its case and there is a pending DEMURRER TO EVIDENCE;

2.

There is no resolution yet on the demurrer to evidence.

d.

ORDERING the PAO lawyer who was then present in court to act as counsel de officio without giving said lawyer sufficient time to study the case.

e.

ORDERING the continuation of hearing of said case to June 24, 1998 at 8:30 in the morning and 2 o'clock in the afternoon.

In the morning of June 24, 1998 at 8:30, respondent Judge again called the above case for hearing despite the fact that there was no notice sent to complainant Atty. Gacayan. At 2:00 o'clock in the afternoon of June 24, 1998, he appeared as counsel for the accused and right then and there, he was ordered by the respondent Judge to conduct the cross-examination of the witness he ordered arrested despite:

a.

his vigorous objections to the unprocedural manner in which the hearing on the Demurrer to Evidence is being conducted by the respondent judge;

b.

his objection that there was no motion duly set for hearing for the re-opening of the prosecution's evidence;

c.

the fact that he has not heard the testimony of the witness presented by the prosecution who was ordered arrested by the respondent Judge without any motion from the prosecution;

d.

the fact that there was no transcript of records of the testimony of the witness ordered arrested by the respondent Judge on his own without any motion from the prosecution.

Consequently, respondent Judge agreed to the resetting of the cross-examination of the witnesses but ordered the resumption of the hearing of said case on July 1, 1998 at 2:00 p.m. despite his (Atty. Gacayan's) vigorous objection considering his obvious partiality. This is so because as early as June 22, 1998, respondent informed the lawyers that the calendar of the court is already full, yet he scheduled for June 24, 1998 at both 8:30 a.m. and 2:00 p.m. the Sarol case when the testimony of the witness he ordered arrested was not completed on June 23, 1998. Complainants contend that the act of respondent Judge is highly unusual to say the least and a blatant violation of the unwritten rule on how a judge shall conduct himself.

Complainants stressed that considering the patent disregard by the respondent Judge of the basic rules governing the trial of the criminal case, they were left with no other recourse but to bring the matter to the attention of this Honorable Court in order for it to exercise its function as well as its disciplinary powers over men in robes who are causing litigants to lose trust in our judicial system.

On August 7, 1996, Hon. Court Administrator Benipayo directed respondent Judge Fernando Vil Pamintuan to comment on the complaint of Atty. Lauro Gacayan and Mr. Noel Sarol.

Respondent Judge in his comment alleged in sum that:

1.

He was a newly-appointed Judge of barely a few months when introduced to Criminal Case No. 14549-R, it was still on a hearing stage on accused's Demurrer to Evidence;

2.

On May 4, 1998, as the new Judge inquired into the nature of the case and called for the Public Prosecutor Benedicto T. Carantes and counsel for the accused, Atty. Lauro D. Gacayan, in his Chamber and informed them that he would need time to examine the testimony of the witnesses and other evidence already on record. Thus, the hearing of the Demurrer to Evidence was reset on May 25, 1998, at 8:30 o'clock in the morning with the agreement of both Public Prosecutor and counsel for the accused. However, he takes exception to counsel for the accused's allegation that he would not dismiss the case for insufficiency of evidence. He simply said that he had to study the record of this case and see the witnesses and the private complainant/relatives of the victim in Court so that he could be properly oriented as to the evidence in this case;

3.

On May 25, 1998, only two (2) prosecution's witnesses appeared, Restituto Abuan and Alejandro Castaneda, whose presence were (sic) known to counsel for the accused, Atty. Lauro D. Gacayan. These witnesses affirmed that they did not see the killing of the victim. This was in the presence of counsel for the accused, Atty. Lauro D. Gacayan. Then, he issued an order requiring the witnesses who failed to appear to show cause why they should not be cited in contempt of court. The hearing on the Demurrer to Evidence was reset to June 23, 1998, at 8:30 o'clock in the morning. Again, said resetting was with the consent of the Public Prosecutor and counsel for the accused.

4.

For failure of the prosecution's witnesses Mirriam Dominguez and Joseph Sarol to appear in Court, despite notice, and again failure to show cause why they should not be cited in contempt of court, the Court issued a warrant for their arrest. Mirriam Dominguez was arrested on June 16, 1998. Since the next hearing on the Demurrer to Evidence was still on June 23, 1998, Mirriam Dominguez could have been detained at the Baguio City Jail until the said next hearing. That was the reason why she had to see him for her possible release before June 23, 1998. Had he not granted an audience to prosecution witness Mirriam Dominguez, she could have been detained at the Baguio City Jail from June 17, 1998 to June 23, 1998. With the commitment that she would appear on the June 23, 1998 hearing, and further commitment to bring along [the] prosecution's eyewitness Neil Joseph Sarol, she was released. This occasion was transparent and properly recorded in the minutes of the proceedings of June 17, 1998;

5.

On June 23, 1998, [the] prosecution's eyewitness Joseph Sarol appeared in Court and upon motion of the Public Prosecutor that the prosecutor is resting its case (sic) be set aside given the appearance of an eyewitness to the crime who could not be found before, the Court granted the same in the interest of justice. His act in allowing the prosecution to introduce an eyewitness in a crime despite the fact that the prosecution had already rested its case is supported by a legion of cases in jurisprudence.[1]

Also in the scheduled hearing, counsel for the accused, Atty. Lauro D. Gacayan, failed to appear, despite notice. Prompting him to appoint a counsel de officio for the accused in the person of Atty. Reynaldo Banta [the] detailed PAO lawyer in court. Testimony of the eyewitness Neil Joseph Sarol on direct and initial cross-examination was completed.

6.

On June 24, 1998 for the continuance of the cross-examination of eyewitness Neil Joseph Sarol, said eyewitness manifested that he had a class examination at 11:00 o'clock in the morning and understanding the plight of said eyewitness, he reset the hearing for the afternoon of June 24, 1998;

On July 1, 1998, at 2:00 in the afternoon, counsel for the accused, Atty. Lauro D. Gacayan, manifested that he did not have a copy of the transcript of stenographic notes of the testimony of eyewitness Neil Joseph Sarol and he had to study the same, and moved for the resetting of the hearing which the Court granted, so that the cross-examination was reset to September 9, 1998 at 8:30 o'clock in the morning SHARP.

7.

On the matter of his inhibition, the same has been denied and extensively discussed in the Order dated June 23, 1998.

The pertinent portion reads as follows:

"Also before this Court is the accused's motion for inhibition of this Court from hearing this case the same is denied for lack of factual and legal basis. Furthermore, the counsel for the accused, Atty. Lauro Gacayan who filed this motion for inhibition failed to appear in today's hearing despite notice and therefore failed to substantiate this motion in open court. It must be stressed that this Court is not only a Court of Law but also a Court of Justice. This Presiding judge does not personally know neither accused Noel Sarol [n]or the other people involved in this case. The Presiding Judge does not come from Baguio City and, therefore, does not have any special interest as to any person from Baguio City.

The Presiding Judge is only interested that justice shall be realized in the hearing of every case. It does not personally matter to this Presiding Judge if the accused will be convicted or acquitted on the basis of the evidence and law. If the accused is to be acquitted, so be it. If there is no evidence against him to prove his

guilt beyond reasonable doubt, therefore, he should be acquitted. But the Court cannot close its eyes to the fact that there is still an eyewitness in this Homicide case, by the name of Neil Joseph Sarol whose written affidavit is even on record (p. 4, Record), and can possibly shed light to the killing of the victim Cesar Dominguez in this case. The Judge of this Court does not sit in this chair as a mute witness of what is going on in a case. It is the duty of this Judge to see to it that justice is dispensed with. Whether or not [the] accused Noel Sarol is convicted is none of the personal concern of this Judge. Conversely, whether or not the accused will be acquitted is none of the personal concern of this Judge. Let the accused be convicted or acquitted as the evidence and the law warrant.

There lies a dead victim in my Court, so to speak – a victim of the crime of Homicide. It is the sacred duty of this Court to judicially determine the truth regarding the death of this victim. If the accused did not kill the victim, so be it. If according to the evidence and law, the killing of this victim is justified, so be it. If the killing of this victim falls under an exempting circumstance favorable to the accused, so be it. This court will have no choice but to acquit the accused in this case under those circumstances. But for as long as there is a vital eyewitness whose written affidavit is on record and who can tell the Court and the public as to what really happened in this capital homicide case, this Court which should be true to its duty, as a dispenser of justice shall not rest finding out the truth. Much more, this Court cannot be a party to the suppression of an eyewitness to a homicide case.

As the new Presiding Judge of this Court, of only a few months, I cannot help but remember my declared sworn solemn Covenant with God and the people gathered in my oath-taking as a new judge in the conference room of the Court of Appeals, Manila last February 28, 1998. In my Covenant, I vowed:

“That I shall be an efficient, impartial and honest judge;

“That I shall never compromise a case for money or any other considerations; and

That justice shall prevail in my Court whatever it takes.”

I have not forgotten said Covenant.

Thus finding no factual nor legal basis on this motion for the inhibition of this Presiding Judge who does not know any one of the parties in this case, and whose conscience is clear on the matter, the same motion is hereby denied xxx”

8.

Finally, he does not see any factual and legal basis for the complainant’s charge against him. He has been simply doing his job as a dispenser of justice in the best way he could.”

From the foregoing factual findings, the OCA recommends that respondent Judge be severely reprimanded for his obvious partiality with a warning that a repetition of the same or similar act in the future will be dealt with more severely reasoning that –

“The sole purpose of courts of justice is to enforce the laws uniformly and impartially without regard to persons or their circumstances or the opinion of one. A judge thus should strive to be at all times ‘wholly free, disinterested, impartial and independent. Elementary due process requires a hearing before an impartial and disinterested tribunal. A judge has both the duty of rendering a just decision and the duty of doing it in a manner completely free from the suspicion as to its fairness and as to its integrity.’ Hence, judges should not only be impartial but should also appear impartial. While judges should possess proficiency in the law or order that they can completely construe and enforce the law, it is more important that they should act and behave in such a manner that the parties before them should have confidence in their impartiality.[2]

The issue before us is whether or not a Judge can *motu proprio* order the case to be re-opened without being

perceived as partial in favor of the prosecution.

The re-opening of the case by a court on its own motion was largely a matter in its discretion and for the orderly administration of justice, and there is no merit in the first assignment of error.[3]

There is no specific provision in the Rules of Court governing motion[s] to re-open a case for the reception of evidence after a case has been submitted for decision but before judgment. This is a judicial action which is controlled only by the paramount interest of justice and rest[s] entirely on the sound discretion of the trial court. This [is] supported by existing jurisprudence on the matter, to wit:

“x x x it is within the discretion of the court whether or not to admit further evidence after the party offering the evidence has rested, and the discretion will not be reviewed except where it has clearly been abused.[4] More, it is within the sound discretion of the court whether or not it will allow the case to be reopened for the further introduction of the evidence after a motion or request for a non-suit, or a demurrer to the evidence; and the case may be reopened after the court has announced its intention as to its ruling on the request, motion or demurrer, or has granted it or has denied the same, or after the motion has been granted, if the order had not been written, or entered upon the minutes or signed.[5]

In this jurisdiction this rule has been followed. After the parties have produced their respective direct proofs, they are allowed to offer rebutting evidence only, but, it has been held, the court, for good reasons, in the furtherance of justice, may permit them to offer evidence upon their original case, and its ruling will not be disturbed in the appellate court where no abuse of discretion appears.[6] So, generally, additional evidence is allowed when it is newly discovered or where it has been omitted through inadvertence or mistake or where the purpose of the evidence is to correct evidence previously offered.[7]

In the light of the foregoing jurisprudence, it is thus necessary to determine whether respondent judge acted within the bounds of his authority.

There is no doubt as borne by the previous resolutions of this Honorable Court thru (sic) respondent Judge may in his own initiative order the reopening of a case or upon motion of one of the parties for the orderly administration of justice. It must not, however, be done whimsically, capriciously and/or unreasonably.

The records show that the subject case was filed on September 27, 1996. It took the prosecution no less than one (1) year and four (4) months to adduce evidence against the accused, and when the defense filed a Demurrer to Evidence due to an apparent failure of the prosecution to prove its case, respondent all of a sudden reopened the case. He subpoenaed witnesses to appear before him and directed them to testify on what they know about the case. This he made because of the fact that there lies a dead victim and he is to determine who is responsible thereof. Thus, in so doing his actuation was viewed as partial by the complainants. He acted as though he was actively prosecuting the case at the expense of the accused.

Moreover, there was no “paramount interest of justice” to speak of in this case which would have justified the actuations of respondent in reopening the case. The prosecution was given all the opportunity to present its evidence and to order anew the presentation of additional evidence is but a superfluity, especially so that the same will not materially affect the position of the prosecution.

Hence, the complainants have all the reasons to doubt the impartiality of respondent Judge.

It is, thus well to remind the members of the Judiciary:

“x x x to so conduct themselves as to be beyond reproach and suspicion and be free from any appearance of impropriety in their personal behavior not only in the discharge of their official duties but also in their everyday life, for as we have earlier stressed ‘no position exacts a greater demand on [the] moral righteousness and uprightness of an individual than a seat in the Judiciary so that (a) magistrate of the law must comport himself at all times in such a manner that his conduct, official or otherwise, can bear the most searching

scrutiny of the public that looks up to him as the epitome of integrity and justice.”[8]

We agree with the factual findings of the OCA. However, the penalty recommended, i.e., reprimand, is too light given the facts of the case.

Apropos the charge of partiality, the Court pointed out in *Dawa v. De Asa*[9] that the ‘[p]eople’s confidence in the judicial system is founded not only on the magnitude of legal knowledge and the diligence of the members of the bench, but also on the highest standard of integrity and moral uprightness they are expected to possess.[10] It is towards this sacrosanct goal of ensuring the people’s faith and confidence in the judiciary that the Code of Judicial Conduct mandates the following:

“CANON 2 – A JUDGE SHOULD AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL ACTIVITIES.

RULE 2.01 – A judge should so behave at all times to promote public confidence in the integrity and impartiality of the judiciary.

CANON 3 – A JUDGE SHOULD PERFORM OFFICIAL DUTIES HONESTLY, AND WITH IMPARTIALITY AND DILIGENCE.

RULE 3.01 – A judge shall be faithful to the law and maintain professional competence.

RULE 3.02 – In every case, a judge shall endeavor diligently to ascertain the facts and the applicable law unswayed by partisan interests, public opinion or fear of criticism.

The Canons of Judicial Ethics further provides that: “[A] judge’s official conduct should be free from the appearance of impropriety, and his personal behavior, not only upon the bench and in the performance of judicial duties, but also his everyday life should be beyond reproach.” Thus, the Court in taking the respondent to task in *Sarah B. Vedana v. Judge Eudarlo B. Valencia*,[11] minced no words when it said:

“... his being a public official, holding a position in the Judiciary and specifically entrusted with the sacred duty of administering justice, breached Canon 2 of the Code of Judicial Conduct and Canon 3 of the Canons of Judicial Ethics which mandate respectively, that ‘a judge should avoid impropriety in all activities’, and that ‘a judge’s official conduct should be free from the appearance of impropriety, and his personal behavior, not only upon the bench and in the performance of judicial duties, but also in everyday life, should be beyond reproach.’ These most exacting standards of decorum are demanded from magistrates if only, in the language of Rule 2.01 of Canon 2 of the Code of Judicial Conduct, to ‘promote public confidence in the integrity and impartiality of the judiciary.’

The spirit and philosophy underlying these Canons is best expressed in *Castillo v. Calanog*[12] thus:

The Code of Judicial Ethics mandates that the conduct of a judge must be free of a whiff of impropriety not only with respect to his performance of his judicial duties, but also to his behavior outside his sala and as a private individual. There is no dichotomy of morality; a public official is also judged by his private morals. The Code dictates that a judge, in order to promote public confidence in the integrity and impartiality of the judiciary, must behave with propriety at all times. As we have very recently explained, a judge’s official life can not simply be detached or separated from his personal existence. Thus:

Being the subject of constant public scrutiny, a judge should freely and willingly accept restrictions on conduct that might be viewed as burdensome by the ordinary citizen.

A judge should personify judicial integrity and exemplify honest public service. The personal behavior of a judge, both in the performance of official duties and in private life should be above suspicion.[13]

Verily, no position is more demanding as regards moral righteousness and uprightness of any individual than a seat on the Bench. Within the hierarchy of courts, trial courts stand as an important and visible symbol of government, especially considering that as opposed to appellate courts, trial judges are those directly in contact with the parties, their counsel and the communities which the Judiciary is bound to serve. Occupying as he does an exalted position in the administration of justice, a judge must pay a high price for the honor bestowed upon him. Thus, the judge must comport himself at all times in such manner that his conduct, official or otherwise, can bear the most searching scrutiny of the public that looks up to him as the epitome of integrity and justice.[14] In insulating the Bench from the unwarranted criticism, thus preserving our democratic way of life, it is essential that judges, like Caesar's wife, should be above suspicion."

A judge is not only required to be impartial; he must appear to be impartial.[15] Fraternizing with litigants tarnishes this appearance.[16] It was, thus, held that it is improper for a judge to meet privately with the accused without the presence of the complainant.[17] Talking privately alone to an alleged eyewitness to the incident in the seclusion of his chambers, as what transpired in this case, likewise taints this image much more so considering the circumstances surrounding the production of said witness.

Verily, "[n]o position exacts a greater demand on [the] moral righteousness and uprightness of an individual than a seat in the judiciary. A magistrate of the law must comport himself at all times in such a manner that his conduct, official or otherwise can bear the most searching scrutiny of the public that looks up to him as an epitome of integrity and justice." [18] Indeed, more than simply projecting an image of probity, a judge must not only appear to be a "good judge"; he must also appear to be a "good person". [19]

As has been stated by this Court in *Ruperto v. Banquerigo* [20] "[T]he office of a judge exists for one solemn end – to promote the ends of justice by administering it speedily and impartially. The judge as the person presiding over that court, is the visible representation of the law and justice. These are self-evident dogmas which do not even have to be emphasized, but to which we are wont to advert when some members of the judiciary commit legal missteps or stray from the axioms of judicial ethics x x x."

The rule on inhibition and disqualification of judges is laid down in Section 1, Rule 137 of the Rules of Court, which states:

"SECTION 1. Disqualification of judges. – No judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniarily interested as heir, legatee, creditor, or otherwise, or in which he is related to either party within the sixth degree of consanguinity or affinity, or to counsel within the fourth degree, computed according to the rules of civil law, or in which he has been executor, administrator, guardian, trustee or counsel, or in which he has presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record.

A judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for just and valid reasons other than those mentioned above."

While the second paragraph does not expressly enumerate the specific grounds for inhibition and leaves it to the sound discretion of the judge, such should be based on just and valid reasons.[21] The import of the rule on voluntary inhibition of judges is that the decision on whether or not to inhibit is left to the sound discretion and conscience of the trial judge based on his rational and logical assessment of the circumstances prevailing in the case brought before him. It points out to members of the bench that outside of pecuniary interest, relationship or previous participation in the matter that calls for adjudication, there might be other causes that could conceivably erode the trait of objectivity, thus calling for inhibition for, indeed, the factors that lead to preferences and predilections are many and varied.[22]

Considering the high-handed manner in which the respondent resolved the motion seeking his inhibition vis-à-vis his manifest partiality in favor of the prosecution in Criminal Case No. 14549-R, his attention is called to the pronouncement of the Court in *Pimentel v. Salanga*[23] reiterated in *Gutang v. Court of Appeals*:[24]

“All the foregoing notwithstanding, this should be a good occasion as any to draw attention of all judges to appropriate guidelines in a situation where their capacity to try and decide a case fairly and judiciously comes to the fore by way of challenge from any one of the parties. A judge may not be legally prohibited from sitting in a litigation. But when suggestion is made of record that he might be induced to act in favor of one party or with bias or prejudice against a litigant arising out of circumstance[s] reasonably capable of inciting such a state of mind, he should conduct a careful self-examination. He should exercise his discretion in a way that the people’s faith in the courts of justice is not impaired. A salutary norm is that he reflect on the probability that a losing party might nurture at the back of his mind the thought that the judge unmeritoriously tilted the scales of justice against him. That passion on the part of a judge may be generated because of serious charges of misconduct against him by a suitor or his counsel, if not altogether remote. He is a man subject to the frailties of other men. He should, therefore, exercise great care and caution before making up his mind to act or withdraw from a suit where that party or counsel is involved. He could in good grace inhibit himself where that case could be heard by another judge and where no appreciable prejudice would be occasioned to the others involved therein. On the result of his decision to sit or not to sit may depend on a great extent the all-important confidence in the impartiality of the judiciary. If after reflection he should resolve to voluntarily desist from sitting in a case where his motives and fairness might be seriously impugned, his action is to be interpreted as giving meaning and substance to the second paragraph of Section 1, Rule 137. He serves the cause of the law who forestalls miscarriage of justice.”

A presiding judge, to be sure, must maintain and preserve the trust and faith of the parties-litigants. He must hold himself above reproach and suspicion. At the very first sign of lack of faith and trust in his actions, whether well-grounded or not, the judge has no other alternative but to inhibit himself from the case.[25] He should exercise his discretion in a way that the people’s faith in the Courts of Justice is not impaired. The better course for the judge under such circumstances is to disqualify himself. That way, he avoids being misunderstood, his reputation for probity and objectivity is preserved. What is more important, the ideal of impartial administration of justice is lived up to.[26]

Anent the charge of gross ignorance of the law, it needs be stressed that to be able to render substantial justice and to maintain public confidence in the legal system, judges are expected to keep abreast of all laws and prevailing jurisprudence,[27] consistent with the standard that magistrates must be the embodiment of competence, integrity and independence.[28]

As aptly stated in *Borromeo v. Mariano*[29] “[O]ur conception of good judges has been, and is, of men who have a mastery of the principles of law, who discharge their duties in accordance with law x x x.” Thus, it has been held that when the judge’s inefficiency springs from a failure to consider so basic and elemental a rule, a law or a principle in the discharge of his duties, a judge is either too incompetent and undeserving of the position and title he holds or he is too vicious that the oversight or omission was deliberately done in bad faith and in grave abuse of judicial authority.[30]

Indeed, everyone, especially a judge, is presumed to know the law. When, as in this case, the law is so elementary, not to be aware of it constitutes gross ignorance of the law.[31] Judges are expected to exhibit more than just a cursory acquaintance with statutes and procedural rules. They must know the laws and apply them properly in all good faith. Judicial competence requires no less.[32] It is imperative that a judge be conversant with basic legal principles and that he be aware of well-settled authoritative doctrines.[33] He should strive for excellence exceeded only by his passion for truth, to the end that he be the personification of justice and the rule

of law.[34]

Needless to state, respondent was in this instance wanting in the desired level of mastery of a fundamental rule on criminal procedure.

In *Cortes v. Judge Catral*;^[35] this Court found respondent judge therein guilty of gross ignorance of the law for granting bail to the accused without the requisite hearing. The respondent judge was ordered to pay a fine of P20,000.00 with the warning that a repetition of the same or similar acts in the future would be dealt with more severely. In *Mamolo, Sr. v. Narisma*,^[36] the Court held respondent judge guilty of gross ignorance of the law and penalized him with a fine of P20,000.00. The same penalty was imposed by this Court on respondent judge in *Buzon, Jr. v. Velasco*,^[37] who was found to have fallen short of the standard set forth in Rule 1.01, Canon 1 of the Code of Judicial Conduct, thereby eroding the litigant's confidence in his competence and knowledge.

Based on the foregoing jurisprudence, We find the recommended penalty of reprimand not commensurate with the misdeed committed. A fine of P10,000.00 and reprimand, with a warning that a commission of similar acts in the future shall be dealt with more severely is a more appropriate penalty.

Furthermore, in view of the prevailing circumstances in this case, the Court deems it the better course for respondent Judge to inhibit himself from further hearing Criminal Case No. 14549-R. In that way, he avoids being misunderstood, his reputation for probity and objectivity is preserved. Most important of all, the ideal of impartial administration of justice is lived up to.^[38]

WHEREFORE, for violations of Canon 2 of the Code of Judicial Conduct and Canon 3 of the Code of Judicial Ethics which amount to grave misconduct, conduct unbecoming of an officer of the Judiciary and conduct prejudicial to the best interests of the service, respondent Judge FERNANDO VIL PAMINTUAN, Presiding Judge, Regional Trial Court, Branch 3, Baguio City, is hereby FINED the amount of P10,000.00. He is likewise REPRIMANDED and sternly WARNED that a repetition of the foregoing or similar transgressions shall be dealt with more severely. Finally, he is ORDERED to inhibit himself from further hearing Criminal Case No. 14549-R. The Executive Judge is ordered to re-raffle the case with dispatch to another sala.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Puno, Kapunan, and Pardo, JJ., concur.

[1] Citing *U.S. v. Cinco*, 8 Phil. 388 [1907]; *People v. Concepcion*, 84 Phil. 787 [1949]; *Alegre v. Reyes*, 181 SCRA 80 [1990]; *U.S. v. Visquera*, 4 Phil. 380 [1905]; *U.S. v. Tria*, 17 Phil. 303 [1910]; *Alvarez v. Guevarra Wee*, 47 Phil. 12 [1924]; *Gaas v. Fortich*, 54 Phil. 196 [1929]; *Siuliong & Co. v. Ylagan*, 43 Phil. 393 [1922]; *U.S. v. Alviar*, 36 Phil. 804 [1917]; *Lopez v. Liboro*, 81 Phil. 429 [1948]; *People v. Castro-Bartolome*, 204 SCRA 38 [1991]

[2] Citing *Tan v. Judge Gallardo*, 73 SCRA 306 [1976].

[3] Citing *Gaas v. Fortich*, *supra*.

[4] 64 CJ 160.

[5] 64 CJ 164.

[6] Siuliong & Co. v. Ylagan, *supra*; US v. Alviar, *supra*.

[7] I Moran's Comments on the Rules of Court, 2d 545; 64 J 160-163, cited in Alegre v. Reyes, *ibid.*, pp. 232-233; Agulto v. Court of Appeals, 181 SCRA 80 [1990].

[8] Association of Court Employees of Panabo, Davao v. Tupas, 175 SCRA 292 [1989], citing Dia-Anonuevo v. Bercacio, 66 SCRA 81 [1975]; Quiz v. Castano, 107 SCRA 196 [1981]; Fonacier-Abano v. Ancheta, 107 SCRA 538 [1981]; Cabrera v. Pajares, 142 SCRA 127 [1986].

[9] AM No. MTJ-98-1144, 22 July 1998, 292 SCRA 703.

[10] Talens-Dabon v. Arceo, 259 SCRA 354 [1996].

[11] AM No. RTJ-96-1351, 3 September 1998.

[12] 199 SCRA 75 [1991].

[13] See also Junio v. Rivera, Jr., 225 SCRA 688 [1993]; Imbing v. Tiongson, 229 SCRA 690 [1994].

[14] Jugueta v. Boncaros, 60 SCRA 27 [1974]; Dia-Anonuevo v. Bercacio, *supra*.; Association of Court Employees of Panabo, Davao v. Tupas, *supra*; Imbing v. Tiongson, *supra*; National Intelligence and Security Authority v. Tablang, 199 SCRA 766 [1991].

[15] Canon 3, Code of Judicial Conduct.

[16] Cortes v. Agcaoili, AM No. RTJ-98-1414, 20 August 1998, 294 SCRA 423.

[17] Gallo v. Cordero, 245 SCRA 219 [1995].

[18] Cortes v. Agcaoili, *supra*, citing Dia-Anonuevo v. Bercacio, *supra*.

[19] See Address delivered by Chief Justice Andres R. Narvasa at the Judicial Career Development Program for Judges, Tagaytay City, 25-29 November 1991, Reflections on Law and Justice, 1994 ed., p. 84.

[20] AM No. MTJ-98-1154, 6 August 1998, 293 SCRA 704.

[21] Parayno v. Meneses, 231 SCRA 807 [1994].

[22] Mateo v. Villaluz, 50 SCRA 18 [1973], as cited in Query of Executive Judge Estrella T. Estrada of Malolos, Bulacan, 155 SCRA 72 [1987].

[23] 21 SCRA 160 [1967]

[24] G.R. No. 124760, 8 July 1998, 292 SCRA 76.

[25] Gutang v. Court of Appeals, *supra*. P. 84.

[26] *Ibid.*, citing Intestate Estate of the Late Vito Borromeo v. Fortunato Borromeo, 152 SCRA 171 [1987], citing Bautista v. Rebuena, 81 SCRA 535 [1981].

[27] Carpio v. De Guzman, 262 SCRA 615 [1996].

[28] Rule 1.01, Canon 1 of the Code of Judicial Conduct; See also Buzon, Jr. v. Velasco, 253 SCRA 601 [1996]; Galan Realty Co., Inc. v. Arranz, 237 SCRA 770 [1994].

[29] 41 Phil. 322 [1921].

[30] Macalintal v. Teh, 280 SCRA 623 [1997].

[31] Agcaoili v. Ramos, 229 SCRA 705 [1994], citing Santos v. Judge Isidro, 200 SCRA 597 [1991].

[32] Cortes v. Judge Catral, 279 SCRA 1 [1997]; Cui v. Madayag, 245 SCRA 1 [1995].

[33] Estoya v. Abraham-Singson, 237 SCRA 1 [1994], citing Aducayen v. Flores, 51 SCRA 73 [1973]; Ajeno v. Insierto, 71 SCRA 166 [1976]; Ubongen v. Mayo, 99 SCRA 30 [1980]; Libarios v. Dabalos, 199 SCRA 48 [1991]; Lim v. Domagas, 227 SCRA 258 [1993].

[34] Conducto v. Monzon, AM No. MTJ-98-1147, 2 July 1998, 291 SCRA 619, citing Estoya v. Abraham-Singson, supra, citing Cuaresma v. Aguilar, 226 SCRA 73 [1993].

[35] 279 SCRA 1 [1997].

[36] 252 SCRA 613 [1996].

[37] 253 SCRA 601 [1996].

[38] Gutang v. Court of Appeals, supra, citing Intestate Estate of the late Vito Borromeo v. Borromeo, supra, citing Bautista v. Rebueno, supra.

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