

RICKY GARAY, ARSENIO PALAGANA, FERNANDO MEJES, SONNY LOGRONIO, FELIPE ONGY, WENCESLAO BAYANI, RANDY RAPA, JUANITO STA. ANA, FABIAN MENDOZA, AND VIOLETO BEDONA, JR., COMPLAINANTS,...

A.M. No. MTJ-08-1703 (Formerly A.M. OCA I.P.I. No. 07-1875-MTJ). June 17, 2008

Ponente: VELASCO JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/67c1bf82bbe4/>

VELASCO JR., J.:

Complainants are the accused in Criminal Case Nos. 4-227-05 and 4-228-05 entitled *People v. Ricky Garay, et al.* In this administrative complaint, they ask that respondent Judge Nicasio V. Bartolome of the Municipal Trial Court, Branch 1 in Sta. Maria, Bulacan be investigated and a corresponding penalty be meted against him for violation of the rules on criminal procedure.

Below are the facts found by the Office of the Court Administrator (OCA) pertinent to this administrative complaint:

On April 28, 2005, the day the complaints for qualified theft of bus starters and different tools amounting to PhP 187,000 were filed against complainants, Judge Bartolome issued a warrant of arrest against them. On the strength of the warrant, the complainants were detained in the provincial jail. Thereafter, Judge Bartolome conducted a preliminary investigation and the complainants filed their counter-affidavits. On August 12, 2005, Judge Bartolome conducted a clarificatory hearing where only accused Garay and his counsel attended. After the said hearing, Judge Bartolome issued an order submitting the case for resolution. On December 27, 2005, three months after the clarificatory hearing, he issued a Joint Resolution that was mailed only on March 8, 2006. The pertinent portion of the Joint Resolution is hereunder quoted:

In view thereof, and for lack of jurisdiction having found probable cause, let the records of these two (2) cases be forwarded to the Office of the PROVINCIAL prosecutor for lack of jurisdiction and for further Preliminary Investigation together with the bodies of the accused Fabian Mendoza, Juanito Sta. Ana and Violetto Bedona, Jr., and with the information that the other accused named Arsenio Palaganas, Randy Rapa and Sonny Logronio are still at large. Therefore, Sonny Logronio is still not qualified to submit counter-affidavits who [remains] beyond the jurisdiction of this Court.

SO ORDERED.

In its investigation and evaluation of the instant complaint against Judge Bartolome, the OCA noted that the criminal case for qualified theft involving PhP 187,000 falls clearly within the jurisdiction of the Regional Trial Court. According to the OCA, based on the foregoing facts, it was apparent that Judge Bartolome was grossly ignorant of the procedure to be observed during a preliminary investigation as outlined in Sections 3 and 5, Rule 112 of the Revised Rules of Criminal Procedure. Sec. 3 of the rule requires, among others, that:

(a)

The complaint shall state the address of the respondent and shall be accompanied by the affidavits of the complainant and his witnesses, as well as other supporting documents to establish probable cause.

(b)

Within ten (10) days after the filing of the complaint, the investigating officer shall either dismiss it if he finds no ground to continue with the investigation, or issue a subpoena to the respondent attaching to it a copy of the complaint and its supporting affidavits and documents.

x x x x

(c)

Within ten (10) days from receipt of the subpoena with the complaint and supporting affidavits and documents, the respondent shall submit his counter-affidavit and that of his witnesses and other supporting documents relied upon for his defense. The counter-affidavits shall be subscribed and sworn to and certified as provided in paragraph (a) of this section, with copies thereof furnished by him to the complainant. The respondent shall not be allowed to file a motion to dismiss in lieu of a counter-affidavit.

(d)

If the respondent cannot be subpoenaed, or if subpoenaed, does not submit counter-affidavits within the ten (10) day period, the investigating officer shall resolve the complaint based on the evidence presented by the complainant.

(e)

The investigating officer may set a hearing but without the right to examine or cross-examine. They may however, submit to the investigating officers questions which may be asked to the party or witness concerned.

The hearing shall be held within ten (10) days from submission of the counter-affidavits and other documents or from the expiration of the period for their submission. It shall be terminated within five (5) days.

(f)

Within ten (10) days after the investigation, the investigating officer shall determine whether or not there is sufficient ground to hold the respondent for trial. (Emphasis ours.)

Sec. 5 of the same rule provides:

SEC. 5 Resolution of the investigating judge and its review.--Within ten (10) days after the preliminary investigation, the investigating judge shall transmit the resolution of the case to the provincial or city prosecutor, or to the Ombudsman or his deputy in cases of offenses cognizable by the Sandiganbayan in the exercise of its original jurisdiction, for appropriate action. The resolution shall state the findings of facts and the law supporting his action, together with the record of the case which shall include: (a) the warrant, if the arrest is by virtue of a warrant; (b) the affidavits, counter-affidavits and other supporting evidence of the parties; (c) the undertaking or bail of the accused and the order for his release; (d) the transcript of the proceedings during the preliminary investigations; and (e) the order of cancellation of the bail bond, if the resolution is for the dismissal of the complaint.[1] (Emphasis ours.)

Note that Judge Bartolome issued the Order submitting the cases for resolution on September 23, 2005. It was only on December 27, 2005, more than three months after, when he issued the Joint Resolution ordering the return of the cases to the provincial prosecutor for further preliminary investigation. Sec. 5 requires that Judge Bartolome submit his resolution of the case within 10 days after the preliminary investigation and transmit the resolution of the case to the provincial or city prosecutor. There is no question that Judge Bartolome took

inordinate delay of three months in submitting his resolution of the preliminary investigation.

Sec. 5 also requires that Judge Bartolome state the findings of facts and the law supporting his action. He did not. We quote the Joint Resolution:

JOINT RESOLUTION

These cases were controverted by the accused by means of counter-affidavit. The accused Ricky Garay. Juanito Sta. Maria. Sonny Logronio. Violeto Bedona. Jr., Fabian Mendoza alleged that this is only harassment by Rene Valimento in conspiracy with the undisclosed member of the Philippine National Police; That the complainant is the operator of GLOREN R.O.V. TRANSPORT; That the three (3) criminal cases [have] been filed by Mr. Rene Valimento as a leverage to the Labor case and therefore, has no merit whatsoever.

In view thereof, and for lack of jurisdiction having found probable cause, let the records of these two (2) cases be forwarded to the Office of the PROVINCIAL prosecutor for lack of jurisdiction and for further Preliminary Investigation together with the bodies of the accused Fabian Mendoza, Juanito Sta. Ana and Violeto Bedona, Jr., and with the information that the other accused named Arsenio Palaganas, Randy Rapa and Sonny Logronio are still at large. Therefore, Sonny Logronio is still not qualified to submit counter-affidavits who [remains] beyond the jurisdiction of this Court.

SO ORDERED.

As can be gleaned from his Joint Resolution, Judge Bartolome made no determination on whether or not there was sufficient ground to hold complainants for trial. He did not recommend the dismissal of the criminal complaints nor the filing of the appropriate informations against complainants. Neither did he state the law upon which he based his order. Judge Bartolome's failure to follow the procedures outlined in Secs. 3 and 5 of Rule 112 of the Revised Rules of Criminal Procedure is a clear indication of his gross ignorance of the rules on preliminary investigation, and his delay of more than three months in resolving the investigation only to order that it be re-investigated specially when the accused are detention prisoners deserves serious sanction from this Court.

When a judge shows utter unfamiliarity with fundamental rules and procedures, he contributes to the erosion of public confidence in the judicial system. Ignorance of the law is a mainspring of injustice.[2] When judges show professional incompetence, and are ignorant of basic and fundamental rules, they are guilty of gross ignorance of the law and procedures, a serious charge under Sec. 8, Rule 140 of the Rules of Court. Sec. 11(A) of Rule 140 punishes the offense, as follows:

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

- 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 and controlled corporations. Provided, however, That the forfeiture of benefits shall in no case include accrued leave credits;
- Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or
- A fine of more than P20,000.00 but not exceeding P40,000.00.

The OCA observed that this is not the first time Judge Bartolome is being administratively sanctioned, and it recommends that Judge Bartolome be imposed a fine of PhP 25,000. Under the circumstances, we find the OCA's findings and recommendations in order.

Judges are not common individuals whose gross errors "men forgive and time forgets." [3] For when they display

an utter lack of familiarity with the rules they erode the confidence of the public in the competence of our courts.[4] Such lack is gross ignorance of the law. Verily, failure to follow basic legal commands and rules constitutes gross ignorance of the law, of which no one is excused, and surely is not an embodiment of a judge.[5]

WHEREFORE, we find Judge Nicasio V. Bartolome GUILTY of GROSS IGNORANCE OF THE LAW. He is FINED twenty five thousand pesos (Php 25,000) with stern warning that a repetition of the same offense will be dealt with more severely.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio Morales, Azcuna, Tinga, Chico-Nazario, Nachura, Reyes, Leonardo-De Castro, and Brion, JJ., concur.

[1] Sec. 2, Rule 112 of the Revised Rules of Criminal Procedure was amended on October 3, 2005. First level court judges no longer conduct preliminary investigations of criminal complaints which fall under the exclusive jurisdiction of courts of other levels. A.M. No. 05-8-26-SC instructs all first level courts to continue with the preliminary investigation of cases pending with them and terminate them not later than December 31, 2005.

[2] *Abbariao v. Beltran*, A.M. No. RTJ-04-1839, August 31, 2005, 468 SCRA 419, 426.

[3] *Community Rural Bank of Guimba v. Talavera*, A.M. No. RTJ-05-1909, April 6, 2005, 455 SCRA 34.

[4] *Lim v. Dumlao*, A.M. No. MTJ-04-1556, March 31, 2005, 454 SCRA 196.

[5] *Mina v. Vianzon*, A.M. No. RTJ-02-1682, March 23, 2004, 426 SCRA 56.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.