

THE OFFICERS AND MEMBERS OF THE INTEGRATED BAR OF THE PHILIPPINES, BAGUIO-BENGUET CHAPTER, COMPLAINANTS, VS. JUDGE FERNANDO VIL PAMINTUAN, RESPONDENT.

A.M. No. RTJ-02-1691 (Formerly A.M. OCA IPI No. 99-808-RTJ). November 19, 2004

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

On January 16, 2004, we rendered a Decision suspending for a period of one (1) year Judge Fernando Vil Pamintuan, Presiding Judge of the Regional Trial Court (RTC), Branch 3, Baguio City, herein respondent. He was charged by the above-named complainants with (1) gross ignorance of the law; (2) violation of the constitutional rights of the accused; (3) arrogance, oppressive conduct, and violations of the Code of Judicial Conduct; and (4) impropriety.

For our resolution is complainants' motion for reconsideration of our Decision praying that the penalty of one (1) year suspension we imposed upon respondent judge be modified. Instead, we should dismiss him from the service with forfeiture of all benefits and with prejudice to any re-employment in any branch, agency or instrumentality of the government, including government-owned or controlled corporations.

The instant motion for reconsideration lacks merit.

Firstly, the assailed Decision was a product of our extensive and serious deliberation. We carefully evaluated respondent's infractions before imposing upon him the penalty of one (1) year suspension from the service. To reconsider our Decision sans new and compelling reason is plain flip-flopping which will result in serious injustice to respondent. Even complainants' motion for reconsideration provides no sufficient justification. It does not raise new matters or issues demanding new judicial determination. In other words, it is but a reiteration of reasons and arguments previously set forth in complainants' pleadings which we already determined and resolved before we rendered the Decision sought to be reconsidered. The facts, the issues, and the law contained in our Decision having remained unchanged, we find no reason why we should reconsider it.

Secondly, the cases relied upon by complainants in pointing out that the penalty imposed upon respondent is not commensurate to his offenses are based on entirely different factual settings. Complainants cited the following cases:

(1)

Re: Release by Judge Manuel T. Muro, RTC, Br. 54, Manila, of an Accused in a Non-Bailable Offense,[1]

(2)

Dizon vs. Calimag,[2]

(3)

Guray vs. Bautista,[3]

(4)

Office of the Court Administrator vs. Sanchez,[4]

(5)

Mamba vs. Garcia,[5]

(6)

In Re: An Undated Letter with the Heading “Expose” of a Concerned Mediaman on the Alleged Illegal Acts of Judge Julian C. Ocampo III,[6]

(7)

Agpalasin vs. Agcaoili,[7]

(8)

Magarang vs. Jardin, Sr.,[8]

(9)

Castaños vs. Escaño, Jr.,[9]

(10)

State Prosecutors vs. Muro,[10]

(11)

Chin vs. Gustilo,[11]

(12)

Francisco vs. Springael,[12]

(13)

Lantaco, Sr. vs. Judge Llamas,[13] and

(14)

Carreon vs. Flores.[14]

The common thread in the above cases, which justifies the imposition of the supreme penalty of dismissal from the service upon the erring judges, is the fact that the acts committed by respondents therein involve malice, wrongful motives, corrupt intentions or moral depravity. Apparently, of the thirteen (13) cases cited, eight (8) were either for gross misconduct, serious misconduct or corruption. Five (5) cases were for gross ignorance of the law. In two (2) of these cases, only reprimand and fine were imposed upon respondents. In the remaining three (3), respondents were penalized with dismissal from the service because of facts peculiar to said cases, definitely not similar to the facts in the instant case. In *Castaños vs. Escaño*,^[15] in addition to gross ignorance of the law, respondent was also found guilty of grave abuse of authority for using contempt as a retaliatory measure. In *Lantaco, Sr. vs. Judge Llamas*,^[16] respondent judge repeatedly ignored our directive for him to file comment. And in *State Prosecutors vs. Muro*,^[17] though respondent judge was initially dismissed, he was reinstated upon his filing of a motion for reconsideration. It bears reiterating that in all these cases, malice, fraud, dishonesty,

corruption or wrongful intention are present. Here, respondent's questioned actuations are not tainted by any of these incidents. Hence, we can not consider the above cited cases as precedents applicable to his case.

Thirdly, it is not true that respondent has not shown remorse or repentance. In his motion for reconsideration, he manifested his immediate compliance with our Decision dated January 16, 2004 on the premise that the "Supreme Court has spoken." A truth, commonly accepted in civilized institutions, is that acceptance of punishment often mitigates the gravity of a violation of a duty. The ultimate commitment of one's fate to legal process means that under an obligation of consent or a duty to support just institutions, one's breach is also substantially lessened.[18] Although respondent judge moved for the reduction of his penalty, the same was premised on his length of service in the judiciary. His motion merely appealed to our "compassion and understanding," thus, showing humility in his moral judgment.

And fourthly, a more thorough review of the facts as well as the applicable jurisprudence shows that the penalty of dismissal from the service is disproportionate to respondent judge's infractions.

I

The first charge of gross ignorance of the law must fail. First, there exists a judicial remedy sufficient to correct respondent judge's alleged mistakes in the imposition of the Indeterminate Sentence Law. And second, there is no evidence to show that he was moved by bad faith, malice, dishonesty or corruption in imposing the penalties.

Settled is the rule that the filing of an administrative complaint is not the proper remedy for the correction of actions of a judge perceived to have gone beyond the norms of propriety, where a sufficient judicial remedy exists.[19] The law provides ample judicial remedies against errors or irregularities committed by the trial court in the exercise of its jurisdiction. The ordinary remedies against errors or irregularities which may be regarded as normal in nature (i.e., error in application of procedural or substantive law or in appreciation or admission of evidence) include a motion for reconsideration, a motion for new trial, and appeal. On the other hand, the extraordinary remedies against error or irregularities which may be deemed extraordinary in character (i.e., whimsical, capricious, despotic exercise of power or neglect of duty, etc.) are the special civil actions of certiorari, prohibition or mandamus, or a motion for inhibition, or a petition for change of venue, as the case may be.[20]

Today, the established policy is that disciplinary proceedings against judges are not complementary or suppletory of, nor a substitute for these judicial remedies. Resort to and exhaustion of these judicial remedies, as well as the entry of judgment in the corresponding action or proceeding, are pre-requisites for the taking of other measures against the judges concerned, whether of civil, administrative, or criminal nature. It is only after the available judicial remedies have been exhausted and the appellate tribunals have spoken with finality, that the door to an inquiry into his criminal, civil or administrative liability may be said to have opened, or closed.[21]

In the present administrative case, respondent judge is found to have repeatedly misapplied the Indeterminate Sentence Law in seventeen (17) cases.[22]

The records, however, show that of these seventeen (17) cases, twelve (12)[23] are pending appeal in the Appellate Court. One (1)[24] is subject of a motion for reconsideration before respondent judge. Two (2)[25] were decided by him on the basis of a plea of guilty to a lesser offense by both accused. And in one (1) case,[26] we affirmed his Decision in our Resolution dated October 9, 2000.

With the foregoing circumstances, it is therefore both improper and premature to hold respondent judge guilty of gross ignorance of the law. Following established doctrine, the pendency of the appeals is sufficient cause for the dismissal of the administrative complaint against respondent judge.[27] The rationale is that if subsequent developments prove respondent judge's challenged act to be correct, there would be no occasion to proceed

against him after all. In *Flores vs. Abesamis*,^[28] we held:

“Indeed, since judges must be free to judge, without pressure or influence from external forces or factors, they should not be subject to intimidation, the fear of civil, criminal or administrative sanctions for acts they may do and disposition they may make in the performance of their duties and functions; and it is sound rule, which must be recognized independently of statute, that judges are not generally liable for acts done within the scope of their jurisdiction and in good faith; and that exceptionally, prosecution of a judge can be had only if ‘there be a final declaration by a competent court in some appropriate proceeding of the manifestly unjust character of the challenged judgment or order, and also evidence of malice or bad faith, ignorance of inexcusable negligence, on the part of the judge in rendering said judgment or order’ or under the stringent circumstances set out in Article 32 of the Civil Code. . . .” (Underscoring supplied)

To declare that respondent judge misapplied the Indeterminate Sentence Law to criminal cases on appeal will only result to undesirable consequences, foremost of which is the existence of conflicting decisions. The danger is heightened by the fact that the complainants in this administrative case are not the counsel of the accused in most of the cases mentioned but mere members of the Integrated Bar of the Philippines who only sorted out respondent judge’s Decisions and on the basis thereof, concluded that he erred in the application of the Indeterminate Sentence Law.^[29] They neither looked at the records of the cases nor consulted the parties concerned. As a matter of fact, during cross-examination, they admitted that they do not know personally the facts of the cases.

It bears reiterating that to constitute gross ignorance of the law, it is not enough that the subject decision, order or actuation of the judge in the performance of his official duties is contrary to existing law and jurisprudence but, most importantly, he must be moved by bad faith, fraud, dishonesty or corruption.^[30] Here, the administrative complaint does not even assert that in imposing the penalties, respondent judge was so motivated. In fact, complainants failed to present positive evidence to show that he was prompted by malice or corrupt motive in imposing the assailed penalties. Even the records, specifically the transcript of stenographic notes, reveal nothing of that sort.

In *Guillermo vs. Judge Reyes, Jr.*,^[31] we ruled that “good faith and absence of malice, corrupt motives or improper considerations are sufficient defenses in which a judge charged with ignorance of the law can find refuge.” In this case, reprimand was considered an appropriate penalty. In *People vs. Serrano, Sr.*,^[32] respondent Judge Pepe P. Domael allowed an appeal from a judgment of acquittal. Although the accused did not object to the appeal interposed by the prosecution, we held that respondent Judge Domael should have known that granting such appeal would constitute double jeopardy. However, since the acts in question were not shown to be tainted with bad faith, fraud, or malice, they were not considered as so gross to warrant the dismissal of respondent judge from the service.

Indeed, the fact that herein respondent judge misapplied the Indeterminate Sentence Law, the same merely constitutes an error of judgment. To reiterate, a judicial determination or mistake based merely on errors of judgment, and without corrupt or improper motives, will not supply a ground for removal, and this is true although such errors are numerous.^[33]

II

Anent the second charge of violation of the Constitutional rights of the accused, complainants mentioned two cases, i.e., *People vs. Baniqued*^[34] and *Surla vs. Dimla*,^[35] wherein respondent judge failed to decide pending motions within the prescribed period.

In *People vs. Baniqued*,^[36] respondent judge, according to complainants, took more than one (1) year to decide the prosecution’s motion for the preventive suspension of Ceferino Baniqued. At first glance, the delay seems to

be unreasonable and attributable to respondent judge. However, a more probing inquiry on the matter shows that the delay was due to the maneuverings of Atty. Lauro C. Gacayan, Baniqued's own counsel and one of the complainants herein.

The records show that as early as December 2, 1997, former Presiding Judge Ruben Costales had deemed submitted for resolution the prosecution's motion for preventive suspension. Notwithstanding so, Atty. Gacayan filed several pleadings^[37] insisting that it was still "premature to consider the incident submitted for resolution because the mandatory 'pre-suspension hearing' has not yet been terminated." On August 18, 1998, the motion for preventive suspension was again considered submitted for resolution, this time by respondent judge. Pending resolution, Atty. Gacayan filed a demurrer to evidence praying that the case of *People vs. Baniqued*^[38] be dismissed for lack of evidence to support the conviction of the accused.^[39] This was followed by a supplement to the demurrer to evidence.^[40]

Obviously, the delay in the resolution of the prosecution's motion was, in the main, due to Atty. Gacayan's persistence that a pre-suspension hearing be conducted. Not only did he file one pleading after another, he also filed a demurrer to evidence. This only complicated the matters before respondent judge. Naturally, if the demurrer to evidence is found to be meritorious, then the necessary consequence is the dismissal of the motion for preventive suspension on the ground that it has become moot and academic.

Under the principle that he who comes to court must come with clean hands, complainant Atty. Gacayan cannot now pretend that he was not responsible for the delay and that respondent judge deserves all the blame. As counsel of accused Baniqued, he had resorted to all possible legal maneuverings just to prevent the suspension of his client. He cannot now extricate himself from the result of his legal strategies and adopt a different stance just to crucify respondent judge. Certainly, we cannot countenance such effrontery. In *Gaspar vs. Bayhon*,^[41] we ruled that "a judge should not be blamed for the delay in the disposition of a case when the delay is beyond his control, especially in the absence of any showing that it was done in bad faith and intended to prejudice a party to the case or it was motivated by some ulterior end."

Indeed, it is extremely ironic that Atty. Gacayan is so vigorous in invoking his client's right to speedy trial when what was delayed is the resolution of the prosecution's motion. If there is someone who has been prejudiced by the delay, it is the prosecution, not the accused. He has no reason to complain.

In *Surla vs. Dimla*,^[42] allegedly it took respondent judge four (4) months to resolve an unopposed motion for reconsideration. This appears to be Atty. Gacayan's last-ditch attempt to revive a dead case. As pointed out by respondent judge, the case was initially dismissed for failure to prosecute. Upon plaintiff's motion for reconsideration, the case was reinstated. Due to several subsequent unjustified absences on the part of plaintiff, the case was again dismissed on the same ground. No motion for reconsideration was filed until the order of dismissal became final.^[43]

III

The third charge imputes to respondent arrogance, oppressive conduct and violations of the Code of Judicial Conduct. These offenses are not so grave as to warrant the penalty of dismissal from the service.

Complainants claim that respondent judge's displayed arrogance when he imposed time constraint on Atty. Federico Mandapat's cross-examination of the witness in *People vs. Andrada*. We believe otherwise. The transcript of stenographic notes shows that respondent judge required Atty. Mandapat to approach the bench before advising him to ask only relevant questions and not to be repetitious. That he was required to approach the bench only proves that respondent judge did not intend to embarrass him. And while it is true that respondent

judge limited the cross-examination to only ten (10) minutes, it was because he (Atty. Mandapat) had already spent a considerable time cross-examining the witness. However, his cross-examination was extended the next day. In fact, respondent judge allowed him to cross-examine the witness “without limitation.”[44]

At this juncture, it must be stressed that it is both the right and duty of a trial judge to control the cross-examination of witnesses, both for the purpose of conserving the time of the court and of protecting the witnesses from prolonged and needless examination.[45] In *People vs. Gorospe*,[46] we ruled that “while cross-examination is a right available to the adverse party, it is not absolute in the sense that a cross-examiner could determine for himself the length and scope of his cross-examination of a witness. The court has always the discretion to limit the cross-examination and to consider it terminated if it would serve the ends of justice.”

Anent respondent judge’s statement to the client of Atty. Joris Karl Dacawi not to pay the latter’s attorney’s fees because he did nothing but merely to seek the postponement of the case, the same does not constitute oppression, though, I must say, it was really uncalled for. Oppression is a “misdemeanor committed by a public officer, who under color of his office, wrongfully inflicts upon any person any bodily harm, imprisonment or other injury.” It is an “act of cruelty, severity, or excessive use of authority.”[47] Respondent judge’s utterance can hardly qualify as an act of cruelty or severity or excessive use of authority. Obviously, the statement was uttered to discourage lawyers from seeking postponement of trials. A strict judge that he is, it is understandable that he was irritated by Atty. Dacawi’s request to postpone the case on the ground that his client was not feeling well when actually, the latter was in court. Of course, there is a limit to a judge’s patience and leniency. Though it is required that respondent judge maintains a firm resolve in the face of provocations by untoward defense tactics, and display such resolve with the appearance of dispassionate equanimity, however, any showing of impatience or gratuitous observations left unsaid may be tolerated to some extent. After all, as a judge, he has the obligation to remind lawyers of their duties to the public, to their client, and to the adverse party and his counsel, so as to enforce due diligence in the dispatch of business before the court.[48]

Complainants, particularly Atty. Reynaldo Agranzamendez, lament respondent judge’s conduct of ordering him to stand during the promulgation of the Decision in *People vs. Cruz*[49] in which he was the counsel de oficio, thus, making him appear to be the accused. While respondent judge’s actuation is irregular, however, we believe that such offense does not justify his dismissal from the service.

With regard to respondent judge’s delay in the release of the copies of the Decisions in *People vs. Cas*[50] and *People vs. Malapit*,[51] there is no showing of malice or bad faith on his part.

In *People vs. Cas*,[52] complainant Atty. Jurgenson Lagdao filed a Notice of Appeal which states:

“ACCUSED, with the assistance of counsel, hereby gives notice that he is appealing to the Court of Appeals the decision of the Honorable Court promulgated on June 22, 1999, a copy of which the Honorable Court has yet to release, for being patently contrary to law and the attending facts and circumstances. x x x”

Respondent judge directed Atty. Lagdao to modify the wording of such Notice of Appeal on the ground that the phrase “a copy of which the Honorable Court has yet to release” is inaccurate considering that copies of the Decision were already released to the parties. This is evident from the Manifestation and Explanation filed by Atty. Lagdao quoted as follows:

“THE UNDERSIGNED COUNSEL FOR THE ACCUSED,
unto this Honorable Court, most respectfully states:

- That a notice of appeal from the judgment promulgated on 22 June 1999 was filed on July 5, 1999;
- That in said notice, it was alleged that a copy of the decision has yet to be released by the Honorable Court;

- That between 10:00 and 11:00 o' clock in the morning of 5 July 1999, the mother of the accused came to the office and she was assisted by Atty. Henry Patrick Villanueva in inquiring about the decision and it was then that Atty. Villanueva was furnished copy thereof;
- That the notice of appeal was actually prepared and handed to one of the clerks in the office for filing at about 8:25 in the morning of the same day. However, unknown to undersigned counsel, the notice was filed only at about 1:30 in the afternoon for the reason that the clerk attended to several clients and prepared reports such that it was only after taking lunch that he realized not having filed the notice earlier;
- That had the undersigned counsel been aware that it was only in the afternoon that the notice was filed, then he should have corrected or changed the notice prepared earlier to indicate receipt of the decision;
- That to rectify the notice of appeal, undersigned counsel hereby states for the record that a copy of the decision was received on 5 July 1999;
- That the undersigned apologizes for what had happened and begs for the understanding of the Honorable Court.”

Clearly, respondent judge was justified in requiring Atty. Lagdao to change the tenor of his Notice of Appeal to conform to the truth that copies of the Decision were indeed previously released to the parties.

In *People vs. Malapit*,^[53] respondent judge failed to release to the parties copies of the Decision on the same day it was promulgated. There were typographical errors in the Decision that have to be corrected by the stenographers. Atty. Itliong-Rivera positively testified on this matter. Significantly, the delay did not prejudice the accuseds' right to appeal. In a number of cases wherein the respondent judge committed delay in the release of decisions to the parties, the penalty meted upon him is only reprimand. Our rulings in *Dizon vs. Judge Lopez*,^[54] *Mangulabnan vs. Tecson*^[55] and *Castro vs. Judge Malazo*^[56] are relevant.

IV

Finally, on the appointment of Eufemio Gula as Driver I, suffice it to say that it was the Sangguniang Panlungsod of the City of Baguio which appointed him to such position through Resolution No. 230, Series of 1999. His item was later on changed to Utility Worker II, through Resolution No. 298, Series of 1999,^[57] upon the request of Clerk of Court Delilah Gonzales-Munoz. The assailed appointment was therefore beyond the control of respondent judge.

As a final word, let it be stressed that the administration of justice is primarily a joint responsibility of the judge and the lawyer. The judge expects a lawyer to properly perform his role in this task in the same manner that the lawyer expects a judge to do his part.^[58] Their relation should be based on mutual respect and on a deep appreciation by one of the duties of the other. Only in this manner can each minimize occasions for delinquency and help attain effectively the ends of justice.^[59]

The conflict between the herein parties could have been avoided if only they heeded the foregoing call. Indeed, in the last analysis, the quality of justice meted out by the courts cannot be higher than the quality of the lawyers practicing in the courts and of the judges who have been selected from among them.

While respondent judge indeed committed infractions, the absence of malice, bad faith, fraud, or dishonesty on his part, does not warrant his removal from office. Significantly, eleven (11) witnesses^[60] who are also members of the IBP, Baguio City Chapter contradicted complainants' charges. They testified that respondent judge's integrity is above board and that he administers justice effectively.

ACCORDINGLY, complainants' motion for reconsideration is DENIED. The penalty of one (1) year suspension

from office imposed upon respondent judge is retained.

SO ORDERED.

Davide, Jr., C.J., Puno, Quisumbing, Carpio, Austria-Martinez, Carpio-Morales, Azcuna, Tinga, Chico-Nazario, and Garcia, JJ., concur.

Ynares-Santiago, and Callejo, Sr., JJ., please see dissenting opinion.

Panganiban, J., joins the dissenting opinions of J. Santiago and J. Callejo.

Corona, J. on leave.

[1] 367 SCRA 285 (2001).

[2] 365 SCRA 448 (2001).

[3] 360 SCRA 488 (2001).

[4] 359 SCRA 577 (2001).

[5] 359 SCRA 426 (2001).

[6] 359 SCRA 1 (2001).

[7] 330 SCRA 250 (2000).

[8] 330 SCRA 79 (2000).

[9] 251 SCRA 174 (1995).

[10] 236 SCRA 505 (1994).

[11] 247 SCRA 175 (1995).

[12] 139 SCRA 107 (1985).

[13] 108 SCRA 502 (1981).

[14] 64 SCRA 238 (1975).

[15] Supra.

[16] Supra.

[17] Supra.

[18] Greenawalt, Conflicts of Law and Morality, 1989, pp. 239-240

[19] Santos vs. Orlino, 296 SCRA 101 (1998); see also Garcia vs. Pasia, 317 SCRA 155, 158 (1999).

[20] Barbers vs. Laguio, Jr., A.M. No. RTJ-00-1568, February 15, 2001.

[21] Flores vs. Abesamis, A.M. No. SC-96-1, July 10, 1997, 275 SCRA 302, 316-317.

[22] Decision at 34-37.

[23] 1) People vs. Joel Ramos, et al.; 2) People vs. German Abarquez; 3) People vs. Rolando Tawanna, et al.; 4) People vs. Jose Tamo, et al.; 5) People vs. Johnson Simsim; 6) People vs. Moses Polic-ew; 7) People vs. Renato Bernal; 8) People vs. John Baliling; 9) People vs. Melchor Bawalan, et al.; 10) People vs. Edwin Longaquit, et al.; 11) People vs. Joseph Samir Kairuz; and 12) People vs. Liwayway Cruz (Folder of Exhibits, Vol. I, Exhibit “6” and “6-C”).

[24] People vs. Bernardo Polic-ew (Records, Exhibit “A-8” at 19).

[25] 1) People vs. Paul Afiagan, and 2) People vs. Manuel Carino (Folder of Exhibits, Volume I, Exhibit “6-B”).

[26] People vs. Rose Dalmacio, et al. (Folder of Exhibits, Volume II, Exhibit “48”).

[27] Barbers vs. Laguio, Jr., supra.

[28] Supra.

[29] Except complainant Atty. Jurgenson Lagdao who was the counsel in People vs. Afiagan, People vs. Longaquit, People vs. Bawalan and People vs. Baliling, all of which are pending appeal with the Appellate Court.

[30] Heirs of the Late Nasser D. Yasin, vs. Felix, Adm. Matter No. RTJ-94-1167, December 4, 1995, 250 SCRA 545.

[31] A.M. No. RTJ-93-1088, January 18, 1995, 240 SCRA 154.

[32] G.R. No. 135451, September 30, 1999, 315 SCRA 686.

[33] 48 C.J.S. § 27 at 976-977, citing Saint vs. Simon, 110 So. 826, 162 La. 596; Villani vs. Duffy, 175 A. 373, 114 N.J. Law 60; Matter of Droege, 114 N.Y.S. 375, 129 App. Div. 866, appeal dismissed 90 N.E. 340, 197 N.Y. 44.

[34] Criminal Case No. 13949-R.

[35] Civil Case No. 3322-R.

[36] Supra.

[37] Manifestation and Motion dated December 11, 1997 (Folder of Exhibits, Volume I, Exhibit “1”) and Rejoinder to the Motion for Suspension dated on July 1, 1998 (Folder of Exhibits, Volume I, Exhibit “2”). (See also TSN, June 23, 2000 at 21-35)

[38] Supra.

[39] Filed on July 7, 1999 (Folder of Exhibits, Volume I, Exhibit “3”).

[40] Dated September 1, 1999 (Folder of Exhibits, Volume I, Exhibit “4”).

[41] Adm. Matter No. RTJ-97-1388, 86 SCAD 546.

[42] Supra.

[43] Records, Volume I at 541.

[44] TSN, June 23, 2000 at 128-131.

[45] 98 C.J.S. § 404, citing *State vs. Stone*, 36 S.E. 2d 704, 226 N.C. 97.

[46] G.R. No. L-51513, May 15, 1984, 129 SCRA 233.

[47] *Black's Law Dictionary* at 1093.

[48] *Martin, Legal and Judicial Ethics* at 327.

[49] Criminal Case No. 7304-R.

[50] Criminal Case No. 15306-R.

[51] Criminal Cases Nos. 15320-R, 15323-R, 15327-R and 15571-R.

[52] *Supra*.

[53] *Supra*.

[54] Adm. Matter No. RTJ-96-1338, September 5, 1997, 278 SCRA 483.

The delay in furnishing complainant a copy of the complete decision did not prejudice his right to appeal or file a motion for reconsideration. It is true that an accused must be given a copy of the decision in order to apprise him of the basis of such decision so that he can intelligently prepare his appeal or motion for reconsideration. However, in accordance with the ruling in *Director of Lands vs. Sanz*, 6 complainant's period to appeal or file a motion for reconsideration did not begin to run until after he actually received a copy of the judgment on December 16, 1994. He therefore suffered no prejudice. If at all, complainant suffered from the anxiety to refute a conviction which he could not do for lack of a statement of the basis of the conviction.

[55] A.M. No. 2112-CFI, December 29, 1980, 101 SCRA 810.

[56] A.M. No. 1237-CAR, August 21, 1980, 99 SCRA 164.

[57] Folder of Exhibits, Volume II, Exhibit "41".

[58] *Lugue vs. Kayanan*, No. L-26826, August 29, 1969, 29 SCRA 165; *Romero vs. Valle*, Adm. Matter No. R-192-RTJ, January 9, 1987, 147 SCRA 197.

[59] *Agpalo, Judicial Ethics*, 6[th] Edition, 1997, at 436.

[60] Atty. Victoria C.M. Sturch stated that she is impressed by the way respondent judge implemented decorum in his courtroom. He does not tolerate "talking" inside the courtroom, unlike other Judges who do not even call the attention of those concerned while the session is going on.

Atty. Primitivo C. Jularbal testified that while respondent judge imposes fine on lawyers for being late, however, there is really no effort on his part to enforce payment. It is just his manner of disciplining lawyers who appear in his sala. In fact, after he (witness) was fined by respondent judge for being late (although until now he has not paid it), he has tried his best to be in court before the scheduled hearing to avoid being fined.

He has not witnessed any arrogant or oppressive conduct on the part of respondent judge. Nor has the latter been discourteous or disrespectful to old lawyers. In fact, respondent judge has not been discourteous or disrespectful to him.

Atty. Ma. Inglay Capuyon-Fokno, to refute the charges of gross ignorance of the law and arrogance, testified that respondent is diligent and serious in the performance of his task. He is always prompt, i.e., he opens his sessions at exactly 8:30 a.m. and conducts proceedings in an orderly manner.

Justice Sixto Domondon, refuting the charges of ignorance of the law, arrogance and violation of judicial ethics, testified that he filed an administrative case against respondent judge, for which the latter has already been punished. However, he (witness) did not ask for respondent judge's inhibition in three (3) civil cases because he believed in his integrity, capacity and moral will to dispose justice fairly regardless of the litigants' personalities or stature in life.

Atty. Lourdes Maita Andres testified that in her experience with respondent judge, she knows that he is fair and even-handed because he is not bias to any party or lawyer. In fact, respondent is a welcome change in Baguio City. It is refreshing that there is a new judge who cannot be influenced by some lawyers or anybody. He decides cases on the merits. He is not arrogant. When she was late once, she was merely asked to explain. Respondent judge does not hang around with lawyers. In fact, when she wanted to seek audience with him in order to ask for a resetting, he refused to see her unless the other party was present. Respondent judge refused to accept a gift sent by a party in the case of "People vs. Rolando Clemente." She stated in her affidavit that "she can count judges who are even-handed in dealing with cases before them, without showing any bias towards lawyer's cause," "that Judge Pamintuan is a welcome change in Baguio City where some lawyers are able to get their way in some courts which have caused her to bear disillusion against the judiciary;" and that "she personally feels that she need not be wary nor afraid of the capability of an opponent in bribing the judge to win the case because Judge Pamintuan has exhibited a personality where he would not be cowed by any lawyer or group of lawyers to do their bidding."

Atty. Juan B. Valdez stated that he has appeared before the respondent judge and in his personal observation, he has been fair, although several times, he imposed fines on lawyers who came late, like Atty. Agranamendez, or lawyers who appeared in court with sleeves rolled up or who wore barong with unbuttoned front. In fact, one time, he ordered a person reading a newspaper inside his courtroom to step out. Several times, he directed the Sheriff to keep the people quiet at the lobby as an observance of court decorum.

Lina de Guzman Dalusong testified that the proceedings before respondent are more organized because he is on time. The list of cases to be heard is now posted so much so that one would already know the number of years a case has been pending. Respondent judge settles disputes by talking to the parties in the presence of their counsel. This has not been done by the other presiding judges.

Prosecutor Lilian Dris S. Alejo stated that being a State Prosecutor, she has appeared before respondent judge from 1996 to 1998. Per her personal observation, respondent judge is reasonable because whenever she moved for a resetting, he heard her reasons and if justified, he granted her motion. He is fair because when he admonished her for her fiery temper, he did not humiliate or embarrass her.

Prosecutor Raymond Tabangin stated that he is aware of the practice of respondent judge to order counsel and accused to stand during the promulgation of the decision. In fact, he was present when respondent ordered Atty. Agranamendez to stand up during the promulgation of the decision in "People vs. Liwayway Cruz." Respondent judge told Atty. Agranamendez, "Don't argue with the court," his usual expression, and not "Shut up!" as alleged by herein complainants;

Respondent judge was able to unclog the docket of his court because the hearing starts promptly at 8:30 a.m.;

He (witness) admitted there were times he was late in coming to court, but he has never been fined because of his satisfactory explanation. Before, respondent judge would fine lawyers who came late without giving them any chance to explain, but not anymore because he has already softened his stance.

DISSENTING OPINION

YNARES-SANTIAGO, J.:

I regret that i cannot give my assent to the denial of complainants' motion for reconsideration and the retention of the penalty of one (1) year suspension from office upon the respondent judge.

Ordinarily, gross ignorance of law constitutes the illegality of the act or decision and a finding of fraud, dishonesty or other ill-motive on the part of the judge. However, where the inefficiency springs from glaring instances of incompetence and ineptitude, the claim of good faith or absence of malice cannot abate the judge's administrative liability. When the law is sufficiently basic, a judge owes it to his office to know and to simply apply it; anything less than that would be constitutive of gross ignorance of the law.[1] The seriousness of respondent's offense is aptly measured by the Court in the case of *Re: Release by Judge Manuel T. Muro, RTC-Br. 54, Manila, of an accused in a Non-Bailable Offense*,[2] thus:

It is said that when the efficiency springs from a failure to consider so basic and elemental a rule, a law or 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.

In applying and accepting his position, a judge owes it to the dignity of the court, to the legal profession and to the public to know the law that is his duty to apply and interpret. Respondent judge fails on this account. He is found guilty of gross ignorance of the law, an offense committed by a habitual and routine display of a superficial understanding of basic legal precepts which seriously puts in question the ability to discharge the delicate and often contentious duty of dispensing justice. As this Court steadfastly ruled, "a judge is presumed to know the law and when the law is elementary, not to be aware of it constitutes gross ignorance of the law." [3]

Respondent judge repeatedly misapplied or erroneously misinterpreted the Indeterminate Sentence Law, a law so basic that to be in error, not once or twice, but eighteen (18) times in a short span of one and a half (1 1/2) years as a Regional Trial Court Judge, is a scandalous display of incompetence.

Moreover, respondent capriciously disregarded the express provisions of our penal laws when he repeatedly made mistakes in the appreciation of the privileged mitigating circumstance by reason of minority or in imposing the penalty in the maximum without any express finding of any aggravating circumstance.

Respondent likewise showed a propensity for disregarding procedure provided in the Rules of Court to discipline misbehaving lawyers and litigants. He arbitrarily practiced the imposition of a fine on any lawyer who does not answer the first call, and the summary dismissal of a case if counsel or litigant does not appear even for the first time without giving any opportunity for explanation. He must be reminded that a judge is not a repository of arbitrary power.

Respondent also demonstrated a predilection to promulgating decisions before copies are released to the parties. He ordered one lawyer to delete the phrase "copies of which the Honorable Court has yet to release" from the notices of appeal, otherwise, he would not act thereon. This is reproachable and improper conduct that puts serious doubt on his integrity and independence.

Respondent's misdeeds were not confined to his tenuous grasp of legal precepts. He has shown a seeming inability to dispose of the court's business with dispatch and promptness. In *People v. Ceferino Baniqued*, [4] he resolved a pending motion for preventive suspension filed by the prosecution only after the lapse of one (1) year. In *Surla v. Dimla*, [5] respondent judge resolved an unopposed motion for reconsideration after almost four (4) months. He violated not only the mandate of the constitution to afford all persons the right to a speedy disposition of cases but

also Rule 1.02 of Canon 1 of the Code of Judicial Conduct, which requires that "[a] judge should administer justice... without delay."

Respondent is likewise faulted for committing abuse of authority and oppressive conduct by his cavalier and arrogant attitude towards the litigants and lawyers appearing before his sala. His intemperate use of harsh and disparaging language is indicative of his lack of courtesy and civility, and not a desire to instill proper court decorum and discipline. In one case, he told a litigant that his counsel did not deserve to be paid as he did not do anything during trial. In another case, he berated another lawyer for repeating questions already asked during the direct examination. Certainly, these actuations show a petulant attitude incompatible with judicial sobriety and contrary to the precepts of the Canons of Judicial Ethics, particularly Canons 1 (Relations of the judiciary) and 10 (Courtesy and civility) thereof which respectively provides that "the assumption of the office of judge casts upon the incumbent duties in respect to his personal conduct which concern his relation to... the litigants before him... the practitioners of law in his court..." and "judges should be courteous to counsel... and also to all others concerned in the administration of justice in their courts."

A judge must comport himself with competence, dignity and honor at all times to preserve public confidence in the judiciary. Respondent did not. The numerous accusations against respondent are too well-documented to be mere by-products of insidious attempts by a few disgruntled litigants or lawyers who might have been offended while in the performance of official duties. The arguments proffered by respondent in defense are too weak to overturn the finding of guilt.

Significantly, since his appointment in office on February 23, 1998 up to the time of the filing of the instant complaint, respondent has been charged in four administrative cases, two (2) of which resulted in a finding of guilt.^[6] To be charged and found guilty in a slew of cases in so short a time bespeaks ill of respondent's competence and adequacy to handle the delicate task reposed upon a member of the judiciary.

As already shown, respondent judge is liable not only for gross ignorance of the law but of equally serious transgressions, such as antedating of decisions, oppressive conduct and previous administrative cases resulting in a finding of guilt. All these acts taken collectively demonstrate that he is undeserving of the judicial robe. Hence, respondent judge must be punished with the most severe of penalties - dismissal, in line with previous decisions of this Court.^[7] To rule otherwise would be a great disservice to the people who look upon an effective and efficient judiciary for proper redress of grievances.

IN VIEW OF THE FOREGOING, I vote for the DISMISSAL of respondent Judge Fernando Vil Pamintuan of RTC-BR. III, Baguio City, from the service with forfeiture of all benefits, except accrued leave credits, and with prejudice to his re-employment in any branch, agency or instrumentality of the government including government-owned and controlled corporations.

[1] Creer v. Fabillar, A.M. No. MTJ-99-1218, 4 August 2000, 337 SCRA 632, Pacris v. Pagalilauan, A.M. No. RTJ-98-1403, 14 August 2000, 337 SCRA 638.

[2] A.M. No. 00-7-323-RTJ, 17 October 2001, 367 SCRA 285.

[3] Guillen v. Cañon, A.M. No. MTJ-01-1381, 14 January 2002, 373 SCRA 70.

[4] Docketed as Criminal Case No. 13949-R.

[5] Docketed as Civil Case No. 3322-R.

[6]

- RTJ-99-1450 (Justice Sixto Domondon v. Judge Fernando Vil Pamintuan) where respondent was reprimanded on 14 June 1999.

- RTJ-99-1483 (Lauro Gacayan v. Judge Fernando Vil Pamintuan) where respondent was fined P10,000.00 and warned that a repetition of the same or similar acts shall be dealt with more severely 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 and conduct unbecoming of an officer of the judiciary.

- OCA IPI No. 99-808-RTJ - the instant case under consideration.

- OCA IPI No. 99-832-RTJ (Mr. Galo R. Reyes v. Judge Fernando Vil Pamintuan for willful violation of the Rules of Court and incompetence) which is still pending.

[7] In *Carreon v. Flores* (Adm. Case NO. 111-MJ, 30 May 1975, 64 SCRA 238), the respondent judge was separated from service for "utter ignorance of the law and incompetence in rendering a judgment of conviction contrary to and in disregard of the disputable facts and the applicable laws.

In A.M. No. RTJ-93-955 (12 December 1995, 251 SCRA 174), respondent judge was adjudged guilty of ignorance of the law for which he was dismissed from the service for having precipitately found a person guilty of indirect contempt.

In *Buenavista, Jr. v. Garcia* (A.M. No. RTJ-88-246, 19 June 1999, 187 SCRA 598), the Court dismissed an RTC judge for gross ignorance of the law and for knowingly rendering an unjust judgment when he granted bail to an accused charged with raping an 11-year old girl and thereafter granted a motion to dismiss the case allegedly executed by the complainant.

In *Uy, et al. v. Dizon-Capulong* (A.M. No. RTJ-91-766, 7 April 1993, 221 SCRA 87), an RTC judge was likewise dismissed for gross ignorance of the law after she ordered, in a probate proceeding, the cancellation of the certificates of title issued in the name of the complainant, without affording due process to the latter and other interested parties.

In *Estoya v. Abraham-Singson* (A.M. No. RTJ-91-758, 26 September 1994, 237 SCRA 1), respondent judge was also meted the penalty of dismissal from the service for gross ignorance of the law and gross incompetence, among others, for her habitual misapplication of the Indeterminate Sentence Law.

DISSENTING OPINION

CALLEJO, SR., J.:

Before the court is a motion for reconsideration of our decision[1] in a.m. No. Rtj-02-1691 suspending judge fernando vil pamintuan, regional trial court, branch iii, baguio city for one (1) year for gross ignorance of the law; delay in resolving motions submitted for resolution; arrogant, oppressive and improper conduct; and violation of the code of judicial conduct.

The complainants enumerate the following to support their prayer for the respondent's dismissal from the service:

I

THE PENALTY IMPOSED BY THE HONORABLE COURT IS DISPROPORTIONATE TO THE NUMEROUS AND SERIOUS VIOLATIONS COMMITTED BY THE RESPONDENT.

II

JURISPRUDENCE SHOWS THAT OTHER JUDGES WHO COMMITTED LESSER OFFENSES THAN THE RESPONDENT WERE METED OUT THE EXTREME PENALTY OF DISMISSAL.[2]

The complainants beg this court to re-examine the “numerous violations committed by the respondent and to make a final assessment if indeed, he is still worthy to wear the judicial robe or, his continued presence on the bench would unduly tarnish the image of the judiciary.”[3] the complainants cite a catena of decided cases[4] to illustrate their point that to maintain the penalty of one (1) year suspension for the numerous serious omissions and/or violations committed by the respondent would be equivalent to giving premium to an erring judge. They point out that other judges were immediately dismissed from the service for having committed a single act or violation. The complainants pray that the court reconsider the penalty imposed on the respondent and sustain the penalty recommended by the investigating justice, it being more in accord with the gravity of the respondent’s offenses. The complainants compare the instant case with the court’s ruling in *Estoya v. Abraham-singson*[5] where the respondent judge therein was likewise found to have misapplied the rules on the indeterminate sentence law and was dismissed from the service due to gross ignorance of the law, incompetence, along with a host of other infractions.[6]

For his part, the respondent feels that the administrative sanction meted against him is too severe, considering that he has served the judiciary for more than five (5) years, has been in government service for more than nine (9) years, three (3) years of which were spent in the court of appeals as a legal researcher. He cites section 11 (2), rule 140 of the revised rules of court on the discipline of justices and judges, and prays that the one-year penalty imposed against him be reduced to six (6) months following the above provision.[7]

In his comment dated may 26, 2004, the respondent points out certain “inadequacies” in the complainants’ motion for reconsideration. One such flaw, according to the respondent, is the complainants’ reliance on the ruling of the court in the case of *State Prosecutors v. Judge Manuel Muro*,[8] where the respondent judge therein was dismissed for committing a single act of gross ignorance of the law when he dismissed eleven (11) criminal cases for violation of central bank laws as a result of newspaper reports on the lifting of all foreign exchange restrictions. According to the respondent, such citation would have been “biblical in effect,” except that the complainants deliberately omitted the subsequent ruling[9] of the court in the same case reinstating judge muro to his office and considering him suspended for a period of more than one (1) year.[10]

The respondent also invokes “the immunity granted to the members of the bench.” He avers that as a general rule, the acts committed by a judge, even though erroneous, are not subject to disciplinary action. He adds that such acts shall be subject to disciplinary power only when they are attended by fraud, dishonesty, corruption or bad faith, which are not present in the case at bar. Citing american jurisprudence, the respondent notes:

It must be conceded that respondent, in acting the way he did, committed a legal error which usually is remediable by appeal or by any other modes sanctioned by the rules of court and “does not raise a question of improper judicial conduct subject to discipline.” but egregious legal error, legal error NOT motivated by bad faith, xxx does not amount to misconduct subject to discipline ranging from admonishment to removal from office.

Nowhere from the original complaints, the affidavits or the testimonies of the witnesses for the complainants was there clear, convincing proof that respondent acted in a way in bad faith and no insidious intentions on his part is manifest.

Applying the indeterminate sentence law in the cited cases, erroneous though it may be, is not inescapably indicative of bad faith.[11]

The respondent, likewise, refutes the claim of the complainants that dismissal from the service is the majority rule

for judges who commit lesser or numerous offenses in our jurisprudence by citing authorities[12] thereon. He stresses that there is a litany of other cases where the court did not impose the maximum penalty for an infraction committed by a judge. The respondent avers that while the cases cited by the complainants may fall under the same class, the same could not apply squarely to his circumstance.

Anent the complainants' claim that all of them have inhibited themselves from attending to hearings before the respondent's sala, the latter had this to say:

.... This tale is farthest from the truth because the respondent had only inhibited in the cases of five (5) law offices, and one lawyer only, the branch clerk of court's certificate is hereto attached as annex "a." thus, the rest of the complainants lawyer (sic) have continued to appear before the respondent's court, contrary to the allegation of the complainants.

Again, complainants are not factual in the cases of atty. Jose m. Molintas and atty. Alberto bayan because the respondent has continued to hear their cases, as atty. Molintas even obtained three (3) acquittals....[13]

I Agree with the complainants that erring judges have been dismissed from the service for seemingly lesser infractions. In the recent case of Salvador Sison v. Judge Jose F. Caoibes, Jr., Presiding Judge and Teodoro S. Alvarez, Sheriff IV, Regional Trial Court, Las Piñas City, Branch 253,[14] the respondent judge therein was dismissed from the service for serious impropriety unbecoming a judge, for violating canon 2 of the code of judicial conduct. The respondent judge therein was penalized for citing for contempt a traffic enforcer who apprehended his son, which, in fine, amounted to grave abuse of authority. The penalty of dismissal has, likewise, been imposed on judges for grave misconduct[15] or gross ignorance of the law[16] alone. However, as pointed out by the respondent, there are also instances where the court, considering the gravity of the erring judge's offense, meted out lesser penalties.

It must be stressed that each administrative case against each judge is unique in itself, replete with circumstances which, more often than not, are peculiar to that case only. In deciding the penalty to be imposed on errant magistrates, the court considers the factual milieu in each case, the offending acts or omissions of the judge, as well as previous transgressions, if any.

I Have once again gone over the records of the instant case, and upon careful perusal of the applicable jurisprudence, I am of the opinion that the one-year suspension imposed against the respondent judge is inappropriate and not commensurate to his offenses.

On Gross Ignorance of the Law

It is settled that one who accepts the exalted position of a judge owes the public and the court the ability to be proficient in the law and the duty to maintain professional competence at all times. Basic rules must be at the palm of his hand. He must be acquainted not only with legal norms and precepts, but with procedural rules as well.[17] Gross ignorance of the law and incompetence are characteristics and quirks impermissible in a judge. He is called upon to exhibit more than just a cursory acquaintance with statutes and procedural rules; it is imperative that he be conversant with basic legal principles. Canon 4 of the canons of judicial ethics requires that the judge should be "studious of the principles of law;" and canon 18 mandates that he "should administer his office with due regard to the integrity of the system of the law itself, remembering that he is not a depository of arbitrary power, but a judge under the sanction of law."[18] Service in the judiciary means a continuous study and research on the law from beginning to end. A member of the bench must continuously keep himself abreast of legal and jurisprudential developments because the learning process in law never ceases.[19]

When the inefficiency springs from a failure to consider so basic and elementary 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 the title he holds or is too vicious that the oversight or omission was deliberately done in bad faith and in grave abuse of judicial authority.[20] When the law is sufficiently basic, a judge owes it to his office to simply apply it; anything less than that would be constitutive of gross ignorance of the law.[21] *Ignorantia juris quod quisque scire tenetur non excusat*. [22] As we ruled in *Mijares v. Poso*: [23]

We need not belabor jurisprudence to accommodate respondent judge's argument which in effect posits that not every judicial error bespeaks ignorance of the law and that, if committed in good faith, does not warrant administrative sanctions. So we have ruled and acted consistently, for to decide otherwise would be nothing short of harassing judges to take the fantastic and impossible oath or rendering infallible judgments.

However, in the present case, the rule shielding honest errors of opinion from punishment does not apply. Admittedly judges cannot be held to account for erroneous judgments rendered in good faith but this defense has been all too frequently cited to the point of staleness. In truth, good faith in situations of infallible discretion adheres only within the parameters of tolerable judgment and does not apply where the basic issues are so simple and the applicable legal principle evident and basic as to be beyond permissible margins of error.[24]

In the case at bar, the respondent repeatedly misapplied the indeterminate sentence law, not once or twice, but a total of eighteen (18) times. As found by the investigating justice, the respondent sentenced an accused found guilty of theft to suffer imprisonment "from seven (7) years, four (4) months and one (1) day minimum to eight (8) years and eight (8) months as maximum of prision mayor for each case." Since the penalty for theft is prision mayor, the minimum of the penalty imposable on the accused should have been within the range of prision correccional, the penalty next lower to prision mayor. The respondent misapplied the indeterminate sentence law in seventeen (17) other cases, as follows:

- *People vs. Rose dalmacio, et. al.*
Crim. Case no. 11363-R, for
Theft (Exhibit "D")

The amount stolen was p10,000.00. Under art. 309, Par. 2 Of the revised penal code, the penalty imposable is prision correccional in its medium and maximum period. However, the sentence imposed by respondent judge was from four (4) years, nine (9) months and eleven (11) days as minimum, to six (6) years, as maximum. Worse, he imposed subsidiary imprisonment in case of insolvency when no fine was imposed as penalty.

- *People vs. Joel Ramos, et al.*
Crim. Case no. 15108-R,
for Robbery With Violence
(Exhibit "E")

As found by respondent, the provision applicable is article 294, par. 5 Of the revised penal code which provides a penalty of prision correccional in its maximum period to prision mayor in its medium period. However, he imposed upon the accused imprisonment from six (6) years and one (1) day, as minimum, to eight (8) years, as maximum. Again, he disregarded article 39 of the revised penal code and imposed subsidiary imprisonment in case of insolvency.

- *People vs. Manuel Carino*
Crim. Case No. 15544-R, for
Frustrated Homicide (Exhibit "F")

The accused pleaded guilty to attempted homicide and thus, the imposable penalty is prision correccional (art. 51 In rel. To art. 249, Rpc). Respondent, however, imposed the penalty of four (4) years, two (2) months and

one (1) day, as minimum, to six (6) years, as maximum. Notably, it was imposed in its maximum period without any finding of aggravating circumstance.

- People vs. German Abarquez,
et al. Crim. Case No. 3200,
for Robbery (Exhibit “G”)

As found by respondent, the penalty imposable is prision mayor. However, what he imposed was imprisonment from ten (10) years and one (1) day, as minimum, to twelve (12) years, as maximum. Again, the penalty imposed is in its maximum period without any express finding of aggravating circumstance.

- People vs. Rolando tawanna, et. al.
Crim. Case no. 7703-R, for Frustrated
Homicide (Exhibit “H”)

The penalty imposed is prision correccional (art. 50 In rel. To art. 249, Rpc) but respondent sentenced all accused to ten (10) years and one (1) day, as minimum, to twelve (12) years, as maximum, without any express finding of aggravating circumstance.

- People vs. Jose Tamo, et. al.
Crim. Case No. 13646-R, for
Frustrated Murder (Exhibit “I”)

The imposable penalty is prision mayor in its maximum period to reclusion temporal in its medium period (art. 50 In rel. To art. 248, Rpc) but the penalty imposed by respondent was fourteen (14) years, eight (8) months and one (1) day, as minimum, to seventeen (17) years and four (4) months, as maximum.

- People vs. Bernardo Polic-ew
Crim. Case No. 14054-R, for
Frustrated Murder (Exhibit “J”)

The penalty imposable is prision mayor (art. 50 In rel. To art. 249, Rpc) but respondent fixed the sentence at eleven (11) years, four (4) months and one (1) day, as minimum, to twelve (12) years, as maximum. Note that the penalty is in the maximum period without any express finding of aggravating circumstance.

- People vs. Johnson Simsim
Crim. Case No. 14524-R, for
Attempted Rape (Exhibit “K”)

It being in its attempted stage, the penalty imposable is prision mayor. However, the penalty imposed by respondent was ten (10) years and one (1) (sic), as minimum, to twelve (12) years, as maximum.

- People vs. Moses Polic-ew
Crim. Case No. 15600-R, for
Malversation of Public
Property (Exhibit “L”)

As found by respondent, accused violated par. 2 Of art. 217, Rpc, which provides a penalty of prision mayor in its minimum and medium periods. However, what he imposed was seven (7) years, four (4) months and one (1) day, as minimum, to eight (8) years, as maximum.

- People vs. Renato Bernal
Crim. Case No. 14776-R, for
Homicide (Exhibit “M”)

The imposable penalty for homicide is reclusion temporal. Again, in complete disregard of the indeterminate sentence law, respondent imposed fourteen (14) years, eight (8) months and one (1) day, as minimum, to seventeen (17) years and four (4) months, as maximum.

- People vs. John Baliling
Crim. Case No. 15932-R,
for Frustrated Homicide
(Exhibit “N”)

The offense charged is punishable by prision mayor. However, respondent imposed eight (8) years and one (1) day, as minimum, to ten (10) years, as maximum.

- People vs. Melchor Bawalan, et al.
Crim. Case No. 15653-R, for
Robbery with Violence (Exhibit “O”)

The offense charged is punishable under par. 5, Art. 294, Rpc, which provides a penalty of prision correccional in its maximum period to prision mayor in its medium period. However, respondent imposed eight (8) years and one (1) (sic) as minimum, to ten years, as maximum.

- People vs. Paul Afiagan
Crim. Case No. 13379-R, for
Frustrated Homicide (Exhibit “P”)

Accused pleaded guilty to attempted homicide punishable with imprisonment of prision correccional, but respondent fixed the penalty at four (4) years, two (2) months, and one (1) day, as minimum, to six (6) years, as maximum.

- People vs. Edwin Longaquit, et. al.
Crim. Case No. 13367-R, for
Frustrated Homicide (Exhibit “Q”)

The offense charged is punishable by imprisonment of prision mayor. Respondent imposed eight (8) years and one (1) day, as minimum, to ten (10) years, maximum.

- People vs. Joseph Samir Kairuz, et al.
Crim. Case No. 14929-R, for Estafa
(Exhibit “R”)

The amount involved was p90,000.00. Under the first paragraph of art. 315 Of the revised penal code, the imposable penalty is prision correccional in its maximum period to prision mayor in its minimum period, plus one year for every p10,000.00 since the amount involved exceeds p22,000.00. The sentence imposed by respondent, however, is twelve (12) years, eight (8) months, and twenty (21) days, as minimum, to fourteen (14) years, as maximum. Note that aside from not applying the indeterminate sentence law, the minimum of the penalty he imposed is beyond the penalty imposable under the law.

- People vs. Liwayway Cruz
Crim. Case No. 7304-R,
for Estafa (Exhibit “S”)

The amount involved is p29,470.00. Hence, pursuant to art. 315, Par. 1, Revised penal code, the imposable penalty is prision correccional in its maximum period to prision mayor in its minimum period. The penalty imposed by respondent was six (6) years, eight (8) months and twenty (21) days, as minimum, to eight (8) years, as maximum.

- People vs. Benjie Gose, et al.;
Crim. Case No. 149935-R, for
Robbery (Exhibit T")

The penalty imposable is prision mayor there being no evidence that accused carried arms during the robbery (art. 299, Rpc). Respondent, however, imposed a sentence of six (6) years and one (1) day, as minimum, to eight (8) years, as maximum. Note, too, that he imposed the same penalty upon accused mark joseph ocharan despite his findings that he was a minor during the commission of the crime. Minority is a privilege mitigating circumstance and thus, accused ocharan's penalty should have been lowered by one degree.[25]

Admittedly, judges cannot be held to account for erroneous judgments rendered in good faith, but this defense has been all too frequently cited to the point of staleness, even if not applicable,[26] as in the case at bar. Under the doctrine of *res ipsa loquitur*, the court may impose its authority upon erring judges whose actuations, on their face, would show gross incompetence, ignorance of the law or misconduct.[27] Herein reiterated is the pronouncement of the court in its decision of January 16, 2004 –

The application of the indeterminate sentence law in the imposition of penalties in crimes punishable by the revised penal code is a basic precept. The respondent judge's repeated misapplication thereof in quite a number of criminal cases he had rendered constitutes gross ignorance of the law. Indeed, judges are duty bound to have more than a cursory acquaintance with laws and jurisprudence. Failure to follow basic legal commands constitutes gross ignorance of the law from which no one may be excused, not even a judge.

The code of judicial conduct mandates that "a judge shall be faithful to the law and maintain professional competence." it bears stressing that –

... Competence is a mark of a good judge. When a judge displays an utter lack of familiarity with the rules, he erodes the public's confidence in the competence of our courts. Such is gross ignorance of the law. Having accepted the exalted position of a judge, he owes the public and the court the duty to be proficient in the law.

The respondent judge has utterly failed to live up to the standard of competence required of him. His erroneous application of the indeterminate sentence law committed not just once or twice but in at least seventeen (17) instances is a compelling evidence of his gross ignorance of the law.[28]

Every judge should know by heart the mandate of the constitution that "no decision shall be rendered by any court without expressing therein clearly and distinctly the facts and law on which it is based." [29] Section 1, rule 36 of the revised rules of court, as amended, further provides –

Section 1. Rendition of judgments and final orders. – A judgment or final order determining the merits of the case shall be in writing, personally and directly prepared by the judge, stating clearly and distinctly the facts and the law on which it is based, signed by him, and filed with the clerk of court.[30]

The filing with the clerk of court is the rendition of judgment, as distinguished from the promulgation thereof,[31] which, as pointed out by investigating justice mercedes gozo-dadole, is enunciated in section 6 of rule 120 of the rules of criminal procedure:

Sec. 6. Promulgation of judgment. – The judgment is promulgated by reading it in the presence of the accused and any judge of the court in which it was rendered. However, if the conviction is for a light offense, the judgment may be pronounced in the presence of his counsel or representative. When the judge is absent or outside the province or city, the judgment may be promulgated by the clerk of court.

...

In case the accused failed to appear at the scheduled date of promulgation of judgment despite notice, the promulgation shall be made by recording the judgment in the criminal docket and serving him a copy thereof at

his last known address or through his counsel.

There are two instances when judgment may be promulgated even without the personal presence of the accused: (1) when the judgment is for a light offense, in which case, the counsel for the accused or a representative may stand for him; and (2) in cases where despite due notice to the accused or his bondsman or warden and counsel, the accused failed to appear at the promulgation of the decision. The evident purpose of this latter exception is to afford the offended party the opportunity to enforce the award of civil indemnity which could not, otherwise, be effected if the decision cannot be pronounced on account of the absence of the accused.[32] A judgment or sentence does not become a judgment or sentence in law until the same has been read or announced to the defendant or has become part of the record of the court.[33] Parenthetically, when there is no valid promulgation of judgment, no right to appeal accrues.[34]

In the case at bar, the respondent required the counsel of the accused to stand in place of the latter while the judgment in a criminal case was being read in open court. As found by the investigating justice:

... Atty. Reynaldo u. Agranzamendez, while appearing as counsel de oficio for liwayway cruz in criminal case no. 7304-R for estafa last 29 july 1999, was extremely embarrassed when he was ordered by the respondent judge to stand in behalf of the accused, who was then absent despite due notice, and face the clerk of court during the reading of the full text of the decision when the case was called for promulgation. Accordingly, atty. Agranzamendez asked respondent judge to allow him to take his seat as there were several people inside the courtroom who, being unmindful of the rules might think that he was the accused. But his pleas, however, got respondent mad, for instead of allowing him to sit down, respondent instead banged his gavel and told atty. Agranzamendez not to argue with the court and to stand straight as he leaned over to avoid the glances of the clerk of court.[35]

Compounding the irregularity was the antedating of the decisions subsequently rendered by the respondent. We reiterate the findings of the investigating justice, to wit:

... Evidence on hand also reveals respondent's casual disregard of procedural rules, that is, when he promulgated a decision that has yet to be released as shown in the case of people v. Malapit, et al., docketed as criminal case nos. 15320-R, 15323-r and 1532327-r, and in people v. Cas, docketed as criminal case no. 15306-R.

While the supreme court has ruled in favor and in fact, encourages the practice of typing the dispositive portion of a decision at a date near or on the date of promulgation to preserve the sanctity of decisions, respondent's act of promulgating a decision that has yet to be released or for that matter is not ready for releasing on the date of promulgation is simply beyond comprehension.

Thus, as an offshoot of respondent's irregular procedure, atty. Lagdao of the office of the public assistance office, who represented the accused in both criminal cases filed the following notices of appeal, to wit:

In the malapit case:

"x x x hereby gives notice that she is appealing to the supreme court decision of the honorable court promulgated on 18 june 1999, copies of which the honorable court has yet to release despite the fact that the reglementary period for filing a motion for reconsideration of a notice of appeal is about to expire x x x."

In the cas case:

"x x x hereby gives notice that she is appealing to the court of appeals the decision of the honorable court promulgated on 22 june 1999, a copy of which the honorable court has yet to release x x x."

Finding the statement, "a copy of which the honorable court has yet to release" as so revolting, the respondent

then returned said notices to atty. Lagdao through regional director rogelio dael (re: p. Vs. Malapit case) and edgardo ancheta (re: p. Vs. Cas case) for the latter to change by deleting the objectionable portions, with the advisory that if such portions be not deleted, respondent would not act on the notices of appeal. Thus, afraid of the respondent's advice, atty. Lagdao did so as told, with the end in mind of not prejudicing his clients['] cause.[36]

On Arrogant, Oppressive and Improper Conduct

Under canon 1.01 of the code of judicial conduct, a judge is expected to be “the embodiment of competence, integrity, and independence” to maintain public confidence in the legal system.[37] Faith in the administration of justice exists only if every party-litigant is assured that the occupants of the bench are rich in moral fiber and strong in their grasp of legal principles.[38] Indeed, a judge's conduct must be beyond reproach.[39]

The respondent's opinion on the charges against him in the instant case was aptly summarized by him in his comment, as follows:

And while the complaint refers to conduct unbecoming specifically castigating respondent for his perceived arrogance, and/or ignorance of the law, what is the significance of it? I Believe it did not compromise the impartiality of the process of dispensing justice before the judicial courts that has brought the parties this far.[40]

The respondent must have forgotten the very mandate of the code of judicial conduct that “a judge should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary.”[41] It would do him well to remember that judges are held to higher standards of integrity and ethical conduct than attorneys or other persons not invested with the public trust. A judge's official conduct and his behavior in the performance of judicial duties should be free from the appearance of impropriety and must be beyond reproach.[42] By the very nature of the bench, judges, more than the average man, are required to observe an exacting standard of morality and decency. It is, therefore, paramount that a judge's personal behavior, both in the performance of his duties and his daily life, be free from the appearance of impropriety as to be beyond reproach.[43]

The respondent's treatment of lawyers appearing before his sala leaves much to be desired, thus:

The behavior of the respondent judge towards atty. Mandapat, i.e. Berating the latter in his cross-examination for repeating the questions already asked during the direct examination, betrayed his impatience in the conduct of the hearing. A display of petulance and impatience in the conduct of trial is a norm of behavior incompatible with the needful attitude and sobriety of a good judge.

The respondent's statement to the client that atty. Dacawi did not deserve to be paid as he did not do anything during the trial was uncalled for. Further, his act of requiring atty. Agranzamendez to take the place of the accused during the reading of the decision at the promulgation thereof was improper. These actuations of the respondent judge cannot be countenanced as they clearly violated rule 3.04 of canon 3 of the code of judicial conduct:

Rule 3.04. – A judge should be patient, attentive, and courteous to lawyers, especially the inexperienced, to litigants, witnesses, and others appearing before the court. A judge should avoid unconsciously falling into the attitude of mind that the litigants are made for the courts, instead of the courts for the litigants.

Apropos, this court has held:

... A judge should be courteous both in his conduct and in his language especially to those appearing before him. He can hold counsels to a proper appreciation of their duties to the court, their clients, and the public without being petty, arbitrary, overbearing, or tyrannical. He should refrain from conduct that demeans his office and remember always that courtesy begets courtesy. Above all, he must conduct himself in such a

manner that he gives no reason for reproach.

Clearly, the respondent judge has failed to observe courtesy and civility to the lawyers as well as to the litigants who appeared before him.[44]

Judges should be courteous to counsel, especially to those who are young and inexperienced, and also to all others concerned in the administration of justice in their courts. They should also require and, as far as their power extends, enforce on the part of clerks, court officers and counsel civility and courtesy to witnesses, litigants and others having business with the court.[45] Besides possessing the requisite learning in the law, a magistrate must exhibit that hallmark judicial temperament of utmost sobriety.[46] If the judge himself does not observe temperance and courtesy to his colleagues in the bench and the bar, how then can he expect to gain the respect of the community, as well as his contemporaries? In view of the primordial role of judges in the administration of justice, only those with irreproachable integrity must be entrusted with judicial powers.[47] A judge who tarnishes the image of the judiciary or brings it to public contempt, dishonor or disrespect must be administratively dealt with and punished accordingly.[48] Indeed, there is no place in the judiciary for those who cannot meet the exacting standards of judicial conduct and integrity.[49]

While the investigating justice did not find sufficient evidence to sustain the charges of graft and corruption against the respondent judge, she made the following findings:

The Code of Judicial Ethics mandates that the conduct of a judge must be free from any whiff to impropriety not only with respect to his judicial duties, but also to his behavior outside his sala. In the instant case, respondent's recommendation of Mr. Gula to be his driver despite the latter's lack of driver's license and inability to drive not only casts doubt in his integrity but also his honesty as a judge. More so, that Mr. Gula and herein respondent lived together in the same house.

Certainly, before one recommends another, it is the duty of the recommending authority to find out if the person recommended possess at least the minimum requirement/qualification needed for the job. The attendant circumstances in the present case reveals that respondent judge's act of recommending Mr. Gula (as driver), in his exalted position, deliberately or unconsciously made it possible to misguide the City Mayor or Baguio and the executive judge of the Regional Trial Court of Baguio to believe that Mr. Gula possessed the prescribed qualifications. Hence, respondent is liable for acts unbecoming a magistrate.[50]

Indeed, the respondent's actuations in this regard give rise to doubts as to his integrity and honesty, both as a person and a member of the bench, qualities which every magistrate should possess. Canon 2 of the code of judicial conduct further provides that "a judge should avoid impropriety and the appearance of impropriety in all activities." As we had the occasion to state in *OCA v. Judge Sanchez*: [51]

It is clear from the aforesaid provisions that both the reality and the appearance must concur. Case law repeatedly teaches that judicial office circumscribes the personal conduct of a judge and imposes a number of restrictions thereon, which he has to pay for accepting and occupying an exalted position in the administration of justice. The improper conduct of a judge erodes public confidence in the judiciary. It is, thus, the duty of the members of the bench to avoid any impression of impropriety to protect the image and integrity of the judiciary.

This reminder applies all the more sternly to municipal, metropolitan and regional trial court judges like herein respondent, because they are judicial front-liners who have direct contact with the litigating parties. They are the intermediaries between conflicting interests and the embodiments of the people's sense of justice. Thus, their official conduct should remain "free from any appearance of impropriety" and should be beyond reproach." [52]

The Respondent Should Be

Dismissed from the Service

Considering all the foregoing, I vote that the respondent be dismissed from the service.

Contrary to the claims of the respondent, the case of *State Prosecutors v. Judge Manuel Muro*[53] cannot support his prayer for a mere six-month suspension as penalty. The respondent judge in that case then had and attested to an “unsullied name and service record,” and made a commitment to the court to abide by the canons of judicial ethics as well as canon 2 of the code of judicial conduct.[54] The court therein stated that these were “favorable considerations warranting the commutation of respondent’s penalty of dismissal, if only to give him the chance to redeem himself from an error of this magnitude which he committed only for the first time.”[55]

In this case, however, the respondent made no such commitment. In fact, he insists that the one-year suspension meted against him is “so severe,” and, considering his long years of service in the government, he should be meted a lower penalty. Rather than consider this in his favor, this should be used against him. Having been in the government service for so long, he, more than anyone else, should know that public service is a public trust; that public service requires utmost integrity and strictest discipline, and, as such, a public servant must exhibit at all times the highest sense of honesty and integrity. This yardstick is imprinted in the 1987 constitution no less, under section 1 of article xi:

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.

To my mind, the respondent has not shown an iota of remorse or repentance for his violations. The court is wont to stress that the respondent has been previously held administratively liable. The dispositive portion of our ruling in *Gacayan v. Pamintuan*[56] reads as follows:

WHEREFORE, for violations of canon 2 of the Code of Judicial Conduct and Canon 3 of the Code of Judicial Ethics which amounts 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.[57]

The Court therein made the pronouncement that the respondent judge was “wanting in the desired level of mastery of a fundamental rule on criminal procedure.”[58] In that case, the accused filed a demurer to evidence and the respondent, without resolving the same and in blatant disregard of the rules of criminal procedure, still called witnesses who were not listed in the information as well as those who had already testified and appeared before him. This resulted in the re-opening of the case with respect to the presentation of evidence for the prosecution. When the accused filed a motion for inhibition and a motion to suspend further proceedings, the respondent judge denied the same. The respondent was also seen conferring with the witnesses for the prosecution, and later set the case for hearing without notice to the counsel of the accused. Thus, the respondent’s actuations in the instant case constitute “similar transgressions” of which he was sternly warned, and which the court avowed would be “dealt with more severely.”

All told, the respondent judge failed to live up to the exacting standards of his office. The magnitude of his transgressions, taken collectively, renders him unfit to don the judicial robe and to perform the functions of a

magistrate. Therefore, the imposition of the supreme penalty of dismissal is warranted.[59]

WHEREFORE, I vote that the Motion for Reconsideration of the Officers and Members of the IBP Baguio-Benguet Chapter be GRANTED. For gross ignorance of the law, delay in resolving motions submitted for resolution, arrogant, oppressive and improper conduct, and violation of the Code of Judicial Conduct, respondent Judge Fernando Vil Pamintuan, Regional Trial Court, Branch III, Baguio City, should be DISMISSED from the service with forfeiture of all benefits, except accrued leave credits, and with prejudice to any re-employment in any branch, agency or instrumentality of the government, including government-owned or controlled corporations.

[1] Promulgated January 16, 2004.

[2] Motion for Reconsideration dated February 9, 2004, p. 1.

[3] Id. At 3.

[4] Re: Release by Judge Manuel T. Muro, RTC, Br. 54, Manila, of an Accused in a Non-Bailable Offense, 367 SCRA 285 (2001); Dizon v. Calimag, 365 SCRA 448 (2001); Guray v. Bautista, 360 SCRA 488 (2001); Office of the Court Administrator v. Sanchez, 359 SCRA 577 (2001); Mamba v. Garcia, 359 SCRA 426 (2001); Re: An Undated Letter with the Heading “Expose” of a Concerned Mediaman on the Alleged Illegal Acts of Judge Julian C. Ocampo III, 359 SCRA 1 (2001); Agpalasin v. Agcaoili, 330 SCRA 250 (2000); Magarang v. Jardin, Sr., 330 SCRA 79 (2000); Castaños v. Escaño, Jr., 251 SCRA 174 (1995); State Prosecutors v. Muro, 236 SCRA 505 (1994); Chin v. Gustilo, 247 SCRA 175 (1995); Francisco v. Springael, 139 SCRA 107 (1985); Lantaco, Sr. v. Judge Llamas, 108 SCRA 502; Carreon v. Flores, 64 SCRA 238 (1975).

[5] 237 SCRA 1 (1994).

[6] Motion for Reconsideration dated February 9, 2004, pp. 5-7.

[7] Motion for Reconsideration dated February 3, 2004.

[8] 236 SCRA 505 (1994).

[9] 251 SCRA 111 (1995).

[10] The respondent judge in the said case was considered to have served his suspension, that is, from the time the first decision was promulgated (September 14, 1994) up to the promulgation of the resolution reinstating him (December 11, 1995).

[11] Comment dated May 24, 2004, p. 5 (Citations omitted).

[12] People v. Serrano, Sr., 315 SCRA 686 (1999); Bacar v. De Guzman, Jr., 271 SCRA 328 (1997); Carpio v. De Guzman, 262 SCRA 615 (1996); Ualat v. Ramos, 265 SCRA 345 (1996); Navarro v. Domagtoy, 259 SCRA 129 (1996); Mamolo, Sr. v. Narisma, 252 SCRA 613 (1996); Office of the Court Administrator v. Matas, 247 SCRA 9 (1995); Ortiz v. Palaypayon, 234 SCRA 391 (1994); Pagasian v. Azura, 184 SCRA 391 (1990); Inting v. Bernaldez, 64 SCRA 383 (1975).

[13] Comment dated May 25, 2004.

[14] A.M. No. RTJ-03-1771, May 27, 2004.

- [15] Guray v. Judge Bautista, *supra*; Arban v. Judge Borja, 227 Phil. 597 (1986), cited in Jordan P. Oktubre v. Judge Ramon P. Velasco, Municipal Trial Court, Maasin, Southern Leyte, A.M. No. MTJ 02-1444, July 22, 2004; see also Alday v. Cruz, Jr., 376 SCRA 12 (2002) and Torcende v. Sardido, 396 SCRA 11 (2003), where the respondent judge therein was dismissed for gross ignorance of the law and grave misconduct.
- [16] Randall-Lyon Garcia Bueno v. Judge Saidali M. Dimangadap, Municipal Circuit Trial Court, Malabang, Lanao del Sur, A.M. No. MTJ-02-1642, August 10, 2004.
- [17] Gozun v. Liangco, 339 SCRA 253 (2000).
- [18] Estoya v. Abraham-Singson, 237 SCRA 1 (1994).
- [19] Tabao v. Espina, 309 SCRA 273 (1999).
- [20] De Guzman, Jr. v. Sison, 355 SCRA 69 (2001), citing Rodriguez v. Bonifacio, 344 SCRA 519 (2000).
- [21] *Ibid*.
- [22] Capulong v. Gozum, 397 SCRA 486 (2003), citing Carpio v. De Guzman, 262 SCRA 615 (1996) and Aurillo, Jr. v. Francisco, 235 SCRA 283 (1994).
- [23] *Supra*.
- [24] *Id*. At 506-507. (Emphasis ours.)
- [25] Rollo, pp. 142-147.
- [26] Tabao v. Espina, 309 SCRA 273 (1999).
- [27] Cruz v. Yaneza, 304 SCRA 284 (1999), citing Macalintal v. Teh, 280 SCRA 623 (1997).
- [28] Decision in A.M. No. RTJ-02-1691 dated January 16, 2004, pp. 36-37.
- [29] Section 14, Article VIII.
- [30] Emphasis ours.
- [31] Estoya v. Abraham-Singson, *supra*.
- [32] Pamaran, The 1985 Rules on Criminal Procedure, 2001 ed., p. 451.
- [33] U.S. v. CFI of Manila, 24 Phil. 321.
- [34] People v. Jaranilla, 55 SCRA 565 (1974).
- [35] Report and Recommendation, p. 56.
- [36] Report and Recommendation, pp. 57-58.
- [37] Randall-Lyon Garcia Bueno v. Judge Saidali M. Dimangadap, *supra*.
- [38] Poso v. Mijares, 387 SCRA 485 (2002).
- [39] Canon 31, Canons of Judicial Ethics.
- [40] Comment dated May 26, 2004, p. 4.
- [41] Rule 2.01.

[42] Re: Procedure Adopted By Judge Daniel Liangco, Executive Judge, MTC, San Fernando, Pampanga, Re Raffle of Cases Under P.D. 1602, 337 SCRA 8 (2000).

[43] Dawa v. De Asa, 292 SCRA 703 (1998).

[44] Decision, pp. 41-42.

[45] Paragraph 10, Canons of Judicial Ethics.

[46] Torcende v. Sardido, *supra*.

[47] Jose E. Fernandez v. Judge Jaime T. Hamoy, Regional Trial Court, Branch 130, Caloocan City, A.M. No. RTJ-04-1821, August 12, 2004.

[48] Gozun v. Liangco, 339 SCRA 253 (2000).

[49] Office of the Court Administrator v. Barron, 297 SCRA 376 (1998).

[50] Report and Recommendation, pp. 59-60.

[51] 412 Phil. 174 (2001).

[52] *Id.* At 189-190.

[53] 236 SCRA 505 (1994).

[54] In his Motion for Reconsideration, Judge Muro made the following commitment to support his prayer for reinstatement in office:

a) he will avoid creating a situation that spawns suspicion of arbitrary and improper conduct (Canon of Judicial Ethics, par. 17);

b) he would 'adopt usual and expected method of doing justice and not seek to be extreme or peculiar in his judgment or spectacular or sensational in the conduct of the court.' (*Ibid*, par. 19);

c) he would avoid all appearances of impropriety, especially those that create suspicion of partiality, bias or improper motive. (*Ibid*, par. 3; Code of Judicial Conduct, Canon 2), *Id.* At 116-117.

[55] *Id.* At 117.

[56] 314 SCRA 682 (1999).

[57] *Id.* At 704.

[58] *Id.* At 703.

[59] Jose E. Fernandez v. Judge Jaime T. Hamoy, *supra*; see also Jordan P. Oktubre v. Judge Ramon P. Velasco, A.M. No. MTJ 02-1444, July 22, 2004.

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