

STATE PROSECUTORS, COMPLAINANTS, VS. JUDGE MANUEL T. MURO, REGIONAL TRIAL COURT, BRANCH 54, MANILA, RESPONDENT.

A.M. No. RTJ-92-876. September 19, 1994

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PER CURIAM:

In assaying the requisite norms for qualifications and eminence of a magistrate, legal authorities place a premium on how he has complied with his continuing duty to know the law. A quality thus considered essential to the judicial character is that of “a man of learning who spends tirelessly the weary hours after midnight acquainting himself with the great body of traditions and the learning of the law; is profoundly learned in all the learning of the law; and knows how to use that learning.”[1]

Obviously, it is the primary duty of a judge, which he owes to the public and to the legal profession, to know the very law he is supposed to apply to a given controversy. He is called upon to exhibit more than just a cursory acquaintance with the statutes and procedural rules. Party litigants will have great faith in the administration of justice if judges cannot justly be accused of apparent deficiency in their grasp of the legal principles. For, service in the judiciary means a continuous study and research on the law from beginning to end.[2]

In a letter-complaint[3] dated August 19, 1992, respondent Judge Manuel T. Muro of the Regional Trial Court (RTC) of Manila, Branch 54, was charged by State Prosecutors Nilo C. Mariano, George C. Dee and Paterno V. Tac-an with ignorance of the law, grave misconduct and violations of Rules 2.01, 3.01 and 3.02 of the Code of Judicial Conduct, committed as follows:

1. That on August 13, 1992, respondent judge issued an Order dismissing eleven (11) cases (docketed as Crim. Cases Nos. 92-101959 to 92--101969, inclusive) filed by the undersigned complainant prosecutors (members of the DOJ Panel of Prosecutors) against the accused Mrs. Imelda Romualdez Marcos, for Violation of Central Bank Foreign Exchange Restrictions, as consolidated in CB Circular No. 960, in relation to the penal provisions of Sec. 34 of R.A. 265, as amended, x x x;
2. That respondent Judge issued his Order solely on the basis of newspaper reports (August 11, 1992 issues of the Philippine Daily Inquirer and the Daily Globe) concerning the announcement on August 10, 1992 by the President of the Philippines of the lifting by the government of all foreign exchange restrictions and the arrival at such decision by the Monetary Board as per statement of Central Bank Governor Jose Cuisia;
3. That claiming that the reported announce-ment of the Executive Department on the lifting of foreign exchange restrictions by two newspapers which are reputable and of national circulation had the effect of repealing Central Bank Circular No. 960, as allegedly supported by Supreme Court decisions x x x, the Court contended that it was deprived of jurisdiction, and, therefore, *motu prop(r)io* had to dismiss all the eleven cases aforementioned “for not to do so opens this Court to charges of trying cases over which it has no more jurisdiction;”
4. That in dismissing aforecited cases on August 13, 1992 on the basis of a Central Bank Circular or Monetary Board Resolution which as of date hereof, has not even been officially issued, and basing his Order/decision on

a mere newspaper account of the advance announcement made by the President of the said fact of lifting or liberalizing foreign exchange controls, respondent judge acted prematurely and in indecent haste, as he had no way of determining the full intent of the new CB Circular or Monetary Board resolution, and whether the same provided for exception, as in the case of persons who had pending criminal cases before the courts for violations of Central Bank Circulars and/or regulations previously issued on the matter;

5. That respondent Judge's arrogant and cavalier posture in taking judicial notice purportedly as a matter of public knowledge a mere newspaper account that the President had announced the lifting of foreign exchange restrictions as basis for his assailed order of dismissal is highly irregular, erroneous and misplaced. For the respondent judge to take judicial notice thereof even before it is officially released by the Central Bank and its full text published as required by law to be effective shows his precipitate action in utter disregard of the fundamental precept of due process which the People is also entitled to and exposes his gross ignorance of the law, thereby tarnishing public confidence in the integrity of the judiciary. How can the Honorable Judge take judicial notice of something which has not yet come into force and the contents, shape and tenor of which have not yet been published and ascertained to be the basis of judicial action? The Honorable Judge had miserably failed to "endeavor diligently to ascertain the facts" in the case at bar contrary to Rule 3.02 of the Code of Judicial Conduct, constituting Grave Misconduct;

6. That respondent Judge did not even ha(ve) the prudence of requiring first the comment of the prosecution on the effect of aforesaid Central Bank Circular/Monetary Board resolution on the pending cases before dismissing the same, thereby denying the Government of its right to due process;

7. That the lightning speed with which respondent Judge acted to dismiss the cases may be gleaned from the fact that such precipitate action was undertaken despite already scheduled continuation of trial dates set in the order of the court (the prosecution having started presenting its evidence x x x) dated August 11, 1992 to wit: August 31, September 3, 10, 21, & 23 and October 1, 1992, all at 9:30 o'clock in the morning, in brazen disregard of all notions of fair play, thereby depriving the Government of its right to be heard, and clearly exposing his bias and partiality; and

8. That, in fact, the motive of respondent Judge in dismissing the case without even waiting for a motion to quash filed by the counsel for accused has even placed his dismissal Order suspect.

Pursuant to a resolution of this Court dated September 8, 1992, respondent judge filed his comment,[4] contending, inter alia, that there was no need to await publication of the Central Bank (CB) circular repealing the existing law on foreign exchange controls for the simple reason that the public announcement made by the President in several newspapers of general circulation lifting foreign exchange controls was total, absolute, without qualification, and was immediately effective; that having acted only on the basis of such announcement, he cannot be blamed for relying on the erroneous statement of the President that the new foreign exchange rules rendered moot and academic the cases filed against Mrs. Marcos, and which was corrected only on August 17, 1992 but published in the newspapers on August 18, 1992, and only after respondent judge had issued his order of dismissal dated August 13, 1992; that the President was ill-advised by his advisers and, instead of rescuing the Chief Executive from embarrassment by assuming responsibility for errors in the latter's announcement, they chose to toss the blame for the consequence of their failures to respondent judge who merely acted on the basis of the announcements of the President which had become of public knowledge; that the "saving clause" under CB Circular No. 1353 specifically refers only to pending actions or investigations involving violations of CB Circular No. 1318, whereas the eleven cases dismissed involved charges for violations of CB Circular No. 960, hence the accused cannot be tried and convicted under a law different from that under which she was charged; that assuming that respondent judge erred in issuing the order of dismissal, the proper remedy should have been an appeal therefrom but definitely not an administrative complaint for his dismissal; that a mistake committed by a judge should not necessarily be imputed as ignorance of the law; and that a "court can reverse or modify a doctrine but

it does not show ignorance of the justices or judges whose decisions were reversed or modified” because “even doctrines initiated by the Supreme Court are later reversed, so how much more for the lower courts?”

He further argued that no hearing was necessary since the prosecution had nothing to explain because, as he theorized, “What explanation could have been given? That the President was talking ‘through his hat’ (to use a colloquialism) and should not be believed? That I should wait for the publication (as now alleged by complainants), of a still then non-existent CB circular? x x x As it turned out, CB Circular No. 3153 (sic) does not affect my dismissal order because the said circular’s so-called saving clause does not refer to CB Circular 960 under which the charges in the dismissed cases were based;” that it was discretionary on him to take judicial notice of the facts which are of public knowledge, pursuant to Section 2 of Rule 129; that the contention of complainants that he acted prematurely and in indecent haste for basing his order of dismissal on a mere newspaper account is contrary to the wordings of the newspaper report wherein the President announced the lifting of controls as an accomplished fact, not as an intention to be effected in the future, because of the use of the present perfect tense or past tense “has lifted,” not that he “intends to lift,” foreign exchange controls.

Finally, respondent judge asseverates that complainants who are officers of the Department of Justice, violated Section 6, Rule 140 of the Rules of Court which provides that “proceedings against judges of first instance shall be private and confidential” when they caused to be published in the newspapers the filing of the present administrative case against him; and he emphasizes the fact that he had to immediately resolve a simple and pure legal matter in consonance with the admonition of the Supreme Court for speedy disposition of cases.

In their reply[5] and supplemental reply,[6] complainants aver that although the saving clause under Section 16 of CB Circular No. 1353 made specific reference to CB Circular No. 1318, it will be noted that Section 111 of Circular No. 1318, which contains a saving clause substantially similar to that of the new circular, in turn refers to and includes Circular No. 960. Hence, whether under Circular No. 1318 or Circular No. 1353, pending cases involving violations of Circular No. 960 are excepted from the coverage thereof. Further, it is alleged that the precipitate dismissal of the eleven cases, without according the prosecution the opportunity to file a motion to quash or a comment, or even to show cause why the cases against accused Imelda R. Marcos should not be dismissed, is clearly reflective of respondent’s partiality and bad faith. In effect, respondent judge acted as if he were the advocate of the accused.

On December 9, 1993, this Court issued a resolution referring the complaint to the Office of the Court Administrator for evaluation, report and recommendation, pursuant to Section 7, Rule 140 of the Rules of Court, as revised, there being no factual issues involved. The corresponding report and recommendation,[7] dated February 14, 1994, was submitted by Deputy Court Administrator Juanito A. Bernad, with the approval of Court Administrator Ernani Cruz-Paño.

The questioned order[8] of respondent judge reads as follows:

These eleven (11) cases are for Violation of Central Bank Foreign Exchange Restrictions as consolidated in CB Circular No. 960 in relation to the penal provision of Sec. 34 of R.A. 265, as amended.

The accused Mrs. Imelda R. Marcos pleaded not guilty to all these cases; apparently the other accused in some of these cases, Roberto S. Benedicto, was not arrested and therefore the Court did not acquire jurisdiction over his person; trial was commenced as against Mrs. Marcos.

His Excellency, the President of the Philippines, announced on August 10, 1992 that the government has lifted all foreign exchange restrictions and it is also reported that Central Bank Governor Jose Cuisia said that the Monetary Board arrived at such decision (issue of the Philippine Daily Inquirer, August 11, 1992 and issue of the Daily Globe of the same date). The Court has to give full confidence and credit to the reported

announcement of the Executive Department, specially from the highest official of that department; the Courts are charged with judicial notice of matters which are of public knowledge, without introduction of proof, the announcement published in at least the two newspapers cited above which are reputable and of national circulation.

Per several cases decided by the Supreme Court (People vs. Alcaras, 56 Phil. 520, People vs. Francisco, 56 Phil. 572, People vs. Pastor, 77 Phil. 1000, People vs. Crisanto Tamayo, 61 Phil. 225), among others, it was held that the repeal of a penal law without re-enactment extinguishes the right to prosecute or punish the offense committed under the old law and if the law repealing the prior penal law fails to penalize the acts which constituted the offense defined and penalized in the repealed law, the repealed law carries with it the deprivation of the courts of jurisdiction to try, convict and sentence persons charged with violations of the old law prior to its repeal. Under the aforesaid decisions this doctrine applies to special laws and not only to the crimes punishable in the Revised Penal Code, such as the Import Control Law. The Central Bank Circular No. 960 under which the accused Mrs. Marcos is charged is considered as a penal law because violation thereof is penalized with specific reference to the provision of Section 34 of Republic Act 265, which penalizes violations of Central Bank Circular No. 960, produces the effect cited in the Supreme Court decisions and since according to the decisions that repeal deprives the Court of jurisdiction, this Court motu proprio dismisses all the eleven (11) cases as aforesaid in the caption, for not to do so opens this Court to charges of trying cases over which it has no more jurisdiction.

This order was subsequently assailed in a petition for certiorari filed with the Court of Appeals, entitled “People of the Philippines vs. Hon. Manuel T. Muro, Judge, RTC of Manila, Br. 54 and Imelda R. Marcos,” docketed as CA-G.R. SP No. 29349. When required to file her comment, private respondent Marcos failed to file any. Likewise, after the appellate court gave due course to the petition, private respondent was ordered, but again failed despite notice, to file an answer to the petition and to show cause why no writ of preliminary injunction should issue. Eventually, on April 29, 1993, the Court of Appeals rendered a decision^[9] setting aside the order of August 13, 1992, and reinstating Criminal Cases Nos. 92-101959 to 92-101969.

In finding that respondent judge acted in excess of jurisdiction and with grave abuse of discretion in issuing the order of dismissal, the appellate court held that:

The order was issued motu proprio, i.e., without any motion to dismiss filed by counsel for the accused, without giving an opportunity for the prosecution to be heard, and solely on the basis of newspaper reports announcing that the President has lifted all foreign exchange restrictions.

The newspaper report is not the publication required by law in order that the enactment can become effective and binding. Laws take effect after fifteen days following the completion of their publication in the Official Gazette or in a newspaper of general circulation unless it is otherwise provided (Section 1, Executive Order No. 200). The full text of CB Circular 1353, series of 1992, entitled ‘Further Liberalizing Foreign Exchange Regulation’ was published in the August 27, 1992 issue of the Manila Chronicle, the Philippine Star and the Manila Bulletin. Per certification of the CB Corporate Affairs Office, CB Circular No. 1353 took effect on September 2 x x x.

Considering that respondent judge admittedly had not seen the official text of CB Circular No. 1353, he was in no position to rule judiciously on whether CB Circular No. 960, under which the accused Mrs. Marcos is charged, was already repealed by CB Circular No. 1353. x x x

x x x

A cursory reading of the x x x provision would have readily shown that the repeal of the regulations on non-trade foreign exchange transactions is not absolute, as there is a provision that with respect to violations of former regulations that are the subject of pending actions or investigations, they shall be governed by the

regulations existing at the time the cause of action (arose). Thus his conclusion that he has lost jurisdiction over the criminal cases is precipitate and hasty. Had he awaited the filing of a motion to dismiss by the accused, and given opportunity for the prosecution to comment/oppose the same, his resolution would have been the result of deliberation, not speculation.

I. The doctrine of judicial notice rests on the wisdom and discretion of the courts. The power to take judicial notice is to be exercised by courts with caution; care must be taken that the requisite notoriety exists; and every reasonable doubt on the subject should be promptly resolved in the negative.[10]

Generally speaking, matters of judicial notice have three material requisites: (1) the matter must be one of common and general knowledge; (2) it must be well and authoritatively settled and not doubtful or uncertain; and (3) it must be known to be within the limits of the jurisdiction of the court.[11] The principal guide in determining what facts may be assumed to be judicially known is that of notoriety.[12] Hence, it can be said that judicial notice is limited to facts evidenced by public records and facts of general notoriety.[13]

To say that a court will take judicial notice of a fact is merely another way of saying that the usual form of evidence will be dispensed with if knowledge of the fact can be otherwise acquired.[14] This is because the court assumes that the matter is so notorious that it will not be disputed.[15] But judicial notice is not judicial knowledge. The mere personal knowledge of the judge is not the judicial knowledge of the court, and he is not authorized to make his individual knowledge of a fact, not generally or professionally known, the basis of his action. Judicial cognizance is taken only of those matters which are “commonly” known.[16]

Things of “common knowledge,” of which courts take judicial notice, may be matters coming to the knowledge of men generally in the course of the ordinary experiences of life, or they may be matters which are generally accepted by mankind as true and are capable of ready and unquestioned demonstration.[17] Thus, facts which are universally known, and which may be found in encyclopedias, dictionaries or other publications, are judicially noticed, provided they are of such universal notoriety and so generally understood that they may be regarded as forming part of the common knowledge of every person.[18]

Respondent judge, in the guise of exercising discretion and on the basis of a mere newspaper account which is sometimes even referred to as hearsay evidence twice removed, took judicial notice of the supposed lifting of foreign exchange controls, a matter which was not and cannot be considered of common knowledge or of general notoriety. Worse, he took cognizance of an administrative regulation which was not yet in force when the order of dismissal was issued. Jurisprudence dictates that judicial notice cannot be taken of a statute before it becomes effective.[19] The reason is simple. A law which is not yet in force and hence, still inexistent, cannot be of common knowledge capable of ready and unquestionable demonstration, which is one of the requirements before a court can take judicial notice of a fact.

Evidently, it was impossible for respondent judge, and it was definitely not proper for him, to have taken cognizance of CB Circular No. 1353, when the same was not yet in force at the time the improvident order of dismissal was issued.

II. Central Bank Circular No. 1353, which took effect on September 1, 1992, further liberalized the foreign exchange regulations on receipts and disbursements of residents arising from non-trade and trade transactions. Section 16 thereof provides for a saving clause, thus:

“Section 16. Final Provisions of CB Circular No. 1318. - All the provisions in Chapter X of CB Circular No. 1318 insofar as they are not inconsistent with, or contrary to the provisions of this Circular, shall remain in full force and effect: Provided, however, that any regulation on non-trade foreign exchange transactions which has been repealed, amended or modified by this Circular, violations of which are the subject of pending actions or

investigations, shall not be considered repealed insofar as such pending actions or investigations are concerned, it being understood that as to such pending actions or investigations, the regulations existing at the time the cause of action accrued shall govern.”

Respondent judge contends that the saving clause refers only to the provisions of Circular No. 1318, whereas the eleven criminal cases he dismissed involve a violation of CB Circular No. 960. Hence, he insists, Circular No. 960 is deemed repealed by the new circular and since the former is not covered by the saving clause in the latter, there is no more basis for the charges involved in the criminal cases which therefore warrant a dismissal of the same. The contention is patently unmeritorious.

Firstly, the second part of the saving clause in Circular No. 1353 explicitly provides that “any regulation on non-trade foreign transactions which has been repealed, amended or modified by this Circular, violations of which are the subject of pending actions or investigations, shall not be considered repealed insofar as such pending actions or investigations are concerned, it being understood that as to such pending actions or investigations, the regulations existing at the time the cause of action accrued shall govern.” The terms of the circular are clear and unambiguous and leave no room for interpretation. In the case at bar, the accused in the eleven cases had already been arraigned, had pleaded not guilty to the charges of violations of Circular No. 960, and said cases had already been set for trial when Circular No. 1353 took effect. Consequently, the trial court was and is supposed to proceed with the hearing of the cases in spite of the existence of Circular No. 1353.

Secondly, had respondent judge only bothered to read a little more carefully the texts of the circulars involved, he would have readily perceived and known that Circular No. 1318 also contains a substantially similar saving clause as that found in Circular No. 1353, since Section 111 of the former provides:

Section 111. Repealing clause. - All existing provisions of Circulars 365, 960 and 1028, including amendments thereto, with the exception of the second paragraph of Section 68 of Circular 1028, as well as all other existing Central Bank rules and regulations or parts thereof, which are inconsistent with or contrary to the provisions of this Circular, are hereby repealed or modified accordingly: Provided, however, that regulations, violations of which are the subject of pending actions or investigations, shall be considered repealed insofar as such pending actions or investigations are concerned, it being understood that as to such pending actions or investigations, the regulations existing at the time the cause of action accrued shall govern.

It unequivocally appears from the section above quoted that although Circular No. 1318 repealed Circular No. 960, the former specifically excepted from its purview all cases covered by the old regulations which were then pending at the time of the passage of the new regulations. Thus, any reference made to Circular No. 1318 necessarily involves and affects Circular No. 960.

III. It has been said that next in importance to the duty of rendering a righteous judgment is that of doing it in such a manner as will beget no suspicion of the fairness and integrity of the judge.[20] This means that a judge should not only render a just, correct and impartial decision but should do so in such a manner as to be free from any suspicion as to its fairness and impartiality and as to his integrity. While a judge should possess proficiency in law in order that he can competently construe and enforce the law, it is more important that he should act and behave in such a manner that the parties before him should have confidence in his impartiality. Thus, it is not enough that he decides cases without bias and favoritism. Nor is it sufficient that he in fact rids himself of prepossessions. His actions should moreover inspire that belief. Like Caesar’s wife, a judge must not only be pure but beyond suspicion.[21]

Moreover, it has always heretofore been the rule that in disposing of controverted cases, judges should show their full understanding of the case, avoid the suspicion of arbitrary conclusion, promote confidence in their intellectual integrity and contribute useful precedents to the growth of the law.[22] A judge should be mindful that his duty is

the application of general law to particular instances, that ours is a government of laws and not of men, and that he violates his duty as a minister of justice under such a system if he seeks to do what he may personally consider substantial justice in a particular case and disregards the general law as he knows it to be binding on him. Such action may have detrimental consequences beyond the immediate controversy. 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 the law.[23] These are immutable principles that go into the very essence of the task of dispensing justice and we see no reason why they should not be duly considered in the present case.

The assertion of respondent judge that there was no need to await publication of Circular No. 1353 for the reason that the public announcement made by the President in several newspapers of general circulation lifting foreign exchange controls is total, absolute, without qualification, and immediately effective, is beyond comprehension. As a judge of the Regional Trial Court of Manila, respondent is supposed to be well-versed in the elementary legal mandates on the publication of laws before they take effect. It is inconceivable that respondent should insist on an altogether different and illogical interpretation of an established and well-entrenched rule if only to suit his own personal opinion and, as it were, to defend his indefensible action. It was not for him to indulge or even to give the appearance of catering to the at-times human failing of yielding to first impressions.[24] He having done so, in the face of the foregoing premises, this Court is hard put to believe that he indeed acted in good faith.

IV. This is not a simple case of a misapplication or erroneous interpretation of the law. The very act of respondent judge in altogether dismissing sua sponte the eleven criminal cases without even a motion to quash having been filed by the accused, and without at least giving the prosecution the basic opportunity to be heard on the matter by way of a written comment or on oral argument, is not only a blatant denial of elementary due process to the Government but is palpably indicative of bad faith and partiality.

The avowed desire of respondent judge to speedily dispose of the cases as early as possible is no license for abuse of judicial power and discretion,[25] nor does such professed objective, even if true, justify a deprivation of the prosecution's right to be heard and a violation of its right to due process of law.[26]

The lightning speed, to borrow the words of complainants, with which respondent judge resolved to dismiss the cases without the benefit of a hearing and without reasonable notice to the prosecution inevitably opened him to suspicion of having acted out of partiality for the accused. Regardless of how carefully he may have evaluated changes in the factual situation and legal standing of the cases, as a result of the newspaper report, the fact remains that he gave the prosecution no chance whatsoever to show or prove that it had strong evidence of the guilt of the accused. To repeat, he thereby effectively deprived the prosecution of its right to due process.[27] More importantly, notwithstanding the fact that respondent was not sure of the effects and implications of the President's announcement, as by his own admission he was in doubt whether or not he should dismiss the cases,[28] he nonetheless deliberately refrained from requiring the prosecution to comment thereon. In a puerile defense of his action, respondent judge can but rhetorically ask: "What explanation could have been given? That the President was talking 'through his hat' and should not be believed? That I should wait for the publication of a still then non-existent CB Circular?" The pretended cogency of this ratiocination cannot stand even the minutest legal scrutiny.

In order that bias may not be imputed to a judge, he should have the patience and circumspection to give the opposing party a chance to present his evidence even if he thinks that the oppositor's proofs might not be adequate to overthrow the case for the other party. A display of petulance and impatience in the conduct of the trial is a norm of conduct which is inconsistent with the "cold neutrality of an impartial judge." [29] At the very least, respondent judge acted injudiciously and with unjustified haste in the outright dismissal of the eleven cases, and thereby rendered his actuation highly dubious.

V. It bears stressing that the questioned order of respondent judge could have seriously and substantially affected the rights of the prosecution had the accused invoked the defense of double jeopardy, considering that the dismissal was ordered after arraignment and without the consent of said accused. This could have spawned legal complications and inevitable delay in the criminal proceedings, were it not for the holding of the Court of Appeals that respondent judge acted with grave abuse of discretion amounting to lack of jurisdiction. This saved the day for the People since in the absence of jurisdiction, double jeopardy will not set in. To stress this point, and as a caveat to trial courts against falling into the same judicial error, we reiterate what we have heretofore declared:

It is settled doctrine that double jeopardy cannot be invoked against this Court's setting aside of the trial court's judgment of dismissal or acquittal where the prosecution which represents the sovereign people in criminal cases is denied due process. x x x.

Where the prosecution is deprived of a fair opportunity to prosecute and prove its case, its right to due process is thereby violated.

The cardinal precept is that where there is a violation of basic constitutional rights, courts are ousted of their jurisdiction. Thus, the violation of the State's right to due process raises a serious jurisdictional issue x x x which cannot be glossed over or disregarded at will. Where the denial of the fundamental right of due process is apparent, a decision rendered in disregard of that right is void for lack of jurisdiction x x x.[30]

It is also significant that accused Marcos, despite due notice, never submitted either her comment on or an answer to the petition for certiorari as required by the Court of Appeals, nor was double jeopardy invoked in her defense. This serves to further underscore the fact that the order of dismissal was clearly unjustified and erroneous. Furthermore, considering that the accused is a prominent public figure with a record of influence and power, it is not easy to allay public skepticism and suspicions on how said dismissal order came to be, to the consequent although undeserved discredit of the entire judiciary.

VI. To hold a judge liable for rendering a manifestly unjust order through inexcusable negligence or ignorance, it must be clearly shown that although he has acted without malice, he failed to observe in the performance of his duty that diligence, prudence and care which the law is entitled to exact in the rendering of any public service. Negligence and ignorance are inexcusable if they imply a manifest injustice which cannot be explained by a reasonable interpretation, and even though there is a misunderstanding or error of the law applied, it nevertheless results logically and reasonably, and in a very clear and indisputable manner, in the notorious violation of the legal precept.[31]

In the present case, a cursory perusal of the comment filed by respondent judge reveals that no substantial argument has been advanced in plausible justification of his act. He utterly failed to show any legal, factual, or even equitable justification for the dismissal of the eleven criminal cases. The explanation given is no explanation at all. The strained and fallacious submissions therein do not speak well of respondent and cannot but further depreciate his probity as a judge. On this point, it is best that pertinent unedited excerpts from his comment[32] be quoted by way of graphic illustration and emphasis:

On the alleged ignorance of the law imputed to me, it is said that I issued the Order dismissing the eleven (11) cases against Mrs. Imelda R. Marcos on the basis of newspaper reports referred to in paragraph 2 of the letter complaint without awaiting the official publication of the Central Bank Circular. Ordinarily a Central Bank Circular/Resolution must be published in the Official Gazette or in a newspaper of general circulation, but the lifting of "all foreign exchange controls" was announced by the President of the Philippines WITHOUT QUALIFICATIONS; as published in the Daily Globe, August 11, 1992" the government has lifted ALL foreign exchange controls," and in the words of the Philippine Daily Inquirer report of the same date "The government yesterday LIFTED the LAST remaining restrictions on foreign exchange transactions, x x x"

(emphasis in both quotations supplied) not only the President made the announcement but also the Central Bank Governor Jose Cuisia joined in the announcement by saying that “the Monetary Board arrived at the decision after noting how the ‘partial liberalization’ initiated early this year worked.”

Therefore, because of the ABSOLUTE lifting of ALL restrictions on foreign exchange transactions, there was no need to await the publication of the repealing circular of the Central Bank. The purpose of requiring publication of laws and administrative rules affecting the public is to inform the latter as to how they will conduct their affairs and how they will conform to the laws or the rules. In this particular case, with the total lifting of the controls, there is no need to await publication. It would have been different if the circular that in effect repealed Central Bank Circular No. 960, under which the accused was charged in the cases dismissed by me, had provided for penalties and/or modified the provisions of said Circular No. 960.

The Complainants state that the lifting of controls was not yet in force when I dismissed the cases but it should be noted that in the report of the two (2) newspapers aforementioned, the President’s announcement of the lifting of controls was stated in the present perfect tense (Globe) or past tense (Inquirer). In other words, it has already been lifted; the announcement did not say that the government INTENDS to lift all foreign exchange restrictions but instead says that the government “has LIFTED all foreign exchange controls,” and in the other newspaper cited above, that “The government yesterday lifted the last remaining restrictions on foreign exchange transactions”. The lifting of the last remaining exchange regulations effectively cancelled or repealed Circular No. 960.

The President, who is the Chief Executive, publicly announced the lifting of all foreign exchange regulations. The President has within his control directly or indirectly the Central Bank of the Philippines, the Secretary of Finance being the Chairman of the Monetary Board which decides the policies of the Central Bank.

No official bothered to correct or qualify the President’s announcement of August 10, published the following day, nor made an announcement that the lifting of the controls do not apply to cases already pending, not until August 17 (the fourth day after my Order, and the third day after report of said order was published) and after the President said on August 17, reported in the INQUIRER’S issue of August 18, 1992, that the “new foreign exchange rules have nullified government cases against Imelda R. Marcos, telling reporters that the charges against the widow of former President Marcos ‘have become moot and academic’ because of new ruling(s) which allow free flow of currency in and out of the country” (Note, parenthetically, the reference to “new rules” not to “rules still to be drafted”). The INQUIRER report continues: “A few hours later, presidential spokeswoman Annabelle Abaya said, ramos (sic) had ‘corrected himself’.” “He had been belatedly advised by the Central Bank Governor Jose Cuisia and Justice Secretary Franklin Drilon that the Monetary Board Regulation excluded from its coverage all criminal cases pending in court and such a position shall stand legal scrutiny’, Mrs. Abaya, said.”

I will elaborate on two points:

1. If the President was wrong in making the August 10 announcement (published in August 11, 1992, newspapers) and in the August 17 announcement, SUPRA, and thus I should not have relied on the Presidential announcements, and there is basis to conclude that the President was at the very least ILL-SERVED by his financial and legal advisers, because no one bothered to advise the President to correct his announcements, not until August 17, 1992, a few hours after the President had made another announcement as to the charges against Imelda Marcos having been rendered moot and academic. The President has a lot of work to do, and is not, to my knowledge, a financier, economist, banker or lawyer. It therefore behooved his subalterns to give him timely (not “belated”) advice, and brief him on matters of immediate and far-reaching concerns (such as the lifting of foreign exchange controls, designed, among others to encourage the entry of foreign investments). Instead of rescuing the Chief Executive from embarrassment by assuming responsibility for errors in the latter’s announcement, these advisers have chosen to toss the blame for the consequence of their failing to me, who only acted on the basis of announcements of their Chief, which had become of public

knowledge.

x x x

The Court strongly feels that it has every right to assume and expect that respondent judge is possessed with more than ordinary credentials and qualifications to merit his appointment as a presiding judge in the Regional Trial Court of the National Capital Judicial Region, stationed in the City of Manila itself. It is, accordingly, disheartening and regrettable to note the nature of the arguments and the kind of logic that respondent judge would want to impose on this Court notwithstanding the manifest lack of cogency thereof. This calls to mind similar scenarios and how this Court reacted thereto.

In one case, an RTC Judge was administratively charged for acquitting the accused of a violation of CB Circular No. 960 despite the fact that the accused was apprehended with US\$355,349.00 while boarding a plane for Hongkong, erroneously ruling that the State must first prove criminal intent to violate the law and benefit from the illegal act, and further ordering the return of US\$3,000.00 out of the total amount seized, on the mistaken interpretation that the CB circular exempts such amount from seizure. Respondent judge therein was ordered dismissed from the government service for gross incompetence and ignorance of the law.[33]

Subsequently, the Court dismissed another RTC judge, with forfeiture of retirement benefits, for gross ignorance of the law and for knowingly rendering an unjust order or judgment when he granted bail to an accused charged with raping an 11-year old girl, despite the contrary recommendation of the investigating judge, and thereafter granted the motion to dismiss the case allegedly executed by the complainant.[34]

Similarly, an RTC judge who was described by this Court as one “who is ignorant of fairly elementary and quite familiar legal principles and administrative regulations, has a marked penchant for applying unorthodox, even strange theories and concepts in the adjudication of controversies, exhibits indifference to and even disdain for due process and the rule of law, applies the law whimsically, capriciously and oppressively, and displays bias and impartiality,” was dismissed from the service with forfeiture of all retirement benefits and with prejudice to reinstatement in any branch of the government or any of its agencies or instrumentalities.[35]

Still in another administrative case, an RTC judge was also dismissed by this Court 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.[36]

Only recently, an RTC judge who had been reinstated in the service was dismissed after he acquitted all the accused in four criminal cases for illegal possession of firearms, on the ground that there was no proof of malice or deliberate intent on the part of the accused to violate the law. The Court found him guilty of gross ignorance of the law, his error of judgment being almost deliberate and tantamount to knowingly rendering an incorrect and unjust judgment.[37]

ACCORDINGLY, on the foregoing premises and considerations, the Court finds respondent Judge Manuel T. Muro guilty of gross ignorance of the law. He is hereby **DISMISSED** from the service, such dismissal to carry with it cancellation of eligibility, forfeiture of leave credits and retirement benefits, and disqualification from reemployment in the government service.[38]

Respondent is hereby ordered to **CEASE** and **DESIST** immediately from rendering any judgment or order, or continuing any judicial action or proceeding whatsoever, effective upon receipt of this decision.

SO ORDERED.

Cruz, Feliciano, Padilla, Regalado, Davide, Jr., Romero, Melo, Quiason, Puno, Vitug, and Kapunan, JJ., concur.
Narvasa, C.J., concurs but vote for the penalty of SUSPENSION for the basic reasons of the dissenting opinion.
Bidin, J., on official leave.
Bellosillo, J., in his dissent.

[1] Malcolm, Legal and Judicial Ethics, 1949 ed., 200.

[2] Agpalo, Legal Ethics, 1988, 4th ed., 454.

[3] Rollo, 3

[4] Rollo, 21.

[5] Rollo, 55.

[6] Ibid., 63.

[7] Rollo, 88.

[8] Ibid., 8.

[9] Justice Minerva P. Gonzaga-Reyes, ponente, with Justices Luis A. Javellana and Consuelo Ynares-Santiago, concurring; Rollo, 80.

[10] 31 C.J.S., Evidence, Sec. 13, 843.

[11] 20 Am. Jur., Evidence, Sec. 17, 48.

[12] King vs. Gallun, et al., 109 U.S. 99, 27 L. ed. 870.

[13] 31 C.J.S., Evidence, Secs. 6-7, 823.

[14] Francisco, Rules of Court, 1973 ed., Vol. VII, Part I, 71.

[15] Wigmore on Evidence, Vol. IX, Sec. 2567, 535.

[16] Op. cit., 71-72.

[17] Roden vs. Connecticut Co., et al., 155 A. 721.

[18] Francisco, Rules of Court, 1973 ed., Vol. VIII, Part I, 81.

[19] State ex rel. Brunjies vs. Bockelman, et al., 240 S.W. 209.

[20] Luque vs. Kayanan, et al., G.R. No. L-26826, August 29, 1969, 29 SCRA 165.

[21] Agpalo, Legal Ethics, 1988, 4th ed., 454-455.

[22] Canon 17, Canons of Judicial Ethics.

[23] Canon 18, id.

[24] Castillo, et al. vs. Juan, G.R. Nos. 39516-17, January 28, 1975, 62 SCRA 124.

[25] Olaivar vs. Cinco, A.M. No. 45-MJ, March 29, 1974, 56 SCRA 232.

- [26] Cf. *Alejandro vs. Pepito*, G.R. No. 52090, February 21, 1980, 96 SCRA 322.
- [27] Cf. *Piedra, et al. vs. Imbing*, A.M. No. RTJ-89-336, Resolution En Banc, October 4, 1990.
- [28] Comment, 10-11; Rollo, 30-31.
- [29] *Santiago, et al. vs. Santos*, A.M. No. 772-CJ, April 18, 1975, 63 SCRA 392.
- [30] *Galman, et al. vs. Sandiganbayan, et al.*, G.R. No. 72670, September 12, 1986, 144 SCRA 43.
- [31] See *In re: Rafael C. Climaco*, Adm. Case No. 134-J, January 21, 1974, 55 SCRA 107.
- [32] Rollo, 32-35.
- [33] *Padilla vs. Dizon*, Adm. Case No. 3086, February 23, 1988, 158 SCRA 127.
- [34] *Buenavista, Jr. vs. Garcia*, A.M. No. RTJ-88-246, July 19, 1990, 187 SCRA 598.
- [35] *Garganera vs. Jocson*, A.M. No. RTJ-88-227, September 1, 1992, 213 SCRA 149.
- [36] *Uy, et al. vs. Dizon-Capulong*, A.M. No. RTJ-91-766, April 7, 1993, 221 SCRA 87.
- [37] *Zuño vs. Dizon*, A.M. No. RTJ-91-752, June 23, 1993.
- [38] Section 9, Rule 14 of the Omnibus Rules Implementing Book V of Executive Order No. 292 (Administrative Code of 1987).

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DISSENTING OPINION

BELLOSILLO, J.:

In other jurisdictions, it is generally accepted that judges are not accountable by way of either civil suit or discipline for their official acts, even if clearly erroneous. Thus, open disregard of statutes, rules, and cases has been held to be protected official activity. Although a decision may seem so erroneous as to raise doubts concerning a judge's integrity or physiological condition, absent extrinsic evidence, the decision itself is insufficient to establish a case against the judge. The rule is consistent with the concept of judicial independence. An honest judge, if he were denied the protection of the extrinsic evidence requirement, might become unduly cautious in his work, since he would be subject to discipline based merely upon the inferences to be drawn from an erroneous decision.[1]

In our jurisdiction, the law is no different. Thus, this Court has repeatedly held that –

x x x it is a fundamental rule of long standing that a judicial officer when required to exercise his judgment or discretion is not criminally liable for any error he commits provided he acts in good faith, that in the absence of malice or any wrongful conduct x x x the judge cannot be held administratively responsible x x x for no one, called upon to try the facts or interpret the law in the process of administering justice can be infallible in his judgment, and to hold a judge administratively accountable for every erroneous ruling or decision he renders x x x would be nothing short of harassment or would make his position unbearable.[2]

A judge cannot be subjected to liability - civil, criminal, or administrative - for any of his official acts, no matter how erroneous, as long as he acts in good faith.[3] He cannot be held to account or answer, criminally, civilly, or administratively, for an erroneous decision rendered by him in good faith.[4] As a matter of public policy, in the

absence of fraud, dishonesty, or corruption, the acts of a judge in his judicial capacity are not subject to disciplinary action, even though such acts are erroneous.[5] It is a general principle of the highest importance to proper administration of justice that a judicial officer, in exercising the authority vested in him, shall be free to act upon his own convictions, without apprehension of personal consequences to himself. This concept of judicial immunity rests upon consideration of public policy, its purpose being to preserve the integrity and independence of the judiciary." [6] This being settled doctrine, there is no choice but to apply it to the instant case.

The facts: Respondent Manuel T. Muro, a native of Masbate, Masbate, was appointed on 6 November 1986 as Presiding Judge of the Regional Trial Court of Manila, Br. 54, by then President Corazon C. Aquino. A product of the College of Law, Far Eastern University, he graduated valedictorian in 1955, magna cum laude, and placed sixth in the Bar Examinations. Now he is being charged with ignorance of the law, grave misconduct and violation of Rules 2.01, 3.01 and 3.02 of the Code of Judicial Conduct[7] for dismissing *motu proprio* the eleven (11) cases filed by the Department of Justice Panel of Prosecutors against Ms. Imelda Romualdez Marcos for Violation of Central Bank Foreign Exchange Restrictions after President Fidel V. Ramos had announced, which was published in newspaper reports, the lifting of all foreign exchange restrictions.

The majority opinion finds respondent judge guilty of gross ignorance of the law and imposes upon him the supreme penalty of dismissal from the service, forfeiture of leave credits and retirement benefits, and disqualification from reemployment in the government service.

With all due respect to my esteemed colleagues, particularly to the ponente who is a recognized authority on various fields of law, I cannot help viewing the circumstances in a different light.

There is no dispute that the order issued by respondent judge has been reversed by the appellate court, which reversal has now become final for failure of the accused to appeal therefrom; hence, no damage has been caused except that complainants had to avail of a judicial remedy to correct the mistake. But, as adverted to, the overturned order alone does not necessarily make respondent judge liable administratively, much more civilly or criminally. To be answerable, the fault of the judge, if any, must be gross or patent, malicious, deliberate or done in bad faith.[8] Plainly said, fault in this regard may exist only when the error appears to be deliberate or in bad faith.[9]

Thus, bad faith is imputed against respondent judge, first, for insisting that "there was no need to await publication of Circular No. 1353 for the reason that the public announcement made by the President in several newspapers of general circulation lifting foreign exchange controls is total, absolute, without qualification, and immediately effective,"[10] and, second, for "dismissing *sua sponte* the eleven criminal cases without even a motion to quash having been filed by the accused, and without at least giving the prosecution the basic opportunity to be heard on the matter." [11]

But, bad faith is the neglect or refusal to fulfill a duty, not prompted by an honest mistake, but by some interested or sinister motive.[12] It implies breach of faith and willful failure to respond to plain and well understood obligation.[13] It does not simply connote bad judgment or negligence; it imports a dishonest purpose or some moral obliquity and conscious doing of wrong; it means breach of a known duty through some motive or interest or ill will.[14]

Hence, I cannot ascribe bad faith to respondent judge for I see no insidious intentions on his part. If he insists that there really is no need to await the publication of Circular No. 1353, as he does here, it merely shows that he sincerely believes that there is indeed no necessity to await publication. Whether his belief is erroneous or not is thus irrelevant. Further, dismissing *motu proprio* the eleven criminal cases without affording the prosecution the opportunity to be heard on the matter, erroneous though it may be, is not inescapably indicative of bad faith. The

immediate dismissal of the charges is a necessary consequence of the belief that since the restrictions were lifted, no law was then being violated. It is an elementary principle in procedural law and statutory construction that the repeal of a penal law deprives the court of jurisdiction to punish persons charged with a violation of the old law prior to its repeal. Thus, where the crime no longer exists, prosecution of the person charged under the old law cannot be had and the action should be dismissed.[15]

On the contrary, there is no reason why good faith should not be attributed to respondent judge. Good faith means that the motive that actuated the conduct in question was in fact what the actor ascribes to it, that is, that what he gives as his motive was in truth his motive.[16] Hence, if he honestly believes that the bases for the criminal charges against accused have been eliminated and thus strikes down the information and consequently dismisses the charges, respondent judge cannot be criminally, civilly, or even administratively, held liable.

Good faith and absence of malice, corrupt motives or improper consideration are sufficient defenses protecting a judicial officer charged with ignorance of the law and promulgation of an unjust decision from being held accountable for errors of judgment. This, on the premise that no one called upon to try the facts or interpret the law in the administration of justice can be infallible.[17]

Respondent judge could not have seriously jeopardized the rights of the prosecution, even if the accused invoked the defense of double jeopardy, since the remedy of certiorari is very much available. Precisely, as has been pointed out in the majority opinion, the defense of double jeopardy is unavailing when the prosecution is denied due process. This is in fact the office of the prevailing doctrine - to correct indiscretions of lower court judges - which does not necessarily make them personally liable. In fact, if respondent judge was indeed in bad faith, he should have given the prosecution an opportunity to be heard, and after a full-blown trial, acquitted the accused. Then, the defense of double jeopardy would have been proper and the accused would have gone scot-free. Thus, in *Negado v. Judge Autajay*, [18] this Court affirmed the conclusions of the Investigating Justice of the Court of Appeals that "[w]hen a person seeks administrative sanction against a judge simply because he has committed an error in deciding the case against such person, when such error can be elevated to a higher court for review and correction, the action of such person can only be suspect."

To equate the failure of accused Marcos to comment on the petition before the appellate court, and consequently invoke the defense of double jeopardy, with the errancy of the assailed order, [19] may be indulging in needless speculation. And to imply that the influence of the accused who is a prominent public figure brought about the dismissal order is simply not borne out by the records.

Besides, the challenged order of respondent judge can hardly be considered as grossly erroneous to merit his dismissal. For, while his reasoning may be erroneous, as it turned out when the reversal of his decision by the appellate court became final, it is not at all illogical as even the President of the Republic, with his learned legal advisers, after learning of the dismissal of the cases filed by his administration against the accused, was quoted as saying that Mrs. Marcos was an "accidental" beneficiary of the foreign exchange deregulation policy of his administration. [20] Thus, President Fidel V. Ramos further said that "[t]he forex deregulation applies to everybody x x x x Now the cases filed by the government against Mrs. Marcos, numbering about 11 out of 90 have become moot and academic because of the new regulations that have come out of the Monetary Board, but that is to her advantage." [21] Where the conclusions of the judge in his decision are not without logic or reason, it cannot be said that he is incompetent or grossly ignorant. [22]

It has been said that a judge, like Caesar's wife, must not only be pure but beyond suspicion. [23] Ideally so. But the cold fact is that every overturned decision provokes suspicion especially from the successful appellant who feels certain that the lower court indeed erred.

It is settled that "[a] judge should be mindful that his duty is the application of general law to a particular instance, that ours is a government of laws and not of men, and that he violates his duty as minister of justice under such system if he seeks to do what he may personally consider substantial justice in a particular case and disregards the general law as he knows it to be binding on him. Such action may have detrimental consequences beyond the immediate controversy. 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." [24] As it has been said, he must interpret the books, and not unload his ideas.

But while a judge must decide in accordance with existing laws and established jurisprudence, his own personality, character, convictions, values, experiences and prejudices are only sublimely insignificant and unconsciously dispensable. In every decision he makes, he is no more and no less human, his own beliefs, perceptions and imperfections, as well as the laws he is bound to apply, all having profound influence on his eventual choice. Thus, Mr. Justice Cardozo of the Supreme Court of the United States once wrote of judges: "We may try to see things as objectively as we please. None the less, we can never see them with any eyes except our own." [25] Hence, time and again, lower court judges, if not reversed by the Court of Appeals and this Court, have continued to set new trails in jurisprudence without exactly conforming with what has been settled. Yet, whether reversed or merely unregarded, they do not receive displeasure from this Court; on the contrary, they remain to be effective dispensers of everyday justice.

In fine, there is no substantial proof, nay proof beyond reasonable doubt, that respondent judge issued the assailed order in bad faith or with conscious and deliberate intent to perpetrate an injustice.

Mr. Justice Malcolm, speaking for this Court in *In re Horilleno*, [26] said that "[i]mpeachment proceedings before courts have been said, in other jurisdictions, to be in their nature highly penal in character and to be governed by the rules of law applicable to criminal cases." Mr. Chief Justice Fernando, then Associate Justice of this Court, reiterated the doctrine in *Suerte v. Judge Ugbinar* [27] where he said that "[t]his is to defer the basic concept first announced in 1922 in this jurisdiction x x x in x x x *In re Horilleno* that proceedings of this character being in their nature highly penal, the charge must, therefore, be proved beyond reasonable doubt. To paraphrase the opinion further, there is no showing of the alleged incompetence and gross ignorance of the law by a preponderance of the evidence, much less beyond a reasonable doubt. Such an exacting standard has been adhered to by this Court in subsequent decisions." [28]

The law always imputes good faith to judicial action, and the burden is on the one challenging the same to prove want of it. Contraposed with the "exacting standard" required, complainant-prosecutors in the instant case failed to prove the absence of good faith on the part of respondent judge. Consequently, the presumption that official duty has been regularly performed stands.

I find it difficult to compare the instant case with those cited in the majority opinion. In *Padilla v. Judge Dizon*, [29] respondent not only allowed the accused to go scot-free, leaving the Commissioner of Customs without any relief against the accused, the former likewise ordered the release of US\$3,000.00 to the accused. Thus, respondent judge was found guilty not only of gross ignorance of the law, but also of gross incompetence, and grave and serious misconduct affecting his integrity and efficiency, and was consequently dismissed from the service. And, failing to learn a lesson from his earlier administrative case, respondent judge, after his reinstatement, this time erroneously acquitted the defendants in four (4) different cases of illegal possession of firearms. Finally the Court said, "[w]hen it has been clearly demonstrated, as in this case, not only once but four (4) times, that the judge is either grossly incompetent or grossly ignorant of the penal laws x x x he becomes unfit to discharge his judicial office." [30] Unlike former Judge Dizon, this is the first time respondent Judge Muro is being administratively charged.

In *Buenavista v. Judge Garcia*,^[31] the Court found respondent guilty of "serious misconduct, gross ignorance of the law, and knowingly rendering an unjust order or judgment" for granting bail to an accused who was charged with statutory rape, for "improper and immoral intervention in brokering a compromise of the criminal cases" against the accused, and thereafter for granting the motion to dismiss the rape case on the basis of an Affidavit of Desistance allegedly executed by the victim who was then a minor. Certainly, the actuations of the respondent judge in the cited case are far worse than the complained indiscretions of herein respondent Judge.

In the proceedings instituted against Judge Jocson,^[32] he was charged with a litany of administrative cases, six (6) in all, i.e., from gross misconduct to gross ignorance of the law, to incompetence, to partiality. While not all the charges were sufficiently proved, respondent judge was found to be "ignorant of fairly elementary and quite familiar legal principles and administrative regulations, (with) x x x a marked penchant for applying unorthodox, even strange theories and concepts in the adjudication of controversies, (and) exhibits indifference to, and even disdain for due process and the rule of law, applies the law whimsically, capriciously, and oppressively, and displays bias and partiality." The Court thus observed, "[t]he different acts of misconduct proven against respondent judge demonstrate his unfitness to remain in office and to continue to discharge the functions and duties of a judge, and warrant the imposition on him of the extreme sanction of dismissal from the service." There is nothing in the records of the instant case which shows that respondent Judge Muro, like former Judge Jocson, exhibits a pattern for applying peculiar and unaccepted theories which breed manifest and irreversible injustice.

And, in *Uy v. Judge Dizon-Capulong*,^[33] respondent aggravated her ignorance of the law by her refusal to abide by the Decision of the appellate court and later of this Court, showing utter disrespect for and open defiance of higher courts. Consequently, she was not only found guilty of gross ignorance of the law, but also of grave and serious misconduct prejudicial to the interest of the judicial service.

Contrastingly, in a fairly recent case,^[34] this Court merely imposed a fine of P10,000.00 on respondent judge who entertained the petition for bail filed by the suspects prior to their actual arrest, notwithstanding unrefuted allegations that the accused were allegedly relatives of the congressman who "sponsored" the appointment of respondent to the Judiciary. In another case,^[35] this Court imposed a fine of P5,000.00 on respondent judge for ignorance of the law and grave abuse of authority after he improperly issued a warrant of arrest and set the case for arraignment, in disregard of proper procedure. And, still in another,^[36] this Court in dismissing the complaint filed against respondent ruled that a judge cannot be condemned unless his error is so gross and patent as to produce an inference of ignorance and bad faith or that he knowingly rendered an unjust decision.

In sum, there is no extrinsic evidence which shows that the assailed order of respondent Judge Manuel T. Muro was inspired by a conscious and corrupt intent to do a disservice and commit an atrocity, and thus his dismissal is uncalled for. Where there is no clear indication from the records that the respondent's assailed decision was inspired by corrupt motives or a reprehensible purpose, and while there may be a misjudgment, but not a deliberate twisting of facts to justify the assailed order, dismissal of respondent judge from the service is not proper.^[37]

Holding respondent judge liable for issuing the challenged order may curtail the independence of judges and send the wrong signals to them who are supposed to exercise their office without fear of reprisal, merely for expressing their uncorrupted views. Regretfully, litigants may suffer and gain eventual justice only after costly and long-drawn-out appeals from erroneous decisions, but these are necessary evils which must be endured to some extent lest judicial independence and the growth of the law be stifled.

Unlike collegial courts which afford their members the luxury of a deliberation, a trial judge in handing down his decisions must brave the loneliness of his solitude and independence. And, while this Court may slightly bend

backwards if only to avoid suspicion of partiality and cliquism to a brother in the profession, it must also step forward and take the lead to defend him against unsubstantiated tirades which put to shame and disgrace not only the magistrate on trial but the entire judicial system as well. As champion - at other times tormentor - of trial and appellate judges, this Court must be unrelenting in weeding the judiciary of unscrupulous judges, but it must also be quick in dismissing administrative complaints which serve no other purpose than to harass them. In dismissing judges from the service, the Court must be circumspect and deliberate, lest it penalizes them for exercising their independent judgments handed down in good faith.

Respondent judge has impressive academic and professional credentials which, experience shows, are no longer easy to recruit for the judicial service. Above all, he has served the judiciary with creditable distinction. It is unfeeling, if not unfair, to purge him without extrinsic evidence of bad faith and then shatter his hopes of ascending someday the judicial hierarchy which, after all, is the ultimate dream of every sacrificing trial judge.

I VOTE FOR THE EXONERATION OF RESPONDENT JUDGE.

[1] Remedies for Judicial Misconduct and Disability: Removal and Discipline of Judges, 41 N.Y.U.L.Rev. 149, cited in Readings on Recruitment and Selection of Judges, Supreme Court (1987), p. 60.

[2] Louis Vuitton S.A. v. Judge Villanueva, Adm. Case No. MTJ--92-643, 27 November 1992, 216 SCRA 121, citing Mendoza v. Judge Villaluz, Adm. Case No. 1797-CCC, 27 August 1981, 106 SCRA 664, in turn citing Evangelista v. Judge Baez, Unnumbered CAR Case, 26 December 1974, 61 SCRA 475; Vda. de Zabala v. Judge Pamaran, Adm. Case No. 200-J, 10 June 1971, 39 SCRA 430; and Barroso v. Judge Arche, Adm. Case No. 216-CFI, 30 September 1975, 67 SCRA 161.

[3] Ibid., citing Valdez v. Judge Valera, Adm. Matter No. 1628-CAR, and Olaya v. Judge Valera, Adm. Matter No. 1676-CAR, both promulgated 31 January 1978, 81 SCRA 246.

[4] Morada v. Judge Tayao, A.M. No. RTJ-93-978, 7 February 1994, citing In re: Petition for the Dismissal from Service of Judge Baltazar R. Dizon, Adm. Case No. 3086, 31 May 1989, 173 SCRA 719.

[5] Ibid., citing, among others, Revita v. Rimando, 98 SCRA 619, and Ubongon v. Mayo, 99 SCRA 30.

[6] Louis Vuitton S.A. v. Judge Villanueva, see Note 2, citing Pabalan v. Guevarra, Adm. Matter No. 333-CJ, 24 November 1976, 74 SCRA 53, in turn citing Alzua v. Johnson, 21 Phil. 308; Bradley v. Fisher, 80 U.S. 335; and Gammel v. Ernst & Ernst, 245 Minn 249, 72 NW 2d 364, 54 ALR 2d 316.

[7] Rule 2.01 of the Code of Judicial Conduct provides that "[a] judge should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary," Rule 3.01 that "[a] judge shall be faithful to the law and maintain professional competence," and Rule 3.02 that "[i]n every case, a judge shall endeavor diligently to ascertain the facts and the applicable law unswayed by partisan interests, public opinion or fear of criticism."

[8] Mayor Roa v. Judge Imbing, A.M. No. RTJ-93-935, 11 March 1994.

[9] Arpon v. Judge de la Paz, Adm. Matter No. 41-MJ, 28 May 1975, 64 SCRA 156.

[10] Majority Opinion, p 17.

[11] Ibid.

[12] State v. Griffin, 100 S.C. 331, 84 S.E. 876, cited in Black's Law Dictionary, 4th. Ed., 1951, p. 176.

- [13] 5 Words and Phrases 14, citing *Nelson v. Board of Trade*, 58 Ill. App. 399.
- [14] *Board of Liquidators v. Kalaw*, No. L-18805, 14 August 1967, 20 SCRA 1007.
- [15] *PAFLU v. CFI*, No. L-49580, 17 January 1983, 120 SCRA 1; *People v. Almuete*, No. L-26551, 27 February 1976, 69 SCRA 410; *People v. Tamayo*, 61 Phil. 225 (1935).
- [16] 18A Words and Phrases 85, citing *N.L.R.B. v. James Thompson & Co.*, C.A.2, 208 F.2d 743, 745.
- [17] *Pilipinas Bank v. Justice Tirona-Liwag*, Adm. Matter No. CA-90-11, 18 October 1990, 190 SCRA 834, citing *Consolidated Bank and Trust Corporation v. Judge Capistrano*, Adm. Matter No. R-66- RTJ, 18 March 1988, 159 SCRA 47.
- [18] Adm. Matter No. R-710-RTJ, 21 May 1993, 222 SCRA 295.
- [19] See Majority Opinion, p. 20.
- [20] *The Chronicle*, issue of 18 August 1992.
- [21] *Ibid.*
- [22] *Lampauog v. Judge Villarojo*, Adm. Matter No. 381-MJ, 28 January 1974, 55 SCRA 304.
- [23] See Majority Opinion, p. 15, citing Agpalo, *Legal Ethics*, 1988, 4th ed., pp. 454-455.
- [24] Canon 18, *Canons of Judicial Ethics*, cited in the Majority Opinion, p. 16.
- [25] Cardozo, *The Nature of Judicial Process* (1921), p. 12.
- [26] 43 Phil. 212 (1922).
- [27] Adm. Matter No. 88-MJ, 25 January 1977, 75 SCRA 69.
- [28] Citing *Enriquez v. Judge Araula*, Adm. Case No. 270-J, 18 December 1973, 54 SCRA 232; *Tombo v. Medina*, Adm. Case No. 929, 17 January 1974, 55 SCRA 13; *Lampauog v. Judge Villarojo*, see Note 22; *Bartolome v. Judge De Borja*, Adm. Matter Nos. 1096-CFI and 1114-CFI, 31 May 1976, 71 SCRA 153; *De Guzman v. Judge De Leon*, Adm. Case 1328-MJ, 30 July 1976, 72 SCRA 177; *Meimban v. Judge Balite*, Adm. Matter No. 131-MJ, 21 August 1976, 72 SCRA 380; *Tolentino v. Judge Tiong*, Adm. Matter No. 535-MJ, 21 August 1976, 72 SCRA 385; and *Amosco v. Judge Magro*, Adm. Matter 439-MJ, 30 September 1976, 73 SCRA 107.
- [29] Adm. Case No. 3086, 23 February 1988, 158 SCRA 127, cited in the Majority Opinion, p. 24.
- [30] *Zuño v. Judge Dizon*, A.M. No. RTJ-91-752, 23 June 1993, 223 SCRA 584, cited in the Majority Opinion, p. 26.
- [31] A.M. No. RTJ-88-246, 19 July 1990, 187 SCRA 598, cited in the Majority Opinion, p. 25.
- [32] *Garganera v. Judge Jocson*, A.M. No. RTJ-88-227, *Mejorada v. Judge Jocson*, A.M. No. RTJ-90-624, *Velez v. Judge Jocson*, A.M. No. RTJ-88-270, *Judge Jocson v. Barredo*, A.M. No. P-87-124, *Jalandoon v. Judge Jocson*, A.M. No. RTJ-88-269, *Angodong v. Judge Jocson*, A.M. No. RTJ-88-267, and *Tronco v. Judge Jocson*, A.M. No. RTJ-88-279, all promulgated 1 September 1992, 213 SCRA 149, cited in the Majority Opinion, p. 25
- [33] Adm. Matter No. RTJ-91-766, 7 April 1993, 221 SCRA 87, cited in the Majority Opinion, p. 25.
- [34] *Dinapol v. Judge Baldado*, Adm. Matter No. RTJ-92-898, 5 August 1993, 225 SCRA 110.

[35] *Alisangco v. Judge Tabiliran, Jr.*, Adm. Matter No. MTJ-91-554, 30 June 1993, 224 SCRA 1.

[36] *Negado v. Judge Autajay*, see Note 18.

[37] See *In Re: Petition for the Dismissal from Service and/or Disbarment of Judge Baltazar R. Dizon*, Adm. Case No. 3086, 31 May 1989, 173 SCRA 719.

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