

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. HON. PHILIP G. SALVADOR PRESIDING JUDGE, REGIONAL TRIAL COURT OF LAOAG CITY, ILOCOS NORTE, BRANCH 13, AND ACTING PRESIDING JU...

A.M. No. RTJ-19-2562 (Formerly A.M. No. 18-10-234-RTC). July 02, 2019

Ponente: PERLAS-BERNABE, J.

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PERLAS-BERNABE, J.:

The instant administrative case arose from the report[1] on the judicial audit conducted by the Judicial Audit Team of the Office of the Court Administrator (OCA) of the case records of Regional Trial Court (RTC) of Laoag City, Ilocos Norte, Branch 13 (RTC-Laoag) and RTC of Batac City, Ilocos Norte, Branch 17 (RTC-Batac), both handled by Judge Philip G. Salvador (Judge Salvador) as Presiding Judge and Acting Presiding Judge, respectively.

The Facts

On January 22, 2018, Judge Salvador, then Presiding Judge of RTC-Laoag and Acting Presiding Judge of RTC-Batac, submitted his application for optional retirement effective January 31, 2018 to the Employees' Welfare and Benefits Division of the OCA, which was later approved in a Resolution dated April 3, 2018 in A.M. No. 16969-Ret.[2] In view thereof, the Judicial Audit Team performed a judicial audit and inventory of Judge Salvador's cases in the aforesaid salas.[3]

In a report[4] dated August 8, 2018, the Judicial Audit Team reported to the OCA that despite the effectivity of Judge Salvador's optional retirement on January 31, 2018, he still conducted hearings, issued orders, and/or rendered decisions in ten (10) cases[5] pending before the RTC-Laoag and in fifteen (15) cases pending before the RTC-Batac.[6] As such, it was recommended that: (a) a regular administrative case be filed against Judge Salvador for Grave Misconduct and Ignorance of the Law; and (b) the subject cases decided and resolved by Judge Salvador be referred to the designated acting presiding judge of RTC-Laoag and RTC-Batac for their appropriate action.[7]

The OCA's Report and Recommendation

In a report[8] dated September 26, 2018, the OCA recommended that: (a) the report dated August 8, 2018 of the Judicial Audit Team be re-docketed as a regular administrative matter; (b) Judge Salvador be found guilty of Conduct Grossly Prejudicial to the Best Interest of the Service, and accordingly, be meted with a fine in the amount of P100,000.00 in lieu of suspension; and (c) the decision and resolutions he rendered after January 31, 2018 be declared null and void, and said cases be ordered remanded to the court of origin for adjudication anew and promulgation of new decisions.[9]

It found that since the decisions and resolutions were made after the effectivity date of Judge Salvador's optional retirement on January 31, 2018, the same were without authority, and therefore, should be considered null and

void. It likewise ruled that the act of Judge Salvador in issuing said decisions and resolutions constitutes conduct grossly prejudicial to the best interest of the service, which is penalized by suspension from the service. However, considering Judge Salvador's retirement from service, the OCA recommended instead that he be fined in the amount of P100,000.00.[10]

The Issue Before the Court

The sole issue presented for the Court's resolution is whether or not Judge Salvador should be administratively sanctioned.

The Court's Ruling

I.

At the outset, the Court notes that the OCA improperly recommended Judge Salvador to be administratively liable for Conduct Grossly Prejudicial to the Best Interest of the Service, given that such administrative offense is found in civil service laws and rules which have no application to administrative cases involving judges or justices of the lower courts. In the recent case of *Boston Finance and Investment Corporation v. Gonzalez*[11] (Boston Finance), the Court En Banc had definitively settled, inter alia, that "in resolving administrative cases against judges or justices of the lower courts, reference need only be made to Rule 140 of the Rules of Court as regards the charges, as well as the imposable penalties." [12] Likewise, it held that "[i]f the respondent judge or justice of the lower court is found guilty of multiple offenses under Rule 140 of the Rules of Court, the Court shall impose separate penalties for each violation," to wit:

(a)

Rule 140 of the Rules of Court shall exclusively govern administrative cases involving judges or justices of the lower courts. If the respondent judge or justice of the lower court is found guilty of multiple offenses under Rule 140 of the Rules of Court, the Court shall impose separate penalties for each violation; and

(b)

The administrative liability of court personnel (who are not judges or justices of the lower courts) shall be governed by the Code of Conduct for Court Personnel, which incorporates, among others, the civil service laws and rules. If the respondent court personnel is found guilty of multiple administrative offenses, the Court shall impose the penalty corresponding to the most serious charge, and the rest shall be considered as aggravating circumstances.[13] (Emphasis and underscoring supplied)

In light of the foregoing guidelines and pursuant to the power of the Court En Banc to discipline judges of lower courts, and even order their dismissal, if warranted,[14] the Court now determines the administrative liability of Judge Salvador.

II.

In an effort to streamline the processing of applications for optional retirement filed by officials and employees of the Judiciary, the Court issued Administrative Circular No. 43-2004,[15] pertinent portions of which read:

WHEREFORE, the following new guidelines in the filing of applications for OPTIONAL retirement are hereby adopted for strict compliance by all concerned:

- All applications for optional retirement shall specify the date of effectivity thereof and should not make it effective "upon approval by the Court."

x x x x

- The application should be filed at least SIX (6) MONTHS prior to the effectivity date of the retirement indicated in the application.

x x x x

- If on the date specified in the application as the date of the effectivity of the retirement, the applicant has not yet received any notice of approval or denial of his application, he shall cease working and discharging his functions unless directed otherwise.

x x x x (Emphases and underscoring supplied)

In this case, the Court notes that while Judge Salvador complied with the first guideline by indicating the effectivity date of his optional retirement on January 31, 2018, he violated: (a) the third guideline as he filed his application for optional retirement only on January 22, 2018, or a mere nine (9) days – not six (6) months as required – prior to the effectivity date of his optional retirement; and (b) the fifth guideline as he specified, in his application, January 31, 2018 as the effectivity date of his optional retirement and yet, still continued to discharge his functions as Presiding Judge and Acting Presiding Judge of the RTC-Laoag and the RTC-Batac, respectively, even after the said date. This constitutes the less serious charge of Violation of Supreme Court Rules, Directives, and Circulars under Section 9 (4), Rule 140 of the Rules of Court.

Moreover, by presiding over cases and even issuing orders and resolutions even after his optional retirement on January 31, 2018, the Court finds that Judge Salvador committed multiple counts[16] of Gross Ignorance of the Law, which is a serious charge under Section 8 (9), Rule 140 of the Rules of Court. In *OCA v. Alaras*, [17] the Court eloquently explained the nature of this administrative offense, to wit:

Gross ignorance of the law is the disregard of basic rules and settled jurisprudence. A judge may also be administratively liable if shown to have been motivated by bad faith, fraud, dishonesty or corruption in ignoring, contradicting or failing to apply settled law and jurisprudence. Though not every judicial error bespeaks ignorance of the law and that, if committed in good faith, does not warrant administrative sanction, the same applies only in cases within the parameters of tolerable misjudgment. Such, however, is not the case with Judge Misláng. Where the law is straightforward and the facts so evident, failure to know it or to act as if one does not know it constitutes gross ignorance of the law. A judge is presumed to have acted with regularity and good faith in the performance of judicial functions. But a blatant disregard of the clear and unmistakable provisions of a statute, as well as Supreme Court circulars enjoining their strict compliance, upends this presumption and subjects the magistrate to corresponding administrative sanctions.

For liability to attach for ignorance of the law, the assailed order, decision or actuation of the judge in the performance of official duties must not only be found erroneous but, most importantly, it must also be established that he was moved by bad faith, dishonesty, hatred, or some other like motive. Judges are expected to exhibit more than just cursory acquaintance with statutes and procedural laws. They must know the laws and apply them properly in all good faith. Judicial competence requires no less. Thus, unfamiliarity with the rules is a sign of incompetence. Basic rules must be at the palm of his hand. When a judge displays utter lack of familiarity with the rules, he betrays the confidence of the public in the courts. Ignorance of the law is the mainspring of injustice. Judges owe it to the public to be knowledgeable, hence, they are expected to have more than just a modicum of acquaintance with the statutes and procedural rules; they must know them by heart. When the inefficiency springs from a failure to recognize such a basic and elemental rule, a law or a principle in the discharge of his functions, a judge is either too incompetent and undeserving of the position and the prestigious 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 both cases, the judge's dismissal will be in order.[18] (Emphases and underscoring supplied)

It is an elementary rule that a judge has no authority to act on a case once he has retired from office. Undoubtedly, retirement is one of the recognized modes of severing one's public employment. Retirement has been defined as a withdrawal from office, public station, business, occupation, or public duty.[19] In this regard, jurisprudence states that when a judge retires, all his authority to decide any case, i.e., to write, sign and promulgate the decision thereon, also 'retires' with him. In other words, he had lost entirely his power and authority to act on all cases assigned to him prior to his retirement.[20] However, despite his optional retirement on January 31, 2018, Judge Salvador continued to discharge his previous functions as Presiding Judge and Acting Presiding Judge of the RTC-Laoag and the RTC-Batac, respectively. Clearly, such actions exhibited his utter lack of conversance about a basic tenet of law and procedure. As such, he should be held administratively liable for Gross Ignorance of the Law, which infraction he is considered to have committed for every case he had presided over/decided beyond the effective date of his retirement.

III.

Anent the proper penalty to be meted on Judge Salvador, Section 11 (A), Rule 140 of the Rules of Court provides that a serious charge, such as Gross Ignorance of the Law, may be punishable by: (a) dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned and controlled corporations, provided, however, that the forfeiture of benefits shall in no case include accrued leave credits; (b) suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or (c) a fine of more than P20,000.00 but not exceeding P40,000.00.

On the other hand, Section 11 (B) of the same Rule provides that a less serious charge, such as Violation of Supreme Court Rules, Directives, and Circulars, may be punishable by: (a) suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months; or (b) a fine of more than P10,000.00 but not exceeding P20,000.00.

Considering that Judge Salvador has been found guilty of multiple counts of Gross Ignorance of the Law under Rule 140 of the Rules of Court, the Court, pursuant to Boston Finance, shall impose the penalty of dismissal, each for his multiple acts of Gross Ignorance of the Law, and separately, a fine of P20,000.00 for his Violation of Supreme Court Rules, Directives, and Circulars.

However, since Judge Salvador had already retired and can no longer be dismissed from the service as penalty for his multiple acts of Gross Ignorance of the Law, the Court deems it proper to instead, forfeit all his retirement benefits, except accrued leave credits. Indeed, similar to cases of supervening death during the pendency of an administrative case, it is still within the Court's power to forfeit an erring judge's retirement benefits although the penalty of dismissal could no longer be implemented.[21] Likewise, following existing jurisprudence,[22] the accessory penalty of disqualification from reinstatement or appointment to any public office, including government-owned and controlled corporations, is imposed against Judge Salvador.

Meanwhile, for his Violation of Supreme Court Rules, Directives, and Circulars, the Court hereby imposes on him a fine of P20,000.00, to be deducted by the OCA from his accrued leave credits. In case his leave credits are found to be insufficient, the OCA is ordered to direct Judge Salvador to pay, within ten (10) days from notice, the said amount or the remaining balance thereof, if any.[23]

IV.

As adverted to earlier, Judge Salvador acted on ten (10) cases in RTC-Laoag and fifteen (15) cases in RTC-Batac despite the effectivity of his retirement on January 31, 2018. These cases are as follows:

RTC-Laoag

Case Number Accused/Title Nature Date of Decision/Resolution Terminating Case

Criminal Case No. 15630 Roy Navarrete Section 11, RA 9165 Decision dated March 20, 2018 wherein the court opted to consider the disposition of the plea bargain of the accused in the decision to be rendered. Guilty beyond reasonable doubt of Section 15 of RA 9165 for illegal use of prohibited drugs for the second time and sentenced to imprisonment to an indeterminate sentence of 6 years & 1 day to 8 years and a fine of Php 50,000.00.

Criminal Case No. 16079 Rommel Pablo Section 11, RA 91847 Decision dated April 10, 2018 wherein accused Rommel Pablo, Larry Matute, Jefferson Bungubong and Myra Mateo were acquitted.

Criminal Case Nos. 17141 & 17142 Kenneth Santella Sections 5 & 11, RA 9184

Decision dated March 26, 2018 wherein the accused was acquitted.

* Entry of Judgment dated April 10, 2018

SCA No. 17161 National Grid vs. Visitacion Salvador-Labayog, et al. Expropriation Order dated March 15, 2018 wherein the order of expropriation was ordered to be issued.

Civil Case No. 15282-13 Ricardo Caday, substituted by His Heirs, Rolando Caday, et al. vs. Heirs of Eusebio Delos Santos, et al. Annulment of TCT No. 021-201000312 and other documents with prayer for issuance of Preliminary injunction and temporary restraining order Decision dated March 26, 2018 wherein the case was dismissed for failure of plaintiff to prove his claim.

Civil Case No. 16090-13 Heirs of Esteban Corrales, et al vs. Ireneo Corrales Judicial Partition of Real Estate Order dated February 27, 2018 wherein the case was ordered dismissed upon motion of plaintiffs who asked to dismiss the case for failure to implead other heirs without prejudice of refiling.

Civil Case No. 15430 Marita T. Palalay vs. ECG Square Lending Corp. Nullity of Mortgage Order dated February 28, 2018 wherein the case was provisionally dismissed upon failure of plaintiff to present evidence.

Civil Case No. 15430 Marita T. Palalay vs. ECG Square Lending Corp. Nullity of Mortgage Order dated February 28, 2018 wherein the case was provisionally dismissed upon failure of plaintiff to present evidence.

Cad No. 46 Pasion vs. Acting Registrar of Deeds, Laoag City Petition for Correction of Transfer of Certificate of Title Decision dated February 27, 2018 wherein in the petition was granted.

Cad No. 16 Barangan vs. Register of Deeds, Laoag City Petition for Issuance of Second Owner's Duplicate Copy of Title Decision dated February 28, 2018 wherein the petition was granted.

Cad No. 14 Aguinaldo vs. Register of Deeds of Laoag City Petition for Issuance of Second Owner's Duplicate Copy Of Title Decision dated March 27, 2018 wherein the petition was granted.

RTC-Batac

Case Number Accused/Title Nature Date of Decision/Resolution Terminating Case

LRC No. N-441-17 Spouses Joedy Alibuyog and Melgene Alibuyog vs. Louella Agdeppa, et al Issuance of New

Certificate of Lost Original Certificate of Title

Decision dated February 26, 2018 wherein petition was granted.

Entry of Judgment dated May 17, 2018

Civil Case No. 5582 Rufino Pe Benito Pabico vs. Estrella a.k.a. Nini Pe Benito, et al Accion Publiciana Order dated February 26, 2018 wherein the motion to withdraw the complaint was granted. The case was considered withdrawn and dismissed.

LRC No. N-434 Alexander Balanay, et al vs. RD of Ilocos Norte Amendment/Correction of TCT Decision dated February 26, 2018 wherein the petition was granted.

LRC No. N-450-17 Elvina Tayament vs. RD of Batac, Ilocos Norte Petition for issuance of Second Owner's Duplicate Copy of Title Decision dated February 26, 2018 wherein the petition was granted.

LRC No. N-428-17 Nieves Ramos, et al. vs. RD of District II, Ilocos Norte Petition for issuance of Second Owner's Duplicate Copy of Title Decision dated February 26, 2018 wherein the petition was granted.

LRC No. N-452-17 Nelson Cabulera, et al. vs. RD of Ilocos Norte Petition for issuance of Second Owner's Duplicate Copy of Title Decision dated February 26, 2018 wherein the petition was granted.

LRC No. N-453-17 Antolin Beltran, Jr. v. RD Ilocos Norte Petition for issuance of Second Owner's Duplicate Copy of Title Decision dated February 26, 2018 wherein the petition was granted.

LRC No. N-331-17 Dionisia Pasion-Medina vs. OIC RD of Ilocos Norte Petition for issuance of Second Owner's Duplicate Copy of Title Decision dated February 26, 2018 wherein the petition was granted.

SP Proc. No. 5590-17 UBA vs. Local Civil Registrar of Batac City, Ilocos Norte Correction of Entry in the Birth Records, etc. Decision dated March 20, 2018 wherein the petition was granted.

Criminal Case No. 5510 Gerry Duco Frustrated Homicide Order dated March 5, 2018 wherein the case was dismissed due to the execution of an affidavit of desistance by the complainant.

Criminal Case No. 5433 Tony Laurelio Violation of RA 9516 Order dated March 12, 2018 wherein the accused was found guilty but will be released on the ground that he has already served his sentence.

Criminal Case Nos. 5387 & 5388 R. Delos Santos Violation of RA 10591 Decision dated March 12, 2018 wherein accused was found guilty.

Criminal Case No. 4806 Molina and Tabucbuc Frustrated Murder Order dated March 12, 2018 wherein accused Molina was found guilty and to be released on the ground that he has already served his sentence.

Criminal Case No. 4869 Bogasol and Bingayen Violation of PD 705 and RA 9175 Decision dated March 12, 2018 wherein accused Bingayen was found guilty.

Criminal Case No. 5486 Grace Florida Theft Decision dated March 19, 2018 wherein the accused was found guilty.

Since Judge Salvador had already lost his authority to act on the cases assigned to his salas by virtue of his retirement, his actions on the foregoing affected cases ought to be declared null and void.[24] However, considering that this case is only administrative/disciplinary in nature and hence, revolves only around the issue of Judge Salvador's administrative liability, it escapes the parameters of the Court's jurisdiction over this case to make a wholesale declaration of nullity herein. Instead, the Court finds it prudent to direct, through the OCA,

RTC-Laoag and RTC-Batac, as the case may be, to duly notify the parties involved in the above-mentioned cases of Judge Salvador's lack of authority as of January 31, 2018 so that they may avail of the appropriate procedural relief to nullify the proceedings/rulings rendered by him as of the said date.

Notably, the foregoing observation holds true even for the criminal cases presided over/decided by Judge Salvador as of January 31, 2018 since double jeopardy attaches only when "the accused was convicted or acquitted or the case was dismissed without his express consent" by "a court of competent jurisdiction."^[25] It is well-settled that "double jeopardy will not attach x x x when the trial court acted with grave abuse of discretion amounting to lack or excess of jurisdiction,"^[26] as in the case of Judge Salvador who presided over the proceedings in the above-enumerated cases despite his lack of authority as of January 31, 2018.

As a final note, it must be stressed that time and again, this Court has declared that the image of a court of justice is mirrored by the conduct, official or otherwise, of its personnel – from the judge to the lowest of its rank and file – who are all bound to adhere to the exacting standard of morality and decency in both their professional and private actions.^[27] Judges are held to higher standards of integrity and ethical conduct than other persons not vested with public trust and confidence. Judges should uplift the honor of the judiciary rather than bring it to disrepute.^[28] Their acts and omissions, therefore, should not only be circumscribed with the heavy burden of responsibility but at all times be the embodiment of competence, integrity, and independence.^[29]

WHEREFORE, the Court finds Judge Philip G. Salvador (Judge Salvador) GUILTY of Gross Ignorance of the Law. In lieu of the penalty of dismissal from service which may no longer be imposed due to Judge Salvador's retirement, the Court hereby FORFEITS all his retirement benefits, except accrued leave credits. He is further DISQUALIFIED from any reemployment or appointment in any branch or instrumentality of the government, including government-owned and controlled corporations and financial institutions.

The Court likewise finds Judge Salvador GUILTY of Violation of Supreme Court Rules, Directives, and Circulars. Accordingly, he is meted with a FINE of P20,000.00, to be deducted by the Office of the Court Administrator (OCA) from his accrued leave credits. In case his leave credits are found to be insufficient, the OCA is ORDERED to direct Judge Salvador to pay, within ten (10) days from notice, the said amount or the remaining balance thereof, if any.

Finally, the OCA is hereby ORDERED to issue the appropriate directives to the Regional Trial Courts of Laoag City, Ilocos Norte, Branch 13 and Batac City, Ilocos Norte, Branch 17 to notify the parties in the cases presided over and/or resolved by Judge Salvador as discussed in this Decision.

SO ORDERED.

Bersamin, C.J., Carpio, Peralta, Del Castillo, Leonen, Jardeleza, Caguioa, A. Reyes, Jr., J. Reyes, Jr., Hernando, Carandang, Lazaro-Javier, and Inting, JJ., concur.
Gesmundo, J., on official leave.

[1] See Report on the Judicial Audit and Inventory of Case Records Conducted in Branch 13, Regional Trial Court of Laoag City; rollo, pp. 9-16.

[2] Entitled "Re: Application for Optional Retirement under Republic Act. No. 910, as amended by Republic Act No. 5095 and 9946, of Hon. Philip G Salvador, Presiding Judge, Regional Trial Court, Branch 13, Laoag City, Ilocos Norte." See *id.* at 2.

[3] See *id.*

[4] See Report on the Judicial Audit and Inventory of Case Records Conducted in Branch 13, Regional Trial Court of Laoag City signed by Judicial Supervisor Reginald I. Bacolor; *id.* at 9-16.

[5] The original report indicates eleven (11) cases. However, it appears on the records that the Decision dated January 15, 2018 in Criminal Case Nos. 15981 and 15982 was erroneously included in the list of cases reported to be decided by Judge Salvador after the effectivity of his optional retirement on January 31, 2018.

[6] See *id.* at 11-15.

[7] *Id.* at 16.

[8] See Administrative Matter for Agenda signed by Court Administrator Jose Midas P. Marquez and Deputy Court Administrator Raul Bautista Villanueva; *id.* at 2-8.

[9] *Id.* at 7-8.

[10] See *id.* at 6-7.

[11] See A.M. No. RTJ-18-2520, October 9, 2018.

[12] See *id.*

[13] See *id.*

[14] See Section 11, Article VIII of the Constitution.

[15] Entitled "ADOPTING NEW GUIDELINES ON THE FILING OF APPLICATIONS FOR OPTIONAL RETIREMENT" dated September 6, 2004 and signed by then Chief Justice Hilario G. Davide, Jr.

[16] Detailed in pages 7-10 of this Decision. See also rollo, pp. 2-6.

[17] See A.M. No. RTJ-16-2484, July 23, 2018.

[18] See *id.*, citing *Department of Justice v. Misleng*, 791 Phil. 219, 227-228 (2016).

[19] *Brion v. South Philippine Union Mission of the Seventh Day Adventist Church*, 366 Phil. 967, 974 (1999).

[20] See *City of Taguig v. City of Makati*, 787 Phil. 367, 397 (2016); citations omitted.

[21] See Report on the Financial Audit Conducted in the Municipal Trial Court in Cities in Taguig City, Davao del Norte, 720 Phil. 23, 55 (2013). See also *OCA v. Chavez*, A.M. No. RTJ-10-2219 and A.M. No. 12-7-130-RTC, March 7, 2017, 819 SCRA 446, 463-480.

[22] See *OCA v. Chavez*, *id.*

[23] See *Office of the Court Administrator v. Umblas*, A.M. No. P-09-2649, August 1, 2017, 833 SCRA 502, 514-516.

[24] See *Re: Report on the Judicial Audit in RTC-Branch 15, Ozamiz City* (Judge Pedro L. Suan; Judge Resurrection T. Inting of Branch 16, Tangub City), 481 Phil. 710, 719-723 (2004). See also *Nazareno v. Court of Appeals*, 428 Phil. 32, 40-43 (2002).

[25] See *People v. Alejandro*, G.R. No. 223099, January 11, 2018.

[26] See *id.*

[27] See *De Los Santos v. Vasquez*, A.M. No. P-18-3792, February 20, 2018.

[28] *Tuvillo v. Laron*, 797 Phil. 449, 467.

[29] Rule 1.01, Canon 1 of the Code of Judicial Conduct.

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