

HILARIO DE GUZMAN, JR., COMPLAINANT, VS. JUDGE DEODORO J. SISON, REGIONAL TRIAL COURT, BRANCH 40, DAGUPAN CITY, RESPONDENT.

A.M. No. RTJ-01-1629 (A.M. No. 99-73-RTJ). March 26, 2001

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PER CURIAM:

In a letter dated December 16, 1998 a copy of which was received by the Office of the Chief Justice on December 23, 1998,[1] complainant Hilario De Guzman, Jr., the winning mayoralty candidate for San Jacinto, Pangasinan in the May 11, 1998 elections, called the Court's attention to alleged irregularities in the adjudication of the election protest filed by his rival, which was docketed as Elec. Case No. 31-98[2] and assigned to Branch 40, Regional Trial Court of Pangasinan, presided by respondent judge.

The letter was subsequently indorsed[3] by the Chief Justice to the Office of the Court Administrator (OCA), which, on January 25, 1999,[4] required respondent judge to comment within ten (10) days from receipt.

On March 4, 1999, respondent judge filed his comment[5] averring that:

A.] The unverified letter states no cause of action.

B.] The questioned judgment is supported by evidence; hence valid and lawful.

C.]

The letter writer has availed of the legal remedy of appeal with the Commission on Elections (COMELEC); and so, the matter continues to be of judicial concern. In fact, the case folder has already been forwarded to the COMELEC.

D.]

The questioned judgment speaks for itself. It is characterized by judicial objectivity dictated only by the highest interest of truth and justice. The Presiding Judge resolved the case according to his conscience and to his perception of the applicable law. The case was decided on the basis of merit, not on extraneous considerations. Since the Presiding Judge was guided by the evidence adduced, then, no other conclusion is apparent but to render the questioned judgment.

E.]

The Supreme Court has repeatedly and uniformly ruled that a Judge may not be held administratively accountable for every erroneous order or decision he renders.[6]

On March 16, 1999,[7] the Officer-in-Charge of the Legal Office-OCAD, Docket and Clearance Division, advised complainant to file a formal complaint against respondent judge. Accordingly, complainant filed a formal complaint on May 14, 1999,[8] attaching thereto the pertinent documents[9] in support thereof.

Subsequently, on October 12, 1999,[10] complainant wrote a letter to the OCA praying for the early resolution of

the case, and submitted therewith a copy of the decision of the COMELEC's 2nd Division dated October 5, 1999[11] in EAC No. A-20-98, entitled, "Rolando P. Columbres, Protestant-appellee versus Hilario De Guzman, Jr., Protestant-appellant," reversing the ruling of respondent judge in Election Case No. 31-98. This decision of the COMELEC's 2nd Division was subsequently affirmed by the COMELEC sitting en banc.[12]

In a Resolution dated December 1, 1999, the Court noted the above-mentioned letter of complainant and referred the case to Associate Justice Marina L. Buzon of the Court of Appeals for investigation, report and recommendation within ninety (90) days from notice.[13]

On March 8, 2000, respondent judge filed his comment,[14] substantially reiterating the arguments he raised in the earlier comment he filed on March 4, 1999.

In accordance with the directive of the Court, Investigating Justice Marina L. Buzon submitted a Report dated May 23, 2000 where she summed up the pertinent factual antecedents of the controversy thus:

Complainant Hilario de Guzman, Jr. was proclaimed as the duly elected Mayor of San Jacinto, Pangasinan in the May 11, 1998 elections, garnering 4,248 votes as against 4,104 votes obtained by Rolando E. Columbres.

Columbres filed an election protest against the complainant, docketed as Election Case No. D-13-98, which was raffled to the Regional Trial Court, Branch 40, Dagupan City, presided over by respondent Judge Deodoro J. Sison. On December 7, 1998, a decision was rendered by respondent finding that the revision and physical counting of votes/ballots in forty two (42) precincts contested by Columbres showed that the latter won the mayoralty elections of San Jacinto, Pangasinan, garnering 4,037 votes as against complainant's 3,302 votes.

In a letter dated December 16, 1998 addressed to the Honorable Chief Justice Hilario G. Davide, Jr., complainant charged the respondent with manifest partiality and gross ignorance of the law in the appreciation of the ballots in Election Case No. D-31-98, as shown by the following:

- Respondent nullified all the votes in his favor in Precinct Nos. 35 and 35A in Barangay Casibong for failure of the Election Chairman to countersign the ballots, citing Batas Pambansa No. 222 and Section 36 of Comelec Resolution No. 1539, as well as the case of Bautista vs. Castro.[15] Complainant argued that B.P. 222 and Comelec Resolution No. 1539 and the case of Bautista vs. Castro refer to the barangay elections in 1982 and that the law governing the 1998 elections is the Omnibus Election Code and the Comelec General Instructions for the May 11, 1998 elections.
- Respondent nullified the ballots with undetached stubs despite the provision in Section 211 (27) of the Omnibus Election that failure to remove the detachable coupon from a ballot does not annul such ballot.
- Respondent nullified ballots with "X" marks, lines and similar marks despite the provision in Section 211 (21) of the Omnibus Election Code that circles, crosses or lines placed on spaces on which the voter has not voted shall be considered as signs of desistance from voting and shall not invalidate the ballot.

Complainant further alleged that respondent prematurely terminated the presentation of his evidence and declared the case submitted for decision because of the absence of his lawyer at the hearing on December 1, 1998; that the motion for execution of the decision filed by Columbres was set for hearing by respondent despite the fact that he was not furnished with a copy thereof and said motion did not contain a notice of hearing; and that he appealed the decision to the Commission on Elections (COMELEC).

In his Comment on the complaint, respondent stated that his decision is supported by the evidence and his perception of the applicable law. He claimed that the invalidated ballots were accomplished by more than one person or were prepared by persons other than the registered voters as shown by the identical handwriting strokes or were prepared in longhand and in print and in the same sequence of candidates, or contained distinctive marks

or irrelevant words that could identify them or were not signed at the back by the Chairman of the Board of Election Inspectors and had no Comelec watermark or red and blue fibers in the ballots; that signatures and thumbmarks in the voter's registry record (CE Form No. 1) are different from those in the computerized list of voters (CE Form No. 2); that complainant was given adequate opportunity to refute or dispute the overwhelming documentary evidence against him but he failed to do so; that complainant appealed the decision to the COMELEC; and that a judge may not be held administratively liable for every erroneous order or decision rendered by him.

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A verified complaint with annexes, dated May 7, 1999, was filed by complainant on May 10, 1999 charging respondent with gross ignorance of the law and irregularities in connection with Election Case No. D-31-98, to wit:

- The decision nullifying 946 votes in his favor is contrary to the facts and the law for the following reasons:

a) 416 ballots with "X" marks or horizontal or vertical lines placed over empty spaces after the name of the last candidate written by the voter are not marked ballots, as such markings merely indicate desistance of the voter from voting and do not invalidate the ballots (Section 211 [21] of the Omnibus Election Code);

b.) 267 ballots with undetached coupons are valid as the failure to remove the detachable coupon from a ballot does not annul such ballot (Section 211 [27], Omnibus Election Code);

c.) 181 ballots which were not signed by the Chairman of the Board of Election Inspectors were invalidated on the basis of Section 14 of B.P. 322 (sic), Section 36 of Comelec Resolution No. 1539 and the case of Bautista vs. Castro, despite the fact that the 1998 national and local elections were governed by the Omnibus Election Code and Comelec Resolution No. 2962 and the applicable case is Punzalan vs. Comelec;

d.) 82 ballots were allegedly filled out by more than one person or that only one person filled out several ballots on the basis of the voters' registration record and voting record but he was not allowed to present an expert to validate/corroborate said findings;

- Respondent exhibited manifest partiality in the conduct of the proceedings in violation of his right to due process, as shown by the following:

a) Respondent declared the case submitted for decision although he was not yet through with the presentation of his evidence;

b) Respondent did not act on his motion for partial determination;

c) Respondent scared his witnesses and angrily stopped his counsel from asking questions to his witnesses;

d) Respondent denied his motion to post a supersedeas bond;

e) Respondent admitted the memorandum of Rolando Columbres although it was filed beyond the period;

f) Respondent accepted payment of the bond for the revision of contested ballots made beyond the period within which to do so;

g) His counsel was served with a copy of the Order dated November 26, 1998 only on December 1, 1998 barely three (3) hours before the scheduled hearing;

h) His motion dated November 26, 1998 was never set for hearing;

i) Respondent did not wait for his formal offer of evidence;

j) Respondent was seen with Mr. and Mrs. Rolando Columbres and Noli Caramat at Northern Paradise Resort

in San Jacinto, Pangasinan in the afternoon of the day he issued the writ of execution pending appeal, a shown by the picture and affidavit of the photographer, Mrs. Rosario Omictin; and

k) Respondent was in the municipal building of San Jacinto, Pangasinan with Rolando Columbres when the writ of execution pending appeal was implemented by the NBI Agents as shown by the affidavit of Emmanuel Hipolito;

- Respondent issued the writ of execution pending appeal without good reasons therefor;

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In his Comment on the verified complaint dated May 7, 1999, respondent reiterated the Comment earlier filed by him and claimed that any error in his decision is correctible by appeal and not through an administrative complaint, absent any showing of malice or bad faith on his part. He denied that he met with Columbres on December 18, 1998 at the Northern Paradise and that he was at the municipal building of San Jacinto, Pangasinan on December 21, 1998.

Replying thereto, complainant argued that respondent did not merely commit an error in judgment considering that the latter's appreciation of the contested ballots was based on non-existent rules and that he will present pictures showing that respondent was at the Northern Paradise Resort on December 18, 1998.

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On the basis of the foregoing facts, the Investigating Justice found respondent Judge guilty of gross ignorance of the law and manifest partiality and recommended that he be dismissed from the service with forfeiture of all retirement benefits and privileges with prejudice to reemployment in any government agency or instrumentality, reasoning thus:

In the case at bench, it would seem that respondent deliberately applied B.P. 222 and Section 36(f) of Comelec Resolution No. 1539 to justify his nullification of the ballots which did not bear the signature of the Chairman of the Board of Election Inspectors at the back thereof, in order to favor Rolando Columbres as a number of such ballots were cast in favor of complainant. Respondent then disregarded Section 211 (27) of the Omnibus Election Code, which provides that ballots with undetached coupons are valid, in order to nullify 267 such ballots in favor of complainant as against only 52 such ballots in favor of Columbres. On the other hand, respondent took note of Section 211 (23) of the Omnibus Election Code in nullifying ballots allegedly filled out by two (2) persons before it was deposited in the ballot box during the voting. In other words, respondent considered only Section 211 (23) of the Omnibus Election Code because it supported his nullification of the ballots in favor of complainant, and when he could not find other provisions in said Code that would support the nullification of the ballots in favor of complainant, respondent applied B.P. 222 and Comelec Resolution No. 1539, although the same referred exclusively to the election of barangay officials. Thus, respondent's refusal to apply the pertinent provisions of the Omnibus Election Code in the appreciation of some ballots which would have resulted in finding the same as valid votes for complainant, rendered his actuation highly dubious. As pointed out in *Ortigas and Co., Ltd. Partnership vs. Velasco* (277 SCRA 342, 367-368), this is not a case of not knowing or failing to understand legal principles and relevant doctrines but of a deliberate disregard of them. Such deliberate disregard by respondent of the pertinent provisions of the Omnibus Election Code and his application of B.P. 222, which is already obsolete, cannot be explained away as an honest mistake of judgment or an innocent error in the exercise of discretion. It can only be viewed as an attempt, through misuse of judicial processes, to give a semblance of merit to a clearly unmeritorious cause and accord undeserved benefits to the party espousing and promoting said cause.

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On the other hand, the picture (Exhibit "C") allegedly taken by complainant's witness, Rosario Omictin, at the Northern Paradise Resort in San Jacinto, Pangasinan on December 18, 1998 only shows respondent with Mr. and

Mrs. Manuel Caramat and an unidentified woman. While said witness testified that she saw Columbres leaving the resort upon her arrival thereat, it has not been shown, however, that Columbres was in the company of respondent on said date. However, said witness also testified that she saw respondent together with Columbres waving at the balcony of the municipal building of San Jacinto, Pangasinan in the morning of December 21, 1998 on the occasion of the latter's assumption of office as Mayor. The presence of respondent at the terrace of the municipal building between 9:00 and 9:30 in the morning of December 21, 1998 prior to the service of the writ of execution on complainant, was likewise testified to by Emmanuel Hipolito. As pointed out by complainant in his Memorandum, the trial calendar for December 21, 1998 (Exhibits "9" and "9-a ") submitted by respondent showing that he had sixteen (16) cases set for hearing in the morning of said date does not prove that respondent actually conducted said hearings. The trial calendar only lists down the cases scheduled for hearing on a particular date. The best evidence that respondent was actually present in his court and conducted hearings in the morning of December 21, 1998 would have been the minutes of the proceedings and the Orders issued in the cases calendared on that day. Thus, the denial of respondent that he was in the municipal building of San Jacinto, Pangasinan in the morning of December 21, 1998, cannot prevail over the positive testimonies of complainant's witnesses, in the absence of competent evidence to prove that he conducted hearing on said time and date. The presence of respondent in the municipal building of San Jacinto on the day that the writ of execution pending appeal, which was personally signed by him, was implemented, and his act of joining Columbres in waving at the balcony only opened him to suspicion of partiality in favor of Columbres.

In the Memorandum (Rollo, pp. 151, 157) of Senior Deputy Court Administrator Reynaldo L. Suarez to the Honorable Chief Justice, it was pointed out that respondent was admonished for ignorance of the law in RTJ-90-532, and that in A.M. No. 92-7-360-0, respondent was found guilty of ignorance of the law and grave abuse of discretion and was meted a fine of P20,000.00 with a warning that a commission of the same or similar offense will be dealt with more severely. Obviously, respondent did not take heed of said warning, as well as the admonition to Judges in *Bayog vs. Natino* (271 SCRA 268, 273), to wit:

"We have time and again stated that judges are called upon to exhibit more than just a cursory acquaintance with statutes and procedural rules. We have reminded them that under Canons 4 and 18 of the Canons of Judicial Ethics, they are required to be studious of the principles of law and to administer their office with due regard to the integrity of the system of the law itself, remembering that they are not depositories of arbitrary power, but judges under the sanction of law. (*Estoya v. Abraham-Singson*, 237 SCRA 1, 21 [1994]).

Judges of trial courts, either of limited or general jurisdiction, should never forget that they are in the forefront in the sacred task of administering justice. Any decision or order causing injustice or resulting in oppression or failure of justice would have a negative effects in the Judiciary itself. Judges must not allow this to happen. x x x"

The Court agrees with the foregoing findings of Justice Buzon. The culpability of respondent Judge Sison has been established not just by substantial evidence which suffices in an administrative investigation,[16] but by an overwhelming preponderance thereof.

The subject case involved an election protest relative to the Mayoralty Elections of 1998. At that time up to the present, such elections were governed by the Omnibus Election Code of the Philippines,[17] the Electoral Reforms Law of 1987,[18] and the Synchronized Elections Law of 1992.[19]

Clearly, B.P. Blg. 222 and Section 36 of Comelec Resolution No. 1539 invoked by respondent in the resolution of Election Case No. D-31-98 were inapplicable because they applied to the election of barangay officials in 1982 and they have already been repealed and rendered obsolete. It is, thus, perplexing why respondent judge insisted in applying B.P. Blg. 222 which pertained only to the election of barangay officials in 1982 instead of B.P. Blg.

882, enacted on December 3, 1985, which expressly governs mayoralty elections including those held in 1998.

... [I]t is given that a member of the bench must keep himself abreast of legal and jurisprudential developments, bearing in mind that his learning process never ceases even as it is so indispensable in the correct dispensation of justice.[20] When the law violated is elementary, the failure to know or observe it constitutes gross ignorance of the law.[21]

In other words, judges should be diligent in keeping abreast with developments in law and jurisprudence, and regard the study of law as a never-ending and ceaseless process.[22] Elementary is the rule that when laws or rules are clear, as in this case, it is incumbent upon respondent to apply them regardless of personal belief or predilections. To put it differently, when the law is unambiguous and unequivocal, application not interpretation thereof is imperative.[23]

When asked to explain why he decided the election case contradictory to existing law and controlling jurisprudence, respondent judge, pleading good faith, argued that whenever ballots contain obvious markings visible on their faces, the presumption is that said markings on the ballots were placed thereat by the voters themselves, thus nullifying the said ballots.

The reason given by respondent is not well-taken. It contradicts the norm enshrined in the Code of Judicial Conduct which enjoins judges to be faithful to the law and to maintain professional competence.[24] The Court has consistently held that laws and statutes governing elections contests especially the appreciation of ballots must be liberally construed to the end that the will of the electorate in the choice of public officials may not be defeated by technical infirmities.[25] Respondent's proffered excuse in nullifying the ballots cast in petitioner's favor was thus fittingly overruled by the Comelec en banc in its Resolution dated January 25, 2000 in EAC A-20-98:

We disagree. The movant is relying on an erroneous and misleading presumption. The rule is that no ballot should be discarded as marked unless its character as such is unmistakable. The distinction should always be between marks that were apparently carelessly or innocently made, which do not invalidate the ballot, and marks purposely placed thereon by the voter with a view to possible future identification, which invalidates it. The marks which shall be considered sufficient to invalidate the ballot are those which the voter himself deliberately placed on his ballot for the purpose of identifying it thereafter. In other words, a mark placed on the ballot by a person other than the voter himself does not invalidate the ballot as marked.

There is no legal presumption that the alleged markings were deliberately made by the voter himself and for the purpose of identifying it thereafter. In the absence of any circumstance showing that the intention of the voter to mark the ballot is unmistakable, or any evidence aliunde to show that the words or marks were deliberately written or put therein to identify the ballots, the ballot should not be rejected. In other words, the ballots should be read with reasonable liberality, so that the reading be in favor of the will of the voter, rather than in favor of the inefficiency of the ballot by reason of technical causes.

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Moreover, as a rule, slight variations in writing are not sufficient to show that the ballot was prepared by two hands and where there is doubt as to whether the names were written by two persons, the doubt must be resolved in favor of the validity of the ballot. Ergo, the declaration by the Commission (Second Division) of the validity of the questioned 111 ballots.

On the other hand, where the ballot shows distinct and marked dissimilarities in writing of the names of some candidates from the rest, the ballot was written by two hands and hence void. And therefore, the invalidation by the Commission (Second Division) of the 13 ballots found with dissimilar handwritings.[26]

Rendering an erroneous or baseless judgment, in itself, is not sufficient to justify an erring magistrate's dismissal from the service. There must be proof that such judgment was rendered with malice, corrupt motives, improper

considerations or bad faith.[27] However, "[a]lthough a judge may not always be subjected to disciplinary action for every erroneous order or decision he renders, that relative immunity is not a license to be negligent or abusive and arbitrary in performing his adjudicatory prerogatives. If judges wantonly misuse the powers vested in them by law, there will not only be confusion in the administration of justice but even also oppressive disregard of the basic requirements of due process." [28]

Respondent's bad faith is aptly pointed out by the Comelec's Second Division in its Resolution dated October 5, 1999 in EAC No. A-20-98:

The trial court's findings after its appreciation of the contested ballots is not only absurd but a complete disappointment and evinces the inadequacy of the court a quo in matters of jurisprudence and the proper application of Section 211 of the Omnibus Election Code. Every ballot is presumed valid unless there is a clear and good reason to justify its rejection, so the provision states. Whether or not a ballot is written by one or two persons or spurious or marked or defective because of certain infirmities can be determined by a close scrutiny of the face of the ballot and the validity or invalidity thereof can be deduced from the manner the voters prepared their ballots. On this score, the trial court failed.

In a long line of cases decided by the Supreme Court ... the High Court opined that "it is a well settled rule in election contests that the marks which shall be considered sufficient to invalidate the ballots are those which the voter himself deliberately placed on his ballot for the purpose of identifying it thereafter." In Exhibits "R", "R-1 " to "R-28", "R-30" to "R-38", "R-40", "R-42" to "R-44", "R-46", "R-49 to "R-125", a total of 120 ballots for the protestee, the court a quo nullified these ballots because of markings both on the face thereof and the reverse side. Close scrutiny, however, reveals that these so-called markings were placed by the person or persons other than the voters themselves as can be discerned from the strokes and flourishes of the handwriting considering that most, if not all, of the voters are clearly unlearned and the color of the inks undoubtedly differ from that used by the voters. Conversely, the court a quo did not nullify Exhibits "R-29", "R-39", "R-41 ", "R-45", "R-47" & "R-48" which upon examination contain the same identical markings as the other exhibits and written thereon by the same person or persons.

Corollarily, the court a quo invariably mistook the dots (colored pigmentations) on the faces of the ballots as deliberate markings. Unknown to all and sundry, this is one of the security precautions adopted by the Commission to insure that only authentic and official ballots reach the hands of the voters.

The actuation of the court a quo exemplify the highest degree of prejudice bordering on the criminal if not a gross display of utter ignorance of the law and existing jurisprudence. While it is a truism that the findings of facts by the trial court may not be disturbed on appeal, its appellate jurisdiction allows the Commission to review these findings if there is a showing that the trial court overlooked, misunderstood or misapplied some fact or circumstance of weight and substance that would have affected the result of the case. In the case at bench, the court committed not only a serious oversight but deliberately misapplied the law and derailed jurisprudence.[29] (Emphasis ours)

The presumption of good faith and the regularity in the performance of judicial functions on respondent's part are negated by the foregoing circumstances on record. We agree with the Investigating Justice that given the foregoing circumstances, this is not a case of not knowing or failing to understand legal principles and relevant doctrines but a deliberate disregard of them. Such an omission by respondent of the pertinent provisions of the Omnibus Election Code and his application of B.P. Blg. 222 and Section 36 of Comelec Resolution No. 1539, which are applicable exclusively to the election of barangay officials and which are already obsolete, can not simply be brushed away as an honest mistake of judgment or an innocent error in the exercise of discretion. It can only be seen as a deliberate attempt, through the misuse of judicial processes, to give a semblance of merit to a clearly unmeritorious cause and to accord undeserved benefits to the party espousing and promoting the same.

To reiterate, observance of the law which he is bound to know is required of every judge.[30] When the law is sufficiently basic, a judge owes it to his office to simply apply it;[31] anything less than that would be constitutive of gross ignorance of the law.[32] A judge should be the embodiment of competence, integrity and independence.[33] It is a pressing responsibility of judges to keep abreast with the law and the changes therein for ignorance of the law, which everyone is bound to know, excuses no one, not even judges.[34] Indeed, it has been said that -

When the inefficiency springs from a failure to consider so basic and elemental a rule, a law or a principle in the discharge of his duties, a judge is either too incompetent and undeserving of the position and the title he holds or is too vicious that the oversight or omission was deliberately done in bad faith and in grave abuse of judicial authority.[35]

The foregoing disquisitions likewise support the charge of manifest partiality because, assuming *arguendo* that respondent can not be faulted for gross ignorance of the law, he deliberately misapplied and twisted the law in order to favor protestant Rolando Columbres.

There is evidence *aliunde* which have been adduced to show respondent's bias or partiality in Columbres' favor, referring to two (2) incidents which occurred after the promulgation of respondent's assailed decision on December 7, 1998.

In the first incident, complainant's witness Rosario Omictin testified that on December 21, 1998 she saw respondent together with Columbres waving to the public from the balcony of the San Jacinto Municipal Hall on the latter's assumption of office as Mayor.[36] Witness Emmanuel Hipolito likewise confirmed the presence of respondent at the terrace of the municipal building between 9:00 and 9:30 in the morning of December 21, 1998 prior to the service of the writ of execution on complainant.[37]

Respondent denied his presence in the municipal building on the date mentioned, claiming that "in all of [his] 67 years of life, [he has] never stepped in the municipal building of San Jacinto, Pangasinan." [38] In support of this denial, respondent offered the testimony of Sheriff Leo Beltran, his branch sheriff, and the trial calendar for his sala on December 21, 1998.[39]

However, Beltran's testimony does not refute the claims of Hipolito and Omictin that they both saw respondent at the San Jacinto Municipal Hall in the morning of December 21, 1998. Beltran went to the municipal building much later, particularly at 11:00 a.m. after he had first served the writ of execution on complainant at the church of San Jacinto, Pangasinan.[40] It was actually about noontime when Beltran went to the municipal hall to implement the service of the writ because he had to wait for the church wedding rites to finish,[41] and he admitted that he never went to the municipal hall until "after the service of the writ." [42]

Likewise, the trial calendar for December 21, 1998 will not extricate respondent from his predicament. It does not clearly show that respondent actually conducted hearings in the morning of December 21, 1998 and, if so, for how long and what time he started and ended such hearings. What is worse is that said calendar shows that all cases were reset except for only one, which was heard *ex parte*. It was not even indicated whether said *ex parte* hearing was conducted by respondent judge himself or merely by the branch clerk of court. At any rate, the better evidence to show how long and up to what time respondent conducted the hearings in the morning of December 21, 1998 are the minutes of the morning session of that day, which the respondent did not produce.

The second incident allegedly occurred on December 18, 1998 at the Northern Paradise Resort in San Jacinto, Pangasinan, where respondent judge was again seen with Columbres. Witnesses Rosario Omictin and her daughter, Risacris Mae Omictin, positively identified respondent judge at the Northern Paradise Resort in the "late afternoon" of December 18, 1998.[43] In her testimony, Rosario Omictin more specifically put the time at around

6:00 in the afternoon.[44] Upon questioning by the Investigating Justice, Rosario Omictin explained that when she arrived at the Northern Paradise Resort, she saw Columbres leaving the place,[45] although upon reaching the resort gate she saw Columbres talking to the respondent.[46] Just as damaging is the picture[47] taken by Rosario Omictin of her daughter Risacris with respondent and the Caramat spouses in the background, which was identified by both mother and daughter. Most damning of all is the un rebutted testimony of Rosario Omictin that she was summoned by respondent and Columbres and reprimanded for taking the picture and executing the affidavit.[48]

To controvert the foregoing declarations of Rosario and Risacris, respondent again denied having been at the Northern Paradise Resort,[49] and offered the testimony of Noli Caramat as well as the trial calendar for December 18, 1998 in support thereof.

An assiduous examination of Caramat's testimonial declarations, however leaves the Court unconvinced of his credibility as a witness. On direct examination, he categorically declared that the picture which shows respondent was taken in June 1998.[50] Upon being grilled by complainant's counsel, he made the following revealing statements:

ATTY. BAUTISTA:

My only question, Mr. Caramat is, if you were not in the resort the whole day of December 18, 1998, how are you able to say that Judge Sison was not there at any time on December 18, 1998?

WITNESS:

Judge Sison was not there because I was not there too, sir.

ATTY. BAUTISTA:

Do you also mean to say that Judge Sison was never there in any day in December 1998 or only Mayor Columbres?

WITNESS:

No. Either Mr. Columbres was not there also.

ATTY. BAUTISTA:

Anytime in December 1998?

WITNESS:

Yes, sir.

ATTY. BAUTISTA:

You are able to say that because you were there and your wife was also there every time that the resort was open in December 1998?

WITNESS:

No, sir.

ATTY. BAUTISTA:

So, how are you able to say that then?

WITNESS:

Actually Attorney, we are not the ones who are opening the resort. It is our employees. We drop [by] at the resort very minimal[ly] because we have to attend to our other businesses, sir.[51]

The foregoing renders Mr. Caramat's statement that respondent was not in the Northern Paradise Resort on December 18, 1998 purely hearsay. Worse, while Caramat vaguely implied in his affidavit[52] that respondent judge was not in the resort "on any day after the May 1998 elections," he later made a volte face in his testimony[53] which only added further to the confusion.

The trial calendar of respondent's court on December 18, 1998[54] is likewise inconclusive to show that he was not at the Northern Paradise Resort. For one thing, the calendar indicates that there were only two (2) cases scheduled for 2:00 p.m. on said date. Moreover, there is nothing in the calendar which even remotely hints that hearings were actually held in the afternoon of the said date. Indeed, by respondent's own admission,[55] the Northern Paradise Resort is only forty (40) minutes away from his sala. He does not even remember how long he held the sessions on December 18, 1998, but he declared that he usually leaves his office at 5:00 p.m.[56]

The Canons of Judicial Ethics provide that:

Rule 2.00 - A judge should avoid impropriety and the appearance of impropriety in all activities.

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

It is an ironclad principle that a judge must not only be impartial; he must also appear to be impartial. Hence, the judge must, at all times, maintain the appearance of fairness and impartiality. His language, both written and spoken, must be guarded and measured lest the best of intentions be misconstrued.[57] A judge's conduct must be above reproach.[58] Like Caesar's wife, a judge must not only be pure but above suspicion.[59] A judge's private as well as official conduct must at all times be free from all appearances of impropriety and be beyond reproach.[60]

Fraternalizing with litigants tarnishes this appearance.[61] It was, thus, held that it is improper for a judge to meet privately with the accused without the presence of the complainant.[62] Needless to state, privately meeting with a litigant in a resort and later being seen with him waving to the public while his judgment in favor of said litigant was being implemented seriously undermines even more the people's faith and confidence in the judiciary.

The Court notes that aside from this case, respondent has been charged seven (7) other times.[63] Of these cases three (3) have been dismissed,[64] while two (2) are still pending.[65] The court also notes that respondent has been repeatedly charged with gross ignorance of the law and has been penalized or sanctioned on two (2) occasions. Indeed, in A.M. No. RTJ-90-532, respondent was admonished while in A.M. No. 92-7-360-0, he was fined P20,000.00 and sternly warned that a commission of the same or similar offense will be dealt with more severely. It need not be overemphasized the such an unflattering record only erodes further the people's faith and confidence in the judiciary.

Case law repeatedly teaches that judicial office circumscribes the personal conduct of a judge and imposes a number of restrictions thereon which he must pay for accepting and occupying an exalted position in the administration of justice.[66] A judicial office traces a line around his official as well as personal conduct beyond which he may not freely venture.[67] He must conduct himself in a manner that gives no ground for reproach.[68] The irresponsible or improper conduct of a judge erodes public confidence in the judiciary.[69] It is thus the duty of all members of the bench to avoid any impression of impropriety to protect the image and integrity of the judiciary.[70]

This reminder applies all the more sternly to municipal, metropolitan and regional trial court judges like herein

respondent, because they are judicial front-liners who have direct contact with the litigating parties.[71] They are the intermediaries between conflicting interests and the embodiment of the people's sense of justice.[72] Thus, judicial conduct should remain free from any appearance of impropriety and should be beyond reproach.[73]

In the case at bar, respondent has shamed the judiciary by deliberately applying not only patently inapplicable but also already repealed laws. He tainted the image of the judiciary to which he owes fealty and the obligation to keep it at all times unsullied and worthy of the people's trust.[74] For this the Court believes that the recommended penalty is warranted.

WHEREFORE, in view of all the foregoing, respondent Judge Deodoro J. Sison is found guilty of gross ignorance of the law and manifest partiality, and is hereby DISMISSED from the service, with forfeiture of all retirement benefits and privileges and with prejudice to reemployment in any government agency or instrumentality.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, De Leon, Jr., and Sandoval-Gutierrez, JJ., concur.
Quisumbing J., on leave.

[1] Rollo, pp. 1-2.

[2] Ibid., pp. 3-13.

[3] Id., p. 15.

[4] Id., p. 14.

[5] Id., pp. 16-18.

[6] Citing In re: Joaquin T. Borromeo, 241 SCRA 405 [1995].

[7] Rollo, p. 22.

[8] Ibid., pp. 23-25.

[9] Annexes A-S, pp. 26-150, passim.

[10] Rollo, p. 159.

[11] Ibid., pp. 162-178.

[12] Id., pp. 194-199.

[13] Id., pp. 180-181.

[14] Id., pp. 201-208.

[15] 206 SCRA 305 [1992].

[16] Rules of Court, Rule 133, Section 5.

[17] B.P. Blg. 881.

[18] R.A. No. 6646.

[19] R.A. No. 7166.

[20] *Januario Lotino v. Judge Porfirio G. Macaraeg*, A.M. No. RTJ-00-1542, 16 March 2000.

[21] *Hermogenes T. Gozun v. Hon. Daniel B. Liangco*, A.M. No. MTJ-97-1136, 30 August 2000, citing *Romulo SJ Tolentino v. Judge Alfredo A. Cabral*, A.M. No. RTJ-00-1528, 28 March 2000; *Carlito C. Aguilar v. Judge Victor A. Dalanao*, A.M. No. MTJ-00-1275, 8 June 2000.

[22] *Hold Departure Order Issued By Judge Felipe M. Abalos*, MTCC-Branch 1, Dipolog City in Criminal Cases Nos. 15521 & 15522, 319 SCRA 131 (1999), citing *Re: Hold Departure Order Dated April 13, 1998 Issued By Judge Juan C. Nartatez*, MTCC-Branch 3, Davao City, 298 SCRA 710 [1998].

[23] *Perez v. Concepcion*, 321 SCRA 284 [1999].

[24] Canon 3, Rule 3.01.

[25] *Pangandaman v. COMELEC*, 319 SCRA 283 [1999].

[26] *Rollo*, pp. 196-198; Citations omitted.

[27] *De Vera v. Dames*, 310 SCRA 213 [1999]; see also *Abundo v. Manio*, 312 SCRA 1 [1999].

[28] *Sanchez v. Vestil*, 298 SCRA 1 [1998]; *Daiz v. Judge Asadon*, 290 SCRA 561 [1998].

[29] *Rollo*, pp. 174-177; citations omitted.

[30] *Hermo v. Dela Rosa*, 299 SCRA 68 [1998].

[31] *Bacor v. De Guzman*, 271 SCRA 328 [1997].

[32] *Creer v. Concordio L. Fabillar*, Acting Judge, MCTC, Giporlos-Quinapundan, Eastern Samar, A.M. No. MTJ-99-1218, 14 August 2000.

[33] *Mamolo, Sr. v. Narisma*, 252 SCRA 283 [1996].

[34] *Cacayoren v. Judge Hilarion A. Suller*, 7[th] MCTC, Asingan-San Manuel, Pangasinan, A.M. Nos. MTJ-97-1132 & MTJ-97-1133, 24 October 2000, citing *Aurillo v. Francisco*, 235 SCRA 283 [1994].

[35] *Rodriguez, v. Judge Rodolfo R. Bonifacio*, RTC, Branch 151, Pasig City, A.M. No. RTJ-99-1510, 6 November 2000, citing *Cortes v. Agcaoili*, 294 SCRA 1 [1997].

[36] TSN, [a.m.] 28 March 2000, pp. 57-61.

[37] *Ibid.*, pp. 35-37.

[38] *Id.*, [p.m.], p. 144.

[39] Exhibit 9.

[40] TSN, [p.m.] 28 March 2000, pp. 20-22.

[41] *Ibid.*, pp. 49-51.

[42] *Id.*, p. 55.

[43] Exhibit B, *Omictin's Affidavit*.

[44] TSN, [a.m.] 28 March 2000, p. 64.

- [45] Ibid., pp. 90-92.
- [46] Id., pp. 109-110.
- [47] Exhibit C.
- [48] TSN, [a.m.] 28 March 2000, p. 106.
- [49] Ibid., [p.m.], p. 148.
- [50] Id., [p.m.] pp. 84-86.
- [51] Id., pp. 101-104.
- [52] Exhibit 6.
- [53] TSN, [p.m.] 28 March 2000, pp. 105-108.
- [54] Exhibit 8.
- [55] TSN, [p.m.] 28 March 2000, pp. 148-150.
- [56] Ibid., pp. 149-150.
- [57] De Vera v. Dames, supra; People v. Serrano, 203 SCRA 171 [1991], citing Fecundo v. Berjamen, 180 SCRA 235 [1989].
- [58] Canon 31, Canons of Judicial Ethics.
- [59] Palang v. Zosa, 58 SCRA 776 [1974].
- [60] Magarang v. Judge Galdino B. Jardin, Sr., A.M. No. RTJ-99-1448, 6 April 2000, citing Dysico v. Dacumos, 262 SCRA 275 [1996].
- [61] Gacayan v. Hon. Fernando Vil Pamintuan, 314 SCRA 682 [1999], citing Cortes v. Agcaoili, supra.
- [62] Gallo v. Cordero, 245 SCRA 219 [1995].
- [63] 1.] IPI No. 98-504-RTJ for Rendering an Unjust Judgment;
- 2.] RT J-90-532 for Ignorance of the Law;
- 3.] RT J-92-804 for Grave Misconduct;
- 4.] RT J-92-822 for Ignorance of the Law;
- 5.] RT J-94-1155 for Rendering an Unjust Judgment;
- 6.] A.M. No. 92-7-360-0 for Ignorance of the Law and Grave Abuse of Discretion;
- 7.] MTJ-87-52 for Ignorance of the Law.

[64] 1.] RTJ-94-1155;

2.] RTJ-92-804;

3.] MTJ-87-52.

[65] 1.] IPI No. 98-504-RTJ;

2.] RTJ-92-822.

[66] *Apiag v. Cantero*, 268 SCRA 47 [1997].

[67] *Dacera v. Judge Teodoro A. Dizon, Jr.*, RTC, Branch 37, General Santos City, A.M. No. RTJ-00-1573, 2 August 2000.

[68] *Villaluz Vda. De Enriquez v. Judge Jaime F. Bautista*, A.M. No. RTJ-99-1439, 9 May 2000, citing *San Juan v. Bagalasca*, 283 SCRA 416 [1997].

[69] *Panganiban v. Guerrero, Jr.*, 242 SCRA 11 [1995].

[70] *Galang v. Judge Abelardo H. Santos*, 307 SCRA 582 [1999], citing *Nazareno v. Almario*, 268 SCRA 657 [1997].

[71] *Dawa v. Judge De Asa*, 292 SCRA 703 [1998].

[72] *Rallos, et al. v. Judge Irineo Lee Gako, Jr.*, RTC Branch 5, Cebu City, A.M. Nos. RTJ-99-1484 & RTJ-99-1484 (A), 17 March 2000; *Marces v. Arcangel*, 258 SCRA 503 [1996].

[73] *Calilung v. Judge Wilfredo Suriaga*, A.M. Nos. MTJ-99-1191 & RTJ-99-1437, 31 August 2000.

[74] *Garcia v. Dela Pena*, 229 SCRA 766 [1994].

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