

**PRESCILLA L. NEDIA, MYLENE MACALINAO, EUFEMIA LIVARA,
ESTER LABASTIN, FLORDELIZA DONINA, ROMEO MAGORA,
ANTONIO RATIN, ABNIR AGDURO AND ALBINO MAPULA,
COMPLAINANTS, VS. JUDGE CEL...**

A.M. NO. RTJ-05-1957 (FORMERLY OCA IPI NO. 05-2220-RTJ). September 26, 2005

Ponente: CHICO-NAZARIO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/b1426a8eb239/>

CHICO-NAZARIO, J.:

The instant administrative case arose from the affidavit-complaint[1] dated 02 March 2005 of Prescilla L. Nedia, Mylene Macalinao, Eufemia Livara, Ester Labastin, Flordeliza Donina, Romeo Magora, Antonio Ratin, Abnir Agduro and Albino Mapula (complainants) charging respondents Judge Celso D. Laviña (ret.) with Ignorance of the Law and Grave Abuse of Authority (Oppression), and Cresenciano Rabello, Jr., Sheriff IV, of the same court, with Grave Abuse of Authority (Oppression) relative to SP Proc. Case No. 9092 entitled, "In the Matter of the Intestate Estate of the late Delfin Casal."

The facts of the case are as follows:

Pursuant to Orders dated 30 December 2003 and 31 March 2004 issued by respondent Judge of the Regional Trial Court of Pasig City, Branch 71, in SP Proc. Case No. 9092, Gerardo D. Casal was appointed administrator of the Casal Estate or Lot 3, PSD-13-005368, Sgs-04-000003 known as the Mcda area or the Fort Mckinley Housing Colony located at Guiho Extension, J.P. Rizal Extension, Cembo, Makati City. He was issued Letters of Administration on 10 June 2004 wherein he was tasked to administer certain portions of the Casal Estate identified and referred to as Mcda area. The administrator, in turn, appointed Fernando Bontia as terminal administrator.

These orders were served on Larry Reyes, a resident of the Mcda area and President of Tulay-Bonifacio Drivers Association, to Jose Bemindo representing the Highway-Pateros Drivers Association, and to individuals, Flordeliza Donina, Ramil Burcer, Eufemia Livara, Ella Livara, Joven Livara, Allan Livara and Mylene Macalinao. They, however, refused to receive and acknowledge the aforesaid orders and to surrender the administration of the Mcda area. Thus, a motion[2] for contempt was filed by Gerardo D. Casal in behalf of the Intestate Estate of the Late Delfin Casal.

On 06 September 2004, respondent Judge issued an order[3] finding complainants and others guilty of indirect contempt, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, the Motion for Contempt and the Supplementary Manifestation to the Motion for Contempt dated July 8, 2004 are hereby GRANTED AND NOTED.

The following persons, after due hearing and after having been given the opportunity to be heard but failed to comment, to appear despite notice and to show cause, namely: Larry Reyes, Bemindo Jose, Nino Aclan, Romeo Magora, Antonio Ratin, Flordeliza Donina, Ella Livara Nidea, Abner Agduro, Ester Labastin, Eufemia

Livara, Joel Banogbanog, Ramil Burcer, Mylene Macalinao and Mr. Albino are cited for Indirect Contempt of this Court.

The Court finds them guilty of indirect contempt and hereby punished (sic) them by imprisonment of two (2) months EACH. Let warrants for their arrest be issued.

A motion for reconsideration and to lift order of arrest were filed. On 20 September 2004, the respondent Judge reconsidered his previous order, thus:[4]

WHEREFORE, the court RECONSIDERS the Order and LIFTS the Warrant/Order of Arrest both dated 6 September 2004 insofar as the remaining period of imprisonment of two (2) months is concerned.

However, instead of modifying the sentence from imprisonment to fine not exceeding P30,000.00 for the offense of indirect contempt under Section 7, Rule 71 of the 1997 Rule (sic) of Civil Procedure and/or release on recognizance, as prayed for, the court hereby orders the Jail Warden of the Pasig City Jail to IMMEDIATELY RELEASE the eleven (11) respondents including respondent Hilario "Larry" Reyes, president of TUBODA terminal, unless there is other valid cause for further detention.

Not satisfied, complainants filed the instant administrative case[5] against respondent Judge for Gross Ignorance of the Law and Grave Abuse of Authority, and against respondent Sheriff Cresenciano Rabello, Jr. for Grave Abuse of Authority.

Complainants aver that they are residents of a land owned by the City of Makati which is being claimed by Mr. Gerardo Casal, the court-appointed administrator in SP Proc. Case No. 9092. They claim that the respondent Judge committed ignorance of the law and grave abuse of authority when he ordered their arrest based on a motion for contempt filed by the petitioners, despite being neither part of nor parties to the above subject case.

The complainants allege that at around 7:30 a.m. of 10 September 2004, they were arrested by the elements of the Philippine National Police on the strength of the order of arrest issued by the respondent Judge after the latter held them liable for indirect contempt of court. According to them, they had not received any appropriate formal charge nor were they given an opportunity to be heard.

After their arrest, complainants claim that they were brought before the court where they were rebuked and threatened by the respondent Sheriff when the latter made remarks in this wise: "MATITIGAS ANG ULO NINYO AT AYAW NINYONG SUMUNOD SA ADMINISTRATOR NA SI GERARDO CASAL, GAYONG ANG ADMINISTRATOR NA ANG MAY-ARI NG LUPANG KINATITIRIKAN NG MGA BAHAY NINYO."

Complainants spent ten (10) days in prison without being given the right to post bail. They were released only after they were allegedly forced to sign an undertaking where they recognized the authority of Mr. Gerardo Casal. Respondent Judge also ordered the Meralco to disconnect the electricity of the complainants, as well as the other residents of their Barangay.

In his comment[6] dated 27 April 2005, the respondent Judge vehemently denies the charges that he committed Ignorance of the Law and Grave Abuse of Authority (Oppression). At the outset, he avers that there is no truth to the claim of the complainants that they were not part of SP Proc. Case No. 9092, the truth being that they were active participants in the said case through their Barangay Chairman Leonardo Magpantay of Barangay Cembo. He explains that the complainants were given full opportunity to comment on the charge and defend themselves but they chose not to do so. He points out that when the subpoenas were served upon the complainants, they confiscated the Supreme Court ID of the process server and warned the latter not to come back anymore. For the continued refusal of the complainants to appear despite due notice and to show cause why they should not be held liable for contempt, the respondent Judge found them guilty of indirect contempt and correspondingly ordered

their arrest. In sum, the respondent Judge maintains that his actions in entertaining the motion for contempt of the petitioners and holding the complainants in indirect contempt of court do not constitute Ignorance of the Law and Grave Abuse of Authority (Oppression).

On the other hand, respondent Sheriff Cresenciano Rabello, Jr., in his comment[7] dated 10 May 2005, refutes all the allegations in the complaint by adopting and submitting as his own the comment of the respondent Judge dated 27 April 2005. In addition, he vehemently denies having uttered the alleged oppressive statements against the complainants and submits that the same are mere fabrications. He claims that he met the complainants in court around 10:30 a.m. on the day of their arrest. He recalls that he simply answered the questions of the complainants on the reasons for their arrest. He even recalls offering his lunch to one of the elderly complainants as the latter was hungry considering it was then already lunchtime. As such, the respondent Sheriff believes that this act of generosity is incompatible with the complainants' imputation that he gravely abused his authority by acting in an oppressive manner. Lastly, he surmises that the enforcement of the writ of execution issued by the respondent Judge on 24 February 2005, which directed the Meralco to disconnect the electricity of the complainants, could be the reason why the complainants harbour ill feelings against him. As such, he believes he did not commit Grave Abuse of Authority (Oppression) because he was just trying to perform his mandated duties.

On 06 July 2005, the Office of the Court Administrator (OCA) submitted its recommendation,[8] thus:

Respectfully submitted for the consideration of the Honorable Court with the recommendation: THAT –

- The instant complaint be RE-DOCKETED as a regular administrative matter;
- The respondent Judge Celso D. Laviña (ret.) be found GUILTY of Gross Ignorance of the Law and be imposed a FINE in the amount of P21,000.00 to be deducted from his retirement benefits; and
- The charge of Grave Abuse of Authority (Oppression) against respondent Judge Celso D. Lavina (ret.) and respondent Sheriff Cresenciano Rabello, Jr. be DISMISSED for lack of merit.

The Court finds the recommendation of the OCA well-taken.

There is no doubt that complainants' contemptuous acts fall under indirect contempt as defined in Section 4, Rule 71 of the 1997 Rules of Civil Procedure-- as disobedience to a lawful writ, process, judgment or command of a court or injunction granted by a court or judge. They disobeyed the Orders dated 30 December 2003 and 31 March 2004 issued by the respondent Judge.

Indirect contempt may either be initiated (1) *motu proprio* by the court by issuing an order or any other formal charge requiring the respondent to show cause why he should not be punished for contempt, or (2) by the filing of a verified petition, complying with the requirements for initiatory pleadings.[9]

Clearly as may be gleaned above, indirect contempt can be initiated *motu proprio* by the court itself or by filing a verified petition with full compliance with the requirements therefor.

In the present case, court-appointed administrator, Gerardo D. Casal, initiated the proceedings for indirect contempt by filing a motion for indirect contempt. Notwithstanding the mistake of Casal in filing a charge for indirect contempt by mere motion, respondent Judge gave due course to it and issued an order holding complainants guilty of indirect contempt.

Truly, prior to the amendment of the 1997 Rules of Civil Procedure, mere motion without complying with the requirements for initiatory pleadings was tolerated by the courts. At present, Rule 71, Section 4, mandates that except for indirect contempt proceedings initiated *motu proprio* by order of or a formal charge by the offended court, all charges shall be commenced by a verified petition with full compliance with the requirements for

initiatory pleadings.[10] Evidently, respondent Judge had ignored a fundamental rule. He acted too precipitately in issuing the order of indirect contempt despite the fact that the same was initiated sans the formal requirements of law.

It is clear that respondent Judge ought to be sanctioned for his failure to properly apply the court procedure. As can be seen, the law involved is simple and elementary. When the law is sufficiently basic, a judge owes it to his office to simply apply it, and anything less than that would be constitutive of gross ignorance of the law. In short, when the law is so elementary, not to be aware of it constitutes gross ignorance of the law.[11] When the inefficiency springs from a failure to consider so basic and elementary a rule, a law or principle in the discharge of his duties, a judge is either too incompetent and undeserving of the position and title he holds or is too vicious that the oversight or omission was deliberately done in bad faith and in grave abuse of judicial authority.[12]

Canon 4 of the Canon of Judicial Ethics requires that a judge should be studious of the principles of law; while Canon 18 mandates that he should administer his office with due regard to the integrity of the system of the law itself, remembering that he is not a depositary of arbitrary power, but a judge under the sanction of law.[13] The maxim "ignorance of the law excuses no one" has special application to judges, who, under Rule 1.01 of the Code of Judicial Conduct, should be the embodiment of competence, integrity, and independence. Competence is a mark of a good judge. When a judge displays an utter lack of familiarity with the rules, he erodes the public's confidence in the competence of our courts.[14] It is highly imperative that judges be conversant with the law and basic legal principles.[15] Basic legal procedures must be at the palm of a judge's hands.[16]

In the case at bar, respondent Judge not only failed to perform his duties in accordance with the Rules, but he also acted wilfully and in gross disregard of the law and controlling jurisprudence. He was ignorant of the basic and simple procedural rules by issuing an order of indirect contempt initiated by an unverified motion. Verily, respondent Judge's actions visibly indicate his lack of sufficient grasp of the law.

Under Rule 140, Section 8, of the Rules of Court, as amended by A.M. No. 01-8-10 SC, gross ignorance of the law or procedure is classified as a serious charge. As to the penalty imposed, Section 11 of the same Rule provides:

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

- Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations: Provided, however, that the forfeiture of benefits shall in no case include accrued leave credits;
- Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or
- A fine of more than P20,000.00 but not exceeding P40,000.00.

Accordingly, we imposed on respondent Judge a fine of P20,000.00, following our rulings in *Gamas v. Oco*,^[17] and *Jaucian v. Espinas*.^[18]

Anent the charge of Grave Abuse of Authority (Oppression) against the respondent Judge and the respondent Sheriff, the records are absolutely bereft of any evidence to substantiate complainants' allegation. In administrative proceedings, the complainant has the burden of proving, by substantial evidence, the allegations in his complaint.^[19]

Beyond the bare allegations that the respondent Judge and the respondent Sheriff committed grave abuse of

authority, there is nothing in the records that would indicate that they, indeed, committed the crime charged. We have stressed time and again that allegations must be proven by sufficient evidence. Mere allegation is not evidence,[20] and is not equivalent to proof.[21]

All told, this Court once again seizes the moment to remind judges to keep abreast of the rules and recent pronouncements of this Court, so they may evolve into more effective dispensers of justice-- magistrates of the law in the truest sense of the word.[22]

WHEREFORE, the Court finds Judge Celso D. Laviña[23] of the Regional Trial Court of Pasig City, Branch 71, guilty of Gross Ignorance of the Law, and hereby imposes on him a fine of Twenty Thousand (P20,000.00) PESOS to be deducted from his retirement benefits. The charge of Grave Abuse of Authority against respondent Judge and respondent Sheriff Cresenciano Rabello, Jr. is hereby DISMISSED for lack of merit.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Callejo, Sr., and Tinga, JJ., concur.

[1] Rollo, pp. 1-2.

[2] Rollo, pp. 31-35.

[3] Rollo, pp. 58-61.

[4] Rollo, pp. 6-8.

[5] Rollo, pp. 1-2.

[6] Rollo, pp. 13-20.

[7] Rollo, pp. 65-66.

[8] Rollo, pp. 75-78.

[9] *Montenegro v. Montenegro*, G.R. No. 156829, 08 June 2004, 431 SCRA 415; Section 4, Rule 71, Rules of Court.

[10] Florenz Regalado, *Remedial Law Compendium*, Vol. 1, p. 808.

[11] *Canas v. Castigador*, G.R. No. 139844, 15 December 2000, 348 SCRA 425.

[12] *Almojuela, Jr. v. Ringor*, A.M. No. MTJ-04-1521, 27 July 2004, 435 SCRA 261; *Lim v. Fineza*, A.M. No. RTJ-02-1705, 5 May 2003, 402 SCRA 534.

[13] *Jason v. Ygaña*, A.M. RTJ-00-1543, 04 August 2000, 337 SCRA 264.

[14] *Guillen v. Canon*, A.M. No. MTJ-01-1382, 41 January 2002, 373 SCRA 70.

[15] *Borja-Manzano v. Sanchez*, A.M. No. MTJ-00-1329, 08 March 2001, 354 SCRA 1.

[16] *Pesayco v. Layague*, A.M. No. RTJ-04-1889, 22 December 2004, 447 SCRA 450.

[17] A.M. No. MTJ-99-1231, 17 March 2004, 425 SCRA 588.

[18] A.M. No. RTJ-01-1641, 09 May 2002, 382 SCRA 11.

[19] *De Guzman v. Dy*, A.M. No. RTJ-03-1755, 03 July 2003, 405 SCRA 311.

[20] Martinez v. National Labor Relations Commission, G.R. No. 117495, 29 May 1997, 272 SCRA 793.

[21] Philippine National Bank v. Court of Appeals, G.R. No. 116181, 06 January 1997, 266 SCRA 136.

[22] Comia v. Antona, A.M. No. RTJ-99-1518, 14 August 2000, 337 SCRA 656.

[23] Who retired on 24 April 2005.

ABOUT BATAS.ORG

Study smarter at BATAS.org

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

The complete Philippine law library - free for everyone.

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

Audio case-brief lectures.

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

Bar review built on the science of memory.

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

The full law-school curriculum.

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

Mock exams that tell you where you stand.

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

A study planner that keeps you on pace.

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

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

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

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

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