

**JOSELITO RALLOS, JOSEFINA RALLOS VALLAR, SIMON RALLOS  
REPRESENTING HIS DECEASED FATHER CARLOS RALLOS, TERESITA  
RALLOS YAP, AND JOSELITO RALLOS, COMPLAINANTS, VS. JUDGE  
IRENEO LE...**

*A.M. No. RTJ-99-1484 (A). October 24, 2000*

Ponente: PANGANIBAN, J.

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**PANGANIBAN, J.:**

A judge may be held administratively liable for gross ignorance of the law when it is shown that -- motivated by bad faith, fraud, dishonesty or corruption -- he ignored, contradicted or failed to apply settled law and jurisprudence.

**The Case**

Two consolidated administrative cases were filed against Judge Ireneo Lee Gako Jr. of the Regional Trial Court (RTC) of Cebu City, Branch 5.

The first case was filed by Joselito Rallos, Simon Rallos, Josefina Rallos Vallar and Teresita Rallos Yap. It was an Administrative Complaint in connection with Special Proceedings Case No. 1576-R entitled "Intestate Estate of Simeon Rallos," then pending before respondent.

The second was filed by Executive Secretary Ronaldo B. Zamora, charging respondent with ignorance of the law and grave abuse of authority. This Complaint was based on the allegation that the latter had ordered the release of 25,000 sacks of imported rice to the claimants,[1] notwithstanding the pendency of seizure and forfeiture proceedings before the Bureau of Customs.

After respondent had filed his Comment, the Court, in its September 1, 1999 Resolution, docketed the two cases as administrative matters and referred them to Deputy Court Administrator Bernardo T. Ponferrada for investigation, report and recommendation.

After conducting hearings, the investigator submitted his findings and recommendations in a Memorandum dated January 4, 2000.

On March 17, 2000, we promulgated a Decision finding respondent guilty of the first charge and ordering him to pay a fine of P10,000. The second charge, however, was held in abeyance, pending the judicial resolution of the Petition questioning respondent's Orders. Hence, in its earlier Decision, the Court disposed as follows:[2]

"WHEREFORE, the Court finds Judge Ireneo Lee Gako Jr. GUILTY of grave abuse of authority and partiality aggravated by dishonesty for which he is ordered to PAY a FINE of P10,000. He is sternly warned that a commission of similar acts in the future shall be dealt with more severely. The Complaint filed by Executive Secretary Ronaldo Zamora is hereby held in abeyance."

Respondent's Motion for Reconsideration[3] of our March 17, 2000 Decision was denied with finality by this

Court.[4]

Subsequently, in a Decision[5] dated March 30, 2000, the Court set aside respondent's Orders, which were also the bases of Secretary Zamora's Complaint.

Hence, the Court will now rule on the second case against respondent.

#### The Facts

For clarity, we again present the antecedent facts in the first case, which were summarized by the investigator[6] in this wise:

"On December 8, 1998, the Economic Intelligence and Investigation Bureau (EIIB) of the Bureau of Customs (BOC), the Philippine Coast Guard, and the Philippine National Police (PNP) at the Port of Cebu withheld, for investigation, an estimated 25,000 sacks of rice marked as 'Snowman' on board the vessel, M/V Alberto. The sacks of rice allegedly came from Palawan to be unloaded in Cebu. Likewise seized on the same date were nine cargo trucks to be used for carrying the subject sacks of rice.

"The EIIB then wrote to the Bureau of Customs, Cebu, stating that upon further verification, no proper voyage clearance to sail from Palawan to Cebu was issued to the vessel, M/V Alberto. The EIIB then requested that a warrant of seizure and detention be issued over the rice shipment.

"On December 9, 1998, the Bureau of Customs issued a Warrant of Seizure and Detention against: a) the vessel M/V Alberto used in the illegal transport of imported staple rice; b) the imported staple rice consisting of 25,000 sacks, more or less, with the 'Snowman' brand; and c) nine (9) motor-vehicle trucks used and utilized in the illegal transport of the rice. The warrant was also directed to the owner of the M/V Alberto, ANMA Philippine Shipping Corporation, and the consignee of the rice shipment, Mark Montelibano.

"Thereafter, the claimants Mark Montelibano and Elson Ogario, on December 10, 1998, filed a complaint for injunction with prayer for temporary restraining order and writ of preliminary injunction. The case, entitled 'Elson Ogario and Mark Montelibano vs. Bureau of Customs, EIIB, Philippine Navy, Maritime Command, Philippine National Police, Philippine Coast Guard and All Enforcement Agencies' was docketed as Civil Case No. CEB 23077 and assigned to Branch 5, Regional Trial Court of Cebu City, which is the sala of respondent judge. The complaint alleged that the acts of defendants in intercepting the subject sacks of rice [were] unlawful, illegal and merely based on suspicion. Thus, plaintiffs prayed for the quashal of the warrant of seizure and detention (dated December 9, 1998) issued by the Collector of Customs, and for the release of the goods.

"The Bureau of Customs filed a motion to dismiss on December 11, 1998, alleging that the trial court ha[d] no jurisdiction over the complaint. x x x

x x x

x x x

x x x

"The Bureau of Customs also pointed out that the appropriate seizure proceeding was already instituted on December 9, 1998, by virtue of the issuance of the warrant of seizure and detention. This had the effect of depriving the trial court of jurisdiction over the matter.

"On December 28, 1998, a hearing was held by respondent judge on both the motion to dismiss of the Bureau of Customs and the complainants' application for a writ of preliminary injunction. The parties presented evidence in support of their respective positions.

"In a Resolution dated January 11, 1999, the respondent judge denied the Bureau of Custom's motion to dismiss and granted complainants' prayer for writ of preliminary injunction, the dispositive portion of which reads:

x x x

x x x

x x x

"In the subject resolution, the respondent judge also ruled that the Bureau of Customs ha[d] no jurisdiction because the goods involved [were] neither imported nor smuggled and were apprehended outside the customs zone. As further basis, it was ruled that plaintiff was able to present a certification issued by the National Food Authority that the subject rice came from Palawan. Defendants, on the other hand, submitted no evidence that the subject bags of rice were imported or smuggled. The issuance of the warrant of seizure and detention being arbitrary and without probable cause, it did not divest the trial court of its jurisdiction.

"The Bureau of Customs filed a motion for reconsideration, but this was subsequently denied in the trial court's Order dated January 25, 1999. In this resolution, respondent judge ordered the defendants to release the 25,000 sacks of rice without delay, the dispositive portion of which reads:

x x x

x x x

x x x

"The Bureau of Customs, through the Office of the Solicitor General, filed a petition for certiorari before the Court of Appeals, docketed as CA-G.R. SP No. 51051, assailing the Resolutions dated January 11 and 25, 1999 of the respondent judge.

"In the meantime, on April 5, 1999, the District Collector of Customs of Cebu City rendered a Decision in the seizure proceedings (Cebu Seizure Identification Case No. 17-98) declaring the 25,000 sacks of 'Snowman' rice as smuggled and ordering their forfeiture.

"On April 15, 1999, the Court of Appeals issued a Decision[7] denying the petition for certiorari filed by the Bureau of Customs and affirmed the questioned Resolutions dated January 11 and 25, 1999 issued [by] respondent judge.

"In view of the Court of Appeals decision, respondent judge issued another Resolution dated April 26, 1999 reiterating the release of the 25,000 sacks of rice, the dispositive portion of which reads:

x x x

x x x

x x x

"A petition for review was then filed by the Bureau of Customs before the Supreme Court questioning the Decision of the Court of Appeals. Upon application, a Temporary Restraining Order was subsequently issued by the Supreme Court on May 17, 1999, 'enjoining the Presiding Judge of the Regional Trial Court, 7th Judicial Region, Branch 5, Cebu City or any of his representatives and the respondents from enforcing or causing to be enforced the questioned Resolution dated 11 January 1999, the Order dated 25 January 1999, and the Resolution dated 26 April 1999, as well as all subsequent orders issued by the Regional Trial Court, Branch 5, Cebu City in Civil Case No. CEB-23077 entitled Elson Ogario and Mark Montelibano vs. Bureau of Customs, et. al.'

x x x

x x x

x x x

"Respondent judge was required to comment on the administrative complaint.

1. In his Comment dated July 21, 1999 (Exh. 8), the judge in essence, sought to justify the issuance of the questioned orders on the following propositions:

- The Warrant of Seizure and Detention issued by the Bureau of Customs of the Port of Cebu on December 9, 1998 was based merely on a suspicion and not anchored on probable cause. Hence, the issuance of the Warrant was not valid and, therefore, of no legal effect.
- That the Bureau of Customs [of the Port of] Cebu x x x abused its authority or function in seizing the '25 thousand bags of rice' on the basis of a suspicion that they were smuggled goods or illegally imported. The issuance of the Warrant of Seizure and Detention was arbitrary.
- That the Regional Trial Court Judge in the exercise of his jurisdiction, can issue an injunction to stop or prevent a purported enforcement of a criminal law which is not in accordance with an orderly administration of justice, and also to stop and prevent the Bureau of Customs from using the strong arm of the law in an oppressive and arbitrary manner."[8]

#### Investigator's Recommendation

Deputy Court Administrator Ponferrada recommended that respondent be suspended for six months without pay in regard to Secretary Zamora's Complaint for gross ignorance of the law. The investigator explained as follows:

"Well-settled is the rule that the trial court has no jurisdiction over the property subject of the warrant of seizure and detention issued by the Bureau of Customs. In the case of *Mison vs. Natividad*,[9] the Honorable Supreme Court held that:

"The court a quo has no jurisdiction over the res subject of the warrant of seizure and detention. The respondent judge, therefore, acted arbitrarily and despotically in issuing the temporary restraining order, granting the writ of preliminary injunction and denying the motion to dismiss, thereby removing the res from the control of the Collector of Customs and depriving him of his exclusive original jurisdiction over the controversy. Respondent judge exercised a power he never had and encroached upon the exclusive original jurisdiction of the Collector of Customs. By express provision of law, amply supported by well-settled jurisprudence, the Collector of Customs has exclusive jurisdiction over seizure and forfeiture proceedings, and regular courts cannot interfere with his exercise thereof or stifle or put it to naught.

"The Office of the Court Administrator also issued Circular 68-94 dated November 3, 1994, which reiterated the provisions of Circular No. 13-93.

"The aforesaid circulars were again reiterated in Administrative Circular No. 07-99 dated June 25, 1999 issued by Chief Justice Hilario G. Davide informing judges of the lower courts to exercise utmost caution, prudence, and judiciousness in the issuance of temporary restraining orders and writs of preliminary injunctions to avoid any suspicion that its issuance or grant was for considerations other than the strict merits of the case. x x x"[10]

#### The Court's Ruling

We agree with the findings of the deputy court administrator. However, we reduce the penalty to three months suspension without pay.

## Gross Ignorance of the Law

The administrative case, initiated by Secretary Zamora, is bolstered by Bureau of Customs (B0C) v. Ogario,[11] in which the Court set aside respondent's Orders. We ruled thus:

"In *Jao v. Court of Appeals*, this Court, reiterating its ruling in a long line of cases, said:

"There is no question that Regional Trial Courts are devoid of any competence to pass upon the validity or regularity of seizure and forfeiture proceedings conducted by the Bureau of Customs and to enjoin or otherwise interfere with these proceedings. The Collector of Customs sitting in seizure and forfeiture proceedings has exclusive jurisdiction to hear and determine all questions touching on the seizure and forfeiture of dutiable goods. The Regional Trial Courts are precluded from assuming cognizance over such matters even through petitions for certiorari, prohibition or mandamus.

X X X

X X X

X X X

The rule that Regional Trial Courts have no review powers over such proceedings is anchored upon the policy of placing no unnecessary hindrance on the government's drive, not only to prevent smuggling and other frauds upon Customs, but more importantly, to render effective and efficient the collection of import and export duties due the State, which enables the government to carry out the functions it has been instituted to perform.

Even if the seizure by the Collector of Customs were illegal, which has yet to be proven, we have said that such act does not deprive the Bureau of Customs of jurisdiction thereon." [12] (citations omitted.) Clearly, respondent had absolutely no jurisdiction to take cognizance of the Complaint for Injunction filed by Ogario and Montelibano.[13] Administrative Circular No. 07-99,[14] cautioning lower court judges in their issuance of temporary restraining orders and writs of preliminary injunctions, emphasized this lack of jurisdiction of trial courts. It stressed, inter alia, the rule enunciated in *Mison*: [15] that the Collector of Customs has exclusive jurisdiction over seizure and forfeiture proceedings.

When asked to explain why he ruled contrary to a basic and settled doctrine, respondent explained as follows:

"The court believes that a Warrant of Seizure and Detention, which is a counterpart of a Warrant of Arrest, must be issued on the basis of a probable cause. Verily, the quantum of evidence required in the issuance of a Warrant of Seizure and Detention should also be the same as in the Warrant of Arrest. Consequently, since the said Warrant of Seizure and Detention was merely issued on the basis of a mere suspicion and as recommended by the EIIB and not anchored on probable cause, the same is not valid and has no legal effect.

X X X

X X X

X X X

In the instant case, the court believes that the defendants had abused their authority or function in seizing the plaintiffs' goods on the basis of suspicion that they are smuggled or illegally imported. The court also believes that the issuance of the Warrant of Seizure and Detention by the defendant Bureau of Customs was attended with arbitrariness. x x x. Consequently, the Regional Trial Court, in the exercise of its general jurisdiction, can issue an injunction to stop or prevent a purported enforcement of the criminal law which is not in accordance with an orderly administration of justice, and also to stop and prevent the defendants from using the strong arm of the law in an oppressive and arbitrary manner." [16]

The reason given by respondent is unsatisfactory, having been aptly answered in Ogario,[17] from which we quote:

"[U]nder the law, the question of whether probable cause exists for the seizure of the subject sacks of rice is not for the Regional Trial Court to determine. The customs authorities do not have to prove to the satisfaction of the court that the articles on board a vessel were imported from abroad or are intended to be shipped abroad before they may exercise the power to effect customs' searches, seizures, or arrests provided by law and continue with the administrative hearings. As the Court held in *Ponce Enrile v. Vinuya*:

"The governmental agency concerned, the Bureau of Customs, is vested with exclusive authority. Even if it be assumed that in the exercise of such exclusive competence a taint of illegality may be correctly imputed, the most that can be said is that under certain circumstances the grave abuse of discretion conferred may oust it of such jurisdiction. It does not mean however that correspondingly a court of first instance is vested with competence when clearly in the light of the above decisions the law has not seen fit to do so. The proceeding before the Collector of Customs is not final. An appeal lies to the Commissioner of Customs and thereafter to the Court of Tax Appeals. It may even reach this Court through the appropriate petition for review. The proper ventilation of the legal issues raised is thus indicated. Certainly a court of first instance is not therein included. It is devoid of jurisdiction." (citations omitted; emphasis in the original)

Clearly, respondent decided against a settled doctrine. This act constitutes gross ignorance of the law.[18] However, we have held that to be punishable as such, it must not only be contradictory to existing law and jurisprudence, but must also be motivated by bad faith, fraud, dishonesty or corruption.[19] That there is enough evidence here to show respondent's bad faith is aptly pointed out by the Office of the Court Administrator (OCA) in its Memorandum:[20]

"The records of this case indicate that after the issuance of that questioned order of January 11, 1999, the Bureau of Customs, et al. filed their Motions for Reconsideration and requested to set the hearing on January 21, 1999, the date scheduled by the respondent judge for the continuation of the trial on the merits in Civil Case No. CEB-23077. But, the respondent judge set the hearing of said motions on January 19, 1999.

"However, from January 18, 1999 to January 21, 1999, the respondent judge did not report to the Court. He could not be contacted or located even by his own staff. The respondent judge also did not leave any word regarding his whereabouts, even with the Executive Judge. Hence, the scheduled hearings could not proceed.

"Obviously, the respondent judge reported back to his Office only after the Assistant Solicitor General and the Solicitor representing the Bureau of Customs, et al. returned to Manila from Cebu City because on January 22, 1999, the same respondent judge issued instead, an order requiring the Officials of the Bureau of Customs to comment on a Motion for Contempt filed against them."

Indeed, this actuation of respondent judge amounted to bad faith. Because he played with the court calendar, the issuance of the questioned Orders was clearly motivated by dishonesty and fraud.

While we agree with the findings of the OCA, we believe however that the recommended penalty is too harsh. Under the circumstances, we hold that the appropriate penalty is three months suspension without pay.

Likewise, we agree that respondent's Motion to Dismiss had no legal basis either. Indeed, "[t]he subject of the x x x administrative case are the acts committed by the respondent judge in the performance of his duties. This being the sole subject of the complaint filed by the Executive Secretary, the Court will confine itself to the issue of whether or not the respondent judge is liable for gross ignorance of the law." [21]

WHEREFORE, the Court finds Judge Ireneo Lee Gako Jr. GUILTY of gross ignorance of the law, for which he is hereby SUSPENDED for three months without pay. He is sternly warned that a commission of similar acts in the

future shall be dealt with more severely.

**SO ORDERED.**

Melo, (Chairman), Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.

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[1] Mark Montelibano and Elson Ogario.

[2] Rallos v. Gako Jr., AM No. RTJ-99-1484, AM No. RTJ-99-1484 (A), March 17, 2000, per Panganiban, J.

[3] Received on May 15, 2000.

[4] In a Resolution dated September 25, 2000, we resolved: "(a) to DENY complainants' motion for clarification dated April 18, 2000 of the decision of March 17, 2000 praying that the appropriate penalty be imposed upon the respondent judge; (b) to NOTE the complainants' comment dated April 28, 2000 on the respondent's motion for reconsideration of the decision of March 17, 2000; and (c) to DENY the respondent's motion for reconsideration of the decision of March 17, 2000 with FINALITY."

[5] Bureau of Customs (BOC) v. Ogario, GR No. 138081, March 30, 2000.

[6] Deputy Court Administrator Bernardo T. Ponferrada.

[7] Penned by J. Artemio G. Tuquero (now justice secretary), with the concurrence of JJ Eubulo G. Verzola (Division chairman) and Mariano M. Umali (member).

[8] Memorandum submitted by Deputy Court Administrator Bernardo T. Ponferrada dated January 4, 2000, pp. 2-7.

**[9] 213 SCRA 734 (1992)**

[10] Memorandum submitted by Deputy Court Administrator Bernardo T. Ponferrada dated January 4, 2000, pp. 7-13.

[11] Supra.

[12] BOC v. Ogario, pp. 8-9, GR No. 138081, March 30, 2000, per Mendoza, J.

[13] Ponce Enrile v. Vinuya, 37 SCRA 381, January 30, 1971; Jao v. CA, supra.; Mison v. Natividad, 213 SCRA 734, September 11, 1992.

[14] Entitled "RE EXERCISE OF UTMOST CAUTION, PRUDENCE, AND JUDICIOUSNESS IN ISSUANCE OF TEMPORARY RESTRAINING ORDERS AND WRITS OF PRELIMINARY INJUNCTION," dated June 25, 1999. See also BOC v. Ogario, supra.

[15] Supra.

[16] Letter-reply dated July 21, 1999 filed by respondent before Court Administrator Justice Alfredo L. Benipayo.

[17] BOC v. Ogario, supra, p. 9.

[18] See Parada v. Veneracion, 269 SCRA 371, March 11, 1997; Conducto v. Monzon, 291 SCRA 619, July 2, 1998; Guillen v. Nicolas, 299 SCRA 623, December 4, 1998; Macasasa v. Imbing, 312 SCRA 385, August 16, 1999.

[19] See *Abundo v. Manio*, 312 SCRA 1, August 6, 1999.

[20] Memorandum dated January 4, 2000, p. 12.

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