

**PROV. PROSECUTOR DORENTINO Z. FLORESTA, COMPLAINANT, VS.
JUDGE ELIODORO G. UBIADAS, REGIONAL TRIAL COURT,
OLONGAPO CITY, BRANCH 72 RESPONDENT.**

A.M. No. RTJ-03-1774. May 27, 2004

Ponente: CARPIO MORALES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/c41fc41081ef/>

CARPIO MORALES, J.:

By a Sworn Complaint[1] dated January 24, 2000, then Provincial Prosecutor, now Regional Trial Court Judge Dorentino Z. Floresta (complainant) administratively charged Judge Eliodoro G. Ubiadas of the Olongapo City Regional Trial Court (RTC), Branch 72 with “gross ignorance of [the] law, grave abuse of authority and violations of the Code of Judicial Conduct.”

Complainant faults respondent for dismissing for lack of jurisdiction, on motion of the accused, by Order[2] of July 9, 1997, Crim. Case No. 212-97, *People of the Philippines v. Chia Say Chaw, et al.*, for illegal entry.

Complainant alleges that by dismissing Crim. Case No. 219-97 “[d]espite . . . the provision of P.D. 1599 which established the Exclusive Economic Zone of the Philippines and [the apprehension of the accused] within the 200 nautical miles of the . . . Zone,” respondent “virtually surrender[ed] our sovereignty and criminal jurisdiction to the Chinese government.”[3]

Complainant likewise faults respondent for failure to resolve, as he has yet to resolve, the Motion for Reconsideration and/or Clarification of the abovesaid Order of July 9, 1997, despite the lapse of more than two years since the filing of the motion. By such failure, complainant charges respondent with violation of Canon 3, Rule 3.05 of the Code of Judicial Conduct which enjoins judges to dispose of the court’s business promptly and decide cases within the required periods, and of SC Circular No. 13 (July 1, 1987) which requires lower courts to resolve cases or matters before them within three months or ninety days from date of submission.

Complainant furthermore faults respondent for granting, “without giving notice to the prosecution,” the petition for bail of Jose Mangohig, Jr. who was arrested by virtue of a warrant issued by the Municipal Trial Court of Subic, Zambales which found probable cause against him for violation of Section 5(b), Art. III of Republic Act No. 7610 (“Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act”).[4]

Finally, complainant faults respondent for disqualifying him (complainant) from appearing in Crim Case No. 634-99, *People v. Esmame-Diaz*, despite his (complainant’s) designation to handle the prosecution of the case by the Ombudsman.

By Second Indorsement-Comment of March 20, 2000,[5] respondent contends that petitioner has no personality to initiate the complaint against him as he is not a party to the cases subject thereof.

On the merits of the charges, respondent counters that territorial jurisdiction over the area where the accused in Crim. Case No. 212-97 were arrested — within the vicinity of Scarborough Shoal — has not yet been established by controlling jurisprudence, given the conflicting claims thereover by the Philippines and China and the absence of

an inter-country agreement determining the common boundaries of the Exclusive Economic Zone.[6]

As to his failure to resolve the Motion for Reconsideration of his July 9, 1997 Order dismissing, for lack of jurisdiction, Crim. Case No. 212-97, respondent points out that said motion was filed after the accused were already released from detention. He further points out that during the pendency of said motion, representatives of the Department of Foreign Affairs (DFA) informed him that said office was not interested in setting aside the order of dismissal but that it was suggesting an amendment of the order.[7] Respondent explains though that since the accused had already been released from detention and had left the Philippines, and the interest of the DFA was merely for the amendment of the order of dismissal, the motion had already become academic.

As to the second charge, respondent informs that the petition for bail of Mangohig who was then under preliminary investigation, which motion was filed on January 3, 2000 on which same date a copy of said petition was furnished the public prosecutor, was as set by Mangohig heard on the morning of January 4, 2000 during which there was no appearance from the Prosecutor's Office; and that as the offense for which Mangohig was charged is ordinarily a bailable offense, respondent granted him bail.

As for his order disqualifying complainant in Crim. Case No. 634-99, respondent explains that he had already reconsidered the same through his February 10, 2000 Order,[8] he having earlier failed to see petitioner's designation by the Ombudsman.

In its August 16, 2002 Report,[9] the Office of the Court Administrator (OCA) found, as to the first charge, that it was not shown that respondent acted with malice, oppression or bad faith sufficient to find him guilty of gross ignorance of the law, it having appeared that respondent based his dismissal order on his interpretation of a provision of law. The OCA thus concluded that as respondent's conclusions in his assailed order are not without logic or reason, and unattended by fraud, dishonesty, corruption or bad faith,[10] he could not be faulted for gross ignorance of the law. The OCA hastened to add, however, that respondent "is nonetheless required to act on the motion for reconsideration."

As to the second charge, the OCA stressed that the Rules of Court requires a movant to serve notice of his motion on all parties concerned at least three days before the hearing thereof, hence, respondent erred in granting the petition for bail without hearing the prosecution's side.

Finally, on the third charge, the OCA found that respondent's explanations were fraught with inconsistencies since his allegation that he failed to see complainant's designation as Ombudsman-Prosecutor in Crim. Case No. 634-99 is belied by his December 17, 2000 Order[11] wherein he noted that complainant was deputized by the Office of the Ombudsman to prosecute said case. The OCA in fact noted that respondent's subsequent February 10, 2001 Order reconsidering his December 17, 2000 Order was issued only after the latter order had attained finality and the instant case was filed.

The OCA accordingly recommended that respondent be FINED in the amount of Twenty Thousand (P20,000.00) Pesos.

By Resolution of February 26, 2003,[12] this Court noted the OCA Report and required the parties "to MANIFEST within twenty (20) days from notice, whether they are submitting the case on the basis of the pleadings/records already filed and submitted."

By Manifestation dated April 1, 2003,[13] complainant proffered additional charges against respondent and submitted in support thereof, among other things an administrative complaint filed by one Dr. Reino Rosete against respondent and photocopies of orders issued by respondent. Dr. Rosete's complaint, which was addressed to then Court Administrator Alfredo Benipayo, is both undated and unsigned, however. In the same

Manifestation, complainant submitted the case for decision.

On May 9, 2003, the Docket and Clearance Division of this Court received an undated manifestation^[14] of respondent stating that he was submitting the case on the basis of the pleadings/records already filed in the case.

This Court's Findings

I. On the dismissal of Crim. Case No. 212-97

On innumerable occasions this Court has impressed upon judges that, as mandated by the Code of Judicial Conduct, they owe it to the public and the legal profession to know the very law they are supposed to apply to a given controversy.^[15] They are called upon to exhibit more than just a cursory acquaintance with statutes and procedural rules, to be conversant with the basic law, and to maintain the desired professional competence.^[16]

The propriety of the dismissal, on motion of the accused, of Crim. Case No. 212-97 on jurisdictional grounds is, however, a matter for judicial adjudication and the proper recourse of a party aggrieved by the decision of a judge is to appeal to the proper court, not file an administrative complaint.^[17]

For, as a matter of public policy, in the absence of fraud, dishonesty or corruption, the acts of a judge in his judicial capacity are generally not subject to disciplinary action, even though such acts are erroneous.^[18] Only in cases where the error is gross or patent, deliberate and malicious, or incurred with evident bad faith may administrative sanctions be imposed.^[19] There is no showing that this was the case here.

With respect to the non-resolution of the prosecution's Motion for Reconsideration of the order of dismissal of Crim. Case No. 212-97 no resolution of which has been issued, complainant, in his Reply to the Comment of respondent, refutes respondent's explanation in this wise:

When the said motion was filed in Court on July 11, 1997, the Chinese fishermen were not yet released from detention. It was during the pendency of the motion that the Chinese fishermen were allowed to leave by the Chief of Police of Subic, Zambales despite our representation that they should not be released from jail as another case for illegal fishing was still pending investigation. . . . The representatives from the Foreign Affairs merely wanted to convey to Judge Ubiadas the serious implications of his Order of dismissal on the ground of lack of jurisdiction on the territorial integrity and national security of our country. In fact, Foreign Secretary Domingo Siazon publicly denounced the Order of dismissal issued by Judge Ubiadas as evidenced of an article which appeared in the July 13, 1997 issue of the Philippine Daily Inquirer. Copy of said article is hereto attached as Annex "A" and made integral part hereof.

There is no truth that they told Judge Ubiadas that they are no longer interested in the setting aside of his Order of dismissal. In fact, the Motion for Reconsideration of the said Order of dismissal was already filed in his Court and he even issued an Order dated 18 July 1997 submitting the said Motion for resolution. Copy of said Order dated 18 July 1997 is hereto attached as Annex "B" and made integral part hereof. Since the said Motion for Reconsideration of his Order of dismissal was already considered by him as submitted for resolution as of 18 July 1997, Judge Ubiadas should have resolved one way or the other, the said motion.^[20] (Underscoring supplied)

Whether the accused in Crim. Case No. 212-97 were already released at the time of the filing of the motion for reconsideration did not relieve respondent from resolving it as in fact he even issued an order stating that it was submitted for resolution.

Article VIII, Section 15(1) of the 1987 Constitution and Canon 3, Rule 3.05 of the Code of Judicial Conduct direct judges to dispose of their cases promptly and within the prescribed periods, failing which they are liable for gross inefficiency.^[21]

To thus ensure that the mandates on the prompt disposition of judicial business are complied with, this Court laid down guidelines in SC Administrative Circular No. 13[22] which provides, inter alia, that:

Judges shall observe scrupulously the periods prescribed by Article VIII, Section 15, of the Constitution for the adjudication and resolution of all cases or matters submitted in their courts. Thus, all cases or matters must be decided or resolved within twelve months from date of submission by all lower collegiate courts while all other lower courts are given a period of three months to do so. (Underscoring supplied)

This injunction is reiterated in SC Administrative Circular No. 3-99[23] which requires all judges to scrupulously observe the periods prescribed in the Constitution for deciding cases, failure to observe which is a serious violation of the constitutional right of the parties to speedy disposition of their cases.[24]

Having failed to resolve the Motion for Reconsideration, respondent is liable for undue delay in rendering a decision or order which is a less serious charge under Section 9 of Rule 140 of the Rules of Court and which carries the penalty of suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months or a fine of more than P10,000 but not exceeding P20,000.

II. On the grant of bail to the accused in Crim. Case No. 271-99

Whether bail is a matter of right or discretion, and even if no charge has yet been filed in court against a respondent-suspect-detainee, reasonable notice of hearing is required to be given to the prosecutor, or at least his recommendation must be sought.[25] So *Fortuna v. Penaco-Sitaca*[26] instructs:

[A]dmission to bail as a matter of discretion presupposes the exercise thereof in accordance with law and guided by the applicable legal principles. The prosecution must first be accorded an opportunity to present evidence because by the very nature of deciding applications for bail, it is on the basis of such evidence that judicial discretion is weighed against in determining whether the guilt of the accused is strong. In other words, discretion must be exercised regularly, legally and within the confines of procedural due process, that is, after the evaluation of the evidence submitted by the prosecution. Any order issued in the absence thereof is not a product of sound judicial discretion but of whim and caprice and outright arbitrariness. (Italics in the original; underscoring supplied)[27]

True, a hearing of the petition for bail was conducted in Crim. Case No. 271-99 on January 4, 2000 at 8:30 a.m.[28] Given the filing of the petition only the day before, at close to noontime, it cannot be said that the prosecution was afforded reasonable notice and opportunity to present evidence after it received a copy of the petition minutes before it was filed in court. It bears stressing that the prosecution should be afforded reasonable opportunity to comment on the application for bail by showing that evidence of guilt is strong.[29]

While in Section 18 of Rule 114 on applications for bail, no period is provided as it merely requires the court to give a “reasonable notice” of the hearing to the prosecutor or require him to submit his recommendation, and the general rule on the requirement of a three-day notice for hearing of motions under Section 4 of Rule 15 allows a court for good cause to set the hearing on shorter notice, there is, in the case of *Mangohig*, no showing of good cause to call for hearing his petition for bail on shorter notice.

Reasonable notice depends of course upon the circumstances of each particular case, taking into account, inter alia, the offense committed and the impossible penalties, and the evidence of guilt in the hands of the prosecution.

In Crim. Case No. 271-99, *Mangohig* was arrested for violation of Sec. 5(b), Art. III of R.A. 7610,[30] which is punishable by reclusion temporal to reclusion perpetua, and subsequently indicted for statutory rape[31] qualified by relationship which is punishable by death.

Under the circumstances, by respondent’s assailed grant of bail, the prosecution was deprived of due process for

which he is liable for gross ignorance of the law or procedure[32] which is a serious charge under Sec. 8 of Rule 140 of the Rules of Court. The charge carries the penalty of dismissal from the service with forfeiture of all or part of the benefits or suspension from office without salary and other benefits for more than 3 but not exceeding 6 months or a fine of more than P20,000 but not exceeding P40,000.[33]

This Court takes this occasion to reiterate the injunction that a judge is called upon to balance the interests of the accused who is entitled to the presumption of innocence until his guilt is proven beyond reasonable doubt, and to enable him to prepare his defense without being subject to punishment prior to conviction,[34] against the right of the State to protect the people and the peace of the community from dangerous elements.[35]

III. On the failure to recognize complainant's special designation from the Ombudsman in Crim. Case No. 634-99

The brushing aside by the OCA of respondent's explanation on the matter is well taken.

In the exercise of his power to "investigate and prosecute on its own or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient,"[36] the Ombudsman is authorized to call on prosecutors or lawyers in the government service for assistance.[37] Section 31 of the Ombudsman Act of 1989 provides:

Designation of Investigators and Prosecutors – The Ombudsman may utilize the personnel of his office and/or designate or deputize any fiscal, state prosecutor or lawyer in the government service to act as special investigator or prosecutor to assist in the investigation and prosecution of certain cases. Those designated or deputized to assist him as herein provided shall be under his supervision and control.

It is on the basis of the above-quoted provision of law that Deputy Ombudsman for Luzon Jesus Guerrero endorsed Case No. OMB-1-98-2418 (Chan v. Esmane-Diaz) to complainant with the instruction to file the Information and to prosecute the case.[38] The indorsement included an order to submit a monthly report to the Office of the Ombudsman of any actions taken in relation to the case.

Respondent's December 17, 1999 Order[39] which states, inter alia, as follows:

The Officer-in-Charge of the City Prosecutor's Office is hereby directed to designate any of the Assistant Prosecutors of the City Prosecutor's Office to take the place of Provincial Prosecutor Dorentino Z. Floresta. While Prosecutor Floresta appears to have been deputized by the Office of the Ombudsman to prosecute this case, no special reason was given for such authority. Instead, it appears that such designation was merely based on the premise that the offense charged was committed in Subic municipality as erroneously indicated in the original Information filed with this Court.

Inasmuch as the Information as amended, upon the initiative of Prosecutor Floresta himself, shows that the place of the commission of the offense charged is in Olongapo City, the Office of the Provincial Prosecutor does not have the authority to continue prosecuting this case for the People of the Philippines (Section 2, Rule 117, 1997 Rules of Criminal Procedure). For this reason, the Office of the City Prosecutor should take his place inasmuch as the Office of the City Prosecutor of Olongapo has territorial jurisdiction over the offense charged.[40] (Underscoring supplied),

shows that he was not only aware of complainant's designation, hence, belying his explanation that he must have overlooked the same. It also shows his ignorance of the above-cited provision of the Ombudsman Act which does not require the presence of a special reason for the designation or deputization by the Ombudsman of any prosecutor or government lawyer to assist him.

It would appear though from respondent's above-quoted December 17, 1999 Order that he was of the belief that it was the City Prosecutor, rather than the Provincial Prosecutor, who had "territorial jurisdiction" over the offense.

It is in this light that he is given the benefit of the doubt, absent any showing that he was motivated by malice or bad faith.

With respect to the charges raised against respondent in complainant's April 1, 2003 Manifestation, by which complainant submitted an unsigned and undated complaint by a certain Dr. Reino Rosete and copies of respondent's other assailed decisions: While Section 1 of Rule 140 of the Rules of Court, as amended, allows the institution of administrative proceedings upon an anonymous complaint, the veracity of Rosete's complaint is doubtful as it does not bear his signature. It is clearly not intended to be an anonymous complaint.

Finally, on the rest of the charges against respondent, this Court is unable to pass upon them as complainant merely submitted photocopies of respondent's assailed orders without stating clearly and concisely the alleged acts and omissions constituting violations of standards of conduct prescribed for judges by law, the Rules of Court or the Code of Judicial Conduct.

WHEREFORE, respondent, Judge Eliodoro G. Ubiadas, Presiding Judge of RTC Branch 72, Olongapo City, is found GUILTY of undue delay in resolving a motion and of gross ignorance of the law or procedure in granting an application for bail without affording the prosecution due process. He is accordingly FINED in the amount of TWENTY THOUSAND PESOS (P20,000.00), with WARNING that repetition of the same or similar acts shall be dealt with more severely.

SO ORDERED.

Vitug, (Chairman), Sandoval-Gutierrez, and Corona, JJ., concur.

[1] Rollo at 1-61.

[2] Id. at 7-9.

[3] Id. at 3.

[4] Rep. Act 7610, Art. III, Sec. 5 (b) provides:

Sec. 5. Child Prostitution and Other Sexual Abuse. — Children whether male or female, who for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.

The penalty of reclusion temporal in its medium period to reclusion perpetua shall be imposed upon the following:

x x x x

(b) Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution or subjected to other sexual abuse: Provided, That when the victim is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and Article 336 of Act No. 3815, as amended, of the Revised Penal Code, for rape or lascivious conduct, as the case may be: Provided, That the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be reclusion temporal in its medium period (Underscoring supplied).

[5] Rollo at 63-67.

[6] P.D. No. 1599, "Establishing an Exclusive Economic Zone and for Other Purposes," (1978), Sec. 1 provides,

“There is hereby established a zone to be known as the exclusive economic zone of the Philippines. The exclusive economic zone shall extend to a distance of two hundred nautical miles beyond and from the baselines from which the territorial sea is measured: Provided, That, where the outer limits of the zone as thus determined overlap the exclusive economic zone of an adjacent or neighboring state, the common boundaries shall be determined by agreement with the state concerned or in accordance with pertinent generally recognized principles of international law on delimitation.”

[7] Rollo at 64-65.

[8] Id. at 70.

[9] Id. at 113-119.

[10] Id. at 118.

[11] Id. at 59-60.

[12] Id. at 121.

[13] Id. at 122-185.

[14] Id. at 187.

[15] Padua v. Molina, 346 SCRA 592, 599 (2000).

[16] Vide Dayawon v. Badilla, 339 SCRA 702, 707 (2000).

[17] Philippine Geriatrics Foundation, Inc. v. Layosa, 364 SCRA 287, 292 (2001). Vide Dionisio v Escano, 302 SCRA 411, 422 (1999); Santos v. Orlino, 296 SCRA 101, 106 (1998).

[18] Daracan v. Natividad, 341 SCRA 161, 175 (2000), Santos v. Orlino, supra; Heirs of the Late Nasser D. Yasin v. Felix, 250 SCRA 545 (1995).

[19] Philippine Geriatrics Foundation, Inc. v. Layosa, supra.

[20] Record at 74-75.

[21] Heirs of Crisostomo Sucaldito v. Cruz, 336 SCRA 469, 474 (2000); Re: Judge Danilo M. Tenerife, 255 SCRA 184 (1996); Cabahug v. Dacanay, A.M. No. MTJ-03-1480, September 10, 2003.

[22] SC Circular No. 13-87, “Guidelines in the Administration of Justice” (July 1, 1987).

[23] SC Administrative Circular No. 3-99, “Strict Observance of Session Hours of Trial Courts and Effective Management of Cases to Ensure Their Speedy Disposition,” (January 15, 1999).

[24] Re: Judge Fernando P. Agdamag, 254 SCRA 644, 650 (1996).

[25] Cañeda v. Alaan, 374 SCRA 225, 229 (2002); Comia v. Antona, 337 SCRA 656 (2000); Chin v. Gustillo, 247 SCRA 175 (1995). Vide Rule 114, sec. 18 of the 1985 Rules of Criminal Procedure, reiterated in Rule 114, sec. 18 of the 2000 Rules of Criminal Procedure.

[26] Fortuna v. Penaco-Sitaca, 358 SCRA 615 (2001).

[27] Id. at 621 (citations omitted).

[28] Rollo at 65.

[29] Go v. Bongolan, *supra*; Cañeda v. Alaan, 374 SCRA 225, 229 (2002); Comia v. Antonia, *supra*.

[30] Vide note 4.

[31] Vide Information, Rollo at 29-B.

[32] Depamaylo v. Brotarlo, 265 SCRA 151 (1996).

[33] Vide Panganiban v. Cupin-Tesorero, 388 SCRA 44; Depamaylo v. Brotarlo, *supra*.

[34] Cortes v. Catral, 279 SCRA 1, 11 (1997).

[35] Go v. Bongolan, 311 SCRA 99, 110 (1999).

[36] Rep. Act No. 6770, otherwise known as Ombudsman Act of 1989, (1990), sec. 15, par. 1.

[37] Lastimosa v. Vasquez, 243 SCRA 497, 505 (1995).

[38] Rollo at 61.

[39] *Id.* at 59-60.

[40] *Id.* at 59.

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.