

**MACTAN CEBU INTERNATIONAL AIRPORT AUTHORITY (MCIAA),
REPRESENTED BY ITS GENERAL MANAGER, ANGELO C. VERDAN,
COMPLAINANT, VS. JUDGE AGAPITO L. HONTANOSAS, JR., IN HIS
CAPACITY AS ...**

A.M. No. RTJ-03-1815. October 25, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

The instant administrative complaint involves Judge Agapito L. Hontanosas, Jr. of the Regional Trial Court (RTC), Cebu City, Branch 16, who is charged with “gross ignorance of the law and/or incompetence, grave misconduct, dishonesty, knowingly rendering an unjust judgment and/or interlocutory orders, and bias and partiality”[1] relative to Civil Case No. CEB-27136[2] entitled “Bongoyan, et al. v. Mactan Cebu International Airport Authority (MCIAA).”

The Antecedents

The petitioners in the said case, one for declaratory relief and mandamus with writ of preliminary injunction, were employees of the complainant MCIAA, a government-owned and controlled corporation created pursuant to Republic Act No. 6958. In their petition, the said employees prayed that they be declared entitled to the payment of back pay for cost of living allowance and amelioration allowance from December 18, 1990, or from the dates of their respective appointments until March 1999. They, likewise, prayed that they be paid meal allowance, dependent’s allowance, medical benefits, and hazard pay from December 18, 1990 until their separation from the service. They alleged that they should be given the same rates as those of the employees and officers of the Manila International Airport Authority.

The case was submitted for decision after the parties filed their respective memoranda. The respondent judge, thereafter, rendered a Decision[3] on February 20, 2002 in favor of the complainant’s employees. The latter received a copy of the decision on February 21, 2002. The complainant, upon receipt of a copy thereof, immediately filed a Notice of Appeal[4] on March 15, 2002. The employees, thereafter, filed a motion to deny appeal, which the respondent judge denied in an Order[5] dated May 10, 2002 on the ground that the appeal “is deemed perfected, the notice of appeal having been filed within the reglementary period and the appeal fees having been paid.”[6] On May 30, 2002, the employees filed a Motion for Execution of Judgment Pending Appeal[7] of the February 20, 2002 Decision.

On July 8, 2002, the respondent judge issued a Special Order[8] granting the motion for execution pending appeal. The Writ of Execution[9] was, thereafter, issued. On July 10, 2002, the employees filed an Ex-Parte Manifestation[10] praying that the amount of P240,000,000.00 be computed as the total amount of benefits due them. The following day, the respondent granted the prayer in the said motion.[11] The complainant filed an Urgent Motion for Reconsideration,[12] praying that the Special Order dated July 8, 2002 be set aside on the following grounds: (1) the trial court had lost jurisdiction over the case by reason of the perfection of the appeal;

and (2) the Special Order did not state any good reason to justify the allowance of an execution pending appeal. The respondent denied this motion in an Order[13] dated August 22, 2002, but ordered the suspension of the implementation of the writ of execution in view of the appeal filed by the complainant.

On August 29, 2002, the employees filed a Motion for Reconsideration[14] of the August 22, 2002 Order, and, thereafter, an “Extremely Ex-Parte Urgent Motion to Resolve Motion for Reconsideration.” Pairing Judge Fortunato M. De Gracia, Jr., who took the place of the respondent while the latter was on official leave of absence, issued an Order[15] dated September 27, 2002 affirming the previous Order of August 22, 2002, in effect sustaining the suspension of the implementation of the writ of execution.

On October 30, 2002, the complainant filed a petition for certiorari before the Court of Appeals, docketed as CA-G.R. SP No. 73628, primarily seeking to set aside the Special Order of July 8, 2002.

Thereafter, in an Order[16] dated November 29, 2002, the respondent resolved the August 29, 2002 Motion for Reconsideration filed by the employees.

The complainant filed a motion for reconsideration[17] of the said order, which motion, however, remained unresolved.

On March 18, 2003, the respondent, acting on a Motion for Clarification filed by the Philippine National Bank (PNB) as depository bank of the complainant, issued an Order[18] directing the latter to release the garnished amount of P2,455,821.11 directly to Atty. Rolindo A. Navarro as award for attorney’s fees.

The Complaint

In its Complaint against the respondent dated April 11, 2003, the complainant alleged that the respondent was guilty of grave misconduct, dishonesty, knowingly rendering an unjust judgment and/or interlocutory orders, bias and partiality, when he issued four patently irregular interlocutory orders, to wit:

1)

Special Order, dated July 8, 2002, granting the employees’ Motion for Execution of Judgment Pending Appeal;

2)

Order, dated August 22, 2002, denying MCIAA’s Motion for Reconsideration of the July 8, 2002 Order;

3)

Order, dated November 29, 2002 allowing the implementation of the writ of execution; and

4)

Order, dated March 18, 2003, ordering PNB to release the amount of P2,455,821.11 directly to Atty. Rolindo A. Navarro.[19]

According to the complainant, the petition of its employees was essentially an action for declaratory relief, and as such, it is to be assumed that their intention therein was mainly to put forth the question of construction or the validity of Rep. Act. No. 6758, also known as the Salary Standardization Law, and its implementing rules. The complainant avers that there was no justifiable controversy to speak of in the said case, and that the respondent judge should have confined his judgment only to the question of law involved therein. Considering that in a proceeding for declaratory judgment, the relief which may be sought is only limited to a declaration of rights, and

not a determination or trial of issues, the respondent judge was in grave and patent error in awarding detailed claims to the said employees.

The complainant also avers that a cursory perusal of the respondent's ratiocinations shows that his decision was grounded on mere speculations, surmises and conjectures, and was based on manifestly mistaken inferences. This resulted in erroneous conclusions, constitutive of gross ignorance of the law and/or incompetence on the part of the respondent judge. The complainant also pointed out that there was no pending incident subject for the court's resolution to speak of in the first place, considering that it was incumbent upon the judge to have been aware of the September 27, 2002 Order. As such, the respondent judge could not profess good faith for issuing a clearly unjust interlocutory order. The complainant also pointed out that the respondent judge, likewise, erred in disregarding basic rules and settled jurisprudence in directing it "to retain ten (10) percent of said allowances and benefits as attorney's fees for the handling lawyer and to pay the same directly to him, as prayed for in the Petition." The complainant added:

We respectfully submit that it was incumbent upon the trial court to have, foremost, acted on herein Complainant MCIAA's pending "Motion for Reconsideration," either giving due course thereto or to deny the same, stating with certainty, the facts and the law on which said resolutive Order would be based, before any subsequent Order to withhold or release any of Complainant MCIAA's funds, with any of its depository Banks, should have been made. At the very least, Complainant MCIAA is entitled to a definite ruling thereon otherwise it shall have been denied its day in court.

...

... Apropos, the very prejudicial and material consequence of this recent invalid, oppressive and arbitrary Order of March 18, 2003 of herein respondent judge is the fact that now the funds of herein complainant MCIAA have, with base sophistry and deception, come into the hands of the counsel on record in this case, Atty. Rolindo Navarro, in satisfaction of a part of his alleged attorney's fees. For it is with a heavy heart that we inform the Honorable Court that on the same said date of March 25, 2003, when herein Complainant MCIAA firstly learned of the Order dated March 18, 2003 of the trial court, Sheriff Generoso B. Regalado of the same RTC Branch 16, Cebu City, surprisingly, immediately proceeded to serve upon the PNB-MEPZ, Lapu-Lapu City Branch, a demand letter (Annex "W") enforcing subject Order of the trial court. Thereafter, or on April 2, 2003, the PNB released unto said Atty. Rolindo Navarro (Annex "X"), in the form of Manager's Check, the funds of herein Complainant MCIAA, in the total amount of P2,455,821.11, again, in compliance with the trial court's invalid Order of March 18, 2003.

Precisely, this is just one of the grave aftermath upon which we respectfully anticipated our earlier "Very Urgent Motion for Issuance of a Preliminary Prohibitory and/or Mandatory Injunction," now pending resolution before the Honorable Court of Appeals.

Clearly, the ends of justice have been frustrated with this new development, especially, if one takes into account the fact that the monies released (P2,455,821.11) were not even made to benefit Messrs. Bongoyan, et al., the main parties-claimants herein, but were made to onerously satisfy firstly the private interests of counsel of record, Atty. Rolindo Navarro, in payment of a portion of his attorney's fees, the total amount of which was pegged by the trial court at the rate of ten percent (10%) of the total award of P240,000,000.00 or the unconscionable amount of P24,000,000.00 (sic). As to the reason behind the patent and undue haste of herein respondent judge in satisfying, foremost, the damages aspect of the February 20, 2002 Decision, and the consequent Special Order of July 8, 2002, in the form of attorney's fees in favor of Atty. Rolindo Navarro, we can only beg to surmise the obvious. Indeed, what travesty to the cause of Messrs. Bongoyan, et al., and what grave injury to the rights of herein Complainant MCIAA.

... For it is beyond dispute that Complainant MCIAA's rights have been grossly prejudiced, again, by the precipitate and undue manner by which herein respondent judge proceeded to issue the herein assailed March

18, 2003 Order. We reiterate, on record is herein Complainant MCIAA's "Motion for Reconsideration" anent the trial court's earlier Order of November 29, 2002. The same said Motion has not been acted upon by the trial court even to date.

Absent such prior definitive ruling by the trial court on our pending Motion for Reconsideration, the subject March 18, 2003 Order was thus immoral and a patent nullity having been issued contrary to law and procedural and/or substantive due process.[20]

In his Comment dated July 15, 2003, the respondent traversed the allegations of the complainant in this wise:

3) The questioned decision of respondent Judge is pending appeal before the Honorable Court of Appeals and the questioned orders emanating from the decision are likewise appealed to the Court of Appeals by way of a petition for certiorari;

4) That the latest development on the case is that complainant filed a motion for inhibition which respondent Judge unhesitatingly granted and the case is now re-raffled to another Branch of RTC, Cebu City;

5) That the issues raised in this administrative complaint are judicial matters which were tackled and resolved by respondent Judge in line with his functions as presiding judge trying and deciding Civil Case No. CEB-27136; the questioned Decision and Orders of respondent were the result of a carefully studied judgment call and an act of judicial discretion inherent in the act of judging;

6) That the judicial remedy of an ordinary appeal and appeal by certiorari were availed of by the complainant and said appeals are pending resolution by the Appellate Court; hence, resort to an administrative remedy is pre-mature;

7) That respondent Judge respectfully submits the jurisprudence that if the matter at issue is judicial in nature, there is no valid cause for administrative sanction. ...[21]

Pursuant to the recommendation[22] of the Court Administrator, the case was re-docketed as an administrative matter in the Resolution of December 8, 2003. The case was also assigned to Court of Appeals Associate Justice Jose Catral Mendoza.[23] The complainant, represented by Angelo C. Verdan and duly assisted by Atty. Conchita M. Vestil, appeared during the hearing of February 12, 2004. In lieu of the respondent judge, his sister, Atty. Purita Hontanosas-Cortes, appeared during the hearing and manifested that she had not yet read the complaint and the records of the case, and requested for copies thereof. The hearing was then re-set to give her time to study the complaint. The respondent was also given time to file a rejoinder-affidavit.[24] Thereafter, the respondent, through his counsel, manifested that he would no longer file a rejoinder-affidavit. The parties prayed that they be given time within which to file their respective memoranda, after which the matter would be deemed submitted for the Investigating Justice's study and recommendation.[25]

The Findings of the Investigating Justice

In his Report dated May 6, 2004, the Investigating Justice made the following findings:

After a studied evaluation of the records, the undersigned is of the determination that the respondent is liable for gross ignorance of the law. He was not actually "ignorant of the law." Rather, he ignored the law, deliberately and in bad faith, when he rendered [the questioned orders] after the court had already lost jurisdiction over the case. What he had disregarded was a procedural law that was so elementary, basic and fundamental that he could not claim that he was not aware of it. When he violated it, his act could only be characterized as gross and malicious. Thus, the undersigned agrees with complainant MCIAA that the respondent is administratively guilty of gross ignorance of the law, grave misconduct, and manifest bias and partiality when he issued four (4) patently irregular interlocutory orders.[26]

The Investigating Justice opined that while the mere filing of a notice of appeal does not automatically divest the trial court of its jurisdiction over the case, the records reveal that the respondent could no longer act on the employees' motion for execution pending appeal as the said motion was filed only on May 20, 2002, beyond the reglementary period therefor. Moreover, the complainant had already perfected its appeal even before the said date; upon its receipt of the decision on March 7, 2002, it filed a notice of appeal and paid the corresponding docket fees on March 15, 2002.

The Investigating Justice also found that in adopting the amount of P240,000,000.00 as the total benefits due to the employees by issuing an order a day after the filing of an ex-parte manifestation to that effect, the respondent denied the complainant its right to due process. According to the Investigating Justice:

Granting arguendo that the court still has jurisdiction, by precipitately acting on the Ex-Parte Manifestation, the respondent deprived the complainant of its day in court to be heard on the matter. He should have given the complainant the chance to refute, contest or just comment on, the figure as this amount was not even computed and mentioned in the questioned decision to be implemented. Clearly, the respondent was in bad faith in issuing the order only a day after the motion was filed. If the sum was a mere pittance, the order would not have raised quizzical eyebrows. Considering the staggering amount, his motive in this regard could only be considered as suspect.[27]

According to the Investigating Justice, the grant of the motion for the issuance of a writ of execution pending appeal, particularly when the nature of the action, the applicable law and the exorbitant amount involved, are taken into consideration.[28] Furthermore, the Order of November 29, 2002 was baseless and was issued to render ineffective the September 27, 2002 Order of the pairing judge. Thus, the respondent gravely abused his discretion and undermined the orderly administration of justice when he again acted upon a motion which had already been resolved in an earlier order.

The Investigating Justice also commented that when the PNB filed a Motion for Clarification regarding the November 29, 2002 Order, the respondent should have ordered the complainant to comment thereon. In failing to do so, the respondent deprived the complainant of its right to due process for a second time. The Investigating Justice was also of the opinion that such actuation of the respondent judge was "deliberate, with no purpose in mind except to railroad the payment of the attorney's fees to the lawyer of the employees." [29]

With respect to the main case, the Investigating Justice ruled that the complaint was not yet ripe for administrative evaluation. Citing *Spouses De Leon v. Bonifacio*, [30] the Investigating Justice maintained that to make a determination of the issues in the instant case at this time would be to preempt the Court of Appeals, the issues in the main case being the very same issues before the appellate court.

Thus, Justice Mendoza made the following recommendation:

A] ON THE FIRST CHARGE, finding the respondent administratively guilty of gross ignorance of the law, grave misconduct and manifest bias and partiality, the undersigned respectfully recommends that he be meted the penalty of 1] suspension for, at least, three (3) years; and 2] payment of a fine equivalent to, at least, his two-year salary with a WARNING that a commission of a substantially similar offense in the future will be dealt with more severely.

B] ON THE SECOND CHARGE, the undersigned respectfully recommends that, in the meantime, a determination of the respondent's administrative liability be suspended until the final termination of the main case which has been appealed.[31]

The Ruling of the Court

The findings of the Investigating Justice are well taken.

It is settled that a judge must not only render a just, correct and impartial decision but should do so in such a manner as to be free from any suspicion as to his fairness, impartiality and integrity. A decision which correctly applies the law and jurisprudence will nevertheless be subject to questions of impropriety when rendered by a magistrate or tribunal believed to be less than impartial and honest.[32]

In the case at bar, the actuations of the respondent judge cast doubt as to his “impartiality and cold neutrality.” In the Special Order of July 8, 2002, the respondent granted the employees’ motion for execution of judgment pending appeal, despite the fact that the court no longer had jurisdiction over the case, in view of the perfection of the complainant’s appeal and the belated filing of such motion for execution of judgment. Furthermore, no good reasons were stated in the said order to justify the grant of the motion. In so doing, the respondent judge violated Section 2, Rule 39[33] in relation to Section 9, Rule 41[34] of the Revised Rules of Civil Procedure, as amended. As aptly stated by the Investigating Justice, the respondent had a “hidden agenda” in issuing the July 8, 2002 Special Order:

In his July 8, 2002 Special Order granting execution pending appeal, the respondent appeared to be sympathetic to the employees when he stated that “The dictates of social justice cannot be ignored by the Court. x x x. It is the sentiment of the Court that technical issues should be resolved in the light of the paramount principles of equal protection of the law and social justice.”

The respondent’s sympathy for the employees, however, was indubitably hollow. It was nothing but empty cant. His heart was never for them. His ulterior motive surfaced when he issued the March 18, 2002 Order directing PNB to release the amount of P2,455,821.11 directly to Atty. Rolindo A. Navarro, the employees’ counsel.

The Special Order had, as its supposed purpose, the welfare and amelioration of the employees in mind. The March 18, 2003 Order clearly disclose that the respondent had another thing in mind – the attorney’s fees of their counsel which, considering that there was no full blown trial, was certainly more than generous. Under the circumstances, it cannot be helped if people would suspect something not right. Certainly, good faith cannot be attributed to him.

... THE RESPONDENT’S ORDER WAS
HIGHLY SUSPICIOUS AS IT WAS FOR
THE BENEFIT, NOT OF THE EMPLOYEES,
BUT THEIR COUNSEL

It is elementary that when attorney’s fees are awarded, they are so adjudicated because they are in the nature of actual damages suffered by the client (*Mirasol v. De La Cruz*, 84 SCRA 337) as he was constrained to engage the services of a counsel to represent him in a litigation for the protection of his interest. Being in the nature of damages, the award should have been given first to the employees, not to their counsel. In the case of *Traders Royal Bank Employees Union-Independent v. NLRC*, G.R. No. 120592, March 14, 1997, it was stated that “In his extraordinary concept, an attorney’s fee is an indemnity for damages ordered by the court to be paid by the losing party in a litigation. The basis of this is any of the cases provided by law where such award can be made, such as those authorized in Article 2208, Civil Code, and is payable not to the lawyer but to the client, unless they have agreed that the award shall pertain to the lawyer as additional compensation or as part thereof.”

It is on the record that direct payment was mentioned in the petition but considering that it was the employees who executed the undertakings to secure the refund thereof in case of reversal, it was not justified.

In the July 8, 2002 Order, it was stated, among others that:

“(f) Restitution in the event of reversal of the Decision may be done through salary deductions in which case the interest of the respondent is assured and protected. In fact, as shown in the supplemental motion, the

petitioners have signed an undertaking to this effect and, therefore, have bound themselves to the processes of this Court for any repayment to respondent if the need arises.”

The execution of the undertakings was one of the reasons cited by the respondent when he granted the motion for the issuance of a writ of execution. In the case of the counsel, however, the respondent did not require him to execute one and now he is even vigorously fighting the return of the money. Those being the circumstances, people cannot but suspect that he had some personal interest in the unconscionable amount of P2,455,821.11. It is quite patent and obvious that he exhibited manifest partiality in favor of the counsel, not the employees. Thus, he committed an injustice not only to the complainant but to the employees as well.

Moreover, as it was an implementation of a writ of execution, PNB should not have been ordered to pay it directly to Atty. Navarro. The respondent should have ordered the PNB to pay it, at least, through the sheriff who is duly tasked to enforce such orders. By bypassing the sheriff, the respondent’s directive was highly irregular.[35]

The respondent judge, likewise, disregarded the order issued by Pairing Judge Fortunato M. De Gracia, Jr. on September 27, 2002 which resolved the motion for reconsideration filed by the employees by issuing an Order dated November 29, 2002, effectively reversing and setting aside the same without the said employees having filed a new motion therefor. The said Order is worded as follows:

Submitted for resolution is petitioners’ motion for reconsideration of the Order dated August 22, 2002, which was opposed by respondent.

After consideration of the motion and the opposition thereto as well as the manifestation of petitioners dated November 23, 2002, the Court makes the following resolution.

The Court finds the motion impressed with merit.

It is the observation of the Court that the motion for reconsideration is supported by jurisprudence particularly the ruling of the Supreme Court in the case of Philippine National Bank v. Judge Javier Pabalan, et al., 83 SCRA 595, to the effect that “funds of public corporation which can sue and be sued were not exempt from garnishment.” There is no dispute that respondent MCIAA is a public corporation which can sue and be sued.

Moreover, it is apparent from the letter of respondent thru its General Manager and addressed to petitioners’ counsel that respondent is “open for amicable, legal, just and reasonable settlement of the case.” Hence, there is need to pave the way for partial execution of judgment by way of a compromise agreement between the parties.

WHEREFORE, premises considered, the motion for reconsideration is hereby GRANTED. The Order dated August 22, 2002 is RECONSIDERED in so far as the implementation of the writ of execution is concerned.

The General Manager of respondent and the concerned bank officials are directed to comply with the processes of the Court in connection with an agreed implementation by way of compromise of the writ of execution in accordance with Rule 39 of the 1997 Rules of Civil Procedure.

The Sheriff of this Court is also directed to continue with the enforcement of the writ of execution with the aforestated qualification unless restrained by the Honorable Court of Appeals.

Notify the parties of this Order.

SO ORDERED.[36]

Admittedly, judges cannot be held to account for erroneous judgments rendered in good faith. However, this defense has been all too frequently cited to the point of staleness. In truth, good faith in situations of infallible discretion inheres only within the parameters of tolerable judgment and does not apply where the issues are so

simple and the applicable legal principle evident and basic as to be beyond permissible margins of error.[37] Indeed, while 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.[38]

As public servants, judges are appointed to the judiciary to serve as the visible representation of the law, and more importantly, of justice. From them, the people draw their will and awareness to obey the law. If judges, who swore to obey and uphold the Constitution, would conduct themselves in wanton disregard and violation of the rights of complainant, then the people, especially those with whom they come in direct contact, would lose all their respect and high regard for the institution of the judiciary itself, not to mention, cause the breakdown of the moral fiber on which the judiciary is founded.[39] As such, decisions of courts need not only be just but must be perceived to be just and completely free from suspicion or doubt in its fairness and integrity.[40]

As a judge, the respondent must have the basic rules at the palm of his hands as he is expected to maintain professional competence at all times.[41] 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. Elementary is the rule that when laws or rules are clear, it is incumbent upon the respondent to apply them regardless of personal belief and predilections. To put it differently, when the law is unambiguous and unequivocal, application not interpretation thereof is imperative.[42] Indeed, a judge is called upon to exhibit more than just a cursory acquaintance with statutes and procedural rules. He must be conversant with basic legal principles and well-settled doctrines. He should strive for excellence and seek the truth with passion.[43] The failure to observe the basic laws and rules is not only inexcusable, but renders him susceptible to administrative sanction for gross ignorance of the law from which no one is excused, and surely not a judge.[44]

Under Canon 1.01 of the Code of Judicial Conduct, a judge is expected to be “the embodiment of competence, integrity, and independence” to maintain public confidence in the legal system. He should so behave at all times as to promote confidence in the integrity and impartiality of the judiciary.[45] Furthermore, he should avoid impropriety and the appearance of impropriety in all activities.[46] By his actuations, the respondent judge miserably failed to comply with this mandate which is required of him as a magistrate of law.

The respondent’s justification of his issuance of the questioned interlocutory orders in Civil Case No. CEB-27136 hardly merits any consideration. Instead of confronting the issues head-on, he blamed the counsel of the complainant for his lack of action and/or protestation on the issuance of the questioned orders, as well as the release of the funds by the PNB:

Finally on the quantification of the COLA and AA benefits of the Plaintiffs in Civil Case No. CEB-27136, it appears that it was made and arrived at by employees-officers of complainant MCIAA who were conversant with the mathematical computation of said benefits. From this quantification it appears that complainant MCIAA did not file any written objection nor any Motion to Nullify said quantification despite its actual knowledge thereof. As it claims that there was no hearing on the matter of quantifying the claims for COLA and AA of the Plaintiffs in Civil Case No. CEB-27136, it is surprising to say the least why complainant MCIAA did not raise any cry over it and translate the same to a Motion for Nullification. The reason can be found in the fact that the quantification was correct.

As a closing argument, let it be underscored at this juncture that in granting the petition for certiorari of complainant MCIAA, the eighth division of the Court of Appeals through Justice Gozo-Dadule (sic), did not find that Respondent judge committed grave abuse of judicial discretion in connection with his questioned Orders of July 8, 2002 and August 22, 2002. There is no finding even of simple abuse of discretion.

While with respect to the Order of March 18, 2003 directing the PNB-Lapu-Lapu City branch to release

direct(ly) to Atty. Rolindo Navarro his partial attorney's fees in the amount of P2,455,821.11, the Court of Appeals ruled that such Order was a misplaced ratiocination which means that such an Order proceeded from an illogical reasoning (sic). Thus, such an Order was a mere error of judgment which could have been corrected had complainant MCIAA made a timely objection or filed an appropriate motion to block the release of its funds at the PNB Lapu-Lapu City branch considering that it had seven days within which to make its move.[47]

It must be stressed that a person presiding over a court of law must live and abide by it and render justice at all times without resorting to shortcuts clearly uncalled for. Judges are not common men and women, whose error men and women forgive and time forgets. Judges sit as the embodiment of the people's sense of justice, their last recourse when all other institutions have failed.[48] When questionable orders are issued by a magistrate of law, casting doubt as to his integrity and impartiality, the erring judge must be sanctioned therefor, keeping in mind that the irresponsible or improper conduct of judges erodes public confidence in the judiciary, and, as such, must avoid all impropriety and the appearance thereof.[49]

We note that in A.M. No. RTJ-03-1802,[50] the respondent judge was dismissed from the service for two counts of gross misconduct, in violation of Rule 1.01, Canon 1, and Rule 2.01, Canon 2, of the Code of Judicial Conduct for demanding P250,000.00 from the complainant therein and using the latter's karaoke bar and entertaining litigants at his home. The Court, likewise, found the respondent guilty of gross ignorance of the law or procedure under Section 8(9), Rule 140 of the Revised Rules of Court, as amended, for failing to accord the complainant due notice and hearing it was entitled to under the rules. Lastly, the respondent was found guilty of the less serious charge of simple misconduct under Section 9(7), also under Rule 140, for his negligence in approving a counter-bond.[51] Considering that the penalty of dismissal can no longer be meted against the respondent, the Court finds that a fine of Forty Thousand Pesos (P40,000.00) is an appropriate penalty, conformably to Section 11(A), Rule 140[52] of the Revised Rules of Court, as amended.

WHEREFORE, for gross ignorance of the law, grave misconduct, and manifest bias and partiality, respondent Judge Agapito L. Hontanosas, Jr. is hereby FINED in the amount of Forty Thousand Pesos (P40,000.00), which shall be deducted from his accrued leave credits; and, in case such leave credits be found insufficient to answer for the said fine, the respondent shall pay the balance thereof to the Court.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Tinga, Chico-Nazario, and Garcia, JJ., concur.
Azcuna, J., on leave.

[1] Annex "B."

[2] Entitled "Edgardo U. Bongoyan, Emilia C. Perez, Gerardo V. Navaja, Joel S. Libatan, Eric L. Briones, Lynn O. Yap, Michael M. Bacarisas, Ruben S. Dulfo, Ulysses O. Perez, Leowin G. Digmos, Junnel T. Uy and Marlon D. Verano, in their own right and in behalf of their co-employees, Petitioners, v. Mactan Cebu International Airport Authority."

[3] The dispositive portion of the decision reads:

WHEREFORE, judgment is hereby rendered in favor of the petitioners and against the respondent:

a) Declaring the petitioners and all other officers and employees they represent as entitled to the payment of back

pay for Cost-of-Living Allowance (COLA) and Amelioration Allowance (AA), based on the percentage stated in paragraph 8 of the Petition, from December 18, 1990 or from the dates of their respective appointments until March 1999, inclusive;

b) Declaring the petitioners and all other officers and employees they represent as entitled to the payment of back pay for meal allowance/food subsidy, dependents' allowance, medical benefits and hazard pay from December 18, 1990 up to the present, and shall continue so paying until their separation from the service, at the same rates as that received by officers and employees of the MIAA.

c) Ordering the issuance of a writ of mandamus commanding the respondent to pay the allowances and benefits mentioned in paragraphs (a) and (b) above;

d) Directing the respondent to retain ten (10) percent of said allowances and benefits as attorney's fees for the handling lawyer and to pay the same directly to him, as prayed for in the petition.

No pronouncement as to costs (Rollo, pp. 105-106).

[4] Annex "E."

[5] Annex "F."

[6] Ibid.

[7] Annex "G."

[8] The dispositive portion reads:

WHEREFORE, premises considered, the motion for execution of judgment pending appeal is hereby GRANTED.

Let a writ of execution be issued to enforce the judgment of this Court subject to the condition that only those who signed the undertaking for compulsory restitution are entitled to be given the benefits awarded in the Decision dated February 20, 2002.

SO ORDERED (Annex "I," Rollo, pp. 123-125).

[9] Rollo, p. 126.

[10] Annex "K."

[11] Annex "L."

[12] Annex "J."

[13] Rollo, p. 144.

[14] Annex "N."

[15] Annex "O."

[16] Annex "P."

[17] Annex "Q."

[18] Rollo, pp. 177-178.

[19] Report dated May 6, 2004, p. 7.

[20] Rollo, pp. 44-47.

[21] Id. at 199-200.

[22] Id. at 206-212.

[23] Id. at 213-214.

[24] Id. at 260-261.

[25] Id. at 264.

[26] Report dated May 6, 2004, pp. 9-10.

[27] Id. at 12.

[28] The respondent judge justified the grant of the motion as follows:

... It is the sentiment of the Court that technical issues should be resolved in the light of the paramount principles of equal protection of the law and social justice.

The bottom line is that the Court takes judicial notice from newspaper reports of the agitation of the petitioners-workers who are manning a vital public facility such as an international airport. An unjustified rejection by respondent's management of their reasonable prayer for economic alleviation may ignite a work stoppage that is detrimental to the safety and convenience of the riding public. Many of these workers may not be around to receive the benefits awarded by this Court if they will wait for respondent's appeal to be finally resolved by the Court of Appeals and the Supreme Court. That is why they obliged themselves to compulsory restitution through salary deductions in the event of reversal of the judgment (Rollo, p. 125).

[29] Report dated May 6, 2004, p. 16.

[30] 280 SCRA 434, 441 (1997).

[31] Report dated May 6, 2004, p. 20.

[32] *Agpalasin v. Agcaoili*, 330 SCRA 250 (2000).

[33] Section 2. Discretionary execution. –

(a) Execution of a judgment or a final order pending appeal. – On motion of the prevailing party with notice to the adverse party filed in the trial court while it has jurisdiction over the case and is in possession of either the original record or record on appeal, as the case may be, at the time of the filing of such motion, said court may, in its discretion, order execution of a judgment or final order even before the expiration of the period to appeal.

...

Discretionary execution may only issue upon good reasons to be stated in a special order after due hearing.

[34] Section 9. Perfection of appeal; effect thereof. – A party's appeal by notice of appeal is deemed perfected as to him upon the filing of the notice of appeal in due time.

...

In appeals by notice of appeal, the court loses jurisdiction over the case upon the perfection of the appeals filed in due time and the expiration of the time to appeal of the other parties.

...

In either case, prior to the transmittal of the original record or the record on appeal, the court may issue orders for the protection and preservation of the rights of the parties which do not involve any matter litigated by the appeal, approve compromises, permit appeals of indigent litigants, order execution pending appeal, in accordance with

Section 2 of Rule 39, and withdrawal of the appeal.

[35] Id. at 16-18.

[36] Id. at 151.

[37] Poso v. Mijares, 387 SCRA 485 (2002).

[38] De Guzman, Jr. v. Sison, 355 SCRA 69 (2001).

[39] Jordan P. Oktubre v. Judge Ramon P. Velasco, Municipal Trial Court, Maasin, Southern Leyte, A.M. No. MTJ-02-1444, July 22, 2004.

[40] Macalintal v. Teh, 280 SCRA 623 (1997).

[41] Cruz v. Yaneza, 304 SCRA 285 (1999).

[42] De Guzman, Jr. v. Sison, *supra*.

[43] Office of the Court Administrator v. Judge Agustin T. Sardido, Municipal Trial Court of Koronadal, 401 SCRA 583 (2003).

[44] Randall-Lyon Garcia Bueno v. Judge Saidali M. Dimangadap, MCTC, Malabang, Lanao del Sur, A.M. No. MTJ-02-1462, August 10, 2004.

[45] Rule 2.01, Code of Judicial Conduct.

[46] Canon 2, Code of Judicial Conduct.

[47] Memorandum for Respondent Judge dated March 29, 2004, Rollo, pp. 365-366.

[48] Ortiz v. Palaypayon, 234 SCRA 391 (1994).

[49] Padilla v. Zantua, Jr., 237 SCRA 670 (1994).

[50] J. King & Sons Company, Inc., represented by its President, Richard L. King v. Judge Agapito L. Hontanosas, Jr., Presiding Judge of RTC, Cebu City, Branch 16, September 21, 2004.

[51] Id. at 30-31.

[52] Sec. 11. Sanctions. – A. If the respondent is guilty of a serious charge, any of the following sanctions may be penalized as follows:

- 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 all 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 but not exceeding P40,000.

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