

**ALFREDO Y. CHU, COMPLAINANT, VS. JUDGE CAMILO E. TAMIN,
PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 23, NINTH
JUDICIAL REGION, MOLAVE, ZAMBOANGA DEL SUR, RESPONDENT.**

A.M. No. RTJ-03-1786 (Formerly OCA IPI No. 99-854-RTJ). August 28, 2003

Ponente: CARPIO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/c73b1d66c198/>

CARPIO, J.:

The Case

This is a complaint for gross ignorance of the law, serious misconduct, and grave abuse of discretion filed by Alfredo Y. Chu ("complainant") against Judge Camilo E. Tamin ("respondent judge") of the Regional Trial Court, Branch 23, Molave, Zamboanga del Sur ("Branch 23").

The Facts

Complainant alleged that on 9 September 1999, Community Environment and Natural Resources Officer Michael F. dela Cruz ("CENRO dela Cruz") of the Department of Environment and Natural Resources, Region IX, applied for a search warrant with respondent judge. CENRO dela Cruz claimed that complainant was in possession of "forest products of dubious origin" in violation of Section 68 of Presidential Decree No. 705[1] ("PD 705"), as amended. On the same day, respondent judge issued Search Warrant No. 364 ordering the seizure of several pieces of mangrove lumber from complainant's fishpond in Bulawan, Payao, Zamboanga del Sur. On the strength of the warrant, CENRO dela Cruz, assisted by law enforcement agents, seized from complainant 576 pieces of pagatpat lumber (mangrove specie) with an estimated value of P183,790.

On 22 September 1999, complainant obtained from Branch 23 a copy of the complete records of the issuance of Search Warrant No. 364, as certified by Branch Clerk of Court Ma. Asuncion Pabatao-Lumapas ("Clerk of Court Lumapas"). On 24 September 1999, complainant again obtained, for the second time, a copy of the complete records of the case, also certified by Clerk of Court Lumapas. These certified copies did not contain any transcript of respondent judge's examination of CENRO dela Cruz or his witnesses as required under Section 4, Rule 126 of the Revised Rules of Criminal Procedure. Thus, complainant filed this administrative complaint.

Complainant pointed out that this was the fifth time that respondent judge issued, under questionable procedure, search warrants against him for violation of PD 705. Complainant recalled that on 10 November 1998, respondent judge issued four search warrants against him (Search Warrant Nos. 281 to 284), authorizing the seizure from his compound of pagatpat lumber worth more than P1.5 million. Complainant alleged that the records of the four warrants did not also contain any transcript of the required examination of witnesses. Complainant therefore moved to quash the four warrants. Respondent judge, however, denied the motion on the ground that he had in fact conducted such examination but the record of the "deposition" was "misfiled in another case folder through inadvertence." [2]

In response to the directive of the Office of the Court Administrator ("OCA") of this Court to comment on the complaint, respondent judge, in his Second Indorsement ("Indorsement") dated 16 December 1999, denied

complainant's allegations. Respondent judge asserted that at around 1:15 p.m. of 9 September 1999, he personally examined a certain Reynaldo Cuaresma ("Cuaresma"), allegedly a witness of CENRO dela Cruz, before issuing the warrant in question. He claimed that a transcript of the examination was included in the records of Search Warrant No. 364. However, he forwarded the records to the OCA on 30 September 1999 in connection with his request for the transfer of the case to the RTC, Branch 24, in Ipil, Zamboanga del Sur ("Branch 24"). In lieu of the original copy, respondent judge attached to his Indorsement an alleged computer printout of the transcript, claiming that the time and date of its encoding was verifiable in the computer files in his office.

Due to the conflicting factual allegations of the parties, the Court directed the Executive Judge of the RTC of Pagadian City, Zamboanga del Sur to: (1) verify from Branch 23 whether respondent judge examined any witness before issuing Search Warrant No. 364; and (2) secure from Clerk of Court Lumapas her explanation on the apparent discrepancy between the copy of the records of Search Warrant No. 364, as forwarded by respondent judge to the OCA and as obtained by complainant.

In his Report, dated 30 July 2001, RTC Pagadian City Executive Judge Franklyn A. Villegas ("Executive Judge Villegas") stated that he verified the records of Search Warrant No. 364 in Branch 23. He found on page 5 of the records a copy of the transcript of the examination conducted by respondent judge on one Reynaldo Cuaresma. He attached in his report the explanations of respondent judge and Clerk of Court Lumapas.[3]

In his explanation, dated 11 July 2001, respondent judge reiterated the claim he made in his Indorsement of 16 December 1999 that he examined a certain Reynaldo Cuaresma before issuing Search Warrant No. 364. He explained that the records of the case contained a copy of the transcript of the examination. However, respondent judge alleged, for the first time, that the legal researcher in his office who prepared the duplicate copy issued to complainant on 22 September 1999 failed, through "pure inadvertence," to recopy such transcript. Respondent judge attributed such omission to the fact that at that time, the pages of the records were not yet "physically paged." He claimed that the pages were numbered only upon preparation of the records for transmittal to Branch 24 the following week. He further asserted that the copy of the transcript in question was numbered page 5. Branch 24, however, refused to accept the referral of the case. Thus, respondent judge forwarded the records to the OCA with a request for their transmittal to Branch 24. The OCA later returned the records to respondent judge as their proper custodian.[4]

Clerk of Court Lumapas affirmed respondent judge's claims and defenses in her explanation dated 11 July 2001.[5]

In the Resolution of 10 September 2001, the Court referred this case to the OCA for evaluation, report, and recommendation.

OCA's Findings and Conclusions

In its Report dated 10 December 2002, the OCA found respondent judge liable for gross ignorance of the law and recommended the imposition of a P5,000 fine. The Report reads in part:

Respondent judge stands firm on his claim that he conducted searching questions on Reynaldo Charesma [sic]. We find this claim highly suspect. First, the respondent judge [initially] failed to produce a copy of the transcript of the searching questions allegedly made on September 9, 1999 and append the same to the record of the case. x x x The transcript of the searching questions was, in fact, produced [only] after the filing of the instant complaint. Further, it was noted that during the hearing of [complainant's motion to quash Search Warrant] Nos. 281, 282, 283 and 28[4] taken on 21 January 1999 at 9:30 a.m.[,] respondent judge apparently believes that searching questions need not be in writing. This is borne by the following exchange during the said hearing:

Atty. R. Rambuyong [Counsel for complainant Alfredo Chu]:

In other words Your Honor, they would not admit that the accused received copies?

Court:

Is there a rule that the searching question must be in writing?

Atty. R. Rambuyong:

From the Case of HATA versus BAYONA, Your Honor, the Supreme Court has required. As a matter of fact, I cited that in my supplemental motion and the Court said that, "mere affidavits of the complainant and his witnesses is not enough. There must be the deposition in writing, and under oath of the complainants and his witnesses; and searching questions should be propounded by the examining Judge." As a matter of fact, there have been several decisions of the Supreme Court to the effect that mere ceremonial searching questions and answers reiterating the contents of the affidavits will not be sufficient compliance [there] with.

x x x x.

From the foregoing, it can be concluded that respondent judge either did not conduct the required searching questions, or if he did, he did not put it in writing. Thus, respondent judge erred because Section 5, Rule 126, [of the] Rules of Court specifically [requires such] x x x.

This is a basic legal precept which all judges are expected to be conversant with. Th[e] Court has often impressed upon judges that as mandated by the Code of Judicial Conduct, they owe it to the public and legal profession to know the very law they are supposed to apply to a given case. In this case, respondent judge failed to observe an elementary rule which amount[s] to ignorance of the law, thereby subjecting him to disciplinary action. (Emphasis in the original)

The Ruling of the Court

The report of the OCA is well-taken.

Section 5, Rule 126[6] of the Revised Rules of Criminal Procedure provides:

The judge must, before issuing the warrant, personally examine in the form of searching questions and answers, in writing and under oath, the complainant and the witnesses he may produce on facts personally known to them and attach to the record their sworn statements, together with the affidavits submitted. (Emphasis supplied)

This provision implements the proscription against unreasonable searches and seizures found in Section 2, Article III of the Constitution which states:

The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures of whatever nature and for whatever purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

The Court, in *Pendon v. Court of Appeals*,^[7] reiterated the requirements of Section 2 on the issuance of search warrants, which judges must strictly observe,^[8] as follows:

Under the above provision, the issuance of a search warrant is justified only upon a finding of probable cause. x x x In determining the existence of probable cause, it is required that: (1) the judge x x x must examine the x x x witnesses personally; (2) the examination must be under oath; and (3) the examination must be reduced to writing in the form of searching questions and answers. (Emphasis supplied)^[9]

Respondent judge explained that in issuing Search Warrant No. 364, he complied with the rule that he must "personally examine in the form of searching questions and answers, in writing and under oath, the complainant and the witnesses." Respondent judge stated, however, that the certified copies of the records obtained by complainant did not include the transcript of his examination because the clerical staff in his office who prepared the certified copies inadvertently failed to do so. This explanation fails to persuade us.

Respondent judge's own Clerk of Court certified twice, first on 22 September 1999 and later on 24 September 1999, that the 29-page copy of the records obtained by complainant constitutes the entire record of the matter.[10] This renders improbable respondent judge's claim that the transcript already formed part of the records but the legal researcher in his office inadvertently missed it in preparing the copy obtained by complainant on 22 September 1999. The alleged legal researcher, who presumably also prepared the second certified copy, could not have committed the same mistake, twice in a row, within two days of each other. Curiously, in his Indorsement of 16 December 1999, respondent judge did not point to his legal researcher's negligence as the cause for the discrepancy. Neither did respondent judge state that the pages of the contents of the folder of Search Warrant No. 364 were unnumbered when complainant requested for copies. What he stated in his Indorsement was that the records contained a copy of the transcript but the same was already forwarded to the OCA.

If, as respondent judge claims, he personally examined a certain Cuaresma as the witness of CENRO dela Cruz, he should have secured the affidavit of Cuaresma. Respondent judge should also have secured the affidavit of the unnamed "legal researcher" who allegedly prepared the copies of the records obtained by complainant. Respondent judge failed to secure their affidavits to corroborate his claims. Lastly, respondent judge should have shown Executive Judge Villegas, during the latter's investigation, the magnetic (hard disk) copy of the transcript allegedly stored in his office computer. These omissions bolster complainant's claim and correspondingly weaken respondent judge's defense. As it is, other than respondent judge's bare claim that he examined a certain Cuaresma, the only proof on record in his favor is an unsigned computer printout of the alleged record of the examination. Considering that any one can easily create and print out such document, it does not suffice to exculpate respondent judge from administrative liability.

We uphold the OCA's findings that respondent judge, who had earlier professed ignorance of the rule in question, failed either to examine any witness before issuing Search Warrant No. 364 or to reduce the examination in writing. His omission renders him liable for gross ignorance of the law. When the law is so elementary, such as the provisions of the Constitution and the Rules of Court on search warrant issuance, not to know it or to act as if one does not know it, constitutes gross ignorance of the law.[11] Specifically, respondent judge failed to conform to the high standards of competence required of judges under the Code of Judicial Conduct, which mandates that:

Rule 1.01. -- A judge should be the embodiment of competence, integrity, and independence.

Rule 3.01 -- A judge shall x x x maintain professional competence.

What was said in a case,[12] similarly involving gross ignorance of basic rules, bears repeating here:

[A judge] is called upon to exhibit more than just a cursory acquaintance with the statutes and procedural rules. It is imperative that he be studious of and conversant with basic legal principles. He owes [it] to the dignity of the court he sits in, to the legal profession he belongs, and to the public who depends on him, to know the law which he is called upon to x x x apply. Not only that, there would be on the part of the litigants less expense and greater faith in the administration of justice if there be a belief on their part that the occupants of the bench cannot justly be accused of apparent deficiency in their grasp [of] legal principles.

On the Penalty to be Imposed

As recommended by the OCA, respondent judge should be fined P5,000. On 26 June 2003, in Gregorio Limpot

Lumapas v. Judge Camilo Tamin,[13] this Court dismissed respondent judge from the service for "disobedience to an order issued by a superior court, as well as for gross ignorance of the law x x x with forfeiture of all benefits due him except for accrued leave credits." Thus, the fine of P5,000 should be deducted from respondent judge's accrued leave benefits.[14]

WHEREFORE, the Court finds respondent Judge Camilo E. Tamin, of the Regional Trial Court, Branch 23, Molave, Zamboanga del Sur, guilty of gross ignorance of the law. He is ordered to pay a fine of P5,000 to be deducted from his accrued leave credits.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, Ynares-Santiago, and Azcuna, JJ., concur.

[1] REVISING PRESIDENTIAL DECREE NO. 389, OTHERWISE KNOWN AS THE FORESTRY REFORM CODE OF THE PHILIPPINES.

[2] Rollo, pp. 1-9.

[3] Rollo, pp. 152-154.

[4] Ibid., pp. 157-158.

[5] Ibid., pp. 159-160.

[6] Reiteration of Rule 126, Section 4 of the 1964 Rules of Court.

[7] G.R. No. 84873, 16 November 1990, 191 SCRA 429, citations omitted.

[8] Silva v. Presiding Judge, RTC, Negros Oriental, Br. 33, G.R. No. 81756, 21 October 1991, 203 SCRA 140; Nolasco v. Paño, G.R. No. L-69803, 8 October 1985, 139 SCRA 152; Mata v. Bayona, 213 Phil. 348 (1984).

[9] On the issuance of warrants of arrest, the Court has held that the judge may rely on the report of the prosecutor on the finding of probable cause and need not personally examine the complainant and his witnesses (see Soliven v. Makasiar, G.R. No. L-82585, 14 November 1988, 167 SCRA 393, and succeeding cases).

[10] Rollo, pp. 13-14, 44-45.

[11] Lu v. Siapno, A.M. No. MTJ-99-1199, 6 July 2000, 335 SCRA 181.

[12] Dadizon v. Lirios, A.M. No. MTJ-00-1295, 1 August 2000, 337 SCRA 36.

[13] A.M. No. RTJ-99-1519, 26 June 2003.

[14] Leonidas v. Supnet, A.M. No. MTJ-02-1433, 21 February 2003.

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.