

SHARON FLORES-CONCEPCION, COMPLAINANT, V. JUDGE LIBERTY O. CASTANEDA, REGIONAL TRIAL COURT, BRANCH 67, PANIQUI, TARLAC, RESPONDENT.

A.M. No. RTJ-15-2438 [Formerly OCA I.P.I. No. 11-3681-RTJ]. September 02, 2020

Ponente: LEONEN, J.

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LEONEN, J.:

Death, be not proud, though some have called thee

Mighty and dreadful, for thou art not so;

For those whom thou think 'st thou dost overthrow

Die not, poor Death, nor yet canst thou kill me.

From rest and sleep, which but thy pictures be,

Much pleasure; then from thee much more must flow,

And soonest our best men with thee do go,

Rest of their bones, and soul's delivery.

Thou art slave to fate, chance, kings, and desperate men,

And dost with poison, war, and sickness dwell,

And poppy or charms can make us sleep as well

And better than thy stroke; why swell 'st thou then?

One short sleep past, we wake eternally

And death shall be no more; Death, thou shaft die.

Holy Sonnets: Death, Be Not Proud

By John Donne

Death is a far graver and more powerful judgment than anything that this Court has jurisdiction to render.

Hence, when the respondent in a pending administrative case dies, the case must be rendered moot. Proceeding any further would be to violate the respondent's fundamental right to due process. Should it be a guilty verdict, any monetary penalty imposed on the dead respondent's estate only works to the detriment of their heirs. To continue with such cases would not punish the perpetrator, but only subject the grieving family to further suffering by passing on the punishment to them.

This Court resolves the Administrative Complaint[1] against Judge Liberty O. Castaneda (Judge Castaneda), then the judge of the Regional Trial Court of Paniqui, Tarlac, Branch 67. She was sued by Sharon Flores-Concepcion (Concepcion), whose marriage the judge had nullified without her even knowing about it.

In particular, Concepcion claimed that in November 2010, she received a July 30, 2010 Decision[2] in Civil Case No. 459-09, declaring her marriage to Vergel Concepcion as void ab initio. The Decision surprised her as she did not know that her husband had filed any petition.[3] She added that neither she nor her husband was a resident of

Paniqui.[4] Seeking answers, Concepcion went to Branch 67 on December 8, 2010, and there discovered that, based on the records, no hearing was conducted on the case at all.[5]

Thus, Concepcion filed a Petition for Relief from Judgment[6] on January 19, 2011 before the same court.[7] Due to this incident, she also filed an Complaint-Affidavit[8] against Judge Castaneda.

On June 29, 2011, the Office of the Court Administrator directed the judge to comment, but she failed to comply despite notice.[9]

In 2012, as this case was pending, Judge Castaneda was dismissed from the service in another case, Office of the Court Administrator v. Judge Liberty O. Castañeda.[10] There, she was found guilty of dishonesty, gross ignorance of the law, gross misconduct, and incompetency for, among others, disposing of nullity and annulment marriages with "reprehensible"[11] haste. This Court forfeited her retirement benefits, except accrued leave credits, and barred her from reemployment in any government branch or instrumentality, including government-owned and controlled corporations.[12]

Given her dismissal, the Office of the Court Administrator recommended that Concepcion's Complaint be dismissed.[13] However, this Court later resolved to return this administrative matter to the Office of the Court Administrator to reevaluate the case on its merits.[14]

In its July 7, 2015 Memorandum,[15] the Office of the Court Administrator found that Judge Castaneda willfully and contumaciously disregarded the "laws and rules intended to preserve marriage as an inviolable social institution and safeguard the rights of the parties." [16] It found that the judge hastily resolved the nullity case despite several glaring procedural defects. Moreover, it noted her "act of defiance" [17] in refusing to submit a comment despite a directive. It stated that while the judge had since been dismissed from service, penalties could still be imposed since this Complaint had been filed before the 2012 ruling.[18] It noted that a judge's lack of moral fitness may likewise be basis for disbarment.[19]

The Office of the Court Administrator recommended the following:

1. the instant administrative complaint be RE-DOCKETED as a regular administrative matter against respondent Judge Liberty O. Castaneda, former Presiding Judge, Branch 67, RTC, Paniqui, Tarlac;
2. respondent Judge Castaneda be found GUILTY of gross ignorance of the law for which she would have been DISMISSED FROM THE SERVICE with forfeiture of her retirement benefits, except leave credits, if any, and disqualified from reinstatement or appointment to any public office, branch or instrumentality of the government, including government-owned or controlled corporations had she not been previously dismissed from the service in a Decision dated 9 October 2012 in A.M. No. RTJ-12-2316; and
3. respondent Judge Casta[n]eda be likewise DISBARRED for violation of Canons 1 and 11 and Rules 1.01 and 10.01 of the Code of Professional Responsibility and her name be ORDERED STRICKEN from the Roll of Attorneys.[20] (Emphasis in the original)

While the Memorandum was pending with this Court, Judge Castaneda died on April 10, 2018 from acute respiratory failure.[21]

The sole issue here is whether or not the death of respondent Judge Liberty O. Castaneda warrants the dismissal of the Administrative Complaint lodged against her.

In the 2019 case of Re: Investigation Report on the Alleged Extortion Activities of Presiding Judge Godofredo B. Abul, Jr.,[22] this Court initially held that the respondent's death will not extinguish a pending administrative case, since this Court is not ousted from its jurisdiction by the mere fact that the respondent had ceased to hold

public office. Thus, the respondent in *Re: Judge Abul* was found guilty of gross misconduct, and all his benefits, excluding accrued leaves, were forfeited.

On reconsideration, however, this Court reversed its earlier ruling and held that the respondent's death while the case was pending effectively renders the case moot. Thus, the complaint was dismissed.[23] We now apply the same ruling to this case.

The imposition of a penalty on a public officer after death does not punish the public officer. Public trust is not magically restored by punishing the public officer's heirs—persons who most likely have nothing to do with that public officer's infractions.

Prudence dictates that this case should be rendered moot as respondent Judge Castaneda died. She could no longer be in a position to defend herself from these charges in a motion for reconsideration. She could no longer admit to the charges, express remorse, or beg for clemency. Proceeding any further would be a gross violation of her constitutionally guaranteed right to due process.

I

Every person is guaranteed the right to due process before any judgment against them is issued. Article III, Section 1 of the Constitution declares:

ARTICLE III

Bill of Rights

SECTION 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

In this jurisdiction, due process has "no controlling and precise definition"²⁴ but is "a standard to which governmental action should conform in order that deprivation of life, liberty or property, in each appropriate case, be valid."^[25] It is, in its broadest sense, "a law which hears before it condemns."^[26] In *Ermita-Malate Hotel and Motel Operators Association, Inc. v. City Mayor of Manila*^[27]

There is no controlling and precise definition of due process. It furnishes though a standard to which governmental action should conform in order that deprivation of life, liberty or property, in each appropriate case, be valid. What then is the standard of due process which must exist both as a procedural and as substantive requisite to free the challenged ordinance, or any government action for that matter, from the imputation of legal infirmity; sufficient to spell its doom? It is responsiveness to the supremacy of reason, obedience to the dictates of justice. Negatively put, arbitrariness is ruled out and unfairness avoided. To satisfy the due process requirement, official action, to paraphrase Cardozo, must not outrun the bounds of reasons and result in sheer oppression. Due process is thus hostile to any official action marred by lack of reasonableness. Correctly has it been identified as freedom from arbitrariness. It is the embodiment of the sporting idea of fair play. It exacts fealty "to those strivings for justice" and judges the act of officialdom of whatever branch "in the light of reason drawn from considerations of fairness that reflect [democratic] traditions of legal and political thought." It is not a narrow or "technical conception with fixed content unrelated to time, place and circumstances," decisions based on such a clause requiring a "close and perceptive inquiry into fundamental principles of our society." Questions of due process are not to be treated narrowly or pedantically in slavery to form or phrases.^[28]

Due process encompasses two concepts: substantial due process and procedural due process. Substantive due process is generally premised on the "freedom from arbitrariness"^[29] or "the embodiment of the sporting idea of fair play."^[30] It "inquires whether the government has sufficient justification for depriving a person of life, liberty, or property."^[31]

Procedural due process, on the other hand, "concerns itself with government action adhering to the established

process when it makes an intrusion into the private sphere." [32] It is "[a]t its most basic ... about fairness in the mode of procedure to be followed." [33] *Medenilla v. Civil Service Commission* [34] summarizes procedural due process as:

. . . the right of the person affected thereby to be present before the tribunal which pronounces judgment upon the question of life, liberty, and property in its most comprehensive sense; to be heard, by testimony or otherwise, and to have the right of controverting, by proof, every material fact which bears on the question of the right in the matter involved. [35]

The requirements of procedural due process depend on the nature of the action involved. For judicial proceedings:

[First,] [t]here must be a court or tribunal clothed with judicial power to hear and determine the matter before it; [second,] jurisdiction must be lawfully acquired over the person of the defendant or over the property which is the subject of the proceeding; [third,] the defendant must be given an opportunity to be heard; and [fourth,] judgment must be rendered upon lawful hearing. [36] (Citation omitted)

In administrative cases, however, the essence of procedural due process is merely one's right to be given the opportunity to be heard. [37] In *Casimiro v. Tandog*: [38]

The essence of procedural due process is embodied in the basic requirement of notice and a real opportunity to be heard. In administrative proceedings, such as in the case at bar, procedural due process simply means the opportunity to explain one's side or the opportunity to seek a reconsideration of the action or ruling complained of. "To be heard" does not mean only verbal arguments in court; one may be heard also thru pleadings. Where opportunity to be heard, either through oral arguments or pleadings, is accorded, there is no denial of procedural due process. [39]

The sufficiency of pleadings in lieu of actual hearings does not imply that administrative proceedings require a "lesser" standard of procedural due process. On the contrary, *Ang Tibay v. Court of Industrial Relations* [40] requires that in administrative trials and investigations, [41] seven cardinal primary rights be present for the requirements of due process to be satisfied:

(1) The first of these rights is the right to a hearing, which includes the right of the party interested or affected to present his own case and submit evidence in support thereof. In the language of Chief Hughes, in *Morgan v. U.S.*, "the liberty and property of the citizen shall be protected by the rudimentary requirements of fair play."

(2) Not only must the party be given an opportunity to present his case and to adduce evidence tending to establish the rights which he asserts but the tribunal must consider the evidence presented. In the language of this court in *Edwards vs. McCoy*, "the right to adduce evidence, without the corresponding duty on the part of the board to consider it, is vain. Such right is conspicuously futile if the person or persons to whom the evidence is presented can thrust it aside without notice or consideration."

(3) "While the duty to deliberate does not impose the obligation to decide right, it does imply a necessity which cannot be disregarded, namely, that of having something to support its decision. A decision with absolutely nothing to support it is a nullity, a place when directly attached." This principle emanates from the more fundamental principle that the genius of constitutional government is contrary to the vesting of unlimited power anywhere. Law is both a grant and a limitation upon power.

(4) Not only must there be some evidence to support a finding or conclusion, but the evidence must be "substantial." "Substantial evidence is more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."

. . . The statute provides that 'the rules of evidence prevailing in courts of law and equity shall not be controlling.' The obvious purpose of this and similar provisions is to free administrative boards from the

compulsion of technical rules so that the mere admission of matter which would be deemed incompetent in judicial proceedings would not invalidate the administrative order. But this assurance of a desirable flexibility in administrative procedure does not go so far as to justify orders without a basis in evidence having rational probative force. Mere uncorroborated hearsay or rumor does not constitute substantial evidence.

(5) The decision must be rendered on the evidence presented at the hearing, or at least contained in the record and disclosed to the parties affected. Only by confining the administrative tribunal to the evidence disclosed to the parties, can the latter be protected in their right to know and meet the case against them. It should not, however, detract from their duty actively to see that the law is enforced, and for that purpose, to use the authorized legal methods of securing evidence and informing itself of facts material and relevant to the controversy. . . .

(6) [The tribunal or officer], therefore, must act on its or his own independent consideration of the law and facts of the controversy, and not simply accept the views of a subordinate in arriving at a decision. . . .

(7) [The tribunal or officer] should, in all controversial questions, render its decision in such a manner that the parties to the proceeding can know the various issues involved, and the reasons for the decision rendered. The performance of this duty is inseparable from the authority conferred upon it.[42] (Citations omitted)

Nonetheless, this Court clarified in *Gas Corporation of the Philippines v. Inciong*[43] that the failure to strictly apply the regulations required by *Ang Tibay* will not necessarily result in the denial of due process, as long as the elements of fairness are not ignored:

1. The vigor with which counsel for petitioner pressed the claim that there was a denial of procedural due process is inversely proportional to the merit of this certiorari and prohibition suit as is quite evident from the Comment of the office of the Solicitor General. It is undoubted that the due process mandate must be satisfied by an administrative tribunal or agency. So it was announced by Justice Laurel in the landmark case of *Ang Tibay v. Court of Industrial Relations*. That is still good law. It follows, therefore, that if procedural due process were in fact denied, then this petition must prosper. It is equally well-settled, however, that the standard of due process that must be met in proceedings before administrative tribunals allows a certain latitude as long as the element of fairness is not ignored. So the following recent cases have uniformly held: *Maglasang v. Ople*, *Nation Multi Service Labor Union v. Agcaoili*, *Jacqueline Industries v. National Labor Relations Commission*, *Philippine Association of Free Labor Unions v. Bureau of Labor Relations*, *Philippine Labor Alliance Council v. Bureau of Labor Relations*, and *Montemayor v. Araneta University Foundation*. From the Comment of the office of the Solicitor General, it is quite clear that no imputation of arbitrariness can be justified. The opportunity to present its side of the case was given both parties to the controversy. If, for reasons best known to itself, petitioner did not avail of its right to do so, then it has only itself to blame. No constitutional infirmity could then be imputed to the proceeding before the labor arbiter.[44] (Citations omitted)

Thus, while *Ang Tibay* requires the application of no less than seven cardinal rights, it is generally accepted that due process in administrative proceedings merely requires that the respondent is given the opportunity to be heard.[45] This opportunity to be heard, however, must be present at every single stage of the proceedings. It cannot be lost even after judgment. In *Lumiqued v. Exevea*: [46]

In administrative proceedings, the essence of due process is simply the opportunity to explain one's side. One may be heard, not solely by verbal presentation but also, and perhaps even much more creditably as it is more practicable than oral arguments, through pleadings. An actual hearing is not always an indispensable aspect of due process. As long as a party was given the opportunity to defend his interests in due course, he cannot be said to have been denied due process of law, for this opportunity to be heard is the very essence of due process. Moreover, this constitutional mandate is deemed satisfied if a person is granted an opportunity to seek reconsideration of the action or ruling complained of.[47] (Emphasis supplied)

The opportunity to be heard is an intrinsic part of the constitutional right to due process. Thus, in criminal cases, cases against the accused are immediately dismissed upon death[48] since the accused can no longer participate in all aspects of the proceedings.

Administrative proceedings require that the respondent be informed of the charges and be given an opportunity to refute them. Even after judgment is rendered, due process requires that the respondent not only be informed of the judgment but also be given the opportunity to seek reconsideration of that judgment. This is the true definition of the opportunity to be heard.

II

This Court's disciplinary powers must always be read alongside the guarantee of any respondent's fundamental rights. Any attempt to exercise our disciplinary powers must always take into account the provisions of the Constitution, from which these disciplinary powers are derived.

It is a settled doctrine that a disciplinary case against a court official or employee may continue, even if the officer has ceased to hold office during the pendency of the case.[49]

Cessation from office may either be voluntary or involuntary. Thus, the doctrinal safeguard against the dismissal of disciplinary cases prevents erring officers and employees from escaping liability by voluntarily ceasing to hold office, either through resignation or optional retirement.

Compulsory retirement is likewise covered by this doctrinal safeguard, even though this is an involuntary cessation from office. After all, retirees know when they will retire. Prospective retirees could attempt to escape liability for infractions by committing them near retirement.

However, death, unless self-inflicted, is an involuntary cessation from office. It is not like resignation or optional retirement. Unlike compulsory retirement, no one knows when they will die. In death, there is no certainty as to when one ceases holding office.

The opportunity to be heard can only be exercised by those who have resigned or retired. The reason is obvious: They are still alive. Even if they cease to hold public office, they can still be made aware of the proceedings and actively submit pleadings.

Dead respondents have no other recourse. They will never know how the proceedings will continue, let alone submit responsive pleadings. They cannot plead innocence or beg clemency.

Death forecloses any opportunity to be heard. To continue with the proceedings is a violation of the right to due process.

III

Unfortunately, *Gonzales v. Escalona*[50] has often been misquoted as basis to state that a respondent's death will not preclude a finding of administrative liability. In that case, where one of the two respondents had died, this Court stated:

While [Sheriff IV Edgar V. Superada's] death intervened after the completion of the investigation, it has been settled that the Court is not ousted of its jurisdiction over an administrative matter by the mere fact that the respondent public official ceases to hold office during the pendency of the respondent's case; jurisdiction once acquired, continues to exist until the final resolution of the case.

In *Layao, Jr. v. Caube*, we held that the death of the respondent in an administrative case does not preclude a finding of administrative liability:

This jurisdiction that was ours at the time of the filing of the administrative complainant was not lost by the mere fact that the respondent public official had ceased in office during the pendency of his case. The Court retains its jurisdiction either to pronounce the respondent public official innocent of the charges or declared him guilty thereof. A contrary rule would be fraught with injustice and pregnant with dreadful and dangerous implications ... If innocent, respondent public official merits vindication of his name and integrity as he leaves the government which he has served well and faithfully; if guilty, he deserves to receive the corresponding censure and a penalty proper and imposable under the situation.[51] (Citations omitted)

The continuation of the quoted portion in Gonzales, however, explicitly provides the several exceptions to this rationale, foremost of which is the denial of due process:

The above rule is not without exceptions, as we explained in the case of *Limliman v. Judge Ulat- Marrero*, where we said that death of the respondent necessitates the dismissal of the administrative case upon a consideration of any of the following factors: first, the observance of respondent's right to due process; second, the presence of exceptional circumstances in the case on the grounds of equitable and humanitarian reasons; and third, it may also depend on the kind of penalty imposed. None of these exceptional considerations are present in the case.

The dismissal of an administrative case against a deceased respondent on the ground of lack of due process is proper under the circumstances of a given case when, because of his death, the respondent can no longer defend himself. Conversely, the resolution of the case may continue to its due resolution notwithstanding the death of the respondent if the latter has been given the opportunity to be heard, as in this case, or in instances where the continuance thereof will be more advantageous and beneficial to the respondent's heirs.[52] (Emphasis supplied)

Thus, Gonzales not only lays the basis for the dismissal of the administrative case due to respondent's death, but also states the basis for continuing the administrative case despite death: (1) when the respondent was given the opportunity to be heard; or (2) when the continuation of the proceedings is more advantageous and beneficial to respondent's heirs.

In fact, in *Loyao, Jr. v. Caube*[53] on which Gonzales hinges to justify the rule that death does not cancel out administrative liability, this Court was actually constrained to dismiss the case and consider it closed and terminated because the penalty could not be carried out. In *Loyao, Jr.*:

To be sure, respondent Caube's death has permanently foreclosed the prosecution of any other actions, be it criminal or civil, against him for his malfeasance in office. We are, however, not precluded from imposing the appropriate administrative sanctions against him. Respondent's misconduct is so grave as to merit his dismissal from the service, were it not for his untimely demise during the pendency of these proceedings. However, since the penalty can no longer be carried out, this case is now declared closed and terminated.[54](Emphasis supplied, citations omitted)

There have been several other administrative cases where the impracticability of imposing the punishment was reason for this Court to just dismiss the case.

In *Camsa v. Judge Rendon*[55] this Court found it inappropriate to proceed with investigating a judge "who could no longer be in any position to defend himself; otherwise, it "would be a denial of his right to be heard, our most basic understanding of due process." [56]

In *Apiag v. Cantero*,[57] this Court dismissed an administrative case against an erring judge and allowed the release of his retirement benefits to his heirs due to his death. It explained:

. . . [This Court] cannot just gloss over the fact that he was remiss in attending to the needs of his children of his first marriage — children whose filiation he did not deny. He neglected them and refused to support them

until they came up with this administrative charge. For such conduct, this Court would have imposed a penalty. But in view of his death prior to the promulgation of this Decision, dismissal of the case is now in order.[58]

In Report on the Judicial Audit Conducted in the Municipal Trial Court of Tambulig and the 11th Municipal Circuit Trial Court of Mahayag-Dumingag-Josefina, Zamboanga del Sur,[59] this Court was constrained to dismiss the case against the deceased judge and release his retirement benefits to his heirs. This was despite finding him guilty of gross inefficiency and gross ignorance of the law.

It is the impracticability of the punishment that must guide this Court in assessing whether disciplinary proceedings can continue. To determine this, we must first examine our underlying assumptions on the imposition of penalties for offenses against the State or its private citizens.

IV

In criminal law, "penalty" has been defined as "the suffering that is inflicted by the state for the transgression of the law." [60] Crime and punishment are inseparable concepts, embodied by the Latin precept, *nullum crimen nulla poena sine lege*. [61]

Several theories justify the imposition of a penalty. One theory is that of prevention, where the State punishes an offender to prevent or suppress danger to society arising from that person's criminal act. Similarly, under another theory, that of self-defense, the State punishes the offender to protect society from the threat inflicted by the criminal. [62] These two theories underlie the imposition of penalties for attempted or frustrated crimes, as a measure of protection to society against the potential harm that could have been inflicted by the offender.

Another set of theories is punitive in nature. The first of these is exemplarity, where the imposition of the penalty acts as a deterrent to discourage others from committing the crime. Another theory is retribution or retributive justice, where the State punishes the offender as an act of vindication or revenge for the harm done. [63] Finally, there is the theory of reformation [64] or what is now referred to as restorative justice. The State's objective in restorative justice "is not to penalize," but to "engage in a sincere dialogue toward the formulation of a reparation plan. A reparation plan typically includes both monetary reparation and a rehabilitative program" and even community work. [65]

At first glance, the aim of criminal law in this jurisdiction appears to be retributive, in line with the sovereign's role "to regulate behavior, and in doing so, to determine guilt and punishment." [66] The severity of the penalty is often measured against the severity of the crime. This Court once remarked:

It takes more than merely being harsh, excessive, out of proportion, or severe for a penalty to be obnoxious to the Constitution. "The fact that the punishment authorized by the statute is severe does not make it cruel and unusual." Expressed in other terms, it has been held that to come under the ban, the punishment must be "flagrantly and plainly oppressive," "wholly disproportionate to the nature of the offense as to shock the moral sense of the community." [67] (Citations omitted)

In *People v. Godoy*, [68] the purpose of penalty imposition was used to differentiate whether an act of indirect contempt is considered a criminal offense or a civil one. The prevailing doctrine is that indirect contempt is a criminal offense if the purpose of punishment is punitive, aiming to seek retribution for an offense committed against the State or its officers. It is a civil offense if the purpose of punishment is merely remedial, aiming to restore the rights of the private offended party. [69]

While this discussion only applied to indirect contempt, looking into the purpose of the penalty can be a useful tool to determine whether a proceeding is criminal or civil: If the purpose is punishment, it is criminal in nature; if the purpose is remedial, it is civil in nature.

This may create the false impression that our criminal justice system has always been solely punitive in nature. On the contrary, as early as 1933, this Court has recognized that the imposition of criminal penalties in this jurisdiction is aimed toward restorative justice:

[I]t is necessary to consider the criminal, first, as an individual and, second, as a member of society. This opens up an almost limitless field of investigation and study which it is the duty of the court to explore in each case as far as is humanly possible, with the end in view that penalties shall not be standardized but fitted as far as is possible to the individual, with due regard to the imperative necessity of protecting the social order.

. . . .

In considering the criminal as a member of society, his relationship, first, toward his dependents, family and associates and their relationship with him, and second, his relationship towards society at large and the State are important factors. The State is concerned not only in the imperative necessity of protecting the social organization against the criminal acts of destructive individuals but also in redeeming the individual for economic usefulness and other social ends.[70]

On the other hand, the imposition of penalties in administrative cases takes on a slightly different character than that of criminal penalties. For instance, disciplinary cases filed against lawyers have always been considered restorative, not punitive, as "the objective of a disciplinary case is not so much to punish the individual attorney as to protect the dispensation of justice by sheltering the judiciary and the public from the misconduct or inefficiency of officers of the court." [71] It is this protection of a higher ideal that animates the purpose behind the imposition of administrative penalties.

The objective of the imposition of penalties on erring public officers and employees is not punishment, but accountability. The Constitution declares:

SECTION 1. Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives.[72]

To remain in public service requires the continuous maintenance of the public trust. In *Office of the Ombudsman v. Regalado*: [73]

The fundamental notion that one's tenure in government springs exclusively from the trust reposed by the public means that continuance in office is contingent upon the extent to which one is able to maintain that trust. As Chief Justice Enrique Fernando eloquently wrote in his concurrence in *Pineda v. Claudio*:

[W]e must keep in mind that the Article on the Civil Service, like other provisions of the Constitution, was inserted primarily to assure a government, both efficient and adequate to fulfill the ends for which it has been established. That is a truism. It is not subject to dispute. It is in that sense that a public office is considered a public trust.

Everyone in the public service cannot and must not lose sight of that fact. While his right as an individual although employed by the government is not to be arbitrarily disregarded, he cannot and should not remain unaware that the only justification for his continuance in such service is his ability to contribute to the public welfare.[74]

For this reason, the worst possible punishment for erring public officials and employees is not imprisonment or monetary recompense. It is removal from the public service. Thus, Section 46(A) of the Revised Rules on Administrative Cases in the Civil Service provides:

SECTION 46. Classification of Offenses. — Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.

A. The following grave offenses shall be punishable by dismissal from the service:

1. Serious Dishonesty;
2. Gross Neglect of Duty;
3. Grave Misconduct;
4. Being Notoriously Undesirable;
5. Conviction of a crime involving moral turpitude;
6. Falsification of official document;
7. Physical or mental incapacity or disability due to immoral or vicious habits;
8. Receiving for personal use of a fee, gift or other valuable thing in the course of official duties or in connection therewith when such fee, gift or other valuable thing is given by any person in the hope or expectation of receiving a favor or better treatment than that accorded to other persons, or committing acts punishable under the anti-graft laws;
9. Contracting loans of money or other property from persons with whom the office of the employee has business relations;
10. Soliciting or accepting directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value which in the course of his/her official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of his/her office. The propriety or impropriety of the foregoing shall be determined by its value, kinship, or relationship between giver and receiver and the motivation. A thing of monetary value is one which is evidently or manifestly excessive by its very nature;
11. Nepotism; and
12. Disloyalty to the Republic of the Philippines and to the Filipino people.

The purpose of administrative penalties is to restore and preserve the public trust in our institutions. Thus, it is in the public interest to remove from service all individuals who diminish the public trust. This is the extent of the punishment in administrative disciplinary cases.

The justification for the imposition of dismissal from service is neither prevention, nor self-defense, nor exemplarity, nor retribution, nor reformation. It is part of public accountability, which arises from the State's duty to preserve the public trust. The penalty attaches to the erring public officer or employee and to no other. Only that erring public officer or employee is dismissed from service.

When that public officer or employee dies, there is no one left for the State to dismiss from service.

Thus, in *Government Service Insurance System v. Civil Service Commission*,^[75] this Court pronounced that a respondent's death during the pendency of an administrative proceeding was cause to dismiss the case, due to the futility of the imposition of any penalty. It said:

The Court agrees that the challenged orders of the Civil Service Commission should be upheld, and not merely upon compassionate grounds, but simply because there is no fair and feasible alternative in the circumstances. To be sure, if the deceased employees were still alive, it would at least be arguable, positing the primacy of this Court's final dispositions, that the issue of payment of their back salaries should properly await the outcome of the disciplinary proceedings referred to in the Second Division's Resolution of July 4, 1988.

Death, however, has already sealed that outcome, foreclosing the initiation of disciplinary administrative proceedings, or the continuation of any then pending, against the deceased employees. Whatever may be said of the binding force of the Resolution of July 4, 1988 so far as, to all intents and purposes, it makes exoneration in the administrative proceedings a condition precedent to payment of back salaries, it cannot exact an impossible performance or decree a useless exercise. Even in the case of crimes, the death of the offender extinguishes criminal liability, not only as to the personal, but also as to the pecuniary, penalties if it occurs before final judgment. In this context, the subsequent disciplinary proceedings, even if not assailable on

grounds of due process, would be an inutile, empty procedure in so far as the deceased employees are concerned; they could not possibly be bound by any substantiation in said proceedings of the original charges: irregularities in the canvass of supplies and materials. The questioned orders of the Civil Service Commission merely recognized the impossibility of complying with the Resolution of July 4, 1988 and the legal futility of attempting a post-mortem investigation of the character contemplated.[76] (Emphasis supplied)

The same rationale should apply to members of the Judiciary, as they are held to an even higher standard than other public officers and employees. As early as 1903, this Court has imposed upon court officers their duty to uphold public order:

The maintenance of public order and the existence of the commonwealth itself, depend upon the enforcement of the mandates of the courts and require prompt obedience to them, not only by private citizens, but in a special manner by the Government officers who are particularly charged with a knowledge of the law and with the duty of obeying it.[77]

About a century later, this judicial fiat has not wavered. In *Astillazo v. Jamlid*:[78]

The Court has said time and time again that the conduct and behavior of everyone connected with an office charged with the administration and disposition of justice — from the presiding judge to the lowliest clerk — should be circumscribed with the heavy burden of responsibility as to let them be free from any suspicion that may taint the well-guarded image of the judiciary. It has always been emphasized that the conduct of judges and court personnel must not only be characterized by propriety and decorum at all times, but must also be above suspicion. Verily, the image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women, from the judge to the least and lowest of its personnel, hence, it becomes the imperative sacred duty of each and everyone in the court to maintain its good name and standing as a true temple of justice. Thus, every employee of the court should be an exemplar of integrity, uprightness, and honesty.[79] (Citations omitted)

In line with this, A.M. No. 01-8-10-SC80 provides that justices and judges found guilty of serious charges are punishable by the following penalties:

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

1. Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government- owned or controlled corporations. Provided, however, that the forfeiture of benefits shall in no case include accrued leave credits;
2. Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or
3. A fine of more than P20,000.00 but not exceeding P40,000.00.[81]

There is no hard and fast rule as to what penalty may apply. Often, the imposable penalty is purely within this Court's discretion, in view Article VIII, Section II[82] of the Constitution, with due consideration to the offense's gravity and the prior penalties imposed in similar cases.

The first two penalties, dismissal and suspension, are forms of negative reinforcement. They are meant to make the respondent suffer. They are this Court's vindication for the tarnishing of its reputation. The loss of the judicial robe, whether permanently or temporarily, carries with it the humiliation and degradation to one's dignity within the legal profession. No judge or justice carries a dismissal or suspension from service with pride.

Dismissal from service also carries with it the accessory penalties of perpetual disqualification from public office

and forfeiture of retirement benefits.[83] The punishment is so grave that it not only requires removal from public service but also prevents the respondent from returning, along with the future enjoyment of their labor.

This presupposes, of course, that the erring judge or justice is still a member of the Bench when the penalty is imposed. There is, thus, a third penalty, that of a fine, which may be imposed when the erring judge or justice is no longer in service.

It is the availability of the penalty of a fine that is often the justification for this Court to continue with cases despite the respondent no longer being connected with the Judiciary. In *Baquerfo v. Sanchez*:^[84]

Cessation from office of respondent by resignation or retirement neither warrants the dismissal of the administrative complaint filed against him while he was still in the service nor does it render said administrative case moot and academic. The jurisdiction that was this Court's at the time of the filing of the administrative complaint was not lost by the mere fact that the respondent public official had ceased in office during the pendency of his case. Respondent's resignation does not preclude the finding of any administrative liability to which he shall still be answerable.^[85]

Summarizing the doctrine, *Perez v. Abiera*^[86] states:

In short, the cessation from office of a respondent Judge either because of resignation, retirement or some other similar cause does not per se warrant the dismissal of an administrative complaint which was filed against him while still in the service. Each case is to be resolved in the context of the circumstances present thereat.^[87]

The imposition of a fine regardless of the respondent's separation from service leads us to inquire why a fine must still be imposed. It would be inaccurate to state that the fine is meant to be compensatory, as assaults on the Judiciary's dignity are unquantifiable. Rather, as with dismissal and suspension, the purpose of the fine is to make the respondent suffer, at least monetarily, for the harm done. The fine is a punishment, not a repayment. It is meant to replace the penalties, which can no longer be imposed.

The punishment for administrative infractions, therefore, is personal to the respondent. As all punishments are tempered with mercy, this Court metes them with the fervent hope that the erring judge or justice learns their lesson and repents on all of their mistakes.

Remorse is impossible when the erring judge or justice dies before this Court can hand down its judgment. It is, thus, irrational and illogical for this Court to continue with disciplinary proceedings despite the respondent's death. There is no one left to punish.

V

In the initial resolution of *Re: Judge Abul*, the majority insisted that punishment was still a viable option for this Court, since a fine could still be deducted from the respondent judge's accrued leave benefits. This begs the question, however, of whom exactly this Court is trying to punish.

Article 777 of the Civil Code provides that "[t]he rights to the succession are transmitted from the moment of the death of the decedent." Here, all of respondent Judge Castaneda's properties were no longer hers at the time of her death. They belonged to her estate, of which her heirs had an inchoate right.^[88]

Charges against the estate include "claims for money against the decedent, arising from contract, express or implied, whether the same be due, not due, or contingent, all claims for funeral expenses and expense for the last sickness of the decedent, and judgment for money against the decedent."^[89] Penalties, such as administrative fines, are not included in this enumeration. They are not, strictly speaking, claims for money arising from contracts or judgments for money. To categorize them as such would make this Court a creditor of the decedent.

Upon her death, all of respondent's prospective assets, like her accrued leave benefits, have already passed on to her estate. To impose the fine on her would be to make a claim against the estate.

In any case, from a moral standpoint, it would be cruel for this Court to make respondent's heirs bear the brunt of her punishment. They are not under investigation. They are not the ones who committed respondent's infractions. They are, from the findings of the investigation, innocent of the charges. And yet, should this Court proceed with the case and impose a penalty upon a guilty verdict, it is respondent's heirs who would bear that punishment.

Admittedly, respondent's infraction in this case is severe. The Office of the Court Administrator conclusively found that complainant's nullity case was resolved with undue haste, having been resolved less than a year after the petition had been filed. None among complainant, the Office of the Solicitor General, or the Office of the Public Prosecutor was ever furnished with copies of the petition. The psychologist was never made to testify in court to confirm the findings of the psychological report.[90] Respondent would have been dismissed for her blatant and gross ignorance of the law.

In 2012, however, this Court has already dismissed respondent from service for her infractions. Her retirement benefits, excluding accrued leave credits, were forfeited. She has already borne the humiliation and degradation from that penalty. There are no more retirement, death, or survivorship benefits from which we could bleed out any prospective fine. This Court has already extracted its pound of flesh.

Here, respondent is no longer in a position to refute the findings of the Office of the Court Administrator. She could no longer know of the proceedings against her. She would not know of the conclusions of this Court and of the punishment that she would have so rightly deserved. She could no longer move for reconsideration, admit to the charges, plead her innocence, not even beg for clemency.

There is no more reason for this Court to proceed with this case.

Respondent is dead. She could no longer evade liability. She could no longer pollute the courts with her incompetence and corrupt ways. She could no longer betray the public trust.

Death, perhaps, was a more profound judgment than any this Court could impose.

Despite all the constitutional powers we are endowed with as the Supreme Court of this country, we should have the humility to accept that we do not have the ability to punish a dead person. It is irrational to do so. Perhaps, only the universe can.

WHEREFORE, the Complaint against respondent Judge Liberty O. Castaneda of Branch 67, Regional Trial Court, Paniqui, Tarlac, is DISMISSED in view of her death during the pendency of this case.

SO ORDERED.

Peralta, C.J., I join the dissent of J. Reyes.

Gesmundo, Hernando, Carandang, Lazaro-Javier, Inting, Lopez, and Gaerlan, JJ., concur

Perlas-Bernabe, J., Please see Dissenting Opinion

Caguioa, J., See Dissenting Opinion

Reyes, J., Jr., J., See Dissenting Opinion

Zalameda, J., I join the dissent of J. Caguioa

De los santos, J., Please see separate Concurring Opinion

Baltazar-Padilla, J., on leave

On leave.

[1] Rollo pp. 1-11.

[2] Id. at 105-110.

[3] Id. at 17-25.

[4] Id. at 3.

[5] Id. at 4 and 9.

[6] Id. at 122-130.

[7] Id. at 4.

[8] Id. at 2-16.

[9] Id. at 151-152.

[10] 696 Phil. 202 C2012) [Per Curiam, En Banc].

[11] Id. at 225.

[12] Id. at 229.

[13] Rollo, p. 155.

[14] Id. at 156.

[15] Id. at 156-166.

[16] Id. at 162.

[17] Id.

[18] Id.

[19] Id. at 164-165.

[20] Id. at 165-166.

[21] Id. at 180. According to the death certificate, respondent died on April 10, 2018. She was 72 years old.

[22] A.M. No. RTJ-17-2486, September 3, 2019, [Per Curiam, En Banc].

[23] Re: Investigation Report on the Alleged Extortion Activities of Presiding Judge Godofredo B. Abul, Jr., A.M. No. RTJ-17-2486, September 3, 2020 [Per J. Hemando, En Banc],

[24] Ermila-Malate Hotel and Motel Operators Association, Inc. v. City Mayor of Manila, 127 Phil. 306, 3 18 (1967) [Per J. Fernando, En Banc].

[25] Id.

[26] J. Carson, Dissenting Opinion in U.S. v. Chauncey McGovern, 6 Phil. 621, 629 (1906) [Per C.J. Arellano, Second Division].

[27] 127 Phil. 306 (1967) [Per J. Fernando, En Banc].

[28] Id. at 318-319 citing Frankfurter, Mr. Justice Holmes and the Supreme Court, (1938) pp. 32-33; .1. Frankfurter, Concurring Opinion in *Hannah v. Larche*, 363 U.S. 420, 487 (1960); *Cafeteria Workers v. McElroy*, (1961) 367 U.S. 1230; and *Bartkus v. Illinois*, (1959) 359 U.S. 121.

[29] Id. at 319.

[30] Id. citing Frankfurter, Mr. Justice Holmes and the Supreme Court (1938), pp. 32-33.

[31] *White Light Corporation, et al. v. City of Manila*, 596 Phil. 444, 461 (2009) [Per J. Tinga, En Banc] citing *City of Manila v. Hon. Laguio, Jr.*, 495 Phil. 289 (2005) [Per J. Tinga, En Banc]; and CHEMERINSKY, ERWIN, *CONSTITUTIONAL LAW PRINCIPLES AND POLICIES*, 2nd Ed. 523 (2002)

[32] Id.

[33] J. Brion, Concurring Opinion in *Perez v. Philippine Telegraph and Telephone Company*, 602 Phil. 522, 545-546 (2009) [Per J. Corona, En Banc].

[34] 272 Phil. 107 (1991) [Per J. Gutierrez, Jr., En Banc],

[35] Id. at 115 citing *BLACK'S LAW DICTIONARY*, 590 (4th ed.).

[36] *Rabino v. Cruz*, 294 Phil. 480, 487 (1993) [Per J. Melo, Third Division].

[37] See *Legarda v. Court of Appeals*, 345 Phil. 890, 905 (1997) [Per J. Romero, En Banc].

[38] 498 Phil. 660 (2005) [Per J. Chico-Nazario, Second Division].

[39] Id. at 666 citing *Fabella v. Court of Appeals*, 346 Phil. 940 (1997) [Per J. Panganiban, Third Division]; *Padilla v. Hon. Slo. Tomas*, 32 Phil. 1095 (1995) [Per J. Kapunan, En Banc]; and *Salonga v. Court of Appeals*, 336 Phil. 154 (1997) [Per J. Panganiban, Third Division].

[40] 69 Phil. 635 (1940) [Per J. Laurel, En Banc]

[41] Id. at 641-642.

[42] Id. at 642-644.

[43] 182 Phil. 215 (1979) [Per CJ. Fernando, Second Division].

[44] Id. at 220-221.

[45] See *Legarda v. Court of Appeals*, 345 Phil. 890, 905 (1997) [Per J. Romero, En Banc].

[46] 346 Phil. 807 (1997) [Per J. Romero, En Banc].

[47] Id. at 828 citing *Concerned Officials of MIVSS v. Vasquez*, 310 Phil. 549 [Per J. Vitug, En Banc]; *Mutuc v. Court of Appeals*, 268 Phil. 37 (1990) [Per J. Paras, Second Division]; *Pamantasan ng Lungsod ng Maynila (PLM) v. Civil Service Commission*, 311 Phil. 573 [Per J. Vitug, En Banc]; and *Legarda v. Court of Appeals*, 345 Phil. 90 (1997) [Per J. Romero, En Banc].

[48] REV. PEN. CODE, art. 89(1) provides:

ARTICLE 89. How criminal liability is totally extinguished. — Criminal liability is totally extinguished: 1. By the death of the convict, as to the personal penalties; and as to pecuniary penalties, liability therefor is extinguished only when the death of the offender occurs before final judgment[.]

[49] *Perez v. Abiera*, 159-A Phil. 575, 580-581 [Per .1. Muñoz Palma, En Banc].

[50] 587 Phil. 448 (2008) [Per .1. Brion, Second Division],

[51] Id. at 462-463.

[52] Id. at 463-464 citing *Limliman v. Ulal-Marrero*, 443 Phil. 732 (2003) [Per J. Vitug, First Division]; *Camsa v. Judge Rendon*, 427 Phil. 518 (2002) [Per J. Vitug, Third Division]; *Apiag v. Judge Cantero*, 335 Phil. 591 (1997) [Per J. Panganiban, Third Division]; Judicial Audit Report, Branches 21, 32 & 36, et. al, 397 Phil. 476 (2000) [Per J. Vitug, En Banc]; *Hennosa v. Paraiso*, 159 Phil. 417 (1975) [Per J. Teehankee, First Division]; Report on the Judicial Audit Conducted in RTC, Dr. 1, Bangued, Abra, 388 Phil. 60 (2000) [Per J. Vitug, En Banc]; and *Manozca v. Judge Domagas*, 318 Phil. 744 (1995) [Per J. Padilla, First Division].

[53] 450 Phil. 38 (2003) [Per Curiam, En Banc].

[54] Id. at 47.

[55] 427 Phil. 5 18 (2002) [Per J. Vitug, Third Division].

[56] Id. at 525.

[57] 335 Phil. 511 (1997) [Per J. Panganiban. Third Division |.

[58] Id. at 526.

[59] 509 Phil. 401 (2005) [Per C.J. Davide, Jr., First Division].

[60] Lorenzo Relova, Imposition of Penalties: Indeterminate Sentence Law, 22 ATENEO L.J. 1 (1978).

[61] There is no crime where there is no law punishing it.

[62] Lorenzo Relova, Imposition of Penalties: Indeterminate Sentence Law, 22 ATENEO L.J. 1 (1978).

[63] Id.

[64] Id.

[65] Hadar Daneig-Rosenberg & Tali Gal, Restorative Criminal Justice, 34 CARDOZO Law REVIEW 2321 (2013).

[66] Id. at 23 17.

[67] *People v Estoista*, 93 Phil. 647, 655 (1953) [Per J. Tuason, En Banc] citing 24 C.J.S., 1187-1188.

[68] *People v. Gocloy*, 312 Phil. 977 (1995) [Per J. Regalado, En Banc].

[69] Id.

[70] *People v. Ducosin*, 59 Phil. 109, 117-118 (1933) [Per J. Butte, En Banc].

[71] *Gamilla v. Mariño*, 447 Phil. 419, 433 (2003) [Per J. Bellosillo, Second Division].

[72] Const., art. XI, sec. 1.

[73] G.R. Nos. 208481-82, February 7, 2018, 855 SCRA 54 [Per J. Leonen, Third Division].

[74] Id. at 69-70 citing J. Fernando, Concurring Opinion in *Pineda v. Claudio*, 138 Phil. 37, 58 (1969) [Per J. Castro, En Banc].

[75] 279 Phil. 866 (1991) [Per J. Narvasa, En Banc].

[76] Id. at 876.

[77] *Weigall v. Sinister*, 11 Phil. 340, 354 (1903) [Per J. Tracey, En Banc].

[78] 342 Phil. 219 (1997) [Per Curiam, En Banc].

[79] Id. at 232-233.

[80] Amendment of Rule 140 of the Rules of Court Re: the Discipline of Justices and Judges, September 11, 2001.

[81] Rules of Court, Rule 140, sec. 11 (A), as amended.

[82] CONST., art. VIII, sec. 11 provides:

SECTION 11. The Members of the Supreme Court and judges of lower courts shall hold office during good behavior until they reached the age of seventy years or become incapacitated to discharge the duties of their office. The Supreme Court en banc shall have the power to discipline judges of lower courts, or order their dismissal by a vote of a majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon.

[83] See Revised Rules on Administrative Cases in the Civil Service, sec 52(a), which states: SECTION 52. Administrative Disabilities Inherent in Certain Penalties. -

a. The penalty of dismissal shall carry with it cancellation of eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office and bar from taking civil service examinations.

See also *Re Inquiry on the Appointment of Judge Cube*, 297 Phil. 1141 (1993) [Per Curiam, En Banc].

[84] 495 Phil. 10 (2005) [Per Curiam, En Banc].

[85] Id. at 16-17 citing *Reyes v. Cristi*, 470 Phil. 617 (2004) [Per J. Callejo, Sr., Second Division]; *Re: Complaint Filed by Ally. Francis Allan A. Rubio on the Alleged Falsification of Public Documents and Malversation of Public Funds*, 482 Phil. 318 (2004) [Per J. Tinga, En Banc]; *Caja v. Nanquil*, 481 Phil. 488 (2004) [Per J. Chico-Nazario, En Banc]; *Tuliao v. Ramos*, 348 Phil. 404, 416 (1998) [Per J. Bellosillo, First Division]; *Perez v. Abiera*, 159-A Phil. 575 (1975) [Per J. Muioz Palma, En Banc]; *Secretary of Justice v. Marcos*, 167 Phil. 42 (1977) [Per J. Fernando, En Banc]; *Sy Bang v. Mendez*, 350 Phil. 524, 533 (1998) [Per J. Kapunan, Third Division]; *Flares v. Sumaljag*, 353 Phil. 10, 21 (1998) [Per J. Mendoza, Second Division]; and *OCA v. Fernandez*, 353 Phil. 10 (2004) [Per J. Mendoza, Second Division].

[86] 159-A Phil. 575 (1975) [Per J. Muioz Palma, En Banc].

[87] Id. at 582.

[88] See *Alejandrino v. Court of Appeals*, 356 Phil. 851 (1998) [Per J. Romero, Third Division].

[89] RULES OF COURT, Rule 86, sec. 5.

[90] *Rollo*, p. 161.

EN BANC

A.M. No. RTJ-15-2438 — SHARON FLORES-CONCEPCION, Complainant, v. JUDGE LIBERTY O. CASTANEDA, Regional Trial Court, Branch 67, Paniqui, Tarlac, Respondent.

Promulgated:

September 15, 2020

X----- X

DISSENTING OPINION

PERLAS-BERNABE, J:

I dissent.

Pending administrative cases are not automatically mooted solely by the fact of a respondent-court employee's supervening death. The consequences of administrative misconduct have a persisting and surviving effect on the integrity of public service; hence, once jurisdiction is acquired and the respondent is duly given the opportunity to be heard, the Court should proceed to resolve the case. Accordingly, any administrative liability, if so found to be established based on the facts on record, should be pronounced and remain on public record in order to memorialize the public affront, so as to deter future deleterious conduct by would-be erring public officers.

The long-standing rule — which the ponencia now abandons — is that:

[T]he death of the respondent in an administrative case, as a rule, does not preclude a finding of administrative liability. The recognized exceptions to this rule are: first, when the respondent has not been heard and continuation of the proceeding would deny him of his right to due process; second, where exceptional circumstances exist in the case leading to equitable and humanitarian considerations; and third, when the kind of penalty imposed or imposable would render the proceedings useless." (Emphasis and underlining supplied)

The ponencia insists that herein respondent's supervening death should result in the dismissal of the instant administrative case against her, positing that administrative due process requires that the opportunity to be heard must be present in every single stage of the proceedings, including the filing of a motion for reconsideration. The ponencia states that "[administrative proceedings require that the respondent be informed of the charges and be given an opportunity to refute them. Even after judgment is rendered, due process requires that the respondent not only be informed of the judgment but also be given the opportunity to seek reconsideration of that judgment. This, in essence, is the true definition of the opportunity to be heard." [2]

The position is tenuous.

"In administrative proceedings, [procedural] due process is satisfied when a person is notified of the charge against him and given an opportunity to explain or defend oneself. In such proceedings, the filing of charges and giving reasonable opportunity for the person so charged to answer the accusations against him constitute the minimum requirements of due process." [3] Hence, "[t]he essence of [procedural] due process, therefore, as applied to administrative proceedings, is an opportunity to explain one's side, or an opportunity to seek a reconsideration of the action or ruling complained of. Thus, a violation of that right occurs when a court or tribunal rules against a party without giving the person the opportunity to be heard." [4] In this regard, case law further clarifies that any initial defects in procedural due process — i.e., deprivation of opportunity to be heard — may be cured by the filing of a motion for reconsideration that tackles the merits of the case. [5] Otherwise stated, there is a violation of due process if a respondent was not given the opportunity to be heard.

In this case, there was no violation of procedural due process. Records clearly show that respondent failed to file any responsive pleading despite being given multiple opportunities to do so. Since respondent was given several chances to meet the accusations against her from the very beginning, there was no deprivation of due process. Contrary to the ponencia, respondent's inability to move for reconsideration due to her unfortunate supervening death does not erase the fact that due process had already been subserved. To say that due process is only subserved when a respondent is given the opportunity to be heard at every stage of the proceedings, as the ponencia holds, is — in my opinion — a dangerous precedent that may have far-reaching implications. Lack of due process means that the entire proceedings are void; thus, the ponencia's loose statements may be indiscriminately invoked by litigants to nullify any type of proceeding based on one's failure to move for reconsideration despite already being given the chance to explain his side at the onset of the case.

Further, I disagree with the ponencia's parallelism between the legal consequences of death in criminal cases and administrative cases. The ponencia points out that "in criminal cases, cases against the accused are immediately dismissed upon death since the accused can no longer participate in all aspects of proceedings,"[6] Thus, since the supervening death of an accused in criminal cases results in the extinguishment of criminal liability and civil liability *ex delicto*, the same rule should be followed in administrative cases against public officers.

However, it should be stressed that the dismissal of a criminal case (even on appeal) due to the accused's supervening death is not grounded on his inability to participate in all aspects of the proceedings. Rather, the dismissal is predicated on the constitutional presumption of innocence. As case law holds:.

[U]ntil promulgation of final conviction is made, the constitutional mandate of presumption of innocence prevails.[7]

There is, however, no constitutional presumption of innocence when it comes to administrative cases. The presumption only applies to criminal cases. The rationale therefor is that a person accused of a crime is always pitted against the awesome prosecutorial machinery of the State.[8] More importantly, unlike in administrative cases, the accused stands to face grave penalties affecting his own life and liberty when found guilty. Thus, when an average person stands accused for a public offense before a tribunal with the power to take his life or liberty,[9] he is afforded the right to be presumed innocent until his guilt is proven beyond reasonable doubt.[10]

In contrast, the purpose of administrative cases against public officials is to exact accountability for the wrongful acts that they have committed in the performance of their official functions. Public office is not property within the protection of the constitutional guarantees of due process of law[11] as public office is a privilege burdened with numerous duties and prohibitions.[12] Respondents in administrative cases, unlike the accused in criminal cases, will lose neither their liberty nor their property if an adverse decision be rendered against them. Hence, it is simply wrong to create a parallelism between the legal consequences of death in criminal cases to administrative cases.

As a final point, the ponencia discusses the apparent futility in imposing administrative penalties against public officers who have already passed away.[13] The ponencia reasons that since a deceased public officer can no longer be punished and pollute the ranks of the judiciary, pending administrative cases are already mooted and hence, should be dismissed.

However, I submit that a finding of administrative liability on the one hand, may be differentiated from the imposition of penalties on the other. While the latter is generally a consequence of the former, exceptional circumstances may justify a finding of liability without necessarily proceeding to impose the penalty therefor. As in this case, it is my view that the Court should have proceeded with the determination of respondent's administrative liability and enter the same in the public record. The constitutional mandate that public office is a

public trust demands complete closure and accountability for the wrongdoings committed against public sendee. The failure to recognize this liability by the automatic dismissal of these cases is tantamount to the liability's condonation.

This notwithstanding, the administrative penalties — which are either fines or non-monetary penalties converted to fines — need not be imposed anymore. After all, retribution by punishment is not the sole purpose of administrative proceedings; recognition of the taint to the integrity of the service is restorative justice on its own. Thus, the Court, within the bounds of its constitutional authority to supervise court personnel, may decide not to execute the fine penalty against the erring officer. The reasons for this are two-fold: (7) it would be impracticable to institute a claim during the settlement proceedings which usually involve lengthy litigation and costs; and (2) the punitive aspect of the penalty should be personal to the offender and hence, should no longer bear unintended effects to the bereaved loved ones of the deceased person. Anent the latter, it is discerned that the Court may very well adopt a policy of blotting out the actual court employee's name or using a confidential pseudonym in the published decision if only to avoid further insult to the grieving family. Indeed, the Court can implement these measures to balance the necessity to exact public accountability whilst preserving the humanity of its decisions.

All told, I vote to adopt the findings and recommendation of the Office of the Court Administrator^[14] (OCA) with respect to the administrative liability of herein respondent for gross ignorance of the law.^[15] Gross ignorance of the law, which is classified as a serious charge, is punishable by, among others, a penalty of fine in the maximum amount of P40,000.00.^[16] Notwithstanding respondent's unfortunate death, her administrative liability should remain on public record but the penalty of fine may no longer be imposed.

[1] Mercado v. Salcedo, 619 Phil. 3, 33 (2009).

[2] See ponencia, p. 9.

[3] Ombudsman v. Conti, 806 Phil. 384, 390 (20 I 7).

[4] Id. at 389, citing Estrada v. Ombudsman, 751 Phil. 821 (2015).

[5] "While we have ruled in the past that the filing of a motion for reconsideration cures the defect in procedural due process because the process of reconsideration is itself an opportunity to be heard, this ruling does not embody an absolute rule (that applies in all circumstances. The mere filing of a motion for reconsideration cannot cure the due process defect, especially if the motion was filed precisely to raise the issue of violation of the right to due process and the lack of opportunity to be heard on the merits remained." (See Fontamilla v. COA, 787 Phil. 713, 725 [2016]; citations omitted)

[6] See ponencia, p. 9.

[7] Trillanes IV v. Hon. Pimentel, 578 Phil. 1002, 1018 (2008), citing Mangubal v. Sandiganbayam, 227

[8] Phil. 642(1986).

[9] See Inacay v. People, 801 Phil. 187, 189 (2016), citing People v. Santocildes, 378 Phil. 943, 949 (1999).

[10] See People v. Serzo, Jr., 340 Phil. 660, 675 (1997); citations omitted.

[11] See Section 14 (2), Article III of the 1987 Constitution. See also Section 1 (a), Rule 115 of the 2000

[12] Revised Rules of Criminal Procedure; Section 2, Rule 133 of the Revised Rules on Evidence.

[13] Office of the Court Administrator v. Indar, 685 Phil. 272, 290 (2012).

[13] Taguinodv. Tomas, 677 Phil. 533, 539 (2011).

[14] See ponencia, pp. 17-20.

[14] See ponencia, p. 3.

[15] As found in the OCA Memorandum dated July 7, 2015, respondent, as a member of the bench, willfully disregarded the laws intended to preserve marriage as an inviolable social institution as it was clear from the records that: (a) complainant and the Office of the Solicitor General were not furnished a copy of the petition; (b) only the psychologist's report was presented but the psychologist who prepared the same did not testify before the court; and (c) the case was decided with undue haste. Accordingly, the OCA recommended that:

xxx respondent x x x be found GUILTY of gross ignorance of the law for which she would have been DISMISSED FROM SERVICE with forfeiture of her retirement benefits, except leave credits, if any, and disqualified from reinstatement or appointment to any public office, branch or instrumentality of the government, including government-owned or controlled corporations had she not been previously dismissed from the service in a Decision dated 9 October 2012 in A.M. No. RTJ-12-23 16; x x

[16] Sections 8 and 11. Rule 140 of the Rules of Court, as amended by A.M. No. 01-8-10-SC.

EN BANC

A.M. No. RTJ-15-2438 (Formerly OCA I.P.I. No. 11-3681-RTJ) -SHARON FLORES-CONCEPCION, complainant, versus JUDGE LIBERTY O. CASTANEDA, Regional Trial Court, Branch 67, Paniqui, Tarlac, respondent.

Promulgated:

September 15, 2020

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DISSENTING OPINION

CAGUIOA, J.:

I dissent from the majority's dismissal of the instant case on the ground of mootness in view of respondent's death during the proceedings. Based on the particular circumstances of this case, it is my view that respondent can still be declared administratively liable. However, considering that respondent had already been dismissed from service with forfeiture of retirement benefits in a previous administrative case, a penalty can no longer be imposed against her.

I reiterate my position in Re: Investigation Report on the Alleged Extortion Activities of Presiding Judge Godofredo B. Abul, Jr., Branch 4, Regional Trial Court, Butuan City, Agusan Del Norte[1](Abul) that there is no pressing reason for the Court to abandon the prevailing rule that the death of the respondent does not ipso facto lead to the dismissal of the administrative case.

As with Abul, the majority also anchors its present ruling on the respondent's right to due process and the nature of the penalty to be imposed. The majority view is that the opportunity to be heard, which is the essence of due process in administrative cases, is not lost even after judgment.[2] Death allegedly forecloses any opportunity to be heard, and to continue with the proceedings is a violation of the right to due process.[3]

Furthermore, the majority holds that the purpose of administrative penalties is to preserve and restore the public trust in our institutions. As such, it is in the public interest to remove from service all those who diminish said trust. The majority stresses that this is the extent of the punishment in administrative cases and it is only inflicted upon the erring public officer or employee. When that public officer or employee dies, therefore, there is no one else left to dismiss from service.[4]

Again, I beg to differ.

Firstly, due process considerations are among the already recognized exceptions to the rule that death does not lead to the dismissal of the administrative case. As the Court explained in *Limliman v. Ulat- Marrero*[5] (*Limliman*) the death of the respondent would necessitate the dismissal of the administrative case upon a consideration of any of the following factors: (1) the observance of respondent's right to due process; (2) the presence of exceptional circumstances in the case on the grounds of equitable and humanitarian reasons; and (3) depending on the kind of penalty imposed.

Moreover, the concept of due process in administrative proceedings has always been recognized as different from the concept of due process in criminal proceedings. Administrative due process cannot be fully equated with due process in its strict judicial sense, for in the former a formal or trial-type hearing is not always necessary and technical rules of procedure are not strictly applied.[6]

The essence of procedural due process is embodied in the basic requirement of notice and a real opportunity to be heard. In administrative proceedings, procedural due process simply means the opportunity to explain one's side or the opportunity to seek a reconsideration of the action or ruling complained of. "To be heard" does not mean only verbal arguments in court; one may also be heard thru pleadings. Where opportunity to be heard, either through oral arguments or pleadings, is accorded, there is no denial of procedural due process.[7]

Thus, notice to respondent is an absolute requirement. At the same time, if a respondent is given the opportunity to explain his or her side, then his or her right to due process is deemed satisfied. If, on the other hand, a respondent was not originally heard but was eventually heard in a motion for reconsideration, his or her right to due process is deemed satisfied.

Here, it is undisputed that respondent was given the twin requirements of notice and a real opportunity to be heard. The Office of the Court Administrator (OCA) ordered her to comment on the complaint-affidavit, but she ignored the order. The OCA sent another directive to respondent, but this too was ignored. From 2010 until the OCA investigation was concluded in 2014, nothing was heard of from respondent. Her conduct, in fact, constituted defiance of the lawful orders of the Court. It would be hard to argue, therefore, that she was ever denied due process.

Secondly, the supervening death of a respondent during the course of the proceedings does not, by itself, render the imposition of a penalty impossible or impracticable. True, there are cases which the Court dismissed on account of the death of the respondents therein. It is significant to note, however, that the Court still made a finding of administrative liability in those cases but merely exercised its discretion in not imposing the penalty, mainly on humanitarian and equitable grounds. This determination by the Court is precisely provided in the exceptions laid down in *Limliman*. As I have previously advanced in *Abul*, these exceptions are already sufficient to safeguard against any unfairness that may shroud the Court's judgment in ruling against a deceased respondent. The Court is also certainly not precluded from weighing in other factors or exceptions in the future.

In the same vein, the imposition of a penalty is not altogether impossible. In *Report on the Financial Audit Conducted in the Municipal Trial Court in Cities, Tagum City, Davao del Norte*,[8] the Court had the occasion to

rule that if the imposable penalty is to be considered to determine if the instant cases against the deceased respondents therein should still continue, a fine or even a forfeiture of their retirement benefits, if deemed proper, may still be imposed.[9] In *Gonzales v. Escalona*,[10] the Court likewise found it proper to impose a fine against the deceased respondent therein after determining that the Court has "observed in several cases that the penalty of fine could still be imposed notwithstanding the death of the respondent, enforceable against his or her estate." [11]

In this regard, I agree with the following pronouncement in the Dissenting Opinion of Justice Jose C. Reyes, Jr.:

On this note, it must be emphasized that entitlement to benefits arising from employment in the government service presupposes the proper discharge of the public officers' duties, for the grant of such benefits [is] afforded only to employees who rightfully fulfilled their duties and obligations. In cases where the public officers were found liable therefor, the grant of benefits is unwarranted.

As it was found in this case that respondent is liable of violating her duty, her entitlement to benefits is not established. Likewise, the entitlement of her heirs thereto is not justified. Corollary, the imposition of fine despite death of the respondent should not be considered as depriving the heirs of their right to the proceeds of respondent's benefits.[12] (Emphasis omitted)

Thus, contrary to the sentiments in the ponencia, the fine to be imposed on a deceased respondent should not be viewed as a punishment to be borne by the heirs.[13] In any case, as discussed above, the Court is not precluded from considering humanitarian and equitable grounds should the same be found present. As I have opined in *Abul*, the circumstances therein warranted the dismissal of the charges against respondent on the basis of humanitarian considerations:

Despite his death, the Court found Judge Abul administratively liable in the September 3, 2019 Decision. He was meted the penalty of forfeiture of all retirement and allied benefits, except accrued leaves. Therein, I joined the Dissenting Opinion of my esteemed colleague, Associate Justice Ramon Paul L. Hernando. Specifically, I agreed with Justice Hernando's appreciation of the humanitarian considerations that should have impelled the Court to mitigate the penalty imposed against Judge Abul. As Justice Hernando noted, Judge Abul was murdered a couple of days after he turned 68. Moreover, Judge Abul's wife, who also sustained gunshot wounds, had written a letter to the Court explaining that she is a housewife who has no work and no source of income and that ever since Judge Abul's preventive suspension from office, their family had faced financial crisis. She therefore entreated the Court to release the accrued leave benefits of Judge Abul as well as such other benefits or assistance which the Court could extend to them in order to help their family sustain their daily needs and to fund her son's education in medical school. I was of the view then that these considerations should have prompted the Court to dismiss the case, x x x[14]

Here, no such humanitarian or equitable grounds have been put forth for the Court's consideration.

At this juncture, it should be recalled that in 2012, respondent had already been dismissed from the service with forfeiture of retirement benefits, except accrued leave benefits. In view of this, I submit that while the Court should not be deterred from making an administrative finding against the liability of respondent, it can, however, no longer impose any fine that can be taken from her accrued leave credits. Section 11 A(l) of Rule 140, as amended by A.M. No. 01-8-10-SC15 is clear in this regard, to wit:

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

1. Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations. Provided, however, that the forfeiture of benefits shall in no case include accrued leave credits;

x x x x (Emphasis supplied)

Consequently, while forfeiture of other benefits may be allowed, in whole or in part, the forfeiture of accrued leave credits is not. The language of the prohibition in Section 11(A)(1), in using the phrase "in no case" signifies an absolute and unqualified proscription.

Be that as it may, the Court should still make a finding of administrative liability even if only to impress upon the members of the bench the importance of their duties and to restore the confidence of the public in the judiciary. In an administrative case against a lawyer where the Court sustained the imposition of the penalty of suspension despite the previous disbarment of said lawyer, the pronouncement of the Court is instructive:

xxx The Court is mindful, however, that suspension can no longer be imposed on respondent considering that just recently, respondent had already been disbarred from the practice of law and his name had been stricken off the Roll of Attorneys in *Paras v. Paras*. In *Sanchez v. Torres*, the Court ruled that the penalty of suspension or disbarment can no longer be imposed on a lawyer who had been previously disbarred. Nevertheless, it resolved the issue on the lawyer's administrative liability for recording purposes in the lawyer's personal file in the OBC. Hence, the Court held that respondent therein should be suspended from the practice of law, although the said penalty can no longer be imposed in view of his previous disbarment. In the same manner, the Court imposes upon respondent herein the penalty of suspension from the practice of law for a period of six (6) months, although the said penalty can no longer be effectuated in view of his previous disbarment, but nonetheless should be adjudged for recording purposes, x x x

x x x x

WHEREFORE, respondent Justo de Jesus Paras is hereby found GUILTY of violating Section 27, Rule 138 of the Rules of Court. Accordingly, he is SUSPENDED from the practice of law for a period of six (6) months. However, considering that respondent has already been previously disbarred, this penalty can no longer be imposed.

x x x x

Let a copy of this Resolution be furnished the Office of the Bar Confidant to be appended to respondent's personal record as a member of the Bar. Likewise, let copies of the same be served on the Integrated Bar of the Philippines and the Office of the Court Administrator, which is directed to circulate them to all courts in the country for their information and guidance.

SO ORDERED. [16]

The incontrovertible facts in this case show that: (1) respondent allowed an improper service of summons against complainant in the declaration of nullity case that her husband had initiated by immediately resorting to service by publication; and (2) complainant had demonstrated with clear and convincing evidence that neither she nor her husband resided or had been residing in Paniqui, Tarlac at that time.[17] Hence, respondent's decision to grant the petition despite these irregularities smacked of gross ignorance of the law. Notably, as previously mentioned, respondent was dismissed from service in 2012 for dishonesty, gross ignorance of the law and procedure, gross misconduct and incompetency. With respect to the finding of gross ignorance of the law, in particular, it was in relation to serious infractions "involving petitions for nullity and annulment of marriage and legal separation, the most disturbing and scandalous of which was the haste with which she disposed of such cases."

All told, it is my view that the Court should not lose sight of its long-held ratio that an automatic dismissal of an administrative case on account of the respondent's death would be fraught with injustices and pregnant with dreadful and dangerous implications.[18] Again, in any case, the prevailing rule on the non-dismissal of the administrative case despite the death of respondent is still subject to the following considerations: (1) the

observance of respondent's right to due process; (2) the presence of exceptional circumstances in the case on the grounds of equitable and humanitarian reasons; and (3) depending on the kind of penalty imposed.

The offense in an administrative case is principally an offense to the public office being a sacred public trust. This is the reason why the Court has consistently held that in administrative cases, no investigation shall be interrupted or terminated by reason of desistance, settlement, compromise, restitution, withdrawal of the charges, or failure of the complainant to prosecute the same.[19] The need to maintain the faith and confidence of our people in the government and its agencies and instrumentalities demands that proceedings in administrative cases against public officers and employees should not be made to depend on the whims and caprices of complainants who are, in a real sense, only witnesses.[20] This same imperative rings true as well when the Court is confronted with a case in which the respondent has since died. Indeed, if only for reasons of public policy, the Court must assert and maintain its jurisdiction over members of the judiciary and other officials under its supervision and control for acts performed in office which are inimical to the service and prejudicial to the interests of litigants and the general public.[21]

For all the foregoing reasons, I vote that respondent be declared administratively liable for gross ignorance of the law. Nevertheless, considering that respondent had already been dismissed from the service with forfeiture of retirement benefits, except accrued leave benefits, a penalty can no longer be imposed.

(Sgd.) ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

[1] A.M. No. RTJ-17-2486, September 8, 2020.

[2] Ponencia, p. 9.

[3] Id. at 10.

[4] Id. at 16.

[5] A.M. No. RTJ-02-I739 (Formerly OCA I.P.I. No. 02-1423-RTJ), January 22, 2003, 395 SCRA 607.

[6] *Vivo v. Philippine Amusement and Gaming, Corporation (PAGCOR)*, G.R. No. 187854, November 12, 2013, 709 SCRA 276, 281.

[7] *Disciplinary Board, Land Transportation Office v. Gutierrez*, G.R. No. 224395, July 3, 2017, 828 SCRA 663, 669.

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[8] A.M. OCA IP] No. 09-3138-P and A.M. No. MTJ-05-1618, October 22, 2013, 708 SCRA 24.

[9] Id. at 56.

[10] A.M. No. P-03-I715 (Formerly I.P.I No. 00-908-P), September 19, 2008, 566 SCRA 1.

[11] Id. at 16.

[12] Dissenting Opinion of Justice Jose C. Reyes, Jr., p. 12.

[13] See ponencia, p. 21.

[14] Concurring and Dissenting Opinion of Justice Alfredo Benjamin S. Caguioa in *Re: Investigation Report on the Alleged Extortion Activities of Presiding Judge (Jodofredo B. Abul, Jr., Branch 4, Regional Trial Conn,*

Butuan City, Agusan Del Norte, A.M. No. RTJ-17-2486, September 8, 2020, pp. 1-2.

[15] September 11, 2001.

[16] Yap-Paras v. Paras, A.C. No. 5333, March 13, 2017, 820 SCRA 116, 126-128.

[17] Rollo, p. 161.

[18] Arabani, Jr. v. Arabani, A.M. Nos. SCC-10-14-P (Formerly OCA 1P1 No. 09-3 1-SCC-P), SCC-10-15- P (Formerly A.M. No. 06-3-03-SCC) and SCC-11-17 (Formerly A.M. No. 10-34-SCC), November 12, 2019, p. 2.

[19] Reyes-Domingo v. Morales, A.M. No. P-99-1285, October 4, 2000, 342 SCRA 6, 11, citing RULES OF COURT, Rule 139-B, Sec. 5 and Tejadav. Hemando, A.C. No. 2427, May 8 1992 208 SCRA 517 521-522.

[20] Id. at 12 and 13, citing Sy v. Academia, A.M. Nos. P-87-72 and P-90-481, July 3, 1991, 198 SCR 705, 715; Estreller v. Manatad, Jr., A.M. No. P-94-1034, February 21, 1997, 268 SCRA 608, 616 an Gacho v. Fuentes, Jr., A.M. No. P-98-1265, June 29, 1998, 291 SCRA 474, 476.

[21] How v. Ruiz, A.M. No. P-05-1932 (Formerly OCA IPI No. 01-1230-P), February 15, 2005, 451 SCRA 320,325.

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A.M. No. RTJ-15-2438 [Formerly OCA I.P.I. No. 11-3681-RTJ] SHARON FLORES-CONCEPCION, Complainant v. JUDGE LIBERTY O. CASTANEDA, Regional Trial Court, Branch 67, Paniquis, Tarlac, Respondent.

Promulgated:
September 15, 2020

X ----- X

DISSENTING OPINION

REYES, J. JR.J.:

I dissent.

"Never is the truism that a public office is a public trust of more relevance than in the case of judges. " [1]

An allegation of "annulment-fixing" was imputed against Judge Liberty O. Castaneda (respondent) by Sharon Flores-Concepcion (complainant), who was surprised to discover, without due notice of any proceeding relative thereto, that her marriage with her husband was declared null in Civil Case No. 450-09, entitled "Vergel Castillo Concepcion v. Sharon Flores Concepcion."

In her Complaint-Affidavit,[2] complainant alleged that in November 2010, she was confounded upon learning that her marriage with her husband, Vergel Castillo Concepcion (Vergel), was declared null and void following a proceeding for declaration of nullity of marriage between them before the Regional Trial Court of Paniqui, Tarlac, Branch 67 (RTC), presided by herein respondent. Complainant insisted that she had no knowledge of such proceeding nor the filing of said action in any court.[3] Said decision attained finality as evidenced by a Certification[4] dated September 30, 2010.

In delving into the incidents which led to the nullification of her marriage with her husband, complainant

highlighted the following irregularities:

- (a) The petition was filed in Paniqui, Tarlac, but neither she nor her husband resides therein;
- (b) The complainant was neither furnished a copy of the petition for declaration of nullity of marriage nor notified of the proceedings relating to said petition;
- (c) Summons was served upon the complainant by publication despite failure to show that attempts were made to serve the same by personal or substituted service;
- (d) The Office of the Solicitor General (OSG) was likewise neither furnished a copy of the petition nor notified of the proceedings. There was likewise no proof that the provincial prosecutor was deputized to represent the State in the annulment proceeding;
- (e) No report submitted as to the non-existence of collusion between the parties;
- (f) There was no proof that hearings were indeed conducted as the only proof available to the court is the entry of appearances of Vergel's counsel every hearing date;
- (g) The short amount of time that the case was decided upon; and
- (h) As shown by the records of the case, the markings done during the pre-trial and offered by the counsel for plaintiff is different from what were actually marked in the records.[5]

Respondent was required by the Office of the Court Administrator (OCA) to file her comment in the 1st Indorsement[6] dated June 29, 2011. However, respondent failed to comply with said directive. Thus, a 1st Tracer,[7] reiterating its earlier directive, was sent by the OCA to respondent. Still, respondent ignored the order.

Meanwhile, in 2012, respondent was dismissed from service with forfeiture of her retirement benefits except accrued leave benefits and disqualified from holding any public office after she was found guilty of dishonesty, gross ignorance of the law and procedure, gross misconduct, and incompetency in Office of the Court Administrator v. Judge Liberty O. Castañeda.[8] Thus, in a Report[9] dated February 20, 2014, the OCA dismissed the instant complaint for having been rendered moot and academic.

However, this Court, in a Resolution¹⁰ dated June 25, 2014, resolved to return the administrative matter to the OCA for re-evaluation of the case on the merits.

Following said order of this Court, the OCA issued its Memorandum" dated July 7, 2015, which found that respondent, as a member of the bench, willfully disregarded the laws intended to preserve marriage as an inviolable social institution as it was clear from the records that: (a) complainant and the OSG were not furnished copies of the petition; (b) only the psychologist's report was presented but the psychologist who prepared the same did not testify before the court; and (c) the case was decided with undue haste. Also, the OCA noted respondent's indifference when she was required to comment on the complaint but failed to do so. With this, the OCA recommended respondent's dismissal from service. Noting the previous ruling of this Court in the 2012 Judge Castañeda case, the OCA nonetheless recommended said penalty as the complaint was filed long before the rendition of said decision.

Furthermore, the OCA observed that the infractions committed by respondent constitute violations of the provisions of the Code of Professional Responsibility (CPR). Thus, the imposition of the penalty of disbarment was deemed proper.

The OCA recommended the following:

RECOMMENDATION: It is respectfully recommended for the consideration of the Honorable Court that:

1. the instant administrative complaint be RE-DOCKETED as a regular administrative matter against Judge Liberty O. Castaneda, former Presiding Judge, Branch 67, RTC, Paniqui, Tarlac;
2. respondent Judge Castaneda be found GUILTY of gross ignorance of the law for which she would have been DISMISSED FROM THE SERVICE with forfeiture of her retirement benefits, except leave credits, if any, and disqualified from reinstatement or appointment to any public office, branch or instrumentality of the government, including government-owned or controlled corporations had she not been previously dismissed from the service in a Decision dated 9 October 2012 in A.M. No. RTJ-12-2316; and
3. respondent Judge Castaneda be likewise DISBARRED for violations of Canons 1 and 11 and Rules 1.01 and 10.01 of the Code of Professional Responsibility and her name be ORDERED STRICKEN from the Roll of Attorneys.

During the pendency of the case, the demise of respondent was reported to the Court. Thus, in a Resolution dated September 24, 2019, the Court directed the OCA to verify such fact. In compliance thereto, the OCA submitted respondent's Certificate of Death, stating that respondent expired on April 10, 2018 by reason of acute respiratory failure.

In the main, the issue is whether or not respondent should be held administratively liable for gross ignorance of the law for rendering a fraudulent decision in Civil Case No. 450-09, entitled "Vergel Castillo Concepcion v. Sharon Flores Concepcion."

Well settled is the rule that jurisdiction over the subject matter of the case is not lost by mere fact that the respondent public official ceases to hold office during the pendency of the case. In other words, jurisdiction, once acquired, continues to exist until final resolution of the case.^[12] However, this rule is not iron-clad as certain exceptions are recognized by the Court in Gonzales:

The above rule is not without exceptions, as we explained in the case of *Limliman v. Judge Ulat- Marrero*, where we said that death of the respondent necessitates the dismissal of the administrative case upon a consideration of any of the following factors: first, the observance of respondent's right to due process; second, the presence of exceptional circumstances in the case on the grounds of equitable and humanitarian reasons; and third, it may also depend on the kind of penalty imposed.^[13]

As none of the exceptions finds application in this case, the general rule applies.

It is clear from the records that respondent was afforded every opportunity to refute the allegations against her. To recall, the administrative complaint was filed in 2010 and respondent was asked to file a comment twice in 2011. Ignoring the directives of the Court, respondent did not file any comment. In 2014, the OCA concluded its investigation and submitted its recommendation. From 2010 until 2014, respondent still failed to respond. Indeed, respondent was aware of the conduct of proceedings against her but she remained silent. Then on April 10, 2018, four years after the OCA concluded its investigation, respondent passed away.

In administrative proceedings, the essence of due process is simply the opportunity to explain one's side or to be heard, either through oral arguments or pleadings.^[14] Thus, the filing of charges and giving reasonable opportunity for the person so charged to answer the accusations against him or her constitute the minimum requirements of due process.^[15]

In *Limliman v. Judge Ulat-Marrero*,^[16] the Court recognized that the death of the respondent during the pendency of the administrative case warrants the dismissal of the case on the ground of violation of due process only if the respondent died while the investigation was not yet completed:^[17]

Concluding, the Court dismissed the complaint against Judge Rendon, holding that to "allow the investigation

to proceed against [the judge] who could no longer be in any position to defend himself would be a denial of his right to be heard, our most basic understanding of due process." The outcome in Rendon might have, of course, been different had the investigation therein been completed prior to the demise of the respondent.[18]

Notably, the Court cited *Baikong Akang Camsa v. Judge Rendon*[19] to support its disposition that death of the respondent before the completion of any investigation merits the dismissal of the case. To support its declaration, the Court cited *Hermosa v. Paraiso*[20] and *Apiag v. Judge Cantero*,[21] wherein the Court deemed it proper to resolve the administrative case against the respondents notwithstanding their death as the respective investigation against them were concluded before their demise. Likewise, the Court cited *Manozca v. Judge Domagas*,[22] which ruled on the administrative liability of the respondent as he was given the opportunity to rebut the claims against him.

Based on the facts of this case, respondent was afforded due process. It was because of her own volition that the Court received no comment on the complaint against her. From the time of the filing of the complaint until the conclusion of the investigation conducted by the OCA, respondent was in the position to defend herself and refute the charge against her, but remained silent. Despite the window of opportunities, respondent obviously opted to evade the case against her. Emphatically, the constitutional requirement of due process in administrative cases is thus satisfied.

Moreover, there was likewise no manifestation whatsoever that respondent was in poor health or under difficult circumstances, necessitating the operation of the second factor, that is, humanitarian and equitable consideration. Lastly, if the imposable penalty is to be considered to determine if the instant cases against her should still continue, a fine may still be imposed or even a forfeiture of their retirement benefits if deemed proper.[23]

At this juncture, I respectfully submit that the doctrine enunciated in *Gonzales v. Escalona*, i.e., death of respondent does not automatically preclude a finding of administrative liability save for certain exceptions, is more in line with our laws and our Constitution.

In *Gonzales*, the Court was undeterred in imposing administrative liability despite death of the respondent by reason of law and public interest. In ruling so, the Court made a delineation between criminal cases and administrative cases. That while the death of the accused in a criminal case extinguishes criminal liability, the same is not so in administrative cases. To echo the Court's rationale:

[A] public office is a public trust that needs to be protected and safeguarded at all cost and even beyond the death of the public officer who has tarnished its integrity. Accordingly, we rule that the administrative proceedings is, by its very nature, not strictly personal so that the proceedings can proceed beyond the employee's death.[24]

On this note, the Court acknowledged that administrative cases are imbued with public interest.[25]

In fact, the Court was emphatic in *In re: Rogelio M. Salazar, Jr.*[26] when we elucidated that "[t]he paramount interest sought to be protected in an administrative case is the preservation of the Constitutional mandate that a public office is a public trust."

Being recipients of this trust, public officers must at all times be accountable to the people. This is rightfully so because the people, as true holders of sovereignty, merely delegated the same to the government. Ultimately, sovereignty lies with the people: "[sovereignty itself remains with the people, by whom and for whom all government exists and acts." Thus, in surrendering their sovereign powers to the government for the promotion of the common good, the members of the body politic strongly expect the government to perform its duty to protect them, promote their welfare and advance national interest. [27] In the US case of *Yick Wo v. Hopkins*[28] the

United States Supreme Court explained:

Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of the government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. And the law is the definition and limitation of power.[29]

Thus, the correlative obligation on the part of public officials to faithfully comply with laws to serve the people with utmost fidelity is mandatory. For this purpose, no less than the fundamental law of the land necessitates the highest degree of public accountability:

Section 1. Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives.[30]

Unlike in criminal law in which the basis of categorizing an act as a "crime" or an "offense" is its being inherently immoral or its being regulated by State for the promotion of common good, in administrative law, an act which is violative of such sacrosanct duty of public officials offends the people's delegated sovereignty. It is a violation of their oath of duty.

Moreover, in criminal cases, the death of the accused before the rendition of final judgment extinguishes criminal liability precisely because the juridical condition of a penalty is that it is personal.[31] The penalties imposable upon persons convicted of crimes affect one's right to life and liberty, consisting of deprivation or restriction of their freedom or deprivation of rights or even death. Thus, the gravity and severance of such penalties, thus, exacts the highest degree of proof, that is, proof beyond reasonable doubt, for the conviction of the accused. Such high legal standard required in criminal cases must be understood in relation to the constitutional presumption of innocence afforded to the accused. In the landmark case of *Commonwealth v. Webster*[32] the Massachusetts Supreme Court, speaking through Justice Lemuel Shaw explained in this wise:

Then, what is reasonable doubt? It is a term often used, probably pretty well understood, but not easily defined. It is not mere possible doubt. It is that state of the case which, after the entire comparison and consideration of all the evidence, leaves the minds of jurors in that condition that they cannot say they feel an abiding conviction, to a moral certainty, of the truth of the charge. The burden of proof is upon the prosecutor. All the presumptions of law independent of evidence are in favor of innocence and every person is presumed to be innocent until he is proved guilty. If upon such proof there is reasonable doubt remaining, the accused is entitled to the benefit of it by an acquittal. For it is not sufficient to establish a probability, though a strong one arising from the doctrine of chances, that the fact charged is more likely to be true than the contrary; but the evidence must establish the truth of the fact to a reasonable and moral certainty - a certainty that convinces and directs the understanding, and satisfies the reason and judgment, of those who are bound to act conscientiously upon it. This we take to be proof beyond reasonable doubt; because if the law, which mostly depends upon considerations of a moral nature, should go further than this and require absolute certainty, it would exclude circumstantial evidence altogether.[33]

Alternatively put, the highest degree of proof is required because the constitutional presumption of innocence is tilted in favor of the accused, which must be overcome by the prosecution before the court renders a verdict of conviction.

In administrative cases, there exists no such presumption in favor of the respondent. That being so, only substantial proof is required. In consonance with the constitutional adage that public office is a public trust, any defiance therefor, which could be proven by such relevant evidence as a reasonable mind may accept as adequate to support a conclusion, exacts a penalty.[34]

To underline, administrative cases are entirely different from criminal cases. To treat them in parallel insofar as it concerns the extinguishment of liability by reason of death has no legal basis.

In view of the propriety of discussing the merits of the administrative case, it is my submission that the respondent committed gross ignorance of the law.

Essentially, there are two conspicuous irregularities which surrounded Civil Case No. 450-09 — improper service of summons and improper venue.

Service of summons by publication in a newspaper of general circulation is allowed when the defendant or respondent is designated as an unknown owner or if his or her whereabouts are unknown and cannot be ascertained by diligent inquiry.[35] "It may only be effected after unsuccessful attempts to serve the summons personally, and after diligent inquiry as to the defendant's or respondent's whereabouts." [36] "The diligence requirement means that there must be prior resort to personal service under Section 7 and substituted service under Section 8, and proof that these modes were ineffective before summons by publication may be allowed." [37]

Here, there was neither any showing that attempts were actually made to serve the summons personally. Nor was there any proof that the whereabouts of complainant was ascertained with diligence. The records also are barren of any proof that personal service or substituted service was ineffective, necessitating the resort to summons by publication. To this Court, it is clear that there was a deliberate effort to keep the complainant in the dark as to the petition filed affecting her personal status. As there was improper service of summons, the RTC failed to acquire jurisdiction over the person of complainant as defendant in the case.[38]

As to the second irregularity, the Court adopts the factual findings of the OCA in that it found that complainant demonstrated with clear and convincing evidence to prove that neither she nor her husband resides or has been residing in Paniqui, Tarlac.[39]

It must be noted that venue in cases for declaration of nullity and annulment of marriage is provided under A.M. No. 02-11-10-SC (Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages), to wit:

SEC. 4. Venue. - The petition shall be filed in the Family Court of the province or city where the petitioner or the respondent has been residing for at least six months prior to the date of filing, or in the case of a non-resident respondent, where he may be found in the Philippines at the election of the petitioner.

In deliberately and willfully disregarding the rules and settled jurisprudence, respondent committed gross ignorance of the law.[40]

As a matter of fact, this finding against respondent is not novel. In the 2012 Judge Castaneda case, respondent was found administratively liable as she was found to be involved in "annulment-fixing" cases, among others. To specify, the Court found that respondent, in "the most disturbing and scandalous" manner, decided with haste 410 petitions for nullity, annulment of marriage, and legal separation in a year. Among these cases, the Court took note of one case wherein the respondent ordered the severance of marriage between two parties when there were obvious and blatant irregularities.

Finding respondent's display of utter lack of competence and probity, which can be translated as grave abuse of authority, the Court dismissed her from service with forfeiture of all retirement benefits except accrued leave credits and held disqualified from re-employment in any branch or instrumentality of the government, including government-owned or controlled corporations.[41]

Clearly, respondent's deportment as a member of the bench is in defiance of the mandate of the Canon of Judicial Ethics, particularly Canons 22 and 31, to wit:

22. Infractions of law

The judge should be studiously careful himself to avoid even the slightest infraction of the law, lest it be a demoralizing example to others.

31. A summary of judicial obligations

A judge's conduct should be above reproach and in the discharge of his judicial duties he should be conscientious, studious, thorough, courteous, patient, punctual, just, impartial, fearless of public clamour, and regardless of private influence should administer justice according to law and should deal with the patronage of the position as a public trust; and he should not allow outside matters or his private interests to interfere with the prompt and proper performance of his office.

Moreover, I likewise submit that respondent's firm stance to ignore our order when she was required to file a comment on this administrative complaint cannot be considered as mere indifference. To all intents, it is a clear disrespect to the constitutional power of this Court to exercise disciplinary authority over judges.[42]

Based on the foregoing, it is my submission that respondent committed gross ignorance of the law, which is classified as a serious charge, is punishable by: (a) dismissal from service with forfeiture of all or part of the benefits as the Court may determine; (b) disqualification from reinstatement or appointment to any public office; (c) suspension from office for more than three but not exceeding six months, without salary and other benefits; or (c) imposition of the penalty of a fine of more than P20,000.00 but not exceeding P40,000.00.[43]

While the respondent has earlier been dismissed from the service in the 2012 Judge Castañeda case, she can still be fined for gross ignorance of the law and violation of the Canons of Judicial Ethics committed while in office because of her commission of the aforementioned infractions. According to the rules, the imposition of the maximum fine of P40,000.00 is proper. [44]

In several cases wherein the respondent judges were meted out with the penalty of dismissal with forfeiture of retirement benefits except accrued benefits, the Court nevertheless imposed the penalty of fine, but ordered that it be deducted from the accrued leave benefits.

In the 2013 case of *Leonidas v. Judge Supnet*,^[45] the Court categorically ordered the respondent to pay fine to be deducted from accrued leave benefits despite his previous dismissal from service and the forfeiture of his retirement benefits except accrued credits after finding him guilty of gross ignorance of the law. In the 2010 case of *Bernas v. Judge Reyes*, the Court found the respondent guilty of manifest bias, partiality, and grave abuse of authority which merited her dismissal from service. However, during the pendency of the administrative case, she was meted the penalty of dismissal and forfeiture of benefits except her accrued leaves in another case. Nevertheless, the Court imposed the penalty of fine to be deducted from the respondent's accrued leave benefits. In the 2012 case of *Valdez v. Judge Torres*, the Court held the respondent liable for undue delay in resolving a civil case and correspondingly ordered the payment of fine to be deducted from accrued leave credits, instead of suspension from service, because of the respondent's previous dismissal from service and forfeiture of her retirement benefits except her accrued leave credits. In the 2015 case of *Canada v. Judge Suerte*,^[48] notwithstanding the respondent's earlier dismissal from service and forfeiture of retirement benefits, the Court nonetheless ordered the payment of fine to be deducted from accrued leave benefits.

In these cases, the Court did not hesitate to impose a sanction upon an erring judge and exercise the constitutionally granted authority to discipline the members of the bench.

Such imposition of penalty may pose this thought: that the death of the respondent necessarily implies that she would no longer bear the consequences of her actions due to her passing. It is her heirs who would actually be affected should a penalty of fine be imposed against her.

On this note, it must be emphasized that entitlement to benefits arising from employment in the government service presupposes the proper discharge of the public officers' duties, for the grant of such benefits are afforded only to employees who rightfully fulfilled their duties and obligations. In cases where the public officers were found liable therefor, the grant of benefits is unwarranted.

As it was found in this case that respondent is liable of violating her duty, her entitlement to benefits is not established. Likewise, the entitlement of her heirs thereto is not justified. Corollary, the imposition of fine despite the death of the respondent should not be considered as depriving the heirs of their right to the proceeds of respondent's benefits.

As to the recommendation of respondent's disbarment, it is my submission that the same improper.

While A.M. No. 02-9-02-SC (Re: Automatic Conversion of Some Administrative Cases Against Justices of the Court of Appeals and the Sandiganbayan; Judges of Regular and Special Courts; and Court Officials Who are Lawyers as Disciplinary Proceedings Against Them Both as Such Officials and as Members of the Philippine Bar) relevantly states that some administrative cases against judges may be considered as disciplinary actions against them as members of the bar, it is still indispensable that the respondent be required to file a comment on the latter in observance of the constitutional right to due process, to wit:

Some administrative cases against Justices of the Court of Appeals and the Sandiganbayan; judges of regular and special courts; and court officials who are lawyers are based on grounds which are likewise grounds for the disciplinary action of members of the Bar for violation of the Lawyer's Oath, the Code of Professional Responsibility, and the Canons of Professional Ethics, or for such other forms of breaches of conduct that have been traditionally recognized as grounds for the discipline of lawyers.

In any of the foregoing instances, the administrative case shall also be considered a disciplinary action against the respondent Justice, judge or court official concerned as a member of the Bar. The respondent may forthwith be required to comment on the complaint and show cause why he should not also be suspended, disbarred or otherwise disciplinarily sanctioned as member of the Bar. Judgment in both respects may be incorporated in one decision or resolution

In this case, the administrative case against respondent was considered by the OCA as a disbarment case. However, respondent was not required to comment on the latter case; thus, due process was not afforded to her. In view of her death, the dismissal of the disbarment case is warranted.

Final note. While uneventful and unfortunate, death does not eradicate the consequences of our actions. Certainly, the effects of which leave traces of our mortality. Let it be emphasized that respondent's worldly imprint consisted of: In 2012, she was adjudged administratively liable anent irregularities following the OCA's conduct of judicial audit. Most of these cases involved severance of marriages. In fact, from such audit, the Court ordered the OCA to conduct further investigation on each particular case decided by the respondent during the period of her preventive suspension (from January 12, 2010 until her dismissal from service on October 9, 2012) in a Resolution dated January 27, 2015. Thus, an administrative case was re-docketed as A.M. No. RTJ-15-2404. On June 6, 2017, the Court resolved to refer the report of the Audit-Legal Team of the OCA to the Office of the Bar Confidant for the conduct of appropriate disbarment proceedings against the respondent.

Despite the Court's pronouncement of liability in 2012, respondent still committed several infractions, still relating to severance of a marriage, as discussed in this case. Notably too, the complainant was deprived of due

process, astonished by the fact that her marriage was simply declared null without having to fight for it.

What was also reprehensible was respondent's reception of this present complaint. Adamant as she was, respondent even ignored the directives of the Court as she obstinately refused to refute the allegations against her.

For emphasis, the subject of the OCA's judicial audit, as well as this present case, involves severance of marriages which are protected by the Civil Code. It would not go amiss to state in this disquisition that marriage is a sacrament in which the Divine grace is imprinted upon. Such primacy given to marriages is likewise explicit in our Constitution which stated that "[m]arriage, as an inviolable social institution, is the foundation of the family and shall be protected by the State." Recognized as the foundation of the family, to which the Constitution devoted the entire Article XV, the importance of marriages cannot simply be disregarded. Against the dictates of our framework, respondent repeatedly and consciously caused the disintegration of marital relations in our country. In the face of such, there was no self-reproach or even slightest remorse on the part of the respondent.

With all these infractions, how can this case be simply dismissed? To automatically dismiss an administrative case filed against the respondent would only conceal under a cloak, but definitely would not address, the effects of his/her actions to the detriment of judiciary's image as well as of the public. It would also undermine the constitutional truism that public office is a public trust. Also, respondent's absolution from liability would unnecessarily benefit her heirs, in the form of retirement benefits notwithstanding her gross misconduct.

Verily, respondent's misconduct should compel the Court to hold respondent administratively liable, not only to uphold a constitutional policy of accountability, but to impart among the members of the bench that this Court does not and will not sanction any form of impropriety. Such declaration of liability and the imposition of the appropriate penalty would not only serve as an acknowledgement of the misery of respondent's victims whose marriages were instantly dissolved, but would also reinforce and strengthen the public's faith in the judiciary.

FOR ALL THE REASONS STATED, I vote that respondent Judge Liberty O. Castaneda be declared administratively liable for gross ignorance of the law with the imposition of fine in the amount of Forty Thousand Pesos (P40,000.00) to be deducted from her accrued leave benefits, if sufficient. The disbarment complaint, however, must be dismissed.

(Sgd.) JOSE C. REYES, JR.
Associate Justice

[1] *Macabasa v. Banaag*, 156 Phil. 474-478 (1974).

[2] *Rollo*, pp. 2-16.

[3] *Id.* at 3.

[4] *Id.* at 121.

[5] *Id.* at 3-14.

[6] *Id.* at 151.

[7] *Id.* at 152.

[8] 696 Phil. 202, 229 (2012).

[9] *Id.* at 153-155.

[10] Id. at 156.

[11] Id. at 158-166.

[12] Report on the Financial Audit Conducted in the Municipal Trial Court in Cities, Tagum City, Davao del Norte, 720 Phil. 23 (2013), citing *Gonzales v. Escalona*, A.M. No. P-03-1715, September 19, 2008, 566SCRA 1.

[13] Id.

[14] See *Lumiquedv. Exevea*, 346 Phil. 807-830 (1997).

[15] *Vivo v. Philippine Amusement and Gaming Corp.*, 721 Phil. 34-44 (2013), citing *Ledesma v. Court of Appeals*, G.R. No. 166780, December 27, 2007.

[16] 443 Phil. 732 (2003).

[17] Id. at 736.

[18] Id.

[19] A.M. No. MTJ-02-1395, February 19, 2002; id. at 734.

[20] 159 Phil. 417 (1975); id. at 734.

[21] 335 Phil. 511 (1997); id.

[22] 318 Phil. 744 (1995); id.

[23] See *Re: Report on the Judicial Audit in RTC-Branch 15, Ozamiz City* (Judge Pedro L. Sunn; Judge Resurrection T. Ming of Branch 16, Tangitb City), 481 Phil. 710, (2004).

[24] *Gonzales v. Escalona*, 587 Phil. 448, 465 (2008).

[25] Id.

[26] A.M. Nos. 15-05-136-RTC&P-16-3450, December 4, 2018.

[27] See *Marcos v. Manglapus*, 258 Phil. 479 (1989).

[28] 118 U.S. 356(1886).

[29] Id.

[30] Section 1, Article IX, 1987 CONSTITUTION.

[31] Judge Luis B. Reyes, *The Revised Penal Code*, Book One, 18th Ed. 2012, p. 861.

[32] 5 Cush. (Mass) 295, 52 Am. Dec. 711 (1850).

[33] Id.

[34] *National Labor Relations Board v. Thompson Products, Inc.*, 97 F. (2d), 13, 15 (CCA. 6th, 1938).

[35] Rules of Court, Section 14, Rule 14.

[36] *De Pedro v. Romasan Development Corporation*, 748 Phil. 706, 728 (2014).

[37] *Express Padala (Italia) SPA v. Ocampo*, G.R. No. 202505, September 6, 2017.

[38] Id.

[39] Rollo, p. 161.

[40] Office of the Court Administrator v. Judge Dumayas, A.M. No. RTJ-15-2435, March 10, 2018.

[41] Supra note 6, at 225.

[42] Article VIII. Section 11. x x x The Supreme Court en banc shall have the power to discipline judges of lower courts, or order their dismissal by a vote of a majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon.

[43] RULES OF COURT, Sections 8 and 11, Rule 140 as amended by A.M. No. 01-8-10-SC.

[44] Canada v. Judge Suerte, 511 Phil. 28, 38-39 (2015).

[45] 446 Phil. 53 (2003);

[46] 639 Phil. 202 (2010);

[47] 687 Phil. 80 (2012).

[48] 511 Phil. 28 (2015).

EN BANC

A.M. No. RTJ-15-2438 - SHARON FLORES-CONCEPCION, Complainant v. JUDGE LIBERTY O. CASTANEDA, Regional Trial Court, Branch 67, Paniqui, Tarlac, Respondent.

Promulgated:

September 15, 2020

X ----- X

CONCURRING OPINION

DELOS SANTOS, J.:

Judge Liberty O. Castaneda (respondent) is no stranger to misconduct. In 2012, she was dismissed from service for dishonesty, gross ignorance of the law and procedure, gross misconduct, and incompetency.^[1] This extreme penalty was meted following the discovery of multiple infractions ranging from court mismanagement to irregularities and procedural lapses which attended her disposition of an inordinate number of cases for Nullity, Annulment of Marriage, and Legal Separation. Thus, in addition to her dismissal, she suffered the accessory penalties of forfeiture of retirement benefits and perpetual disqualification from reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations.

It appears however that respondent's past infractions continue to haunt her. Now before the Court is another administrative case, in relation to her purported "annulment-fixing." Briefly, Sharon Flores- Concepcion (complainant) avers that respondent nullified her marriage, a proceeding which she neither participated in nor at the very least, had any notice of. However, before this complaint could be resolved, death intervened. Thus, the issue posed before the Court is whether respondent's death warrants the dismissal of the administrative complaint lodged against her.

I concur with the ponencia.

Jurisdiction, once obtained, continues until the final disposal of a case.[2] To clarify, the dismissal of the administrative complaint in this case does not stem from the Court being ousted from jurisdiction following respondent's death. Rather, it is in the very exercise of its jurisdiction that the Court finds it proper to dismiss the administrative complaint in light of the demands of procedural due process and the impracticability of punishment. However, since the matter of procedural due process has been extensively discussed by the ponencia, I will no longer belabor such issue. What further compel me to rule in favor of the dismissal of the administrative complaint are the impracticability of the punishment and considerations of justice and fairness.

The paramount interest to be protected in an administrative case is the preservation of the Constitutional mandate that a public office is a public trust.[3] Public officers must, at all times, be accountable to the people. As implementers of the law, members of the Judiciary are held to an even higher standard; which no less than the High Court is tasked to uphold. Hence, the conduct of members of the Judiciary are highly scrutinized whether they pertain to their professional or private capacities; the only requirement being, that the administrative complaint be filed against them during their incumbency.[4] After all, the Court cannot countenance any conduct, act or omission on the part of all those in the administration of justice, which will violate the norm of public accountability and diminish or even just tend to diminish the faith of the people in the Judiciary.[5] It is precisely because of this accountability that in imposing disciplinary sanctions, punishment is merely a secondary objective; the primary being, the preservation of the public's faith and confidence in our judicial system.

It therefore begs the question, will public confidence in the Judiciary be restored or further safeguarded by imposing sanctions on the heirs of an erring judge?

To recall, respondent has already been dishonorably discharged from her judicial functions in 2012 and consequently, stripped of her retirement benefits, with the exception of accrued leave credits. This is not to state that accrued leave credits are beyond the reach of the Court. In the following cases, the Court imposed a fine for judicial misconduct which would have otherwise warranted dismissal from service, had they not been previously dismissed from service for a prior administrative infraction, thus:

In *Leonidas v. Supnet*,^[6] the Court found Judge Supnet guilty of gross ignorance of law for holding complainant in indirect contempt for disobeying order which to begin with, was not directed at him. In view however of his prior dismissal from service for serious misconduct, he was instead fined P3,000.00 to be deducted from his accrued leave credits.

In *Cañada v. Suerte*, Judge Suerte was ordered to pay a fine of P40,000.00 to be deducted from his accrued leave credits for dishonesty committed in his private capacity. Notably, this was the second administrative case for which he was fined, following his dismissal from service in 2004.

In *Untalan v. Sison*,^[8] Judge Sison was found guilty of gross ignorance of law for irregularities which attended the grant of bail in favor of an accused. Since he had already been dismissed from service, he was fined P20,000.00 to be taken from his remaining accrued leave credits.

In *Bernas v. Reyes*,^[9] Judge Reyes was found guilty of manifest bias, partiality and grave abuse of authority. However, during the pendency of this case, she was dismissed from service for another administrative infraction. Thus, she was fined P40,000.00 to be deducted from her accrued leave credits if sufficient, otherwise, to be paid directly to the Court.

In *Valdez v. Torres*,^[10] Judge Torres was found liable for undue delay in resolving a civil case but considering that she had been previously dismissed from service, she was fined P20,000.00 to be deducted from her accrued leave benefits.

In *Baculi v. Belen*,^[11] Judge Belen was found guilty of dishonesty for receiving allowances from the local government despite being under suspension. In the meantime, he was dismissed from service for grave abuse of authority and gross ignorance of the law. Thus, he was ordered to pay a fine of P40,000.00 to be deducted from his accrued leave credits.

In the aforementioned cases, judges were penalized with a fine which was deducted from their accrued leave credits since their retirement benefits had been previously forfeited. It is worth noting, however, that these judges were alive at the time their respective administrative liabilities were determined by the Court with finality. Thus, it is my view that the imposition of fine for their infractions was only proper and more significantly, contributes towards public confidence in the Judiciary as the erring judges themselves are made to suffer the penalty of a fine. Any administrative penalty should attach to the erring public officer or employee alone. This is in stark contrast to herein respondent's case, where it is her heirs who would be shouldering the burden. This stems from the fact that respondent has forfeited her retirement benefits with the exception of her accrued leave credits. Following respondent's death in 2018 and while this case was being deliberated by the Court, respondent's remaining properties, which would include accrued leave credits, have already been transmitted to her heirs under the Civil Code.^[12] Thus, as it stands, any fine to be imposed by the Court shall be borne by respondent's heirs who have nothing to do with her transgressions. It would be highly unjust to allow her family, who arguably already bear the brunt of her tarnished reputation, to be further burdened by a pecuniary sanction for misconduct which they neither participated nor benefitted in. Needless to state, respondent's faults should not be transmitted to her heirs. The Court cannot close its eyes to the effect of its judgments; particularly in disciplinary proceedings, where the imposition of penalties is largely within its discretion.¹³ While the Court is guided by the gravity of the offense and prior penalties it has imposed for similar cases, it remains mindful of the peculiar circumstances in each case. It can hardly be said that penalizing respondent's family will serve to uphold the integrity and dignity of the Judiciary, which, after all, is the primary purpose of imposing disciplinary sanctions among its ranks.

This is not the first time that a respondent in an administrative case dies during its pendency. In some cases, the death occurred either before the respondent could submit a comment on the complaint,^[14] before an investigation could be conducted,^[15] or before the investigating judge or the Office of the Court Administrator could make a finding on the culpability of the respondent.^[16] Likewise, there have been instances where the respondent dies while the case is being deliberated by this Court^[17] yet the administrative cases were nevertheless dismissed. As explained in *Loyao, Jr. v. Caube*:

To be sure, respondent Caube's death has permanently foreclosed the prosecution of any other actions, be it criminal or civil, against him for his malfeasance in office. We are, however, not precluded from imposing the appropriate administrative sanctions against him. Respondent's misconduct is so grave as to merit his dismissal from the service, were it not for his untimely demise during the pendency of these proceedings. However, since the penalty can no longer be carried out, this case is now declared closed and terminated. (Underscoring supplied)

Hence, it is apparent that regardless of the stage of the proceedings, death can be considered as a circumstance which would warrant the dismissal of the administrative case due to the impracticability of the punishment. Notably, the same ruling was made by the Court in *Dabu v. Kapunan*,^[19] whose facts are similar to respondent's case insofar as it relates to irregularities in the conduct of annulment cases. Here, Prosecutor Dabu filed a complaint against Judge Kapunan after noting irregularities committed by the latter in connivance with his court staff. Prosecutor Dabu was assigned to the branches of Judge Kapunan yet she was never asked to intervene or investigate cases involving annulment of marriage. Upon verification of the records of these cases, she discovered that court records were being falsified to make it appear that a prosecutor intervened when in truth, the prosecutor named was either on leave or re-assigned. Falsification of an official document such as court records is a grave

offense which likewise constitutes dishonesty, another grave offense. Taken singularly, the commission of such grave offense warrants the penalty of dismissal from service even upon the first offense. However, citing the case of Loyao, Jr., the Court ordered the dismissal of the complaint against Judge Kapunan in view of his death during the pendency of the proceedings. This, notwithstanding the fact that Judge Kapunan was given the opportunity to be heard and the surrounding circumstances of the case which undeniably established his culpability.

In criminal cases, the death of the accused before the rendition of a final judgment extinguishes criminal liability,[20] precisely because the juridical condition of a penalty is that it is personal.[21] I find no cogent reason not to apply the same treatment to disciplinary cases. After all, any administrative complaint against a judge must always be examined with a discriminating eye, for its consequential effects are, by their nature, highly penal, such that the respondent judge stands to face the sanction of dismissal or disbarment.[22] Similarly, administrative proceedings are akin to criminal prosecutions in the sense that no compromise may be entered into between the parties as regards the penal sanction.[23] Generally speaking, in both criminal and administrative cases, complainants are mere witnesses such that regardless of their subsequent desistance, the Court will not desist from imposing the appropriate penalties. Finally, it must be underscored that in either case, absent a final determination by the Court itself, there is no final determination of liability to speak of for which the appropriate penalty can be determined and thereafter, implemented.

There is no doubt that respondent's act of nullifying complainant's marriage without the conduct of proper judicial proceedings is reprehensible. Such malfeasance not only makes a mockery of marriage and its life-changing consequences but likewise grossly violates the basic norms of truth, justice, and due process.[24] Likewise, the damage suffered by complainant is unquantifiable. Be that as it may, death during the pendency of the case should nonetheless serve as a bar from any further finding of administrative liability. This is not to diminish the gravity of any misconduct or impropriety, but rather from the recognition that ultimately, disciplinary proceedings involve no private interest and afford no redress for private grievance.[25] They are undertaken and prosecuted solely for the public welfare and to save courts of justice from persons unfit to practice law or as in this case, those tasked to implement it. Necessarily, the administrative penalty attaches to the erring public officer or employee alone. Thus, the erring public officer or employee must personally suffer the sanction imposed by the Court to achieve the objective of disciplinary cases — to cleanse its ranks and preserve the public's faith and confidence in the judicial system. Indubitably, this purpose cannot be achieved when the death of the respondent intervenes and it is the respondent's heirs who will be made to suffer, albeit in a financial capacity.

Ruling in favor of the dismissal of an administrative case by reason of death is by no means an absolution from the infractions committed by a public officer or employee. Rather, I am prevailed upon by overriding considerations of the primary purpose of disciplinary proceedings and the impracticability of imposing punishment which results therefrom. For this reasons, I concur with the ponencia that the case against respondent should be dismissed in view of her death during the pendency of the case.

(Sgd.) EDGARDO L. DELOS SANTOS
Associate Justice

[1] Office of the Court Administrator v. Judge Liberty O. Castaneda, 696 Phil. 202 (2012).

[2] See Gonzales v. Escalona, 587 Phil. 448 (2008).

[3] In re: Rogelio M. Salazar Jr., A.M. Nos. 15-05-136-RTC & P-16-3450, 04 December 2018.

[4] See Office of the Court Administrator v. Grageda, 706 Phil. 15 (2013).

- [5] Office of the Court Administrator v. Reyes, 635 Phil. 490, 499 (2010).
- [6] 446 Phil. 53 (2003).
- [7] 570 Phil. 25 (2008).
- [8] 567 Phil. 420 (2008).
- [9] 639 Phil. 202(2010).
- [10] 687 Phil. 80(2012).
- [11] A.M. No. RTJ-11-2286, 12 February 2020.
- [12] CIVIL CODE, Art. 777.
- [13] 1987 CONSTITUTION, Article VIII, Section
- [14] Report on the Judicial Audit Conducted in Regional Trial Court, Branch I, Bangued, Abra, 388 Phil. 60 (2000).
- [15] Camsav. Rendon, 427 Phil. 518 (2002).
- [16] Botev. Eduardo, 491 Phil. 198(2005).
- [17] Dabu v. Kapunan, 656 Phil. 230 (2011); Report on the Judicial Audit Conducted in the Municipal Trial Court of Tambulig and the Il'1' Municipal Circuit Trial Court of Mahayag-Dumingag-Josefma, Both in Zamboanga del Sur, 509 Phil. 401 (2005); Loyao, Jr. v. Caube, 450 Phil. 38 (2003); Apiag v. Cantero, 335 Phil. 511 (1997).
- [18] Supra.
- [19] Supra.
- [20] REVISED PENAL CODE, Art. 89 (1).
- [21] Reyes, L.B. (2008) The Revised Penal Code (17th Ed., p. 838).
- [22] Re: Judge Adoracion Angeles, 567 Phil. 189 (2008).
- [23] Aulencio v. Manura, 489 Phil. 752 (2005).
- [24] Office of the Court Administrator v. Indar, 685 Phil. 272, 287 (2012).
- [25] Office of the Court Administrator v. Ruiz, 780 Phil. 133, 163 (2016).

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