

**ADELPHA E. MALABED, COMPLAINANT, VS. JUDGE ENRIQUE C. ASIS,
REGIONAL TRIAL COURT, BRANCH 16, NAVAL, BILIRAN,
RESPONDENT.**

A.M. No. RTJ-07-2031 (Formerly OCA IPI No. 06-2484-RTJ). August 04, 2009

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Before this Court is a verified complaint[1] dated February 23, 2006, filed by complainant Adelpha E. Malabed with the Office of the Court Administrator (OCA), charging respondent Judge Enrique C. Asis with violation of Rule 1.02, Canon I of the Code of Judicial Conduct for exhibiting bias and partiality with regard to Civil Case No. B-1016, entitled Adelpha E. Malabed v. Sps. Ruben Cericos and Delia Cericos.

Herein complainant, therein plaintiff in the civil case, acquired a parcel of land from her brother Conrado Estreller. Thereafter, therein defendants, spouses Ruben and Delia Cericos, began building their house on the said parcel of land belonging to Estreller. When complainant knew that she would acquire the parcel of land from Estreller, she wrote the Spouses Cericos, informing them of her intention to use the land, and asked that they vacate the premises. After the title to the land had been transferred in her name, complainant, through counsel, made a written demand on the spouses Cericos to vacate the land in question within a period of 90 days from receipt thereof. Still, the Spouses Cericos refused to heed complainant's request and the parties failed to reach an amicable settlement. Thus, on April 15, 1996, complainant filed a civil case for ejectment and damages with the Municipal Circuit Trial Court (MCTC) of Kawayan-Almeria, Kawayan, Biliran, docketed as Civil Case No. 860, entitled Adelpha E. Malabed v. Sps. Ruben Cericos and Delia T. Cericos.

In its Decision[2] dated July 11, 1997, the MCTC rendered judgment in favor of complainant (therein plaintiff), the dispositive portion of which reads:

WHEREFORE, for all the foregoing, judgment is hereby rendered in favor of the plaintiff and against the defendants:

- Ordering the defendants to vacate the premises by removing any structure found or building inside the lot of the plaintiff which is described in paragraph 2 of the complaint;
- Ordering the defendants to pay the plaintiff the sum of P10,000.00 as attorney's fee and appearance fees of P3,500.00;
- Ordering the defendants to pay the plaintiff the expenses of litigation in the amount of P5,000.00;
- Ordering the defendants to pay plaintiff punitive and corrective damages in the amount of P3,000.00.

SO ORDERED.

The defendants in said civil case, represented by counsel, Atty. Redentor Villordon, appealed to the Regional Trial Court (RTC), Branch 16 of Naval, Biliran, where respondent Judge presided. Said case was re-docketed as Civil Case No. B-1016.

On January 25, 1999, respondent Judge affirmed the MCTC Decision[3] dated July 11, 1997. Defendants Spouses

Cericos filed a Motion for Reconsideration on March 2, 1999, but said motion was denied by respondent Judge for lack of merit in an Order[4] dated March 4, 1999.

On May 3, 1999, respondent Judge issued a Writ of Execution, pursuant to which the sheriff padlocked the house of defendants Spouses Cericos and delivered possession thereof to complainant.

On May 12, 1999, defendants Spouses filed a Petition for Relief from Judgment[5] prepared by their new counsel, Atty. Meljohn de la Peña, which complainant duly opposed. Complainant, in turn, filed a Motion for Writ of Demolition on June 10, 1999, which defendants Spouses opposed.

In an Order[6] dated August 12, 1999, respondent Judge granted the petition for relief and denied the motion for writ of demolition, stating thus:

x x x x

The thrust of the petition is anchored on the fact that plaintiff-appellee failed to disclose a material fact in court that she had given her consent to the defendants-appellants before they started to build the residential house on the lot allegedly owned by plaintiff-appellee which is the subject matter of the above-entitled case.

Defendants-appellants' mother, Simplicia A. Ybañez, widow, manifested in her affidavit of good faith that sometime in the month of April 1990, she, her daughter Delia Cericos, and one Melda Ampong, met Adelpha E. Malabed, plaintiff-appellee, her mother Matilde Estreller, Conrado Estreller, eldest brother, and one Charita Estreller, elder sister of the plaintiff-appellee in a rented house of Charita Estreller and Conrado Estreller at Kamuning, Quezon City for the purpose of asking their formal consent to renovate her old house standing on the lot in question. In that meeting, Adelpha E. Malabed, plaintiff-appellee, together with her mother, brother and sisters, approved her plans and had given their consent not only to the renovation of the old house owned by Simplicia A. Ybañez but, if possible, to construct a new one for the Cericos Family and her mother.

That pursuant to the approval, consent and agreement to allow them to construct said residential house and to surrender the same to the plaintiff-appellee after twenty-five (25) years as one of the terms and conditions, defendants-appellants through [their] mother, Simplicia A. Ybañez, started working in the construction sometime in 1991 and the house was finished in 1992.

Considering the warranty under this verbal agreement which induced the defendants-appellants to construct the said residential house at the cost of Five Hundred Thousand Pesos (P500,000.00), there is therefore a need to look into and dig deeper by way of giving the defendants-appellants their day in court to show by evidence whether this [is] true or not. This alleged warranty on the part of the plaintiff-appellee which she failed to disclose is very material and could possibly tilt the judgment of this court on the ground of bad faith on the part of plaintiff-appellee. As a matter of fact, Conrado Estreller, plaintiff-appellee's eldest brother, was the one who procured the building permit for the defendants-appellants. The failure therefore on the part of the plaintiff-appellee to disclose this material fact of prior agreement, which resulted in the judgment in favor of the plaintiff-appellee, is tantamount to extrinsic fraud. x x x

x x x x

The Court believes that there is a need to ventilate the facts and the evidences pertaining to that prior agreement which, as a result of the failure on the part of the plaintiff-appellee to disclose this material fact, resulted to the injury of the defendants-appellants whose house is now the subject of a motion for demolition.

x x x x

Respondent Judge likewise denied complainant's motion for reconsideration in an Order dated December 20, 1999.

Complainant then filed a petition for certiorari[7] with the Court of Appeals (CA) assailing the Order dated August 12, 1999 of respondent Judge.

In its Decision[8] dated June 23, 2000, the CA granted complainant's petition and annulled the Orders dated August 12, 1999 and December 20, 1999, stating thus:

x x x x

The petition for relief was filed out of time (on May 12, 1999). The 60-day period for its filing should be reckoned from the date of receipt by private respondents of the RTC decision. However, such material date does not appear in the record. But even if the decision was received by private respondents on the date (March 2, 1999) of filing of their motion for reconsideration thereof, the petition was still filed out of time. It was presented on the 71st day counted from March 2, 1999.

x x x x

Furthermore, in *Garcia v. Court of Appeals* (202 SCRA 228), it was held that fraud as a ground for petition for relief must be extrinsic or collateral. In the same case, the Supreme Court made a distinction between extrinsic and intrinsic fraud, thus:

x x x x

Given the definitions of extrinsic and intrinsic fraud, private respondents' averments concerning the fraud purportedly committed by petitioner and her predecessor-in-interest (Conrado) do not constitute extrinsic fraud.

x x x x

In her Complaint, complainant alleged that respondent Judge showed bias and partiality in favor of defendants Spouses Cericos because their new counsel, Atty. De la Peña, represented respondent Judge in administrative complaints filed against the latter. Complainant further averred that her sister, Perla Haverly, was plaintiff in a civil case for ejectment docketed as Civil Case No. 973, filed with the MCTC of Kawayan, Biliran, which rendered a decision in her sister's favor. The defendants therein filed an appeal with respondent Judge's court, which granted the same. Complainant claimed that respondent Judge reversed the decision of the MCTC because the counsel for the defendants was Atty. De la Peña.

In his Comment[9] dated May 23, 2006, respondent Judge denied that he granted the petition for relief from judgment because Atty. De la Peña represented him in an administrative complaint filed against him docketed as A.M. No. RTJ-00-1590, entitled *Gina B. Ang v. Judge Enrique C. Asis*. He stated that, when Atty. De la Peña filed the petition for relief from judgment on behalf of defendants Spouses on August 12, 1999, the administrative case against him had not yet been filed, as it was only filed on April 7, 2000. He refuted the charge that he was biased in favor of Atty. De la Peña in relation to the civil case filed by complainant's sister, arguing that Atty. De la Peña was neither a defendant nor a plaintiff in the said civil case, which could have influenced him in deciding the case. Respondent Judge added that it was, in fact, complainant herself who came to his office several times, lobbying for a favorable judgment for her sister in a civil case for quieting of title[10] filed before his sala. He told her that he would not hesitate to write a correct verdict based on the evidence appearing in the case records. He claimed that after a conscientious deliberation of the case, he rendered a decision in accordance with the evidence and the applicable law and jurisprudence on the matter.

In her Reply[11] dated July 19, 2006, complainant denied approaching respondent Judge to lobby for a favorable decision. She emphasized that she had filed a petition for review relative to Civil Case No. B-1016 before the CA, Cebu City.

In his Rejoinder to Reply[12] dated August 24, 2006, respondent Judge asserted that there was no finding of misconduct in the CA Decision dated June 23, 2000, which merely annulled and set aside the assailed Orders in Civil Case No. B-1016. He added that in complainant's attempt to strengthen her case, she added as her second cause of action the administrative case of Felicitas V. Dadizon v. Judge Enrique Asis docketed as A.M. No. RTJ-03-1760, which was already dismissed by the Court on January 15, 2004.

In its Report[13] dated October 17, 2006, the OCA gave the following findings:

EVALAUTION: Before a respondent judge can be declared as biased and partial in favor of a party, the court has to be shown acts and conduct of a judge clearly indicative of arbitrariness or prejudice. Mere suspicion that the judge is partial to a party is not enough; there should be adequate evidence to prove the charge. (Opis vs. Judge Dimaano, A.M. No. RTJ-05-1942, 28 July 2005)

In this case, complainant alleged that respondent judge was biased in favor of Atty. Meljohn Dela Peña because he was his counsel in the administrative case filed against him by Ms. Gina Ang. The respondent judge disputed this, arguing that there was no administrative case yet when Atty. Dela Peña handled the case of the Sps. Cericos.

The charge of bias and partiality must, therefore, fail. Aside from the complainant's allegation of bias and partiality because the Sps. Cericos are represented by Atty. Meljohn Dela Peña, she failed to substantiate her claims.

The complainant, in her Reply dated 19 July 2006, accuses the respondent judge of grave abuse of discretion in granting the Petition for Relief from Judgment based on the Decision dated 23 June 2000 of the Court of Appeals, which granted the complainant's Petition for Certiorari. In the said Decision, the respondent's Orders dated 12 August 1999 and 20 December 1999 were annulled and set aside. Its findings read as follows:

The petition for relief was filed out of time (on May 12, 1999). The 60-day period for its filing should be reckoned from the date of receipt by private respondents of the RTC decision. However, such material date does not appear in the record. But, even if the decision was received by private respondents on the date (March 2, 1999) of filing of their Motion for Reconsideration thereof, the petition was still filed out of time. It was presented on the 71st day counted from March 2, 1999.

The 60-day period was not suspended during the pendency of the motion for reconsideration. Thus, in *Meralco v. Domingo* (18 SCRA 961), the Supreme Court held:

The filing of the motion for reconsideration and a new trial, while it suspended the period for the finality of the judgment did not suspend the period provided for in Rule 38. It is error and grave abuse of discretion by the trial court to subtract from the sixty-day period the time when the motion for reconsideration and a new trial was pending because it has been constantly held that the periods fixed by Rule 38 are mandatory and non-extendible and are not subject to any condition or contingency, as the rule was itself devised to meet a condition or contingency.

x x x

The petition for relief is based mainly on the alleged verbal agreement between private respondents and Conrado whereby the former were allowed to build a house on the land and occupy the same for twenty-five years, upon expiration of which they would vacate the house and the ownership thereof would vest in Conrado.

We disagree with respondent's ruling that it was the duty of petitioner to disclose the alleged verbal agreement during the trial. Said verbal agreement is a matter of defense which private respondent should have presented at the earliest opportunity.

Although there was no direct finding of grave abuse of discretion on the part of the respondent judge, the Court of

Appeals found that the petition for relief was filed out of time counting from the date the Sps. Cericos received the adverse decision on the case presumably on 02 March 1999. The Petition for Relief was filed on the 71st day and was clearly beyond the 60-day reglementary period for the filing of a petition for relief. The respondent should not have entertained it as it makes him liable to the charge of gross ignorance of the law or procedure.

The Court has always emphasized that ignorance of the law or procedure is the mainspring of justice. For this reason, members of the bench are always reminded of their duty to be faithful to the law and to maintain professional competence. Judges are called upon to exhibit more than cursory acquaintance with statutes and procedural rules. Basic rules must be at the palms of their hands. Their inexcusable failure to observe the basic laws and rules will render them administratively liable. Where the law or procedure involved, as in this case, is simple and elementary, lack of conversance therewith constitutes gross ignorance of the law or procedure (*Abbariao vs. Judge Beltran*, A.M. No. RTJ-04-1839, 31 August 2005). In this case, the respondent judge was accused of grave abuse of discretion because he granted Sps. Cericos' Petition for Relief from Judgment which was filed out of time. The Court of Appeals' findings clearly stated that said petition was filed out of time. The law or procedure involved in this case is simple, hence, the respondent's act in granting the petition constituted gross ignorance of the law or procedure.

Under Section 8(9), Rule 140 of the Revised Rules of Court (as amended), gross ignorance of the law or procedure is classified as a serious charge. Section 11A (3) of the same Rules states that the fine for such charge is more than P20,000.00, but not exceeding P40,000.00.

In the light of the prevailing facts of this case, a fine of P30,000.00 is commensurate under the circumstances.

RECOMMENDATION: In view of the foregoing, we respectfully submit for the consideration of the Honorable Court our recommendations:

- (1) That the instant administrative complaint be RE-DOCKETED as a regular administrative matter;
- (2) That respondent Judge Enrique C. Asis, Presiding Judge, Regional Trial Court (Branch 16), Naval, Biliran, be ADJUDGED administratively liable for gross ignorance of the procedural rules; and
- (3) That Judge Asis be FINED in the amount of P30,000.00 and WARNED that a repetition of the same or similar act shall be dealt with more severely.

In her Verified Sur-Rejoinder[14] dated October 20, 2006, complainant alleged that the act of respondent Judge in granting the petition for relief with the entry of appearance of new counsel, Atty. De la Peña, was suspect for the following reasons: (1) the petition for relief was filed out of time and respondent Judge deliberately failed to indicate in his Order dated August 12, 1999 the timeliness of the petition; (2) the petition for relief was premised on an alleged verbal agreement between therein defendants and complainant's brother allowing defendants to occupy the lot, which respondent Judge had argued was the duty of complainant to disclose and, since complainant did not do so earlier, he granted relief to defendants. Complainant claimed that this was irregular because the issue presented by defendants was a new one and barred by estoppel, and; (3) respondent Judge deliberately overlooked the basic remedy of defendants which would have been to appeal the decision. Complainant also denied having entered respondent Judge's chambers.

In a Resolution[15] dated January 15, 2007, the Court re-docketed the instant administrative complaint as a regular administrative matter.

In a Resolution[16] dated March 26, 2007, the Court referred the case to CA Associate Justice Mario L. Guariña III for investigation, report and recommendation, or decision within ninety (90) days from notice.

On February 29, 2008, Justice Guariña submitted his Investigation, Report and Recommendation,[17] recommending that respondent be exonerated from the charges of bias and partiality. The Report contained the following findings:

X X X X

The administrative complaint of Adelpha Malabed against Judge Enrique C. Asis is essentially that respondent Judge Asis was biased and partial in resolving two civil cases in favor of certain parties because their lawyer, Atty. Meljohn Dela Peña, was the respondent's counsel in an administrative case against him. The evidence submitted by the complainant is confined to the issuances of Judge Asis in these two cases. *Res ipsa Loquitor*. The Office of the Court Administrator had, on the basis of these records, made the recommendation that the respondent be held liable for gross ignorance of the procedural rules, which seems to imply that if the written acts of the respondent without more cannot show bias or partiality, he can be nailed down for gross ignorance.

The respondent Judge Asis is the presiding judge of the RTC of Naval, Biliran, Branch 16. The backdrop of the two cases coming before him is as follows: 1.) civil case B-1016 entitled Adelpha Malabed vs. Spouses Ruben Cericos and Delia Cericos was an appeal from the decision of the MCTC of Kawayan-Almeria Biliran in civil case 860 for ejectment entitled Adelpha Malabed vs. Spouses Ruben Cericos and Delia Cericos. The MCTC rendered a decision on July 11, 1997 causing the Cericos to appeal in B-1016. The respondent rendered a judgment on January 25, 1999 affirming the MCTC decision. The MR of the Cericos dated March 2, 1999 was denied on March 4, 1999. But on May 12, 1999, the Cericos filed a petition for relief from judgment. The respondent, on August 12, 1999, issued an order granting the petition and ordering new trial. The motion for reconsideration of Malabed was denied on December 20, 1999. Malabed filed a petition for certiorari with the Court of Appeals in SP 56613 which resulted in a decision setting aside the respondent's orders of August 12, 1999 and December 20, 1999.

(2) B-1252 entitled Perla Estreller Haverly vs. Rodolfo Catigbe, Juana Catigbe, Adriano Ampong and Composa Ampong was an appeal from the decision of the MCTC Kawayan-Almeria in civil case 973 entitled Perla Estreller Haverly vs. Rodolfo Catigbe, Juana Catigbe, Adriano Ampong and Composa Ampong for recovery of possession. The MCTC rendered the decision on April 7, 2005 ordering the defendants to vacate the premises in favor of plaintiff Haverly. The defendants appealed to the RTC in B-1252 which resulted in a decision by the respondent on January 9, 2006 reversing the MCTC ruling.

In B-1016, Atty. Meljohn Dela Peña entered his appearance for the Cericos during the presentation of the relief from judgment obtaining the favorable order of August 12, 1999. He represented from the start the Catigbes, etc. in case 973/B-1252 obtaining from the respondent in B-1252 a reversal of the decision of the MCTC in case 973 in January 2006.

But we will observe that, as pointed out by the respondent in his comments which the complainant did not refute, the administrative case RTJ-00-1590 where Atty. Dela Peña represented the respondent was filed on April 7, 2000 - months after the respondent rendered the August 12, 1999 and December 20, 1999 orders in B-1016.

Hence, for the complainant to say that the respondent issued the August 12, 1999 and December 20, 1999 orders in B-1016 because of his attachment to Atty. Dela Peña who only became his lawyer in RTJ-00-1590 subsequent to the issuance of these orders, is very speculative. She is using the fact that the respondent engaged the services of Atty. Dela Peña to be his lawyer as evidence that he was partial towards the lawyer even before. The logic is not even valid. As stated in *Cea vs. Paguio*, 397 SCRA 494, bias cannot be presumed. There must be competent and direct evidence derived from the testimonies of witnesses to prove the charge. This is not the case here.

The complainant argues nonetheless that in SP 56613, the Court of Appeals found that the respondent committed grave abuse of discretion in issuing the August 12, 1999 and December 20, 1999 orders. The

reversal of a judge's order by a superior court in a certiorari case is, in itself, not a ground for an administrative action against the judge. We must be careful in distinguishing the cause of action in a petition for certiorari from a cause of action in an administrative case. The fact that a judge's order is set aside on certiorari does not connote that he was biased or partial in favor of the party who was benefited by the order. There will hardly be any judge who can escape administrative action if the opposite view prevails. For who is the judge who can proudly say that he was never reversed on certiorari?

The complainant cites several errors in the respondent's order granting the petition for relief in B-1016 as proof of his bias or partiality. To repeat, the CA has found that the court erred in granting the petition for relief. But any ruling that holds a judge civilly or administratively liable for errors in his decision or order must have to reckon with the established doctrine of immunity of judges for official acts. The rule is expressly stated in *In re Tayao*, 229 SCRA 723, to the effect that a judge may not be administratively charged for error of judgment in the absence of showing of bad faith, malice or corrupt purpose. The error of the judgment must be so gross and patent as to justify inference of gross ignorance or bad faith; otherwise, a judge must be protected by the immunity of his office. As stated in *Zabala vs. Pamaran*, 39 SCRA 430, no one called upon to try facts or interpret the law in the process of administering justice can claim to be infallible in his judgment.

In this case, we cannot say that the respondent's errors were so gross and patent as to amount to evidence of bias or evasion of judicial duty.

As the CA has observed in SP 56613, the petition for relief was filed 11 days late on May 12, 1999. The Court came to this conclusion by way of a presumption since there was nothing on the record to show when the decision was actually received by the Cericos to make the 60-day period in Rule 38 begin to run. The CA presumed that the defendants must have already received the decision when they prepared the MR of the decision on March 2, 1999. Hence, the deadline for the filing of the petition should have been May 1, 1999. While it may be the case that the respondent judge was in error for entertaining a petition filed beyond the 60-day period, we cannot readily say that the error was gross and patent. The fact was that there was already some amount of legal reasoning needed to arrive at this conclusion. The petition was also subject to another deadline which was the 6-month period from the date of decision, and the Cericos had apparently complied with this condition.

The Cericos argued that they could not be barred from filing a petition for relief, even if they failed to appeal. They attributed their failure to appeal to excusable negligence. They argued that they were in Manila when their lawyer received the March 4, 1999 order denying their motion for reconsideration. Hence, they could not have given him the proper instructions. The CA rejected this argument on the legal presumption that notice to counsel is notice to parties.

There also appeared to be a genuine clash over the issue of whether the fraud is extrinsic as it turns on the factual question of whether the defendants Cericos were actually aware of the alleged fraud committed by plaintiff (now complainant) Malabed.

It is our sense that the erroneous ruling of the respondent on the petition for relief cannot simply be a product of gross or plain ignorance, but results from a judge's failure to consider all the factors in the equation, legal and factual, a judicial error for which certiorari or appeal is the remedy.

The second case B-1252 was decided by the respondent subsequent to the administrative cases in which Atty. Dela Peña was his lawyer. In B-1252, the parties represented by Atty. Dela Peña won. Yet, until B-1252 was decided, there was no protest or opposition to the appearance of Atty. Dela Peña. That Atty. Dela Peña had represented respondent in the previous administrative cases was a matter of public record. If the plaintiff in B-1252, who is the sister of the complainant, had any cause to doubt the impartiality of the respondent, she should have moved for his inhibition. But she did not do this. She allowed the respondent judge to hear and terminate the case. It is too late in the day for her to complain.

B-1252 involves issues of fact and law which the undersigned cannot pass judgment upon at this point of time. The reason is that we are not the ones who are called upon to review the ruling of the respondent. We understand that the plaintiff in B-1252 had appealed the respondent's decision to the Court of Appeals in the Visayas. The proper doctrine to follow is that in case a party disagrees with a decision of the court, the remedy is not to file an administrative case but appeal the case to the superior court. This was done here. Only after the case has been finally resolved on appeal can the question of whether the respondent was grossly ignorant in issuing his decision be ripe for analysis.

The case B-1118 is mentioned in the dispute in connection with a counter charge of the respondent against his accuser Malabed. It is not relevant to the issue in the administrative case and may be disregarded.

VII. Recommendation:

It is recommended that the respondent judge be exonerated.

RESPECTFULLY SUBMITTED.

Rule 1.02, Canon I of the Code of Judicial Conduct[18] provides that a judge should administer justice impartially and without delay. Partiality, or bias, has been defined as a predisposition to decide a cause or an issue in a certain way, which does not leave the mind perfectly open to conviction.[19] However, mere suspicion that respondent Judge is partial is not enough. Clear and convincing evidence to prove the charge is required. The burden to prove that respondent Judge committed the acts complained of rests on the complainant.[20]

Complainant alleged that respondent Judge, in granting a petition for relief from judgment in Civil Case No. B-1016, committed bias and partiality because the counsel for defendants therein was the same counsel who represented respondent Judge in administrative complaints filed against the latter. She likewise claimed that in another civil case in which her sister Haverly was plaintiff, respondent Judge reversed the ruling of the MCTC in favor of Haverly simply because the counsel for defendants therein was Atty. De la Peña. To support her allegations, complainant stated that the CA Decision dated June 23, 2000 found respondent Judge guilty of grave abuse of discretion, and that there were other administrative complaints filed against respondent Judge.

The OCA recommended that respondent Judge be fined in the amount of P30,000.00, while the Investigating Justice recommended that he be exonerated as the documentary evidence presented by the complainant during pre-trial failed to sufficiently establish bias and partiality on the part of respondent Judge. The Court, however, is not adopting the finding of the Investigating Justice, who probably was not aware of the past violations of respondent Judge for which he was previously disciplined. It, instead, holds that respondent Judge should be fined in the amount of P20,000.00, considering the frequency of administrative complaints that have been filed and sanctioned against him.

The administrative case docketed as RTJ-00-1590 in which Atty. Dela Peña represented respondent Judge, was filed on April 7, 2000, while the assailed Orders of respondent Judge in Civil Case No. B-1016 were rendered on August 12, 1999 and December 20, 1999. It is, at most, presumptuous on the part of complainant to allege that respondent Judge had been partial to defendants in the civil case, especially when he had not yet engaged the services of Atty. De la Peña to represent him in his administrative cases.

Equally tenuous is complainant's contention that the CA's finding of grave abuse of discretion of the part of respondent Judge proves the latter's bias and partiality. A finding of grave abuse of discretion does not necessarily prove that respondent Judge displayed a preference for one of the party-litigants. As aptly observed by the Investigating Justice, the reversal of a judge's order by a superior court in a certiorari case is, in itself, not a ground for an administrative action against the judge. Respondent Judge, by granting the petition for relief in Civil Case No. B-1016 on the ground that complainant failed to disclose a verbal agreement between her family

and defendants therein, may have committed an error of judgment. However, in the absence of bad faith, such erroneous judgment cannot be a ground for disciplinary action.[21]

In *Maylas, Jr. v. Judge Sese*, [22] respondent Judge was administratively charged because he granted a motion to quash based on a ground not raised by the accused, and the CA found that such act was tantamount to a grave abuse of discretion. The Court dismissed the complaint against respondent Judge, holding thus:

x x x in the absence of fraud, dishonesty and corruption, the acts of a judge in his official capacity are not subject to disciplinary action. He cannot be subjected to liability - civil, criminal or administrative - for any of his official acts, no matter how erroneous as long as he acts in good faith. Only judicial errors tainted with fraud, dishonesty, gross ignorance, bad faith or deliberate intent to do an injustice will be administratively sanctioned. Settled is the rule that errors committed by a judge in the exercise of his adjudicative functions cannot be corrected through administrative proceedings, but should instead be assailed through judicial remedies.[23]

While the Investigating Justice may have cleared respondent Judge of administrative liability in the present case, the Court, nonetheless, takes into consideration that there have been several administrative complaints previously filed against respondent Judge.

In *Tabao v. Judge Asis*, [24] herein respondent Judge was found administratively liable for gross irregularity in the performance of his duties, violation of Supreme Court circulars and regulations, and abuse of authority and conduct unbecoming of a judge, and fined in the amount of P10,000.00.

In *Almendra v. Judge Asis*, [25] herein respondent Judge was found guilty of serious inefficiency, for which he was suspended for ten (10) days, fined P40,000.00 and warned that a repetition of the same or similar acts would be dealt with more severely.

In *Atty. Nenita Ceniza-Layese v. Judge Enrique C. Asis*, [26] respondent Judge was also found guilty of misconduct and dishonesty, for which he was fined P20,000.00.

On the other hand, the cases of *Ang v. Judge Asis* [27] and *Dadizon v. Judge Asis* [28] were both dismissed for lack of merit, although in the former, respondent Judge was reprimanded and made to pay a fine of P5,000.00, as well as admonished to be more circumspect and act with more dispatch in the performance of his official functions.

Respondent Judge must bear in mind that membership in the judiciary circumscribes one's personal conduct and imposes upon him certain restrictions, the faithful observance of which is the price one has to pay for holding such a distinguished position. A magistrate of the law must comport himself in a manner that his conduct must be free of a whiff of impropriety, not only with respect to the performance of his official duties, but also to his behavior outside of his sala and as a private individual. His conduct must be able to withstand the most searching public scrutiny, for the ethical principles and sense of propriety of a judge are essential to the preservation of the people's faith in the judicial system lest public confidence in the judiciary would be eroded by the incompetent, irresponsible and negligent conduct of judges.[29] In this case, respondent Judge should have been more cautious in his close associations with members of the Bar that led complainant to believe that the former had already been predisposed to the opposing party and, hence, renders his impartiality questionable.

WHEREFORE, respondent Judge Enrique C. Asis of the Regional Trial Court, Branch 16 of Naval, Biliran, is ordered to pay a FINE of P20,000.00, with a stern warning that a repetition of the same or similar acts in the future shall be dealt with more severely.

This Decision shall be immediately executory.

SO ORDERED.

Ynares-Santiago, J., Chairperson, Chico-Nazario, Velasco, Jr., Nachura, and Peralta, JJ.,

[1] Rollo, pp. 1-4.

[2] Id. at 6-12.

[3] Id. at 13-17.

[4] Id. at 18-19.

[5] Id. at 197-202.

[6] Id. at 20-23.

[7] Date of filing does not appear in the records.

[8] Rollo, pp. 25-34.

[9] Id. at 46-51.

[10] Docketed as Civil Case No. B-1118, entitled Perla Estreller Haverly, joined by her husband William J. Haverly v. Rodolfo M. Catigbe, Sr., Juan Catigbe, Adriano G. Ampong and Composa G. Ampong.

[11] Rollo, pp. 71-73.

[12] Id. at 151-160.

[13] Id. at 188-192.

[14] Id. at 194-196.

[15] Id. at 209.

[16] Id. at 215.

[17] Dated February 27, 2008.

[18] Promulgated by the Supreme Court on September 5, 1989, which took effect October 20, 1989.

[19] Black's Law Dictionary Abridged Fifth Ed., p. 84.

[20] Fenina Santos v. Judge Erasto D. Tanciongco, A.M. No. MTJ-06-1631, September 30, 2008.

[21] Almendra v. Judge Asis, 386 Phil. 264, 272 (2000).

[22] A.M. No. RTJ-06-2012, August 4, 2006, 497 SCRA 602.

[23] Id. at 605-606.

[24] 322 Phil. 630 (1996).

[25] Supra note 21.

[26] A.M. No. RTJ-07-2034, October 15, 2008.

[27] 424 Phil. 105 (2002).

[28] 464 Phil. 571 (2004).

[29] Aureo G. Bayaca v. Judge Tranquilino V. Ramos, A.M. No. MTJ-07-1676, January 29, 2009.

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