



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

**EFREN T. UY, NELIA B. LEE,
 RODOLFO L. MENES and
 QUINCIANO H. LUI,**
 Complainants,

A.M. No. RTJ-12-2332
 (Formerly OCA IPINo. 10-3393-RTJ)

Present:

SERENO, C.J.,
Chairperson,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 VILLARAMA, JR., and
 REYES, JJ.

- versus -

JUDGE ALAN L. FLORES,
PRESIDING JUDGE, REGIONAL
TRIAL COURT, BRANCH 7,
TUBOD, LANA O DEL NORTE,
 Respondent.

Promulgated:

JUN 25 2014

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DECISION

VILLARAMA, JR., J.:

Before us is an administrative complaint¹ for gross ignorance of the law, manifest partiality, denial of due process and conduct prejudicial to the best interest of the service against respondent Judge Alan L. Flores.

The facts are not disputed.

In a Revenue Travel Assignment Order,² Commissioner of Internal Revenue Lilian B. Hefti relieved Mustapha M. Gandarosa as Regional Director of Revenue Region No. 16, Bureau of Internal Revenue, Cagayan de Oro City. Hefti reassigned Gandarosa as Chief of Staff of the Special Concerns Group at the Bureau's Head Office in Quezon City. Secretary of Finance Margarito B. Teves approved Hefti's order.

¹ Rollo, pp. 1-32.

² Id. at 111.

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Gandarosa filed a Rule 65 petition³ for certiorari and/or prohibition with prayer for a temporary restraining order before the Regional Trial Court, Branch 7, Tubod, Lanao del Norte, presided by Judge Flores. Gandarosa prayed that Hefti's order be declared void and that a writ of injunction be issued prohibiting the Secretary of Finance and the new Commissioner of Internal Revenue from enforcing Hefti's order and from replacing or reassigning him. Judge Flores granted a temporary restraining order and writ of preliminary injunction in favor of Gandarosa.

Meanwhile, the new Commissioner of Internal Revenue, Sixto S. Esquivias IV, issued a new Revenue Travel Assignment Order⁴ reiterating Hefti's order. Secretary Teves also approved Esquivias's order. Gandarosa thus filed a petition⁵ for indirect contempt against Secretary Teves and Commissioner Esquivias.

Judge Flores issued the following orders: (1) Order⁶ dated November 3, 2008 granting a 72-hour temporary restraining order; (2) Order⁷ dated November 7, 2008 extending the temporary restraining order; (3) Order⁸ dated November 21, 2008 admitting Gandarosa's documentary exhibits; (4) Order⁹ dated November 21, 2008 granting a writ of preliminary injunction; (5) Omnibus Order¹⁰ dated November 25, 2008 treating the comment to the Rule 65 petition, filed through LBC, as a mere scrap of paper; (6) Order¹¹ dated December 15, 2008 requiring Secretary Teves and Commissioner Esquivias to file their comment to the contempt petition; and (7) Omnibus and Interim Order¹² dated December 22, 2008, which, among others, (a) impleaded Deputy Commissioner Nelson Aspe and Alberto Olasiman, Officer-in-Charge, Revenue Region No. 16, as respondents in the contempt petition, and (b) ordered Secretary Teves, Commissioner Esquivias and their subordinate officials to maintain the status quo and retain Gandarosa as Regional Director of Revenue Region No. 16.

The Court of Appeals (CA) in its Decision¹³ dated August 3, 2009 in CA-G.R. SP No. 02753-MIN annulled all seven orders and ordered Judge Flores to dismiss Gandarosa's Rule 65 and contempt petitions. The CA ruled that the trial court lacks jurisdiction over the Rule 65 petition. Said CA Decision attained finality and entry of judgment was made.

Complainants Efren T. Uy, Nelia B. Lee, Rodolfo L. Menes and Quinciano H. Lui now allege that Judge Flores exhibited gross ignorance of

³ Id. at 93-108.

⁴ Id. at 140.

⁵ Id. at 142-155.

⁶ Id. at 33-36.

⁷ Id. at 37-39.

⁸ Id. at 40.

⁹ Id. at 41-47.

¹⁰ Id. at 48-52.

¹¹ Id. at 53-54.

¹² Id. at 55-59.

¹³ Id. at 60-91.

the law when he assumed jurisdiction over the Rule 65 petition as it is the Civil Service Commission which has jurisdiction over the issue of Gandarosa's reassignment. They add that the Regional Trial Court, Branch 7, Tubod, Lanao del Norte, which is within the 12th Judicial Region, also lacks jurisdiction to issue a temporary restraining order and writ of preliminary injunction effective in Metro Manila, National Capital Judicial Region, where the Secretary of Finance and the Commissioner of Internal Revenue hold office, and in Cagayan de Oro City, 10th Judicial Region, where the Regional Office of Revenue Region No. 16 is based. Moreover, Judge Flores treated the comment to the Rule 65 petition as a mere scrap of paper contrary to the basic rule that if a private carrier, LBC in this case, is used by a party, the date of actual receipt by the court of such pleading is deemed to be the date of filing of that pleading.

Complainants also allege that Judge Flores violated the right to due process of the Secretary of Finance and Commissioner of Internal Revenue when he treated their comment to the Rule 65 petition as a mere scrap of paper. And in impleading Aspe and Olasiman as respondents to the contempt petition, Judge Flores sentenced them even if they had no opportunity to speak a single word in their defense.

Moreover, complainants assail Judge Flores's alleged bias when he enjoined the implementation of Hefti and Esquivias's orders.

In his comment,¹⁴ Judge Flores cites an earlier complaint filed against him by the Coalition of Chambers of Commerce and Industry Associations, Northern Mindanao which was docketed as A.M. No. 09-1-46-RTC. He cites that upon recommendation of the Office of the Court Administrator in its Report dated January 28, 2009, we dismissed said complaint in a minute Resolution¹⁵ dated March 11, 2009 on the ground that (1) there was no sufficient evidence to show any anomaly or irregularity in the trial court's proceedings and (2) the propriety of the temporary restraining order, writ of preliminary injunction and Omnibus and Interim Order dated December 22, 2008 was a judicial matter which should be properly resolved in a judicial proceeding. Judge Flores also claims that while he may have erred in taking cognizance of Gandarosa's cases, he did so in good faith and without malice.

Upon evaluation of the present complaint and Judge Flores's comment, the Office of the Court Administrator issued a Report¹⁶ dated January 19, 2012 finding Judge Flores guilty of gross ignorance of the law. The Office of the Court Administrator adopted the ruling of the CA in CA-G.R. SP No. 02753-MIN that Judge Flores's seven orders were void since the trial court lacked jurisdiction over Gandarosa's case which was a personnel action within the jurisdiction of the Civil Service Commission; that Judge Flores's orders could only be enforced within the 12th Judicial

¹⁴ Id. at 200-222.

¹⁵ Id. at 231-233.

¹⁶ Id. at 324-331.

Region; that Judge Flores gravely erred in restraining the implementation of Hefti's order; and that Judge Flores failed to show cold neutrality in granting the writ of preliminary injunction based on documents identified by Gandarosa's counsel.

The recommendations of the Office of the Court Administrator are well taken.

But first, we address Judge Flores's statement that he had been exonerated in an earlier complaint filed by the Coalition of Chambers of Commerce and Industry Associations, Northern Mindanao. We examined the record of the earlier complaint against Judge Flores and we find that it is not identical to the present complaint. The Coalition of Chambers of Commerce and Industry Associations, Northern Mindanao, had asked the Office of the Court Administrator to review the temporary restraining order issued by Judge Flores. The Coalition said that the venue of the Rule 65 petition gives the impression that Gandarosa hand-picked the Regional Trial Court, Branch 7, Tubod, Lanao del Norte. The Coalition also said that the Rule 65 petition is a wrong remedy as Gandarosa could have availed of administrative remedies within the Bureau of Internal Revenue all the way up to the Office of the President. The Coalition also claimed that Judge Flores prejudged the case and showed his bias and overreaching accommodation of Gandarosa by issuing the Omnibus and Interim Order dated December 22, 2008.

On the other hand, in the present case, we are called upon to determine whether Judge Flores committed gross ignorance of the law, manifest partiality, violation of due process, and conduct prejudicial to the best interest of the service. Contrary to Judge Flores's contention, there is no reason to treat the former complaint as having a substantial bearing on the present charges.

Now on the merits of the complaint.

We agree with the Office of the Court Administrator that Judge Flores committed gross ignorance of the law but we dismiss the other charges.

When a law or a rule is basic, judges owe it to their office to simply apply the law. Anything less is gross ignorance of the law. There is gross ignorance of the law when an error committed by the judge was gross or patent, deliberate or malicious. It may also be committed when a judge ignores, contradicts or fails to apply settled law and jurisprudence because of bad faith, fraud, dishonesty or corruption. Gross ignorance of the law or incompetence cannot be excused by a claim of good faith.¹⁷ When an error is so gross and patent, such error produces an inference of bad faith, making the judge liable for gross ignorance of the law.¹⁸

¹⁷ *Re: Anonymous Letter dated August 12, 2010, complaining against Judge Ofelia T. Pinto, RTC, Branch 60, Angeles City, Pampanga*, A.M. No. RTJ-11-2289, October 2, 2012, 682 SCRA 146, 152.

¹⁸ *Gacad v. Clapis, Jr.*, A.M. No. RTJ-10-2257, July 17, 2012, 676 SCRA 534, 548.

In *Republic v. Judge Caguioa*,¹⁹ we said that the rules on jurisdiction are basic and judges should know them by heart.

Here, Judge Flores assumed jurisdiction over the Rule 65 petition assailing Hefti's order when he should have dismissed the petition for Gandarosa's failure to exhaust administrative remedies. An employee who questions the validity of his transfer should appeal to the Civil Service Commission per Section 26(3), Chapter 5, Subtitle A, Book V of the Administrative Code of 1987, which reads:

SEC. 26. *Personnel Actions.* – x x x

x x x x

(3) *Transfer.* x x x

x x x. If the employee believes that there is no justification for the transfer, he may appeal his case to the [Civil Service] Commission.

Citing said provision of the Administrative Code of 1987, we ruled in *Hon. Vinzons-Chato v. Hon. Natividad*²⁰ that:

Moreover, under the law, any employee who questions the validity of his transfer should appeal to the Civil Service Commission. Respondent judge should have dismissed the action below for failure of private respondent to exhaust administrative remedies.

We reiterated the above rule in *Rualo v. Pitargue*,²¹ to wit:

Being [Bureau of Internal Revenue] employees, Perez and Vasquez focused their objections on security of tenure. In the case of Perez, respondents object to the specter of a transfer. In the case of Vasquez, respondents object to the place of transfer. Under the law, any employee who questions the validity of his transfer should appeal to the Civil Service Commission. The trial court should have dismissed the case as to Perez and Vasquez, who both failed to exhaust administrative remedies x x x.

The law is basic and jurisprudence is clear but Judge Flores failed to apply them. Judge Flores committed a gross and patent error which makes him liable for gross ignorance of the law notwithstanding his claim of good faith. Judge Flores even mentioned in the Order dated November 21, 2008 the contention of the Office of the Solicitor General that the trial court lacks jurisdiction over the case. Judge Flores's gross and patent error produces an inference of bad faith on his part, considering that the issue of jurisdiction was raised.

¹⁹ 608 Phil. 577, 604 (2009).

²⁰ 314 Phil. 824, 835 (1995).

²¹ 490 Phil. 28, 44 (2005).

And even if we assume that the trial court has jurisdiction over Gandarosa's Rule 65 petition, Section 4, Rule 65 of the Rules of Court requires that the petition must be filed in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. But the trial court presided by Judge Flores is within the 12th Judicial Region while the Head Office and Regional Office, Revenue Region No. 16, of the Bureau of Internal Revenue are respectively located in Metro Manila, National Capital Judicial Region, and Cagayan de Oro City, 10th Judicial Region. Judge Flores issued a temporary restraining order and writ of preliminary injunction against the Secretary of Finance and Commissioner of Internal Revenue who both hold office in Metro Manila, outside the territorial area where his court can exercise its jurisdiction. And while Revenue Region No. 16 has a district office in Tubod, Lanao del Norte, where the trial court is situated, the CA found that no court process was served on the said district office or in Gandarosa's residence in Tubod, Lanao del Norte. All court processes were served in the Regional Office of Revenue Region No. 16 based in Cagayan de Oro City, 10th Judicial Region.

In *Republic v. Judge Caguioa*,²² we found Judge Caguioa guilty of gross ignorance of the law. Among others, we said that the writ of preliminary injunction was issued to enjoin acts performed outside the territorial jurisdiction of the Regional Trial Court of Olongapo City. It was directed against government officials whose offices are located in Manila.

Another gross and patent error of Judge Flores is treating the comment of the Secretary of Finance and Commissioner of Internal Revenue as a mere scrap of paper because the comment was filed through LBC, not by personal filing or registered mail. But the established rule is that the date of delivery of pleadings to a private letter-forwarding agency is not to be considered as the date of filing thereof in court, and that in such cases, the date of actual receipt by the court, and not the date of delivery to the private carrier, is deemed the date of filing of that pleading.²³ Thus, even if the comment was filed through LBC, it cannot be considered as a mere scrap of paper. The comment was duly filed on the date it was received by the trial court.

Under Section 8(9) and Section 11(A) of Rule 140 of the Rules of Court, gross ignorance of the law is a serious charge, punishable by a fine of more than ₱20,000 but not exceeding ₱40,000, or by suspension from office without salary and other benefits for more than three months but not exceeding six months, or by dismissal from the service. Considering the circumstances of this case, we agree with the recommendation of the Office of the Court Administrator that Judge Flores be suspended from office without salary and, other benefits for three months and one day.

²² *Supra* note 19, at 603-604, 609.

²³ *Philippine National Bank v. Commissioner of Internal Revenue*, G.R. No. 172458, December 14, 2011, 662 SCRA 424, 433-434; *Charter Chemical and Coating Corp. v. Tan, et al.*, 606 Phil. 75, 80-81 (2009).

We note, however, that the Office of the Court Administrator did not discuss the charges of manifest partiality, denial of due process and conduct prejudicial to the interest of the service. This implies that Judge Flores is not guilty of these charges. In any event, we dismiss the charge of manifest partiality against Judge Flores for complainants' failure to prove by extrinsic evidence this serious allegation. We cannot presume that Judge Flores was biased and partial simply because he enjoined the implementation of Hefti and Esquivias's orders. We have held that there should be clear and convincing evidence to prove the charge of bias and partiality. Extrinsic evidence is required to establish bias. Absent extrinsic evidence, the decision itself would be insufficient to establish a case against the judge.²⁴

We also dismiss the charge of denial of due process. In the application of the principle of due process, what is sought to be safeguarded is not the lack of previous notice but the denial of the opportunity to be heard.²⁵ We note that the Secretary of Finance and the Commissioner of Internal Revenue, even if their comment was erroneously treated as a mere scrap of paper, were duly represented by the Office of the Solicitor General during the hearing on November 21, 2008 and were not denied the opportunity to be heard. They were likewise required to file their comment to the contempt petition in the Order dated December 15, 2008. When Aspe and Olasiman were impleaded as respondents in the contempt petition, there was a motion to implead them as additional respondents and Judge Flores stated in the Omnibus and Interim Order dated December 22, 2008 that Aspe and Olasiman were notified of the hearing for said motion. Complainants claimed that Aspe and Olasiman were already sentenced by Judge Flores in the Omnibus and Interim Order dated December 22, 2008 despite the fact that the hearing for the contempt petition was only scheduled on January 26, 2009.

We likewise dismiss the charge of conduct prejudicial to the interest of the service. In *Consolacion v. Gambito*,²⁶ we said that the rules do not provide a definition of, or enumeration of the acts constituting, conduct prejudicial to the best interest of the service. It refers to acts or omissions that violate the norm of public accountability and diminish – or tend to diminish – the people's faith in the Judiciary. If an employee's questioned conduct tarnished the image and integrity of his public office, he is liable for conduct prejudicial to the best interest of the service. We noted in *Consolacion v. Gambito* that Gambito's misrepresentation regarding the ownership and actual status of the tricycle which she sold to Consolacion unquestionably undermined the people's faith in the Judiciary. We also noted Gambito's transaction with Billamanca where Gambito facilitated two cases for the amount of ₱15,000, which was supposed to be used for publication, filing fee and sheriff's fee. Gambito also received ₱9,000, which was supposed to be for the bail of Erum's husband, but Gambito used

²⁴ *Elefant v. Judge Inting*, 502 Phil. 26, 29 (2005), citing *Mamerto Maniquiz Foundation, Inc. v. Hon. Pizarro*, 489 Phil. 127, 142-143 (2005).

²⁵ *Office of the Court Administrator v. Indar*, A.M. No. RTJ-10-2232, April 10, 2012, 669 SCRA 24, 37-38.

²⁶ A.M. Nos. P-06-2186 & P-12-3026, July 3, 2012, 675 SCRA 452, 463-466.

the money to buy her medicines and books of her daughter. We said that Gambito's unauthorized transactions constitute conduct grossly prejudicial to the interest of the service. In this case, complainants failed to allege any similar conduct on the part of Judge Flores.

WHEREFORE, we **FIND** respondent Judge Alan L. Flores of the Regional Trial Court, Branch 7, Tubod, Lanao del Norte, **LIABLE** for gross ignorance of the law, and **SUSPEND** him from office without salary and other benefits for three months and one day, with **WARNING** that similar acts in the future will be dealt with more severely.

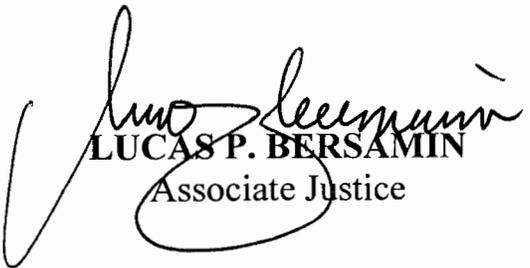
SO ORDERED.


MARTIN S. VILLARAMA, JR.
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


BIENVENIDO L. REYES
Associate Justice