



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

EN BANC

ARSENIO V. DELAGUA,
Complainant,

A.M. No. RTJ-20-2588
[Formerly OCA I.P.I. No. 14-
4336-RTJ]

Present:

- versus -

PERALTA, *CJ.*,
PERLAS-BERNABE,
LEONEN,
CAGUIOA,
GESMUNDO,
HERNANDO,
CARANDANG,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.,
DELOS SANTOS,
GAERLAN,
ROSARIO, and
LOPEZ, J., *JJ.*

PRESIDING JUDGE NIÑO A.
BATINGANA, Branch 6, Regional
Trial Court, Mati City, Davao
Oriental,

Respondent.

Promulgated: *Jose R. A. Mapa-Janket*

February 2, 2021

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DECISION

PER CURIAM:

Antecedents

Complainant Arsenio V. Delagua charged respondent Judge Niño A. Batingana with grave misconduct, immorality, and ignorance of the law relative to Special Proceeding No. 241, entitled "*In the matter of the Petition to Approve the Will of Francisco C. Delagua, Sr., Milagros V. Delagua, et al., petitioners.*"

Complainant essentially alleged:¹ In 1995, his father Francisco C. Delagua, Sr., during his lifetime, filed the petition for probate of his will in Special Proceeding No. 241. It was raffled to respondent's sala. Following his father's death in 2006, a certain Atty. Jose Estrada filed a motion to appoint Francisco Delagua, Jr. (Delagua, Jr.) as administrator of the estate. More than six (6) years later, respondent issued his Order dated February 8, 2013 appointing Delagua, Jr. as the new Special Administrator of the estate. This notwithstanding that Delagua, Jr. was disinherited in the will itself and the motion was never heard at all. In any event, Delagua, Jr. did not submit any accounting report since his appointment. During the hearing on September 9, 2014 though respondent ordered Delagua, Jr. to submit his accounting report within fifteen (15) days therefrom.

On October 15, 2014, respondent, together with his paramour Lang Lang Dimpas and some court staff visited the Delagua's beach resort where Delagua, Jr. served them gourmet food like *lechon de leche* and lobsters. During the hearing on the following day, respondent gave Delagua, Jr. a ten-day extension to submit the required accounting report instead of enforcing his previous directive.

He later discovered that long before Delagua, Jr. got appointed as administrator, respondent had already been friends with Delagua, Jr.. Together with his paramour, respondent frequently visited Delagua, Jr.. He thus filed a motion to inhibit respondent from handling SP No. 241 and the related civil case on ground of partiality. The latter denied the motion under Resolution² dated April 30, 2015.

Respondent was grossly negligent in the performance of his judicial duties for it took him more than six (6) years to finally resolve the simple motion to appoint Delagua, Jr. as administrator filed way back in 2006. Respondent's partiality made him lose his trust and confidence in the judicial system.

Respondent countered,³ **in the main:** His actions in subject cases were in accord with the rules and applicable laws. Complainant's prior appointment as administrator was revoked for failure to submit the required

¹ *Rollo*, pp. 2-6.

² *Id.* at 124.

³ *Id.* at 27-29 and 101-106.

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accounting report despite several chances given him. Complainant's accusations were all intended to discredit and harass him. He held several hearings and accorded complainant ample time to oppose the motion to appoint Delagua, Jr. as the new administrator. As for Delagua, Jr.'s alleged disinheritance, the same had yet to be proven aside from the fact that it was not raised as a ground to disqualify the new administrator.

The Proceedings before the Office of the Court Administrator (OCA) and the Court of Appeals

The records of the OCA showed that respondent was also a respondent in nine (9) other administrative charges. Eight (8) of them were already resolved all finding respondent liable as charged, *viz.*:⁴

	OCA IPI NO.	PARTIES		NATURE	STATUS
1	09-2-74-RTC	OCA vs.	BATINGANA, Niño A.	Re: Request for extension of time to decide case by Judge Batingana guilty of delay in rendering decision	FINED 25T (6-29-10)
2	RTJ-10-2227 (10-1-17-RTC)	OCA vs.	BATINGANA, Niño A.	Re: Judicial Audit	SUSPENDED 6 mo. (3-2-10)
3	05-8-463-RTC	OCA vs.	BATINGANA, Niño A.	Re: Request for extension of time to decide case by Judge Batingana guilty of undue delay in rendering decision in 2 cases	FINED 20T (2-17-10)
4	08-9-533-RTC	OCA vs.	BATINGANA, Niño A.	Re: Request for extension of time to decide case by Judge Batingana guilty of delay in deciding case	FINED 10T (2-1-10)
5	08-2-107-RTC	OCA vs.	BATINGANA, Niño A.	Re: Request for extension of time to decide case by Judge Batingana guilty of undue delay in rendering decision	FINED 11T (2-1-10)
6	RTJ-09-2210 (07-2-101-RTC)	OCA vs.	BATINGANA, Niño A.	Delay in rendering judgment	FINED 11T (11-16-09)
7	RTJ-08-2150 (05-7-443-RTC)	OCA vs.	BATINGANA, Niño A.	Re: Request for extension of time to decide Criminal Case No. 4651 and Civil Case No. 1890	Pending FINED 11T (8-2-10)
8	RTJ-08-2115 (05-09-607-RTC)	OCA vs.	BATINGANA, Niño A.	Gross inefficiency	FINED 15T (8-17-09)
9	RTJ-13-2346 (06-6-381-RTC)	OCA vs.	BATINGANA, Niño A.	Re: Request for Extension of Time	Pending

Pursuant to the OCA's recommendation,⁵ the administrative case was referred to an Associate Justice of the Court of Appeals for investigation and report and recommendation.

In his Report dated July 6, 2017,⁶ Investigating Justice Louis P. Acosta (Justice Acosta) found respondent guilty of immorality and gross misconduct in violation of the New Code of Judicial Conduct. Justice Acosta recommended respondent's suspension from office for not less than three (3) but not exceeding six (6) months, without pay, and with warning that a

⁴ *Id.* at 138-139.

⁵ *Id.* at 135-139.

⁶ *Id.* at 257-267.

repetition of the same or similar offense will warrant the imposition of a more severe penalty. Giving credence to the testimonies of complainant and Melencio Bartolome (Bartolome), Justice Acosta concluded that respondent, together with his alleged paramour and some court staff indeed visited Delagua, Jr. several times at the Delagua's beach resort. There, respondent received money from Delagua, Jr.. These acts constitute a violation of Canons 2, 3 and 4 of the New Code of Judicial Conduct. While there was no direct proof of an illicit affair between respondent and Dimpas, respondent's corrupt inclinations, associating himself with, and accepting money and favors from, a party-litigant who had a pending case in his sala also constitute immorality. Justice Acosta, however, found respondent not liable for ignorance of the law for complainant's failure to substantiate the same.

Ruling

The Court adopts the findings of Justice Acosta but modifies his conclusion and recommendation.

Gross Misconduct

The *Code of Judicial Ethics* mandates that the conduct of a judge must be free of any whiff of impropriety not only in regard to his discharge of judicial duties, but also to his behavior outside his office and even as a private individual. Judges should be extra prudent in associating with litigants and counsel who have matters pending before them to avoid even the mere perception of possible bias or partiality.⁷

In *Re: Godofredo B. Abul, Jr.*,⁸ the Court decreed that it is immaterial whether the judge actually demanded money in exchange for the liberty of the accused because by simply meeting and talking with the accused whose cases were then pending in his sala, the Judge already transgressed ethical norms and compromised his integrity and impartiality as the trial judge. The Court ruled that the judge's actuations flagrantly violated the norms and Canons 2, 3 and 4 of the New Code of Judicial Conduct for the Philippine Judiciary. The judge was found guilty of gross misconduct for which he would have been meted the extreme penalty of dismissal had he not died.

Here, complainant and Bartolome testified that respondent frequently visited Delagua, Jr. in their beach resort which was the property subject of the probate case pending before his sala. On October 15, 2014, Bartolome helped Delagua, Jr. prepare food for respondent and the latter's court staff and alleged paramour. Bartolome actually saw

⁷ *Re: Godofredo B. Abul, Jr.*, A.M. No. RTJ-17-2486, September 3, 2019, citing *Munsayac-De Villa v. Judge Reyes*, 525 Phil. 485, 511 (2006).

⁸ A.M. No. RTJ-17-2486, September 3, 2019.

respondent accept a pad of One Thousand Peso (₱1,000.00) bills from Delagua, Jr. at the beach resort and securing the same inside his pocket. Apart from his bare denial, respondent failed to adduce any competent and conclusive proof to controvert complainant's evidence.

Verily, although the money was not directly proven to be a bribe in connection with the cases pending before respondent's sala, respondent's frequent association with and accepting money and favors from party litigant Delagua, Jr. amounts to grave misconduct, a violation of the New Code of Judicial Conduct for the Philippine Judiciary, specifically Section 1 of Canon 2,⁹ Section 2 of Canon 3,¹⁰ and Section 1 of Canon 4.¹¹ It taints his integrity and impartiality for it reveals his corrupt inclination and clear intent to disregard these ethical principles enjoining judges to always act with integrity, propriety and impartiality.

Immorality

Complainant asserted that respondent brought and flaunted his alleged mistress, Dimpas, at Delagua's beach resort. Although complainant and Bartolome testified that Dimpas was one of respondent's companions during his visits at Delagua's beach resort, there was no substantial proof that the two (2) had an illicit affair. Hence, the charge of immorality against respondent must fail.

Ignorance of the law

The appointment of a special administrator rests on the sound discretion of the trial court.¹² Respondent found Delagua, Jr. qualified to be a special administrator for the latter did not exhibit any of the disqualifications set by law for an administrator.¹³ If complainant believed that the appointment was erroneous, he should have challenged respondent's Order dated February 8, 2013. But complainant did not.

For respondent's act to be considered gross ignorance of the law, petitioner must prove that the purported erroneous Order is contrary to existing law and jurisprudence and its issuance was prompted by bad faith, fraud, dishonesty, corruption, or deliberate intent to do an injustice.¹⁴ This, complainant failed to do. Hence, respondent cannot be held administratively liable for gross ignorance of the law either.

⁹ Section 1. Judges shall ensure that not only is their conduct above reproach, but that it is perceived to be so in the view of a reasonable observer.

¹⁰ Section 2. Judges shall ensure that his or her conduct, both in and out of court, maintains and enhances the confidence of the public, the legal profession and litigants in the impartiality of the judge and of the judiciary.

¹¹ Section 1. Judges shall avoid impropriety and the appearance of impropriety in all of their activities.

¹² *Heirs of Belinda Dahlia Castillo v. Lacuata-Gabriel*, 511 Phil. 371, 380-381 (2005).

¹³ Sections 1 and 6, Rule 78 of the Rules of Court.

¹⁴ *Extra Excel International Philippines, Inc. v. Hon. Afable Cajigal*, A.M. No. RTJ-18-2523 (Formerly OCA I.P.I. No. 14-4353-RTJ), June 06, 2018, citing *Office of the Court Administrator v. Salise*, 824 Phil. 797, 810 (2018).

Penalty

Under Section 8¹⁵ of A.M. No. 01-8-10-SC or the Amendment to Rule 140 of the Rules of Court (Re: Discipline of Justices and Judges), gross misconduct constitutes a serious offense under the Code of Judicial Conduct. Section 11 thereof provides the following penalties:

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;

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.

Judges are held to higher standards of integrity and ethical conduct than other persons not vested with public trust and confidence. They should uplift the honor of the judiciary rather than bring it to disrepute. Respondent miserably failed to measure up to these stringent judicial standards. His association with, and acceptance of money and favors from, a party-litigant who has a pending case before him, corrode the people's respect for the law and the courts, specifically because they were committed by a judge tasked to administer the law and render justice.¹⁶


In *Sy v. Judge Dinopol*,¹⁷ where respondent judge was found guilty of gross misconduct, the Court imposed the severe penalty of dismissal from the service, with accessory penalties due to his repeated infractions.

¹⁵ Section 8. Serious charges. Serious charges include:

1. Bribery, direct or indirect;
2. Dishonesty and violations of the Anti-Graft and Corrupt Practices Law (R.A. No. 3019);
3. **Gross misconduct constituting violations of the Code of Judicial Conduct;**
4. Knowingly rendering an unjust judgment or order as determined by a competent court in an appropriate proceeding;
5. Conviction of a crime involving moral turpitude;
6. Willful failure to pay a just debt;
7. Borrowing money or property from lawyers and litigants in a case pending before the court;
8. Immorality;
9. Gross ignorance of the law or procedure;
10. Partisan political activities; and
11. Alcoholism and/or vicious habits. (Emphasis Supplied).

¹⁶ *Tuvillo v. Judge Laron*, 797 Phil. 449, 467 (2016).

¹⁷ 654 Phil. 650, 667 (2011).



Here, respondent's past infractions and repeated breach of the provisions of the New Code of Judicial Conduct indubitably showed his unfitness to remain in office, which, had he not been dead, would have warranted his dismissal from the service, with forfeiture of benefits, except leave credits, as an accessory penalty.

The Court takes judicial notice though of the fact that Judge Batingana passed away on October 3, 2018 due to acute respiratory failure. Consequently, the dismissal of the present administrative case is in order.

In recent administrative cases involving judges as respondents, the Court has invariably resolved to dismiss these cases in view of respondents' death.

In *Flores-Concepcion v. Judge Castañeda*,¹⁸ Judge Castañeda was charged with conduct unbecoming of a Judge and ignorance of the law in connection with a nullity of marriage case. By Decision dated September 15, 2020, the Court *En Banc* took judicial notice of respondent's demise on April 10, 2018. It dismissed the administrative case against respondent and did not discuss her administrative liability anymore since there is no one left to punish after her death.

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*,¹⁹ the Court *En Banc*, under Decision dated September 8, 2020, granted the motion for reconsideration and ordered the dismissal of the administrative complaint against Judge Abul with finality. For humanitarian reasons, the Court ruled that **respondent's mistakes should not unduly punish his heirs**, especially if they had no part in or knowledge about respondent's extortion activities. **Respondent's liability should be considered personal and extinguished upon his death. It should not extend beyond his death, and its effects should not be suffered by his heirs, lest it indirectly impose a harsh penalty upon innocent individuals.** The Court stressed that respondent's heirs already had to deal with the sudden death of a loved one. This alone was more than enough for a family to bear. Hence, to allow respondent's administrative case and the forfeiture of all of his death and survivorship benefits to subsist beyond his death would unnecessarily add to the already deep sorrow and grief of his bereaved family. The Court *En Banc* elucidated:

Thus, considering that only substantial evidence is required in administrative cases, a respondent therein should likewise be presumed innocent if his/her death preceded the finality of a judgment, as in the case

¹⁸ A.M. No. RTJ-15-2438, September 15, 2020.

¹⁹ A.M. No. RTJ 17 2486 [Formerly A.M. No. 17-02-45-RTC], September 8, 2020.

of Judge Abul who can no longer submit additional evidence to support his position due to his passing. The presumption of innocence in his favor should stand precisely because his death preceded the promulgation of final judgment.

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If We were to sustain Our earlier ruling to forfeit all of his retirement benefits, Judge Abul can no longer file any motion or pleading to question the ruling because of his death. **Likewise, he can no longer exercise his right to due process, nor can he exhaust other possible remedies available to him. Similarly, he cannot ask for clemency in the future, an option which other respondents who did not meet the same fate can take advantage of if the circumstances permit.** In other words, had death not supervened, Judge Abul could have exerted efforts to protect his rights in keeping with the principle of due process. **Thus, it is only right to dismiss the administrative case against him, particularly since the spirit of due process encompasses all stages of the case, that is, from the investigation phase until the finality of the decision.** In other words, a respondent public officer should be given the opportunity to be heard throughout the whole proceedings. Indeed, “[t]he essence of due process is simply to be heard, or as applied to administrative proceedings, an opportunity to explain one’s side, or an opportunity to seek a reconsideration of the action or ruling complained of.”

Besides, the Constitution did not limit or qualify as to what kind of case, whether criminal, civil or administrative, should the principle of due process be applied to. To further assume an already deceased respondent to “participate” in the administrative proceedings would be absurd, precisely because he/she already lost the opportunity to be heard. **Hence, to continue adjudicating his/her case amidst his/her death would be a denial of due process.**

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To emphasize, **Judge Abul’s mistakes should not unduly punish his heirs, especially if they had no part in or knowledge about the alleged extortions. Judge Abul’s liability should be considered personal and extinguished upon his death.** Similarly, it should not extend beyond his death, and its effects should not be suffered by his heirs, for to do so would indirectly impose a harsh penalty upon innocent individuals. These same individuals already have to accept the sudden death of a loved one, the breadwinner at that. Such is already more than enough for any family to bear. **The non-dismissal of Judge Abul’s administrative case and forfeiture of all of his death and survivorship benefits would just unnecessarily add to the grief of his bereaved family.** Thus, the Court, faced with this opportunity to reconsider its prior ruling, **should finally dismiss the instant complaint** considering the aforementioned grounds. (Emphases supplied)

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Too, in *Anonymous complaint against Judge Edmundo Pintac et al.*,²⁰ where respondent Judge was administratively charged for his failure to inhibit from a case involving one of his court personnel, the Court *En Banc*, through Decision dated September 22, 2020, took judicial notice of Judge Pintac's demise and thus resolved to dismiss the administrative complaint against him.

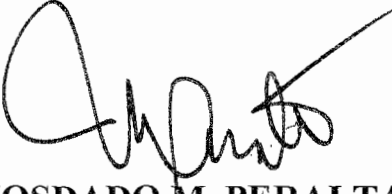
Finally, in *Santiago v. Judge Castañeda*,²¹ respondent Judge Castañeda was charged with conduct unbecoming of a Judge and ignorance of the law. The Court took judicial notice of Judge Castañeda's demise on April 10, 2018 and, consequently, dismissed the administrative complaint against her.

The same rule applies to the present case. In view of Judge Batingana's demise, it is no longer appropriate to impose any administrative liability of a punitive character. The administrative complaint against him, therefore, should be dismissed.

As a point of clarification, this ruling shall apply only to cases which have not yet attained finality when the respondent's demise occurs. This is consistent with the doctrine of immutability of judgment which states that a decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law, and whether it be made by the court that rendered it or by the Highest Court of the land.²²

WHEREFORE, the administrative complaint is **DISMISSED** in view of the demise of Judge Niño A. Batingana.

SO ORDERED.




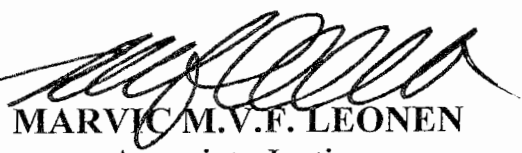
DIOSDADO M. PERALTA
Chief Justice

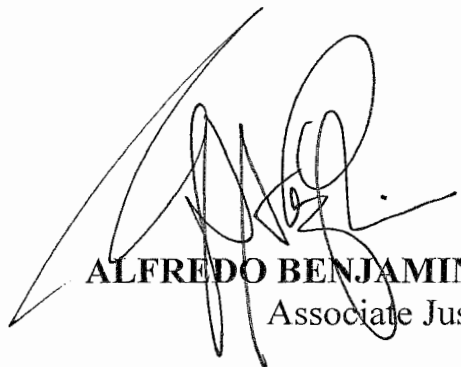
²⁰ *Anonymous complaint against Judge Edmundo Pintac and Lorelei Sumague, Stenographer, both of the Regional Trial Court, Branch 15 Ozamiz City (OCA IPI No. 10-3510-RTJ), Executive Judge Edmundo P. Pintac v. Rolando Ruiz, Process Server, Regional Trial Court, Branch 15, Ozamiz City (OCA IPI No. 10-3559-P), Rolando Ruiz, Process Server, Regional Trial Court, Branch 15, Ozamiz City v. Judge Edmundo Pintac, Executing Judge and Presiding Judge, Same Court (OCA IPI No. 11-3600-RTJ), and Rolando Ruiz v. Executive Judge Edmundo Pintac, Regional Trial Court, Branch 15, Ozamiz City (OCA IPI No. 11-3633-RTJ), September 22, 2020.*

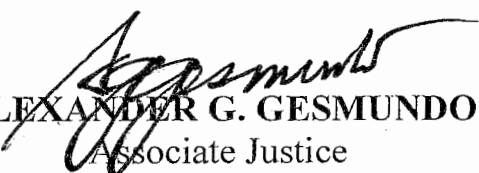
²¹ A.M. No. RTJ-14-2391 [formerly OCA IPI No. 10-3355-RTJ], October 5, 2020.

²² *People v. Santiago*, G.R. No. 228819 (Resolution), July 24, 2019.


ESTELA M. PERLAS-BERNABE
Associate Justice

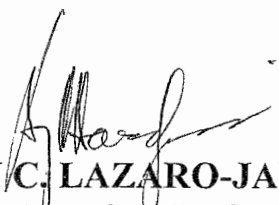

MARVIC M.V.F. LEONEN
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

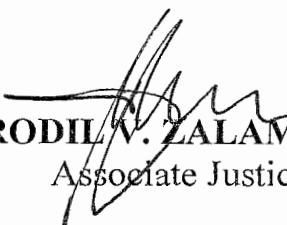

ALEXANDER G. GASMUNDO
Associate Justice



RAMON PAUL L. HERNANDO
Associate Justice


ROSMARI D. CARANDANG
Associate Justice

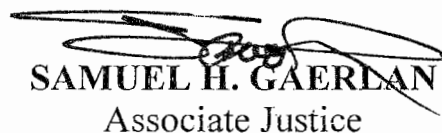

AMY C. LAZARO-JAVIER
Associate Justice

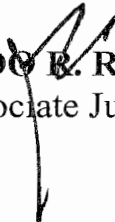

HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice

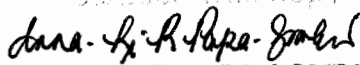

MARION V. LOPEZ
Associate Justice


EDGARDO L. DELOS SANTOS
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


RICARDO E. ROSARIO
Associate Justice


JHOSEP V. LOPEZ
Associate Justice

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