

EN BANC

[A.M. No. RTJ-19-2562 (Formerly A.M. No. 18-10-234-RTC), July 02, 2019]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
HON. PHILIP G. SALVADOR PRESIDING JUDGE, REGIONAL TRIAL
COURT OF LAOAG CITY, ILOCOS NORTE, BRANCH 13, AND
ACTING PRESIDING JUDGE, REGIONAL TRIAL COURT OF BATAAC
CITY, ILOCOS NORTE, BRANCH 17, RESPONDENT.**

D E C I S I O N

PERLAS-BERNABE, J.:

The instant administrative case arose from the report^[1] on the judicial audit conducted by the Judicial Audit Team of the Office of the Court Administrator (OCA) of the case records of Regional Trial Court (RTC) of Laoag City, Ilocos Norte, Branch 13 (RTC-Laoag) and RTC of Bataac City, Ilocos Norte, Branch 17 (RTC-Bataac), both handled by Judge Philip G. Salvador (Judge Salvador) as Presiding Judge and Acting Presiding Judge, respectively.

The Facts

On January 22, 2018, Judge Salvador, then Presiding Judge of RTC-Laoag and Acting Presiding Judge of RTC-Bataac, submitted his application for optional retirement effective January 31, 2018 to the Employees' Welfare and Benefits Division of the OCA, which was later approved in a Resolution dated April 3, 2018 in A.M. No. 16969-Ret.^[2] In view thereof, the Judicial Audit Team performed a judicial audit and inventory of Judge Salvador's cases in the aforesaid *salas*.^[3]

In a report^[4] dated August 8, 2018, the Judicial Audit Team reported to the OCA that despite the effectivity of Judge Salvador's optional retirement on January 31, 2018, he still conducted hearings, issued orders, and/or rendered decisions in ten (10) cases^[5] pending before the RTC-Laoag and in fifteen (15) cases pending before the RTC-Bataac.^[6] As such, it was recommended that: (a) a regular administrative case be filed against Judge Salvador for Grave Misconduct and Ignorance of the Law; and (b) the subject cases decided and resolved by Judge Salvador be referred to the designated acting presiding judge of RTC-Laoag and RTC-Bataac for their appropriate action.^[7]

The OCA's Report and Recommendation

In a report^[8] dated September 26, 2018, the OCA recommended that: (a) the report dated August 8, 2018 of the Judicial Audit Team be re-docketed as a regular

administrative matter; (b) Judge Salvador be found guilty of Conduct Grossly Prejudicial to the Best Interest of the Service, and accordingly, be meted with a fine in the amount of P100,000.00 in lieu of suspension; and (c) the decision and resolutions he rendered after January 31, 2018 be declared null and void, and said cases be ordered remanded to the court of origin for adjudication anew and promulgation of new decisions.^[9]

It found that since the decisions and resolutions were made after the effectivity date of Judge Salvador's optional retirement on January 31, 2018, the same were without authority, and therefore, should be considered null and void. It likewise ruled that the act of Judge Salvador in issuing said decisions and resolutions constitutes conduct grossly prejudicial to the best interest of the service, which is penalized by suspension from the service. However, considering Judge Salvador's retirement from service, the OCA recommended instead that he be fined in the amount of P100,000.00.^[10]

The Issue Before the Court

The sole issue presented for the Court's resolution is whether or not Judge Salvador should be administratively sanctioned.

The Court's Ruling

I.

At the outset, the Court notes that the OCA improperly recommended Judge Salvador to be administratively liable for Conduct Grossly Prejudicial to the Best Interest of the Service, given that such administrative offense is found in civil service laws and rules which have no application to administrative cases involving judges or justices of the lower courts. In the recent case of *Boston Finance and Investment Corporation v. Gonzalez*^[11] (*Boston Finance*), the Court *En Banc* had definitively settled, *inter alia*, that "in resolving administrative cases against judges or justices of the lower courts, **reference need only be made to Rule 140 of the Rules of Court** as regards the charges, as well as the imposable penalties."^[12] Likewise, it held that "[i]f the respondent judge or justice of the lower court is found guilty of **multiple offenses** under Rule 140 of the Rules of Court, the Court shall impose separate penalties for each violation," to wit:

- (a) **Rule 140 of the Rules of Court shall exclusively govern administrative cases involving judges or justices of the lower courts. If the respondent judge or justice of the lower court is found guilty of multiple offenses under Rule 140 of the Rules of Court, the Court shall impose separate penalties for each violation;** and
- (b) The administrative liability of court personnel (who are not judges or justices of the lower courts) shall be governed by the Code of Conduct for Court Personnel, which incorporates,

among others, the civil service laws and rules. If the respondent court personnel is found guilty of multiple administrative offenses, the Court shall impose the penalty corresponding to the most serious charge, and the rest shall be considered as aggravating circumstances.^[13] (Emphasis and underscoring supplied)

In light of the foregoing guidelines and pursuant to the power of the Court *En Banc* to discipline judges of lower courts, and even order their dismissal, if warranted,^[14] the Court now determines the administrative liability of Judge Salvador.

II.

In an effort to streamline the processing of applications for optional retirement filed by officials and employees of the Judiciary, the Court issued Administrative Circular No. 43-2004,^[15] pertinent portions of which read:

WHEREFORE, the following new guidelines in the filing of applications for OPTIONAL retirement are hereby adopted **for strict compliance** by all concerned:

1. All applications for optional retirement shall **specify the date of effectivity thereof** and should not make it effective "upon approval by the Court."

x x x x

3. The application should be **filed at least SIX (6) MONTHS prior to the effectivity date of the retirement** indicated in the application.

x x x x

5. **If on the date specified in the application as the date of the effectivity of the retirement, the applicant has not yet received any notice of approval or denial of his application, he shall cease working and discharging his functions unless directed otherwise.**

x x x x (Emphases and underscoring supplied)

In this case, the Court notes that while Judge Salvador complied with the first guideline by indicating the effectivity date of his optional retirement on January 31, 2018, he violated: (a) the third guideline as he filed his application for optional retirement only on January 22, 2018, or a mere nine (9) days – not six (6) months as required – prior to the effectivity date of his optional retirement; and (b) the fifth guideline as he specified, in his application, January 31, 2018 as the effectivity date of his optional retirement and yet, still continued to discharge his functions as

Presiding Judge and Acting Presiding Judge of the RTC-Laoag and the RTC-Batac, respectively, even after the said date. This constitutes the less serious charge of Violation of Supreme Court Rules, Directives, and Circulars under Section 9 (4), Rule 140 of the Rules of Court.

Moreover, by presiding over cases and even issuing orders and resolutions even after his optional retirement on January 31, 2018, the Court finds that Judge Salvador committed multiple counts^[16] of Gross Ignorance of the Law, which is a serious charge under Section 8 (9), Rule 140 of the Rules of Court. In *OCA v. Alaras*,^[17] the Court eloquently explained the nature of this administrative offense, to wit:

Gross ignorance of the law is the disregard of basic rules and settled jurisprudence. A judge may also be administratively liable if shown to have been motivated by bad faith, fraud, dishonesty or corruption in ignoring, contradicting or failing to apply settled law and jurisprudence. Though not every judicial error bespeaks ignorance of the law and that, if committed in good faith, does not warrant administrative sanction, the same applies only in cases within the parameters of tolerable misjudgment. Such, however, is not the case with Judge Mislang. Where the law is straightforward and the facts so evident, failure to know it or to act as if one does not know it constitutes gross ignorance of the law. **A judge is presumed to have acted with regularity and good faith in the performance of judicial functions. But a blatant disregard of the clear and unmistakable provisions of a statute, as well as Supreme Court circulars enjoining their strict compliance, upends this presumption and subjects the magistrate to corresponding administrative sanctions.**

For liability to attach for ignorance of the law, the assailed order, decision or actuation of the judge in the performance of official duties must not only be found erroneous but, most importantly, it must also be established that he was moved by bad faith, dishonesty, hatred, or some other like motive. Judges are expected to exhibit more than just cursory acquaintance with statutes and procedural laws. They must know the laws and apply them properly in all good faith. Judicial competence requires no less. Thus, unfamiliarity with the rules is a sign of incompetence. Basic rules must be at the palm of his hand. When a judge displays utter lack of familiarity with the rules, he betrays the confidence of the public in the courts. Ignorance of the law is the mainspring of injustice. Judges owe it to the public to be knowledgeable, hence, they are expected to have more than just a modicum of acquaintance with the statutes and procedural rules; they must know them by heart. **When the inefficiency springs from a failure to recognize such a basic and elemental rule, a law or a principle in the discharge of his functions, a judge is either too incompetent and undeserving of the position and the prestigious title he holds or he is too vicious that the oversight or omission was deliberately done in bad faith and in grave abuse of judicial**

authority. In both cases, the judge's dismissal will be in order.^[18]
(Emphases and underscoring supplied)

It is an elementary rule that a judge has no authority to act on a case once he has retired from office. Undoubtedly, retirement is one of the recognized modes of severing one's public employment. Retirement has been defined as a withdrawal from office, public station, business, occupation, or public duty.^[19] In this regard, jurisprudence states that when a judge retires, all his authority to decide any case, *i.e.*, to write, sign and promulgate the decision thereon, also 'retires' with him. In other words, he had lost entirely his power and authority to act on all cases assigned to him prior to his retirement.^[20] However, despite his optional retirement on January 31, 2018, Judge Salvador continued to discharge his previous functions as Presiding Judge and Acting Presiding Judge of the RTC-Laoag and the RTC-Batac, respectively. Clearly, such actions exhibited his utter lack of conversance about a basic tenet of law and procedure. As such, he should be held administratively liable for Gross Ignorance of the Law, which infraction he is considered to have committed for every case he had presided over/decided beyond the effective date of his retirement.

III.

Anent the proper penalty to be meted on Judge Salvador, Section 11 (A), Rule 140 of the Rules of Court provides that a serious charge, such as Gross Ignorance of the Law, may be punishable by: (a) **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 and controlled corporations, provided, however, that the forfeiture of benefits shall in no case include accrued leave credits;** (b) suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or (c) a fine of more than P20,000.00 but not exceeding P40,000.00.

On the other hand, Section 11 (B) of the same Rule provides that a less serious charge, such as Violation of Supreme Court Rules, Directives, and Circulars, may be punishable by: (a) suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months; or (b) **a fine of more than P10,000.00 but not exceeding P20,000.00.**

Considering that Judge Salvador has been found guilty of multiple counts of Gross Ignorance of the Law under Rule 140 of the Rules of Court, the Court, pursuant to *Boston Finance*, shall impose the penalty of dismissal, each for his multiple acts of Gross Ignorance of the Law, and separately, a fine of P20,000.00 for his Violation of Supreme Court Rules, Directives, and Circulars.

However, since Judge Salvador had already retired and can no longer be dismissed from the service as penalty for his multiple acts of Gross Ignorance of the Law, the Court deems it proper to instead, forfeit all his retirement benefits, except accrued leave credits. Indeed, similar to cases of supervening death during the pendency of