

SECOND DIVISION

[**A.M. No. RTJ-15-2407 (Formerly OCA IPI No. 12-3834-RTJ), November 22, 2017**]

**EDGAR R. ERICE, COMPLAINANT, V. PRESIDING JUDGE
DIONISIO C. SISON, REGIONAL TRIAL COURT, BRANCH 125,
CALOOCAN CITY, RESPONDENT.**

DECISION

CAGUIOA, J:

This is an administrative matter^[1] filed by Edgar R. Erice (Erice) against the now-retired Judge Dionisio C. Sison (Judge Sison) of the Regional Trial Court (RTC), Branch 125, Caloocan City, for violation of Section 8, paragraphs 3, 4 and 9 of A.M. No. 01-8-10-SC,^[2] in particular: (i) gross misconduct constituting violations of the Code of Judicial Conduct, (ii) knowingly rendering an unjust judgment or order as determined by a competent court in an appropriate proceeding, and (iii) gross ignorance of the law or procedure.^[3]

BACKGROUND

The facts leading to the filing of the complaint are as follows:

Complainant Erice, then Vice Mayor of Caloocan City, filed a complaint against then Mayor Enrico R. Echiverri, City Treasurer Evelina Garma, Budget Officer Jesusa Garcia and City Accountant Edna Centeno (Echiverri, *et al.*) before the Office of the Ombudsman, for alleged violation of the Government Service Insurance System Act.^[4] Acting on the complaint, the Ombudsman issued an *Order*^[5] of *Preventive Suspension (Order of Suspension)* on July 18, 2011 against Echiverri, *et al.*, to last until the administrative adjudication is completed but not to exceed six (6) months.^[6]

Aggrieved by the *Order of Suspension*, Echiverri, *et al.* elevated the matter to the Court of Appeals (CA). While Echiverri, *et al.* were able to obtain a temporary restraining order (TRO) and a writ of preliminary injunction from the CA Special 14th Division, nevertheless, in its Decision^[7] dated January 2, 2012, the CA **affirmed** the *Order of Suspension* of the Ombudsman and lifted and set aside the TRO. The decretal portion of the CA *Decision* of January 2, 2012 provides:

WHEREFORE, premises considered, the Writ of Preliminary Injunction issued by this Court is hereby **LIFTED** and **SET ASIDE**. Accordingly, the assailed Order dated July 18, 2011 issued by the Office of the Ombudsman in OMB-C-A-11-0401-G is hereby **AFFIRMED**.

SO ORDERED.^[8]

A week later, or on January 9, 2012, Echiverri, *et al.* filed a *Petition for Declaratory Relief with Prayer for TRO and/or Writ of Preliminary Injunction*^[9] with the RTC of Caloocan City, which was docketed as Special Civil Action No. C-1060 (2012)^[10]. Named as Respondents in the *Petition for Declaratory Relief* were Erice (Complainant in the present administrative matter) and the Department of Interior and Local Government (DILG). Echiverri, *et al.* prayed that the RTC "make a definite judicial declaration on the rights and obligations of the parties asserting adverse legal interests with respect to the implementation of [their] suspension."^[11]

On even date, RTC Executive Judge Eleanor R. Kwong issued a 72-hour *ex-parte Order* to enjoin the DILG and Erice from implementing the *Order of Suspension*. Subsequently, the case was raffled and assigned to Judge Lorenza R. Bordios.^[12]

In the summary hearing held on January 10, 2012, Erice and the DILG questioned the jurisdiction of the RTC to hear the matter, considering that the object of the *Petition for Declaratory Relief* were the CA Decision and the *Order of Suspension* of the Ombudsman. They also raised the matter of forum shopping, with Erice and the DILG pointing out that Echiverri, *et al.* had a pending *Motion for Reconsideration*^[13] filed with the CA and a *Motion to Hold in Abeyance the Implementation of the Order of Preventive Suspension*^[14] with the Office of the Ombudsman.^[15]

However, Judge Bordios inhibited herself from proceeding with the case on January 11, 2012. The case was subsequently re-raffled to herein Respondent Judge Sison.^[16]

On the same day, January 11, 2012, with the case now pending before Judge Sison, Erice and the DILG reiterated their *Motion to Dismiss* and *Motion to Dissolve*. That afternoon, Judge Sison noted that the 72-hour TRO of the *Order of Suspension* would be expiring the next day, on January 12, 2012, and that the parties ought to finish with the presentation of evidence before noon of January 12, 2012. Counsel for the DILG informed Judge Sison that the OSG was not informed that the summary hearing would proceed at 2:00 p.m. of January 11, 2012 before Branch 125. Nevertheless, Judge Sison proceeded with the hearing and allowed Echiverri, *et al.* to present their evidence until 5:00 p.m. that day.^[17]

The next day, at 8:00 a.m., the summary hearing continued. The OSG invoked its right to cross-examine the witnesses earlier presented by Echiverri, *et al.* but Judge Sison denied the same, allegedly without consulting the records from Branch 126 that would indicate that the OSG had made reservations to this effect on January 10, 2012. At 9:15 a.m., Judge Sison issued an *Order*^[18] extending the TRO to 20 days, inclusive of the 72-hour TRO earlier granted by Judge Kwong.^[19]

On the day scheduled for the hearing on the *Motion to Dismiss*, January 17, 2012, Judge Sison stated that he would hear evidence in support of the application for a writ of preliminary injunction. This compelled Erice to file an *Urgent Motion to Inhibit*.^[20] Without ruling on the *Motion to Inhibit*, Judge Sison issued the *Order*^[21] granting the writ of preliminary injunction.^[22]

For his part, in refuting the charges against him, Judge Sison denied any allegations of the violation of the right to due process of Erice and the DILG in allowing the

summary hearing to proceed and Echiverri, *et al.* to present evidence even though the OSG was not informed of said hearing.^[23] Judge Sison submitted that:

1. There is no basis for the claim of bias and partiality because the reason for the extension of the 72-hour TRO to a 20-day TRO was to accord Echiverri, *et al.* due process in allowing them to file their written comment and to argue against the Motion to Dissolve.^[24]
2. There was no "deplorable haste" in issuing the TRO and writ of preliminary injunction because "of the limited time provided by the Rules of Court," in particular, Rule 58, Section 5; and that Erice's counsel, "knowing this time constraint x x x should have made himself always ready to go to trial and to present his testimonial and documentary evidences (*sic*)."^[25]
3. While admitting that the DILG's counsel appeared before him and that he denied the OSG's claim of the right to cross-examine, Judge Sison claims that Erice failed to produce evidence that he made such rulings and therefore "should not be believed."^[26]

**The Office of the Court
Administrator (OCA) Report
dated November 4, 2014**

In its Report^[27] dated November 4, 2014, the OCA recommended that:

xxx [Respondent Judge be found **GUILTY** of Gross Ignorance of the Law and **FINED** in the amount equivalent to his one (1) month salary with a warning that a repetition of the same or similar act shall be dealt with more severely.^[28]

The basis for the OCA's recommendation are as follows:

First, insofar as the alleged haste is concerned, indeed, this Court had ruled in *Leviste v. Alameda*^[29] that "the pace in resolving incidents of the case is not *per se* an indication of bias."^[30] Nevertheless, Judge Sison's act of issuing a TRO and writ of preliminary injunction against Erice and the DILG to enjoin the latter from enforcing the Ombudsman's *Order of Suspension* constitutes a violation of Section 14 of Republic Act No. (RA) 6770,^[31] which provides:

SEC. 14. *Restrictions.* — No writ of injunction shall be issued by any court to delay an investigation being conducted by the Ombudsman under this Act, unless there is a *prima facie* evidence that the subject matter of the investigation is outside the jurisdiction of the Office of the Ombudsman.

No court shall hear any appeal or application for remedy against the decision or findings of the Ombudsman, except the Supreme Court, on pure question of law.

Second, in a similar case, *Ogka Benito v. Balindong*,^[32] therein Respondent Judge Balindong issued a 72-hour TRO and extended the same for 20 days, against the enforcement of a DILG Department Order implementing a decision to suspend an official for nine months. This Court found that Judge Balindong's act constituted

gross ignorance of the law for violating Section 14 of RA 6770. Judge Balindong was fined P30,000.00.^[33]

Third, the OCA observed that although denominated as a *Petition for Declaratory Relief*, it was clear that Echiverri, *et al.* merely sought the injunction to prevent the implementation of the Ombudsman's *Order of Suspension*. In this regard, it is the CA that has appellate jurisdiction over the administrative cases resolved by the Ombudsman. Thus, Judge Sison cannot relax the rules, take cognizance of the case, and issue a TRO and writ of injunction which are beyond his authority.^[34]

The OCA noted that this is Judge Sison's **second** offense. In A.M. No. RTJ-07-2050, he was found guilty of Gross Ignorance of the Law and was fined P10,000.00. Considering that this is Judge Sison's second offense, the penalty of suspension should have been imposed on him; however, since he was due for compulsory retirement on December 9, 2014, the OCA recommended that in lieu of suspension, Judge Sison should be meted a penalty of fine equivalent to one (1) month's salary.^[35]

This Court's Resolutions

In a *Resolution* dated February 23, 2015, this Court **noted** the OCA Report dated November 4, 2014 recommending that Judge Sison be found guilty of gross ignorance of the law and be fined an amount equivalent to one (1) month's salary, with a warning that repetition of the same or similar act will be dealt with more severely.^[36]

Subsequently, in a *Resolution* dated August 5, 2015, this Court, acting on Judge Sison's request for the payment of his terminal leave, resolved the same in his favor, and released the terminal leave benefits after retaining the amount equivalent to his two (2) months' salary, to answer for whatever penalty the Court may impose against him in his pending administrative cases.^[37]

DISCUSSION

The Court agrees with the findings of the OCA, with a modification on the penalty imposed on Judge Sison.

Gross ignorance of the law is a serious charge under Section 8, Rule 140 of the Rules of Court as amended by A.M. No. 01-8-10-SC. It requires the judge to perform his/her duty to be acquainted with the basic legal command of law and rules.^[38] Consequently, a judge becomes liable for gross ignorance of the law when there is a patent disregard for well-known rules so as to produce an inference of bad faith, dishonesty and corruption.^[39]

Against these parameters, Judge Sison failed to perform his basic duty to be acquainted with the fundamentals of the very law he was tasked to uphold, and this conclusion remains unchanged notwithstanding the Court's supervening Decision in *Carpio Morales v. Court of Appeals*.^[40] In *Carpio Morales*, the Court: (1) declared as unconstitutional Section 14(2)^[41] of RA 6770, and (2) declared as ineffective the policy in Section 14(1)^[42] of RA 6770 against the issuance of a provisional injunctive writ by courts other than the Supreme Court to enjoin an investigation