

EN BANC

[**A.M. No. MTJ-07-1688 (Formerly OCA I.P.I. No. 05-1763-MTJ), February 10, 2009**]

DANILO DAVID S. MARIANO, COMPLAINANT, VS. JUDGE JOSE P. NACIONAL, RESPONDENT.

RESOLUTION

CORONA, J.:

This concerns an administrative complaint stemming from an action for ejectment^[1] docketed as Civil Case No. 12334.^[2] In the course of the ejectment proceedings, respondent Judge Jose P. Nacional issued a pre-trial order dated September 3, 2004 requiring the parties to file their respective position papers and affidavits of witnesses on September 30, 2004. The parties complied with the September 3, 2004 order.

Subsequently, respondent issued an order dated December 28, 2004^[3] requiring the parties to submit their respective "memorand[a] in the form of a court decision." The parties likewise complied with this order. The case was eventually decided by respondent on February 14, 2005.

Complainant avers that the issuance of the December 28, 2004 order violated the prohibition on memoranda by the Revised Rules on Summary Procedure (RRSP). Complainant likewise posits that respondent violated the Rules when he decided the case only on February 14, 2005 or 136 days from the date required by law.^[4]

In view of respondent's acts, complainant filed this administrative complaint for gross inefficiency, gross ignorance of the law, dereliction of duty and violation of judicial conduct.

In his comment, respondent admitted that he had exceeded the maximum period allowed under the RRSP. He offered the following excuses: (1) the quality of his decision had priority over compliance with the reglementary period; (2) his caseload was heavy and (3) the documents of the case were voluminous. He also justified his December 28, 2004 order by stating that the case was "not an ordinary one."^[5]

Respondent added that this administrative complaint was filed only because the judgment was against complainant.

In its evaluation, the Office of the Court Administrator (OCA) found that respondent violated basic procedure and the code of judicial conduct.^[6] It also found that respondent had been previously admonished for gross ignorance of the law, dereliction of duty, partiality, oppression and incompetence in *Prado v. Judge Nacional*.^[7]

The OCA recommended that respondent be held liable for violation of judicial conduct and gross ignorance of the law or procedure. It proposed that respondent be fined P20,000 with a stern warning that a repetition of the same or similar act would be dealt with more severely.

The findings of the OCA are well-taken but we do not agree with the recommended penalty.

Without doubt, Civil Case No. 12334 was a case of unlawful detainer covered by the RRSP.^[8] Section 5 of the RRSP explicitly provides that only complaints, compulsory counterclaims and cross-claims pleaded in the answer, as well as the answers to these pleadings, are allowed. The RRSP also expressly prohibits the filing of a memorandum.^[9] The same prohibition is contained in Section 13, Rule 70 of the Rules of Court (ROC).

The urgency of restoring social order is the paramount consideration in settling unlawful detainer and forcible entry cases. To aid the judiciary in proceeding with these cases, the RRSP was promulgated with the following rationale:^[10]

[T]he adoption of the Rule on Summary Procedure is part of the commitment of the judiciary to enforce the constitutional right of litigants to a speedy disposition of their cases. It was promulgated [to] achiev[e] "an expeditious and inexpensive determination of cases." Any member of the judiciary who causes the delay sought to be prevented by the Rule is sanctionable.

The necessity of promptly resolving unlawful detainer and forcible entry cases is made more imperative by the express legal provisions on periods of rendition of judgments. Specifically, Section 11, Rule 70 of the ROC provides that the court shall render judgment within 30 days after receipt of the

affidavits and position papers, or expiration of the period for filing the same. The RRSP provides for the same period.

Corollarily, Rule 3.05, Canon 3 of the Code of Judicial Conduct^[11] admonishes all judges to dispose of the court's business promptly and decide cases^[12] within the period specified in Section 15 (1) and (2), Article VIII of the Constitution.^[13] This is supplemented by Section 5, Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary^[14] requiring judges to perform all judicial duties efficiently, fairly and with reasonable promptness.

We cannot accept the justifications advanced by respondent. Doing so will undermine the wisdom behind procedural rules and diminish respect for the law. We reiterate that a judge (by himself) cannot choose to prolong the period for deciding cases beyond that authorized by law.^[15] If a judge needs more time to decide a case, he should formally request this Court for an extension of the deadline.

The rules of procedure are clear and unambiguous, leaving no room for interpretation. We have held in numerous cases that the failure to apply elementary rules of procedure constitutes gross ignorance of the law and procedure.^[16] Neither

good faith nor lack of malice will exonerate respondent because, as previously noted, the rules violated were basic procedural rules. All that was needed for respondent to do was to apply them.^[17] Unfortunately, he chose not to.

It is settled that one who accepts the exalted position of a judge owes the public and the court the ability to be proficient in the law and the duty to maintain professional competence at all times.^[18] Competence and diligence are prerequisites to the due performance of judicial office.^[19]

We note that aside from *Prado v. Judge Nacional*^[20] for which respondent was admonished in 2001, he was also indicted for conduct unbecoming of a judge in *Abesa v. Judge Nacional*.^[21]

Respondent argues that his 24 years in the judiciary should be considered in his favor. We disagree. Length of service, as a factor in determining the impossible penalty in administrative cases, is a double-edged sword. While it can sometimes help mitigate the penalty, it can also justify a more serious sanction.^[22] Whatever it is, a judge's long years of service on the bench are no excuse for ignorance of procedural rules.^[23]

As to the penalty that should be properly meted out to respondent, A.M. No. 01-8-10-SC governs.^[24] Gross ignorance of the law and procedure is classified as a serious charge.^[25] And for his violation of the Code of Judicial Conduct, the evidence shows that he only committed simple misconduct, a less serious charge.^[26]

Pursuant to A.M. No. 02-9-02-SC,^[27] this administrative case against respondent is also considered a disciplinary proceeding against him as a member of the bar.^[28] Violation of the basic tenets of judicial conduct embodied in the New Code of Judicial Conduct for the Philippine Judiciary and the Code of Judicial Conduct constitutes a breach of Canons 1^[29] and 12^[30] as well as Rules 1.03^[31] and 12.04^[32] of the Code of Professional Responsibility (CPR). Respondent also transgressed Rule 10.03^[33] of the CPR when he violated the provisions of the RRSP and the ROC.

WHEREFORE, respondent Judge Jose P. Nacional is hereby found **GUILTY** of gross ignorance of the law and procedure for which he is **FINED** P40,000. He is also found **GUILTY** of violation of Rule 3.05, Canon 3 of the Code of Judicial Conduct and Section 5, Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary for which he is **FINED** P20,000. Respondent is furthermore found **GUILTY** of violation of Canons 1 and 12 as well as Rules 1.03, 10.03 and 12.04 of the Code of Professional Responsibility for which he is **FINED** P10,000.

He is hereby ordered to remit payment of the fines within ten (10) days from receipt of this resolution.

Respondent is **STERNLY WARNED** that a repetition of the same or similar offense shall warrant an even more severe penalty.

Let a copy of this resolution be attached to the personal records of respondent in