

EN BANC

[A.M. No. RTJ-00-1530, February 04, 2002]

**DR. EDGARDO ALDAY, MERCEDES FAVIS, MARNA VILLAFUERTE,
AND CHRISTOPHER GARCIA, COMPLAINANTS, VS. JUDGE
ESCOLASTICO U. CRUZ, JR., REGIONAL TRIAL COURT, MAKATI
CITY, BRANCH 58, RESPONDENT.**

RESOLUTION

PER CURIAM:

On March 14, 2001, this Court promulgated a decision suspending respondent judge Escolastico U. Cruz, Jr., for a period of one year and imposing on him a P50,000 fine, after finding him guilty of conduct grossly prejudicial to the service, with a warning that commission of a similar act will be dealt with more severely. The suspension came as a result of a complaint filed against respondent judge by herein complainants whom he threatened with a gun during a traffic altercation. On August 28, 2001, we denied with finality respondent judge's motion of reconsideration of our decision.

Respondent judge's suspension was to have been immediately executory. He received a copy of our decision on March 22, 2001, and thus should have begun to serve his suspension on that day. It appeared, however, that despite our suspension order, respondent judge continued to discharge the duties and exercise the functions of a judge. This was relayed to us in a letter dated August 1, 2001 by Executive Judge Leticia P. Morales of the Regional Trial Court, Makati City. She posed a query as to the legality and validity of the orders and decisions rendered by respondent judge during his suspension.

Thus, on September 18, 2001, we issued another resolution voiding the orders, decisions, and other issuances of respondent judge that were done during the period of his suspension, i.e. after March 22, 2001, the date when he received a notice of his suspension. We stressed that when suspension is "to take effect immediately", this Court means that the period of suspension should commence on the day respondent judge receives notice of the decision suspending him from office.

In the same resolution, we likewise ordered respondent judge to show cause why he should not be cited for contempt or otherwise penalized for disobedience in disregarding our decision dated March 14, 2001. We also directed Judge Morales to submit to this Court an inventory of cases acted upon by respondent judge after March 22, 2001. We received said inventory on October 15, 2001.

In an explanation submitted to this Court on September 26, 2001, respondent judge stated that he thought he did not have to serve suspension immediately since doing so would have rendered the decision final, thus foreclosing any other recourse to this Court. He also argued that had he immediately served his suspension, he

would have been deemed to have abandoned his office as judge. He pointed out that he had to act on matters pending in his sala lest his docket reach "unmanageable limits". [1] He averred that he intended to abide by this Court's decision, and pointed out that he promptly relinquished his office when his motion for reconsideration was denied.

We referred this matter to the Office of the Court Administrator for investigation, report, and recommendation on October 23, 2001, after we received the inventory of cases submitted by Judge Morales. The OCA submitted its report on December 7, 2001, with the recommendation that respondent judge be dismissed from the service for his disobedience to our suspension order.

In explaining its recommendation, the OCA cited respondent judge's obstinate refusal to heed the directive of this Court, which constitutes grave misconduct. The order of suspension clearly stated that it was "to take effect immediately", but respondent judge chose to disregard it. The OCA pointed out that respondent judge could not have been unaware of our pronouncement in *Development Bank of the Philippines v. Judge Angel S. Malaya (deceased) and Sheriff Roque Angeles, both of the RTC, Branch 22, Naga City*, P-98-1277 (formerly OCA-IPI No. 95-45 RTJ), July 27, 1999, to the effect that administrative penalties are to take effect immediately.

After a thorough evaluation of the records of this case, we agree with the OCA that respondent judge's deliberate refusal to obey our order dated March 14, 2001, suspending him from office is a grave misconduct that merits the supreme penalty of dismissal from the service. This is consistent with Civil Service Memorandum Circular No. 30, s. 1989, which imposes the penalty of dismissal for grave misconduct even for the first offense.

Indeed, we clarified in *Development Bank* that:

As penalties imposed in administrative cases are immediately executory, suspension of respondent should have begun at the time respondent received the resolution of August 31, 1998 on October 19, 1998. [2]

While this does not preclude the filing by respondent judge of a motion for reconsideration, the filing and pendency of such a motion does not have the effect of staying the suspension order. Contrary to respondent judge's contention, our decision suspending him was not "in suspense" during the time his motion for reconsideration was pending. Otherwise, as we stressed in our resolution dated September 18, 2001, the phrase "to take effect immediately" would be for naught. Respondent judge, however, chose to disregard our decision suspending him, explaining that he was impelled "by an honest misappreciation of the legal import of the adjudication's decretal clause." [3] We fail to see, however, how respondent judge could misappreciate, as he claims, the legal import of our order, given our ruling in *Development Bank*. Judges are expected to have more than a cursory acquaintance with law and jurisprudence, and respondent judge is no exception to this rule.

We are not persuaded by respondent judge's rationalization that he would not have any other recourse if he had desisted from performing his duties as judge upon receipt of our decision, or that it would "operate as an actionable abandonment of his office". [4] The language of our decision is clear as to leave no doubt in the mind