



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **January 19, 2021** which reads as follows:*

“A.M. No. MTJ-20-1947 [Formerly OCA IPI No. 18-3012-MTJ] (Leonardo San Pedro Hermoso v. Hon. Michelle C. Manaig-Calumpong). – This administrative matter stemmed from the complaint¹ of Leonardo San Pedro Hermoso (complainant) against Hon. Michelle C. Manaig-Calumpong (respondent), Presiding Judge of the Municipal Trial Court of San Juan, Batangas, in her capacity as Acting Presiding Judge of the Metropolitan Trial Court (MeTC) of Manila, Branch 11, for Gross Incompetence, Gross Ignorance of the Law, and Manifest Bias relative to Criminal Case No. 18-03388-CR, entitled *People v. Leonardo San Pedro Hermoso* for perjury.²

In his Complaint-Affidavit,³ complainant alleged that his sister, Ma. Salani Hermoso (Ma. Salani) filed a criminal case for perjury against him. This was raffled to the MeTC of Manila, Branch 11, on April 20, 2018, where respondent was then presiding. On the same day that the information was filed, respondent immediately issued a warrant for complainant’s arrest.⁴

During the pre-trial, four trial dates were given to the prosecution for the presentation of their witnesses: September 18, 2018, October 12, 2018, October 16, 2018, and October 27, 2018.⁵ The hearing set on September 18, 2018 was postponed because the private prosecutor failed to file their witness’ judicial affidavit. On the same day, Atty. Hermenegildo Linsangan, complainant’s lawyer, manifested that he would be filing a motion to suspend the

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¹ *Rollo*, pp. 2-4.
² *Id.* at 2.
³ *Id.* at 2-4.
⁴ *Id.* at 2-3.
⁵ *Id.* at 20.

proceedings, due to a prejudicial question brought about by a previous civil case filed by Ma. Salani. On October 5, 2018, Atty. Linsangan filed the aforementioned motion to suspend proceedings on account of a prejudicial question.⁶

On the hearing set for October 12, 2018, Atty. Linsangan sent his secretary to inform respondent that he would be late because he felt dizzy while driving from Gapan City, and he would therefore have to rest for a little while.⁷ However, the private prosecutor strongly insisted that he be allowed to present his witness, Ma. Salani, because she had come all the way from Italy.⁸ Despite complainant's plea that they wait for Atty. Linsangan, respondent appointed Atty. Magnum Agpaoa (Atty. Agpaoa) as *counsel de officio* to assist complainant in the trial proceedings that day.⁹ At that point, complainant felt that respondent had already unduly favored the side of the prosecution. When Atty. Linsangan arrived, the proceedings had ended and respondent was already trying another case.¹⁰

According to complainant, respondent's actions, when taken together, clearly show that she should be sanctioned. *First*, it was surprising that respondent swiftly issued his warrant of arrest on the same day that the information was filed. *Second*, respondent merely postponed the hearing set on September 18, 2018 despite the prosecution's failure to file their witness' judicial affidavit. No other penalty or sanction was imposed by respondent. *Lastly*, despite the pendency of the motion to suspend proceedings, respondent appointed a *counsel de officio* against complainant's will and allowed the presentation of a prosecution witness. Complainant alleges that these grounds are more than enough to show that respondent is guilty of Gross Incompetence, Gross Ignorance of the Law, and Manifest Bias.¹¹

In her Comment,¹² respondent categorically denied that she had acted with partiality towards either of the parties. She claims that her actions were proper in light of the pertinent rules of procedure and of the complainant's right to due process. *First*, she admits that the September 18, 2018 hearing was postponed due to the non-submission of the prosecution witness' judicial affidavit; however, the defense

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⁶ Id. at 2.

⁷ Id. at 2-3.

⁸ Id. at 25.

⁹ Id. at 20.

¹⁰ Id. at 3.

¹¹ Id. at 3-4.

¹² Id. at 19-36.

counsel did not object to the postponement.¹³ *Second*, respondent argues that on October 12, 2018, the hearing was initially deferred because Atty. Linsangan had not yet arrived. However, at around 10 AM, the latter's secretary could not determine where he was, and neither was it conveyed to her that Atty. Linsangan was dizzy. This led the private prosecutor to move that he be allowed to present his witness and that the defendant's right to cross-examine to be deemed waived. However, respondent decided to appoint Atty. Agpaoa as *counsel de officio*, as provided for in the Rules on Continuous Trial.¹⁴ *Lastly*, respondent argues that there is nothing anomalous in issuing the warrant of arrest on the same day that the information was filed before her court.¹⁵

Report and Recommendation of the Office of the Court Administrator

On August 14, 2020, the Office of the Court Administrator (OCA) found that respondent violated the Judicial Affidavit Rule. The OCA recommended that the instant administrative matter be re-docketed as a regular administrative matter; and, that respondent be reprimanded with a stern warning that a repetition of the same or similar acts in the future shall be dealt with more severely. The OCA also reminded respondent to be more circumspect in the performance of her duties, which should be discharged in accordance with duly issued rules, directives, and circulars of the Court.¹⁶

Ruling of the Court

The complaint is unmeritorious.

After a careful review of the records of this case, the Court resolves to adopt the findings and recommendations of the OCA.

First, the Court has discussed that gross ignorance of the law is present when a judge disregards basic rules and settled jurisprudence, or when he had been motivated by bad faith, fraud, dishonesty or corruption in ignoring, contradicting, or failing to apply settled law or jurisprudence. When the law is straightforward and when the facts are evident, failing to know it or acting as if one does not know it constitutes gross ignorance of the law.¹⁷

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¹³ Id. at 23.

¹⁴ Id. at 24-26.

¹⁵ Id. at 34.

¹⁶ Id. at 104-105.

¹⁷ *Office of the Court Administrator v. Alaras*, A.M. No. RTJ-16-2484, July 23, 2018.

In the present case, complainant's contention is belied by the Revised Guidelines on Continuous Trial which states that in the absence of the *counsel de parte*, the hearing shall proceed upon appointment by the court of a *counsel de officio*.¹⁸ Respondent therefore acted accordingly when she appointed Atty. Agpaoa as *counsel de officio* despite complainant's desire to be represented by Atty. Linsangan in the proceedings.

Second, this also implies that respondent cannot be held liable for incompetence because she properly applied what was provided for in the Revised Guidelines.

Third, the allegation of manifest bias due to the swift issuance of complainant's warrant of arrest also does not hold water. The Court has ruled that a judge cannot be faulted for simply acting promptly on a case pending before his or her sala.¹⁹ Absent any allegation of any other wrongdoing to show respondent's bias, she cannot be sanctioned by the Court.

However, respondent was mistaken in failing to sanction the private prosecutor when the latter failed to file the witness' judicial affidavit on time. Sections 2 and 10 of the Judicial Affidavit Rule are instructive. Section 2²⁰ states that judicial affidavits must be filed with the court and served on the adverse party five days before pre-trial, preliminary conference, or the hearing. On the other hand, Section 10²¹ provides that a late submission of a judicial affidavit may be

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¹⁸ 13(b), Section III of the Revised Guidelines for Continuous Trial of Criminal Cases, A.M. No. 15-06-10-SC, April 25, 2017.

(b) *Absence of counsel de parte*. – In the absence of the counsel de parte, the hearing shall proceed upon appointment by the court of a counsel de officio.

¹⁹ *Querubin, Jr. v. Bonilla*, A.M. OCA IPI No. 97-404-MTJ, October 13, 1999.

²⁰ Section 2 of the Judicial Affidavit Rule, A.M. No. 12-8-8-SC, September 4, 2012.

Section 2. *Submission of Judicial Affidavits and Exhibits in Lieu of Direct Testimonies*. –

(a) The parties shall file with the court and serve on the adverse party, personally or by licensed courier service, not later than five days before pre-trial or preliminary conference or the scheduled hearing with respect to motions and incidents, the following:

(1) The judicial affidavits of their witnesses, which shall take the place of such witnesses' direct testimonies; and

(2) The parties' documentary or object evidence, if any, which shall be attached to the judicial affidavits and marked as Exhibits A, B, C, and so on in the case of the complainant or the plaintiff, and as Exhibits 1, 2, 3, and so on in the case of the respondent or the defendant.

x x x x

²¹ Section 10 of the Judicial Affidavit Rule, A.M. No. 12-8-8-SC, September 4, 2012.

Section 10. *Effect of Non-Compliance with the Judicial Affidavit Rule*. – (a) A party who fails to submit the required judicial affidavits and exhibits on time shall be deemed to have waived their submission. The court may, however, allow only once the late submission of the same provided, the delay is for a valid reason, would not unduly prejudice the opposing party, and the defaulting party pays a fine of not less than P1,000.00 nor more than P5,000.00, at the discretion of the court.

x x x x

allowed if the delay is for a valid reason, would not unduly prejudice the opposing party, and the defaulting party pays a fine. Therefore, respondent was correct in allowing the subsequent presentation of a witness despite the failure of the prosecution to submit the judicial affidavit on time. In spite of this, she should have imposed a fine as mandated by the Judicial Affidavit Rule.

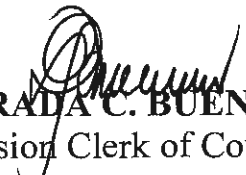
This error does not make her liable for manifest bias but for a less serious charge under Section 9(4)²² of Rule 140 of the Rules of Court. Notably, the Court has held that the penalty of reprimand is proper for violations of Supreme Court rules in the absence of proof showing that respondent acted with bad faith, malice, or corrupt motive.²³ Since this is her first administrative infraction and there is no showing of bad faith, malice, or corrupt motive, the penalty of reprimand is proper.

WHEREFORE, the Court finds respondent Judge Michelle C. Manaig-Calumpong, Presiding Judge of the Municipal Trial Court of San Juan, Batangas, and Acting Presiding Judge of the Metropolitan Trial Court of Manila, Branch 11, **GUILTY** of violating the Judicial Affidavit Rule and is hereby **REPRIMANDED** with a **STERN WARNING** that a repetition of the same or similar acts in the future shall be dealt with more severely.

Respondent Judge Manaig-Calumpong is **REMINDED** to be more circumspect in the performance of her duties, which should be discharged in accordance with the duly issued rules, directives, and circulars of the Court.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court SALDO

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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²² Section 9. *Less Serious Charges*. – Less serious charges include:

x x x x.

4. Violation of Supreme Court rules, directives, and circulars;

x x x x

²³ *Carpio v. Judge Elenita C. Dimaguila*, A.M. No. MTJ-17-1897, November 21, 2018.



Mr. Leonardo San Pedro Hermoso
Complainant
396 MLQ Street, Purok 5, Lower
Bicutan, 1632 Taguig City

Hon. Michelle C. Manaig-Calumpong
Respondent – Presiding Judge
The Hon. Presiding Judge
Municipal Trial Court
San Juan, 4226 Batangas

Hon. Jose Midas P. Marquez (x)
Court Administrator
Hon. Raul B. Villanueva (x)
Hon. Jenny Lind R. Aldecoa
-Delorino (x)
Hon. Leo Tolentino Madrazo (x)
Deputy Court Administrators
Hon. Lilian Barribal-Co (x)
Hon. Maria Regina A. F. M. Ignacio (x)
Assistant Court Administrators
OCA, Supreme Court

Office of Administrative Services (x)
Legal Office (x)
Court Management Office (x)
Financial Management Office (x)
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OCA, Supreme Court

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Philippine Judicial Academy (x)
Supreme Court

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