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arbitrary, overbearing, or tyrannical. He should refrain from conduct that demeans his office and remember always that courtesy begets courtesy. Above all, he must conduct himself in such a manner that he gives no reason for reproach. [*San Juan v. Bagalacsa*, 283 SCRA 416 (1997)] As stated in Canon 2 of the Code of Judicial Conduct, a judge should avoid impropriety and the appearance of impropriety in all his activities.

**WHEREFORE**, respondent Judge Agelio L. Bringas of the Municipal Trial Court in Cities, Branch 1, Butuan City is hereby found guilty of conduct unbecoming a member of the judiciary and is ordered *SUSPENDED* from office for one (1) month without pay with *WARNING* that repetition of the same or similar acts will be dealt with more severely. He is directed to stop referring to the Municipal Trial Court in Cities of Butuan City as the "City Trial Court" and to use instead its proper designation.

**SO ORDERED.**

*Bellosillo (Chairman), Quisumbing, Buena,* and *De Leon, Jr., JJ.*, concur.

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**EN BANC**

[A.M. No. RTJ-00-1550. April 6, 2000]

**ANTONIO T. ALMENDRA,** *complainant, vs.* **JUDGE ENRIQUE C. ASIS, Regional Trial Court, Branch 10, Abuyog, Leyte,** *respondent.*

**SYNOPSIS**

Gaudencio Almendra was declared co-owner with the defendants in Civil Case No. 3773, an action for quieting of title, filed with respondent Judge. The decision was affirmed on appeal by the Court of Appeals and later became final and executory. Subsequently,

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another action for quieting of title among the same parties was filed by Gaudencio's children again with respondent's sala. Respondent rendered judgment contrary to the ruling of the higher court finding the plaintiffs the rightful owners of the land. Thus, complainant Antonio Almendra filed the present administrative complaints against respondent for gross alteration, modification and disobedience to the final and executory judgment of the CA involving the same parties and subject matter. Complainant further alleged partiality when respondent dismissed, upon motion of the prosecutor, the libel case he filed against Fiscal Alvero.

A judge cannot amend a final decision, more so where the decision was promulgated by an appellate court, a violation of which constitutes serious inefficiency.

The fact that a judge ruled against a party in three cases filed before him did not amount to partiality in the absence of evidence that respondent acted in bad faith, malice, revenge or some other similar motive.

## SYLLABUS

1. **REMEDIAL LAW; JUDGMENT; *RES JUDICATA;* WHERE MATERIAL FACTS OR QUESTIONS ARE CONCLUSIVELY SETTLED BY JUDGMENT, SUCH FACTS OR QUESTIONS MAY NOT AGAIN BE RELITIGATED IN A SUBSEQUENT ACTION.** — "When material facts or questions which were in issue in a former action and were admitted or judicially determined there are conclusively settled by a judgment rendered therein, such facts or questions become *res judicata* and may not again be relitigated in a subsequent action between the same parties of their privies regardless of the form of the latter."

2. **JUDICIAL ETHICS; JUDGES; CANNOT AMEND A FINAL DECISION MORE SO THAT PROMULGATED BY APPELLATE COURT.—** Since the decision rendered in Civil Case No. 3773 had reached finality, respondent should have refrained from hearing the merits of Civil Case No. 214, considering that the issues in the latter case had been settled in a previous judgment involving the same parties. A judge cannot amend a final decision, more so where the decision was promulgated by an appellate court. Judges should respect the orders, resolutions and decisions of higher courts, specially the highest court.

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**3. ID.; ID.; FACT THAT RESPONDENT JUDGE RULED AGAINST COMPLAINANT DOES NOT AMOUNT TO PARTIALITY.** — In his three administrative complaints, Antonio Almendra repeatedly imputed charges of bias, partiality and unfairness against respondent judge. However, the fact that respondent judge ruled against complainant in the three cases filed before him did not amount to partiality against said complainant or warrant the conclusion that respondent rendered an unjust judgment. Mere suspicion that a judge was partial to a party is not enough as there should be adequate evidence to prove the charge. A judge will be held administratively liable for rendering an unjust judgment where he acts in bad faith, malice, revenge or some other similar motive. Absent the element of bad faith, an erroneous judgment cannot be the basis of a charge of any offense, mere error of judgment not being a ground for disciplinary action.

**4. ID.; ID.; GROSS INEFFICIENCY; MANIFEST IN RENDITION OF WRONGFUL JUDGMENT DESPITE EXISTENCE OF FINAL AND EXECUTORY JUDGMENT OF COURT OF APPEALS INVOLVING SAME PARTIES, SUBJECT MATTER AND CAUSE OF ACTION.**— Consequently, respondent judge may be held liable for rendering the wrongful judgment in Civil Case No. 214 despite the existence of a final and executory judgment of the Court of Appeals involving the same parties, subject matter and cause of action. Aside from violating a fundamental rule that no amendments may be made to a final and executory decision, respondent judge acted contrary to the ruling of a higher court. Thus, respondent judge is liable for serious inefficiency.

## RESOLUTION

**PARDO, *J.*:**

What is before the Court for consideration are three administrative complaints filed by Antonio T. Almendra against Judge Enrique C. Asis, presiding judge, Regional Trial Court, Branch 10, Abuyog, Leyte for partiality, gross ignorance of the law, knowingly rendering unjust judgment, and violation of the Anti-Graft and Corrupt Practices Act.

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The first administrative complaint arose from an action involving Antonio Almendra and his siblings. On December 2, 1965, Gaudencio Almendra filed with the Regional Trial Court, Branch 8, Tacloban City an action for quieting of title [1] over several parcels of land designated as Lot Nos. 4729, 4730, 4731, 4732, 4734 located in Barrio Paguite, Abuyog, Leyte. After due trial, on October 8, 1974, the trial court declared plaintiff Gaudencio Almendra and defendants Francisco, Vicente, and Antonio Almendra co-owners of the parcels of land in question. Consequently, the court ordered Gaudencio Almendra, who sold Lot No. 4730 to a third party, to pay defendants their share in the selling price of the land, and attorney's fees. Both parties appealed to the Court of Appeals.

On September 30, 1982, the Court of Appeals affirmed the decision of the trial court. [2] Thereafter, Gaudencio Almendra filed a petition for *certiorari* with the Supreme Court, but the Court denied the petition in a resolution dated July 20, 1983. [3] Later, the case was remanded to the court of origin for execution of judgment. Thus, Antonio Almendra took possession of a portion of Lot Nos. 4729 and 4731.

Subsequently, Thelma Almendra and Arthur Almendra, legitimate children of Gaudencio Almendra filed with the Regional Trial Court, Branch 10, Abuyog, Leyte an action for quieting of title with damages over Lot Nos. 4729 and 4731, [4] naming Francisco, Vicente and Antonio Almendra and Jose Portillo as defendants.

On March 29, 1996, Judge Enrique C. Asis declared Thelma and Arthur Almendra the rightful owners of Lot Nos. 4729 and 4731, recognizing their purchase of said lots as valid. [5]

This prompted Antonio Almendra to file with this Court an administrative complaint[6] dated July 30, 1996 against respondent

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[1] Docketed as Civil Case No. 3773.

[2] Docketed as C. A.-G. R. No. 58738-R.

[3] Resolution, dated July 20, 1983, in G. R. No. 64382 entitled "*Gaudencio B. Almendra vs. Intermediate Appellate Court, et al.,*" *Rollo,* p. 33.

[4] Docketed as Civil Case No. 214.

[5] Decision, *Rollo*, pp. 64-68.

[6] Complaint, *Rollo*, pp. 2-8.

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judge, alleging that respondent's decision dated March 29, 1996 "grossly altered, modified and disobeyed the Final and Executory Decision of the Court of Appeals" which was promulgated September 30, 1982 involving the same parties and subject matter.[7] Complainant contended that respondent judge caused "undue injury" through "manifest partiality, undue interest, evident bad faith or inexcusable negligence in failing to observe the doctrine of *res judicata*, in violation of par. (e), Section 3, Republic Act No 3019, known as the Anti-Graft and Corrupt Practices Act."[8]

On May 26, 1997 respondent judge filed his comment,[9] alleging that his decision did not reverse a previous final decision but merely specified the division of the property in question. In Civil Case No. 214, he delineated Lot Nos. 4731 and 4729 in favor of Thelma and Arthur Almendra and designated Antonio, Felipe, Vicente, Leoncio and Virgilio Almendra as owners of Lot Nos. 4732 and 4734. Thus, according to respondent judge, his decision merely implemented the decision in Civil Case No. 3773. He also stated that his decision favored complainant Antonio Almendra since the land delineated to him was greater in area and productivity than the others.

On June 26, 1997, Antonio Almendra filed another administrative complaint charging respondent Judge Enrique C. Asis with ignorance of the law for "apparent manifestations of bias, prejudice and unfairness, particularly relating to Civil Case No. 252, which manifestations are obvious violations of the law and the Rules of Court."[10]

Complainant alleged that on January 14, 1994, a certain Refugia Dictado filed with the Regional Trial Court, Branch 10, Abuyog, Leyte an action for recovery of property, inventory, and accounting of three parcels of land with prayer for issuance of writ of

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[7] CA-G.R. No. 58738-R, entitled "*Gaudencio Almendra vs. Jose Maria Veloso.*"

[8] Complaint, *Rollo*, p. 8.

[9] *Rollo*, pp. 72-79.

[10] Supplemental Complaint, *Rollo*, pp. 141-144.

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possession.[11] Judge Enrique C. Asis, presiding over the case, granted the prayer for the issuance of a writ of possession.

Antonio Almendra contended that respondent's order for the issuance of the writ of possession was "without legal basis and grossly unfair to complainant, which act constitutes gross ignorance of the law."[12] The plaintiffs in Civil Case No. 252 were in effect seeking "absolute and actual possession of the real property in question even during the pendency of the case," a remedy not provided for under the Rules of Court.[13]

Respondent judge, for his part, averred that complainant did not enjoy any right to possess the subject parcel of land because of his own admission that Refugia Dictado was the owner of the land in question. [14] Complainant did not dispute the fact that he was appointed administrator of the property in 1987 and that his authority was terminated in 1988. The issue pertained to complainant's failure to render an accounting of the property or vacate the property in question despite notice of termination of lease/administratorship. Thus, ownership of the property not being the question in the case, respondent judge decided to issue the writ of possession in favor of Dictado.[15]

On August 1, 1997, Antonio Almendra filed a third administrative complaint against respondent judge, [16] alleging that on March 21, 1996, he filed a complaint for libel against retired fiscal Eleodoro Alvero. The prosecutor filed the corresponding information before the respondent judge, and sought for the issuance of a warrant of arrest. Respondent judge issued a warrant of arrest but later dismissed the information for lack of probable cause.

Complainant deplored such dismissal, alleging that respondent's act of overruling the finding of probable cause of the prosecutor

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[11] Docketed as Civil Case No. 252.

[12] Supplemental Complaint, *Rollo*, p. 143.

[13] *Rollo*, p. 142.

[14] Comment, *Rollo*, p. 97.

[15] Comment, dated October 7, 1997, *Rollo*, pp. 97-101.

[16] Second Supplemental Complaint, *Rollo*, pp. 159-165.

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was not a judicial function since respondent's task was limited to a determination of whether or not a warrant of arrest should issue. Respondent judge should have nullified the warrant of arrest instead of dismissing the entire case outright.

Thus, Antonio Almendra prayed that respondent judge inhibit himself from all pending cases involving complainant, having exhibited manifest partiality against him. Complainant also reiterated that respondent judge should be held administratively liable for ignorance of the law.

On June 14, 1999, the Court referred the case to Associate Justice Remedios A. Salazar-Fernando for investigation, report and recommendation.[17]

On October 12, 1999, the investigating justice submitted her report to the Court recommending that respondent judge be held liable for serious inefficiency in rendering the judgment in Civil Case No. 214 despite the existence of a final and executory judgment of the Court of Appeals involving the same parties, subject matter, and cause of action and be meted the penalty of suspension from the service for two (2) months without pay with warning that a repetition of the same or similar acts will be dealt with more severely.

We agree with the findings and recommendation of the investigating justice.

"When material facts or questions which were in issue in a former action and were admitted or judicially determined there are conclusively settled by a judgment rendered therein, such facts or questions become *res judicata* and may not again be relitigated in a subsequent action between the same parties of their privies regardless of the form of the latter." [18]

The decision rendered by respondent judge in Civil Case No. 214 and the decision of the Court of Appeals upholding the decision of the lower court in Civil Case No. 3773 clearly show that the

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[17] Resolution, *Rollo*, p. 223.

[18] *Carlet vs. Court of Appeals*, 275 SCRA 97, 106 (1997).

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issues, parties and subject matter are identical. Both cases are actions for quieting of title involving the same parcels of land. Plaintiff in Civil Case No. 3773 merely sold to his children, or his successors-in-interest, two portions of the subject property and the latter filed another case for quieting of title ruled upon in a previous final decision. Thus, respondent judge, in rendering decision in Civil Case No. 214, acted contrary to the doctrine of *res judicata*, the requisites of which are: (a) the former judgment must be final; (b) the court which rendered it had jurisdiction over the subject matter and the parties; (c) it must be a judgment on the merits; and (d) there must be, between the first and second actions, identity of parties, subject matter and causes of action.[19]

Since the decision rendered in Civil Case No. 3773 had reached finality, respondent should have refrained from hearing the merits of Civil Case No. 214, considering that the issues in the latter case had been settled in a previous judgment involving the same parties. A judge cannot amend a final decision, more so where the decision was promulgated by an appellate court. Judges should respect the orders, resolutions and decisions of higher courts, specially the highest court.

Moreover, respondent's allegation that his decision in Civil Case No. 214 favored complainant Antonio Almendra because of improved lot area and productivity value of the portion awarded to him is untenable for being unsubstantiated, considering that the decision was rendered without any reference to specifications of the lots in question. Also, the contention that the decision is favorable to a party in the case runs contrary to respondent's earlier claim that the land was equally divided among the co-owners.

Anent the propriety of respondent's dismissal of an information for lack of probable cause, we fail to see any error in such dismissal. Respondent adequately proved that he dismissed the case on the basis of the motion of the prosecutor, stating the lack of probable cause in the libel charge and ruling that no malice existed in writing the subject letter which was shown to be a privileged communication.

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[19] *Nacuray vs. National Labor Relations Commission*, 270 SCRA 9 (1997); *Traders Royal Bank vs. Intermediate Appellate Court*, 273 SCRA 521 (1997).

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Regarding the issuance of a writ of possession pending trial, complainant failed to show that respondent judge's act was attended with fraud, dishonesty or corruption.

In his three administrative complaints, Antonio Almendra repeatedly imputed charges of bias, partiality and unfairness against respondent judge. However, the fact that respondent judge ruled against complainant in the three cases filed before him did not amount to partiality against said complainant or warrant the conclusion that respondent rendered an unjust judgment. Mere suspicion that a judge was partial to a party is not enough as there should be adequate evidence to prove the charge.[20] A judge will be held administratively liable for rendering an unjust judgment where he acts in bad faith, malice, revenge or some other similar motive.[21] Absent the element of bad faith, an erroneous judgment cannot be the basis of a charge of any offense, mere error of judgment not being a ground for disciplinary action.[22]

Consequently, respondent judge may be held liable for rendering the wrongful judgment in Civil Case No. 214 despite the existence of a final and executory judgment of the Court of Appeals involving the same parties, subject matter and cause of action. Aside from violating a fundamental rule that no amendments may be made to a final and executory decision, respondent judge acted contrary to the ruling of a higher court. Thus, respondent judge is liable for serious inefficiency.

However, we find no adequate evidence to support the allegations of the two supplemental complaints.

*In lieu* of suspension for two (2) months without pay recommended by the investigating justice, we opt to impose on respondent judge the penalty of suspension from office for ten (10) days and a fine of ₱40,000.00 considering that he was previously fined for another administrative case.

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[20] *Zamudio vs. Peñas, Jr.*, 286 SCRA 367 (1998).

[21] *Guerrero vs. Villamor,* 296 SCRA 88 (1998).

[22] *Ibid.*

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**WHEREFORE**, the Court finds respondent Judge Enrique C. Asis guilty of serious inefficiency and suspends him from office for ten (10) days and in addition, imposes a fine of ₱40,000.00, payable within ten (10) days from notice of this resolution, with *WARNING* that a repetition of the same or similar acts will be dealt with more severely.

**SO ORDERED.**

*Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Buena, Gonzaga-Reyes, Ynares-Santiago,* and *De Leon, Jr., JJ.,* concur.

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**EN BANC**

[A.M. No. RTJ-99-1448. April 6, 2000]

**SAPHIA M. MAGARANG,** *complainant, vs.* **JUDGE GALDINO B. JARDIN, SR.,** *respondent.*

**SYNOPSIS**

Complainant Saphia M. Magarang filed an administrative complaint charging respondent Judge Galdino B. Jardin, Sr. of the Regional Trial Court, Branch 05 of Butuan City, of corruption, incompetence, ignorance of the law and grave abuse of discretion. The complaint originated from the facts that on July 22, 1998 complainant's husband Nuruddin-Ali M. Magarang was appointed as Director III of the Department of Transportation and Communications for Caraga, vices Alexander Mama-O. Mama-O filed with the Regional Trial Court of Butuan City a petition for *quo warranto* with injunction questioning the appointment of Magarang. The case was assigned to the sala of the respondent judge. The respondent judge issued a temporary restraining order (TRO). After the hearing of the application for preliminary injunction, complainant went to the house of respondent judge to request him