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Considering the circumstances surrounding this case, we find respondent liable for simple neglect of duty. Simple neglect of duty is the failure of an employee to give proper attention to a task expected of him, signifying "disregard of a duty resulting from carelessness or indifference."[11] Under Section 52, Rule IV of the Civil Service Commission Memorandum Circular No. 19, Series of 1999, simple neglect of duty, if committed for the first time, as in this case, is punishable by suspension of 1 month and 1 day to 6 months.

WHEREFORE, respondent *Franklin Lluch* is hereby *FINED* in the sum of ₱2,000.00 with a warning that a repetition of similar act will be dealt with more severely.

SO ORDERED.

Melo (Chairman), Panganiban, and *Carpio, JJ.,* concur.

Vitug, J., on official leave.

FIRST DIVISION

[A.M. No. RTJ-00-1607. April 3, 2002]

ATTY. DANIEL O. OSUMO, *complainant, vs.* **JUDGE RODOLFO M. SERRANO, Presiding Judge, Regional Trial Court, Kidapawan, Cotabato, Branch 17,** *respondent.*

SYNOPSIS

Complainant charged the respondent judge with violation of Section 3 (e) of Republic Act 3019, the Anti-Graft and Corrupt Practices Act, relative to Criminal Case No. 2693 for Murder

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[11] *Philippine Retirement Authority vs. Thelma Rupa*, G. R. No. 140519, August 21, 2001.

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and Multiple Murder. Complainant is the private prosecutor in the above-mentioned criminal case. Among others, complainant alleged that the respondent judge disregarded Rule 119, Section 15 of the Rules of Court, when he set the continuation of the hearing for the reception of defense evidence after he denied accused's demurrer to evidence without prior leave of court.

In his comment, the respondent judge argued that while a demurrer to evidence without prior leave of court amounted to a waiver of the right to present evidence, the accused in the said case was charged with a heinous crime. Hence, procedural rules should not prevail over the right of the accused to be heard.

The Supreme Court found the respondent judge wanting in the desired level of mastery of a fundamental rule on criminal procedure. The filing of the demurrer to evidence without leave of court and its subsequent denial results in the submission of the case for judgment on the basis of the evidence on record. Considering that the governing rules on demurrer to evidence is a fundamental component of criminal procedure, respondent judge has the obligation to observe the same, regardless of the gravity of the offense charged. It is not for him to grant concessions to the accused who failed to obtain prior leave of court.

A judge is called upon to exhibit more than a cursory acquaintance with statutes and procedural rules. It is imperative that he be conversant with basic legal principles. Indeed, the respondent judge owes it to the public and the legal profession to know the law he is supposed to apply to a given controversy. The respondent judge was fined in the amount of five thousand pesos and sternly warned that a repetition of the same or similar acts shall be dealt with more severely.

SYLLABUS

1. **JUDICIAL ETHICS; JUDGES; REQUIRED TO OBSERVE THE FUNDAMENTAL RULE ON CRIMINAL PROCEDURE REGARDLESS OF THE GRAVITY OF THE OFFENSE CHARGED.**— There is merit in the charge that respondent judge maliciously set the hearing of Criminal Case No. 2693 after he denied the demurrer to evidence filed by the accused without

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prior leave of court. The filing of the demurrer to evidence without leave of court and its subsequent denial results in the submission of the case for judgment on the basis of the evidence on record. Considering that the governing rules on demurrer to evidence is a fundamental component of criminal procedure, respondent judge had the obligation to observe the same, regardless of the gravity of the offense charged. It is not for him to grant concessions to the accused who failed to obtain prior leave of court. The rule is clear that upon the denial of the demurrer to evidence in this case, the accused, who failed to ask for leave of court, shall waive the right to present evidence in his behalf.

2. **ID.; ID.; FAILURE TO APPLY A BASIC LAW CONSTITUTES GROSS IGNORANCE OF THE LAW.**— As we pointed out in *Cañas v. Castigador,* observance of the law which he is bound to know and swore to uphold is required of every judge. *When the law is sufficiently basic, a judge owes it to his office to simply apply it;* anything less than that would be constitutive of gross ignorance of the law. In short, when the law is so elementary, not to be aware of it constitutes gross ignorance of the law.

3. **ID.; ID.; MUST BE CONVERSANT WITH BASIC LEGAL PRINCIPLES.**— A judge is called upon to exhibit more than a cursory acquaintance with statutes and procedural rules. It is imperative that he be conversant with basic legal principles. Canon 4 of the Canons of Judicial Ethics requires that a judge must be studious of the principles of law, and Canon 18 mandates that he should administer his office with due regard to the integrity of the system of the law itself, remembering that he is not a depositary of arbitrary power, but a judge under the sanction of law.

4. **ID.; ID.; EXPECTED TO KEEP ABREAST OF ALL LAWS AND PREVAILING JURISPRUDENCE; MUST BE THE EMBODIMENT OF COMPETENCE, INTEGRITY AND INDEPENDENCE; CASE AT BAR.**— The Code of Judicial Conduct also enjoins judges to "be faithful to the law and maintain professional competence." Indeed, respondent judge owes it to the public and the legal profession to know the law he is supposed to apply to a given controversy. In order to render substantial justice and to maintain public confidence

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in the legal system, judges are expected to keep abreast of all laws and prevailing jurisprudence, consistent with the standard that magistrates must be the embodiment of competence, integrity and independence. Thus, it has been held that when the judge's inefficiency springs from a failure to consider so basic and elemental a rule, a law or a principle in the discharge of his duties, a judge is either too incompetent and undeserving of the position and title he holds or he is too vicious that the oversight or omission was deliberately done in bad faith and in grave abuse of judicial authority.

RESOLUTION

YNARES-SANTIAGO, *J.*:

On August 15, 1997, complainant filed a verified complaint,[1] charging Judge Rodolfo M. Serrano of the Regional Trial Court of Kidapawan, Cotabato, Branch 64, with violation of Section 3 (e) of Republic Act 3019 (the Anti-Graft and Corrupt Practices Act), relative to Criminal Case No. 2693 entitled *"People of the Philippines v. Bienvenido Paimalan"* for Murder with Multiple Frustrated Murder.[2] Complainant is the private prosecutor in the above-mentioned criminal case. He alleged that respondent judge, after denying the accused's demurrer to evidence without prior leave of court, set the continuation of the hearing for the reception of defense evidence, in disregard of Rule 119, Section 15 of the Rules of Court. Complainant contends that the demurrer to evidence without prior leave of court amounted to a waiver of the right to present evidence upon denial thereof. Thus, the prosecution filed a motion to submit the case for judgment, which was however denied. Moreover, respondent judge failed to resolve the prosecution's formal offer of evidence.

Respondent judge filed his Comment,[3] arguing that while a demurrer to evidence without prior leave of court amounted to

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[1] *Rollo*, p. 215.

[2] *Ibid.*, p. 228.

[3] *Id.*, pp. 177-179.

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a waiver of the right to present evidence, the accused in Criminal Case No. 2693 was charged with the heinous crime of Murder with Multiple Frustrated Murder. Hence, procedural rules should not prevail over the right of the accused to be heard.

On September 11, 1997, complainant filed another verified complaint charging respondent judge with violation of Section 3 (e) of R.A. 3019.[4] He alleged that in Civil Case No. 751 entitled *"Daniel O. Osumo versus Loreta Sibya Castor, et al.,"* for damages and attorney's fees, respondent judge falsely stated in his May 3, 1993 Order that complainant was furnished with a copy of the defendant's Manifestation waiving the preliminary hearing of their affirmative defenses; that respondent judge did not take any action on the refusal of defense counsel to comply with the August 3, 1993 Order requiring him to explain why he should not be cited for contempt for failure to appear at the scheduled hearing; that respondent judge refused to admit complainant's formal offer of exhibits filed on December 5, 1993 until four months later when he filed a motion therefor; that in an Order dated September 20, 1994, respondent judge required the submission of the defendant's formal offer of exhibits and memorandum and seven months later, he *motu proprio* gave defense counsel Atty. Occeña an extension of fifteen days to comply with the said Order; and in granting complainant's notice of appeal per his Order dated January 10, 1997, respondent judge admitted having violated Section 3(e) of R.A. No. 3019.

In his comment,[5] respondent judge countered that defendant's Manifestation bears complainant's signature acknowledging receipt thereof; that on August 3, 1993, defense counsel Atty. Occeña arrived in court from General Santos City one hour after the hearing and personally explained to respondent judge the reason for his late arrival and served written explanation on complainant; that respondent judge did not act on complainant's offer of exhibits because of lack of proof of service thereof

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[4] *Id.*, pp. 1-13.

[5] *Id.*, pp. 182-199.

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on defendant's counsel; that respondent judge granted defendants fifteen days to submit their documentary exhibits because the offer of exhibits of complainant himself likewise suffered from procedural flaws; and that his approval of complainant's notice of appeal did not mean that he admitted the allegations in the appeal.

The Office of the Court Administrator recommended the dismissal of the complaint relative to Civil Case No. 751 and the imposition of a fine of ₱5,000.00 upon respondent judge in connection with the complaint involving Criminal Case No. 2693.

Complainant's allegation that respondent judge falsely stated in his Order in Civil Case No. 751 that he was furnished with the copy of the defendant's Manifestation is not well taken considering that a copy of the Manifestation showed on its face the signature of complainant himself acknowledging receipt thereof.

Respondent judge has sufficiently explained that Atty. Occeña arrived in court on the day in question and gave satisfactory reason for his late arrival. Atty. Occeña's written explanation was subsequently filed in court on September 14, 1993 and a copy thereof was served on complainant.[6]

The claim that respondent judge admitted liability when he gave due course to the notice of appeal is likewise untenable. What respondent judge referred to as "meritorious and well-taken" was the notice of appeal itself, not the charge against him.

On the other hand, there is merit in the charge that respondent judge maliciously set the hearing of Criminal Case No. 2693 after he denied the demurrer to evidence filed by the accused without prior leave of court. Rule 119, Section 23,[7] of the 2000 Revised Rules on Criminal Procedure provides that:

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[6] *Id.*, pp. 191-192.

[7] Formerly Rule 119, Section 5 of the Revised Rules of Court.

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Demurrer to evidence. — After the prosecution rests its case, the court may dismiss the action on the ground of insufficiency of evidence (1) on its own initiative after giving the prosecution the opportunity to be heard or (2) upon demurrer to the evidence filed by the accused with or without leave of court.

If the court denies the demurrer to evidence filed with leave of court, the accused may adduce evidence in his defense. *When the demurrer to evidence is filed without leave of court, the accused* ***waives*** *the right to present evidence and submits the case for judgment on the basis of the evidence for the prosecution.* (emphasis and italics supplied)

The filing of the demurrer to evidence without leave of court and its subsequent denial results in the submission of the case for judgment on the basis of the evidence on record. Considering that the governing rules on demurrer to evidence is a fundamental component of criminal procedure, respondent judge had the obligation to observe the same, regardless of the gravity of the offense charged. It is not for him to grant concessions to the accused who failed to obtain prior leave of court. The rule is clear that upon the denial of the demurrer to evidence in this case, the accused, who failed to ask for leave of court, shall waive the right to present evidence in his behalf.

As we pointed out in *Cañas v. Castigador,*[8] observance of the law which he is bound to know and swore to uphold is required of every judge. *When the law is sufficiently basic, a judge owes it to his office to simply apply it;* anything less than that would be constitutive of gross ignorance of the law. In short, when the law is so elementary, not to be aware of it constitutes gross ignorance of the law.

A judge is called upon to exhibit more than a cursory acquaintance with statutes and procedural rules. It is imperative that he be conversant with basic legal principles.[9] Canon 4 of the Canons of Judicial Ethics requires that a judge must be studious of the principles of law, and Canon 18 mandates that

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[8] 348 SCRA 425, 440 [2000].

[9] *Jason v. Ygaña, et al.*, 337 SCRA 264 [2000].

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he should administer his office with due regard to the integrity of the system of the law itself, remembering that he is not a depositary of arbitrary power, but a judge under the sanction of law.[10]

The Code of Judicial Conduct also enjoins judges to "be faithful to the law and maintain professional competence."[11] Indeed, respondent judge owes it to the public and the legal profession to know the law he is supposed to apply to a given controversy.[12] In order to render substantial justice and to maintain public confidence in the legal system, judges are expected to keep abreast of all laws and prevailing jurisprudence,[13] consistent with the standard that magistrates must be the embodiment of competence, integrity and independence.[14] Thus, it has been held that when the judge's inefficiency springs from a failure to consider so basic and elemental a rule, a law or a principle in the discharge of his duties, a judge is either too incompetent and undeserving of the position and title he holds or he is too vicious that the oversight or omission was deliberately done in bad faith and in grave abuse of judicial authority.[15]

In the case at bar, we find respondent judge wanting in the desired level of mastery of a fundamental rule on criminal procedure. Hence, he should be held liable for his violation thereof.

WHEREFORE, in view of the foregoing, respondent judge is ordered to pay a *FINE* in the amount of Five Thousand Pesos

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[10] *Ibid.*

[11] Canon 3, Rule 3.01.

[12] *Ligad v. Judge Dipolog*, A.M. No. MTJ-01-1386, citing *Marzan-Gelacio v. Flores,* 334 SCRA 1 [2000].

[13] *Carpio v. De Guzman*, 262 SCRA 615 [1996].

[14] Rule 1.01, Canon 1, Code of Judicial Conduct; see also *Buzon, Jr. v. Velasco,* 253 SCRA 601 [1996]; *Galan Realty Co. Inc. v. Arranz*, 237 SCRA 770 [1994].

[15] *Macalintal v. Teh*, 280 SCRA 623 [1997].

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(₱5,000.00) and *STERNLY WARNED* that a repetition of the same or similar acts shall be dealt with more severely.

SO ORDERED.

Davide, Jr., C.J. (Chairman) and *Kapunan, JJ.*, concur.

Puno, J., on official leave.

THIRD DIVISION

[G.R. No. 104047. April 3, 2002]

MC ENGINEERING, INC., *petitioner, vs.* **THE COURT OF APPEALS, GERENT BUILDERS, INC. and STRONGHOLD INSURANCE CO., INC.,** *respondents.*

SYNOPSIS

Petitioner Mc Engineering, Inc. and Surigao Coconut Development Corporation (Sucodeco) signed a contract for the restoration of the latter's building, land improvement, electrical, and mechanical equipment which was damaged by a typhoon. The following day, Mc Engineering and respondent Gerent Builders, Inc. entered into an agreement wherein Mc Engineering subcontracted to Gerent the restoration of the buildings and land improvement phase of its contract. Two months later, Sucodeco and Mc Engineering entered into an agreement amending the provision of their contract by increasing the price of the civil works. Subsequently, the civil works aspect consisting of the building restoration and land improvement was completed. On January 2, 1985, Gerent received the full payment of the sub-contract price. Later, Gerent claimed from Mc Engineering the sum of ₱632,590.13 as its share in the adjusted contract cost by alleging that the subcontract is subject to the readjustment. Mc Engineering refused to pay Gerent. Thus,