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Perez, J., no part. Acted on matter as Court Administrator.

Del Castillo, J., on leave.

Sereno, J., on official leave.

EN BANC

[A.M. No. RTJ-11-2261. July 26, 2011]
(Formerly OCA IPI NO. 10-3386-RTJ)

ATTY. JOSE VICENTE D. FERNANDEZ, *complainant, vs.* **JUDGE ANGELES S. VASQUEZ,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; ACTIONS; MOTIONS FOR INHIBITION; ORDERS OF INHIBITION ARE JUDICIAL IN NATURE AND NOT ADMINISTRATIVE IN CHARACTER.— [T]he allegations of bias and partiality of respondent judge in connection with the denial of the motions of inhibition filed by complainant are matters which are judicial in character and may not be addressed in this administrative complaint. Orders of inhibition are not administrative in character; they are judicial in nature. Thus, the propriety of the action of the judge in denying the motions for inhibition should have been raised in a judicial proceeding and not in this administrative action.

2. JUDICIAL ETHICS; DISCIPLINE OF JUDGES; GROSS INEFFICIENCY; DELAY IN RESOLVING MOTIONS AND INCIDENTS PENDING BEFORE A JUDGE'S SALA WITHIN THE REGLEMENTARY PERIOD FIXED BY THE CONSTITUTION AND THE LAW IS NOT EXCUSABLE AND CANNOT BE CONDONED; RATIONALE.— The Court, in the exercise of its administrative supervision over

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the lower courts, has the authority to look into the time spent by respondent judge in resolving the incident. As observed by the OCA, respondent judge failed to resolve the motion for his inhibition within the 90-day reglementary period. He acted on the first and second motions for inhibition, which were filed on 27 February 2006 and 28 February 2007, respectively, only on 13 March 2007, or more than a year after the filing of the first motion. In the orderly administration of justice, judges are required to act with dispatch in resolving motions filed in their court. The parties have the right to be properly informed of the outcome of the motions they have filed and the Constitutional right to a speedy disposition of their case. Taking into account the circumstances in this case, we find no reason for respondent judge's delayed action. Delay in resolving motions and incidents pending before a judge's sala within the reglementary period fixed by the Constitution and the law is not excusable and cannot be condoned. Under Section 15 (I) of Article VIII of the 1987 Constitution and Canon 3, Rule 3.05 of the Code of Judicial Conduct, judges are mandated to dispose of their cases promptly and decide them within the prescribed periods. The failure of a judge to decide a case seasonably constitutes gross inefficiency. It violates the norms of judicial conduct and is subject to administrative sanction.

3. ID.; ID.; ID.; IMPOSABLE PENALTY; FACTORS TO CONSIDER, CLARIFIED.— The imposable penalty for gross inefficiency varies depending on the attending circumstances of a case. In a Resolution dated 8 July 1998, this Court, through then Associate Justice Reynato S. Puno, exhaustively discussed the penalties that were imposed on several cases involving gross inefficiency. Thus: We have always considered the failure of a judge to decide a case within ninety (90) days as gross inefficiency and imposed either fine or suspension from service without pay for such. **The fines imposed vary in each case, depending chiefly on the number of cases not decided within the reglementary period and other factors, to wit: the presence of aggravating or mitigating circumstances—the damage suffered by the parties as a result of the delay, the health and age of the judge, *etc*.**

4. ID.; ID.; DISHONESTY; MAKING OF UNTRUTHFUL STATEMENTS IN THE PERSONAL DATA SHEET (PDS) AMOUNTS TO DISHONESTY AND FALSIFICATION OF

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AN OFFICIAL DOCUMENT; PRESENT IN CASE AT BAR. — The making of untruthful statements in the PDS amounts to dishonesty and falsification of an official document. x x x The Book of Entry of Judgment of the City Court of Legazpi shows that: (1) respondent was accused of indirect bribery on 11 December 1974 by Assistant City Fiscal Amisola in Criminal Case No. 7911; (2) he posted a bail bond in the amount of ₱400.00; and (3) he was acquitted of the crime on 24 October 1977. It is, therefore, beyond question that respondent had been formally charged. Clearly, he failed to disclose the information when he answered "No" to Question No. 24 of the PDS, which he filed with the JBC in 2005. That respondent is guilty of dishonesty in accomplishing his PDS is impossible to refute. It was not mere inadvertence on his part when he answered "No" to that very simple question posed in the PDS. He knew exactly what the question called for and what it meant, and that he was committing an act of dishonesty but proceeded to do it anyway. x x x His being a judge makes the act all the more unacceptable. Clearly, there was an obvious lack of integrity, the most fundamental qualification of a member of the judiciary. x x x Such lack of candor has blemished the image of the judiciary. His contention that the indirect bribery case had been dismissed is immaterial, he was duty bound to disclose such information when he was applying for judicial position.

5. **ID.; ID.; ID.; DISHONESTY IS IN THE NATURE OF A GRAVE OFFENSE; PENALTY OF DISMISSAL FROM SERVICE, PROPER; EXCEPTIONS.—** Dishonesty, being in the nature of a grave offense, carries the extreme penalty of dismissal from the service with forfeiture of retirement benefits except accrued leave credits, and perpetual disqualification from reemployment in the government service. x x x The penalty of dismissal, however, is not exclusive. Section 11, Rule 140 of the Rules of Court, provides the following alternative sanctions against a judge found guilty of dishonesty or any other offense falling under the classification of a serious charge provided in Sec. 8 of the same Rule. x x x The recent case of *OCA v. Judge Aguilar* is very much instructive on this matter: xxx, Rule IV, Section 53 of the Civil Service Rules also provides that in the determination of the penalties to be imposed, extenuating, mitigating, aggravating or alternative circumstances

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attendant to the commission of the offense shall be considered. Among the circumstances that may be allowed to modify the penalty are (1) length of service in the government, (2) good faith, and (3) other analogous circumstances. In several jurisprudential precedents, the Court has refrained from imposing the actual administrative penalties prescribed by law or regulation in the presence of mitigating factors. Factors such as the respondent's length of service, the respondent's acknowledgement of his or her infractions and feeling of remorse, family circumstances, humanitarian and equitable considerations, respondent's advanced age, among other things, have had varying significance in the determination by the Court of the imposable penalty. For equitable and humanitarian reasons, the Court reduced the administrative penalties imposed in several cases.

D E C I S I O N

PEREZ, *J.*:

This is an administrative complaint for gross dishonesty and falsification of an official document against Judge Angeles S. Vasquez, Regional Trial Court (RTC), Branch 13, Ligao City.

The Antecedents

In a complaint[1] received by the Office of the Court Administrator (OCA) on 7 March 2010, Atty. Jose Vicente D. Fernandez stated that he was the counsel of Dr. Maria Susan L. Rañola in several cases instituted for the recovery of the properties the latter conjugally owned with her late husband Ronald O. Rañola. The cases were against Spouses Fernando and Maria Concepcion Rañola (Spouses Rañola). Spouses Rañola also instituted an ejectment case against Dr. Rañola. These cases were docketed as S.P. No. 431 (*Petition for Letters of Administration and Settlement of Estate*), Civil Case No. 2400 (*Fernando and Ma. Concepcion Rañola vs. Ma. Susan Rañola*),

[1] *Rollo,* pp. 1-14.

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Civil Case No. 2352 (*Ma. Susan Rañola, et al. vs. Spouses Fernando and Ma. Concepcion Rañola*), and *People vs. Fernando and Ma. Concepcion Rañola, et al*. All these were raffled to the court presided over by respondent Judge Vasquez.

Complainant reported that during the first week of February 2006, he was asked by respondent judge to file a motion for his inhibition in Civil Case No. 2352 on the ground that respondent judge was the counsel, prior to his appointment as public prosecutor, of the Rañola family. Hence, complainant filed a Motion for Inhibition[2] dated 23 February 2006 seeking for the recusal of the judge but citing as a ground instead, his blood relationship with respondent judge. Complainant is closely related by blood with respondent judge since his late paternal grandmother is also a Vasquez, from the Vasquez clan to which respondent belongs.

No action was taken by respondent judge on the Motion. It was only after a year, *i.e.*, 28 February 2007, after complainant filed a Supplemental Motion for Inhibition,[3] on the ground of manifest bias, partiality and inexcusable delay in the proceedings, that respondent judge ruled and denied the two motions in an Order[4] dated 13 March 2007.

According to complainant, the Supplemental Motion for Inhibition was triggered by the apparent bias of respondent judge for the Spouses Rañola. This partiality was allegedly manifested in the following instances: (1) respondent's undue insistence that complainant's client unconditionally agree to his proposed compromise agreement which is downright unfavorable to them; (2) concluding the pre-trial proceedings more than a year after it was started; (3) ordering complainant's client to pay docket fees beyond that prescribed by the Rules; and (4) requiring the payment of a ₱5,000.00 witness fee before a hostile witness could be compelled to take the witness stand.

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[2] *Id.* at 21-22.

[3] *Id.* at 23-29.

[4] *Id.* at 30-33.

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Complainant asserts that the partiality of respondent towards Spouses Rañola is well-rooted, as detailed in the sworn statement[5] of Buenconsejo B. Quides. The said affidavit narrated respondent's "transactional" relationship with the Spouses Rañola which started when he was still an assistant provincial prosecutor, and continued to his present position as presiding judge of RTC, Branch 13, Ligao City. In exchange of favors, respondent allegedly used the coercive power of his public office to serve the private interests of the spouses.

Claiming that the allegations in the motions for his inhibition were lies and an affront to his integrity, respondent judge filed on 24 April 2007 a Petition with the Commission on Bar Discipline to seek the disbarment of complainant. In a Notice of Resolution[6] dated 6 February 2008, the IBP Commission on Bar Discipline resolved to dismiss the disbarment case. In view of such dismissal, a Petition for Review was filed by respondent before this Court, docketed as A.C. No. 7884.

Complainant laments that despite the filing of the disbarment case, respondent still refused, on a third Motion for Inhibition, to recuse himself. Instead of inhibiting himself from the case, respondent in his 12 June 2007 Order[7] denied the motion and suggested that complainant withdraw his appearance as counsel in the case, as well as in other related cases.

Another matter that complainant emphasized in his complaint was the dishonesty allegedly committed by respondent when he accomplished his Personal Data Sheet (PDS) for the Judicial and Bar Council (JBC). Complainant alleged that when respondent filed his application to the Judiciary in 2005, he placed an "x" in the box indicating a "No" answer to the question: *"Have you been charged with or convicted of or otherwise imposed a sanction of any law, decree, ordinance or regulation by any court, tribunal, or any other government office, agency or*

[5] *Id.* at 37-40.

[6] *Id.* at 36.

[7] *Id.* at 52-54.

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instrumentality in the Philippines or any foreign country, or found guilty of an administrative offense or imposed any administrative sanction? (Question No. 24), and Have you ever been retired, dismissed or forced to resign from employment? (Question No. 25)."

Complainant submitted that respondent lied by answering "No" to these questions since he had been criminally charged for indirect bribery in the early 1970s. He alleged that this fact is evidenced by the record in Criminal Case No. 7911, filed on 11 December 1974, before the City Court of Legazpi, indicting respondent for Indirect Bribery. With regard to Question No. 25, respondent allegedly likewise lied because he tendered his resignation from his position as clerk of court to evade the administrative case that may arise from the indirect bribery incident.

Complainant asserted that in brazenly giving untruthful statements in his PDS, respondent committed dishonesty and falsification of public documents. Thus, he filed the instant administrative case with the prayer that respondent be dismissed from the Judiciary.

In his Comment[8] dated 4 May 2010, respondent prayed that the administrative complaint filed against him be dismissed. He clarified that the in-chamber conferences held in Civil Case No. 2352 resulted in the amicable settlement of the case based on the stipulation of the parties. As to the question of docket fees, he explained that he merely followed Section 7, Rule 141 of the Rules. He also explained that in requiring complainant's client to pay ₱5,000.00 witness fee, he was merely being sensitive to the needs of the accountant who was based in Naga City and who had to spend for the trip and meals in coming over to the court, not to mention her loss of income.

He denied that he favored the causes of the Spouses Rañola. He explained that while he was then a prosecutor in Ligao, he had to handle all criminal cases within his assigned jurisdiction. Unavoidably, he had to pass upon cases filed and prosecuted by the Rañolas. Respondent maintained that the fact that the

[8] *Id.* at 64-73.

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Spouses Rañola cases were filed in his sala, does not necessarily mean that he is biased in their favor.

As to the affidavit of Quides, respondent claimed that this is self-serving and mere hearsay, devoid of any materiality and ought not to be admitted.

On the issue of dishonesty, respondent averred that in answering Questions 24 and 25, there was no attempt on his part to falsify or perjure his PDS. He does not deny the fact that he was charged with indirect bribery. He explained that what he could vaguely recall of the embarrassing, traumatic and grueling incident which led to his having been charged with indirect bribery was that it was due to his "leftist" association and leaning. He alleged that the dictatorship then wanted to silence everyone, more so, the young professionals of government bureaus and offices.[9] As he could not be hailed to a court martial for his supposed "communist" stance, he was set up with a "planted" evidence to pave the way for the filing of a criminal case against him for indirect bribery.[10] He emphasized that he was never caught in *flagrante delicto*. The evidence against him, to reiterate, were merely set up by the military, thus, his acquittal.

Contrary to complainant's assertions, respondent maintained that he was not forced to resign as a clerk of court. He noted that the indirect bribery case was filed on 11 December 1974 while he resigned as a clerk of court on 30 April 1973 (more than one year before the indirect bribery case was filed). He allegedly resigned out of disgust and conviction that the government he was serving was not protecting its own civil servants but was out to silence anyone so that its stranglehold could be perpetrated.[11]

Respondent bemoans the struggles his family had to go through because of the trumped up charge for indirect bribery. He alleged

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[9] *Id.* at 68.

[10] *Id.* at 69.

[11] *Id.* at 69-70.

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that in his resolute attempt to forever bury the scandal from his memory, he was so successful that he has absolutely forgotten the matter, only to be revived after a lapse of 36 years, with the filing of the instant administrative case. He was sort of enveloped by amnesia as far as the incident was concerned, so much so that in answering Question No. 24 in his PDS, he automatically and without a blink of an eye, checked the word "No."[12]

In a Reply[13] dated 17 May 2010, complainant stated that respondent's defense of amnesia of the selective kind is a defense already thrown out by jurisprudence. He insisted that respondent misrepresented and falsified his PDS to conceal the information that would have hurt his eligibility for the position he was applying for.

Complainant furnished the Court with a copy of the 31 October 2008 Decision[14] of the Court of Appeals (CA) in CA-G.R. SP No. 101266 which declared null and void for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction respondent's Orders dated 16 May 2007 on the issue of filing fees and 13 June 2007 and 14 August 2007 on the issue of witness fee.

OCA's Report and Recommendation

In its Report[15] dated 3 November 2010, the OCA found respondent administratively liable for: (a) his failure to act with dispatch on the motion for his inhibition in Civil Case No. 2352; and (b) dishonesty. The OCA did not sustain respondent's flimsy defense of amnesia in concealing from his PDS the fact that he was charged with indirect bribery. Being charged with a crime is an incident in one's life that cannot be easily forgotten, especially when the same is made in connection with the performance of one's duty. In the instant case, respondent was charged with

[12] *Id.* at 71.

[13] *Id.* at 97-112.

[14] *Id.* at 113-132.

[15] *Id.* at 133-140.

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the said crime when he was still a clerk of court. The OCA noted the fact that though respondent claims that he has forgotten said charge, he can still vividly remember the incident and the circumstances that he claims to have led to his arrest. Accordingly, the OCA recommended that respondent be fined in the amount of Forty Thousand (₱40,000.00) Pesos.

Our Ruling

We agree with the findings of the OCA on respondent's gross inefficiency and dishonesty although we differ with respect to the penalty imposed.

On the other hand, we see no reason for this Court to look into the rest of the allegations of the complainant. The issue concerning the assessment of witness and filing fees had already been passed and ruled upon by the CA in a judicial proceeding. Also, the allegations of bias and partiality of respondent judge in connection with the denial of the motions of inhibition filed by complainant are matters which are judicial in character and may not be addressed in this administrative complaint. Orders of inhibition are not administrative in character; they are judicial in nature.[16] Thus, the propriety of the action of the judge in denying the motions for inhibition should have been raised in a judicial proceeding and not in this administrative action.

On Respondent's Gross Inefficiency

The Court, in the exercise of its administrative supervision over the lower courts, has the authority to look into the time spent by respondent judge in resolving the incident. As observed by the OCA, respondent judge failed to resolve the motion for his inhibition within the 90-day reglementary period. He acted on the first and second motions for inhibition, which were filed on 27 February 2006 and 28 February 2007, respectively, only on 13 March 2007, or more than a year after the filing of the first motion.

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[16] Supreme Court Circular No. 7, 10 November 1980 and Administrative Circular No. 1, 28 January 1988.

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In the orderly administration of justice, judges are required to act with dispatch in resolving motions filed in their court. The parties have the right to be properly informed of the outcome of the motions they have filed and the Constitutional right to a speedy disposition of their case. Taking into account the circumstances in this case, we find no reason for respondent judge's delayed action. Delay in resolving motions and incidents pending before a judge's sala within the reglementary period fixed by the Constitution and the law is not excusable and cannot be condoned.

Under Section 15(1)[17] of Article VIII of the 1987 Constitution and Canon 3, Rule 3.05[18] of the Code of Judicial Conduct, judges are mandated to dispose of their cases promptly and decide them within the prescribed periods.[19] The failure of a judge to decide a case seasonably constitutes gross inefficiency.[20] It violates the norms of judicial conduct and is subject to administrative sanction.

The imposable penalty for gross inefficiency varies depending on the attending circumstances of a case. In a Resolution[21] dated 8 July 1998, this Court, through then Associate Justice Reynato S. Puno, exhaustively discussed the penalties that were imposed on several cases involving gross inefficiency. Thus:

We have always considered the failure of a judge to decide a case within ninety (90) days as gross inefficiency and imposed either fine or suspension from service without pay for such. **The fines imposed vary in each case, depending chiefly on the number of**

[17] "Section 15(1). All cases or matters filed after the effectivity of this Constitution must be decided or resolved within twenty-four (24) months from date of submission for the Supreme Court, and, unless reduced by the Supreme Court, twelve (12) months for all collegiate courts, and three (3) months for all other lower courts."

[18] "Rule 3.05. A judge shall dispose of the court's business promptly and decide cases within the required periods."

[19] *Re: Judge Danilo M. Tenerife*, A.M. No. 94-5-42-MTC, 20 March 1996, 255 SCRA 184, 187.

[20] *Id.*

[21] *Re: Report on the Judicial Audit Conducted in RTC, Branches 29 and 59, Toledo City*, A.M. No. 97-9-278-RTC, 8 July 1998, 292 SCRA 8.

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cases not decided within the reglementary period and other factors, to wit: the presence of aggravating or mitigating circumstances— the damage suffered by the parties as a result of the delay, the health and age of the judge, *etc*. Thus, in one case, we set the fine at ten thousand pesos (₱10,000.00) for failure of a judge to decide 82 cases within the reglementary period, taking into consideration the mitigating circumstance that it was the judge's first offense. In another case, the fine imposed was sixty thousand pesos (₱60,000.00), for the judge had not decided about 25 or 27 cases. Still in other cases, the fines were variably set at fifteen thousand pesos (₱15,000.00), for nineteen (19) cases left undecided, taking into consideration that it was the judge's first offense; twenty thousand pesos (₱20,000.00), for three (3) undecided criminal cases; eight thousand pesos (₱8,000.00), for not deciding a criminal case for three (3) years; forty thousand pesos (₱40,000.00), for not deciding 278 cases within the prescribed period, taking note of the judge's failing health and age; and ten thousand pesos (₱10,000.00), for belatedly rendering a judgment of acquittal in a murder case, after one and one-half years from the date the case was submitted for decision. In another case, suspension without pay for a period of six (6) months was imposed since, besides the judge's failure to timely decide an election protest for eight (8) months, the judge submitted false certificates of service and was found guilty of habitual absenteeism.[22] *(Emphasis supplied.)*

The following pronouncements in *OCA v. Judge Quilatan*[23] further illustrated the flexibility of the parameters in the determination of the amount of fine that may be imposed on judges for gross inefficiency:

Under the Revised Rules of Court, undue delay in rendering a decision is a less serious offense punishable by suspension from office without salary and other benefits for not less than one (1) month nor more than three (3) months, or a fine of more than PhP 10,000 but not exceeding PhP 20,000.

There were cases, however, in which the Court did not strictly apply the Rules, imposing fines below or more than the maximum amount allowed, thus:

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[22] *Id.* at 23-24.

[23] A.M. No. MTJ-09-1745, 28 September 2010, 631 SCRA 425.

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> In two cases, we imposed a fine of five thousand pesos (₱5,000) on a judge who was suffering from cancer, for failing to decide five (5) cases within the reglementary period and failing to decide pending incidents in nine (9) cases; and xxx. In one case, the judge was fined twenty-five thousand pesos (₱25,000) for undue delay in rendering a ruling and for making a grossly and patently erroneous decision. In another case, the judge was fined forty thousand pesos (₱40,000) for deciding a case only after an undue delay of one (1) year and six (6) months and for simple misconduct and gross ignorance of the law, considering also that said undue delay was his second offense. Finally, the fine of forty thousand pesos (₱40,000) was also imposed in a case for the judge's failure to resolve one (1) motion, considering that he was already previously penalized in two cases for violating the Code of Judicial Conduct and for Gross Ignorance of Procedural Law and Unreasonable Delay. (citations omitted)[24]

In the case at bar, respondent resolved the pending incident only after more than a year from the date the motion was filed. It bears stressing that the incident does not even involve a complex issue, it being a mere motion for inhibition. On a positive note, an examination of the records with the Legal Office of the OCA would show that this is the first time that he has been administratively charged. Under the foregoing circumstances, for gross inefficiency, we find the imposition of fine in the amount of Ten Thousand (₱10,000.00) Pesos reasonable.

On Respondent's Dishonesty

The making of untruthful statements in the PDS amounts to dishonesty and falsification of an official document.[25]

In *Plopinio v. Zabala-Cariño*,[26] this Court had the occasion to identify the reckoning point when a specific charge should

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[24] *Id.* at 428-429.

[25] *Ratti v. Mendoza-De Castro*, A.M. No. P-04-1844, 23 July 2004, 435 SCRA 11, 21 citing *Civil Service Commission v. Sta. Ana* , 386 SCRA 1 (2002) *further* citing *People v. Po Giok To*, 96 Phil. 913 (1955).

[26] A.M. No. P-08-2458, 22 March 2010, 616 SCRA 269.

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be reflected in the PDS. Thus, a person is considered formally charged:

> (1) In administrative proceedings – xxx.
>
> **(2) In criminal proceedings – (a) upon the finding of the existence of probable cause by the investigating prosecutor and the consequent filing of an information in court with the required prior written authority or approval of the provincial or city prosecutor or chief state prosecutor or the Ombdusman or his deputy**; (b) upon the finding of the existence of probable cause by the public prosecutor or by the judge in cases not requirng(sic) a preliminary investigation nor covered by the Rule on Summarry (sic) Procedure; or (c) upon the finding of cause or ground to hold the accused for trial pursuant to Section 13 of the Revised Rule on Summary Procedure.[27] *(Emphasis supplied.)*

The Book of Entry of Judgment[28] of the City Court of Legazpi shows that: (1) respondent was accused of indirect bribery on 11 December 1974 by Assistant City Fiscal Amisola in Criminal Case No. 7911; (2) he posted a bail bond in the amount of ₱400.00; and (3) he was acquitted of the crime on 24 October 1977.

It is, therefore, beyond question that respondent had been formally charged. Clearly, he failed to disclose the information when he answered "No" to Question No. 24 of the PDS, which he filed with the JBC in 2005.

That respondent is guilty of dishonesty in accomplishing his PDS is impossible to refute. It was not mere inadvertence on his part when he answered "No" to that very simple question posed in the PDS. He knew exactly what the question called for and what it meant, and that he was committing an act of dishonesty but proceeded to do it anyway.[29]

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[27] *Id.* at 278-279.

[28] *Rollo*, p. 60.

[29] *Samson v. Caballero*, A.M. No. RTJ-08-2138, 5 August 2009, 595 SCRA 423, 429.

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Respondent, a judge, knows (or should have known) fully well the consequences of making a false statement in his PDS. Being a former public prosecutor and a judge now, it is his duty to ensure that all the laws and rules of the land are followed to the letter. His being a judge makes the act all the more unacceptable. Clearly, there was an obvious lack of integrity, the most fundamental qualification of a member of the judiciary.[30]

As visible representation of the law, respondent judge should have conducted himself in a manner which would merit the respect of the people to him in particular and to the Judiciary in general. He should have acted with honesty in accomplishing his PDS, instead of deliberately misleading the JBC in his bid to be considered and eventually appointed to his present position. Such lack of candor has blemished the image of the judiciary. His contention that the indirect bribery case had been dismissed is immaterial, he was duty bound to disclose such information when he was applying for judicial position. Had it not been for this administrative complaint, such matter would have escaped the attention of this Court.

Dishonesty, being in the nature of a grave offense, carries the extreme penalty of dismissal from the service with forfeiture of retirement benefits except accrued leave credits, and perpetual disqualification from reemployment in the government service.[31]

Thus, in *Office of the Court Administrator v. Estacion, Jr.*,[32] respondent judge was dismissed from the service for withholding the information in his application for appointment the fact that he was facing criminal charges for homicide and attempted homicide. This Court ratiocinated:

> His record did not contain the important information in question because he deliberately withheld and thus effectively hid it. His lack of candor is as obvious as his reason for the suppression of such a vital fact, which he knew would have been taken into account against him if it had been disclosed.

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[30] *Id.* at 430.

[31] *Ratti v. Mendoza-De Castro, supra* note 25 at 21.

[32] A.M. No. RTJ-87-104, 11 January 1990, 181 SCRA 33.

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xxx [I]t behooves every prospective appointee to the [j]udiciary to apprise the appointing authority of every matter bearing on his fitness for judicial office, including such circumstances as may reflect on his integrity and probity. He did not discharge that duty.[33]

Respondent judge in *Gutierrez v. Belan*,[34] was likewise dismissed from the service for indicating in his PDS submitted to the JBC that there was no pending criminal or administrative case against him notwithstanding that he had been indicted in a criminal case which then remained pending.[35]

The penalty of dismissal, however, is not exclusive. Section 11, Rule 140[36] of the Rules of Court, provides the following alternative sanctions against a judge found guilty of dishonesty or any other offense falling under the classification of a serious charge provided in Sec. 8 of the same Rule:

1. Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations. *Provided, however*, That the forfeiture of benefits shall in no case include accrued leave credits;

2. **Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or**

3. **A fine of not less than ₱20,000.00 but not exceeding ₱40,000.00.** *(Emphasis supplied.)*

The recent case of *OCA v. Judge Aguilar*[37] is very much instructive on this matter:

xxx, Rule IV, Section 53 of the Civil Service Rules also provides that in the determination of the penalties to be imposed, extenuating,

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[33] *Id.* at 37.

[34] A.M. No. MTJ-95-1059, 7 August 1998, 294 SCRA 1.

[35] *Id.* at 16.

[36] As amended by A.M. No. 01-8-10-SC, effective 1 October 2001.

[37] A.M. No. RTJ-07-2087, 7 June 2011.

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mitigating, aggravating or alternative circumstances attendant to the commission of the offense shall be considered. Among the circumstances that may be allowed to modify the penalty are (1) length of service in the government, (2) good faith, and (3) other analogous circumstances.

In several jurisprudential precedents, the Court has refrained from imposing the actual administrative penalties prescribed by law or regulation in the presence of mitigating factors. Factors such as the respondent's length of service, the respondent's acknowledgement of his or her infractions and feeling of remorse, family circumstances, humanitarian and equitable considerations, respondent's advanced age, among other things, have had varying significance in the determination by the Court of the imposable penalty. For equitable and humanitarian reasons, the Court reduced the administrative penalties imposed in [several] cases[.]

This Court proceeded to discuss a number of cases[38] on dishonesty to show the variation in penalties actually imposed. In sum, most respondents received either a penalty of six (6) months suspension or one (1) year suspension without pay on account of the presence of mitigating circumstances. On the other hand, there were two (2) isolated cases mentioned where respondents (a branch clerk of court of the Metropolitan Trial Court and an Executive Assistant of the Court of Appeals) were only fined in the amount of ₱5,000.00 and ₱10,000.00, respectively.

For failure to disclose in her PDS the following: (a) that she has been formally charged for falsification, perjury and estafa; (b) that there was a pending administrative case against her before the Office of the Ombudsman; and (c) that she was later adjudged guilty of misconduct in the same administrative case, respondent judge in *Aguilar* was correspondingly suspended

[38] *Id.* citing the following cases: *OCA v. Flores*, A.M. No. P-07-2366, 16 April 2009, 585 SCRA 82; *Concerned Employees of the Municipal Trial Court of Meycauayan, Bulacan v. Paguio-Bacani,* A.M. No. P-06-2217, 30 July 2009, 594 SCRA 242; *Concerned Employee v. Valentin*, 498 Phil. 347 (2005); *Re: Administrative Case for Dishonesty against Elizabeth Ting*, 502 Phil. 264 (2005); *Reyes-Domingo v. Morales*, 396 Phil. 150 (2000); *Floria v. Sunga*, 420 Phil. 637 (2001); *Concerned Taxpayer v. Doblada*, 507 Phil. 222 (2005); and *de Guzman v. Mendoza*, 493 Phil. 690 (2005) .

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from the service for six (6) months without pay. In the imposition of the penalty of suspension, this Court considered, among others, the following: (a) that the criminal complaint and the administrative cases involve the notarization of private documents, which had no relation to the performance of her official functions; (b) her length of government service; and (c) that the charge was the first and only administrative complaint brought before the Judiciary for which she was found guilty.

This Court distinguished *Aguilar* from *Office of the Court Administrator v. Judge Estacion, Jr., Gutierrez v. Belan* and *Re: Non-Disclosure before the Judicial and Bar Council of the Administrative Case Filed Against Judge Jaime Quitain*, where the respondents were meted the extreme penalty of dismissal from the service, in the following manner:

> In *Estacion,* the respondent judge failed to disclose his pending criminal cases for homicide and attempted homicide when he applied to the Judiciary; while in *Belan,* the respondent judge failed to previously disclose a pending criminal case for reckless imprudence resulting in serious physical injuries. In *Quitain*, the previous administrative case which the respondent judge failed to disclose upon his application for judgeship was one for grave misconduct for which he was **dismissed** from the service with forfeiture of benefits prior to his application to the Judiciary. The seriousness of the case or cases which respondent judges failed to disclose in their PDS or applications for judgeship, and the absence of mitigating circumstances, sufficiently differentiate *Estacion*, *Belan*, and *Quitain*, from the one at bar.

In the present case, respondent judge similarly failed to disclose in his application the serious charge of indirect bribery against him. We rule as we did in *Yalung v. Judge Enrique M. Pascua*,[39] where this Court fined and suspended respondent judge for six (6) months for gross inefficiency and dishonesty.[40]

As in the present case, the dishonesty of respondent judge in *Yalung* also involved misrepresentation in accomplishing his

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[39] A.M. No. MTJ-01-1342, 21 June 2001, 359 SCRA 241.

[40] *Id.* at 250 citing *Bolalin v. Occiano*, 266 SCRA 203(1997).

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PDS submitted to the JBC. In particular, respondent in that case, in answering Question No. 24[41] in the negative, "made it appear that he had never been charged with any violation of the law, decree, ordinance, or regulation"[42] when he had been previously charged for bribery/extortion. Also, both respondents in *Yalung* and the present case have been in the government service for a considerable length of time. Respondent has served the judiciary for five (5) years after his retirement from the Office of the City of Prosecutor, Ligao City. In addition, both have no prior administrative record. A six-month suspension from office is, ordinarily, in order.

We must, however, of necessity consider the compulsory retirement of respondent on 12 October 2010. The penalty of suspension can thus no longer be implemented. In lieu thereof, the penalty of fine may still be imposed,[43] the determination of the amount of which is subject to the sound discretion of the court.

In *Pleyto v. Philippine National Police Criminal Investigation and Detection Group*,[44] for negligence in accomplishing his Statement of Assets and Liabilities for the year 2002, this Court held:

> xxx And since petitioner is already compulsorily retired, he can no longer serve his suspension; yet, this Court can still order, in lieu of such penalty, the **forfeiture of the amount equivalent to petitioner's salary for six months from his retirement benefits**.[45] *(Emphasis supplied.)*

However, in *Judge Basilla v. Ricafort*,[46] for dishonesty, this Court opted to impose upon respondent Legal Researcher a

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[41] "24. Have you ever been charged with or convicted of or otherwise imposed a sanction for violation any law, decree, ordinance or regulation by any court, quasi-judicial office or tribunal of the Philippines or in any foreign country, or found guilty of an administrative offense?" *Id.* at 248.

[42] *Id.* at 249.

[43] *OCA v. Judge Leonida*, A.M. No. RTJ-09-2198, 18 January 2011; *Atty. Bautista v. Judge Causapin*, A.M. No. RTJ-07-2044, 22 June 2011.

[44] G.R. No. 169982, 23 November 2007, 538 SCRA 534.

[45] *Id.* at 595.

[46] A.M. No. P-06-2233, 26 September 2008, 566 SCRA 425.

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fine of Twenty Thousand (₱20,000.00) Pesos to be deducted from her retirement benefits. It ratiocinated:

> Section 52, Rule IV of the Uniform Rules on Administrative Cases provides that dishonesty is a grave offense and punishable by dismissal even on the first time of commission.
>
> Taking into account respondent's forty (40) years of service in the government, the OCA submits that the penalty imposable upon her is suspension. Considering, however, that suspension can no longer be imposed due to respondent's retirement on February 14, 2007, We opt to impose upon her a **fine of Twenty Thousand Pesos (₱20,000.00)**.[47] *(Emphasis supplied.)*

In the case at bar, while we note that respondent is covered by the exacting standards of judicial conduct even while he was still applying for a judicial position, we cannot ignore respondent's heretofore unblemished judicial service and the fact that this is his first offense.

All considered, we deem it sufficient to impose the penalty of fine in the amount of Fifty Thousand (₱50,000.00) Pesos in lieu of the penalty of six (6) months suspension from office. The total amount of fines in this case is Sixty Thousand (₱60,000.00) Pesos, which includes the fine of Ten Thousand (₱10,000.00) Pesos for gross inefficiency.

WHEREFORE, for gross inefficiency and dishonesty, respondent Judge Angeles S. Vasquez, RTC, Branch 13, Ligao City, is hereby ordered to pay a FINE of SIXTY THOUSAND (₱60,000.00) PESOS to be deducted from his retirement benefits.

SO ORDERED.

Corona, C.J., Carpio, Velasco, Jr., Leonardo-de Castro, Brion, Peralta, Bersamin, del Castillo, Abad, Villarama, Jr. and *Mendoza, JJ.*, concur.

Sereno, J., on official leave.

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[47] *Id.* at 434.