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his duties effectively. Although it does not justify Alfonso's omission, it nonetheless serves to mitigate his offense. Hence, under the circumstances, we find the recommendation of the Office of the Court Administrator to be just.

IN VIEW WHEREOF, the AWOL status of Edelito I. Alfonso is hereby *LIFTED*. He is, however, *SUSPENDED* for *six (6) months and one (1) day without pay* with *STERN WARNING* that a similar future violation will be strictly dealt with.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Kapunan, Pardo, and *Ynares-Santiago, JJ.*, concur.

FIRST DIVISION

[A.M. No. MTJ-00-1247. October 10, 2000]
(formerly OCA IPI No. 98-563-MTJ)

CHARLES N. UY, *complainant, vs.* **JUDGE NELIDA S. MEDINA, PRESIDING JUDGE OF THE MUNICIPAL TRIAL COURT OF ILOILO, BRANCH 2,** *respondent.*

SYNOPSIS

An administrative complaint was filed against respondent MTC judge for grave abuse of discretion, gross ignorance of the law, knowingly rendering unjust judgment, and partiality relative to Civil Case No. 367(97).

Records show that complainant filed a complaint against his parents for recovery of personal property with prayer for replevin of the owner's duplicate copy of the transfer certificate of title.

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Based on the findings of the Office of the Court Administrator, the Supreme Court found respondent judge liable only for the delay in the disposition of the replevin case which took more than two months to decide. Since the case is covered by the Revised Rules on Summary Procedure, respondent is obligated to decide the case within 30 days from the date when the position papers of both parties were filed in court. No grave abuse of discretion can properly be accorded to the respondent judge who found defendants' explanation as to why they did not personally serve their position paper plausible. Neither can she be held guilty of ignorance of the law in denying the application for a writ of replevin due to insufficiency of the bond and in holding that the owner's duplicate copy of the transfer certificate of title is not a personal property. The resolution of these issues pertains to the respondent judge's judicial functions, which are not subject to disciplinary action, even though erroneous, in the absence of fraud, dishonesty or corruption.

SYLLABUS

1. **LEGAL AND JUDICIAL ETHICS; JUDGES; ADMINISTRATIVE COMPLAINT AGAINST JUDGES; DELAY IN THE DISPOSITION OF CASES; PRESENT IN CASE AT BAR.** — The Court finds the respondent judge administratively liable but only for the delay in the disposition of Civil Case No. 367(97). Applying Sec. 10 of the Revised Rules on Summary Procedure, respondent judge is therefore obligated to decide the case within thirty (30) days from February 16, 1998 which was the date when the position papers of both parties were filed in court. When the complainant filed on February 19, 1998 a Motion to Consider Defendants' Position Paper as Not Filed, the respondent judge should have simply denied the motion on the basis of the applicable law and then immediately rule on the merits of the case so as not to defeat the purpose of the rules on summary procedure. We see no reason why it has to take the respondent judge a month to resolve a simple motion and *more than two (2) months* to decide the case.

2. **ID.; ID.; ACTS OF A JUDGE IN HIS JUDICIAL CAPACITY, ALTHOUGH ERRONEOUS, ARE NOT SUBJECT TO DISCIPLINARY ACTION; EXCEPTIONS; CASE AT BAR.** —

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The other grounds raised by the complainant are devoid of merit. Complainant contends that respondent judge committed gross ignorance of the law in denying complainant's motion to consider defendants' position paper as not filed. His reliance on Section 11, Rule 13 of the 1997 Rules of Civil Procedure is misplaced. x x x The evidence on record shows that defendants' position paper was accompanied by an explanation as to why personal service was not resorted to. Defendants found it impractical to personally serve the pleading to complainant due to time constraint, lack of manpower and in order to minimize expense. In the March 25, 1998 Order denying complainant's motion, respondent judge opines that "x x x To mail the position paper at Iloilo Hall of Justice Post office and immediately file the same with the Court which is an adjacent door to the Iloilo Hall of Justice Post office is very practical and convenient x x x." The respondent judge found defendants' explanation as to why they did not personally serve their position paper plausible. We do not find any abuse in the exercise of such discretion properly accorded to the respondent judge. x x x. We likewise find unmeritorious complainant's claim that respondent judge is guilty of ignorance of the law in denying the application for a writ of replevin due to insufficiency of the bond and in holding that the owner's duplicate copy of TCT No. T-107085 is not a personal property. The resolution of the issue clearly pertains to the respondent judge's functions. In the absence of fraud, dishonesty or corruption, the acts of a judge is his judicial capacity are not subject to disciplinary action, even though such acts are erroneous.

APPEARANCES OF COUNSEL

Joseph Vincent Go for complainant.

D E C I S I O N

PUNO, *J.:*

Before this Court is a verified complaint filed by Charles N. Uy against respondent Judge Nelida S. Medina of the Municipal Trial Court of Iloilo, Branch 2 for grave abuse of discretion, gross ignorance of the law, knowingly rendering unjust judgment,

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partiality and grave abuse of judicial authority relative to Civil Case No. 367(97) entitled "*Charles N. Uy vs. Sps. Carlos F. Uy and Nelia N. Uy.*"

The records show that complainant filed a complaint[1] against his parents, spouses Carlos and Nelia Uy, for recovery of personal property with prayer for replevin of the owner's duplicate copy of Transfer Certificate of Title No. T-107085. The case was raffled to the *sala* of respondent judge.

Complainant alleges that he is the registered owner of a parcel of land located in Bo. Buhang, District of Jaro, City of Iloilo, Island of Panay under TCT No. T-107085 which was then in the possession of his parents. Defendants spouses Uy filed their Answer with Counterclaim,[2] wherein they alleged, among others, that they are the owners of the property covered by the subject title and that the property is the subject of Civil Case No. 23792 pending before Branch 30, Regional Trial Court of Iloilo entitled "*Carlos F. Uy and Nelia Uy vs. Charles N. Uy and Register of Deeds of Iloilo City*" for reconveyance, annulment of title, recovery of possession and damages.

Complainant executed an affidavit pursuant to Section 2, Rule 60 of the Rules of Court, paid the replevin bond in the amount of ₱100.00 and moved for the issuance of the writ of replevin. In an Order dated November 10, 1997, respondent judge denied complainant's prayer for the issuance of the writ of replevin for insufficiency of the replevin bond.

A Preliminary Conference Order[3] was issued on January 8, 1998 after the termination of the preliminary conference. On February 13, 1998, defendants served a copy of their Position Paper[4] upon the complainant by registered mail and filed its original copy with the trial court. An Affidavit of Service/Filing

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[1] Annex "B" of the complaint, *Rollo*, pp. 30-33.

[2] Annex "C", *id.*, *Rollo*, pp. 42-47.

[3] Annex "E", *id.*, *Rollo*, pp. 49-51.

[4] Annex "G", *id.*, *Rollo*, pp. 70-78.

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was attached to the said Position Paper with an explanation that personal service was not resorted to because of time constraint, lack of manpower and in order to minimize expenses.[5] Complainant's Position Paper, on the other hand, was personally served upon the defendants and filed with the court on February 16, 1998.[6]

Complainant filed a Motion to Consider Defendants' Position Paper as Not Filed for their alleged failure to comply with Section 11, Rule 13 of the Rules of Court.[7] Respondent judge denied the motion in an Order dated March 25, 1998.[8]

On March 27, 1998, complainant filed an *Ex-Parte* Motion for Early Decision[9] which was granted by the trial court in an Order dated April 3, 1998.[10] On June 2, 1998, complainant filed a 2nd (*Ex-Parte*) Motion for Early Resolution.[11]

On May 29, 1998, respondent judge rendered a decision dismissing the complaint and ordering the complainant to pay the defendants the amount of ₱5,000.00 as attorney's fees.[12]

Complainant appealed the assailed decision to the Regional Trial Court of Iloilo which was raffled to Branch 39 and docketed as Civil Case No. 25254 [MTC Case No. 367(97)]. During the pendency of the complaint at bar, complainant and the defendants in Civil Case No. 25254 submitted a Compromise Agreement for the approval of the trial court. The Regional Trial Court of Iloilo, Branch 39 rendered a decision,[13] the dispositive portion of which provides, thus:

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[5] Annex "B" of complainant's Motion to Consider Defendants' Position Paper as not Filed. *Rollo*, p. 182.

[6] Annex "F" of the complaint, *Rollo*, pp. 52-61.

[7] Annex "H", *id.*, *Rollo*, pp. 177-182.

[8] Annex "M", *id.*, *Rollo*, p. 193.

[9] Annex "N", *id.*, *Rollo*, pp. 194-195.

[10] Annex "O", *id.*, *Rollo*, p. 196.

[11] Annex "P", *id.*, *Rollo*, pp. 197-198.

[12] Annex "A", *id.*, *Rollo*, pp. 23-29.

[13] *Rollo*, p. 201.

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"WHEREFORE, finding the Compromise filed on September 8, 1998 not being contrary to law, morals or public policy, the court hereby approves the same and renders judgment in accordance therewith. The parties are enjoined to comply strictly with its terms and stipulations.

SO ORDERED."

In his present complaint, complainant raises the following grounds, to wit:

"*G R O U N D S*

1. Respondent judge Medina is guilty of gross ignorance of the law, if not evident bad faith and malice, and partiality in denying the writ of replevin due to insufficiency of the bond;

2. The respondent judge committed grave abuse of discretion and gross ignorance of the law, and ruled with partiality and bad faith in denying the motion to consider defendants' position paper as not filed despite the gross and patent violation of Section 11, Rule 13 of the Rules of Court.

3. The trial court showed gross ignorance of the law in holding that the Owner's Duplicate Copy of Transfer Certificate of Title No. T-107085 is not a personal property.

4. The trial court committed grave abuse of discretion and of judicial authority, manifested (*sic*) gross ignorance of the law, malice and bad faith in completely disregarding and departing, sans explanation despite due citation, from the ruling of the Supreme Court in *Verceles vs. Bacani*, 156 SCRA 108.

5. Respondent Judge Medina is guilty of grave abuse of judicial authority and gross inefficiency in the performance of her duties in resolving Civil Case No. 367(97) beyond the mandatory period of thirty (30) days from date of submission."[14]

In its 1st Indorsement dated October 29, 1998, the Office of the Court Administrator referred the complaint to respondent judge for her Comment. Respondent judge contends that the complainant erroneously based the bond on the value of the

[14] Complaint, p. 4; *Rollo*, p. 4.

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unfilled form of the transfer certificate of title which is a mere piece of paper. The replevin bond should be based on the value of the property inscribed in the said title such that the ₱100.00 replevin bond cannot therefore answer for the damages which the defendants may suffer.[15]

The respondent judge also found defendants' explanation as to why they resorted to service by registered mail sufficient compliance with Section 11, Rule 13 of the 1997 Rules of Civil Procedure. She considered the time the Position Paper was filed in court which is 12:00 noon as appearing in the rubber stamp mark on the upper right hand portion of the said pleading. The window of the Iloilo Hall of Justice Post Office is only a meter distance from the door of the court room of the respondent judge where the pleading is to be filed.[16]

Respondent judge likewise maintains that this Court's ruling in *Verceles vs. Bacani*[17] is not squarely in point with the case before her. The ownership of the subject property is not an issue in the *Verceles* case unlike in the case pending before her.[18]

Respondent judge attributes the delay in the promulgation of the decision in Civil Case No. 367(97) to the lack of stenographers who would type the decision, the numerous times when the draft was corrected and her additional responsibilities as Vice Executive Judge. She stresses the fact that she has allegedly made a draft of the decision even before the expiration of the 30-day period.

Respondent judge filed a letter dated October 20, 1999 with this Court stating that she was applying for optional retirement effective October 30, 1999 and that if there is any charge against her in connection with the present administrative case, she requests that the same be withheld from her retirement benefits.

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[15] Comment, pp. 4-5; *Rollo*, pp. 208-209.

[16] Comment, p. 6; *Rollo*, p. 210.

[17] 156 SCRA 108 (1987).

[18] *Supra* note 16.

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On the basis of the recommendation of the Office of the Court Administrator, the Court finds the respondent judge administratively liable but only for the delay in the disposition of Civil Case No. 367(97).

Sec. 10 of the Revised Rules on Summary Procedure provides that:

"Sec. 10. *Rendition of judgment.* — Within thirty (30) days after receipt of the last affidavits and position papers, or the expiration of the period for filing the same, the court shall render judgment.

xxx xxx xxx"

Applying the aforequoted provision of law, respondent judge is therefore obligated to decide the case within thirty (30) days from February 16, 1998 which was the date when the position papers of both parties were filed in court. When the complainant filed on February 19, 1998 a Motion to Consider Defendants' Position Paper as Not Filed, the respondent judge should have simply denied the motion on the basis of the applicable law and then immediately rule on the merits of the case so as not to defeat the purpose of the rules on summary procedure. We see no reason why it has to take the respondent judge a month to resolve a simple motion and *more than two (2) months* to decide the case.

The excuse proferred by the respondent judge for the delay is flimsy. A judge should diligently discharge administrative responsibilities, maintain professional competence in court management, and facilitate the performance of the administrative functions of other judges and court personnel.[19]

The Revised Rules on Summary Procedure was precisely enacted to achieve an expeditious and inexpensive determination of cases, and failure to observe the 30-day period within which to render a judgment subjects the defaulting judge to administrative sanction.[20]

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[19] Code of Judicial Conduct, Canon 3, Rule 3:08.

[20] *Cruz vs. Pascual,* 244 SCRA 111 (1995).

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The other grounds raised by the complainant are devoid of merit. Complainant contends that respondent judge committed gross ignorance of the law in denying complainant's motion to consider defendants' position paper as not filed. His reliance on Section 11, Rule 13 of the 1997 Rules of Civil Procedure is misplaced. Said provision states that:

"Sec. 11. *Priorities in modes of service and filing.* — Whenever practicable, the service and filing of pleadings and other papers shall be done personally. Except with respect to papers emanating from the court, a resort to other modes must be accompanied by a written explanation why the service or filing was not done personally x x x."

The evidence on record shows that defendants' position paper was accompanied by an explanation as to why personal service was not resorted to. Defendants found it impractical to personally serve the pleading to complainant due to time constraint, lack of manpower and in order to minimize expense. In the March 25, 1998 Order denying complainant's motion, respondent judge opines that "x x x. To mail the position paper at Iloilo Hall of Justice Post office and immediately file the same with the Court which is an adjacent door to the Iloilo Hall of Justice Post office is very practical and convenient x x x."[21] We reiterate our ruling in *Solar Team Entertainment, Inc. vs. Ricafort* [22] as to the proper application of Section 11, Rule 13 of the 1997 Rules of Civil Procedure. Thus:

"Pursuant, however, to Section 11 of Rule 13, service and filing of pleadings and other papers must, whenever practicable, be done personally; and if made through other modes, the party concerned must provide a written explanation as to why the service or filing was not done personally. x x x

Personal *service* and *filing* are preferred for obvious reasons. Plainly, such should expedite action or resolution on a pleading, motion or other paper; and conversely, minimize, if not eliminate, delays likely to be incurred if service or filing is done by mail, considering the inefficiency of the postal service. Likewise, personal service will do

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[21] Annex "M" of the Complaint, *Rollo*, p. 193.

[22] 293 SCRA 661 (1998).

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away with the practice of some lawyers who, wanting to appear clever, resort to the following less than ethical practices: (1) serving or filing pleadings by mail to catch opposing counsel off-guard, thus leaving the latter with little or no time to prepare, for instance, responsive pleadings or an opposition; or (2) upon receiving notice from the post office that the registered parcel containing the pleading or other paper from the adverse party may be claimed, unduly procrastinating before claiming the parcel, or, worse, not claiming it at all, thereby causing undue delay in the disposition of such pleading or other papers.

If only to underscore the mandatory nature of this innovation to our set of adjective rules requiring personal service whenever practicable, *Section 11 of Rule 13 then gives the court the discretion to consider a pleading or paper as not filed if the other modes of service or filing were resorted to and no written explanation was made as to why personal service was not done in the first place. The exercise of discretion must, necessarily, consider the practicability of personal service, for Section 11 itself begins with the clause "whenever practicable."*

We thus take this opportunity to clarify that under Section 11, Rule 13 of the 1997 Rules of Civil procedure, personal *service* and *filing* is the general rule, and resort to other modes of service or filing, the exception. Henceforth, whenever personal service or filing is practicable, *in light of the circumstances of time, place and person,* personal service or filing is mandatory. Only when personal service or filing is not practicable may resort to other modes be had, which must then be accompanied by a written explanation as to why personal service or filing was not practicable to begin with. *In adjudging the plausibility of an explanation, a court shall likewise consider the importance of the subject matter of the case or the issues involved therein, and the prima facie merit of the pleading sought to be expunged for violation of Section 11.* This Court cannot rule otherwise, lest we allow circumvention of the innovation introduced by the 1997 Rules in order to obviate delay in the administration of justice."[23] (Italics supplied)

The respondent judge found defendants' explanation as to why they did not personally serve their position paper plausible. We do not find any abuse in the exercise of such discretion

[23] *Id.*, pp. 667-669.

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properly accorded to the respondent judge. Complainant received a copy of defendants' Position Paper on February 18, 1998 or five (5) days from the time it was mailed. The slight delay did not cause substantial prejudice to the complainant. Since the case is governed by the Rules on Summary Procedure, parties are neither required nor expected to file any more pleading *after* the submission of their respective position papers and affidavits for the trial court shall render judgment within thirty (30) days after its receipt of the position papers and affidavits.[24]

We likewise find unmeritorious complainant's claim that respondent judge is guilty of ignorance of the law in denying the application for a writ of replevin due to insufficiency of the bond and in holding that the owner's duplicate copy of TCT No. T-107085 is not a personal property. The resolution of the issue clearly pertains to the respondent judge's judicial functions. In the absence of fraud, dishonesty or corruption, the acts of a judge in his judicial capacity are not subject to disciplinary action, even though such acts are erroneous.[25]

It is axiomatic that an administrative complaint is not the appropriate remedy for every act of a judge deemed aberrant or irregular where a judicial remedy exists and is available, such as a motion for reconsideration or an appeal. Obviously, if subsequent developments prove the judge's challenged act to be correct, there would be no occasion to proceed against him at all.[26]

Finally, we note that complainant appealed the case to the Regional Trial Court which rendered a decision based on the compromise agreement entered into by the parties therein. The pertinent portion of the said compromise agreement states that:

"1. In Civil Case No. 23792 entitled *"Sps. Carlos Uy and Nelia Uy vs. Charles Uy"* for reconveyance, the trial court, the Regional

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[24] Section 10, first paragraph, 1991 Revised Rules on Summary Procedure.

[25] *Equatorial Realty Development Inc. vs. Anunciacion Jr.*, 280 SCRA 571 (1997).

[26] *Santos vs. Orlino*, 296 SCRA 101 (1998).

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Trial Court of Iloilo, Branch 30, upon motion, rendered a decision based on a compromise entered into by the parties x x x

2. In the said compromise and the subsequent decision, the above-named plaintiff-appellant is obliged to reconvey to herein defendants-appellees the property described in and covered by Transfer Certificate of Title No. T-107085, the subject matter of this suit, x x x

3. The reconveyance of the property to and in favor of the defendants-appellants[27] necessitates the delivery of Transfer Certificate of Title No. T-1207085[28] to them in order to effect the transfer of title.

4. Consequently, such reconveyance renders the present appeal moot and academic. the defendants-(*sic*) appellants becoming the lawful possessor of the said certificate after constructive delivery."[29]

The terms of the compromise agreement reconveying the property described in TCT No. T-107085 to and in favor of the defendants-appellees all the more convince us that there is no sufficient basis to hold respondent judge guilty of partiality and knowingly rendering unjust judgment. As correctly observed by the Office of the Court Administrator, the Regional Trial Court made no clear findings upon which the administrative liability maybe imputed to the respondent judge.

IN VIEW WHEREOF, a FINE of ₱1,000.00 is imposed on respondent judge for delay in the disposition of Civil Case No. 367(97).

SO ORDERED.

Davide, Jr., C.J. (Chairman), Kapunan, Pardo, and *Ynares-Santiago, JJ.,* concur.

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[27] Should be "appellees."

[28] Should be "107085."

[29] RTC Decision dated September 11, 1998; *Rollo*, p. 201.