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FIRST DIVISION

[A.M. No. MTJ-01-1339. February 13, 2002]

EFREN MORALES, SR., *complainant, vs.* **JUDGE CESAR M. DUMLAO, Presiding Judge and DANILO B. RAMONES, Clerk of Court, Municipal Trial Court, San Mateo, Isabela,** *respondents.*

SYNOPSIS

Marciano Morales, plaintiff in Civil Case No. 4038, executed a general power of attorney in favor of complainant. The same was later revoked in a document entitled "Revocation of the General Power of Attorney" which was notarized by respondent Judge. As a consequence, respondent was charged with abuse of authority, conduct unbecoming a judge and violation of Supreme Court Circular No. 1-90. Respondent admitted having notarized the subject deed but averred that the same was done inadvertently.

Judges must be conversant with basic legal principles. Respondent Judge owes it to the public and to the legal profession to know the law that he is supposed to apply to a given controversy. Supreme Court Circular 1-90 provides that MTC and MCTC judges may act as notaries public *ex officio* in the notarization of documents connected only with the exercise of their official functions and duties. They may not undertake the preparation and acknowledgement of private documents, contracts and other acts of conveyances which bear no direct relation to the performance of their functions as judges. Respondent's claim that he did not know how he inadvertently signed the notarized revocation of power of attorney betrays a deficiency of that degree of circumspection demanded of all those who don the judicial robe. The same runs contrary to Canon 3 of the Code of Judicial Conduct.

SYLLABUS

1. JUDICIAL ETHICS; JUDGES; MUST BE CONVERSANT WITH BASIC LEGAL PRINCIPLES. — This Court has

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consistently held that judges must be conversant with basic legal principles. Indeed, the Code of Judicial Conduct enjoins judges to "be faithful to the law and maintain professional competence." Respondent judge owes it to the public and to the legal profession to know the law he is supposed to apply to a given controversy.

2. **ID.; ID.; MAY ACT AS NOTARIES PUBLIC *EX OFFICIO* ONLY IN CONNECTION WITH THE EXERCISE OF THEIR OFFICIAL FUNCTIONS.** — Supreme Court Circular 1-90, dated February 26, 1990, specifically provides, in pertinent part: MTC and MCTC judges may act as notaries public *ex officio* in the notarization of documents connected only with the exercise of their official functions and duties. They may not, as notaries public *ex officio*, undertake the preparation and acknowledgment of private documents, contracts and other acts of conveyances which bear no direct relation to the performance of their functions as judges. The 1989 Code of Judicial Conduct not only enjoins judges to regulate their extra-judicial activities in order to minimize the risk of conflict with their judicial duties, but also prohibits them from engaging in the private practice of law.

3. **ID.; ID.; ID.; CASE AT BAR.** — Respondent Judge's claim that he did not know how he inadvertently signed the notarized revocation of power of attorney in this case betrays a deficiency of that degree of circumspection demanded of all those who don the judicial robe. It is, in fact, an open admission of his negligence and lack of care in attending to the incidents brought before him for adjudication. This kind of judicial carelessness runs contrary to Canon 3 of the Code of Judicial Conduct. While we do not expect judges to have an encyclopedic recollection of applicable laws, jurisprudence or administrative circulars we issue periodically in the discharge of their responsibilities, they nevertheless have the bounden duty to keep abreast with the law and the changes therein as well as the decisions of this Court. As a trial judge, respondent is the visible representation of law and justice. Under Canon 1.01 of the Code of Judicial Conduct he is expected to be "the embodiment of competence, integrity and independence" to maintain public confidence in the legal system.

4. **ADMINISTRATIVE LAW; ADMINISTRATIVE PROCEEDINGS; COMPLAINANTS HAVE BURDEN OF PROVING, BY SUBSTANTIAL EVIDENCE,**

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ALLEGATIONS IN THEIR COMPLAINTS; CASE AT BAR. — In administrative proceedings, complainants have the burden of proving by substantial evidence the allegations in their complaints. In the absence of contrary evidence what will prevail is the presumption that the respondent has regularly performed his duties. It appears that respondent Clerk of Court merely acted under specific orders of the judge. His failure to implement said orders will render him liable for contempt of court. Hence, it was his ministerial duty to proceed with reasonable promptness to execute whatever instructions were embodied therein in accordance with their mandate.

APPEARANCES OF COUNSEL

Eduardo R. Benitez for complainant

RESOLUTION

YNARES-SANTIAGO, *J.*:

In a verified complaint dated May 10, 1999,[1] Efren Morales, Sr. charged Judge Cesar M. Dumlao, Presiding Judge of Municipal Trial Court, San Mateo, Isabela with Abuse of Authority, Conduct Unbecoming a Judge and Violation of Supreme Court Circular No. 1-90, and Clerk of Court Danilo B. Ramones with Abuse of Authority.

The complaint alleges that on May 18, 1996, Marciano Morales, father of complainant and plaintiff in Civil Case No. 4038, executed a General Power of Attorney (GPA)[2] authorizing complainant Efren Morales, Sr. to perform acts of general administration over the property of the family, and empowering him to represent his father in a pending civil case and to mortgage a portion of the land to finance the litigation.

Subsequently, Marciano Morales filed an action for unlawful detainer,[3] docketed as Civil Case No. 4038, praying that Efren

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[1] *Rollo*, p. 1.

[2] *Ibid.*, p. 10.

[3] *Id.*, p. 11.

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Morales, Sr., be evicted from the properties he was administering after due demand. The case was filed with the Municipal Trial Court of San Mateo, Isabela.

On October 12, 1998, Marciano Morales executed a revocation of the General Power of Attorney in favor of complainant Efren Morales, Sr.[4] The revocation of the power of attorney was notarized by respondent Judge.

On March 12, 1999, respondent Judge issued an Order[5] deputizing respondent Clerk of Court to supervise the harvest of the *palay* and to deposit the harvest in a bonded warehouse.

Complainant claims that the act of the respondent Judge in notarizing the revocation of the General Power of Attorney violated Supreme Court Circular No. 1-90, which delineates the power of Municipal Trial Court Judges and Municipal Circuit Trial Court Judges to act as Notaries Public *Ex Officio*. Complainant also assails the issuance of the Order dated March 12, 1999 without a hearing, arguing that the same was in the nature of a restraining order.

In his Answer/Comment dated September 22, 1999,[6] respondent Judge admitted having notarized the revocation of the special power of attorney, but averred that the same was done inadvertently. He, nevertheless, advised plaintiffs and their counsel about the matter. Respondent Judge also admitted having issued the order deputizing respondent Clerk of Court to supervise the harvest and deposit the same in a bonded warehouse. However, he contended that the prevailing circumstances of the case demanded immediate action, inasmuch as the property subject matter of the ejectment case is agricultural land planted to *palay*. Thus, he issued the order in order to protect the harvest of the land.

For his part, respondent Clerk of Court submitted the Counter-affidavit he executed in Ombudsman Case No. OMB-1-99-0971,

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[4] *Id.*, p. 18.

[5] *Id.*, p. 17.

[6] *Id.*, pp. 23-25.

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which he adopted as his Answer to the administrative complaint.[7] Respondent Clerk of Court denied the allegations that the *palay* was sold over complainant's objections thereto. According to said respondent, the *palay* was actually deposited and the parties were properly informed as to the whereabouts thereof. The *palay* was brought to the FCC Palay Buying Station together with the representative of Marciano Morales and the complainant himself together with his sons, Efren, Jr. and Roger, where the same was weighed in their presence and receipted by FCC with their corresponding number of cavans, kilos and price per kilo.

After evaluating the complaint, the Office of the Court Administrator (OCA) recommended that: 1) respondent Judge be ordered to pay a fine of Five Thousand Pesos (₱5,000.00) with a warning that a repetition of the same or similar offense shall be dealt with more severely; and 2) the complaint against respondent Clerk of Court be dismissed.

We adopt the recommendation of the OCA.

This Court has consistently held that judges must be conversant with basic legal principles.[8] Indeed, the Code of Judicial Conduct enjoins judges to "be faithful to the law and maintain professional competence."[9] Respondent judge owes it to the public and to the legal profession to know the law he is supposed to apply to a given controversy.[10] Verily —

> The case of respondent Judge should be no different. For judges are called to exhibit more than just a cursory acquaintance with statutes and procedural laws. They are not "common men and women, whose errors men and women forgive and time forgets. Judges sit as the embodiment of the people's sense of justice, their last recourse where all other institutions have failed." Most importantly, respondent Judge is required by Canon 3, Rule 3.01 of the Code of Judicial Conduct to be faithful to the law and maintain professional

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[7] *Id.*, p. 30.

[8] *COMELEC v. Datu Imam*, 304 SCRA 106 [1999].

[9] Canon 3, Rule 3.01.

[10] *Bacar v. De Guzman, Jr.*, 271 SCRA 328 [1997].

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competence. As we held in one case, there will be faith in the administration of justice only if there be a belief on the part of the litigant that the occupants of the bench cannot be justly accused of deficiency in their grasp of legal principles.[11]

Supreme Court Circular 1-90, dated February 26, 1990, specifically provides, in pertinent part:

MTC and MCTC judges may act as notaries public *ex officio* in the notarization of documents connected only with the exercise of their official functions and duties. They may not, as notaries public *ex officio*, undertake the preparation and acknowledgment of private documents, contracts and other acts of conveyances which bear no direct relation to the performance of their functions as judges. The 1989 Code of Judicial Conduct not only enjoins judges to regulate their extra-judicial activities in order to minimize the risk of conflict with their judicial duties, but also prohibits them from engaging in the private practice of law.[12]

Respondent Judge's claim that he did not know how he inadvertently signed the notarized revocation of power of attorney in this case[13] betrays a deficiency of that degree of circumspection demanded of all those who don the judicial robe. It is, in fact, an open admission of his negligence and lack of care in attending to the incidents brought before him for adjudication. This kind of judicial carelessness runs contrary to Canon 3 of the Code of Judicial Conduct, which states that:

A judge should perform official duties honestly, and with impartiality and ***diligence***.

While we do not expect judges to have an encyclopedic recollection of applicable laws, jurisprudence or administrative circulars we issue periodically in the discharge of their responsibilities, they nevertheless have the bounden duty to keep abreast with the law and the changes therein as well as

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[11] *Dela Cruz v. Pascua,* A.M. No. RTJ-99-1471, 26 June 2001.

[12] Citations omitted.

[13] Answer, p. 2; *Rollo*, p. 24.

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the decisions of this Court.[14] As a trial judge, respondent is the visible representation of law and justice. Under Canon 1.01 of the Code of Judicial Conduct he is expected to be "the embodiment of competence, integrity and independence" to maintain public confidence in the legal system.[15]

Inefficient judges are equally impermissible in the judiciary as the incompetent and dishonest ones. Any of them tarnishes the image of the judiciary and brings it to public contempt, dishonor or disrespect and must then be administratively dealt with and punished accordingly.[16]

In view of the foregoing considerations, the Court finds the recommended penalty commensurate to respondent Judge's misdeed.

Regarding the charges against respondent Clerk of Court, there was no sufficient evidence to hold him administratively liable. In administrative proceedings, complainants have the burden of proving by substantial evidence the allegations in their complaints.[17] In the absence of contrary evidence what will prevail is the presumption that the respondent has regularly performed his duties.[18]

It appears that respondent Clerk of Court merely acted under specific orders of the judge. His failure to implement said orders will render him liable for contempt of court. Hence, it was his ministerial duty to proceed with reasonable promptness to execute whatever instructions were embodied therein in accordance with their mandate.[19]

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

[15] *Dizon, et al. v. Calimag,* A.M. No. RTJ-99-1472, 20 September 2001; *Cabañero v. Cañon,* A.M. No. MTJ-01-1369, 20 September 2001.

[16] *Dela Cruz v. Pascua, supra.*

[17] *Lorena v. Encomienda,* 302 SCRA 632 [1999]; *Cortes v. Agcaoili,* 294 SCRA 423 [1998].

[18] *Oniquit v. Binamira-Parcia,* 297 SCRA 354 [1998].

[19] *Mamanteo v. Maguman,* 311 SCRA 259 [1999].

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ACCORDINGLY, based on the foregoing, respondent Judge Cesar M. Dumlao is FINED in the amount of Five Thousand Pesos (P5,000.00) for violating SC Administrative Circular No. 1-90. He is likewise STERNLY WARNED that a repetition of the same or similar acts shall be dealt with more severely. The complaint against respondent Clerk of Court Danilo B. Ramones is DISMISSED.

SO ORDERED.

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

EN BANC

[A.M. No. RTJ-01-1636. February 13, 2002]

OFFICE OF THE COURT ADMINISTRATOR, *complainant, vs.* JUDGE ANTONIO P. QUIZON (Ret.) and BRANCH CLERK OF COURT FELIX C. MENDOZA, Regional Trial Court, Branch 40, Calapan City, Oriental Mindoro, *respondents.*

SYNOPSIS

A judicial audit was conducted in Branches 40 and 41 of the Regional Trial Court of Calapan, Oriental Mindoro, presided by respondent judge after his retirement. The audit team, who found that respondent judge was then in poor health, failed to act upon 132 cases for an unreasonable length of time and to take initial action on 62 civil cases and petitions, while respondent Clerk of Court failed to set 236 cases for hearing, to issue summons and to archive various cases. He died barely a year after his retirement. Respondent Clerk of Court anchored his defense on the poor health of respondent judge.