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Fortunately, respondents' action for reconveyance was timely, as it was filed within ten (10) years from the issuance of the torrens title over the property.[25]

WHEREFORE, we *DENY* the petition for review on *certiorari* for lack of merit. We *AFFIRM* the decision and resolution of the Court of Appeals in CA-G.R. CV No. 39922.

No costs.

SO ORDERED.

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

SECOND DIVISION

[A.M. No. MTJ-98-1165. June 21, 1999]

EXEQUIEL P. DOMINGO, *complainant, vs.* **JUDGE LUIS ENRIQUEZ REYES and CLERK OF COURT ERLINDA CABRERA, MTC, GUIGUINTO, BULACAN,** *respondents.*

SYNOPSIS

Criminal complaints were filed against complainant herein and Engr. Benjamin Biascan for robbery with slight physical injuries and malicious mischief. The respondent Judge herein conducted a preliminary investigation of the case filed but found no *prima facie* case therefor. Respondent Judge instead ordered the Guiguinto police to amend the robbery charge to one for theft and to file a separate complaint for physical injuries.

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[25] *Sta. Ana vs. Court of Appeals*, 281 SCRA, *supra*, citing *Tale vs. Court of Appeals*, 208 SCRA 266.

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He then took cognizance of these cases and issued warrants for the arrest of complainant. Thereafter, complainant herein (Exequiel P. Domingo) filed a complaint against respondent Judge and the Clerk of Court for grave misconduct, conduct unbecoming a court employee, and conduct prejudicial to the best interest of the service. Complainant contended that respondent is not justified in assuming jurisdiction over those cases, as the allegations in the complaint show that the case was beyond his jurisdiction. Complainant also claimed that the filing of the case against him was made only upon the inducement of respondent clerk of court and some other persons. Respondent Judge, however, averred that the filing of the complaint against him was only meant to harass him and to force him to inhibit himself from hearing the case, which he eventually did. The complaint against respondent Clerk of Court was dismissed for lack of merit in the resolution of October 7, 1998.

According to the Supreme Court, errors in the application of procedural rules are possible, as had happened in this case, without malicious intent on the part of the judge and without causing any harm to any litigant. The Court does not countenance respondent judge's failure to inform himself of the recent jurisprudential rules. His error, while recognized as an honest one and committed for the purpose of achieving the ends of justice, must never happen again. The respondent judge was reprimanded for ignorance of the law.

SYLLABUS

1. **POLITICAL LAW; LAW ON PUBLIC OFFICERS; JUDGES; EXPECTED TO KEEP ABREAST OF DEVELOPMENTS IN LAW AND JURISPRUDENCE; CASE AT BAR.** — In *Balagapo vs. Duquilla*, (238 SCRA 645 [1994]) the Court ruled that: "When a Municipal Judge conducts preliminary investigation, he performs a non-judicial function, as an exception to his usual duties. The assignment of such executive function to the Municipal Judge under Rule 112 of the Rules of Court is dictated by necessity and practical considerations. Consequently, the findings of an investigating Judge are subject to review by the Provincial Fiscal whose findings in turn may also be reviewed by the Secretary of Justice in appropriate

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cases. Hence, an investigating judge, after conducting a preliminary investigation, shall perform his ministerial duty which is to transmit within ten (10) days after the conclusion thereof the resolution of the case together with the entire records to the Provincial Prosecutor, regardless of his belief or opinion that the crime committed, after conducting the preliminary investigation, falls within the original jurisdiction of his court. x x x" The investigating judge is left with no choice but to perform his ministerial duty under Section 5, Rule 112. Judges are expected to keep abreast of developments in law and jurisprudence.

2. **ID.; ID.; ID.; ERROR IN THE APPLICATION OF PROCEDURAL RULES; PENALTY; CASE AT BAR.** — Errors in the application of procedural rules are possible, as had happened in this case, without malicious intent on the part of the judge and without causing any harm to any litigant. The Court does not countenance respondent judge's failure to inform himself of recent jurisprudential rules. His error, while recognized as an honest one and committed for the purpose of achieving the ends of justice, must never happen again.

RESOLUTION

QUISUMBING, *J.*:

On December 11, 1996, Exequiel P. Domingo filed a complaint against respondent Judge Luis Enriquez Reyes, presiding judge of the Municipal Trial Court of Guiguinto, Bulacan, for grave abuse of discretion, misconduct, gross ignorance of the law and acts unbecoming a judge. Complainant also filed a complaint against Clerk of Court Erlinda Cabrera, of the same court, for grave misconduct, conduct unbecoming a court employee, and conduct prejudicial to the best interest of the service.

It appears that on September 4, 1996, criminal complaints were filed against complainant and a certain Engr. Benjamin Biascan for robbery with slight physical injuries (Criminal Case No. 5528) and malicious mischief (Criminal Case Nos. 5529 and 5530). Respondent judge conducted a preliminary

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investigation of the robbery with physical injuries charge and found no *prima facie* case therefor.

Instead, he found that the "larceny of the rings" alleged in the complaint was not the primary motivation for the violence inflicted upon the private complainants in that case but was a mere afterthought. He thereafter ordered the Guiguinto police to amend the robbery charge to one for theft and to file a separate complaint for physical injuries. Respondent judge took cognizance of these cases (Criminal Case Nos. 5573 and 5574) and issued warrants for the arrest of complainant.

Complainant contends that respondent is not justified in assuming jurisdiction over those cases, as the allegations in the complaint show that the case was beyond his jurisdiction. He further claims that respondent judge should have refrained from handling the preliminary investigation of those cases because, allegedly, the certificates to file action relative to those cases were issued anomalously. Complainant points out that there was no court order for the parties to go to the barangay office for conciliation, nor was there an order for the barangay captain to summon the parties to a conciliation meeting.

Complainant asserts that respondent judge's failure to follow the proper procedure carries with it the presumption that he (respondent) had an ulterior motive therefor.

Complainant also claims that the filing of cases against him was made only upon the inducement of respondent clerk of court, Barangay Captain Jose Hilario of Sta. Rita Guiguinto, Bulacan, and Lucita Nagal, president of the Masagana Homes Homeowners' Association, also in Guiguinto, Bulacan.

Respondent judge admits having ordered the amendment of the complaint for robbery and physical injuries. However, he claims that he believed this to be the just and proper action to take. He points out that Rule 112 of the Rules of Court is silent as regards situations where complaints for offenses cognizable by the Regional Trial Court bear out evidence for offenses cognizable by the Municipal Trial Court instead.

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Respondent judge says that in such instances, he treats the cases as if they were originally filed in the MTC.

Respondent judge avers that the filing of this complaint against him was only meant to harass him and to force him to inhibit himself from hearing the case, which he eventually did.

Respondent judge admitted having overlooked the case of *Balagapo v. Duquilla*[1] wherein we held that it is a ministerial duty on the part of the investigating judge to transmit the resolution of his preliminary investigation to the Provincial Prosecutor,[2] regardless of his belief on the matter.

While the respondent judge's act was admittedly technically improper, he nevertheless points to human imperfection for his oversight and begs the Court's understanding and compassion.

For her part, respondent clerk of court denies having committed any form of misconduct as alleged by complainant. She asserts that she had nothing to do with the criminal cases filed against complainant and denies any friendship with private complainants therein. She says that the complaint filed against her is totally unwarranted and malicious and meant solely to harass her.

In a resolution dated July 7, 1997, we referred this matter to the Office of the Court Administrator for evaluation, report and recommendation.

In its report dated April 15, 1998, the OCA found that, indeed, respondent judge erred in ordering the amendment of the complaint filed against complainant and taking cognizance of the cases. He should have followed the procedure laid down in Section 5, Rule 112 of the Rules of Court, which provides:

> Sec. 5. *Duty of investigating judge.* — Within ten (10) days after the conclusion of the preliminary investigation, the investigating judge shall transmit to the provincial or city fiscal, for appropriate action, the resolution of the case, stating briefly the findings of facts and the law supporting his action, together with the entire records

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[1] 238 SCRA 645 (1994).

[2] RULES OF COURT, Section 5, Rule 112.

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of the case, which shall include: (a) the warrant, if the arrest is by virtue of a warrant; (b) the affidavits and other supporting evidence of the parties; (c) the undertaking or bail of the accused; (d) the order of release of the accused and cancellation of his bail bond, if the resolution is for the dismissal of the complaint.

x x x x x x x x x

This procedure must be followed regardless of the belief or opinion of the investigating judge concerning the case, as we ruled in *Balagapo*.

However, the OCA observed that there is no malice or intent to cause injury on the part of respondent judge. His error is simply attributable to human frailty which, while constituting ignorance of the law, is not so gross as to warrant respondent judge's dismissal. Neither does it amount to grave abuse of discretion, misconduct, or act unbecoming a judge. Moreover, respondent judge's repentant attitude is a factor that mitigates his administrative liability. The OCA pointed out further that this is the first time that respondent judge became the subject of a complaint, a manifestation of his good standing as a judge.

The OCA recommended that respondent judge be reprimanded.

As for the complaint against respondent clerk of court, the OCA recommended its dismissal on account of complainant's failure to substantiate his allegations. In a resolution dated October 7, 1998, we dismissed the complaint against respondent clerk of court for lack of merit.

We agree with the findings of the OCA as regards the act imputed against respondent judge. In *Balagapo v. Duquilla*, we ruled that:

When a Municipal Judge conducts preliminary investigation, he performs a non-judicial function, as an exception to his usual duties. The assignment of such executive function to the Municipal Judge under Rule 112 of the Rules of Court is dictated by necessity and practical considerations. Consequently, the findings of an investigating Judge are subject to review by the Provincial Fiscal whose findings in turn may also be reviewed by the Secretary of Justice in appropriate cases. Hence, an investigating judge, after conducting a preliminary

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investigation, shall perform his ministerial duty which is to transmit within ten (10) days after the conclusion thereof the resolution of the case together with the entire records to the Provincial Prosecutor, regardless of his belief or opinion that the crime committed, after conducting the preliminary investigation, falls within the original jurisdiction of his court. x x x[3]

The investigating judge is left with no choice but to perform his ministerial duty under Section 5, Rule 112.

Judges are expected to keep abreast of developments in law and jurisprudence. However, we recognize that errors in the application of procedural rules are possible, as had happened in this case, without malicious intent on the part of the judge and without causing any harm to any litigant.

We do not countenance respondent judge's failure to inform himself of recent jurisprudential rules. His error, while we recognize it to be an honest one and committed for the purpose of achieving the ends of justice, must never happen again.

WHEREFORE, respondent Judge Luis Enriquez Reyes, Municipal Trial Court, Guiguinto, Bulacan, is hereby *REPRIMANDED* for ignorance of the law and warned that commission of the same offense will be dealt with more severely.

SO ORDERED.

Bellosillo (Chairman), Mendoza, and *Buena, JJ.,* concur.

Puno, J., no part. On official leave.

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[3] Citing *People v. Gorospe,* 53 Phil. 960 (1928); *De Guzman v. Escalona,* 97 SCRA 619 (1980); *Toledo v. Sta. Romana,* 104 SCRA 444 (1981).