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a non-extendible period of thirty (30) days from receipt hereof, the transcripts of stenographic notes mentioned above, under pain of contempt.

SO ORDERED.

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

SECOND DIVISION

[A.M. No. MTJ-11-1786. June 22, 2011]
(Formerly OCA IPI No. 10-2262-MTJ)

FELICISIMA R. DIAZ, *complainant, vs.* **JUDGE GERARDO E. GESTOPA, JR., Municipal Trial Court, Naga, Cebu,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; REVISED RULES ON SUMMARY PROCEDURE; PERIOD FOR RENDITION OF JUDGMENT; RATIONALE. — The Rule on Summary Procedure clearly and undoubtedly provides for the period within which judgment should be rendered. Section 10 thereof provides: 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. x x x It is thus very clear that the period for rendition of judgments in cases falling under summary procedure is 30 days. This is in keeping with the spirit of the rule which aims to achieve an expeditious and inexpensive determination of the cases falling thereunder.

2. ID.; ID.; REFERRAL OF AN UNLAWFUL DETAINER CASE TO *BARANGAY* CONCILIATION IS AN UNSOUND EXERCISE

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OF DISCRETION; EXPLAINED. — Respondent judge argued that such referral to the *barangay* is justified by Section 408 (g) of the Local Government Code. We are unconvinced. Indeed, in *Farrales v. Camarista,* the Court explained that while the last paragraph of the afore-cited provision apparently gives the Court discretion to refer the case to the *lupon* for amicable settlement although it may not fall within the authority of the *lupon, the referral of said subject civil case to the lupon is saliently an unsound exercise of discretion, considering that the matter falls under the Rule on Summary Procedure.* The reason is because the Rule on Summary Procedure was promulgated for the purpose of achieving "an expeditious and inexpensive determination of cases." The fact that unlawful detainer cases fall under summary procedure, speedy resolution thereof is thus deemed a matter of public policy. To do otherwise would ultimately defeat the very essence of the creation of the Rules on Summary Procedure. To further strengthen and emphasize the objective of expediting the adjudication of cases falling under the Revised Rules on Summary Procedure, Sections 7 and 8 mandated preliminary conference which is precisely for the purpose of giving room for a possible amicable settlement. x x x Thus, there was no reason anymore to refer the case back to the *barangay* for the sole purpose of amicable settlement, because the abovementioned Sections 7 and 8 provided already for such action. Furthermore, considering that complainant had already manifested in court, albeit belatedly, the presence of what it considered to be a valid Certification to File Action in court due to unsuccessful conciliation, respondent's act of referring the case to *barangay* conciliation rendered its purpose moot and academic.

3. JUDICIAL ETHICS; JUDGES; GROSS IGNORANCE OF THE LAW AND PROCEDURE; FAILURE TO APPLY ELEMENTARY RULES OF PROCEDURE, A CASE OF; PENALTY. — Time and again, we have reiterated that the rules of procedure are clear and unambiguous, leaving no room for interpretation. We have held in numerous cases that the failure to apply elementary rules of procedure constitutes gross ignorance of the law and procedure. Neither good faith nor lack of malice will exonerate respondent, because as previously noted, the rules violated were basic procedural rules. All that was needed for respondent to do was to apply them. Under Rule 140 of the Rules of Court, gross ignorance of the law or procedure is a serious charge

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for which the respondent judge shall be penalized with either (a) dismissal; (b) suspension from office; or (c) a fine of more than ₱20,000.00 but not more than ₱40,000.00. In this case, considering respondent judge's two previous administrative infractions, we deem it proper to impose a fine in the amount of ₱21,000.00.

D E C I S I O N

PERALTA, *J.*:

Before us is an administrative complaint filed by complainant Felicisima R. Diaz against Judge Gerardo E. Gestopa, Jr., Municipal Trial Court (MTC), Naga, Cebu, for incompetence, gross ignorance of the law, neglect of duty, and conduct unbecoming of a judge relative to Civil Case No. R-595 entitled *Felicisima Rivera-Diaz v. Spouses Ruel & Diana Betito and Isidro Pungkol*.

The antecedent facts are as follows:

Complainant alleged that on April 27, 2009, she filed an unlawful detainer case before the MTC of Naga, Cebu, entitled *Felicisima Rivera-Diaz v. Spouses Ruel & Diana Betito and Isidro Pungkol*, docketed as Case No. R-595. On July 8, 2009, the case was scheduled for pre-trial conference. Since complainant cannot attend the conference because of her heart ailment, she instead sent her nephew, Elmer Llanes, to appear in her behalf.

During the conference, Judge Gestopa recommended the case for *barangay* conciliation, pursuant to Section 408 (g) of the Local Government Code.[1] Complainant's counsel objected and moved for mediation instead. However, respondent judge insisted that he has the authority to refer it back to *barangay* for conciliation.

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[1] Section 408 (g) of the Local Government Code provides that "the court in which non-criminal cases not falling within the authority of the *lupon* under this Code are filed may, at any time before trial, *motu proprio* refer the case to the *lupon* concerned for amicable settlement."

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Judge Gestopa concluded that since the subject property is in Naga, and that complainant has always been a resident of Naga, it is therefore proper to refer the case for *barangay* conciliation. Complainant, on the other hand, claimed that she is no longer a resident of Naga.

Complainant moved for reconsideration. She argued that the referral of the case to the *lupon* is a violation of the Rules on Summary Procedure. She stressed that she is no longer a resident of Naga and is now actually residing in Dumlog, Talisay City, Cebu. Complainant further pointed out that the case had already been previously referred to the *lupon*. In fact, a Certification to File Action in court had been issued on May 20, 2008. She further admitted that she did not attach the certificate to the complaint since she believed that the same was not required anymore, considering that the parties are not residents of the same *barangay* or municipality.

On July 20, 2009, Judge Gestopa denied the motion for reconsideration.

Dissatisfied, complainant filed the instant administrative complaint against Judge Gestopa. Complainant alleged that respondent judge exhibited gross ignorance of the law in referring the case back to *barangay* conciliation when clearly she is not a resident of Naga. She accused respondent judge of unduly delaying for months the resolution of the case. She further claimed that respondent judge appeared to be biased, thus, she requested that the case be transferred to another court.

On May 5, 2010, the Office of the Court Administrator (OCA) directed Judge Gestopa to submit his Comment on the complaint against him.

In his Comment dated August 2, 2010, Judge Gestopa argued that the referral of the case to the *barangay* for conciliation was made in good faith, to give way for the possible amicable settlement of the parties. He insisted that complainant was just trying to circumvent the *Katarungang Pambarangay Law*. Respondent judge pointed out that while complainant denied that she is a resident of Naga, she however actually sought

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barangay conciliation, as evidenced by the Certification to File Action dated May 20, 2008, which was issued by *Barangay* North Poblacion and attached to the complainant's motion for reconsideration.

Respondent judge, however, admitted that on November 16, 2009, the members of the *Lupong Tagapamayapa of Barangay* North Poblacion declared that *barangay* conciliation between the parties failed to reach a settlement. Thus, an Order was issued directing the parties to appear before the Philippine Mediation Center (PMC) for mediation. On February 17, 2010, the PMC submitted the Mediator's Report of "Unsuccessful Mediation."

In a Memorandum dated January 12, 2011, the OCA found Judge Gestopa guilty of gross ignorance of the law and procedure, and recommended that he be fined in the amount of Forty Thousand Pesos (₱40,000.00). The instant administrative case was, likewise, recommended to be redocketed as a regular administrative matter against Judge Gestopa.

RULING

The findings of the OCA are well taken.

There is no doubt that Civil Case No. R-595 was a case of unlawful detainer covered by the Revised Rules on Summary Procedure.

The Rule on Summary Procedure clearly and undoubtedly provides for the period within which judgment should be rendered. Section 10 thereof provides:

> 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.
>
> However, should the court find it necessary to clarify certain material facts, it may, during the said period, issue an order specifying the matters to be clarified, and require the parties to submit affidavits or other evidence on the said matters within ten (10) days from receipt of said order. Judgment shall be rendered within fifteen (15) days after the receipt of the last clarificatory affidavits, or the expiration of the period for filing the same.

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The court shall not resort to the clarificatory procedure to gain time for the rendition of the judgment.

It is thus very clear that the period for rendition of judgments in cases falling under summary procedure is 30 days. This is in keeping with the spirit of the rule which aims to achieve an expeditious and inexpensive determination of the cases falling thereunder.[2]

Respondent judge argued that such referral to the *barangay* is justified by Section 408 (g) of the Local Government Code.[3] We are unconvinced.

Indeed, in *Farrales v. Camarista*,[4] the Court explained that while the last paragraph of the afore-cited provision apparently gives the Court discretion to refer the case to the *lupon* for amicable settlement although it may not fall within the authority of the *lupon, the referral of said subject civil case to the lupon is saliently an unsound exercise of discretion, considering that the matter falls under the Rule on Summary Procedure*. The reason is because the Rule on Summary Procedure was promulgated for the purpose of achieving "an expeditious and inexpensive determination of cases." The fact that unlawful detainer cases fall under summary procedure, speedy resolution thereof is thus deemed a matter of public policy. To do otherwise would ultimately defeat the very essence of the creation of the Rules on Summary Procedure.

To further strengthen and emphasize the objective of expediting the adjudication of cases falling under the Revised Rules on Summary Procedure, Sections 7 and 8 mandated preliminary conference which is precisely for the purpose of giving room for a possible amicable settlement, to wit:

SEC. 7. *Preliminary conference; appearance of parties*. - Not later than thirty (30) days after the last answer is filed, a preliminary conference shall be held. The rules on pre-trial in ordinary cases

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[2] *Ferrales v. Camarista*, 383 Phil. 832, 841 (2000).

[3] *Supra* note 1.

[4] *Supra* note 2.

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shall be applicable to the preliminary conference unless inconsistent with the provisions of this Rule.

The failure of the plaintiff to appear in the preliminary conference shall be a cause for the dismissal of his complaint. The defendant who appears in the absence of the plaintiff shall be entitled to judgment on his counterclaim in accordance with Section 6 hereof. All cross-claims shall be dismissed.

If a sole defendant shall fail to appear, the plaintiff shall be entitled to judgment in accordance with Section 6 hereof. This Rule shall not apply where one of two or more defendants sued under a common cause of action who had pleaded a common defense shall appear at the preliminary conference.

Section 8 of said Rule reads in full:

SEC. 8. *Record of preliminary conference*. - Within five (5) days after the termination of the preliminary conference, the court shall issue an order stating the matters taken up therein, including but not limited to:

a) Whether the parties have arrived at an amicable settlement, and if so, the terms thereof;

b) The stipulations or admissions entered into by the parties;

c) Whether, on the basis of the pleadings and the stipulations and admissions made by the parties, judgment may be rendered without the need of further proceedings, in which event the judgment shall be rendered within thirty (30) days from issuance of the order;

d) A clear specification of material facts which remain controverted; and

e) Such other matters intended to expedite the disposition of the case.

Thus, there was no reason anymore to refer the case back to the *barangay* for the sole purpose of amicable settlement, because the abovementioned Sections 7 and 8 provided already for such action.

Furthermore, considering that complainant had already manifested in court, albeit belatedly, the presence of what it

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considered to be a valid Certification to File Action in court due to unsuccessful conciliation, respondent's act of referring the case to *barangay* conciliation rendered its purpose moot and academic.

We cannot accept the justifications made by respondent judge, considering that this is not the first time that he seemed to be at loss as to how to correctly interpret the Rules on Summary Procedure. We note that he had been previously penalized in two other administrative cases due to his failure to decide the cases falling under the Rules on Summary Procedure within the reglementary period, to wit: in In Re: A.M. No. MTJ-99-1181, *Renato M. Casia v. Judge Gerardo E. Gestopa, Jr.*, August 11, 1999, respondent judge was fined in the amount of ₱1,000.00 for his failure to decide a case within the required period; likewise, in A.M. No. MTJ-00-1303, *Vidala Saceda v. Judge Gerardo E. Gestopa, Jr.*, December 13, 2001, for a similar offense, respondent judge was fined in the amount of ₱10,000.00.

Time and again, we have reiterated that the rules of procedure are clear and unambiguous, leaving no room for interpretation. We have held in numerous cases that the failure to apply elementary rules of procedure constitutes gross ignorance of the law and procedure. Neither good faith nor lack of malice will exonerate respondent, because as previously noted, the rules violated were basic procedural rules. All that was needed for respondent to do was to apply them.

Under Rule 140 of the Rules of Court, gross ignorance of the law or procedure is a serious charge for which the respondent judge shall be penalized with either (a) dismissal; (b) suspension from office; or (c) a fine of more than ₱20,000.00 but not more than ₱40,000.00. In this case, considering respondent judge's two previous administrative infractions, we deem it proper to impose a fine in the amount of ₱21,000.00.

WHEREFORE, the Court finds Judge Gerardo E. Gestopa, Jr., Municipal Trial Court, Naga, Cebu, *GUILTY of Gross*

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Ignorance of the Law and is hereby *FINED* in the amount of Twenty-One Thousand Pesos (₱21,000.00), with a *STERN WARNING* that a repetition of the same or similar offenses in the future shall be dealt with more severely.

SO ORDERED.

Carpio (Chairperson), Leonardo-de Castro,[*] *Abad,* and *Mendoza, JJ.,* concur.

FIRST DIVISION

[A.M. No. RTJ-07-2044. June 22, 2011]
(Formerly OCA I.P.I. No. 07-2553-RTJ)

ATTY. FACUNDO T. BAUTISTA, *complainant, vs.* **JUDGE BLAS O. CAUSAPIN, JR., Presiding Judge, Regional Trial Court, Branch 32, Guimba, Nueva Ecija,** *respondent*.

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; PLEADINGS; CERTIFICATION AGAINST FORUM SHOPPING; MUST BE SIGNED BY ALL THE PETITIONERS OR PLAINTIFFS IN A CASE AND THE SIGNING BY ONLY ONE OF THEM IS INSUFFICIENT. — Rule 7, Section 5 of the Rules of Court – which already incorporated Supreme Court Circular No. 28-91, as amended by Supreme Court Administrative Circular No. 04-94 – requires the plaintiff or principal party to execute a certification against forum shopping, to be simultaneously filed with the complaint or initiatory pleading. x x x No doubt this Court has held that the certificate of non-forum shopping should be signed by all the petitioners or plaintiffs in a case, and that

[*] Acting member per Special Order No. 1006.