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[A.M. No. RTJ-20-2602. September 6, 2022]
(Formerly OCA IPI No. 19-4960-RTJ)

GOVERNOR EDGARDO A. TALLADO and VICE GOVERNOR JONAH PEDRO P. PIMENTEL, BOARD MEMBER (BM) RODOLFO V. GACHE, BM JOSEPH STANLEY G. ALEGRE, BM RENEE F. HERRERA, BM GERARDO G. QUIÑONES, BM REYNOIR V. QUIBRAL,[•] BM ERWIN L. LAUSIN, BM ARTEMIO B. SERDON, JR., BM JAY G. PIMENTEL and BM RAMON E. BANING,[••] *Complainants*, *v.* **JUDGE ARNIEL A. DATING, Presiding Judge of Branch 41, Regional Trial Court, Daet, Camarines Norte,** *Respondent*.

D E C I S I O N

CAGUIOA, *J.*:

These are consolidated complaints for Gross Ignorance of Law and Gross Misconduct filed by complainants Governor Edgardo A. Tallado (Governor Tallado) and Vice Governor Jonah Pedro P. Pimentel (Vice Governor Pimentel), Board Member (BM) Rodolfo V. Gache (Gache), BM Joseph Stanley G. Alegre (Alegre), BM Renee F. Herrera (Herrera), BM Gerardo G. Quiñones (Quiñones), BM Reynoir V. Quibral (Quibral), BM Erwin L. Lausin (Lausin), BM Artemio B. Serdon, Jr. (Serdon, Jr.), BM Jay G. Pimentel (Pimentel) and BM Ramon E. Baning (Baning) (collectively, Complainants) against respondent Judge Arniel A. Dating (Respondent), Presiding Judge of Branch 41, Regional Trial Court of Daet, Camarines Norte (RTC), relative to Respondent's ruling in **Special Civil Case No. 8374** titled *"Mayor Senandro M. Jalgalado v. Sangguniang Panlalawigan of Camarines Norte,*

[•] Referred to as "Reynor V. Quibral" in some parts of the record.

[••] Referred to as "Ramon R. Baning" in some parts of the record.

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et al." and **Civil Case No. 8403** titled *"Mayor Senandro M. Jalgalado v. Sangguniang Panlalawigan of Camarines Norte, herein represented by the Presiding Officer Jonah Pedro Pimentel, et al."*

THE CASE

A complaint for Abuse of Authority docketed as Administrative Case No. 01-2015 was filed against Mayor Senandro Jalgalado (Mayor Jalgalado) of the Municipality of Capalonga before the Sangguniang Panlalawigan of Camarines Norte (SP). On December 19, 2018, upon the recommendation of the SP,[1] complainant Governor Tallado issued a Notice of Preventive Suspension against Mayor Jalgalado.[2]

On December 20, 2018, Mayor Jalgalado filed a *Petition for Certiorari, Prohibition, and Mandamus with Restraining Order and Injunction and Urgent Prayer for Ex-Parte 72-Hour Temporary Restraining Order (TRO)*,[3] docketed as the above-cited Special Civil Case No. 8374, to call into question Complainants' order of preventive suspension. The petition was raffled to herein Respondent.

In view of the alleged patent infirmity of the petition, Complainants immediately moved for its dismissal based on the following grounds: (a) lack of jurisdiction over the subject matter; (b) failure to exhaust administrative remedies; and (c) availability of other plain, speedy, and adequate remedies.[4]

On December 21, 2018, Respondent issued an Order pronouncing that there is no sufficient basis to extend the 72-hour TRO previously granted to Mayor Jalgalado, since the supposed injury claimed was general in character.[5]

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1 Pursuant to Sangguniang Panlalawigan Resolution No. 627-2018 dated December 18, 2018; *rollo*, pp. 19-21.

2 *Rollo*, p. 22.

3 Id. at 31-36.

4 Id. at 26-30.

5 *Rollo*, p. 33.

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On January 9, 2019, however, after a summary hearing,[6] Respondent issued a Writ of Preliminary Injunction (WPI) against the preventive suspension, citing the injustice that would befall Mayor Jalgalado's constituents in case they are deprived of the services expected from their chosen leader.[7] Further, Respondent also enjoined the SP from proceeding with Administrative Case No. 01-2015.[8]

On January 24, 2019, Respondent issued a Resolution[9] granting Mayor Jalgalado's petition, and declaring that the order of preventive suspension was issued with grave abuse of discretion amounting to lack of jurisdiction. According to Respondent, Section 63(b) of Republic Act No. 7160 or the Local Government Code of 1991 provides that preventive suspension may only be issued "when the evidence of guilt is strong and given the gravity of the offense, there is a great probability that continuance in office could pose a threat to the safety and integrity of the records and other evidence."[10] Respondent observed that while the SP found probable cause against Mayor Jalgalado, the court considers the same as weak evidence, to wit:

> While there is finding of probable cause made by the public respondent SP against the petitioner for abuse of authority, the Court failed to consider the same as strong evidence. Likewise, mere general statement in the "whereas" of the subject will not suffice. Moreover, the Court reminded itself of the Brazilian judiciary concept, that is to render justice, not just decision, by having *sabidura del Corazon* (wisdom of the heart) taking into account the human element involved.[11]

Respondent also stated that since Mayor Jalgalado was elected mayor by his constituents, the court cannot just ignore the voice

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6 Id. at 34.

7 Id. at 31-32.

8 Id.

9 Id. at 34-36.

10 Id. at 35.

11 Id.

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of the people, as it is the supreme law.[12] Accordingly, Respondent also issued a permanent injunction against the implementation of the SP's order of preventive suspension. Respondent, however, lifted his previous directive enjoining the SP from proceeding with Administrative Case No. 01-2015, for having been issued prematurely.[13]

Appalled by the turn of events, instead of filing a motion for reconsideration of the January 9, 2019 Order and January 24, 2019 Resolution of Respondent, Complainants filed their first Verified Complaint[14] for Gross Ignorance of the Law and violation of the New Code of Judicial Conduct for the Philippine Judiciary (Code of Judicial Conduct) against Respondent. According to Complainants, Respondent should be held liable for taking cognizance of the petition for *certiorari* knowing fully well that: (1) Mayor Jalgalado did not file a motion for reconsideration and did not exhaust available administrative remedies; and (2) the RTC lacks jurisdiction. Moreover, Complainants faulted Respondent for imputing grave abuse of discretion, based only on the alleged weakness of evidence presented.[15]

Meanwhile, the SP still proceeded with the hearing of Administrative Case No. 01-2015 and eventually found Mayor Jalgalado guilty of Abuse of Authority, for which he was meted a penalty of six months suspension.[16]

Thereafter, Mayor Jalgalado filed another *Petition for Certiorari, with Restraining Order and Injunction and Urgent Prayer for Ex-parte 72-Hour TRO*, docketed as the above-cited Civil Case No. 8403, to question the SP's order of suspension.[17] Again, the case was raffled to Respondent.

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[12] Id.

[13] Id. at 36.

[14] Docketed as UDK C20190405-02, *rollo*, pp. 37-44.

[15] Id.

[16] Id. at 55.

[17] Id. at 5.

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Once more, on April 8, 2019, Complainants manifested before Respondent the alleged impropriety of Mayor Jalgalado's petition. At the same time, Complainants also filed a Motion for Voluntary Inhibition of Respondent, taking into consideration the pendency of the administrative complaint that they filed against Respondent, as well as his participation in Special Civil Case No. 8374.[18]

On the same day, Respondent issued an Order temporarily setting aside the issue of his inhibition,[19] and granting Mayor Jalgalado's prayer for a 20-day TRO. Again, Respondent underscored the irreparable grave injury/injustice the suspension will cause to the well-being of the constituents of Mayor Jalgalado.[20] Two days thereafter, or on April 10, 2019, Respondent inhibited himself from the case.[21]

According to Respondent, although the mere filing of an administrative complaint against him is not a ground for inhibition, he deemed it more prudent to voluntarily inhibit himself in order to maintain impartiality, taking into consideration the fact that Complainants already disclosed the contents of their Verified Complaint against him when they attached the same to their Manifestation dated April 8, 2019.[22]

In view of the aforementioned developments, again, instead of filing a motion for reconsideration of the April 8, 2019 Order of Respondent and notwithstanding Respondent's inhibition from the case, Complainants still filed their second Verified Complaint against Respondent for Gross Ignorance of the Law and Gross Misconduct.

According to Complainants, Respondent must be held liable for Gross Ignorance of the Law for taking cognizance anew of the second petition for *certiorari* of Mayor Jalgalado.[23] Moreover,

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[18] Id. at 6.

[19] *See* id. at 50. Issued by the Office of the Vice Executive Judge.

[20] Id. at 60-61.

[21] Id. at 62-64.

[22] Id.

[23] Id. at 8-11.

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Complainants faulted Respondent for granting the 20-day TRO in his Order dated April 8, 2019, based solely on the fact that Mayor Jalgalado was then an incumbent mayor and there were allegations that the order of suspension was tainted with grave abuse of discretion. Further, Complainants criticized Respondent for issuing the injunctive relief even if Mayor Jalgalado failed to establish that: (1) he had a clear and unmistakable right to his public office; and (2) he would suffer grave and irreparable injury if the decisions of the SP were not enjoined.[24]

In addition, Complainants averred that Respondent acted with bias and prejudice.[25] Complainants noted that in Respondent's Order dated April 8, 2019, he refused to inhibit himself, and instead granted Mayor Jalgalado a 20-day TRO. After two days, however, Respondent proceeded to inhibit himself.

On July 12, 2019, the Office of Court Administrator (OCA) directed Respondent to submit his Comment within 10 days from receipt of the order.

In his Comment,[26] Respondent pointed out that instead of bombarding him with administrative cases, Complainants should have resorted to available judicial remedies if they did not agree with his actions and decisions, which are just output of his judicial function.[27] Lastly, Respondent posited that Complainants are guilty of forum shopping for filing two separate administrative complaints with the OCA, and for consequently, misrepresenting in their certification against forum shopping.[28]

THE OFFICE OF THE COURT ADMINISTRATOR'S EVALUATION AND RECOMMENDATION

Preliminarily, in its Report and Recommendation[29] dated June 2, 2020, the OCA consolidated the two Verified Complaints

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[24] Id. at 13-14.

[25] Id. at 14-15.

[26] Id. at 71-73.

[27] Id. at 73.

[28] Id.

[29] Id. at 80-90.

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filed by Complainants against Respondent. In addition, the OCA noted that Respondent had a previous infraction and was fined ₱10,000.00 in A.M. No. RTJ-16-2479, for abuse of authority, oppression, and delay in the raffle of cases.

The OCA found Respondent liable for Gross Ignorance of the Law when he took cognizance of the petitions of Mayor Jalgalado despite lack of jurisdiction and failure of the latter to exhaust available administrative remedies. Moreover, the OCA faulted Respondent for ignoring the suspension order from the SP and granting the 20-day TRO on the instance of Mayor Jalgalado. The OCA noted that being an elective official does not, by itself, preclude lawful authorities from imposing a suspension on the ground that it would deprive his or her constituents of the service and representation due them. The OCA also stressed that judges should be mindful of the need to be cautious in issuing TROs and WPIs in order "to avoid any suspicion that [their] issuance or grant was for consideration other than the strict merits of the case."[30]

According to the OCA, Respondent's issuance of the order inhibiting himself from the case two days after he granted the 20-day TRO in favor of Mayor Jalgalado raised doubts on the correctness of Respondent's judgment and his bias against Complainants.

In light of the foregoing, the OCA took the position that Respondent violated Rule 3.01, Canon 3 of the Code of Judicial Conduct which mandates professional competence on the part of a judge.

Anent the charge of Gross Misconduct, the OCA recommended its dismissal upon finding insufficient evidence to prove corruption or willful intent to violate the law.

In all, the OCA found Respondent liable for Gross Ignorance of the Law, and recommended that Respondent be fined in the amount of ₱40,000.00:

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[30] Id. at 89.

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x x x It is respectfully recommended for the consideration of the Honorable Court that:

(1) the instant administrative complaint against Hon. Arniel A. Dating, Presiding Judge, Branch 41, Regional Trial Court, Daet, Camarines Sur, be **RE-DOCKETED** as a regular administrative matter;

(2) respondent Judge Dating be found **GUILTY** of Gross Ignorance of Law and Procedure corollary with Rule 3.01, Canon 3 of the Code of Judicial Conduct and be **FINED** in the amount of Forty Thousand Pesos (₱40,000.00), payable within thirty (30) days from notice, with a warning that a repetition of the same or similar act shall be more strongly dealt with by the Court; and

(3) the charge of Gross Misconduct be **DISMISSED** for lack of substantial basis.[31]

THE ISSUES BEFORE THE COURT

The issues before the Court are as follows:

(1) whether Complainants are guilty of forum shopping; and

(2) whether Respondent is administratively liable.

THE COURT'S RULING

The Court finds that Complainants are not guilty of forum shopping. However, after a judicious review of the records of the case, the Court dismisses the complaints filed against Respondent for insufficiency of evidence and lack of merit.

Forum Shopping

a. Complainants did not file multiple suits involving the same set of facts and cause of action

Respondent implies that Complainants are guilty of forum shopping when they filed two administrative cases against him before the Court.

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[31] Id. at 90.

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In the case of *Yap v. Chua*,[32] the Court defined forum shopping, as follows:

Forum shopping is the institution of two or more actions or proceedings involving the same parties for the same cause of action, either simultaneously or successively, on the supposition that one or the other court would make a favorable disposition. Forum shopping [is] resorted to by any party against whom an adverse judgment or order has been issued in one forum, in an attempt to seek a favorable opinion in another, other than by appeal or a special civil action for *certiorari*.[33]

At the outset, the Court stresses that the rule on forum shopping applies only to judicial cases or proceedings,[34] and not to administrative cases, except only when a Certificate of Non-Forum Shopping is expressly required to be appended under relevant rules.[35] A review of Rule 140 of the Rules of Court, as amended, would reveal that said certification is not prescribed.

In any case, even if the Court would apply the rule on forum shopping, Complainants are still not guilty of having violated the same.

The test for determining the existence of forum shopping is whether the elements of *litis pendentia* are present, or whether a final judgment in one case amounts to *res judicata* in another. Thus, there is forum shopping when the following elements are present: (a) identity of parties, or at least such parties as representing the same interests in both actions; (b) identity of rights asserted and reliefs prayed for, the relief being founded on the same facts; and (c) the identity of the two preceding particulars, such that any judgment rendered in the other action will, regardless of which party is successful, amount to *res judicata* in the action under consideration.[36]

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[32] 687 Phil. 392, 399 (2012).

[33] Id. at 399.

[34] *Laxina, Sr. v. Office of the Ombudsman*, 508 Phil. 527, 535 (2005).

[35] *Yamson v. Castro*, 790 Phil. 667, 691-692 (2016).

[36] *Heirs of Mampo v. Morada*, G.R. No. 214526, November 3, 2020, accessed at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67030>.

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Res judicata, on the other hand, exists if the following requisites concur: (1) the former judgment or order must be final; (2) the judgment or order must be on the merits; (3) it must have been rendered by a court having jurisdiction over the subject matter and the parties; and (4) there must be, between the first and the second action, identity of parties, of subject matter and cause of action.[37]

In the case before the Court, the second and third elements of forum shopping are not present.

An examination of the two Verified Complaints would show that the first complaint charges Respondent of Gross Ignorance of the Law and violation of the Code of Judicial Conduct relative to the actions he had taken in Special Civil Case No. 8374. Although these actions are again reiterated as part of the "Antecedent Facts" in the second administrative case, a close perusal of the complaint would show that Complainants only did so to paint a bigger and more comprehensive picture of the case, and not to again seek relief from the Court based on the same set of facts and cause of action. A careful reading of the "Discussion" portion of the second complaint would support this finding, as indeed, only actions taken by Respondent with respect to Civil Case No. 8403 were scrutinized. Verily, although Complainants substantially used the same bases, doctrines and reasonings for charging Respondent with Gross Ignorance of the Law and Gross Misconduct, this is understandable, considering that the actions taken by Respondent in Special Civil Case No. 8374 and Civil Case No. 8403 are relatively similar. Nonetheless, this does not mean that Complainants are seeking similar reliefs for the same cause of action.

b. Complainants did not submit a false certification against non-forum shopping

The relevant portion of the Certification of the Complainants reads:

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[37] *BF Citiland Corporation v. Bangko Sentral ng Pilipinas*, G.R. No. 224912, October 16, 2019, 924 SCRA 660, 677.

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x x x We have not commenced any other action or proceeding involving the same issues in any other court, tribunal or agency[,] and to the best of [our] knowledge no such action or proceeding is pending[,] **other than the administrative complaint earlier filed against the Respondent Judge now pending before the Judicial Integrity Board mentioned above**[.][38] (Emphasis supplied)

Accordingly, contrary to the allegation of Respondent, Complainants did not falsify their Certification. To be sure, the contrary is evident — they accurately stated therein that they filed another administrative complaint against Respondent.

In sum, the Court is unconvinced that Complainants committed actions constituting forum shopping.

Administrative Liability

Considering the peculiar factual backdrop of the instant case, the quantum of evidence required in disciplinary cases, as well as the guidelines for the evaluation of administrative complaints against justices, judges and court personnel, which are laid down in the seminal case of *Tallado v. Judge Racoma*,[39] the Court hereby dismisses the complaints filed against Respondent for Gross Ignorance of Law and Gross Misconduct due to insufficiency of evidence and utter lack of merit.

In the recent case of *Tallado v. Judge Racoma*, the Court set the following rules for purposes of gatekeeping administrative cases filed against members of the bench and weeding out baseless harassments suits:

(1) **If a judicial remedy is still available to the complainant, the administrative complaint shall be dismissed outright**, without prejudice to re-filing should the complainant succeed in a judicial action in proving that the public respondent's assailed act or omission was indeed wrong and ill motivated.

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[38] *Rollo*, p. 17.

[39] A.M. RTJ-22-022 [Formerly OCA I.P.I. No. 19-4966-RTJ], August 23, 2022, accessed at <https://sc.judiciary.gov.ph/29947/>.

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(2) **If the administrative case is meant to harass, threaten or merely vex the public respondent.** In determining this, the following factors may be considered:

(a) the existence of other cases filed against the public respondent by the same complainant or related complainants;

(b) the position and influence of the complainant, particularly in the locality where the public respondent is stationed;

(c) the number of times the public respondent has been charged administratively and the corresponding disposition in these cases;

(d) any decisions or judicial actions previously rendered by the public respondent for or against the complainant;

(e) the propensity of the complainant for filing administrative cases against members and personnel of the Judiciary; and

(f) any other factor indicative of improper pressure or influence.[40] (Emphasis supplied)

In establishing these guidelines, the Court took notice of the fact that although there are existing issuances intended to protect judges and justices from harassment suits, there are still unscrupulous cases filed against members of the bench, such as the instant case, that are not dismissed outright,[41] and that may undermine the integrity, probity, and independence of the Judiciary.

a. Respondent is not liable for Gross Ignorance of Law; Complainants failed to avail themselves of the appropriate judicial remedies and to present substantial evidence to prove that Respondent acted in bad faith

Here, Mayor Jalgalado filed two separate petitions for *certiorari*, one docketed as Special Civil Case No. 8374 and

[40] Id.

[41] Id.

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the other as Civil Case No. 8403; both imputing grave abuse of discretion against the SP. Special Civil Case No. 8374 challenges the SP's order of preventive suspension pending investigation, while Civil Case No. 8403 calls into question the SP's decision ultimately suspending Mayor Jalgalado. Both the SP's order of preventive suspension and decision to suspend Mayor Jalgalado were provisionally enjoined after Respondent granted the WPI and TRO against the SP in his Orders dated January 9, 2019 and April 8, 2019, respectively. In turn, Complainants fault Respondent for taking cognizance of both petitions and for issuing said injunctive reliefs.

At the outset, the Court absolves Respondent from the charge of Gross Ignorance of the Law for taking cognizance of the petition filed in Civil Case No. 8403. The Court notes that Respondent inhibited himself from said case two days after the same was raffled to his *sala*, and before he was able to rule on its propriety. Accordingly, Complainants' allegations against Respondent relative thereto are clearly premature, if not untenable.

Complainants insist that Respondent committed Gross Ignorance of Law for also taking cognizance of and eventually granting Mayor Jalgalado's petition for *certiorari* in Special Civil Case No. 8374, when it should have been dismissed outright for: (1) lack of jurisdiction; (2) failure of Mayor Jalgalado to file a motion for reconsideration; and (3) failure to exhaust administrative remedies. Moreover, Complainants also question Respondent's issuance of the injunctive reliefs because Mayor Jalgalado allegedly failed to establish the requisites that would generally warrant issuance thereof.

A review of the charges filed by Complainants clearly shows that they are judicial in nature and they pertain to Respondent's exercise of his adjudicative duties. Unfortunately for Complainants, the official acts of a magistrate that are done in the course of his or her judicial function cannot be subject to a disciplinary action,[42] no

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[42] Id., citing *Cayabyab v. Pangilinan*, A.M. No. RTJ-20-2584 [Formerly OCA IPI No. 18-4841-RTJ], July 28, 2020, accessed at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66660>.

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matter how erroneous they may be,[43] unless it is proven that they are tainted with bad faith, fraud, malice, or dishonesty.[44]

As succinctly explained in *Spouses De Guzman v. Pamintuan*[45] *(Spouses De Guzman)*, "an administrative action is not the appropriate remedy for every irregular or erroneous order or decision issued by a judge where a judicial remedy is available,"[46] to wit:

> x x x Disciplinary proceedings against a judge are not complementary or suppletory of, nor a substitute for, these judicial remedies, whether ordinary or extraordinary. For, obviously, if subsequent developments prove the judge's challenged act to be correct, there would be no occasion to proceed against him at all. Besides, to hold a judge administratively accountable for every erroneous ruling or decision he renders, assuming he has erred, would be nothing short of harassment and would make his position doubly unbearable. To hold otherwise would be to render judicial office untenable, **for no one called upon to try the facts or interpret the law in the process of administering justice can be infallible in his judgment. It is only where the error is tainted with bad faith, fraud, malice or dishonesty that administrative sanctions may be imposed against the erring judge**.
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> In *Flores v. Abesamis*, we held:
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> > As everyone knows, the law provides ample judicial remedies against errors or irregularities being committed by a Trial Court in the exercise of its jurisdiction. The ***ordinary remedies*** against errors or irregularities which may be regarded as normal in nature (*i.e.*, error in appreciation or admission of evidence, or in construction or *application of procedural or substantive law or legal principle)* include a *motion for reconsideration* (or after rendition of a judgment or final order, a motion for new trial), and appeal. The ***extraordinary remedies*** against error or irregularities which may be deemed extraordinary in character (*i.e.*, whimsical, capricious, despotic exercise of power or neglect of duty, *etc.*)

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[43] Id.

[44] *Spouses De Guzman v. Pamintuan*, 452 Phil. 963, 969 (2003).

[45] Id.

[46] Id.

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are *inter alia* the special civil actions of *certiorari*, prohibition or *mandamus*, or a motion for inhibition, a petition for change of venue, as the case may be.

Now, the established doctrine and policy is that disciplinary proceedings and criminal actions *against Judges are not complementary or suppletory of, nor a substitute for, these judicial remedies, whether ordinary or extraordinary. Resort to and exhaustion of these judicial remedies*, as well as the entry of judgment in the corresponding action or proceeding, *are pre-requisites for the taking of other measures against the persons of the judges concerned, whether of* civil, *administrative*, or criminal nature. *It is only after the available judicial remedies have been exhausted and the appellate tribunals have spoken with finality, that the door to an inquiry into his* criminal, civil or *administrative liability may be said to have opened, or closed*.

Flores (complainant) resorted to administrative prosecution (or institution of criminal actions) as a substitute for or supplement to the specific modes of appeals or review provided by law from court judgments or orders, on the theory that the Judges' orders had caused him "undue injury." This is impermissible, as this Court has already more than once ruled. Law and logic decree that "administrative or criminal remedies are neither alternative nor cumulative to judicial review where such review is available, and must wait on the result thereof." x x x Indeed, since judges must be free to judge, without pressure or influence from external forces or factors, they should not be subject to intimidation, the fear of civil, criminal or administrative sanctions for acts they may do and dispositions they may make in the performance of their duties and functions; and it is sound rule, which must be recognized independently of statute, that judges are not generally liable for acts done within the scope of their jurisdiction and in good faith; and that exceptionally, prosecution of a judge can be had only if [there] be a ***final declaration by a competent court in some appropriate proceeding of the manifestly unjust character of the challenged judgment or order****, and x x x also evidence* ***of malice or bad faith, "ignorance or inexcusable negligence, on the part of the judge in rendering said judgment or order"*** or under the stringent circumstances set out in Article 32 of the Civil Code."[47] (Emphasis supplied; citations omitted)

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[47] Id. at 969-970, citing *Flores v. Abesamis*, 341 Phil. 299, 312-314 (1997).

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The issue presented before the Court in *Spouses De Guzman* is whether respondent judge therein should be held administratively liable for denying complainants' motion to dissolve the WPI.[48] Following the pronouncements cited above, the Court dismissed the administrative complaint for having been prematurely filed, noting that complainants therein "did not bother at all to file a motion for reconsideration."[49]

The same is true in the instant case. Here, after Respondent issued the assailed resolution and orders, Complainants also did not bother to resort to available judicial remedies, such as a motion for reconsideration, before filing both Verified Complaints. Too, as aptly raised during deliberations, Complainants did not also endeavor to dispute or explain their non-filing of appeal or *certiorari* with the higher courts despite it being raised by Respondent in his Comment.

More importantly, and going into the gravamen of the complaint, whether Respondent's actions were tainted with bad faith, fraud, malice, or dishonesty cannot be adjudged solely based on mere suspicion or speculation. As in other administrative cases, the disciplinary charges against judges must be proven by substantial evidence, which is that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion. Further, it is also a well-settled doctrine that the complainant's failure to substantiate his or her claims will lead to the dismissal of the administrative complaint for lack of merit.[50]

Here, aside from the fact that there is a dearth of evidence to prove Respondent's ill motive, some of his actions may actually find support in jurisprudence and established doctrines.

Under Section 1, Rule 65 of the Rules of Court, a writ of *certiorari* is proper when the following requisites are present:

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[48] Id. at 971.

[49] Id.

[50] *Re: Complaint of Castillo Against Justice Mariflor Punzalan-Castillo – Court of Appeals, Manila*, 831 Phil. 1, 9 (2018).

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1. It is directed against any tribunal, board or officer exercising judicial or quasi-judicial functions;
2. Such tribunal, board or officer has acted without or in excess of its or his or her jurisdiction, or with grave abuse of discretion amounting to lack or excess of its or his or her jurisdiction; and
3. There is no appeal or any plain, speedy and adequate remedy in the ordinary course of law.[51]

The plain and adequate remedy referred to in Section 1, Rule 65 of the Rules of Court is a motion for reconsideration of the assailed decision.[52] It is a settled rule that a motion for reconsideration is a condition *sine qua non* for the filing of petition for *certiorari*.[53] Its purpose is to grant an opportunity for the court or tribunal to correct any actual or perceived error attributed to it by re-examination of the legal and factual circumstances of the case.[54]

The Court, however, recognizes that this rule admits certain well-defined exceptions, to wit:

x x x (a) where the order is a patent nullity, as where the court *a quo* has no jurisdiction; (b) where the questions raised in the *certiorari* proceedings have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court; **(c) where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the Government or of the petitioner** or the subject matter of the action is perishable; (d) where, under the circumstances, a motion for reconsideration would be useless; (e) where petitioner was deprived of due process and there is extreme urgency for relief; (f) where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable; (g) where the proceedings in the lower court are a nullity for lack of due process; (h) where the proceedings were *ex parte* or in which

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[51] *Joson III v. Court of Appeals*, 517 Phil. 555, 563 (2006).

[52] *Flores v. Sangguniang Panlalawigan of Pampanga*, 492 Phil. 377, 381 (2005).

[53] *Republic v. Bayao*, 710 Phil. 279, 287 (2013).

[54] Id.

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the petitioner had no opportunity to object; and (i) where the issue raised is one purely of law or **where public interest is involved**.[55]

Failure to file a motion for reconsideration also violates the doctrine of exhaustion of administrative remedies. As held in a long line of cases,[56] even if a governmental entity may have committed a grave abuse of discretion, litigants should, as a rule, first ask reconsideration from the body itself, or a review thereof before the agency concerned. The doctrine of exhaustion of administrative remedies prohibits a litigant from going to court without first pursuing his or her administrative remedies. To do otherwise will result in a premature action and a case not ripe for judicial determination.[57] The purpose of this doctrine is to give the administrative agency an opportunity to decide correctly the matter before seeking judicial intervention.[58]

As in the requirement to file a motion for reconsideration however, the doctrine of exhaustion of administrative remedies is also not an ironclad rule — it recognizes exceptions, such as: (1) when there is a violation of due process, (2) when the issue involved is purely a legal question, (3) when the administrative action is patently illegal amounting to lack or excess of jurisdiction, (4) when there is estoppel on the part of the administrative agency concerned, (5) when there is irreparable injury, (6) when the respondent is a department secretary whose acts as an *alter ego* of the President bears the implied and assumed approval of the latter, (7) when to require exhaustion of administrative remedies would be unreasonable, (8) when it would amount to a nullification of a claim, (9) when the subject matter is a private land in land case proceedings, (10) when the rule does not provide a plain, speedy and adequate remedy, **(11) when there are circumstances**

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[55] Id. at 287-288.

[56] *Kilusang Mayo Uno v. Aquino III*, 850 Phil. 1168 (2019); *Association of Medical Clinics for Overseas Workers, Inc. v. GCC Approved Medical Centers Association, Inc.*, 802 Phil. 116, 145 (2016).

[57] See *Association of Medical Clinics for Overseas Workers, Inc. v. GCC Approved Medical Centers Association, Inc.*, id. at 145.

[58] *Smart Communications, Inc. v. Aldecoa*, 717 Phil. 577, 597-598 (2013).

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indicating the urgency of judicial intervention,[59] (12) when the claim involved is small, **(13) when strong public interest is involved**, and (14) in *quo warranto* proceedings.[60]

It is clear from the records that Mayor Jalgalado did not move for the reconsideration of the order of preventive suspension, yet Respondent still took cognizance of and even granted Mayor Jalgalado's petition for *certiorari* in Special Civil Case No. 8374. Nonetheless, as correctly observed by Associate Justice Rodil V. Zalameda during deliberations, Respondent had basis in finding that the matter needed urgent resolution, taking into consideration the mounting political tension between the parties, to wit:

> In this case, respondent had basis to perceive that the matter needs resolution urgently. This controversy involving complainants and Mayor [Jalgalado] **occurred immediately before the conduct of the local elections**. In his assailed Order dated 9 January 2019, respondent explained that preventive suspension will "surely work injustice to [Mayor Jalgalado] and to constituents who voted for him, depriving the latter of the services expected from their chosen leader." x x x
>
> x x x x
>
> Verily, it can be implied from [Respondent's statements in his Resolution dated January 24, 2019] that **[R]espondent deemed the case exceptional as to justify the non-compliance to the procedural rule requiring a motion for reconsideration or the exhaustion of administrative remedies**. To my mind, taking in consideration the personalities involved and the context within which these petitions arose, [ill will], corruption, bad faith or sinister motives cannot be deduced. Regardless of the correctness or erroneous nature of the above-statements, I find that they constitute, at worst, errors of judgment, which may be adequately addressed in the proper judicial action. (Emphasis supplied)

Therefore, considering the political nature of the case, as well as the timeline and public interest involved, the Court finds

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[59] *Paat v. Court of Appeals*, 334 Phil. 146, 153 (1997).

[60] *Joson III v. Court of Appeals*, supra note 51, at 566, citing *Celestial v. Capchopero*, 459 Phil. 903, 920 (2003).

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Respondent's deviation from settled procedural rules justifiable, if not absolutely necessary.

In any case, even assuming that Respondent's actions were indeed erroneous or indefensible, the same cannot be said to have been done in bad faith. It is settled that "[b]ad faith does not simply connote bad judgment or negligence. It imports a dishonest purpose or some moral obliquity and conscious doing of a wrong, a breach of known duty through some motive or interest or ill will that partakes of the nature of fraud."[61] Here, it can be said that Respondent did not act in bad faith. In fact, he had consistently championed the rights of the constituents of Capalonga, Camarines Norte in his resolutions and orders.

In light of the foregoing, the Court hereby absolves Respondent from the charge of Gross Ignorance of Law.

b. Respondent is not liable for Gross Misconduct; Respondent granted the injunctive relief in good faith

Anent the charge of Gross Misconduct, the Court agrees with the OCA. As aptly observed by the OCA, there is a dearth of evidence to support the charge of serious misconduct against Respondent, much less the elements of corruption and willful intent to violate the law and open defiance of a customary rule.

Misconduct is defined as a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer.[62] For there to be gross misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule, must be manifest and established by substantial evidence. In other words, it must be shown that the acts complained of were committed with fraud, dishonesty, corruption, malice or ill will, bad faith, or deliberate

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[61] *Adriano v. Lasala*, 719 Phil. 408, 419 (2013).

[62] *Office of the Court Administrator v. Reyes*, A.M. No. RTJ-17-2506, November 10, 2020, accessed at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66878>.

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intent to do an injustice.[63] Wrongful intention, therefore, sits at the core of the offense of gross misconduct.

Although Respondent inhibited himself from the case two days after he granted the 20-day TRO against the order of suspension, there is no evidence to prove that Respondent's action was motivated by a premeditated, obstinate or intentional purpose.

As culled from the records, the SP filed its Motion for Inhibition on April 8, 2019. On even date, the 72-hour TRO previously issued against the order of suspension was set to expire. In doing so, Respondent could have simply exercised an abundance of caution by deeming it proper to rule on the request for extension of the TRO on the same date, notwithstanding the pending motion for his inhibition.

In view of the foregoing, the Court finds Respondent also not guilty of Gross Misconduct.

Indirect Contempt

To reiterate, based on the guidelines set in *Tallado v. Judge Racoma*, in order to determine if a disciplinary case filed against a justice, judge, or court personnel is a harassment suit, one must consider the following factors:

(a) **the existence of other cases filed against the public respondent by the same complainant or related complainants;**

(b) **the position and influence of the complainant, particularly in the locality where the public respondent is stationed;**

(c) the number of times the public respondent has been charged administratively and the corresponding disposition in these cases;

(d) **any decisions or judicial actions previously rendered by the public respondent for or against the complainant;**

(e) **the propensity of the complainant for filing administrative cases against members and personnel of the Judiciary**; and

(f) any other factor indicative of improper pressure or influence.[64] (Emphasis supplied)

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[63] See *Office of the Court Administrator v. Dumayas*, 827 Phil. 173, 188 (2018).

[64] *Tallado v. Judge Racoma*, supra note 39.

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Examining the instant case based on the foregoing guidelines, it may be reasonably inferred that aside from the fact that the Verified Complaints were prematurely filed, as already established in the previous section, the same may have also been instituted for the purpose of harassing, threatening, or vexing Respondent.

For one, as narrated above, herein Complainants filed two related complaints against Respondent, the first in relation to Special Civil Case No. 8374, and the second to Civil Case No. 8403. Notably as well, Complainants charged Respondent with Gross Ignorance of Law for taking cognizance of Mayor Jalgalado's second petition for *certiorari*, despite the fact that Respondent inhibited himself from the case two days after it was raffled to his *sala* and before he was able to rule on the propriety of the same.

For another, the Court takes judicial notice of the fact that at the time of filing of the Verified Complaints against Respondent, Complainants assumed highly influential positions in the province of Camarines Norte where Respondent is stationed, *i.e.*, Complainants Governor Tallado and Vice Governor Pimentel being the then elected Governor and Vice Governor, respectively, and Complainants Gache, Alegre, Herrera, Quiñones, Quibral, Lausin, Serdon, Jr., Pimentel, and Baning being Board Members.

From the records of the case, it cannot also be disputed that all decisions and judicial actions of Respondent were against Complainants, except only for the following: (a) Respondent's December 21, 2018 Order which denied Mayor Jalgalado's prayer for a 72-hour TRO against the SP's order of preventive suspension; and (b) Respondent's April 10, 2019 Order granting Complainants' Motion for Voluntary Inhibition.

Lastly, as already noted in *Tallado v. Judge Racoma*, Complainants have the propensity for filing administrative complaints against members of the bench. In *Tallado v. Judge Racoma*, Complainants also filed a Verified Complaint for Gross Ignorance of Law against Judge Winston S. Racoma (Judge Racoma), Presiding Judge, Branch 39, Regional Trial Court, Daet, Camarines Norte, for his actions in relation to Special Civil Case No. 8374, after the same was raffled to his *sala* following the

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inhibition of herein Respondent.[65] In the same vein, Complainants questioned Judge Racoma's April 25, 2019 Order granting Mayor Jalgalado's prayer for issuance of WPI. In said case, the Court also resolved to dismiss Complainants' complaint against Judge Racoma for having been filed prematurely, and ordered Complainants to explain, under pain of contempt, their act of filing a premature complaint intended to harass or vex Judge Racoma.[66]

Thus, as in *Tallado v. Judge Racoma*, the Court deems it proper to also direct Complainants to explain why they should not be cited in contempt in relation to the instant case, for failing to exhaust available judicial remedies before filing the complaints against Respondent herein, and resorting in the unscrupulous filing of administrative cases against members of the Judiciary which does not only interfere with the due performance of judicial functions, but also undermines and degrades or impairs the respect due to the judicial office.

WHEREFORE, the Verified Complaints against respondent Judge Arniel A. Dating, Presiding Judge, Branch 41, Regional Trial Court of Daet, Camarines Norte, are **DISMISSED**.

The Complainants, Governor Edgardo A. Tallado, Vice Governor Jonah Pedro P. Pimentel, Board Member Rodolfo V. Gache, Board Member Joseph Stanley G. Alegre, Board Member Renee F. Herrera, Board Member Gerardo G. Quiñones, Board Member Reynoir V. Quibral, Board Member Erwin L. Lausin, Board Member Artemio B. Serdon, Jr., Board Member Jay G. Pimentel, and Board Member Ramon E. Baning, are **ORDERED** to **SHOW CAUSE** within ten (10) days from notice why they should not be cited for indirect contempt of court for filing a premature complaint against Judge Arniel A. Dating, intended to harass or vex the latter.

SO ORDERED.

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[65] Id.

[66] Id.

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Leonen, Hernando, Lazaro-Javier, Inting, Zalameda, M. Lopez, Gaerlan, Rosario, J. Lopez, Dimaampao, Marquez, Kho, Jr., and *Singh, JJ.*, concur.

Gesmundo, C.J., no part.