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From all these facts, it is clear that respondent showed manifest partiality in favor of Attys. Juaban and Zosa, giving them unwarranted benefit, advantage and preference and that, with evident bad faith, he caused undue injury to complainants. Respondent thereby failed to comply with the strict standards required of public officers and employees.

WHEREFORE, respondent Sheriff Juan Gato is found *GUILTY* of grave abuse of official functions and manifest partiality amounting to grave misconduct and conduct prejudicial to the administration of justice, and is hereby ***SUSPENDED FROM SERVICE FOR THREE (3) MONTHS WITHOUT PAY***, with the warning that repetition in the future of the same or similar misconduct will be dealt with more severely.

SO ORDERED.

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

THIRD DIVISION

[A.M. No. RTJ-01-1630. April 9, 2003]

HEINZ R. HECK, *complainant, vs.* **JUDGE ANTHONY E. SANTOS,** *respondent.*

SYNOPSIS

In a civil case, the complainant herein was one of the defendants, while the respondent herein was the presiding judge. Complainant filed therein a motion to dismiss the case on the ground that the trial court lacked jurisdiction over the dispute for being an intra-corporate matter. The respondent judge denied his motion. Thereafter, their counsel therein filed a motion to withdraw as counsel in the case. As a result, the defendants

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in the case were not able to attend the scheduled hearing, as they were not informed that it was reset on a certain date. The trial court issued an order stating that the case was submitted for decision and therein authorizing the plaintiff's counsel to draft the decision of the case. The defendants did not also receive a copy of the said order. Thereafter, the respondent judge rendered a decision, which adopted the draft decision submitted by the plaintiff's counsel. Hence, this administrative complaint against the judge for: (1) violating Section 1, Rule 36 of the Revised Rules of Court, (2) for violating the Code of Judicial Ethics, and (3) for gross ignorance of the law. The judge gave his side of the story, and the Office of the Court Administrator (OCA) rendered its evaluation, report and recommendation.

The Supreme Court agreed with the findings of the OCA that the respondent's order for the counsel of one of the parties to draft the decision and his *verbatim* adoption of the draft violated the Code of Judicial Conduct. The respondent having been retired, his dismissal or suspension would no longer be feasible. Hence, the Court was left with only one option, to deduct from his retirement benefits the amount of ₱20,000.00 as fine.

SYLLABUS

POLITICAL LAW; PUBLIC OFFICERS; JUDGES; DUTY THEREOF TO RENDER JUST, CORRECT AND IMPARTIAL DECISION; PERFORMANCE THEREOF MUST BE IN A MANNER FREE FROM ANY SUSPICION AS TO HIS FAIRNESS, IMPARTIALITY AND INTEGRITY; VIOLATION IN CASE AT BAR. — It is axiomatic that decision-making, among other duties, is the primordial and most important duty of a member of the bench. He must use his own perceptiveness in understanding and analyzing the evidence presented before him and his own discernment when determining the proper action, resolution or decision. Delegating to a counsel of one of the parties the preparation of a decision and parroting it *verbatim* reflect blatant judicial sloth. Lack of malice or bad faith is not an excuse. It bears emphasis that a judge must not only render a just, correct and impartial decision. He should do so in such a manner as to be free from any suspicion as to his fairness, impartiality and integrity.

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DECISION

CARPIO MORALES, *J.*:

By a verified complaint[1] dated March 9, 2001, Heinz R. Heck (complainant) prays that disbarment and other disciplinary sanctions be meted against respondent Judge Anthony E. Santos (respondent).

The facts which spawned the filing of the complaint are not disputed.

In Civil Case No. 94-334, *"Vinas Kuranstalten Gesmbh, Bearthold Rindlefleisch and Candido Flor v. Lugait Aqua Marine Industries and Heinz R. Heck,"* lodged at the Regional Trial Court, Branch 19, Cagayan de Oro City, the therein defendants of which complainant was one filed a June 21, 1994 Motion to Dismiss the case on the ground that the trial court has no jurisdiction over the case, the dispute being an intra-corporate matter which was at the time within the exclusive jurisdiction of the Securities and Exchange Commission. The motion was denied by respondent.[2]

Counsel for the therein defendants, Atty. Samuel Jardin, subsequently filed a motion to withdraw as counsel which was, by Order of April 1, 1996, granted by respondent who reset the hearing of even date to June 10 and 11, 1996.[3] On the scheduled hearing of the case on June 10, 1996, as the defendants never received a copy of the April 1, 1996 Order, neither they nor their counsel showed up. What transpired on June 10, 1996 is reflected in the Order[4] of even date issued by respondent:

> When this case was called for continuation of trial today, only Atty. Manuel Singson [counsel for the plaintiff] appeared. Defendants and counsel did not, despite due notice.

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[1] *Rollo* at 3-64.

[2] *Id.* at 29.

[3] *Id.* at 30.

[4] *Id.* at 31.

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All the exhibits presented and reserved by the plaintiffs are now admitted by the Court for the purposes for which they are offered.

As prayed for by Atty. Manuel Singson, defendants LAMI and Heinz R. Heck are considered as having waived their right to present their evidence.

The case is submitted for decision.

Atty. Manuel Singson is hereby authorized to draft the decision.

SO ORDERED.

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The defendants did not also receive a copy of the above-quoted June 10, 1996 Order.

By Compliance[5] dated August 14, 1996, Atty. Singson submitted a draft decision[6] for respondent's approval.

On October 2, 1996, respondent rendered a decision *which was copied* ***verbatim*** from the draft decision submitted by Atty. Singson.[7]

Hence, arose the present administrative complaint against respondent 1.) for violating Section 1, Rule 36 of the Revised Rules of Court which reads:

SECTION 1. *Rendition of judgments and final orders.— A judgment or final order determining the merits of the case shall be in writing,* **personally and directly prepared by the judge**, stating clearly the facts and the law on which it is based, signed by him, and filed with the clerk of court. (Italics in the original; emphasis and underscoring supplied);

2.) for violating the Code of Judicial Ethics, respondent having in the course of the hearing of the case stepped down the rostrum

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[5] *Id.* at 32.

[6] *Id.* at 36-46.

[7] *Id.* at 47-55.

[8] *Id.* at 8.

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and mingled with Atty. Singson;[8] 3.) for gross ignorance of the law, incompetence and violation of the 1987 Constitution when in his decision, he granted to the plaintiffs Vinas Kuranstalten Gesmbh, an Austrian corporation, and Bearthold Rindlefleisch, an Austrian citizen, 40% *pro-indiviso* share in the parcels of land in Lugait, Misamis Oriental and directed the therein defendant-herein complainant to execute a real estate mortgage on the remaining portion of the parcel of land covered by TCT No. 272.[9]

By Comment[10] dated August 10, 2001, respondent gives his side of the case as follows:

After a careful and thorough study of the motion to dismiss, he was convinced that the RTC, not the SEC, has jurisdiction over the case, and finding that there were genuine issues raised therein, he deemed it best to conduct a trial on the merits rather than dismiss the complaint outright.[11]

With respect to complainant's failure to receive the April 1, 1996 Order, respondent avers that he should not be faulted therefor, for the parties, during the hearing of January 29, 1996, jointly moved that the hearing of the defendants' objection to the plaintiffs' formal offer of exhibits and the presentation of the defendants' evidence be set on April 1 and 2, 1996, despite which none of the parties appeared on April 1, 1996; instead, the trial court received a motion to withdraw as the defendants' counsel filed by Atty. Jardin, prompting him (respondent) to issue the Order of April 1, 1996 resetting the hearing to June 10 and 11, 1996 and directing the defendants to engage the services of a new counsel.[12]

Respondent avers that since the two envelopes, each containing a copy of the April 1, 1996 Order, which were addressed to the defendants were returned to the court ("Return

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[9] *Id.* at 7, 11-12.

[10] *Id.* at 88-101.

[11] *Id.* at 91.

[12] *Id.* at 92-93.

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to Sender") "unclaimed," service of said order was deemed complete five days from receipt of the first notice issued by the postmaster.[13] Respondent adds that, at all events, it was incumbent upon the defendants to personally check what transpired on April 1, 1996.

With respect to the June 10, 1996 Order, respondent apologizes for the "inadvertence and plain oversight" of the court personnel in still sending a copy thereof to Atty. Jardin, whom they thought was still the defendants' counsel of record,[14] instead of to the defendants. He nevertheless points out that had defendants been vigilant, they would have known about the hearing scheduled on June 10, 1996 and made sure that they were represented by counsel thereat. Respondent concludes that the defendants' negligence and seeming disinterest in pursuing their defense drew the plaintiffs to move that they be deemed to have waived their right to present evidence, leaving him no choice but to grant the same.[15]

On his order to the counsel for the plaintiffs to draft the decision, respondent explains that he did so on the premise that the defendants were considered to have waived their right to present evidence, thus leaving the plaintiffs' evidence uncontroverted. To him, the order is consistent with his practice of promptly disposing of cases before him.[16]

As for his adoption *verbatim* of the draft decision prepared by the plaintiffs' counsel, respondent submits that he did so after a very careful and thorough study of all the evidence presented, adding that had he been motivated by anything less than good faith, he would have refrained from ordering the plaintiffs' counsel to draft the decision.[17]

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[13] *Id.* at 93.

[14] *Id.* at 94.

[15] *Ibid.*

[16] *Id.* at 95.

[17] *Id.* at 95-96.

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As to the allegation that he stepped down the rostrum and mingled with the plaintiffs' counsel, respondent brands it as a figment of complainant's imagination and a desperate attempt to discredit him.[18]

Finally, on the charge of gross ignorance of the law, respondent denies the same and avers that *assuming arguendo* that he committed errors in his judgment, they could be corrected on appeal.[19]

In its Evaluation, Report and Recommendation,[20] the Office of the Court Administrator (OCA) made the following findings with the corresponding recommendation:

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It is our observation that the filing of the instant complaint against the respondent judge for: (a) denying the motion to dismiss; (b) granting plaintiff Vinas Kuranstalten Gesmbh a 40% *pro-indiviso* shares of parcels of land in Lugait, Misamis Oriental and (d) [sic] directing the defendant (herein complainant) to execute a real estate mortgage on the rest of the portion of a parcel of land covered by TCT No. 272 (10272) of Misamis Oriental, will not help complainant's cause. *These are judicial issues and there are judicial remedies available to him. Assailing the wisdom of the issuance of such orders by the respondent judge is not proper in an administrative complaint.* It is axiomatic that an administrative complaint is not the appropriate remedy for every act of a judge deemed aberrant or irregular where a judicial remedy exist (sic) and is available (*Santos vs. Orlino*, 296 SCRA 101).

Anent complainant's non-receipt of orders dated April 1, 1996 and June 10, 1996 which were both issued by respondent Judge, the undersigned believes that *Judge Santos was able to explain his point on the matter* in his Answer/Comment. Likewise, the *allegation that the respondent judge went down to the rostrum to chat with the plaintiffs will not hold water.* This is only a bare allegation unsupported by convincing evidence to pin down the respondent.

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[18] *Id.* at 96-97.

[19] *Id.* at 97.

[20] *Id.* at 289-294.

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We however, do believe that respondent judge should not be totally exonerated. It is made of record that respondent judge issued an order allowing plaintiffs['] counsel to draft the decision of the case (Civil Case No. 94-334). Finding the draft to be well-written, *respondent adopted the same as his own by copying the handiwork in toto*. **This is highly irregular if not anomalous** because the drafting, preparation and writing of a decision is the sole responsibility of a judge. It cannot be delegated to anyone. In Section 1, Rule 36 of the Rules of Court, it is clear that "A judgment or final order determining the merits of the case shall be in writing, personally and directly prepared by the judge," stating clearly and distinctly the facts and the law on which it is based, signed by him and filed with the Clerk of Court. Thus, there is no gainsaying now that respondent violated the aforequoted provision for which he should be administratively sanctioned.

WHEREFORE, IN VIEW OF THE FOREGOING, it is respectfully *recommended to this Honorable Court that respondent Judge Anthony E. Santos be FINED in the amount of Five Thousand Pesos (₱5,000.00) with a WARNING* that a repetition of the same or similar offense will be dealt with more severely. (Emphasis and italics supplied)

This Court agrees with the findings of the OCA. Respondent's order for the counsel of one of the parties to draft the decision and his adoption *verbatim* of the draft clearly violate the Code of Judicial Conduct, the pertinent canons of which read:

Canon 2

A JUDGE SHOULD *AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY* IN ALL ACTIVITIES.

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Canon 3

A JUDGE SHOULD PERFORM OFFICIAL DUTIES **HONESTLY,** AND *WITH* IMPARTIALITY AND **DILIGENCE** *ADJUDICATIVE RESPONSIBILITIES.*

x x x x x x x x x

(Emphasis and italics supplied),

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in relation to the above-quoted Section 1 of Rule 36 of the Revised Rules of Court. By such order, respondent abdicated a function exclusively granted to him by no less than the fundamental law of the land. It is axiomatic that decision-making, among other duties, is the primordial and most important duty of a member of the bench.[21] He must use his own perceptiveness in understanding and analyzing the evidence presented before him and his own discernment when determining the proper action, resolution or decision. Delegating to a counsel of one of the parties the preparation of a decision and parroting it *verbatim* reflect blatant judicial sloth.

Lack of malice or bad faith is not an excuse. It bears emphasis that a judge must not only render a just, correct and impartial decision. He should do so in such a manner as to be free from any suspicion as to his fairness, impartiality and integrity.[22]

As the questioned acts of respondent violate the Code of Judicial Conduct which violation falls under the classification of a serious charge[23] under Section 3 of Rule 140[24] of the Revised Rules of Court, this Court does not find the recommended fine of ₱5,000.00 commensurate thereto. For Section 10 of Rule 140 provides:

SECTION 10. *Sanctions.*— A. If the respondent is found culpable of a *serious charge*, any of the following sanctions shall be imposed:

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[21] *Re: Report on the Judicial Audit Conducted on RTC Br-37, Lingayen, Pangasinan*, 336 SCRA 344, 351 (2000).

[22] *Agpalasin v. Agcaoili*, 330 SCRA 268 (2000).

[23] Section 3. *Serious Charges.* — Serious charges include:

1. Bribery, direct or indirect;
2. Dishonesty and violations of the Anti-Graft and Corrupt Practices Law;
3. *Violation of the Code of Judicial Conduct*;

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[24] Now amended by Administrative Matter No. 01-8-10-SC which took effect October 1, 2001.

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1. Dismissal from the service with forfeiture of benefits (except accrued leaves) and disqualification from reinstatement or appointment to any public office including a government-owned or controlled corporation;

2. Suspension for three (3) months without salary and benefits; or

3. A fine not less than ₱20,000.00 but not more than ₱40,000.00.

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Respondent having retired on May 22, 2002, his dismissal or suspension is no longer feasible. This leaves this Court only the third option — to mete him a fine of ₱20,000.00, to be deducted from his retirement benefits.

WHEREFORE, respondent Judge Anthony E. Santos is found *GUILTY* of violating Canons 2 and 3 of the Code of Judicial Conduct in relation to Section 1 of Rule 36 of the Revised Rules of Court and is hereby ordered to pay a *FINE* of ₱20,000.00, to be deducted from his retirement benefits.

With respect to complainant's prayer for disbarment, let the complaint be referred to the Integrated Bar of the Philippines for Investigation, Report and Recommendation.

Let a copy of this Decision be furnished the Office of the Court Administrator, Integrated Bar of the Philippines, and the Office of the Bar Confidant.

SO ORDERED.

Puno (Chairman), Panganiban, Sandoval-Gutierrez, and *Corona, JJ.,* concur.