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REPORT OF CASES

DETERMINED IN THE

SUPREME COURT OF THE PHILIPPINES

EN BANC

[A. M. No. CA-01-32. January 23, 2002]
(Formerly OCA IPI No. 01-36-CA-J)

HEIRS OF THE LATE JUSTICE JOSE B. L. REYES, *complainants, vs.* **JUSTICES DEMETRIO G. DEMETRIA, RAMON A. BARCELONA, and ROBERTO A. BARRIOS [Special Third Division]; ATTY. TERESITA R. MARIGOMEN, Division Clerk of Court, Special Fourth Division and MR. EFREN R. RIVAMONTE, Special Sheriff, Mailing Section,** *respondents.*

SYNOPSIS

Complainants leased a parcel of land to Manila Builders under certain terms and conditions. For failure of Manila Builders to comply with the terms and conditions of the lease agreement, complainants filed a complaint for unlawful detainer, which the Metropolitan Trial Court decided in complainants' favor. Thereafter, the trial court granted complainants' motion for execution of the judgment of eviction. On appeal, the Court of Appeals issued an order restraining the execution of the judgment. Subsequently, the Court of Appeals promulgated a decision ordering complainants to restore the subject property in the possession of Manila Builders. Manila Builders then filed a very urgent *ex-parte* motion for execution pending appeal. Complainants filed with the Supreme Court a petition for review on *certiorari* of the decision of the Court of Appeals. Despite

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the pending petition with the Supreme Court, the Court of Appeals issued a resolution granting the motion for execution.

The Supreme Court ruled that the Court of Appeals has no authority to issue immediate execution pending appeal of its own decision. Discretionary execution under Rule 39, Section 2 (a), Revised Rules of Court, as amended, applies to a judgment or final order of the trial court, upon good reasons to be stated in a special order after due hearing.

In addition, the Supreme Court ruled that there was no question regarding the authority of the Court of Appeals to issue a preliminary writ of injunction or temporary restraining order pending the resolution of petitions and appeals within its jurisdiction, especially in meritorious cases. What was questionable was the irregular procedure by which the resolution for the issuance of the restraining order was arrived at and served on the parties.

With respect to the administrative charges against respondent Justices, the Supreme Court found Justice Demetria, the *ponente* of the March 23, 1998 resolution for the issuance of the temporary restraining order, guilty of misconduct for promulgating the said resolution without the required number of signatures.

The Court absolved respondent Justice Barcelona for he had no knowledge about the lack of the requisite third signature before the resolution was promulgated. The complaints against respondents Marigomen and Rivamonte were dismissed by the Court with admonition and warning.

SYLLABUS

1. **REMEDIAL LAW; PROVISIONAL REMEDIES; TEMPORARY RESTRAINING ORDER; MAY BE ISSUED BY A MEMBER OF THE COURT OF APPEALS IN CASE OF EXTREME NECESSITY.** — As it is, only two members of the Court of Appeals, Special Fourth Division, respondents Justices Demetria, *ponente*, and Barcelona, member, concurring, signed the resolution. Justice Omar U. Amin, member, did not sign. Hence, the resolution may not be received for filing, much less served on the parties. The clear intent of

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the division members was for the three members to act on the resolution. It is true that under the rules, a member of the Court of Appeals may issue a temporary restraining order. However, he shall advisedly use such power sparingly, in case of extreme necessity where there are compelling reasons to abate or avoid a grave injury to a party. And, such issuance must be submitted to the Court for ratification at the very next session of the Court.

2. **ID., ACTIONS; JUDGMENT; EXECUTION PENDING APPEAL; APPLIES TO JUDGMENT OF THE TRIAL COURT.** — The Court of Appeals has no authority to issue immediate execution pending appeal of its own decision. Discretionary execution under Rule 39, Section 2(a), Revised Rules of Court, as amended, applies to a judgment or final order of the *trial court,* upon good reasons to be stated in a special order after due hearing. ... Rule 51, Section 11, Revised Rules of Court expressly provides that the judgment of the Court of Appeals shall be remanded to the lower court for execution ten (10) days after entry of judgment, unless notice is given that the decision would be appealed to the Supreme Court. By requiring the remand of the records to the lower court after the entry of judgment, the rules completely cut off any authority of the Court of Appeals to directly undertake the execution of the final judgment, much less the authority to order its execution pending its finality.

3. **LEGAL AND JUDICIAL ETHICS; JUDGES; MUST BE FAITHFUL TO THE LAW AND MAINTAIN PROFESSIONAL COMPETENCE.** — The Court cannot permit any act or omission, which yanks public faith away from the judiciary, for a judge's utter lack of familiarity with the rules undermines public confidence in the competence of the courts. In fact, the Code of Judicial Conduct mandates that judges must be faithful to the law and maintain professional competence. He must have the basic rules at the palm of his hand and be proficient in the interpretation of laws and procedural rules.

4. **POLITICAL LAW; CONSTITUTIONAL LAW; SUPREME COURT; POWER OF APPOINTMENT; SUPREME COURT HAS THE AUTHORITY TO APPOINT ALL OFFICIALS AND EMPLOYEES OF THE JUDICIARY.** — The appointment of a special sheriff, in the person of respondent

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Rivamonte, encroached on the authority of the Supreme Court as the *appointing power* of *all officials and employees of the judiciary*. The Court of Appeals has no authority to appoint or to direct any of its employees to appoint a special sheriff, who was not even bonded as required by law.

5. **LEGAL AND JUDICIAL ETHICS; JUDGES; MAY ONLY BE HELD LIABLE FOR UNJUST JUDGMENT RENDERED WITH CONSCIOUS AND DELIBERATE INTENT TO DO INJUSTICE.** — In order to discipline a judge, it must be clearly shown that the judgment or order is unjust as being contrary to law and that the judge rendered it with conscious and deliberate intent to do an injustice. Judges cannot be subjected to liability — civil, criminal or administrative — for any of their official acts, no matter how erroneous, so long as they act in good faith. It is only when they act fraudulently or corruptly, or with gross ignorance may they be held criminally or administratively responsible. An erroneous decision or order is presumed to have been issued in good faith in the absence of proof to the contrary.

6. **ID.; ID.; MUST AVOID ANY IMPRESSION OF IMPROPRIETY TO PROTECT THE IMAGE AND INTEGRITY OF THE JUDICIARY.** — [I]t is the duty of the members of the bench to avoid any impression of impropriety to protect the image and integrity of the judiciary. Judges must not only render just, correct and impartial decisions, but must do so in a manner free of any suspicion as to their fairness, impartiality and integrity. For, the conception of good judges has been, and is, of men who have a mastery of the principles of law, who discharge their duties in accordance with law.

APPEARANCES OF COUNSEL

Oscar Z. Benares for complainant.

Demetria Escondo Maloloyon & Agati Law Offices for respondent D. Demetria.

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RESOLUTION

PARDO, *J.*:

"Justice Malcolm aptly described ideal judges as 'men who have a mastery of the principles of law, who discharge their duties in accordance with law, who are permitted to perform the duties of the office undeterred by outside influence, and who are independent and self-respecting human units in a judicial system equal and coordinate to the other two departments of government.' Those who wield the judicial gavel have the duty to study our laws and their latest wrinkles. They owe it to the public to be legally knowledgeable for ignorance of the law is the mainspring of injustice."[1]

The Case

The case before the Court is a verified complaint[2] of the heirs of the late Justice Jose B. L. Reyes, represented by Adoracion Reyes, and the heirs of Dr. Edmundo A. Reyes, namely, Ma. Teresa P. Reyes and Carlos P. Reyes against Justices Demetrio G. Demetria,[3] Ramon A. Barcelona and Roberto A. Barrios, Court of Appeals, Atty. Teresita R. Marigomen, Division Clerk of Court, Special Fourth Division, Court of Appeals and Mr. Efren R. Rivamonte, Special Sheriff, Court of Appeals, for violation of Section 11, Rule 59 and Sec. 8, Rule 39 of the Revised Rules of court, Sections 3.01 and 3.08 of the Code of Judicial Conduct and Article 204 of the Revised Penal Code, for knowingly rendering an unjust judgment.

The Antecedent Facts

The instant administrative complaint arose from a simple ejectment case filed by complainants against Metro Manila Builders, Inc. (Manila Builders).

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[1] *Spouses Bio v. Judge Valera,* 327 Phil. 249, 254 [1996].

[2] Complaint, dated September 12, 2001, *Rollo*, pp. 3-10.

[3] On March 27, 2001, the Court dismissed Justice Demetrio G. Demetria from the service in A.M. No. 00-7-09-CA.

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Pursuant to a contract executed on November 30, 1976, complainants' predecessors-in-interest leased a parcel of land with an area of more than one (1) hectare situated along Taft Avenue, Pasay City to Manila Builders for twenty five (25) years at a rental rate of ₱15,000.00 to ₱30,000.00 a month. Under the lease agreement, Manila Builders would cover all present and future improvements on the property with insurance against certain risks and maintain the premises in good, sanitary and tenantable condition at all times.

However, Manila Builders violated the terms and conditions of the lease agreement. Exercising the right to unilateral rescission,[4] complainants sent notice to Manila Builders terminating the lease and demanding that they vacate and surrender the premises subject of the lease agreement, which Manila Builders ignored.

On February 3, 1997, complainants filed with the Metropolitan Trial Court, Pasay City, Branch 45 a complaint for unlawful detainer based on the breach of the contract of lease,[5] which the trial court decided on May 9, 1997 in complainants' favor. The trial court ordered Manila Builders evicted from the premises.

On May 16, 1997, complainants filed with the trial court a motion for execution of the judgment of eviction. Meanwhile, Manila Builders appealed to the Regional Trial Court, Pasay City, Branch 113; however, the appeal was subsequently dismissed for failure to file an appeal memorandum on time.

On November 5, 1997, Manila Builders elevated the case to the Court of Appeals.[6] On November 26, 1997, the trial court

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[4] Section 18, paragraph 4 (a) In the event of default or breach of any of the condition of this contract x x x

(b) x x x the LESSOR may, in his absolute discretion declare the contract cancelled and terminated and require the TENANT to vacate the leased premises.

[5] Docketed as Civil Case No. 113-97.

[6] Docketed as CA-G.R. SP No. 45853.

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granted complainants' motion for execution, which order was correspondingly issued on December 1, 1997. On December 8, 1997, the Court of Appeals issued an order restraining the execution of the ejectment judgment.[7]

On February 7, 1998, the Court of Appeals allowed the withdrawal of appeal filed by Manila Builders. Simultaneously with the withdrawal of the appeal, Manila Builders filed with the Regional Trial Court, Pasay City, Branch 231 an action for annulment of the ejectment judgment[8] due to the court *a quo's* lack of jurisdiction and prayed for a temporary restraining order and/or preliminary injunction to enjoin the execution of the decision. However, the regional trial court did not issue an injunction against the trial court.

On March 23, 1998, Manila Builders filed with the Court of Appeals a petition for *certiorari* and *mandamus* questioning the regional trial court's "*sub-silencio*" denial of its application for injunctive relief.[9]

On the same day, the Court of Appeals issued a resolution[10] restraining the enforcement of the writ of execution in Civil Case No. 113-97, MTC, Pasay City, Branch 45.[11] Only two (2) members of the division signed the resolution, respondents Justices Demetria, *ponente*, and Barcelona, concurring. Justice Amin, member, did not sign.

On April 14, 1998, in Civil Case No. 98-0366, the Regional Trial Court, Pasay City, Branch 231 dismissed the action for

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[7] G.R. Nos. 135180-81, CA Resolution, *Rollo*, pp. 181-182 (338 SCRA 282, 289 [2000]).

[8] Docketed as Civil Case No. 98-0366. *Heirs of the Late Justice Jose B. L. Reyes v. Court of Appeals,* 338 SCRA 282 [2000], *Rollo*, pp. 14-36, at p. 18.

[9] Docketed as CA-G.R. SP No. 47158. *Ibid.*, p. 19.

[10] Adopted by Justice Demetrio G. Demetria and concurred in by Justice Ramon A. Barcelona only.

[11] *Rollo*, pp. 14-36, at p. 19.

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annulment of judgment on the ground that Manila Builder's remedy is appeal in due time, which when withdrawn, was effectively abandoned.[12]

On August 21, 1998, the Court of Appeals promulgated a decision, the dispositive portion of which reads:

"WHEREFORE, the decision of the Metropolitan Trial Court, Branch 45, Pasay City in Civil Case No. 113-97 dated May 9, 1997 is SET ASIDE and the orders dated March 23, 1998 and April 14, 1998, issued in Civil Case No. 98-0366 are likewise SET ASIDE. Private respondent is hereby ordered to restore the subject property in the possession of petitioner and are hereby permanently enjoined from further committing acts disturbing physical possession of the subject property by petitioner until after the expiration of the Contract of Lease."[13]

On the same date (August 21, 1998), Manila Builders filed a very urgent *ex-parte* motion for execution pending appeal.

On September 14, 1998, complainants filed with the Supreme Court a petition for review on *certiorari* of the decision of the Court of Appeals.[14] On September 17, 1998, complainants filed with the Court of Appeals their consolidated comment on the very urgent motion for execution pending appeal, with motion to defer consideration due to the pendency of their petition with the Supreme Court.

Despite the pending petition with this Court, on September 18, 1998, the Court of Appeals issued a resolution granting the motion for execution, the dispositive portion of which reads:

"Accordingly, this Court hereby *RESOLVES* to grant the instant petition.

"1. A writ of Execution *Pending Appeal of the Decision of this Court* dated August 21, 1998 is hereby issued.

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[12] *Rollo,* pp. 14-36, at p. 20.

[13] Court of Appeals Decision, CA- G.R. SP Nos. 47158 and 47720, *Rollo*, pp. 37-44, at pp. 43-44.

[14] Docketed as G.R. Nos. 135180-81.

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"The Division Clerk of this Court is hereby ordered to furnish a certified true copy of this resolution and the decision of this Court dated August 21, 1998 to the Metropolitan Trial Court, Branch 45, and Regional Trial Court, Branch 231 both of Pasay City.

"2. Private respondents and their counsel are hereby adjudged guilty of indirect contempt of this Honorable Court and are hereby sentenced to pay a fine of ₱30,000.00. Private respondents and counsel are also directed to make a completer restoration to petitioner of the subject property."[15] [Italics supplied]

On September 21, 1998, the Court of Appeals (Second Division) issued a resolution reading:

"In view of the *letter of Justice Demetrio G. Demetria* (*Ponente*) dated September 21, 1998, the Chief of the Mailing Section is *hereby directed to appoint a special sheriff to execute* the decision of this Court dated August 21, 1998."[16]

On the same date, respondent Efren R. Rivamonte, process server at the mailing section of the Court of Appeals, was appointed special sheriff to enforce the writ. Accordingly, 2nd Division Clerk of Court Caroline G. Ocampo-Peralta issued a writ of execution as follows:

"*WRIT OF EXECUTION*

"TO MR. EFREN RIVAMONTE
(Designated Special Sheriff
by the Mailing Section,
Court of Appeals, Manila)

G R E E T I N G S:

WHEREAS, on August 21, 1998, a decision was issued by Special Third Division of this Court, promulgated on August 25, 1998 the dispositive portion of which reads: (p. 485-486, *Rollo*)

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[15] *Rollo*, pp. 14-36, at p. 27.

[16] Compliance and Comment, Annex "A", *Rollo*, p. 89. The Second Division is composed of the following, namely, Justice Emeterio C. Cui, chairman and Justices Ramon A. Barcelona and Demetrio G. Demetria, members.

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'WHEREFORE, the decision of the Metropolitan Trial Court, Branch 45, Pasay City in Civil Case No. 113-97 dated May 9, 1997 is SET ASIDE and the Orders dated March 23, 1998 and April 14, 1998, issued in Civil Case No. 98-0366 are likewise SET ASIDE. Private respondents are hereby ordered to restore the subject property in the possession of petitioner and are hereby permanently enjoined from further committing acts disturbing physical possession of the subject property by petitioner until after the expiration of the Contract of Lease.

SO ORDERED.'

"WHEREAS, on August 21, 1998, a Very Urgent *Ex-Parte* Motion for Execution Pending Appeal was filed by petitioner.

"WHEREAS, on September 18, 1998, a resolution was issued and promulgated by the Former Special Third Division, the decretal portion of which reads:

'Accordingly, this Court hereby RESOLVES to grant the instant motion.

'1. A writ of Execution Pending Appeal of the Decision of this Court dated August 21, 1998 is hereby issued.

'The Division Clerk of this Court is hereby ordered to furnish a certified true copy of this resolution and the decision of this Court dated August 21, 1998 to the Metropolitan Trial Court, Branch 45, and Regional Trial Court, Branch 231 both of Pasay City.

'2. Private respondents and their counsel are hereby adjudged guilty of indirect contempt of this Honorable Court and are hereby sentenced to pay a fine of ₱30,000.00. Private respondents and counsel are hereby directed to make a complete restoration to petitioner of the subject property.

'SO ORDERED.

"NOW THEREFORE, You are hereby commanded, pursuant to resolution dated September 18, 1998 which granted petitioner's Motion for Execution Pending Appeal, to enforce this Writ in accordance with the decision issued on August 21, 1998 by ordering private respondents to restore petitioners of the possession of the subject property, and to make a return of this Writ to this Court within five (5) days from date, with your proceedings endorse thereon.

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"WITNESS, the Honorable RAMON A. BARCELONA, Acting Chairman, Honorable DEMETRIO G. DEMETRIA, and Honorable ROBERTO A. BARRIOS, Members, Associate Justices of the FORMER THIRD DIVISION, this 21st of September, 1998, Court of Appeals, Manila.

"Respectfully yours,

[Sgd.]
"CAROLINE G. OCAMPO-PERALTA
"Division Clerk of Court
"Second Division"[17]

Also on the same date, respondent Rivamonte evicted complainants from the premises and restored possession to Manila Builders.

The Administrative Charges

Aggrieved by irregularities in the proceedings in CA-G.R. SP Nos. 47158 and 47720, on September 15, 2000, complainants filed with the Supreme Court the instant administrative complaint against respondent justices and employees of the Court of Appeals. Complainants alleged that they lost possession of the subject property due to the "malicious, deliberate and unlawful issuance" of Justices Demetria and Barcelona of the March 23, 1998 restraining order. Justices Demetria, Barcelona and Barrios further perpetrated an injustice when they promulgated the decision of August 21, 1998, and issued the writ of execution pending appeal dated September 21, 1998, despite the pendency of appeal with the Supreme Court. Complainants charged respondent justices, particularly the *ponente*, Justice Demetria, with violating pertinent provisions of the Code of Judicial Conduct.

On May 4, 2001, the Court required respondents to file their respective comments on the complaint within ten (10) days from receipt.[18]

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[17] Compliance and Comment, Annex "B", *Rollo*, pp. 90-91.

[18] *Rollo*, p. 47.

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On May 31, 2001, respondents Justices Ramon A. Barcelona and Roberto A. Barrios, and Division Clerk of Court Teresita R. Marigomen filed a joint comment claiming innocence of the charges against them.[19] On June 21, 2001, respondent Justice Demetria filed his comment asserting good faith and basically adopting the defenses and arguments of his co-respondents.[20] On October 4, 2001, respondent Rivamonte filed his comment stating that he only complied with the orders of his superiors.[21]

With regard to the resolution of March 23, 1998, respondent Justice Barcelona alleged that his concurrence in the issuance of the temporary restraining order was done "in good faith and in deference to the discretion of the *ponente,*" respondent Justice Demetria, "who has knowledge of the soundness and factual merits of the case." We find this a wrongful approach to the issue. Concurrence must be based on the justice's conviction after mature deliberation, not deference to the *ponente.* Obviously, the procedure adopted showed that there was no due deliberation on the case by the justices of the division. After the division members signed the resolution, the division members would not know the completeness of the signatures in the resolution since its release was ordered by the *ponente,* not by the Division Chairman. Hence, the division members would not know if the resolution was promulgated without the required number of signatures.[22]

On the other hand, respondent Justice Demetria maintained that the issuance of the March 23, 1998 resolution temporarily restraining the enforcement of the writ of execution in Civil Case No. 113-97 has sound basis in law and jurisprudence and was made after a thorough study by him.

Respondent Marigomen noted nothing erroneous or anomalous upon seeing only two (2) signatures in the resolution of March

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[19] Comment, *Rollo*, pp. 54-68.

[20] Comment, *Rollo*, pp. 73-81.

[21] Compliance and Comment, *Rollo*, pp. 85-88.

[22] Comment, *Rollo*, at pp. 57-60.

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23, 1998, as it is legally permissible for a single justice to issue restraining orders, citing Rule 58, Section 2,[23] 1997 Rules of Civil Procedure and Rule 3, Section 9,[24] Revised Internal Rules of the Court of Appeals, as amended.[25]

The Court's Ruling

Respondents' submissions are patently without merit. There is no question regarding the authority of the Court of Appeals to issue a preliminary writ of injunction or temporary restraining order pending the resolution of petitions and appeals within its jurisdiction, especially in meritorious cases. What is questionable is the irregular procedure by which the March 23, 1998 resolution was arrived at and served on the parties.

As it is, only two members of the Court of Appeals, Special Fourth Division, respondents Justices Demetria, *ponente*, and Barcelona, member, concurring, signed the resolution. Justice Omar U. Amin, member, did not sign. Hence, the resolution may not be received for filing, much less served on the parties. The clear intent of the division members was for the three members to act on the resolution. It is true that under the rules, a member of the Court of Appeals may issue a temporary

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[23] SEC. 2. *Who may grant preliminary injunction.*— A preliminary injunction may be granted by the court where the action or proceeding is pending. If the action or proceeding is pending in the Court of Appeals or in the Supreme Court, it may be issued by said court or any member thereof.

[24] SEC. 9. *Action by a Justice.*— The following may be considered and acted upon by the Justice to whom the case is assigned for study and report:

a. Motions for bail in appealed criminal cases;

b. Motions or petitions for the issuance of a writ of preliminary injunction, restraining order, and other auxiliary writs;

c. Motions or petitions for extension of time to file petitions for review;

d. Motions or petitions for extension of time to file briefs, answers, replies, comments, oppositions, memoranda, and motions for reconsideration of the disposition thereof; and

e. Motions or petitions set a case for hearing or oral arguments.

[25] Comment, *Rollo*, pp. 48-68, at p. 60.

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restraining order. However, he shall advisedly use such power sparingly, in case of extreme necessity where there are compelling reasons to abate or avoid a grave injury to a party. And, such issuance must be submitted to the Court for ratification at the very next session of the Court.

In light of the foregoing, we find that Justice Demetria, as *ponente,* disregarded existing rules of procedure. Considering that what he violated were the same rules of procedure he was expected and required to observe, such failure to comply was inexcusable. When the law transgressed is elementary, the failure to know or observe it constitutes gross ignorance of the law.[26]

As regards respondent Marigomen, we find her explanation deferential to the views of respondent justices. As division clerk of court, she is bound by the prevailing rules of procedure of the Court of Appeals. Among her duties and responsibilities, she shall maintain the records of the Division in an orderly manner and keep watch over the status and progress of cases assigned to the Division.[27] She is expected to immediately report to the Justice assigned to study the case the failure of any party or parties to comply with any resolution or order of the Court within the period prescribed therefor.[28] She should have called the attention of the *ponente* upon seeing the incomplete signatures on the resolution. It should have been obvious that the resolution issuing a temporary restraining order was intended as a collegiate act, not the order of a single justice. She should not have released and allowed the said resolution to be served on the parties.

Respondent Justice Barcelona may be absolved of administrative complicity regarding the issuance of a temporary

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[26] *Supena v. De La Rosa*, 334 Phil. 671, 681 [1997]; *Madredijo v. Loyao, Jr.*, 316 SCRA 544 [1999]; *Agunday v. Tresvalles*, 319 SCRA 134 [1999].

[27] Rule 1, Section 11 [c] (2), Revised Internal Rules of the Court of Appeals.

[28] Rule 1, Section 11 [c] (3), Revised Internal Rules of the Court of Appeals.

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restraining order. He had no knowledge about the lack of the requisite third signature before the resolution was promulgated. After affixing his signature, the resolution was not submitted to the Chairman for promulgation and release by the Division Clerk of Court.

However, we find it grossly appalling that the Court of Appeals' former Special Third Division (Barcelona, Demetria and Barrios, JJ.) immediately enforced its decision pending appeal. Worse, the Court of Appeals (2nd Division, Cui, Barcelona and Demetria, JJ.) directed the Chief of the Mailing Section to appoint a special sheriff to carry out the writ of execution pending appeal. The Court of Appeals has no authority to issue immediate execution pending appeal of its own decision. Discretionary execution under Rule 39, Section 2(a), Revised Rules of Court, as amended, applies to a judgment or final order of the *trial court*, upon good reasons to be stated in a special order after due hearing.[29]

Respondents Justices Barcelona and Barrios state that they were impressed by the good reasons posited by Manila Builders, that is, deprivation of income and its mounting obligations and liabilities. On the other hand, respondent Justice Demetria explained that there is no prohibition, whether expressed or implied, regarding the authority of the Court of Appeals to issue immediate execution pending appeal of its own decision.

We find no merit in respondents' ratiocinations. Rule 51, Section 11, Revised Rules of Court expressly provides that the judgment of the Court of Appeals shall be remanded to the lower court for execution ten (10) days after entry of judgment, unless notice is given that the decision would be appealed to the Supreme Court. By requiring the remand of the records to the lower court after the entry of judgment, the rules completely cut off any authority of the Court of Appeals to directly undertake the execution of the final judgment, much less the authority to order its execution pending its finality.

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[29] *Ibid.*

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The Court cannot permit any act or omission, which yanks public faith away from the judiciary,[30] for a judge's utter lack of familiarity with the rules undermines public confidence in the competence of the courts.[31] In fact, the Code of Judicial Conduct mandates that judges must be faithful to the law and maintain professional competence. He must have the basic rules at the palm of his hand and be proficient in the interpretation of laws and procedural rules.[32]

Respondent justices argue that they did not have prior knowledge about the pendency of the petition before the Supreme Court, for had they *learned about it,* they would *not* have *allowed the execution* of the judgment.[33] The record belies such pharisaical stance. In the first place, the Court of Appeals was furnished with a copy of the petition. Secondly, the petitioners filed a manifestation expressly opposing execution pending appeal because they had elevated the case to the Supreme Court. The Court of Appeals ignored petitioners' protestations. Thirdly, the dispositive portion of the September 18, 1998 expressly acknowledged that the decision was *not final,* to wit:

"Accordingly, this Court hereby *RESOLVES* to grant the instant petition.

"1. A writ of Execution *Pending Appeal of the Decision of this Court* dated August 21, 1998 is hereby issued.

"x x x."[34]

A scrutiny of the record reveals that respondent Justice Barrios did not take part in the appointment of respondent Rivamonte

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[30] *Cabañero v. Judge Cañon*, A.M. No. MTJ-01-1369, September 20, 2001.

[31] *Northcastle Properties and Estate Corporation v. Paas*, 317 SCRA 148, 153 [1999].

[32] *Ortiz v. Judge Quiroz*, 337 SCRA 258, 263 [2000], citing *Northcastle Properties and Estate Corporation v. Paas, supra,* Note 31.

[33] Comment, *Rollo*, pp. 63-77.

[34] *Rollo*, p. 27.

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as special sheriff. The Court (Second Division, Cui, Barcelona and Demetria, JJ.) by minute resolution dated September 21, 1998, directed the Chief mailing section to appoint a special sheriff.[35]

Indeed, respondent Justice Demetria has shown keen interest in the immediate execution of the decision despite the Court of Appeal's lack of authority to appoint a special sheriff. The appointment of a special sheriff, in the person of respondent Rivamonte, encroached on the authority of the Supreme Court as the *appointing power of all officials and employees of the judiciary.*[36] The Court of Appeals has no authority to appoint or to direct any of its employees to appoint a special sheriff,[37] who was not even bonded as required by law.[38]

With regard to respondent Rivamonte, considering that he relied on the belief that he was performing a ministerial duty of carrying out the orders of his superiors, which he thought to be lawful and valid, and in the absence of malice and bad faith, he may be absolved of administrative liability. However, as the assigned task was not within the scope of his duties as process server in the mailing section, prudence and caution dictated that he declines to perform the assignment. He is hereby warned that a repetition of the same or similar acts would be meted out with the appropriate penalty.

With regard to the allegation that respondent Justices Demetria, Barcelona and Barrios knowingly rendered an unjust judgment against complainants in the *certiorari* petition, a review of the record would reveal insufficient evidence of bad faith or ill motive on the part of the magistrates concurring in the *ponencia.*

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[35] *Rollo*, p. 89.

[36] Article VII, Section 5(6), 1987 Constitution; *Office of the Court Administrator v. Veneracion*, 334 SCRA 145 [2000].

[37] *Heirs of the Late Justice Jose B. L. Reyes v. Court of Appeals, supra*, Note 8, citing *Comm. of Public Highways v. San Diego*, 31 SCRA 616, 631 [1970].

[38] *Ibid.*, citing Revised Administrative Code of 1917, Section 330.

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At most, there was a lack of deliberation on the issues presented. This would not automatically warrant administrative sanctions against the justices,[39] in the absence of a showing of any bad faith, malice or corrupt purpose.[40]

In order to discipline a judge, it must be clearly shown that the judgment or order is unjust as being contrary to law and that the judge rendered it with conscious and deliberate intent to do an injustice.[41] Judges cannot be subjected to liability — civil, criminal or administrative — for any of their official acts, no matter how erroneous, so long as they act in good faith. It is only when they act fraudulently or corruptly, or with gross ignorance may they be held criminally or administratively responsible.[42] An erroneous decision or order is presumed to have been issued in good faith in the absence of proof to the contrary.[43]

We find it apt to stress before we close that it is the duty of the members of the bench to avoid any impression of impropriety to protect the image and integrity of the judiciary.[44] Judges must not only render just, correct and impartial decisions, but must do so in a manner free of any suspicion as to their fairness, impartiality and integrity.[45] For, the conception of good judges has been, and is, of men who have a mastery of the principles of law, who discharge their duties in accordance with law.[46]

Respondent Rivamonte may be absolved of administrative liability but must be admonished and warned to be more cautious in the discharge of his duties.

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[39] *Heirs of Julio Rosas v. Reyes*, 188 SCRA 236, 241 [1990].

[40] *Madredijo v. Loyao, Jr., supra,* Note 26.

[41] *In Re: The Hon. Climaco*, 154 Phil. 105, 120 [1974].

[42] *Valdez v. Valera*, 81 SCRA 246, 250 [1978].

[43] *Contreras v. Judge Solis*, 329 Phil. 376, 388 [1996].

[44] *Galang v. Santos*, 367 Phil. 81, 89 [1999].

[45] *Abundo v. Judge Manio, Jr.*, 370 Phil. 850, 870-871 [1999].

[46] *Gacayan v. Pamintuan*, 314 SCRA 682, 702 [1999].

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The Judgment

IN VIEW WHEREOF, the Court finds respondent Justice Demetrio G. Demetria guilty of gross misconduct and imposes on him a fine of ₱20,000.00.

The Court *DISMISSES* the complaint against respondent Teresita R. Marigomen with admonition and warning that a repetition of the same or similar acts would be dealt with more severely.

Finally, the Court *DISMISSES* the complaint against respondent Efren R. Rivamonte with admonition and warning that a repetition of the same or similar acts would be dealt with more severely.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Kapunan, Mendoza, Panganiban, Quisumbing, Buena, Ynares-Santiago, De Leon, Jr., Sandoval-Gutierrez, and *Carpio, JJ.*, concur.

Vitug, J., no part; I used to be counsel for Justice JBL Reyes.