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Under Rule 140,[6] Section 4 of the Revised Rules of Court, undue delay in rendering a decision in a case is a less serious charge that merits, under Section 10(B) of the same rule, either suspension from office or a fine of not less than ₱10,000 but not more than ₱19,999. Thus, following the mandate of the Rules of Court, we are constrained to impose upon respondent judge a fine of ₱10,000.

WHEREFORE, respondent Judge Gerardo E. Gestopa, Jr., former acting presiding judge of the Municipal Trial Court in Cities, Cebu City, Branch 4, is hereby found *GUILTY* of gross inefficiency and is *ORDERED* to pay a *FINE* of ₱10,000, with a *WARNING* that a repetition of the same or a similar offense will be dealt with more severely.

SO ORDERED.

Bellosillo (Chairman), Mendoza, and *De Leon, Jr., JJ.,* concur.

Buena, J., on official leave.

FIRST DIVISION

[A.M. No. MTJ-01-1353. December 13, 2001]

LALAINE O. APUYA, *complainant, vs.* **JUDGE TRANQUILINO V. RAMOS,** *respondent.*

SYNOPSIS

A complaint for acts of lasciviousness was filed with respondent's *sala* by Lalaine, thirteen (13) years old. The complaint was provisionally dismissed by respondent on the

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[6] Prior to its amendment by A.M. No. 01-8-10-SC, effective October 1, 2001.

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ground that complainant "has no personality to file the action without the assistance of her guardian or her parents. An amended complaint was, therefore, filed, but respondent refused to subscribe the same since the amended complaint was signed only by complainant. He then ordered complainant's father to assist complainant in filing the case after the name of complainant's father was typed thereon and after he signed it. Respondent, who suffers from asthma, also presides over four (4) courts in the different municipalities aside from his regular court assignment. Thus, the present administrative case.

A judge should be conversant with legal principles and are always called upon to exhibit more than just a cursory acquaintance with statutes and procedural rules. Respondent's lack of familiarity with Article 344 of the Revised Penal Code and paragraph 4, Rule 110 of the Rules of Court constitutes gross ignorance of the law. However, considering the heavy load of respondent and his ailment the fine recommended by the Office of the Court Administrator of ₱10,000 is reduced to ₱5,000.

SYLLABUS

1. **JUDICIAL ETHICS; JUDGES; SHOULD BE CONVERSANT WITH LEGAL PRINCIPLES.** — The Court need not emphasize that a judge should be conversant with legal principles. Judges are always called upon to exhibit more than just a cursory acquaintance with statutes and procedural rules.

2. **ID.; ID.; LACK OF FAMILIARITY WITH BASIC LEGAL COMMANDS EMBODIED WITH LAW AND THE RULES CONSTITUTES GROSS IGNORANCE OF THE LAW.** — Clearly, the act of complainant was adequate to confer jurisdiction on the trial court to try and hear the case and respondent Judge should have been familiar with the aforequoted provisions. A judge's lack of familiarity with the Rules undermines public confidence in the competence of the courts. His failure to follow basic legal commands embodied in the law and the rules constitutes gross ignorance of the law for which he should be subjected to disciplinary action.

3. **ID.; ID.; ID.; MITIGATED BY RESPONDENT'S HEAVY WORKLOAD AND AILMENT.** — The Court is not unaware

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of the heavy workload of respondent Judge. As the Investigating Judge reported, respondent Judge also presides over four (4) courts in different municipalities aside from his regular court assignment. In addition, respondent Judge is suffering from asthma. Despite such difficulties, respondent Judge tried to perform his duties conscientiously. In view thereof, the Court also adopts the recommendation of the OCA lowering the fine to be imposed upon respondent Judge from ₱10,000.00 to ₱5,000.00.

APPEARANCES OF COUNSEL

Essek L. Salapan for complainant.

RESOLUTION

KAPUNAN, *J.*:

This administrative case for Ignorance of the Law originated from a written complaint for Acts of Lasciviousness, docketed as Criminal Case No. 6078, filed on 13 March 1996 by Lalaine O. Apuya in the *sala* of Judge Tranquilino V. Ramos of the Municipal Trial Court (MTC) of Solano, Nueva Vizcaya.

It turned out that complainant was only thirteen (13) years old when the case was filed. Upon motion of the counsel for the defense, respondent Judge issued an order, dated 10 April 1996, provisionally dismissing the complaint on the ground that complainant "has no personality to file (the) action without the assistance of her guardian or her parents."[1] Complainant was likewise directed in the same order to consult a lawyer in refiling her case against the accused.

On 23 April 1996, Atty. Essex L. Silapan, complainant's newly retained counsel, filed an Omnibus Motion for the admission of the amended complaint, as well as for the reconsideration of the provisional dismissal of the complaint. Respondent Judge, however, refused to subscribe the amended complaint on the

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[1] *Rollo*, p. 9.

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ground that only complainant signed it. Instead, respondent Judge asked a member of his staff to type the name of complainant's father on the complaint. Respondent Judge then asked complainant's father to affix his signature above his typewritten name and further directed him to assist the complainant in filing the amended complaint.

Respondent Judge's actuation prompted complainant, assisted by his counsel, Atty. Essex L. Silapan, to file the present administrative case, alleging that respondent's provisional dismissal of the complaint and that his refusal to subscribe the amended complaint were not in accord with paragraph 3, Article 344 of the Revised Penal Code, as well as the decision of the Court of Appeals in *People vs. Medina.*[2]

In his comment on the complaint, respondent Judge averred that during the preliminary investigation of the case, only the police prosecutor and the complainant's mother appeared in court. Since both were aware of the motion to dismiss filed by the accused, he suggested that either of complainant's parents actively assist her in the prosecution by signing the criminal complaint. He observed that complainant, although not incompetent, seemed to be incapable of full comprehension. Respondent Judge denied the allegation that he refused to subscribe the amended complaint. He explained that when the amended complaint was filed on 23 April 1996, he was holding session in another jurisdiction, pointing out that on Mondays, he usually presided at the MCTC of Bagabag, Diadi; on Tuesdays at the MCTC of Villaverde-Quezon; on Wednesdays at the MCTC of Solano; on Thursdays at the MCTC Bambang; and on Fridays at the MCTC of Dupax del Norte-Dupax del Sur-Gov. Castañeda. However, when he returned to Solano on 24 April 1996, he subscribed the amended complaint, which already bore the signature of complainant's father. Respondent Judge also explained that the amended complaint could be subscribed before the Clerk of Court in his absence. Finally, respondent Judge informed the Court that the case was already reinstated and that proceedings were being undertaken to resolve it.

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[2] C.A., 45 O.G. 338.

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In the Court's Resolution of 10 February 1997, the case was referred to the Executive Judge of the Regional Trial Court (RTC) of Bayombong, Nueva Vizcaya, for investigation, report and recommendation.

In the course of the investigation, the parties agreed to do away with testimonial evidence and to submit the case for decision on the basis of the documentary evidence on record.

In his report and recommendation submitted to the Court, Executive Judge Jose B. Rosales found respondent Judge liable for ignorance of the law and recommended that he be fined in the amount of ₱10,000.00.

The Office of the Court Administrator (OCA), through then Court Administrator Alfredo L. Benipayo, adopted the report of Executive Judge Rosales but reduced the recommended fine to ₱5,000.00 after considering respondent Judge's workload and his diligence in coping with his responsibilities.

In the Court's Resolution of 28 February 2001, the parties were required to manifest whether they are willing to submit the case for resolution on the basis of the records of the case. Complainant submitted her manifestation, dated 04 April 2001, expressing her willingness to submit the case for resolution on the basis of the records filed. Respondent Judge submitted a manifestation that he would be submitting a Memorandum in support of his defense. To date, respondent Judge has not filed his Memorandum, which we are now dispensing with.

We adopt the recommendation of the OCA.

The Court need not emphasize that a judge should be conversant with legal principles. Judges are always called upon to exhibit more than just a cursory acquaintance with statutes and procedural rules.[3]

Article 344 of the Revised Penal Code provides:

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[3] *Bayog vs. Natino,* 271 SCRA 268 (1997).

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Art. 344. *Prosecution of the crimes of adultery, concubinage, seduction, abduction, rape, and acts of lasciviousness* —

x x x x x x x x x

The offenses of seduction, abduction, rape, or acts of lasciviousness, shall not be prosecuted except upon a complaint filed by the offended party or her parents, grandparents, or guardian, nor, in any case, if the offender has been expressly pardoned by the above-named persons, as the case may be.

x x x x x x x x x

So, also, paragraph 4, Section 5, Rule 110 of the Rules of Court states:

Sec. 5. *Who must prosecute criminal actions.* — x x x.

x x x x x x x x x

The offended party, even if she were a minor, has the right to initiate the prosecution for the above offenses, independently of her parents, grandparents or guardian, unless she is incompetent or incapable of doing so upon grounds other than her minority. Where the offended party who is a minor fails to file the complaint, her parents, grandparents or guardian may file the same. The right to file the action granted to the parents, grandparents or guardian shall be exclusive of all other persons and shall be exercised successively in the order herein provided, except as stated in the immediately preceding paragraph.[4]

x x x x x x x x x

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[4] As amended, the Rules state:

The offended party, even if a minor, has the right to initiate the prosecution of the offenses of seduction, abduction and acts of lasciviousness independently of her parents, grandparents, or guardian, unless she is incompetent or incapable of doing so. Where the offended party, who is a minor, fails to file the complaint, her parents, grandparents, or guardian may file the same. The right to file the action granted to parents, grandparents, or guardian shall be exclusive of all other persons and shall be exercised successively in the order herein provided, except as stated in the preceding paragraph.

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Clearly, the act of complainant was adequate to confer jurisdiction on the trial court to hear try and hear the case[5] and respondent Judge should have been familiar with the aforequoted provisions. A judge's lack of familiarity with the Rules undermines public confidence in the competence of the courts.[6] His failure to follow basic legal commands embodied in the law and the rules constitutes gross ignorance of the law[7] for which he should be subjected to disciplinary action.

Respondent Judge endeavored to make it appear that the provisional dismissal of the complaint was due to the fact that Apuya's complaint-affidavit and the affidavit of her witness failed to show that the crime of acts of lasciviousness was committed. However, the Investigating Judge, upon review of the transcripts of stenographic notes taken during the proceedings, found that counsel for the accused only cited the lack of signature of the complainant's parents and the police in the complaint, as well as the lack of *barangay* conciliation. In fact, respondent Judge's order of provisional dismissal only mentioned that complainant has no personality to file the action without the assistance of her parents or guardian. The transcripts would also show that, contrary to respondent Judge's allegation, the mother of complainant was not consulted and did not consent to the provisional dismissal of the case. The Court has no reason to digress from the findings of the Investigating Judge.

The Court is not unaware of the heavy workload of respondent Judge. As the Investigating Judge reported, respondent Judge also presides over four (4) courts in different municipalities aside from his regular court assignment. In addition, respondent Judge is suffering from asthma. Despite such difficulties, respondent Judge tried to perform his duties conscientiously. In view thereof, the Court also adopts the recommendation of the OCA lowering the fine to be imposed upon respondent Judge from ₱10,000.00 to ₱5,000.00.

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[5] *People vs. Ignacio*, 294 SCRA 542 (1998).

[6] *Northcastle Properties and Estate Corporation vs. Paas*, 317 SCRA 148 (1999).

[7] *De Austria vs. Beltran*, 313 SCRA 443 (1999).

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WHEREFORE, for gross ignorance of the law, respondent Judge is FINED in the amount of FIVE THOUSAND (₱5,000.00) PESOS. He is further warned that a repetition of the same or similar acts in the future will be dealt with more severely.

SO ORDERED.

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

Puno, J., on official leave.

SECOND DIVISION

[A.M. No. P-01-1447. December 13, 2001]

MARIANO Z. DY, *complainant, vs.* **SOTERO S. PACLIBAR, Sheriff IV, REGIONAL TRIAL COURT, BRANCH 7, LEGASPI CITY,** *respondent.*

SYNOPSIS

Respondent sheriff implemented the writ of execution in favor of complainant in Civil Case No. 8867, filed by complainant against Lilia S. Agu. He issued a Certificate of Redemption after Agu offered to redeem the subject five (5) parcels of land, but the redemption did not materialize. He failed to cancel the Certificate of Redemption which allowed Agu to sell 3 out of 5 parcels of land to third persons to the prejudice of complainant. Hence, this administrative complaint against respondent. Respondent for his defense claimed that he informed complainant of the offer of redemption, but it took his months to reply. He, however, admitted that he failed to cancel the certificate of redemption. Meanwhile, complainant passed away and was substituted by his heirs who, during the hearing, manifested that they do not intend to present additional evidence