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FIRST DIVISION

[A.M. No. RTJ-99-1503. December 13, 2001]

LUZ LILIA, *complainant, vs.* **JUDGE BARTOLOME M. FANUÑAL, Regional Trial Court, Branch 25, Iloilo City,** *respondent.*

SYNOPSIS

Respondent in Criminal Case No. 45124, rendered judgment on April 24, 1997 finding accused Expedito, Salvador and Jessie, all surnamed Lilia, who were on bail, guilty of attempted murder. They were committed to jail when their bondsmen failed to attend the promulgation. On April 30, 1997, accused filed their notice of appeal and moved for admission to bail and to fix amount thereof on the assumption that their bonds had already been cancelled and the amount increased on account of their conviction. Both were denied by respondent on the grounds that judgment had been partially served and that the motion were filed late. Motion for reconsideration was likewise denied as their counsel failed during the promulgation of judgment, to manifest that they intended to appeal and that they be set free on the strength of their bail bond. Hence, this administrative complainant filed on May 15, 1997 for gross ignorance of the law. During the pendency of the proceedings, respondent judge compulsorily retired.

It was held that the retirement of a judge or any judicial officer from the service does not preclude the finding of any administrative liability that a judgment becomes final after the expiration of the period of appeal where no appeal has been duly perfected or if the accused demonstrates his conformity in a clear and express manner to the sentence by renouncing or waiving in writing his right to appeal. In the case at bar, the accused filed a notice of appeal within the 15-day prescribed period and it was gross ignorance for respondent to deny the notice for alleged late filing.

Judges are expected to keep abreast of all laws and prevailing jurisprudence. A judge is presumed to know the law and when as in this case, the law is so elementary. Not to be aware of it constitutes gross ignorance of the law.

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SYLLABUS

1. **JUDICIAL ETHICS; JUDGES; RETIREMENT FROM SERVICE DOES NOT PRECLUDE ADMINISTRATIVE LIABILITY.** — The retirement of a judge or any judicial officer from the service does not preclude the finding of any administrative liability to which he shall still be answerable.

2. **REMEDIAL LAW; ACTIONS; FINAL JUDGMENT OR ORDER DIFFERENTIATED FROM FINAL AND EXECUTORY JUDGMENT OR ORDER.** — The Court pointed out in *Intramuros Tennis Club, Inc. v. Philippine Tourism Authority* that — A "final" judgment or order is one that finally disposes of a case, leaving nothing more for the court to do in respect thereto — such as an adjudication on the merits which, on the basis of the evidence presented at the trial, declares categorically what the rights and obligations of the parties are and which party is in the right, or a judgment or order that dismisses an action on the ground of *res judicata* or prescription, for instance. It is to be distinguished from an order that is "interlocutory," or one that does not finally dispose of the case, such as an order denying a motion to dismiss under Rule 16 of the Rules of Court, or granting a motion for extension of time to file a pleading. As such, only final judgments or orders (as opposed to interlocutory orders) are appealable. Now, a "final" judgment or order in the sense just described becomes "final and executory" *upon expiration of the period to appeal therefrom where no appeal has been duly perfected* or, an appeal therefrom having been taken, the judgment of the appellate court in turn has become final. It is called a "final and executory" judgment because execution at such point issues as a matter of right.

3. **JUDICIAL ETHICS; JUDGES; FAILURE TO DIFFERENTIATE "FINAL" JUDGMENT OR ORDER FROM ONE WHICH HAS "BECOME FINAL" CONSTITUTES GROSS IGNORANCE OF THE LAW.** — Anent the charge of gross ignorance of the law, respondent judge failed to differentiate the concept of a "final" judgment or order from one which has "become final" — or to use a more established term, "final and executory" — a distinction that is definite and settled. It cannot be pretended, given the foregoing yardsticks, that the judgment rendered by respondent Judge in Criminal Case No. 45124 had become "final and executory" to either justify his order of commitment for the

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accused to commence serving their sentence or, much less, to deny the Notice of Appeal on the ground that accused have already partially served their sentence because *the same was clearly filed within the 15-day reglementary period to appeal.* While indeed a judgment of conviction in a criminal case may become final even before the expiration of the period to appeal, this will apply *only if the accused demonstrates his conformity in a clear and express manner to the sentence by renouncing or waiving in writing his right to appeal therefrom.* Accused's filing of a notice of appeal precisely underscored their dissatisfaction and *non-conformity* to respondent Judge's decision. Needless to state, respondent was in this instance wanting in the desired level of mastery of a fundamental rule on criminal procedure and finality of judgments.

4. **ID.; ID.; EXPECTED TO KEEP ABREAST OF ALL LAWS AND PREVAILING JURISPRUDENCE.** — In order to be able to render substantial justice and to maintain public confidence in the legal system, judges are expected to keep abreast of all laws and prevailing jurisprudence, consistent with the standard that magistrates must be the embodiment of competence, integrity and independence.

5. **ID.; ID.; EXPECTED TO EXHIBIT MORE THAN JUST A CURSORY ACQUAINTANCE WITH STATUTES AND PROCEDURAL RULES.** — Indeed, everyone, especially a judge, is presumed to know the law. When, as in this case, the law is so elementary, not to be aware of it constitutes gross ignorance of the law. Judges are expected to exhibit more than just a cursory acquaintance with statutes and procedural rules. They must know the laws and apply them properly in all good faith. Judicial competence requires no less. It is imperative that a judge be conversant with basic legal principles and that he be aware of well-settled authoritative doctrines. He should strive for excellence exceeded only by his passion for truth, to the end that he be the personification of justice and the rule of law.

D E C I S I O N

YNARES-SANTIAGO, *J.*:

For denying the accused's notice of appeal and motion for admission to bail in Criminal Case No. 45124 entitled, "*People*

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of the Philippines v. Expedito Lilia, Salvador Lilia and Jessie Lilia," respondent Judge was charged with Gross Ignorance of the Law.

In a sworn letter-complaint dated May 15, 1997, complainant Luz Lilia alleged that on April 24, 1997, respondent Judge promulgated a decision[1] in Criminal Case No. 45124 finding accused Salvador Lilia and Jessie Lilia guilty of Attempted Murder and sentencing them to suffer an indeterminate penalty of four (4) years, two (2) months and one (1) day of *prision correcional,* as minimum, to eight (8) years and twenty (20) days, as maximum, and to pay the costs. For failure of their bondsmen to be present during the promulgation, the accused were ordered committed to Iloilo Rehabilitation Center, formerly known as the Iloilo Provincial Jail.

On April 30, 1997, the accused filed their Notice of Appeal[2] and Motion for Admission to Bail and To fix Amount Thereof[3] on the assumption that their bonds had already been cancelled and the amount thereof increased on account of their conviction.

On May 5, 1997, respondent issued an Order[4] denying the notice of appeal and the motion for admission to bail in this wise:

> The judgment in this case having already been partially served by accused-convicts Salvador and Jessie, both surnamed Lilia, and has thus become final, their notice of appeal subject judgment and their motion to be admitted to bail and released from legal custody are denied for having been filed out of time.

On May 6, 1997, counsel for accused filed a Motion for Reconsideration[5] which respondent Judge denied in an Order dated May 7, 1997[6] reasoning as follows:

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[1] *Rollo*, pp. 5-9.

[2] *Ibid.*, p. 12.

[3] *Id.*, pp. 10-11.

[4] *Id.*, p. 13.

[5] *Id.*, pp. 14-15.

[6] *Id.*, p. 17.

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It appearing that the accused upon promulgation of the judgment of conviction rendered against them, although they were duly bonded even up to now has not been cancelled or withdrawn, did not manifest that they would like to enjoy their temporary liberty on the strength thereof if they intended to appeal the judgment. There being no manifestation whatsoever, the court thus openly announced that they be held to serve their sentence.

After the promulgation of the judgment on April 24, 1997 the accused already began to serve their sentence and this fact rendered the judgment against them final, notwithstanding the fact that the period within which to appeal may not have yet elapsed as provided in Section 7, Rule 120 of the Rules on Criminal Procedure of 1985, as amended.

Respondent Judge filed a Comment dated September 4, 1997,[7] denying the allegations in the complaint. In the comment, respondent Judge argued that:

1.] At the time the judgment was promulgated on April 24, 1997 the accused and/or their counsel did not manifest that they intended to appeal the judgment of conviction. Both accused were bonded and their counsel did not manifest or tell the Court that they would appeal the judgment and that they be set free on the strength of their bail bond, which has not been cancelled although deemed inoperative and ineffective following their conviction.

2.] There being no manifestation to be freed on the strength of the existing bail bond and/or intention to appeal, the Court, upon promulgation of judgment, announced and ordered that the accused be furnished with a copy of the judgment and that they be committed to jail to serve their sentence. A commitment order was then made directing that the accused be sent to jail to commence serving their sentence on April 24, 1997.

3.] On April 30, 1997 or six (6) days later, the accused filed a motion to fix the amount of their bail bond and to be granted bail, on the belief that their bail bond was already cancelled. They filed a notice to appeal the judgment.

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[7] *Id.*, pp. 22-23.

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4.] On May 5, 1997, the Court ordered the denial of the aforesaid motion and notice of appeal for having been filed out of time.

After evaluating the case the OCA recommended that respondent Judge be fined ₱10,000.00 for Gross Ignorance of the Law reasoning that —

> . . . despite respondent's length of service in the judiciary, he still misconstrued the basic provisions of the Rules of Court on when a judgment has become final and executory and when an appeal is perfected.
>
> The respondent judge committed grave abuse of discretion or had exhibited gross ignorance of the law when he disapproved the Notice of Appeal seasonably filed by accused based merely on [the] failure of the accused to manifest in open court after a judgment of conviction was promulgated, that they (accused) are going to appeal said judgment.
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> The accused (Criminal Case No. 45124) were on bail in all stages of the proceeding, from arraignment up to the promulgation of the judgment. During the promulgation of the judgment the bonds men did not appear in court and the accused were represented only by PAO lawyer who did not participate in the trial of the case. After the promulgation of the judgment of conviction, the respondent immediately issued an order that the "accused be furnished a copy of the judgment and that they be remitted to jail to commence serving their sentence" simply because the accused and/or the PAO lawyer failed to manifest in open court that the accused be freed on the strength of the existing bail bond and they intend to appeal the judgment.
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> The law does not require accused and/or counsel to manifest an intention to appeal a judgment of conviction immediately after its promulgation. Precisely, the law gives the accused fifteen (15) days from the date of promulgation of judgment of conviction to avail [of] other remedies, either by filing a Motion for Reconsideration or New Trial which stops the running of the period for perfecting an appeal or file a Notice of Appeal.[8]

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[8] Section 6, Rule 122, Rules of Court.

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Respondent denied the Notice of Appeal although the fifteen (15) day period had not yet expired because the accused have already started to serve sentence, according to him. Respondent, however, lost sight of the fact that the accused was in jail when the Notice of Appeal was filed because he erroneously ordered their commitment. When the judgment was promulgated the bail bonds posted by the accused were still valid and subsisting, and even up to now, have not been cancelled, according to respondent. Mere failure of the accused and/or counsel to manifest in open court [an] intention to appeal the judgment is not a waiver of said right. The order of commitment issued by the respondent was without legal basis and the accused cannot be considered to have partially served sentence when the Notice of Appeal was filed.

During the pendency of the proceedings, respondent Judge compulsorily retired on April 21, 2001.[9] However, the retirement of a judge or any judicial officer from the service does not preclude the finding of any administrative liability to which he shall still be answerable. As pointed out by the Court in *Gallo v. Cordero*:[10]

This jurisdiction that was ours at the time of the filing of the administrative complaint was not lost by the mere fact that the respondent public official had ceased in office during the pendency of his case. The Court retains its jurisdiction either to pronounce the respondent public official innocent of the charges or declare him guilty thereof. A contrary rule would be fraught with injustice and pregnant with dreadful and dangerous implications . . . If innocent, respondent public official merits vindication of his name and integrity as he leaves the government which he has served well and faithfully; if guilty, he deserves to receive the corresponding censure and a penalty proper and imposable under the situation.

The Court finds the recommendation of the OCA well taken.

Anent the charge of gross ignorance of the law, respondent judge failed to differentiate the concept of a "final" judgment

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[9] *Rollo*, p. 51.

[10] 245 SCRA 219 [1995].

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or order from one which has "become final" — or to use a more established term, "final and executory" — a distinction that is definite and settled. If only to refresh the memory of respondent Judge, the Court pointed out in *Intramuros Tennis Club, Inc. v. Philippine Tourism Authority*[11] that —

> A "final" judgment or order is one that finally disposes of a case, leaving nothing more for the court to do in respect thereto — such as an adjudication on the merits which, on the basis of the evidence presented at the trial, declares categorically what the rights and obligations of the parties are and which party is in the right, or a judgment or order that dismisses an action on the ground of *res judicata* or prescription, for instance.[12] It is to be distinguished from an order that is "interlocutory", or one that does not finally dispose of the case, such as an order denying a motion to dismiss under Rule 16 of the Rules of Court, or granting a motion for extension of time to file a pleading. As such, only final judgments or orders (as opposed to interlocutory orders) are appealable. Now, a "final" judgment or order in the sense just described becomes "final and executory" *upon expiration of the period to appeal therefrom where no appeal has been duly perfected* or, an appeal therefrom having been taken, the judgment of the appellate court in turn has become final. It is called a "final and executory" judgment because execution at such point issues as a matter of right. (Italics supplied)

It cannot be pretended, given the foregoing yardsticks, that the judgment rendered by respondent Judge in Criminal Case No. 45124 had become "final and executory" to either justify his order of commitment for the accused to commence serving their sentence or, much less, to deny the Notice of Appeal on the ground that accused have already partially served their sentence because *the same was clearly filed within the 15-day reglementary period to appeal.* While indeed a judgment of conviction in a criminal case may become final even before the expiration of the period to appeal, this will apply *only if the accused demonstrates his conformity in a clear and express*

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[11] 341 SCRA 90, 104-105 [2000].

[12] *Puertollano v. IAC*, 156 SCRA 188 [1987]; *Investments, Inc. v. CA*, 147 SCRA 334 [1987].

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manner to the sentence by renouncing or waiving in writing his right to appeal therefrom.[13] Accused's filing of a notice of appeal precisely underscored their dissatisfaction and *non-conformity* to respondent Judge's decision.

In order to be able to render substantial justice and to maintain public confidence in the legal system, judges are expected to keep abreast of all laws and prevailing jurisprudence,[14] consistent with the standard that magistrates must be the embodiment of competence, integrity and independence.[15]

Indeed, everyone, especially a judge, is presumed to know the law. When, as in this case, the law is so elementary, not to be aware of it constitutes gross ignorance of the law.[16] Judges are expected to exhibit more than just a cursory acquaintance with statutes and procedural rules. They must know the laws and apply them properly in all good faith. Judicial competence requires no less.[17] It is imperative that a judge be conversant with basic legal principles and that he be aware of well-settled authoritative doctrines.[18] He should strive for excellence exceeded only by his passion for truth, to the end that he be the personification of justice and the rule of law.[19]

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[13] Herrera, O.M. *Remedial Law*. Book IV, 2001 ed., p. 769, citing *Ramos v. Gonong*, 72 SCRA 559 [1972], citing *People v. Rodillas*, 89 Phil. 99 [1951].

[14] *Carpio v. De Guzman*, 262 SCRA 615 [1996].

[15] Rule 1.01, Canon 1 of the Code of Judicial Conduct; See also *Buzon, Jr. v. Velasco*, 253 SCRA 601 [1996]; *Galan Realty Co., Inc. v. Arranz*, 237 SCRA 770 [1994].

[16] *Agcaoili v. Ramos*, 229 SCRA 705 [1994], citing *Santos v. Judge Isidro*, 200 SCRA 597 [1991].

[17] *Cortes v. Judge Catral*, 279 SCRA 1 [1997]; *Cui v. Madayag*, 245 SCRA 1 [1995].

[18] *Estoya v. Abraham-Singson*, 237 SCRA 1 [1994], citing *Aducayen v. Flores*, 51 SCRA 73 [1973]; *Ajeno v. Insierto*, 71 SCRA 166 [1976]; *Ubongen v. Mayo*, 99 SCRA 30 [1980]; *Libarios v. Dabalos*, 199 SCRA 48 [1991]; *Lim v. Domagas*, 227 SCRA 258 [1993].

[19] *Conducto v. Monzon*, 291 SCRA 619 [1998], citing *Estoya v. Abraham-Singson, supra*, citing *Cuaresma v. Aguilar*, 226 SCRA 73 [1993].

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Needless to state, respondent was in this instance wanting in the desired level of mastery of a fundamental rule on criminal procedure and finality of judgments.

Based on prevailing jurisprudence[20] in relation to the prevailing facts of this case, the Court finds the penalty recommended by the OCA commensurate with the misdeed committed.

WHEREFORE, in view of all the foregoing, respondent Judge Bartolome M. Fanuñal is hereby *FINED* the amount of Ten Thousand Pesos (₱10,000.00), the amount to be deducted from whatever retirement benefits he may be entitled to receive.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Puno, Kapunan, and *Pardo, JJ.,* concur.

FIRST DIVISION

[G.R. No. 130966. December 13, 2001]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **DIONISIO GUANSON and DANILO GUANSON,** *accused-appellants.*

SYNOPSIS

Appellants, Dionisio and Danilo, were charged with murder for the fatal shooting and stabbing of Francisco Piala. They pleaded not guilty and interposed the defense of alibi. Dionisio claimed that he was at a construction site doing overtime work

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[20] *Cortes v. Judge Catral*, 279 SCRA 1 [1997]; *Mamolo v. Narisma*, 252 SCRA 613 [1996]; *Buzon v. Velasco*, 253 SCRA 601 [1996]; *Pacris v. Pagalilauan*, 337 SCRA 638 [2000].