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[A.M. No. MTJ-12-1817. March 12, 2013]
(Formerly A.M. No. 09-2-30-MTCC)

OFFICE OF THE COURT ADMINISTRATOR, *complainant, vs.* **HON. ROSABELLA M. TORMIS, Presiding Judge, Municipal Trial Court in Cities [MTCC], Branch 4, Cebu City and MR. REYNALDO S. TEVES, Branch Clerk of Court, same court,** *respondents*.

SYLLABUS

1. JUDICIAL ETHICS; JUDGES; GROSS INEFFICIENCY; UNDUE DELAY IN THE DISPOSITION OF CASES; RESPONDENT JUDGE HAS BEEN REMISS IN HER DUTY TO DISPOSE OF CASES WITHIN THE MANDATORY PERIOD REQUIRED BY LAW.— Section 15 (1), Article VIII of the 1987 Constitution mandates lower court judges to decide a case within the reglementary period of ninety (90) days. x x x In this case, Judge Tormis had been remiss in her duty to dispose of cases within the mandatory period to do so. Two of such cases had in fact remained undecided for ten (10) years; a total of one hundred ninety-five (195) cases had yet to be decided despite having been submitted for decision for more than ninety (90) days; ninety (90) cases had been submitted for resolution beyond the mandatory period but were yet to be resolved; two hundred twenty-three (223) cases had been filed in court, but Judge Tormis failed to make even just the initial action for a considerable period; and three thousand four hundred ninety-one (3,491) cases had no further action for a considerable length of time. When asked to explain such delay, Judge Tormis claimed that it was the consequence of the three suspension orders issued against her as she was suspended for an aggregate period of almost one year and six months. Records reveal, however, that Judge Tormis was repeatedly suspended in cases (that will be discussed below) wherein she committed a breach of her duty as a member of the Bench. She cannot, therefore, be allowed to use the same to justify another violation of her solemn oath to dispense justice. Even if we allow her

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to use such an excuse, as aptly observed by the OCA, several of the cases that she failed to dispose of had been overdue for decision or resolution even prior to her suspension. Hence, she cannot be absolved from liability for her inaction. This notwithstanding her later compliance with the Court's resolution thereby making the appropriate action on said cases. The honor and integrity of the judicial system is measured not only by the fairness and correctness of decisions rendered, but also by the efficiency with which disputes are resolved. The delay in deciding a case within the reglementary period constitutes a violation of Section 5, Canon 6 of the New Code of Judicial Conduct which mandates judges to perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with promptness. Judge Tormis is thus liable for gross inefficiency for his failure to decide cases within the reglementary period.

2. ID.; ID.; ID.; ID.; MISMANAGEMENT OF COURT; RESPONDENT JUDGE IS GUILTY OF VIOLATION OF SUPREME COURT RULES, DIRECTIVES, AND CIRCULARS FOR HER FAILURE TO COMPLY WITH HER DUTY OF PROVIDING AN EFFICIENT COURT MANAGEMENT SYSTEM IN HER COURT WHICH INCLUDES THE PREPARATION OF AND USE OF DOCKET INVENTORY AND MONTHLY REPORT OF CASES AS TOOLS THEREOF.— The OCA found the court's failure to maintain a general docket book. Although the duty is vested with Mr. Teves, it is the duty of Judge Tormis to make sure that the members of her staff perform their duties. This failure contributed to their inability to keep track of the number of cases assigned as well as to account for all the cases and records assigned to the court. The OCA likewise found that Mr. Teves repeatedly submitted inaccurate reports as to the actual number of cases pending with their court. This is brought about by their failure to adopt an efficient system of monitoring their cases. Again, this is the primary responsibility of Judge Tormis. Finally, the OCA noted that Judge Tormis failed to conduct an actual physical inventory of cases to keep abreast of the status of the pending cases and to be informed that every case is in proper order. If the same was conducted, she would have discovered that Mr. Teves had been committing a mistake in the inventory of cases. As

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found by the OCA, Judge Tormis is guilty of violation of Supreme Court rules, directives, and circulars for her failure to comply with her duty of providing an efficient court management system in her court which includes the preparation and use of docket inventory and monthly report of cases as tools thereof.

3. ID.; ID.; ID.; ID.; GROSS IGNORANCE OF THE LAW; ISSUING A WARRANT OF ARREST WITHOUT APPRAISING THE ACCUSED OF THE CHARGE.— Whenever a criminal case falls under the Summary Procedure, the general rule is that the court shall not order the arrest of the accused unless he fails to appear whenever required. In this case, Judge Tormis claimed that the issuance of the warrant of arrest against the accused in the *Librando* case was justified because of the accused's failure to appear during her arraignment despite notice. However, as clearly found by the OCA, Judge Tormis' order requiring the accused to appear and submit her counter-affidavit and those of her witnesses within ten days from receipt of the order was not yet served upon the accused when she issued the warrant. In doing so, Judge Tormis issued the warrant of arrest in violation of the Rule on Summary Procedure that the accused should first be notified of the charges against him and given the opportunity to file his counter-affidavits and other countervailing evidence. As held in *Tan v. Casuga-Tabin*: While judges may not always be subjected to disciplinary action for every erroneous order or decision they render, that relative immunity is not a license to be negligent, abusive and arbitrary in their prerogatives. If judges wantonly misuse the powers vested in them by law, there will not only be confusion in the administration of justice but also oppressive disregard of the basic requirements of due process. While there appears to be no malicious intent on the part of respondent, such lack of intent, however, cannot completely free her from liability. When the law is sufficiently basic, a judge owes it to her office to know and simply apply it. The Revised Rules on Summary Procedure has been in effect since November 15, 1991. It finds application in a substantial number of civil and criminal cases. Judge Tormis cannot claim to be unfamiliar with the same. Every judge is required to observe the law. When the law is sufficiently basic, a judge owes it to his office to simply apply it; and anything less than that

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would be constitutive of gross ignorance of the law. In short, when the law is so elementary, not to be aware of it constitutes gross ignorance of the law.

4. ID.; ID.; ID.; ID.; CONSIDERING HER PREVIOUS INFRACTIONS AND TAKING INTO ACCOUNT THE NUMBER OF IRREGULARITIES SHE COMMITTED IN THE PRESENT CASE, RESPONDENT JUDGE SHOULD BE DISMISSED FROM THE SERVICE.— In determining the proper imposable penalty, we also consider Judge Tormis' work history which reflects how she performed her judicial functions. We find that there are several administrative cases already filed against her, most of the cases have been decided against her, the others have been dismissed and some are still pending in Court. These cases show her inability to properly discharge her judicial duties. Her suspensions had in fact been used by her as a defense in her failure to resolve and decide cases and incidents pending in her court. x x x The Court also notes that although dismissed by the Court, Judge Tormis was involved in four other administrative cases. At present, there are still two pending cases against her. Judge Tormis' conduct as a repeat offender exhibits her unworthiness to don the judicial robes and merits a sanction heavier than what is provided by our rules and jurisprudence. Considering her past infractions and taking into account the number of irregularities she committed in this present case and as held by the Court in *Inoturan v. Limsiaco, Jr., Judge Tormis* should be dismissed from the service.

5. POLITICAL LAW; ADMINISTRATIVE LAW; PUBLIC OFFICERS; COURT PERSONNEL; SIMPLE NEGLECT OF DUTY; RESPONDENT PERSONNEL FAILED TO COMPLY WITH HIS DUTY IN THE PROMULGATION OF JUDGMENTS AS PROVIDED IN THE RULES OF COURT.— The alleged practice of Branch 4, Cebu City of not promulgating judgments in criminal cases was not substantiated except for the *Datan* case wherein Mr. Teves, instead of scheduling the case for promulgation, just gave the accused a copy of the unpromulgated decision at the time when Judge Tormis was serving her suspension. Section 6, Rule 120 of the Rules of Court states that: Sec. 6. Promulgation of judgment. – The judgment is promulgated by reading it in

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the presence of the accused and any judge of the court in which it was rendered. However, if the conviction is for a light offense, the judgment may be pronounced in the presence of his counsel or representative. When the judge is absent or outside the province or city, the judgment may be promulgated by the clerk of court x x x. Clearly, as found by the OCA, Mr. Teves is guilty of simple neglect of duty. It is his duty to calendar the case for promulgation in accordance with the Rules of Court. He did not only fail to do so. Rather, he, in fact, served copies of the decision to the accused without the judgment having been promulgated first and at the time when the judge who rendered the decision was serving her suspension. This negligence on the part of Mr. Teves, does not, however, wholly exempt Judge Tormis from administrative liability even if the same took place at the time when she was prohibited access to her court. The Court cannot fathom how she failed to find out Mr. Teves' negligence. When she resumed her position, it was incumbent upon her to check the status of the cases she left prior to her suspension. A judge cannot simply take refuge behind the inefficiency or mismanagement of her court personnel, for the latter are not the guardians of the former's responsibility. Unless the reins of control and supervision over the administrative aspect of the adjudicatory process are tightened, the swift and efficient delivery of justice will be impeded and rendered illusory.

6. ID.; ID.; ID.; ID.; RESPONDENT PERSONNEL HAS BEEN PREVIOUSLY WARNED IN HIS PAST ADMINISTRATIVE CASES AND OBVIOUSLY HAS NOT REFORMED; PENALTY OF DISMISSAL FROM SERVICE IS PROPER.— In the determination of the proper penalty, we look into Mr. Teves' past administrative cases. In *Ramos v. Teves*, Mr. Teves was charged with arrogance and discourtesy in refusing to receive a motion that allegedly does not conform with the requirements of the Rules of Court. In deciding the case against Mr. Teves, the Court pointed out that clerks of court have no authority to pass upon the substantive or formal correctness of pleadings and motions that parties file with the court. Thus, in refusing to receive the motion filed by complainant, the Court found Mr. Teves discourteous, and in view of his past administrative cases, he was meted the penalty of a thirty-day suspension, with warning

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> that a repetition of the same or similar offense will be dealt with more severely. In the same case, the Court noted Mr. Teves' past infractions: The record shows that Teves had previously been administratively charged with grave abuse of authority and gross discourtesy in OCA-IPI 08-2981-P. Although the Court dismissed the charge for lack of merit on November 18, 2009, it reminded him to be more circumspect in dealing with litigants and their counsel. In two consolidated administrative cases, one for grave misconduct and immorality and the other for insubordination, the Court meted out on Teves the penalty of suspension for six months in its resolution of October 5, 2011. x x x. Obviously, with his past infractions and having been warned that a repetition of the same or similar act will be dealt with more severely, Mr. Teves has not reformed. It seems that he has remained undeterred in disregarding the law and he appears to be unfazed by the previous penalties and warnings he received. Mr. Teves' repeated infractions seriously compromise efficiency and hamper public service which the Court can no longer tolerate. Thus, the penalty of dismissal from the service is proper.

D E C I S I O N

***PER CURIAM*:**

The administrative matter stemmed from the Report of the Office of the Court Administrator (OCA) Audit Team which conducted the judicial audit on June 16 to 28, 2008 in the Municipal Trial Court in Cities (MTCC), Branch 4, Cebu City, pursuant to Travel Order No. 45-2008 dated May 28, 2008, series of 2008.[1]

The team examined the records of 5,120 cases consisting of 4,466 criminal and 654 civil cases. The examination yielded the following results:[2]

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[1] Memorandum for Hon. Chief Justice Reynato S. Puno by then Court Administrator Jose P. Perez (now Associate Justice of this Court), *rollo*, p. 1.

[2] *Id.* at 2.

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STATUS/STAGES OF PROCEEDINGS	CRIMINAL CASES	CIVIL CASES	TOTAL
For Promulgation	**12**	**0**	**12**
Submitted/Due for Decision	**120**	**89**	**209**
With Pending Incidents for Resolution	**172**	**63**	**235**
No Initial Action since Filing of Case	**220**	**3**	**223**
No Further Action for Considerable Length of Time	**3,179**	**312**	**3,491**
With Warrant of Arrest/Summons	33	70	103
For Arraignment	82	-	82
For Setting	5	-	5
For Preliminary Conference/Pre-trial	58	18	76
For Compliance	38	8	46
With Pending Motions	5	2	7
On Trial/For Initial Trial	288	23	311
Suspended Proceedings	24	3	27
Archived	131	1	132
Decided/Dismissed/Disposed	99	62	161
TOTAL	**4,466**	**654**	**5,120**

The Presiding Judge of the subject court is Judge Rosabella M. Tormis (Judge Tormis), while the Clerk of Court is Mr. Reynaldo S. Teves (Mr. Teves).[3] Judge Tormis took her oath and assumed office on June 22, 1999. Her service was, however, interrupted because of the following administrative cases wherein she was either suspended or preventively suspended, to wit:

1. Decision dated September 20, 2005 in A.M. No. MTJ-05-1609 (Abuse of Authority) wherein Judge Tormis was **suspended from service for six (6) months**. In a subsequent

[3] *Id.* at 1.

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resolution dated July 12, 2006, she was directed to resume office immediately upon receipt of notice;

2. Resolution dated July 10, 2007 in A.M. No. 07-1691 (Judicial Audit on Solemnization of Marriages) wherein she was placed under **preventive suspension** effective immediately. The suspension was lifted per Resolution dated December 11, 2007; and

3. Resolution dated November 28, 2007 in A.M. No. MTJ-07-1692 (Dishonesty and Grave Misconduct) wherein she was **suspended for six (6) months.**[4]

During the absence of Judge Tormis, Judge Carlos C. Fernando (Judge Fernando) of the MTCC, Branch 2, Mandaue City was designated as Acting Presiding Judge pursuant to Administrative Order Nos. 110-2007 and 2-2008 dated July 9, 2007 and January 7, 2008, respectively.[5]

The report revealed that Branch 4 does not maintain a docket book or any similar system of record-keeping and monitoring.[6] Specifically, the Audit Team found the following irregularities committed by Branch 4:

(1) [T]here were decisions/judgments in eleven (11) criminal cases rendered by Judge Rosabella M. Tormis which have not been promulgated despite the lapse of considerable length of time;

(2) [T]here were two (2) inherited cases which remained undecided for about ten (10) years or more;

(3) [T]here were one hundred twelve (112) criminal and eighty-three (83) civil cases submitted for decision before Judge Tormis which have remained undecided beyond the reglementary period to decide the same;

(4) [T]here are six (6) criminal and six (6) civil undecided cases submitted for decision before then Acting Presiding Judge Carlos C. Fernando;

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[4] *Id.* (Emphasis in the original)

[5] *Id.* at 1-2.

[6] *Id.* at 69.

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(5) [T]here are one hundred seventy-two (172) criminal and sixty-three (63) civil cases that are with pending incidents for resolution;

(6) [O]f the 172 criminal cases referred to in the immediately preceding paragraph, one hundred forty-five (145) cases involve violation of city ordinances/traffic rules with pending motions to archive. The court therefore failed to comply with Administrative Circular No. 7-A-92 dated June 21, 1993 relative to the guidelines in the Archiving of Cases;

(7) [T]here are two hundred twenty (220) criminal and three (3) civil cases that have no initial action/proceeding since their filing in court;

(8) [T]here are three thousand one hundred seventy-nine (3,179) criminal and three hundred twelve (312) civil cases without further action or proceedings for a considerable length of time;

(9) [T]here was an unreasonable delay in deciding Criminal Case No. 111373-R entitled *People vs. Roel Ricardel* [Ricardel case] for Reckless Imprudence Resulting to Double Homicide, since the trial ended on August 29, 2003 and yet it was decided only on April 18, 2008 not by Judge Tormis but by Acting Presiding Judge Fernando;

(10) [I]t has been the practice of MTCC, Branch 4, Cebu City not to promulgate judgments in criminal cases in blatant violation of Section 6 of Rule 120 of the Revised Rules of Criminal Procedure;

(11) [I]t appears that the Decision dated June 4, 2007 in Criminal Case No. 72880-R to 83-R and 85346-R to 53-R entitled *People vs. Evangeline Datan* [Datan case] for Violation of BP 22, was actually rendered by Judge Tormis at the time when she was already suspended by the Court sometime in July 2007 and said decision has not been promulgated; and

(12) [I]n Criminal Case No. 126542R to 49-R entitled *People vs. Jasmin L. Librando* [Librando case] for Violation of BP 22 which is a case falling under the Rule on Summary Procedure, Judge Tormis ordered the issuance of a warrant

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of arrest in violation of Section 16 of the Revised Rule on Summary Procedure.[7]

In a Resolution dated March 18, 2009, the Court directed Judge Tormis to promulgate the decisions/judgments that have not been promulgated; decide with dispatch the two (2) inherited cases that have remained undecided for ten years or more; decide within a non-extendible period of four (4) months criminal and civil cases which are already beyond the reglementary period to decide cases; to resolve within a non-extendible period of four (4) months the pending incidents/motions in criminal and civil cases which are beyond the reglementary period within which to resolve the incidents; to immediately take appropriate action on 145 criminal cases pursuant to Administrative Circular No. 7-92-A; to immediately take appropriate action on criminal and civil cases which have no initial action since their filing in court and those which have no further action for a considerable length of time; explain why she failed to comply with her duty to conduct actual semestral physical inventory of case records thereby submitting to the Court inaccurate reports; explain the delay in deciding the *Ricardel* case; explain why she allowed the practice of not promulgating decisions/judgments in criminal cases in violation of Section 6 of Rule 120 of the Revised Rules of Criminal Procedure and Section 17 of the Revised Rules on Summary Procedure; explain why she rendered the decision dated June 4, 2007 in the *Datan* case at the time when she was already suspended by the Court; explain why in *Librando* case, she ordered the issuance of a warrant of arrest in violation of Section 16 of the Revised Rules on Summary Procedure; and submit to the Court her compliance with the foregoing directives.[8]

In the same resolution, the Court directed Mr. Teves to explain why he failed to comply with his duty to conduct actual semestral physical inventory of case records thereby submitting inaccurate reports of cases; explain why he failed to keep a General Docket

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[7] Court's Resolution dated March 18, 2009, *id*. at 212-213.

[8] *Id.* at 213-220.

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Book pursuant to Section 8, Rule 136 of the Rules of Court; to explain why he allowed the practice in their court of not promulgating decisions/judgments in criminal cases in violation of the Rules on Criminal Procedure and Revised Rules on Summary Procedure; and to submit to the Court a report of compliance of the foregoing directives.[9]

In compliance with the Court's directive, Judge Tormis explained the irregularities that she allegedly committed. She claimed that she faithfully conducted semestral physical inventory of case records except during the period comprising her three suspensions as she was then denied access to her courtroom and case records.[10] She likewise cited the foregoing suspensions as the causes of the delay in the disposition of cases then pending in her court.[11] She also alleged that the delay in the disposition of the *Ricardel* case was brought about by the parties' request for time to negotiate on the civil aspect of the case.[12] She also denied the alleged practice of her court of not promulgating judgments in criminal cases. She specifically cited the *Datan* case and explained that she rendered the decision prior to her preventive suspension and she filed it with Mr. Teves for the latter to calendar it for promulgation, but instead of following her directive, Mr. Teves sent copies of the decision to the parties of the case.[13] Insofar as the *Librando* case is concerned, while admitting having issued the warrant of arrest, she supposedly did so only because the accused failed to appear during the arraignment despite notice.[14] Finally, she claimed that she had satisfactorily complied with the directive to decide the cases submitted for decision although beyond the period to decide; she had resolved the incidents due for resolution and had archived

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[9] *Id.* at 220-221.

[10] Memorandum of the Court Administrator Midas Marquez for Justice Presbitero J. Velasco, Jr., *rollo*, pp. 446-447.

[11] *Id.* at 447.

[12] *Id.*

[13] *Id.* at 447-448.

[14] *Id.* at 448.

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all the cases due for archiving; and, she had either disposed of or archived the inactive cases.[15]

For his part, Mr. Teves explained that the alleged error in his reports can be attributed to the discrepancy in procedure or appreciation in the preparation of the reports.[16] He claimed that their court indeed does not maintain a general docket book, because they have not been provided by the Court with the needed supplies.[17] Lastly, on the alleged practice of non-promulgation of judgments, he claimed that the Rules are not applicable because most of their cases were resolved based on compromise agreement, plea of guilt and dismissal by reason of affidavit of desistance, failure to prosecute, or violation of the right to speedy trial.[18]

Conclusions and Recommendation of the Office of the Court Administrator

While recognizing the suspensions of Judge Tormis as one of the reasons for the delay in the disposition of cases, the OCA observed that several of the cases had been overdue for decision or resolution even prior to her suspension. As such, she should be held liable for undue delay in rendering a decision or order, a violation of Section 9, Rule 140 of the Rules of Court. Considering that said offense is a less serious charge, and taking into account the number of unresolved cases pending in her sala, the OCA recommended that Judge Tormis be meted the penalty of fine of ₱80,000.00.[19] For failure to comply with her duty to provide efficient court management system in her court, which includes the preparation and use of docket inventory and monthly report of cases as tools thereof, the OCA also found Judge Tormis guilty of violation of Supreme Court rules, directives and circulars, another less serious charge, warranting the penalty of fine of ₱20,000.00.[20] The OCA, however, exonerated Judge

[15] *Id.* at 446.

[16] *Id.* at 449.

[17] *Id.* at 450.

[18] *Id.*

[19] *Id.* at 451-452.

[20] *Id.* at 454-455.

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Tormis of the alleged practice of non-promulgation of decisions/judgments as the same was just misunderstood.[21] Finally, in ordering the arrest of the accused even before the latter was apprised of the charges against her, the OCA found Judge Tormis liable for gross ignorance of the law, a serious charge warranting the imposition of the penalty of fine of ₱20,000.00.[22]

As to Mr. Teves, the OCA found him guilty of mismanagement of the case records leading to the court's failure to dispose of many pending cases to the prejudice of the litigants concerned. As such, he was found to be liable for simple neglect of duty.[23] Mr. Teves is likewise guilty of another simple neglect of duty in failing to set for promulgation the decision in the *Datan* case.[24] As such, the OCA recommended that he be ordered to pay a fine in the amount equivalent to two (2) months of his salary.[25]

The OCA's recommendation is quoted hereunder for easy reference:

WHEREFORE, in view of the foregoing, it is respectfully recommended that:

1. The instant matter be **RE-DOCKETED** as a regular administrative matter against **Hon. Rosabella M. Tormis**, Presiding Judge, MTCC, Branch 4, Cebu City and **Mr. Reynaldo S. Teves**, Branch Clerk of Court, same court;

2. **Judge Rosabella M. Tormis** be found **GUILTY OF (a) undue delay in rendering a decision or order; (b) violation of Supreme Court rules, directives and circulars** resulting in the mismanagement of the court; and **(c) gross ignorance of the law** for ordering the arrest of the accused in Criminal Case Nos. 126542R to 49-R entitled *People vs. Jasmin L. Librando* without the accused having been informed yet of the charge against her and

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[21] *Id.* at 456.

[22] *Id.* at 457.

[23] *Id.* at 454.

[24] *Id.* at 456.

[25] *Id.*

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accordingly be **FINED** in the amounts of Eighty Thousand Pesos (₱80,000.00), Twenty Thousand Pesos (₱20,000.00) and Twenty Thousand Pesos (₱20,000.00), respectively, with the warning that a repetition of the same or similar act will be dealt with more severely;

3. **Mr. Reynaldo S. Teves** be found **GUILTY** of **simple neglect of duty** and be **FINED** in the amount equivalent to his two (2) months salary with the warning that a repetition of the same or similar act will be dealt with more severely; and

4. **Judge Rosabella M. Tormis** and **Mr. Reynaldo S. Teves** be **DIRECTED** to hereceforth (a) submit accurate monthly reports of cases and docket inventory reports; (b) strictly monitor the movement of all pending cases that are active, being tried and until decided, dismissed or archived, as may be warranted; (c) improve the system of serving court processes including the return or proof of service; and (d) maintain a general docket book pursuant to Section 8, Rule 136 of the Rules of Court.[26]

The Court's Ruling

The present administrative case refers to not just one but several acts allegedly committed by Judge Tormis and Mr. Teves said to be violative of the Rules of Court and Supreme Court rules, regulations and directives. Judge Tormis is hereby accused of committing the following irregularities: (1) undue delay in the disposition of cases; (2) mismanagement of the court and case records; (3) non-promulgation of decisions; and (4) issuing a warrant of arrest without first apprising the accused of the charge against him. For his part, Mr. Teves is here charged with (1) mismanagement of case records; and (2) failure to set case for promulgation.

Undue Delay in the Disposition of Cases

Section 15 (1), Article VIII of the 1987 Constitution mandates lower court judges to decide a case within the reglementary period of ninety (90) days.

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[26] *Id.* at 457-458. (Emphasis in the original)

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The Court has consistently impressed upon judges the need to decide cases promptly and expeditiously under the time-honored precept that justice delayed is justice denied. Every judge should decide cases with dispatch and should be careful, punctual, and observant in the performance of his functions for delay in the disposition of cases erodes the faith and confidence of our people in the judiciary, lowers its standards and brings it into disrepute. Failure to decide a case within the reglementary period is not excusable and constitutes gross inefficiency warranting the imposition of administrative sanctions on the defaulting judge.[27]

In this case, Judge Tormis had been remiss in her duty to dispose of cases within the mandatory period to do so. Two of such cases had in fact remained undecided for ten (10) years; a total of one hundred ninety-five (195) cases had yet to be decided despite having been submitted for decision for more than ninety (90) days; ninety (90) cases had been submitted for resolution beyond the mandatory period but were yet to be resolved; two hundred twenty-three (223) cases had been filed in court, but Judge Tormis failed to make even just the initial action for a considerable period; and three thousand four hundred ninety-one (3,491) cases had no further action for a considerable length of time. When asked to explain such delay, Judge Tormis claimed that it was the consequence of the three suspension orders issued against her as she was suspended for an aggregate period of almost one year and six months. Records reveal, however, that Judge Tormis was repeatedly suspended in cases (that will be discussed below) wherein she committed a breach of her duty as a member of the Bench. She cannot, therefore, be allowed to use the same to justify another violation of her solemn oath to dispense justice. Even if we allow her to use such an excuse, as aptly observed by the OCA, several of the cases that she failed to dispose of had been overdue for decision or resolution even prior to her suspension. Hence, she cannot be absolved from liability for her inaction. This notwithstanding

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[27] *Re: Cases Submitted for Decision before Hon. Teresito A. Andoy, former Judge, Municipal Trial Court, Cainta, Rizal*, A.M. No. 09-9-163-MTC, May 6, 2010, 620 SCRA 298, 301.

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her later compliance with the Court's resolution thereby making the appropriate action on said cases.

The honor and integrity of the judicial system is measured not only by the fairness and correctness of decisions rendered, but also by the efficiency with which disputes are resolved.[28] The delay in deciding a case within the reglementary period constitutes a violation of Section 5, Canon 6 of the New Code of Judicial Conduct which mandates judges to perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with promptness.[29] Judge Tormis is thus liable for gross inefficiency for his failure to decide cases within the reglementary period.

Mismanagement of Court

As held by the Court in *In Re: Report on the Judicial Audit Conducted in the Regional Trial Court, Br. 45, Urdaneta City, Pangasinan*:[30]

> An orderly and efficient case management system is no doubt essential in the expeditious disposition of judicial caseloads, because only thereby can the judges, branch clerks of courts, and the clerks-in-charge of the civil and criminal dockets ensure that the court records, which will be the bases for rendering the judgments and dispositions, and the review of the judgments and dispositions on appeal, if any, are intact, complete, updated, and current. Such a system necessarily includes the regular and continuing physical inventory of cases to enable the judge to keep abreast of the status of the pending cases and to be informed that everything in the court is in proper order. In contrast, mismanaged or incomplete records, and the lack of periodic inventory definitely cause unwanted delays

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[28] *Re: Report on the Judicial Audit Conducted in the Regional Trial Court-Branch 56, Mandaue City, Cebu,* A.M. No. 09-7-284-RTC, February 16, 2011, 643 SCRA 407, 414.

[29] *Inoturan v. Limsiaco, Jr.,* A.M. No. MTJ-01-1362 (Formerly A.M. No. 01-2-49-RTC) and A.M. No. MTJ-11-1785 (Formerly A.M. OCA I.P.I. No. 07-1945-MTJ), February 22, 2011, 643 SCRA 618, 627.

[30] A.M. No. 08-4-253-RTC, January 12, 2011, 639 SCRA 254.

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in litigations and inflict unnecessary expenses on the parties and the State.[31]

Here, the OCA found the court's failure to maintain a general docket book. Although the duty is vested with Mr. Teves, it is the duty of Judge Tormis to make sure that the members of her staff perform their duties. This failure contributed to their inability to keep track of the number of cases assigned as well as to account for all the cases and records assigned to the court. The OCA likewise found that Mr. Teves repeatedly submitted inaccurate reports as to the actual number of cases pending with their court. This is brought about by their failure to adopt an efficient system of monitoring their cases. Again, this is the primary responsibility of Judge Tormis. Finally, the OCA noted that Judge Tormis failed to conduct an actual physical inventory of cases to keep abreast of the status of the pending cases and to be informed that every case is in proper order. If the same was conducted, she would have discovered that Mr. Teves had been committing a mistake in the inventory of cases. As found by the OCA, Judge Tormis is guilty of violation of Supreme Court rules, directives, and circulars for her failure to comply with her duty of providing an efficient court management system in her court which includes the preparation and use of docket inventory and monthly report of cases as tools thereof.

As for Mr. Teves, he admitted that:

> [H]e kept the records of dormant cases inside the storage room. Most of these cases are violations of city ordinances, resisting arrest, vagrancy and collection of sum of money with replevin filed by lending institutions and covered by the Rule on Summary Procedure. If there are no returns, or the returns were not duly served as when the accused could not be found in the given address, and no party makes any follow-up, they remain in the storage room. According to him, "(they) cannot immediately act on these records unless a motion was filed either by the public prosecutor or interested complainants, confer to this court and make a follow-up on their cases." Thus, unless there is a follow up, he will not act on the

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[31] *In Re: Report on the Judicial Audit Conducted in the Regional Trial Court, Br. 45, Urdaneta City, Pangasinan, supra,* at 268.

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case. Further, he admitted that "[e]xcept those with proper returns, hundreds of these returns were not attached to the records because the respective clerk-in-charge cannot cope up with over laden work."[32]

Moreover, Mr. Teves himself admitted that he failed to comply with Section 8, Rule 136 of the Rules of Court wherein he is mandated to keep a general docket, each page of which shall be numbered and prepared for receiving all the entries in a single case, and shall enter therein all cases, numbered consecutively in the order in which they were received, and, under the heading of each case and a complete title thereof, the date of each paper filed or issued, of each order or judgment entered, and of each other step taken in the case so that by reference to a single page the history of the case may be seen.

With these infractions, Mr. Teves shall be liable for simple neglect of duty.

Non-promulgation of Judgment

The alleged practice of Branch 4, Cebu City of not promulgating judgments in criminal cases was not substantiated except for the *Datan* case wherein Mr. Teves, instead of scheduling the case for promulgation, just gave the accused a copy of the unpromulgated decision at the time when Judge Tormis was serving her suspension. Section 6, Rule 120 of the Rules of Court states that:

> Sec. 6. *Promulgation of judgment.* — The judgment is promulgated by reading it in the presence of the accused and any judge of the court in which it was rendered. However, if the conviction is for a light offense, the judgment may be pronounced in the presence of his counsel or representative. When the judge is absent or outside the province or city, the judgment may be promulgated by the clerk of court. x x x

Clearly, as found by the OCA, Mr. Teves is guilty of simple neglect of duty. It is his duty to calendar the case for promulgation

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[32] Memorandum of Court Administrator Midas Marquez for Justice Presbitero J. Velasco, Jr., *rollo*, pp. 452-453.

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in accordance with the Rules of Court. He did not only fail to do so. Rather, he, in fact, served copies of the decision to the accused without the judgment having been promulgated first and at the time when the judge who rendered the decision was serving her suspension. This negligence on the part of Mr. Teves, does not, however, wholly exempt Judge Tormis from administrative liability even if the same took place at the time when she was prohibited access to her court. The Court cannot fathom how she failed to find out Mr. Teves' negligence. When she resumed her position, it was incumbent upon her to check the status of the cases she left prior to her suspension. A judge cannot simply take refuge behind the inefficiency or mismanagement of her court personnel, for the latter are not the guardians of the former's responsibility.[33] Unless the reins of control and supervision over the administrative aspect of the adjudicatory process are tightened, the swift and efficient delivery of justice will be impeded and rendered illusory.[34]

Issuing a Warrant of Arrest Without Apprising the Accused of the Charge

Whenever a criminal case falls under the Summary Procedure,[35] the general rule is that the court shall not order the arrest of the accused unless he fails to appear whenever required.[36] In this case, Judge Tormis claimed that the issuance of the warrant of arrest against the accused in the *Librando* case was justified because of the accused's failure to appear during her arraignment despite notice. However, as clearly found by the OCA, Judge

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[33] *Office of the Court Administrator v. Legaspi*, 519 Phil. 560, 582 (2006).

[34] *Id.* at 582-583.

[35] Section 16 of the 1991 Revised Rule on Summary Procedure provides:

Sec. 16. *Arrest of accused.* — The court shall not order the arrest of the accused except for failure to appear whenever required. Release of the person arrested shall either be on bail or on recognizance by a responsible citizen acceptable to the court.

[36] *Tan v. Casuga-Tabin*, A.M. No. MTJ-09-1729 (Formerly OCA I.P.I. No. 07-1910-MTJ), January 20, 2009, 576 SCRA 382, 387.

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Tormis' order requiring the accused to appear and submit her counter-affidavit and those of her witnesses within ten days from receipt of the order was not yet served upon the accused when she issued the warrant. In doing so, Judge Tormis issued the warrant of arrest in violation of the Rule on Summary Procedure that the accused should first be notified of the charges against him and given the opportunity to file his counter-affidavits and other countervailing evidence.[37]

As held in *Tan v. Casuga-Tabin*:[38]

> While judges may not always be subjected to disciplinary action for every erroneous order or decision they render, that relative immunity is not a license to be negligent, abusive and arbitrary in their prerogatives. If judges wantonly misuse the powers vested in them by law, there will not only be confusion in the administration of justice but also oppressive disregard of the basic requirements of due process. While there appears to be no malicious intent on the part of respondent, such lack of intent, however, cannot completely free her from liability. When the law is sufficiently basic, a judge owes it to her office to know and simply apply it.[39]

The Revised Rules on Summary Procedure has been in effect since November 15, 1991. It finds application in a substantial number of civil and criminal cases. Judge Tormis cannot claim to be unfamiliar with the same. Every judge is required to observe the law. When the law is sufficiently basic, a judge owes it to his office to simply apply it; and anything less than that would be constitutive of gross ignorance of the law. In short, when the law is so elementary, not to be aware of it constitutes gross ignorance of the law.[40]

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[37] *Id.* at 390.

[38] *Id.*

[39] *Id.* at 390-391.

[40] *Gerlie M. Uy and Ma. Consolacion T. Bascug v. Judge Erwin B. Javellana*, Municipal Trial Court, La Castellana, Negros Occidental, A.M. No. MTJ-07-1666 (Formerly A.M. OCA I.P.I. No. 05-1761-MTJ), September 5, 2012.

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Proper Penalty on Judge Tormis

Under Rule 140 of the Rules of Court, as amended by A.M. No. 01-8-10-SC dated September 11, 2001, violation of Supreme Court rules, directives and circulars, and gross inefficiency are categorized as less serious charges with the following sanctions: (a) suspension from office without salary and other benefits for not less than one nor more than three months; or (b) a fine of more than ₱10,000.00 but not exceeding ₱20,000.00.[41] Moreover, gross ignorance of the law is classified as serious charge under Section 8, Rule 140 of the Revised Rules of Court, and penalized under Section 11 (a), Rule 140 of the same Rules by: (1) Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations. *Provided,* however, that the forfeiture of benefits shall, in no case, include accrued leave credits; (2) Suspension from office without salary and other benefits for more than three (3), but not exceeding six (6) months; or (3) a fine of more than ₱20,000.00, but not exceeding ₱40,000.00.

In determining the proper imposable penalty, we also consider Judge Tormis' work history which reflects how she performed her judicial functions.[42] We find that there are several administrative cases already filed against her, most of the cases have been decided against her, the others have been dismissed and some are still pending in Court. These cases show her inability to properly discharge her judicial duties.[43] Her suspensions had in fact been used by her as a defense in her failure to resolve and decide cases and incidents pending in her court.

In *Judge Navarro v. Judge Tormis*,[44] Judge Tormis was found guilty of improper conduct for trying to influence the course of

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[41] *Inoturan v. Limsiaco, Jr., supra* note 29, at 627-628.

[42] *Id.* at 628.

[43] *Id*.

[44] 471 Phil. 876 (2004).

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litigation in Criminal case No. 99796-12 pending with another court and was thus reprimanded for the same with a warning that a repetition thereof shall be dealt with more severely. She was, likewise, admonished for conduct unbecoming of a judge.

In *Re: Report on the Judicial Audit Conducted in the RTC, Branch 60, Barili, Cebu*,[45] Judge Tormis was found guilty of gross violation of Section 17, Rule 114 for having approved the bail posted by the accused in Criminal Cases No. CEB-BRL-783 and 922 pending before RTC Branch 60, Barili, Cebu, considering that there was no showing of the unavailability of all twenty-two RTC judges in Cebu City. With this infraction, she was fined in the amount of ₱5,000.00, with a stern warning that a repetition of the same act shall be dealt with more severely.

In *Lachica v. Judge Tormis*,[46] Judge Tormis was found guilty of gross misconduct for (1) having abused her judicial authority when she personally accepted the cash bail bond of the accused; and (2) for deliberately making untruthful statements in her comment and during the investigation of the instant administrative case with intent to mislead the Court. Here, it was established that the accused was released from confinement after Judge Tormis called the police station informing the officer of the receipt of the cash bail bond but without the issuance of the Release Order. In determining the proper penalty, the Court took into account Judge Tormis' past infractions and concluded that she was not reformed despite being chastised thrice. She was thus suspended from office for six (6) months without salary and other benefits, and sternly warned that a repetition of the same and similar acts shall be dealt with more severely. On motion of Judge Tormis, the Court[47] ordered a reinvestigation of the case and to allow her to present additional evidence. Said order was later clarified in a Resolution dated July 12, 2006 wherein she was directed to resume office immediately upon receipt of the resolution and directed the Financial Management Office of the OCA to

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[45] 488 Phil. 250 (2004).

[46] 507 Phil. 211 (2005).

[47] Embodied in a Resolution dated February 28, 2006; 518 Phil. 599 (2006).

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immediately release all the salaries and benefits which were withheld from her. However, after reinvestigation, on August 13, 2008, she was severely reprimanded for the unauthorized receipt of cash bond and keeping the same in her house.

In *Antonina Y. Luib v. Hon. Rosabella Tormis*,[48] Judge Tormis was admonished and reminded to be more circumspect in granting postponements.

In *Visbal v. Tormis*,[49] Judge Tormis was found liable for gross misconduct for her repeated defiance of the Court's Order to furnish complainant (in another administrative case) of her comment and/or to submit to the Court proof of such service. She was thus suspended for six (6) months without salary, with a stern warning that another repetition of a similar act will be dealt with most severely. In imposing the penalty, the Court took into consideration eight other administrative cases filed against her.

In *Office of the Court Administrator v. Judges Anatalio S. Necesario, Br. 2, et al.*,[50] Judge Tormis was one of the judges investigated, relative to the irregularities in the solemnization of marriages. For this, she was preventively suspended. Although the same was lifted in a Resolution dated December 11, 2007, she was prohibited from solemnizing marriages until further orders from the Court.

The Court also notes that although dismissed by the Court, Judge Tormis was involved in four other administrative cases. At present, there are still two pending cases against her. Judge Tormis' conduct as a repeat offender exhibits her unworthiness to don the judicial robes and merits a sanction heavier than what is provided by our rules and jurisprudence.[51] Considering

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[48] Embodied in a Resolution dated March 16, 2005 in A.M. OCA I.P.I. No. 04-1554-MTJ.

[49] A.M. No. MTJ-07-1692, November 28, 2007, 539 SCRA 9.

[50] Embodied in a Resolution dated November 27, 2007, A.M. No. MTJ-07-1691.

[51] *Inoturan v. Limsiaco, Jr., supra* note 29, at 629.

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her past infractions and taking into account the number of irregularities she committed in this present case and as held by the Court in *Inoturan v. Limsiaco, Jr.*,[52] Judge Tormis should be dismissed from the service.

On Mr. Teves

As discussed above, Mr. Teves is here guilty of two counts of simple neglect of duty. Simple neglect of duty is defined as the "failure of an employee to give one's attention to a task expected of him, and signifies a disregard of a duty resulting from carelessness or indifference.[53] ***Under the Revised Uniform Rules on Administrative Cases in the Civil Service, simple neglect of duty is a less grave offense penalized with suspension for one month and one day to six months for the first offense, and dismissal for the second.***[54]

In the determination of the proper penalty, we look into Mr. Teves' past administrative cases. In *Ramos v. Teves*,[55] Mr. Teves was charged with arrogance and discourtesy in refusing to receive a motion that allegedly does not conform with the requirements of the Rules of Court. In deciding the case against Mr. Teves, the Court pointed out that clerks of court have no authority to pass upon the substantive or formal correctness of pleadings and motions that parties file with the court. Thus, in refusing to receive the motion filed by complainant, the Court found Mr. Teves discourteous, and in view of his past administrative

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[52] *Supra* note 29.

[53] *Viscal Development Corporation v. Atty. Jennifer H. dela Cruz-Buendia, in her capacity as Ex-Officio Sheriff of the Office of the Clerk of Court — Regional Trial Court of Manila; and Messrs. Nathaniel F. Abaya, Luis A. Alina, Lorelex B. Ilagan and Mario P. Villanueva, in their Capacities as Sheriffs IV of the Office of the Clerk of Court — Regional Trial Court of Manila,* A.M. No. P-12-3097 (Formerly OCA I.P.I. No. 09-3311-P), November 26, 2012.

[54] *Bangko Sentral ng Pilipinas v. Lanzanas,* A.M. No. RTJ-06-1999 (Formerly OCA I.P.I. No. 03-1903-RTJ), December 8, 2010, 637 SCRA 475, 489.

[55] A.M. No. P-12-3061 (Formerly OCA I.P.I. No. 08-3022-P), June 27, 2012, 675 SCRA 1.

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cases, he was meted the penalty of a thirty-day suspension, with warning that a repetition of the same or similar offense will be dealt with more severely. In the same case, the Court noted Mr. Teves' past infractions:

> The record shows that Teves had previously been administratively charged with grave abuse of authority and gross discourtesy in OCA-IPI 08-2981-P. Although the Court dismissed the charge for lack of merit on November 18, 2009, it reminded him to be more circumspect in dealing with litigants and their counsel.
>
> In two consolidated administrative cases, one for grave misconduct and immorality and the other for insubordination, the Court meted out on Teves the penalty of suspension for six months in its resolution of October 5, 2011. x x x[56]

Obviously, with his past infractions and having been warned that a repetition of the same or similar act will be dealt with more severely, Mr. Teves has not reformed. It seems that he has remained undeterred in disregarding the law and he appears to be unfazed by the previous penalties and warnings he received.[57] Mr. Teves' repeated infractions seriously compromise efficiency and hamper public service[58] which the Court can no longer tolerate. Thus, the penalty of dismissal from the service is proper.

WHEREFORE, premises considered, we find respondent Judge Rosabella M. Tormis **GUILTY** of Gross Inefficiency, Violation of Supreme Court Rules, Directives and Circulars and Gross Ignorance of the Law. She is ordered **DISMISSED** from the service, with forfeiture of all benefits and privileges, except accrued leave credits, if any, with prejudice to reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations.

Mr. Reynaldo S. Teves is likewise found **GUILTY** of two counts of Simple Neglect of Duty, and in view of his past

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[56] *Ramos v. Teves, supra,* at 5.

[57] *Corpuz v. Judge Siapno,* 452 Phil. 104, 114 (2003).

[58] *Rodrigo-Ebron v. Adolfo,* A.M. No. P-06-2231, April 27, 2007, 522 SCRA 286, 294.

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infractions, he is meted the supreme penalty of **DISMISSAL** from the service with forfeiture of all benefits and privileges, except accrued leave credits, if any, with prejudice to reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations.

SO ORDERED.

Sereno, C.J., Carpio, Leonardo-de Castro, Brion, Peralta, Bersamin, del Castillo, Abad, Villarama, Jr., Mendoza, Reyes, Perlas-Bernabe, and *Leonen, JJ.,* concur.

Velasco, Jr., J., no part due to relation to party.

Perez, J., on official leave.

EN BANC

[G.R. No. 161107. March 12, 2013]

HON. MA. LOURDES C. FERNANDO, in her capacity as City Mayor of Marikina City, JOSEPHINE C. EVANGELISTA, in her capacity as Chief, Permit Division, Office of the City Engineer, and ALFONSO ESPIRITU, in his capacity as City Engineer of Marikina City, *petitioners, vs.* **ST. SCHOLASTICA'S COLLEGE and ST. SCHOLASTICA'S ACADEMY-MARIKINA, INC.,** *respondents.*

SYLLABUS

1. POLITICAL LAW; 1987 CONSTITUTION; INHERENT POWERS OF THE STATE; POLICE POWER; THE PLENARY POWER VESTED IN THE LEGISLATURE TO MAKE STATUTES AND ORDINANCES TO PROMOTE THE HEALTH, MORALS, PEACE, EDUCATION, GOOD