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Moreover, the trial court was merely exercising its discretion under Rule 16, Section 3 of the 1997 Rules of Civil Procedure when it denied the petitioner's motion to dismiss. Under said rule, after hearing the motion, a judge may dismiss the action, deny the motion to dismiss or order the amendment of the pleading. The trial court denied the motion to dismiss based on its finding that the issues alleged by the respondent in its complaint could not be resolved fully in the absence of the petitioner. In its desire to resolve completely the issues brought before it, the trial court deemed it fitting to properly acquire jurisdiction over the person of the petitioner by ordering the issuance of *alias* summons on the petitioner. Evidently, the trial court acted well within its discretion. The Court of Appeals did not, therefore, err in dismissing the petition for *certiorari* filed before it.

WHEREFORE, the petition is hereby *DENIED* for lack of merit.

SO ORDERED.

Bellosillo (Chairman) and *Austria-Martinez, JJ.*, concur.

Quisumbing, J., on official leave.

FIRST DIVISION

[A.M. No. MTJ-01-1370. April 25, 2003]
(formerly A.M. No. 00-11-238-MTC)

OFFICE OF THE COURT ADMINISTRATOR, *complainant, vs.* **JUDGE AGUSTIN T. SARDIDO, Municipal Trial Court of Koronadal, South Cotabato,** *respondent.*

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SYNOPSIS

The Office of the Court Administrator charged respondent Agustin Sardido, formerly presiding judge of the Municipal Trial Court of Koronadal, South Cotabato, with gross ignorance of the law. Respondent allegedly excluded a certain Judge Braulio Hurtado, Jr. of the Regional Trial Court of Kabacan, North Cotabato as one of the accused in a case for Falsification and Use of Falsified Document. In his Explanation, Judge Sardido reasoned out that he excluded Judge Hurtado because Circular No. 3-89 directs the IBP to forward to the Supreme Court for appropriate action all cases involving justices and judges of lower courts. Judge Sardido claimed that the Circular likewise applies to courts in cases involving justices or judges of the lower courts, especially so in this case where Judge Hurtado was charged with falsification of public document as a notary public while he was still the Clerk of Court of the Regional Trial Court, Koronadal, South Cotabato.

The Supreme Court found respondent judge guilty of gross ignorance of the law. According to the Court, Circular No. 3-89 does not refer to criminal cases against erring justices of appellate courts or judges of lower courts. Trial courts retain jurisdiction over the criminal aspect of offenses committed by justices of appellate courts and judges of lower courts. It is clear from the Circular directing the IBP, and not the trial courts, to refer all administrative cases filed against justices of appellate courts and judges of lower courts to the Supreme Court. The case filed against Judge Hurtado is not an administrative case filed with the IBP, but a criminal case filed with the trial court under its jurisdiction. The Court further ruled that whether the criminal case against Judge Hurtado relates to an act committed before or after he became a judge is of no moment. Neither is it material that an MTC judge will be trying an RTC judge in the criminal case. A criminal case against an attorney or judge is distinct and separate from an administrative case against him and the dismissal of the criminal case does not warrant the dismissal of an administrative case arising from the same set of facts. The quantum of evidence that is required in the latter is only preponderance of evidence, and not proof beyond reasonable doubt which is required in criminal cases. Respondent Judge Agustin T. Sardido was fined Ten Thousand Pesos (₱10,000.00).

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SYLLABUS

1. **POLITICAL LAW; ADMINISTRATIVE LAW; PUBLIC OFFICERS; JUDGES; CIRCULAR NO. 3-89 DOES NOT REFER TO CRIMINAL CASES AGAINST ERRING JUSTICES OF APPELLATE COURTS OR JUDGES OF LOWER COURTS; TRIAL COURTS RETAIN JURISDICTION OVER THE CRIMINAL ASPECT OF THE OFFENSES COMMITTED.**— Under Circular No. 3-89, the Court has directed the IBP to refer to the Supreme Court for appropriate action all administrative cases filed with IBP against justices of appellate courts and judges of the lower courts. As mandated by the Constitution, the Court exercises the exclusive power to discipline administratively justices of appellate courts and judges of lower courts. Circular No. 3-89 does not refer to criminal cases against erring justices of appellate courts or judges of lower courts. Trial courts retain jurisdiction over the criminal aspect of offenses committed by justices of appellate courts and judges of lower courts. This is clear from the Circular directing the IBP, and not the trial courts, to refer all administrative cases filed against justices of appellate courts and judges of lower courts to the Supreme Court. The case filed against Judge Hurtado is not an administrative case filed with the IBP. It is a criminal case filed with the trial court under its jurisdiction as prescribed by law.

2. **ID.; ID.; ID.; ID.; ID.; A CRIMINAL CASE AGAINST AN ATTORNEY OR JUDGE IS DISTINCT AND SEPARATE FROM AN ADMINISTRATIVE CASE AGAINST HIM; DISMISSAL OF THE CRIMINAL CASE DOES NOT WARRANT THE DISMISSAL OF THE ADMINISTRATIVE CASE ARISING FROM THE SAME SET OF FACTS.**— The acts or omissions of a judge may well constitute at the same time both a criminal act and an administrative offense. Whether the criminal case against Judge Hurtado relates to an act committed before or after he became a judge is of no moment. Neither is it material that an MTC judge will be trying an RTC judge in the criminal case. A criminal case against an attorney or judge is distinct and separate from an administrative case against him. The dismissal of the criminal case does not warrant the dismissal of an administrative case arising from the same set of facts. The quantum of evidence that is required in the latter is only

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preponderance of evidence, and not proof beyond reasonable doubt which is required in criminal cases.

3. ID.; ID.; ID.; IGNORANCE OF THE LAW.— A judge is called upon to exhibit more than just a cursory acquaintance with statutes and procedural rules. He must be conversant with basic legal principles and well-settled doctrines. He should strive for excellence and seek the truth with passion. Judge Sardido failed in this regard. He erred in excluding Judge Hurtado as one of the accused in the Amended Information and in forwarding the criminal case against Judge Hurtado to the Court.

D E C I S I O N

CARPIO, *J.*:

The Case

This is an administrative case against respondent Judge Agustin T. Sardido ("Judge Sardido"), formerly presiding judge of the Municipal Trial Court of Koronadal, South Cotabato, for gross ignorance of the law. Judge Sardido issued an Order dated 20 October 1998 excluding Judge Braulio Hurtado, Jr. ("Judge Hurtado") of the Regional Trial Court of Kabacan, North Cotabato as one of the accused in an Amended Information.[1] Judge Sardido ruled that Supreme Court Circular No. 3-89 requires that Judge Hurtado be dropped from the Amended Information and his case be forwarded to the Court.

The Facts

Private complainant Teresita Aguirre Magbanua accused Oscar Pagunsan and Danilo Ong of the crime of "Falsification by Private Individual and Use of Falsified Document."[2] The Amended Information included Judge Hurtado. The case, docketed as Criminal Case No. 14071, was raffled to Judge

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[1] For Falsification by Private Individual and Use of Falsified Document.

[2] As defined and penalized under Article 172 of the Revised Penal Code in relation to paragraph 4 of Article 171 of the same Code.

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Sardido, then presiding judge of the Municipal Trial Court of Koronadal, South Cotabato ("MTC-Koronadal").

In a Deed of Absolute Sale dated 8 August 1993, private complainant Magbanua and six other vendors allegedly sold two parcels of land, covered by TCT Nos. 47873 and 33633 and located at the commercial district of Koronadal, to Davao Realty Development Corporation, represented by accused Ong, with co-accused Pagunsan, as broker. Judge Hurtado, who at that time was the Clerk of Court of RTC-Koronadal and *ex-officio* notary public, notarized the Deed of Absolute Sale.

However, private complainant Magbanua denies signing the Deed of Absolute Sale dated 8 August 1993 which states that the consideration for the sale was only ₱600,000.00. Private complainant asserts that what she and the other vendors signed was a Deed of Absolute Sale dated 6 August 1996 for a consideration of ₱16,000,000.00. Under the terms of the sale, the vendee agreed to pay for the capital gains tax. The consideration in the 8 August 1993 Deed of Absolute Sale was apparently undervalued. Subsequently, the Bureau of Internal Revenue assessed the vendors a deficiency capital gains tax of ₱1,023,375.00.

Judge Hurtado filed a motion praying that the criminal complaint against him be forwarded to the Supreme Court. Judge Hurtado claimed that Circular No. 3-89 dated 6 February 1989 requires "all cases involving justices and judges of the lower courts, whether or not such complaints deal with acts apparently unrelated to the discharge of their official functions, such as acts of immorality, *estafa*, crimes against persons and property, *etc.*" to be forwarded to the Supreme Court. Judge Hurtado asserted that since the case against him is one involving a judge of a lower court, the same should be forwarded to the Supreme Court pursuant to Circular No. 3-89.

The Provincial Prosecutor opposed Judge Hurtado's motion, arguing that the case against Judge Hurtado is not within the scope of Circular No. 3-89 since it is not an IBP-initiated case. Moreover, the offense charged was committed in 1993 when

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Judge Hurtado was still a clerk of court and *ex-officio* notary public.

On 20 October 1998, Judge Sardido issued an Order, the pertinent portions of which read:

> The issue to be resolved in the instant case is, whether the case of Judge Hurtado, who is charged for acts committed prior to his appointment as an RTC Judge, falls within the purview of the afore-said Circular No. 3-89.
>
> It is the humble submission of the Court that the case of Judge Hurtado, an RTC Judge of the Regional Trial Court of Kabacan, North Cotabato, falls within the meaning and intent of the said circular.
>
> For reasons being, firstly, the said circular provides that all cases involving justices and judges of lower courts shall be forwarded to the Supreme Court for appropriate action, whether or not such complaints deal with acts apparently unrelated to the discharge of their official functions, and regardless of the nature of the crime, without any qualification whether the crime was committed before or during his tenure of office. Under the law on Legal Hermeneutics, if the law does not qualify we must not qualify. Secondly, it would sound, to the mind of the Court, awkward for a first level court to be trying an incumbent judge of a second level court.
>
> For reasons afore-stated, this Court can not and shall not try this case as against Judge Hurtado, unless the Honorable Supreme Court would order otherwise.
>
> Wherefore, the foregoing premises duly considered, the name of Judge Braulio L. Hurtado, Jr. is ordered excluded from the amended information and the case against him is ordered forwarded to the Honorable Supreme Court, pursuant to the afore-said Circular No. 3-89 of the Supreme Court, dated February 9, 1989.

Accordingly, Maxima S. Borja ("Borja"), Stenographer I and Acting Clerk of Court II of the MTC-Koronadal, South Cotabato, wrote a letter dated 21 July 1999 forwarding the criminal case against Judge Hurtado to the Court Administrator for appropriate action.

Then Court Administrator Alfredo L. Benipayo issued a Memorandum dated 25 October 2000 pointing out that Circular

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No. 3-89 refers only to administrative complaints filed with the IBP against justices and judges of lower courts. The Circular does not apply to criminal cases filed before trial courts against such justices and judges.

Thus, in the Resolution of 6 December 2000, the Court directed that the letter of Acting Clerk of Court Borja be returned to the MTC-Koronadal together with the records of the criminal case. The Court directed Judge Sardido to explain in writing why he should not be held liable for gross ignorance of the law for excluding Judge Hurtado from the Amended Information and for transmitting the records of Judge Hurtado's case to the Court.

In his Explanation dated 26 January 2001, Judge Sardido reasoned out that he excluded Judge Hurtado because Circular No. 3-89 directs the IBP to "forward to the Supreme Court for appropriate action all cases involving justices and judges of lower courts x x x." Judge Sardido claims that the Circular likewise "applies to courts in cases involving justices or judges of the lower courts," especially so in this case where "Judge Hurtado was charged with falsification of public document as a notary public while he was still the Clerk of Court of the Regional Trial Court of the 11th Judicial Region in Koronadal, South Cotabato."

In the Resolution of 28 March 2001, the Court referred this case to the Office of the Court Administrator ("OCA") for evaluation, report and recommendation. On 10 July 2001, the OCA submitted a Memorandum recommending that this case be re-docketed as a regular administrative matter.

Judge Sardido filed his Manifestation dated 20 September 2001 stating that he is submitting the case for decision based on the pleadings and records already filed. Judge Sardido insisted that he did "what he had done in all honesty and good faith."

OCA's Findings and Conclusions

The OCA found that Judge Sardido erred in excluding Judge Hurtado as one of the accused in the Amended Information in

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Criminal Case No. 14071. The OCA held that Circular No. 3-89, which is Judge Sardido's basis in issuing the Order of 20 October 1998, refers to administrative complaints filed with the IBP against justices and judges of lower courts. The Circular does not apply to criminal cases filed against justices and judges of lower courts. The OCA recommended that a fine of ₱5,000.00 be imposed on Judge Sardido for gross ignorance of the law.

The Court's Ruling

The Court issued Circular No. 3-89 in response to a letter dated 19 December 1988 by then IBP President Leon M. Garcia, seeking clarification of the Court's *En Banc* Resolution of 29 November 1998 in ***RE: Letter of then Acting Presiding Justice Rodolfo A. Nocon***[3] ***and Associate Justices Reynato Puno***[4] ***and Alfredo Marigomen***[5] ***of the Court of Appeals.***

A certain Atty. Eduardo R. Balaoing had filed a complaint against Court of Appeals Justices Nocon, Puno and Marigomen relating to a petition filed before their division. In its *En Banc* Resolution of 29 November 1988, the Court required the IBP to refer to the Supreme Court for appropriate action the complaint[6] filed by Atty. Balaoing with the IBP Commission on Bar Discipline. The Court stated that the power to discipline justices and judges of the lower courts is within the Court's exclusive power and authority as provided in Section 11, Article VII of the 1987 Constitution.[7] The Court Administrator publicized

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[3] Now retired Supreme Court Justice.

[4] Now Associate Justice of the Supreme Court.

[5] Now retired Associate Justice of the Court of Appeals and retired member of the Judicial and Bar Council.

[6] Docketed as CBD Case No. 055.

[7] Section 11, Article VII provides that: "The members of the Supreme Court and judges of the lower courts shall hold office during good behavior until they reach the age of seventy years or become incapacitated to discharge the duties of their office. The Supreme Court *en banc* shall have the power to discipline judges of lower courts, or order their dismissal by vote of a majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon."

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the *En Banc* Resolution of 29 November 1988 by issuing Circular No. 17 dated 20 December 1988.

The Court issued Circular No. 3-89 on 6 February 1989 clarifying the *En Banc* Resolution of 29 November 1988. Circular No. 3-89 provides in part as follows:

(1) The *IBP (Board of Governors and Commission on Bar Discipline) shall forward to the Supreme Court* for appropriate action all cases involving justices and judges of lower courts, whether or not such complaints deal with acts apparently unrelated to the discharge of their official functions, such as acts of immorality, *estafa*, crimes against persons and property, *etc.* x x x. (Italics supplied)

Circular No. 3-89 clarified the second paragraph, Section 1 of Rule 139-B of the Rules of Court which states that:

The IBP Board of Governors may, *motu proprio* or upon referral by the Supreme Court or by a Chapter Board of Officers, or at the instance of any person, initiate and prosecute proper charges against erring *attorneys including those in the government service.* (Italics supplied).

As clarified, the phrase "attorneys x x x in the government service" in Section 1 of Rule 139-B does not include justices of appellate courts and judges of lower courts who are not subject to the disciplining authority of the IBP. All administrative cases against justices of appellate courts and judges of lower courts fall exclusively within the jurisdiction of the Supreme Court.

However, Rule 139-B refers to Disbarment and Discipline of Attorneys which is administrative and not criminal in nature. The cases referred to in Circular No. 3-89 are administrative cases for disbarment, suspension or discipline of attorneys, including justices of appellate courts and judges of the lower courts. The Court has vested the IBP with the power to initiate and prosecute administrative cases against erring lawyers.[8] However, under Circular No. 3-89, the Court has directed the

[8] Section 1, Rule 139-B.

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IBP to refer to the Supreme Court for appropriate action all administrative cases filed with IBP against justices of appellate courts and judges of the lower courts. As mandated by the Constitution, the Court exercises the exclusive power to discipline administratively justices of appellate courts and judges of lower courts.

Circular No. 3-89 does not refer to criminal cases against erring justices of appellate courts or judges of lower courts. Trial courts retain jurisdiction over the criminal aspect of offenses committed by justices of appellate courts[9] and judges of lower courts. This is clear from the Circular directing the IBP, and not the trial courts, to refer all administrative cases filed against justices of appellate courts and judges of lower courts to the Supreme Court. The case filed against Judge Hurtado is not an administrative case filed with the IBP. It is a criminal case filed with the trial court under its jurisdiction as prescribed by law.

The acts or omissions of a judge may well constitute at the same time both a criminal act and an administrative offense. Whether the criminal case against Judge Hurtado relates to an act committed before or after he became a judge is of no moment. Neither is it material that an MTC judge will be trying an RTC judge in the criminal case. A criminal case against an attorney or judge is distinct and separate from an administrative case against him. The dismissal of the criminal case does not warrant the dismissal of an administrative case arising from the same set of facts. The quantum of evidence that is required in the latter is only preponderance of evidence, and not proof beyond reasonable doubt which is required in criminal cases.[10] As held in ***Gatchalian Promotions Talents Pool, Inc. v. Naldoza:***[11]

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[9] Referring to the Court of Appeals and Sandiganbayan and not to the Supreme Court.

[10] *Office of the Court Administrator v. Diaz*, 362 Phil. 580 (1999).

[11] A.C. No. 4017, 29 September 1999, 315 SCRA 406.

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Administrative cases against lawyers belong to a class of their own. They are distinct from and they may proceed independently of civil and criminal cases.

The burden of proof for these types of cases differ. In a criminal case, proof beyond reasonable doubt is necessary; in an administrative case for disbarment or suspension, 'clearly preponderant evidence' is all that is required. Thus, a criminal prosecution will not constitute a prejudicial question even if the same facts and circumstances are attendant in the administrative proceedings.

It should be emphasized that a finding of guilt in the criminal case will not necessarily result in a finding of liability in the administrative case. Conversely, respondent's acquittal does not necessarily exculpate him administratively. In the same vein, the trial court's finding of civil liability against the respondent will not inexorably lead to a similar finding in the administrative action before this Court. Neither will a favorable disposition in the civil action absolve the administrative liability of the lawyer. The basic premise is that criminal and civil cases are altogether different from administrative matters, such that the disposition in the first two will not inevitably govern the third and vice versa. For this reason, it would be well to remember the Court's ruling in *In re Almacen*, which we quote:

> "x x x Disciplinary proceedings against lawyers are *sui generis*. Neither purely civil nor purely criminal, they do not involve a trial of an action or a suit, but are rather investigations by the Court into the conduct of one of its officers. Not being intended to inflict punishment, [they are] in no sense a criminal prosecution. Accordingly, there is neither a plaintiff nor a prosecutor therein. [They] may be initiated by the Court *motu proprio*. Public interest is [their] primary objective, and the real question for determination is whether or not the attorney is still a fit person to be allowed the privileges as such. Hence, in the exercise of its disciplinary powers, the Court merely calls upon a member of the Bar to account for his actuations as an officer of the Court with the end in view of preserving the purity of the legal profession and the proper and honest administration of justice by purging the profession of members who by their misconduct have prove[n] themselves no longer worthy to be entrusted with the duties and responsibilities pertaining to the office of an attorney. x x x"

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A judge is called upon to exhibit more than just a cursory acquaintance with statutes and procedural rules. He must be conversant with basic legal principles and well-settled doctrines. He should strive for excellence and seek the truth with passion.[12] Judge Sardido failed in this regard. He erred in excluding Judge Hurtado as one of the accused in the Amended Information and in forwarding the criminal case against Judge Hurtado to the Court.

One last point. This administrative case against Judge Sardido started before the amendment[13] of Rule 140 classifying gross ignorance of the law a serious offense punishable by a fine of more than ₱20,000.00 but not exceeding ₱40,000.00. The amendment cannot apply retroactively to Judge Sardido's case. However, the fine of ₱5,000.00 recommended by the OCA is too light a penalty considering that this is not the first offense of Judge Sardido.

In ***RE: Hold Departure Order Issued by Judge Agustin T. Sardido,***[14] the Court reprimanded Judge Sardido for issuing a hold-departure order contrary to Circular No. 39-97. In ***Cabilao v. Judge Sardido,***[15] the Court fined Judge Sardido ₱5,000.00 for gross ignorance of the law, grave abuse of discretion and gross misconduct. The Court gave a stern warning to Judge Sardido that a commission of the same or similar act would be dealt with more severely. In ***Almeron v. Judge Sardido,***[16] the Court imposed on Judge Sardido a stiffer fine of ₱10,000,00 for gross ignorance of the law. He was again sternly warned that the commission of the same or similar act in the future would be dealt with more severely including, if warranted, his dismissal from the service.

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[12] *Tabao v. Espina*, 368 Phil. 579 (1999), citing *Conducto v. Monzon*, 353 Phil. 796 (1998).

[13] Effective 1 October 2001.

[14] A.M. No. 01-9-245-MTC, promulgated on 5 December 2001.

[15] 316 Phil. 134 (1995).

[16] 346 Phil. 424 (1997).

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In a more recent administrative case, ***Torcende v. Judge Sardido,***[17] the Court found Judge Sardido again guilty of gross ignorance of the law and of gross misconduct. This time the Court ***dismissed*** Judge Sardido from the service with forfeiture of his retirement benefits, except accrued leave credits. The dismissal was with prejudice to reemployment in any branch of the government or any of its agencies or instrumentalities, including government-owned and controlled corporations.

The records of the OCA further disclose that Judge Sardido has other similar administrative complaints [18] still pending against him. Such an unflattering service record erodes the people's faith and confidence in the judiciary. It is the duty of every member of the bench to avoid any impression of impropriety to protect the image and integrity of the judiciary.[19] The Court may still impose a fine on Judge Sardido in the instant case despite his dismissal from the service.

WHEREFORE, respondent Judge Agustin T. Sardido is ***FINED*** Ten Thousand Pesos (₱10,000.00) for gross ignorance of the law. The fine may be deducted from his accrued leave credits.

SO ORDERED.

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

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[17] A.M. No. MTJ-99-1239, promulgated on 24 January 2003.

[18] 1) 97-414-MTJ for Gross Misconduct, Gross Violation of the Rules on Criminal Procedure, Jurisprudence and Legal Procedure; and

2) 99-687-MTJ for Grave Abuse of Discretion, Partiality and Ignorance of the Law.

[19] *Yu-Asensi v. Villanueva*, A.M. No. MTJ-00-1245, 19 January 2000, 322 SCRA 255.