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DESIST from performing any official act or function appurtenant to his office upon service on him of this decision.

SO ORDERED.

Corona, C.J., Carpio, Carpio Morales, Velasco, Jr., Nachura, Leonardo-de Castro, Brion, Peralta, Bersamin, del Castillo, Abad, Villarama, Jr., Perez, Mendoza, and *Sereno, JJ.,* concur.

EN BANC

[A.M. No. RTJ-09-2173. January 18, 2011]
(Formerly A.M. OCA IPI No. 09-3084-RTJ)

OFFICE OF THE COURT ADMINISTRATOR, *complainant, vs.* **JUDGE BENJAMIN P. ESTRADA, REGIONAL TRIAL COURT, Branch 9, MALAYBALAY CITY, BUKIDNON, and JUDGE JOSEFINA GENTILES-BACAL, RTC, Branch 10, MALAYBALAY CITY, BUKIDNON,** *respondents.*

SYLLABUS

1. JUDICIAL ETHICS; JUDGES; IGNORANCE OF THE LAW; JUDGES HAVE NO AUTHORITY OF TAKING COGNIZANCE OF CASES PENDING BEFORE ANOTHER COURT; CASE AT BAR. — We find the OCA recommendation in order. There is no question about the guilt of the two judges. Their shared intention to uphold the right of the accused to liberty cannot justify their action in excess of their authority, in violation of existing regulations. The vacuum in a first level court, such as the MTCC in Malaybalay City, Bukidnon, created by the absence of a presiding judge, is not remedied by a take over of the duties of the still-to-be appointed or designated judge for the court, which exactly was what Judge Estrada and Judge Bacal

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did. The remedy lies in Chapter V of the Guidelines in the Selection and Appointment of Executive Judges and Defining their Powers, Prerogatives and Duties. x x x Instead of allowing Judge Estrada and herself to act on cases pending before the MTCC, Judge Bacal, as executive judge of the RTC, Malaybalay City, should have designated a municipal judge within her area of supervision, to act on the pending cases. She took time (two months as she claimed) in making the designation, which delayed action, by itself, is a negative reflection on her performance as an executive judge.

2. ID.; ID.; ID.; RESPONDENT JUDGE HAS NO MORE AUTHORITY TO TAKE OVER CRIMINAL CASE NO. 878-08 PENDING BEFORE THE METROPOLITAN TRIAL COURT IN CITIES (MTCC), MALAYBALAY, BUKIDNON, HAVING ALREADY TAKEN HIS OATH AS REGIONAL TRIAL COURT JUDGE ON JULY 17, 2008, ALMOST A MONTH BEFORE HE ISSUED THE ORDER ON THE SAID CRIMINAL CASE. — Judge Estrada, who was the former presiding judge of the MTCC, Malaybalay City, acted only on one case, but like Judge Bacal, he had no authority to take over the case as he had already taken his oath as RTC judge on July 17, 2008, almost a month before he issued the order in Criminal Case No. 878-08, *People v. Bellman E. Durango, et al., for Attempted Homicide*. Either Judge Estrada and Judge Bacal forgot the guidelines or chose to ignore them, but whatever it was, they should suffer the consequences of their actions in violation of the guidelines. In *Mupas v. Judge Español*, the Court found respondent Judge Español guilty of gross ignorance of the law when she overrode the MTCC's action in cases pending with it under the guise of "administrative supervision." The Court stated in that case: Respondent urges that her conduct was nothing more than the zealous fulfillment of her duties as Executive Judge of the RTC, Dasmariñas, Cavite. However, it is elementary that an Executive Judge only has administrative supervision over lower courts. Her function relates only to the management of first and second level courts, within her administrative area with a view to attaining prompt and convenient dispatch of its business. Acting as such, she cannot unilaterally override the MTC's actions in cases pending with it under the guise of "administrative supervision," without running afoul of the orderly administration of justice. Only when her court's jurisdiction is appropriately invoked in an appeal or *certiorari* and other special civil actions can respondent judge, in her judicial capacity, override the lower court's judgment.

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3. ID.; ID.; ID.; RESPONDENTS DID NOT ONLY OVERRIDE THE ACTION OR DECISION OF A LOWER COURT BUT ENTIRELY TOOK OVER THE JUDICIAL FUNCTION OF THE LOWER COURT. — What Judge Estrada and Judge Bacal did was worse than overriding the action or decision of a lower court. They entirely took over the judicial function of the lower court. While they might have been motivated by noble intentions in taking cognizance of the pending cases with the MTCC because they wanted to uphold the accused's right to liberty, they still cannot escape liability. However well-intentioned they might have been, they still did not have the authority to act on the cases as these were not pending before their respective salas. Their lack of authority was so patent and so self-evident; to disregard it would itself be ignorance of the law. In *Mupas*, the Court recognized that "not every judicial error bespeaks ignorance of the law and that, if committed in good faith, does not warrant administrative sanction, but only in cases xxx of tolerable misjudgment. Where, however, the procedure is so simple and the facts so evident as to be beyond permissible margins of error, to still err thereon amounts to ignorance of the law." Clearly, Judge Estrada and Judge Bacal are guilty of gross ignorance of the law.

4. ID.; ID.; ID.; RECOMMENDED PENALTY MODIFIED CONSIDERING THAT RESPONDENTS' ACTIONS WERE MOTIVATED BY NOBLE INTENTIONS TO ADMINISTER JUSTICE. — Section 8(9), Rule 140 of the Rules of Court classifies ignorance of the law or procedure as a serious charge for which Section 11 imposes the following sanctions: (a) 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 forfeiture of benefits shall in no case include accrued leave credits; (b) suspension from office without salary and other benefits for more than three (3) months but not exceeding six (6) months; or (c) a fine of more than ₱20,000.00 but not exceeding ₱40,000.00. We note that Judge Estrada and Judge Bacal are being made to answer administratively for the first time for action while in office. In this light and as their actions were motivated by noble intentions to administer justice, we find a fine of ₱21,000.00 in order, with a stern warning that the commission of the same or similar offense shall be dealt with more severely.

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ABAD, *J.*, *dissenting opinion*:

JUDICIAL ETHICS; JUDGES; IGNORANCE OF THE LAW; SINCE NO TEMPORARY JUDGE HAD BEEN NAMED AND ASSUMED OFFICE, RESPONDENT EXECUTIVE JUDGE DID NOT ACT WITH "GROSS" IGNORANCE OF THE LAW PRIOR TO THE DESIGNATION OF A PAIRING JUDGE; SHE ACTED IN GOOD FAITH IN DISPOSING OF THE INCIDENTS TO AVOID VIOLATION OF THE RIGHT OF THE ACCUSED TO A SPEEDY TRIAL OR DISPOSITION OF THEIR CASES. — Judge Josefina Gentiles-Bacal, the Executive Judge, dismissed six of the criminal cases upon motion of the public prosecutor, Judge Bacal remanded two criminal cases to the City prosecutor's office considering that the accused were minors. Since no temporary judge had been named and assumed office, I believe that the executive Judge did not act with "gross" ignorance of the law prior to the designation of a pairing judge, she acted in good faith in disposing of the incidents to avoid the violation of the right of the accused to speedy trial or disposition of their cases. I believe that a finding of indiscretion rather than gross ignorance of the law would be more appropriate in the two cases. I vote for a mere reprimand or at most a fine of ₱5,000.00.

D E C I S I O N

BRION, *J.*:

We resolve in this Decision the administrative matter involving two judges of the Regional Trial Court (RTC), Malaybalay City, Bukidnon - Judge Benjamin P. Estrada of Branch 9 and Judge Josefina Gentiles-Bacal of Branch 10.

The Antecedents

The case arose from the Memorandum,[1] dated October 16, 2008, of Atty. Nicandro A. Cruz, officer-in-charge, Court Management Office, Office of the Court Administrator (OCA), addressed to then Deputy Court Administrator (DCA) Reuben P. De la Cruz, regarding "[a]nomalies in the disposition of cases

[1] *Rollo*, pp. 11-12.

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in the Municipal Trial Court in Cities (MTCC), Malaybalay City, Bukidnon[.]"[2]

Atty. Cruz reported that in the course of reviewing the Monthly Report of cases from the MTCC Malaybalay City, Bukidnon, the Statistical Division of the Court Management Office, OCA, noted several orders, attached to the report, that were issued by Executive Judge Josefina Gentiles-Bacal, RTC, Malaybalay City, and Judge Benjamin P. Estrada, RTC, Branch 9, same station, dismissing the cases then pending in the MTCC.

Atty. Cruz pointed out that the MTCC, Malaybalay City had no regular presiding judge at the time the orders were issued, as Judge Estrada, the former presiding judge, had been appointed to preside over the RTC, Branch 9, Malaybalay City, on June 1, 2008. Atty. Cruz commented that Judge Estrada could no longer take cognizance of cases pending in his former sala after he took his oath on July 17, 2008; neither could Judge Bacal do the same even if she had then been the executive judge of the RTC, Malaybalay City.

The subject cases are as follows:

CRIMINAL CASE NO.	CAPTION	DATE ISSUED
878-08	*People v. Bellman E. Durango, et al.* for Attempted Homicide	August 15, 2008
848-08	*People v. Ferdy C. Domotdot* [for] Violation of City Ordinance No. 50	August 26, 2008
766-08	*People v. Hilario and John Ril Dao-on* for Slight Physical Injuries	August 26, 2008
882-08	*People v. Vicky Sotta y Ranes* for Violation of City Ordinance No. 50	August 26, 2008

[2] *Id.* at 11.

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796-08	*People v. Neil Rod Lacasao* for Attempted Homicide	August 26, 2008
398-06	*People v. Olimpio A. Lagubis* for Attempted Arson	August 28, 2008
522-07	*People v. Alejandro Borbon* for Reckless Imprudence Resulting to Serious Physical Injuries	August 19, 2008
872-08	*People v. Ajimar Cacay y Tubeo* for Theft	August 8, 2008
871-08	*People v. Ajimar Cacay y Tubeo* for Concealment of Deadly Weapon	August 8, 2008

In a 1st Indorsement dated October 22, 2008,[3] DCA De la Cruz referred the matter to Judge Bacal and to Judge Estrada for comment.

Judge Estrada submitted his letter-comment on November 19, 2008,[4] in relation with his dismissal of Criminal Case No. 878-08, *People of the Philippines v. Bellman E. Durango, et al., for Attempted Homicide*, filed with the MTCC, Malaybalay City, Bukidnon, on August 14, 2008. He apologized for acting on the case. He thought that "the case has no more cause when the Office of the City Prosecutor of Malaybalay City filed a Motion to Dismiss on August 15, 2008."[5] He opined that the right of the accused to liberty must not be prejudiced or compromised in the absence of a sitting judge in the court. He claimed that "he had no intention to traverse the majesty of the law,"[6] even as he considered the incident as an "administrative matter" which he is allowed to take cognizance of. Judge Estrada promised not to commit the same infraction again.

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[3] *Id.* at 10.

[4] *Id.* at 1.

[5] *Id.* par. 2.

[6] *Id.* par. 2.

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Judge Bacal, on the other hand, filed her comment on December 3, 2008.[7] She specified the actions she took on the cases mentioned in the OCA report, thus:

CRIMINAL CASE NO.	CAPTION	ACTION/S TAKEN
848-08	*People v. Ferdy C. Domotdot* [for] Violation of City Ordinance No. 50	Dismissed, upon motion of the Prosecutor considering that the accused has already paid his administrative fine.
766-08	*People v. Hilario and John Ril Dao-on* for Slight Physical Injuries	Dismissed, upon motion of the Prosecutor considering that Private complainant Armando Jaroy has executed an Affidavit of Desistance.
882-08	*People v. Vicky Sotta y Ranes* for Violation of City Ordinance No. 50	Dismissed, upon motion of the Prosecutor considering that the accused has already paid his administrative fine.
796-08	*People v. Neil Rod Lacasao* for Attempted Homicide	Dismissed, upon motion of the Prosecutor considering that Private complainant Rolando Espatero, Jr. has already executed an Affidavit of Desistance.
398-06	*People v. Olimpio A. Lagubis* for Attempted Arson	Dismissed, upon motion of the Prosecutor considering that Private complainant Oliver P. Salga has executed an Affidavit of Desistance.
522-07	*People v. Alejandro Borbon* for Reckless Imprudence Resulting to Serious Physical Injuries	Dismissed, upon motion of the Prosecutor considering that Private complainant Avanne C. Macas has already executed an Affidavit of Desistance.
872-08	*People v. Ajimar Cacay y Tubeo* for Theft	Remanded to the City Prosecutor's Office considering that accused is a minor.

[7] *Id.* at 3-4.

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871-08	*People vs. Ajimar Cacay y Tubeo* for Concealment of Deadly Weapon	Remanded to the City Prosecutor's Office Considering that Accused is a minor.

Judge Bacal explained that "It was her honest belief that as Executive Judge, she may exercise such other powers and prerogatives as may be necessary or incidental in the performance of her functions in relation to court administration, there being no Presiding Judge, in the Municipal Trial Court, Malaybalay City. She believes that the constitutional right to liberty of the accused shall prevail after undergoing the legal procedure in accordance with the paramount interest of the accused who are detained prisoners and minors."[8] She added that she never intended to defy the law, her purpose in deciding the cases was to uphold the right of the accused to liberty when there was no more basis, in fact and in law, to further prosecute them.

Judge Bacal pointed out that it took her two (2) months to designate a judge in the MTCC, Malaybalay City.

Upon recommendation of the OCA, the Court resolved to re-docket the case as a regular administrative matter against Judge Estrada and Judge Bacal, and to require them to manifest whether they were willing to have the case resolved on the basis of the pleadings and the records.

Judge Estrada and Judge Bacal submitted the matter for resolution, on June 15, 2009[9] and June 22, 2009,[10] respectively.

The OCA Report

On March 3, 2009, the OCA submitted its report. It found Judge Estrada and Judge Bacal guilty of gross ignorance of the law for taking cognizance of cases pending before another court — the MTCC, Malaybalay, Bukidnon. The two judges admitted the acts, although they tried to avoid liability by professing that they did not intend to violate the law and that

[8] *Id.* at 4, par. 1.

[9] *Id.* at 31-32.

[10] *Id.* at 34.

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they acted as they did out of their desire to uphold the right of the accused to liberty in the cases they took cognizance of.

The OCA recommended that both judges be fined ₱40,000.00 for gross ignorance of the law.

The Court's Ruling

Except for the imposable penalty, we find the OCA recommendation in order. There is no question about the guilt of the two judges. Their shared intention to uphold the right of the accused to liberty cannot justify their action in excess of their authority, in violation of existing regulations. The vacuum in a first level court, such as the MTCC in Malaybalay City, Bukidnon, created by the absence of a presiding judge, is not remedied by a take over of the duties of the still-to-be appointed or designated judge for the court, which exactly was what Judge Estrada and Judge Bacal did. The remedy lies in Chapter V of the Guidelines in the Selection and Appointment of Executive Judges and Defining their Powers, Prerogatives and Duties,[11] which provides:

"Section 1. Designation of Judges of the First Level Courts to Try Cases. (a) The Executive Judge of the RTC shall have authority to designate a municipal judge within his/her area of administrative supervision to try cases of other courts of the first level within said area of administrative supervision in case of official leave of absence, inhibition, disqualification, or preventive suspension of the municipal judge concerned, or of permanent or temporary vacancy in the position. Such designation shall be effective immediately, unless revoked by the Supreme Court.

The Executive Judge shall furnish the Office of the Court Administrator with copies of the orders of designation effected under this Section within five (5) days from the date of such designation."

Instead of allowing Judge Estrada and herself to act on cases pending before the MTCC, Judge Bacal, as executive judge of the RTC, Malaybalay City, should have designated a municipal judge within her area of supervision, to act on the pending cases. She took time (two months as she claimed) in making

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[11] A.M. No. 03-8-02-SC.

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the designation, which delayed action, by itself, is a negative reflection on her performance as an executive judge.

Judge Estrada, who was the former presiding judge of the MTCC, Malaybalay City, acted only on one case, but like Judge Bacal, he had no authority to take over the case as he had already taken his oath as RTC judge on July 17, 2008, almost a month before he issued the order in Criminal Case No. 878-08, *People v. Bellman E. Durango, et al., for Attempted Homicide*.

Either Judge Estrada and Judge Bacal forgot the guidelines or chose to ignore them, but whatever it was, they should suffer the consequences of their actions in violation of the guidelines. In *Mupas v. Judge Español*,[12] the Court found respondent Judge Español guilty of gross ignorance of the law when she overrode the MTCC's action in cases pending with it under the guise of "administrative supervision." The Court stated in that case:

> Respondent urges that her conduct was nothing more than the zealous fulfillment of her duties as Executive Judge of the RTC, Dasmariñas, Cavite. However, it is elementary that an Executive Judge only has administrative supervision over lower courts. Her function relates only to the management of first and second level courts, within her administrative area with a view to attaining prompt and convenient dispatch of its business. Acting as such, she cannot unilaterally override the MTC's actions in cases pending with it under the guise of "administrative supervision," without running afoul of the orderly administration of justice. Only when her court's jurisdiction is appropriately invoked in an appeal or *certiorari* and other special civil actions can respondent judge, in her judicial capacity, override the lower court's judgment.[13]

What Judge Estrada and Judge Bacal did was worse than overriding the action or decision of a lower court. They entirely took over the judicial function of the lower court. While they might have been motivated by noble intentions in taking cognizance of the pending cases with the MTCC because they wanted to uphold the accused's right to liberty, they still cannot escape

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[12] A.M. No. RTJ-04-1850, July 14, 2004, 434 SCRA 303.

[13] *Id.* p. 310, par. 3.

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liability. However well-intentioned they might have been, they still did not have the authority to act on the cases as these were not pending before their respective salas. Their lack of authority was so patent and so self-evident; to disregard it would itself be ignorance of the law. In *Mupas*, the Court recognized that "not every judicial error bespeaks ignorance of the law and that, if committed in good faith, does not warrant administrative sanction, but only in cases xxx of tolerable misjudgment. Where, however, the procedure is so simple and the facts so evident as to be beyond permissible margins of error, to still err thereon amounts to ignorance of the law."[14]

Clearly, Judge Estrada and Judge Bacal are guilty of gross ignorance of the law.

Section 8(9), Rule 140 of the Rules of Court classifies ignorance of the law or procedure as a serious charge for which Section 11 imposes the following sanctions: (a) 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 forfeiture of benefits shall in no case include accrued leave credits; (b) suspension from office without salary and other benefits for more than three (3) months but not exceeding six (6) months; or (c) a fine of more than ₱20,000.00 but not exceeding ₱40,000.00.

We note that Judge Estrada and Judge Bacal are being made to answer administratively for the first time for action while in office. In this light and as their actions were motivated by noble intentions to administer justice, we find a fine of ₱21,000.00 in order, with a stern warning that the commission of the same or similar offense shall be dealt with more severely.[15]

WHEREFORE, premises considered, Executive Judge Josefina Gentiles-Bacal, Regional Trial Court, Branch 10,

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[14] *Id*. at 313, citing *Development Bank of the Philippines v. Llanes, Jr.*, A.M. No. MTJ-96-1105, January 14, 1997, 206 SCRA 212.

[15] *Español v. Judge Mupas*, A.M. No. MTJ-01-1348, November 11, 2004, 442 SCRA 13.

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Malaybalay City, and Presiding Judge Benjamin P. Estrada, Regional Trial Court, Branch 9, Malaybalay City, are hereby found *GUILTY OF IGNORANCE OF THE LAW*. Accordingly, they are *FINED* ₱21,000.00, each, with a *STERN WARNING* that the commission of the same or similar offense shall be dealt with more severely.

SO ORDERED.

Corona, C.J., Carpio, Carpio Morales, Nachura, Leonardo-de Castro, Peralta, Bersamin, del Castillo, Villarama, Jr., Mendoza, and *Sereno, JJ.,* concur.

Abad, J., see dissenting opinion.

Velasco, Jr., no part due to relationship with party.

Perez, J., no part. Acted on the matter as Court Administrator.

DISSENTING OPINION

ABAD, *J.*:

The MTCC of Malaybalay City was vacant. Several criminal cases have not been acted upon although they were ripe for dismissal. It is not clear if the accused were under detention.

Judge Benjamin P. Estrada, the former MTCC judge who was promoted as RTC judge, though that he could not act on that one case given the motion to dismiss the criminal action filed by the City prosecutor. He thought in good faith that it was an administrative matter that he could still act on.

Judge Josefina Gentiles-Bacal, the Executive Judge, dismissed six of the criminal cases upon motion of the public prosecutor. Judge Bacal remanded two criminal cases to the City Prosecutor's office considering that the accused were minors.

Since no temporary judge had been named and assumed office, I believe that the Executive Judge did not act with "gross" ignorance of the law prior to the designation of a pairing judge. She acted in good faith in disposing of the incidents to avoid the violation of the right of the accused to speedy trial or disposition of their cases.

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I believe that a finding of indiscretion rather than gross ignorance of the law would be more appropriate in the two cases. I vote for a mere reprimand or at most a fine of ₱5,000.00.

EN BANC

[A.M. No. RTJ-09-2189. January 18, 2011]
(Formerly A.M. OCA IPI No. 08-2837-RTJ)

VICTORIANO SY, *complainant, vs.* **Judge OSCAR E. DINOPOL, Regional Trial Court, Branch 24, Koronadal City,** *respondent.*

SYLLABUS

1. JUDICIAL ETHICS; JUDGES; IGNORANCE OF THE LAW; RESPONDENT JUDGE NOT LIABLE THEREFOR IN HIS HANDLING OF CIVIL CASE NO. 1403-24 AND MISC. CASE NO. 1440-24; CASE AT BAR.— Judge Dinopol cannot be disciplined for ignorance of the law and of procedure in his handling of Civil Case No. 1403-24 (for *Annulment and/or Declaration of Nullity of Real Estate Mortgage*) filed by Sps. Victoriano and Loreta Sy against Metrobank, as he inhibited himself from the case, nor in his handling of Misc. Case No. 1440-24 (*Petition for the Issuance of a Writ of Possession*) filed by Metrobank against Sps. Victoriano Sy, *et al.*, because of the essential nature of the proceeding itself. In issuing the writ of possession and in directing its re-implementation when it was returned unsatisfied the first time it was enforced, Judge Dinopol acted in accordance with the rules and jurisprudence on the matter. As the Court held in *Santiago v. Merchants Rural Bank of Talavera, Inc.*, the proceeding in a petition for the issuance of a writ of possession is *ex-parte* and summary in nature. It is brought for the benefit of one party only and may be granted even without notice to the mortgagor, in this case, complainant Sy. Moreover, the duty of the court to grant