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Certainly, an abuse of discretion does not necessarily arise just because NLRC reversed the decision of POEA. Neither does variance in the evidentiary assessment of NLRC and that of POEA warrants, as a matter of course, another full review of the facts. The decision or order of the NLRC so long as it is not bereft of support from the records deserves respect from this Court.

WHEREFORE, the petition is *DENIED*. The appealed decision of the NLRC directing petitioners SINGA SHIP MANAGEMENT PHILS., INC., and ROYAL CRUISE LINE jointly and severally to pay private respondent MARIO SANGIL the sum of US $500.00 plus ten percent (10%) thereof as attorney's fees, is *AFFIRMED*, with costs against petitioners.

SO ORDERED.

Davide, Jr. (Chairman), Vitug, Panganiban, and *Quisumbing, JJ.,* concur.

SECOND DIVISION

[A.M. No. MTJ-98-1150. April 15, 1998]

OSCAR C. FERNANDEZ, *complainant, vs.* **JUDGE LILIA C. ESPAÑOL, MTCC, Branch 2, Dagupan City,** *respondent.*

SYNOPSIS

The complainant was the plaintiff in a complaint for unlawful detainer. A decision was rendered in his favor and the defendant was ordered to vacate the property and pay rentals, damages, and attorney's fees. The defendant subsequently filed a notice of appeal. In view of the failure of the defendant to post a supersedeas bond and to pay the monthly rentals, the complainant filed a motion for execution. The respondent judge granted the motion of complainant and ordered the issuance

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of a writ of execution. However, the defendant filed a motion for reconsideration, alleging that complainant's brothers had renewed the lease contract. The respondent judge granted the defendant's motion for reconsideration and gave due course to the defendant's appeal. Respondent judge then ordered the records of the case to be forwarded to the Regional Trial Court for the assessment of fees. The complainant avers that the appellate docket fee was paid by the defendant only six months after the 15-day period within which to appeal had expired. Hence, this complaint charging respondent judge with gross ignorance of the law, knowingly rendering an unjust interlocutory order and violation of Sec. 3 (e) of R.A. No. 3019 by causing undue injury to a party litigant.

The Supreme Court held that the judge ought to have known that at least until the filing of the motion for reconsideration, complainant, as administrator, had the sole authority to extend the defendant's stay. Respondent judge has shown ignorance of the law, considering that the special cases under the Rules on Summary Procedure, especially ejectment cases, are staples of the municipal and metropolitan courts which have exclusive jurisdiction over them. The Court imposed upon the respondent judge a fine of two thousand pesos with the warning that repetition of the same or similar acts will be dealt with more severely.

SYLLABUS

1. **REMEDIAL LAW; ACTION; RULES ON SUMMARY PROCEDURE; JUDGMENT; REQUISITES FOR THE STAY OF EXECUTION; CASE AT BAR.** — The Rules on Summary Procedure, however, apply to the proceedings in the main action, *i.e.,* from the filing of the complaint to the rendition of the judgment by the municipal or metropolitan trial court, not to incidents occurring subsequent to the main action. Nevertheless, respondent judge should have known that ejectment cases are summary in character and that under Section 21 of the aforequoted rules and Rule 70, Section 8 of the Rules of Court, the judgment in an action for unlawful detainer is immediately executory, and may be stayed only if the defendant-appellants (1) perfect their appeal, (2) file a supersedeas bond, and (3) periodically deposit the rentals falling due during the pendency

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of the appeal. Considering these principles, respondent judge should simply have ascertained from the records the allegations in complainant's motion for execution and, on that basis, resolved the motion. Had she done this, she could not have failed to notice that the defendant had not given a supersedeas bond to stay immediate execution of the judgment and had not paid the current rents as they fell due. The defendant's failure to comply with these requisites entitled the complainant to the immediate execution of the judgment. The court's duty was simply to order such execution.

2. **ADMINISTRATIVE LAW; JUDGES; TO JUSTIFY TAKING OF DRASTIC DISCIPLINARY ACTION, THE LAW REQUIRES THAT THE ERROR OR MISTAKE MUST BE GROSS OR PATENT, MALICIOUS, DELIBERATE OR IN BADFAITH; NOT PRESENT IN CASE AT BAR.** — Respondent judge has shown ignorance of law, considering that the special cases under the Rules on Summary Procedure, especially ejectment cases, are staples of the municipal and metropolitan courts which have exclusive jurisdiction over them. However, to justify the taking of drastic disciplinary action, the law requires that the error or mistake of the judge must be gross or patent, malicious, deliberate or in bad faith. These are not present in the instant case. There is no evidence that respondent acted with malice in issuing her order of June 27, 1996 granting reconsideration of her earlier order of execution to sustain or support the other charges against respondent judge. For this reason, a lower penalty than would be appropriate had there been gross ignorance of law would suffice.

D E C I S I O N

MENDOZA, *J.*:

This is a complaint charging respondent judge of the Municipal Trial Court in Cities of Dagupan City with gross ignorance of law, knowingly rendering an unjust interlocutory order (Revised Penal Code, Art. 206) and violation of §3(e) of R.A. No. 3019 by causing undue injury to a party litigant.

Complainant is the plaintiff in a complaint for unlawful detainer filed in the Municipal Trial Court in Cities of Dagupan City

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(Branch 2). A decision was rendered in his favor on January 3, 1996 by Judge Jules A. Mejia. The defendant was ordered to vacate the property and pay rentals, damages, and attorney's fees. Defendant subsequently filed a notice of appeal.

In view of the failure of the defendant to post a supersedeas bond and to pay the monthly rentals, however, complainant filed a motion for execution. On March 21, 1996, respondent judge, as acting presiding judge of Branch 2 vice Judge Mejia (who had retired), issued an order setting the motion for hearing on April 15, 1996. At the hearing, over the objection of complainant, respondent judge gave the defendant ten (10) days within which to submit a memorandum *in lieu* of oral arguments, and complainant five (5) days within which to file a reply memorandum from receipt of the said memorandum. No memorandum was, however, filed by the defendant within the 10-day period. Complainant, on the other hand, filed a reply memorandum for the purpose of answering some arguments made by the defendant at the hearing.

On May 15, 1996, the respondent judge granted the motion of complainant and ordered the issuance of a writ of execution. But the defendant filed a motion for reconsideration, alleging that complainant's brothers, who are co-owners of the property, had renewed the lease contract of the defendant. The defendant attached an unsworn "Affidavit" where the alleged co-owners stated that they did not authorize the filing of the complaint and expressed their consent to the continued stay of defendant on the property. Complainant filed a motion to expunge the motion for reconsideration from the record of the case on the ground that the pleading was not authorized under the Rules on Summary Procedure and that it contained misleading statements.

On June 27, 1996, respondent judge granted the defendant's motion for reconsideration and gave the defendant's appeal due course, at the same time deferring the issuance of the writ of execution "until the opportune time." Respondent judge then ordered the records of the case to be forwarded to the

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Regional Trial Court for the "assessment of the fees to be paid by her and the appropriateness thereof."[1]

Complainant avers that the appellate docket fee was paid in July, 1996, six (6) months after the 15-day period within which to appeal had expired.

In her comment, respondent judge explained that she granted the defendant's motion for reconsideration in view of a supervening event, *i.e.*, the renewal of the lease contract by the co-owners of the complainant, which justified a stay of execution. She accuses complainant of pressuring her into resolving the matter in his favor, threatening to file an administrative complaint against her if she did not do so. She claims that the complaint in this case is one by a disgruntled litigant. Respondent judge claims further that complainant would appear in her chambers unannounced and engage her in lengthy conversation which sometimes strayed into the merits of the case. Out of courtesy to him, since complainant was a former RTC judge, she had to entertain him. According to respondent judge, in order to discredit and embarrass her, complainant has been spreading the news in the court that he has filed the instant complaint against her.

The Office of the Court Administrator, to which this complaint was referred for evaluation, report and recommendation, found the facts alleged in the complaint to be true. In his report dated November 13, 1997, Deputy Court Administrator Reynaldo Suarez recommends that respondent judge be found administratively liable and fined ₱10,000 with a warning that the commission of the crime or similar acts in the future will be dealt with more severely.

The recommendation is well-taken.

Complainant cites the following provision of the 1991 Rules on Summary Procedure as having been violated by respondent judge in resolving his motion for execution:

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[1] *Rollo*, p. 37.

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Section 19. *Prohibited pleadings and motions* — The following pleadings, motions or petitions shall not be allowed in the cases covered by this Rule:

(a) Motion to dismiss the complaint or to quash the complaint or information except on the ground of lack of jurisdiction over the subject matter, or failure to comply with the preceding section;

(b) Motion for a bill of particulars;

(c) Motion for new trial, or for *reconsideration* of a judgment, or for reopening of trial;

(d) Petition for relief from judgment;

(e) Motion for extension of time to file pleadings, affidavits or any other paper;

(f) *Memoranda*;

(g) Petition for *certiorari*, mandamus, or prohibition against any interlocutory order issued by the court;

(h) Motion to declare the defendant in default;

(i) Dilatory motions for postponement;

(j) *Reply*;

(k) Third party complaints;

(l) Interventions.

The Rules on Summary Procedure, however, apply to the proceedings in the main action, *i.e.*, from the filing of the complaint to the rendition of the judgment by the municipal or metropolitan trial court, not to incidents occurring subsequent to the main action. Nevertheless, respondent judge should have known that ejectment cases are summary in character and that under §21 of the aforequoted rules and Rule 70, §8 of the Rules of Court, the judgment in an action for unlawful detainer is immediately executory, and may be stayed only if the defendant-appellants (1) perfect their appeal, (2) file a supersedeas bond, and (3) periodically deposit the rentals falling due during the pendency of the appeal.[2] Considering these principles, respondent judge

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[2] *Centrum Agri-Business Realty Corporation vs. Katalbas-Moscardon*, 247 SCRA 145, 173 (1995).

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should simply have ascertained from the records the allegations in complainant's motion for execution and, on that basis, resolved the motion. Had she done this, she could not have failed to notice that the defendant had not given a supersedeas bond to stay immediate execution of the judgment and had not paid the current rents as they fell due. The defendant's failure to comply with these requisites entitled the complainant to the immediate execution of the judgment. The court's duty was simply to order such execution.[3] Respondent judge herself held so when she finally issued an order on May 15, 1996 granting execution.

Indeed, this administrative complaint would have been unnecessary had respondent judge stopped there. After all, not only did the defendant in the ejectment case fail to post a supersedeas bond and to pay the current rentals, he failed to pay the docket fee as well (although the fee was paid belatedly in July 1996). Respondent judge, however, over complainant's objection, proceeded to grant defendant's motion for a reconsideration of her May 15, 1996 order granting execution. Her claim was that there was a supervening event justifying reconsideration, namely, the other owners of the property had agreed to extend the defendant's right to stay.

The excuse is a flimsy one. The judge ought to have known that at least until the filing of the motion for reconsideration, complainant, as administrator, had the sole authority to extend the defendant's stay. As Deputy Court Administrator Suarez observes:[4]

A careful perusal of the records though would indicate that the circumstance of supervening event is wanting in the case at bar. Respondent judge should have studied the case carefully before issuing the questioned order. Had respondent assiduously studied the records, she would have discovered that the plaintiff is the co-owner (1/3 share) and the appointed administrator of the entire intestate estate of their parents, the late Angel and Corazon Fernandez. With respect to his (1/3) share, complainant entered a verbal Lease contract

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[3] *Puncia v. Gerona*, 252 SCRA 425, 430 (1996).

[4] Memorandum for the Chief Justice, p. 5.

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with the defendant. Record shows that plaintiff was appointed administrator of the intestate estate of Sps. Fernandez, on January 6, 1996 in SPL PROC No. 3021. Considering that herein complainant was appointed administrator, there is no doubt that he alone and nobody else could maintain an action to preserve the rights of the decedents during their lifetime (Annex A — Decision, Civil Case No. 10037, *Rollo*, p. 9). The affidavit allegedly executed by the brothers of herein complainant who claim to be co-administrators of the estate to our mind cannot overcome this established fact, firstly, because the affidavit is unverified and secondly said affidavit is being assailed. It is evident that respondent Judge merely relied on the assailed affidavit in issuing the questioned Order of June 27, 1996 and disregarded the entire records of the case.

There may be truth to the contents of the affidavit, as in fact complainant admits that his coheirs had contested his right to administer the property and that as a result thereof, they now administer the property of his late mother jointly. However, there was no joint administration of the estate at the time the motion for reconsideration of the defendant was granted. Respondent judge could not recognize any other administrator but complainant at that time.

Respondent judge has shown ignorance of law, considering that the special cases under the Rules on Summary Procedure, especially ejectment cases, are staples of the municipal and metropolitan courts which have exclusive jurisdiction over them. However, to justify the taking of drastic disciplinary action, the law requires that the error or mistake of the judge must be gross or patent, malicious, deliberate or in bad faith.[5] These are not present in the instant case. There is no evidence that respondent acted with malice in issuing her order of June 27, 1996 granting reconsideration of her earlier order of execution to sustain or support the other charges against respondent judge. For this reason, a lower penalty than would be appropriate had there been gross ignorance of law would suffice.

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[5] *Roa, Sr. v. Imbing*, 231 SCRA 57, 61 (1994); *Guillermo v. Reyes, Jr.*, 240 SCRA 154, 161 (1995); *Alvarado v. Laquindanum*, 245 SCRA 501, 504 (1995); *Bengzon v. Adaoag,* 250 SCRA 344, 348 (1995).

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ACCORDINGLY, the Court hereby imposes upon respondent judge a FINE of two thousand pesos (₱2,000.00) with the WARNING that repetition of the same or similar acts will be dealt with more severely.

SO ORDERED.

Regalado (Chairman), Melo, Puno, and *Martinez, JJ.,* concur.

THIRD DIVISION

[A.M. No. P-98-1266. April 15, 1998]

SOLIDBANK CORPORATION, *complainant, vs.* **BRANCH CLERK OF COURT ROBERTO B. CAPOON, JR., REGIONAL TRIAL COURT, BRANCH 62, Makati City, and CLERK OF COURT VIRGINIA TABIRAO, of the same RTC, Branch 62, Makati City,** *respondents.*

SYNOPSIS

Respondent Clerk of Court Roberto B. Capoon, Jr. and Clerk for Civil Cases Virginia Tabirao of Branch 62 of the Regional Trial Court, Makati City failed to furnish counsel for the complainant a copy of the Court Order dated August 6, 1993 which dismissed Civil Case No. 92-021 entitled "*Solidbank Corporation vs. Ballistics Armoring Corporation Philippines, R. Keith Ogden, Jr. and American Assurance Co.,*" for failure to prosecute, while counsels for the defendants were furnished copies of the said order.

By reason thereof, the complainant claimed that it failed to avail of remedies to protect its interest and as a result, it suffered great and irreparable damage. Hence, it filed this administrative