SECOND DIVISION

[A.M. No. RTJ-23-029. January 23, 2023]
(Formerly OCA IPI No. 19-4955-RTJ)

SECURITIES AND EXCHANGE COMMISSION, represented by COMMISSIONER EMILIO B. AQUINO, *Complainant*, *v.* **HON. OSCAR P. NOEL, JR., Presiding Judge, Branch 35, Regional Trial Court, General Santos City, South Cotabato,** *Respondent*.

D E C I S I O N

KHO, JR., *J.*:

This administrative matter arose from a Complaint[1] filed by complainant Securities and Exchange Commission (SEC), represented by Commissioner Emilio B. Aquino, charging respondent Hon. Oscar P. Noel, Jr. (respondent), Presiding Judge of the Regional Trial Court (RTC) of General Santos City, South Cotabato, Branch 35 with Gross Ignorance of the Law in connection with Special Civil Case No. 19-806, entitled "*Kapa-Community Ministry International, Inc., represented by Pastor Joel A. Apolinario v. Securities and Exchange Commission*" (subject case).

The Facts

On February 14, 2019, the SEC issued a Cease and Desist Order (CDO)[2] against Kapa-Community Ministry International, Inc. (KAPA) after discovering that the latter was selling securities in the form of investment contracts, in violation of Republic Act No. (RA) 8799, otherwise known as "The Securities Regulation Code" (SRC).[3] KAPA initially filed a motion, before the SEC

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1 *Rollo*, pp. 2–17.

2 Id. at 21–35. Signed by Chairperson Emilio B. Aquino and concurred in by Commissioners Antonieta F. Ibe, Kelvin Lester K. Lee, and Javey Paul D. Francisco. Commissioner Ephyro Luis B. Amatong was on official business.

3 Approved on July 19, 2000.

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seeking the lifting of the CDO, but later on, withdrew the same. On March 1, 2019, KAPA filed the subject case[4] for injunction with application for issuance of a temporary restraining order (TRO) and/or writ of preliminary injunction (WPI) before the RTC, essentially claiming that the CDO issued by the SEC violated its right to religious freedom.[5]

In an Order[6] dated March 1, 2019, the RTC Branch 58 denied KAPA's prayer for a 72-hour TRO on the ground that its proper remedy is to file a motion to lift the CDO before the SEC. Thereafter, the subject case was raffled to the RTC Branch 35 where respondent sits as Presiding Judge. Thereafter, the following incidents occurred: *(a)* on March 12, 2019, the SEC was personally served with a Notice of Hearing[7] for a hearing scheduled on March 13, 2019; *(b)* on March 13, 2019, the SEC filed a Manifestation *(Ex Abudanti Ad Cautelam)*[8] contending that the RTC had no jurisdiction over the subject matter of the case but respondent formally expunged the same[9] on even date for violation of the Efficient Use of Paper Rule; *(c)* in an Order[10] dated March 15, 2019, respondent granted KAPA's prayer for a 20-day TRO on the ground that such prayer went unopposed, and proceeded to issue the same[11] on March 19, 2019; *(d)* in an Order[12] dated April 4, 2019, respondent issued a WPI in favor of KAPA, again on the ground that such prayer went unopposed. In granting the TRO and WPI, respondent opined that the regular courts, and not the SEC, have jurisdiction over issues involving the constitutional right to

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[4] See Petition for Injunction (with Application for the Issuance of a Temporary Restraining Order and/or a Writ of Preliminary Injunction) dated March 1, 2019, *rollo*, pp. 99–129.

[5] Id. at 366.

[6] Id. at 171–174. Signed by Judge Joyce Kho Mirabueno.

[7] Id. at 175–176. Signed by Branch Clerk of Court Atty. Winston C. Pagador.

[8] Id. at 177–180.

[9] See Order dated March 13, 2019, id. at 202.

[10] Id. at 196–198.

[11] Id. at 199.

[12] Id. at 239–240.

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the free exercise of religion; that the power of the SEC is limited to issues on securities trading; and that the TRO and WPI did not cover issues on securities because said matter was not raised by KAPA in its petition.[13]

In light of the foregoing, the SEC filed the instant complaint for, *inter alia*, Gross Ignorance of the Law against respondent. Essentially, the SEC contended that it is a co-equal body of RTCs, and hence, the RTCs cannot interfere with or overturn its rulings. In this regard, the SEC pointed out Section 179 of RA 11232, otherwise known as the "Revised Corporation Code of the Philippines" (RCC),[14] which provides that "[n]o court below the Court of Appeals shall have jurisdiction to issue a restraining order, preliminary injunction, or preliminary mandatory injunction in any case, dispute, or controversy that directly or indirectly interferes with the exercise of the powers, duties and responsibilities of the Commission that falls exclusively within its jurisdiction." As such, respondent's acts of issuing a TRO and WPI against the CDO constitutes Gross Ignorance of the Law.[15]

In his Comment,[16] respondent maintained that the charges against him were baseless and that the SEC has only itself to blame for failing to perform its duties of defending its position in court. According to respondent, the SEC was duly notified of the hearings for the TRO and WPI but did not attend the same. Furthermore, respondent insisted that the RTC has jurisdiction over the subject case, considering that KAPA raised the constitutional issue of free exercise of religion, and did not delve on trading and securities. Finally, respondent posited that if the SEC does not agree with his orders, then it should have availed of the judicial remedies available to it under the Rules.[17]

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[13] Id. at 366–367.

[14] Approved on February 20, 2019.

[15] *Rollo*, p. 368.

[16] Id. at 333–337.

[17] Id. at 368–369.

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The OCA Report and Recommendation

In a Report[18] dated August 11, 2020, the Office of the Court Administrator (OCA) recommended, among others, that respondent be found administratively liable for Gross Ignorance of the Law, and accordingly, be meted with the penalty of suspension from the service for a period of four months, with a stern warning that a repetition of the same or similar offense shall be dealt with more severely by the Court.[19]

Citing Section 179 of the RCC, the OCA held that RTCs have no authority to issue any restraining order that directly or indirectly interferes with the SEC's exclusive powers and duties. According to the OCA, respondent's insistence that he only acted due to the possible curtailment of KAPA's right to religious freedom cannot be given any credence, considering that the circumstances of the case, particularly, that: *(a)* after the SEC's issuance of the CDO, KAPA initially moved before the SEC to lift the same; and *(b)* KAPA withdrew such motion, and instead, filed the subject case, show that KAPA circumvented the procedure in filing the subject case in the guise of its alleged violation of its right to religious freedom. In this regard, the OCA opined that the RTC Branch 58's denial of the prayer for the issuance of the 72-hour TRO on the ground that KAPA's proper remedy is to file a motion to lift the CDO before the SEC should have already put respondent on guard, and that he should have taken it upon himself to first ascertain whether he had the jurisdiction or the legal competence to act on a petition for injunction to prevent the enforcement of an order issued by a co-equal body. Despite the foregoing, respondent still issued the TRO and WPI, thereby committing Gross Ignorance of the Law.[20]

Finally, the OCA pointed out that respondent had been previously found administratively liable for the same offense in two different instances where he was admonished and reprimanded,

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[18] Id. at 366-372. Signed by then Court Administrator Jose Midas P. Marquez (now a Member of the Court) and SC Senior Chief Staff Officer Noe A. Pleños on behalf of Deputy Court Administrator Leo T. Madrazo.

[19] Id. at 372.

[20] Id. at 369–371.

respectively. As such, he should be meted with a stiffer penalty given that this is his third infraction for Gross Ignorance of the Law.[21]

The Issue Before the Court

The issue for the Court's resolution is whether or not respondent should be held administratively liable for the acts complained of.

The Court's Ruling

The Court adopts the findings of the OCA with certain modifications, as will be explained below.

I.

At the outset, it is important to note that on February 22, 2022, the Court *En Banc* unanimously approved A.M. No. 21-08-09-SC, entitled "Further Amendments to Rule 140 of the Rules of Court." On April 3, 2022, the publication requirement thereof had already been complied with;[22] hence, Rule 140, as further amended (the Rules), is already effective.

In this relation, Section 24 of the Rules explicitly provides that it will apply to all pending and future administrative disciplinary cases involving Members, officials, employees, and personnel of the Judiciary, to wit:

> SECTION 24. *Retroactive Effect*. — **All the foregoing provisions shall be applied to all pending and future administrative cases involving the discipline of Members, officials, employees, and personnel of the Judiciary**, without prejudice to the internal rules of the Committee on Ethics and Ethical Standards of the Supreme Court insofar as complaints against Members of the Supreme Court are concerned. (Emphasis and underscoring supplied)

In view of the foregoing, the Court shall resolve this case under the framework of the Rules.

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[21] Id. at 371.

[22] Section 26 of the Rules reads:

> SECTION 26. *Effectivity Clause*. — These Rules shall take effect following their publication in the Official Gazette or **in two newspapers of national circulation**. (Emphasis and underscoring supplied)

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II.

"Our conception of good judges has been, and is, of men who have a mastery of the principles of law, who discharge their duties in accordance with law. Judges are the visible representations of law and justice, from whom the people draw the will and inclination to obey the law. They are expected to be circumspect in the performance of their tasks, for it is their duty to administer justice in a way that inspires confidence in the integrity of the justice system. Judges should exhibit more than just a cursory acquaintance with the statutes and procedural rules, and should be diligent in keeping abreast with developments in law and jurisprudence. For, a judge who is plainly ignorant of the law taints the noble office and great privilege vested in him."[23] In *Department of Justice v. Mislang*,[24] the Court elaborated on the administrative offense of Gross Ignorance of the Law as follows:

> Gross ignorance of the law is the **disregard of basic rules and settled jurisprudence**. A judge may also be administratively liable if shown to have been motivated by bad faith, fraud, dishonesty or corruption in ignoring, contradicting or failing to apply settled law and jurisprudence. **Though not every judicial error bespeaks ignorance of the law and that, if committed in good faith, does not warrant administrative sanction, the same applies only in cases within the parameters of tolerable misjudgment**. Such, however, is not the case with Judge Mislang. **Where the law is straightforward and the facts so evident, failure to know it or to act as if one does not know it constitutes gross ignorance of the law**. A judge is presumed to have acted with regularity and good faith in the performance of judicial functions. **But a blatant disregard of the clear and unmistakable provisions of a statute, as well as Supreme Court circulars enjoining their strict compliance, upends this presumption and subjects the magistrate to corresponding administrative sanctions**.
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> For liability to attach for ignorance of the law, the assailed order, decision or actuation of the judge in the performance of official duties must not only be found erroneous but, most importantly, it must also be

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[23] *Philippine National Construction Corporation v. Mupas*, A.M. No. RTJ-20-2593, November 10, 2020 *[Per Curiam, En Banc]*; citations omitted.

[24] 791 Phil. 219 (2016) *[Per Curiam, En Banc]*.

established that he was moved by bad faith, dishonesty, hatred, or some other like motive. Judges are expected to exhibit more than just cursory acquaintance with statutes and procedural laws. They must know the laws and apply them properly in all good faith. Judicial competence requires no less. **Thus, unfamiliarity with the rules is a sign of incompetence. Basic rules must be at the palm of his hand. When a judge displays utter lack of familiarity with the rules, he betrays the confidence of the public in the courts. Ignorance of the law is the mainspring of injustice.** Judges owe it to the public to be knowledgeable, hence, they are expected to have more than just a modicum of acquaintance with the statutes and procedural rules; they must know them by heart. **When the inefficiency springs from a failure to recognize such a basic and elemental rule, a law or a principle in the discharge of his functions, a judge is either too incompetent undeserving of the position and the prestigious title he holds or he is too vicious that the oversight or omission was deliberately done in bad faith, and in grave abuse of judicial authority.** In both cases, the judge's dismissal will be in order.[25] (Emphasis and underscoring supplied)

However, it bears clarifying that "[w]hile judges should not be disciplined for inefficiency on account merely of occasional mistakes or errors of judgments, it is highly imperative that they should be conversant with fundamental and basic legal principles in order to merit the confidence of the citizenry. A patent disregard of simple, elementary and well-known rules constitutes Gross Ignorance of the Law."[26] The Court's pronouncement in *Enriquez v. Caminade*[27] is instructive on this matter, to wit:

> Judges are expected to exhibit more than just cursory acquaintance with statutes and procedural laws. In all good faith, they must know the laws and apply them properly. Judicial competence requires no less. **Where the legal principle involved is sufficiently basic and elementary, lack of conversance with it constitutes gross ignorance of the law.**[28] (Emphasis and underscoring supplied)

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[25] Id. at 227–228.

[26] *Philippine National Construction Corporation v. Mupas*, supra; citations omitted.

[27] 519 Phil. 781 (2006) [Per C.J. Panganiban, First Division].

[28] Id. at 783.

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Otherwise stated, "[w]hen the law is sufficiently basic, a judge owes it to his office to know and to simply apply it. Anything less would be constitutive of gross ignorance of the law."[29]

Here, it is well to recapitulate that after the SEC issued a CDO against KAPA for selling securities in the form of investment contracts in violation of the SRC, KAPA initially sought for the lifting of the CDO before the SEC, but eventually withdrew its motion. Thereafter, KAPA filed the subject case seeking that the implementation of the CDO be restrained on the purported ground that it violates KAPA's right to religious freedom. While the RTC Branch 58 denied the prayer for a 72-hour TRO, maintaining that KAPA's proper remedy is to seek for its lifting before the SEC, the RTC Branch 35, where respondent sits as Presiding Judge, took cognizance of the case and even issued a 20-day TRO, and later on, a WPI in KAPA's favor and against the CDO.

At this juncture, it is worthy to note that "[a]s courts of general jurisdiction, the RTC ordinarily exercise exclusive original jurisdiction over civil actions incapable of pecuniary estimation, such as that of accounting, cancellation of certificates of sale issued in foreclosure proceedings and injunction. Nevertheless, the scope of such general jurisdiction cannot be extended over matters falling under the *special* jurisdiction of another court or quasi-judicial body."[30] Relatedly, under prevailing laws, rules, and jurisprudence, it is a basic rule that pursuant to its exercise of quasi-judicial jurisdiction, *i.e.*, the issuance of CDOs, ***the SEC stands as a co-equal body of the RTCs; hence, all orders and issuances issued by the SEC in the exercise of such jurisdiction may not be interfered with, let alone overturned, by the RTCs.***[31] The foregoing rule, which stems from "the doctrine

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[29] *Philippine National Construction Corporation v. Mupas*, supra, citing *Cabili v. Balindong*, 672 Phil. 398, 412 (2011) *[Per Curiam, En Banc]*.

[30] *Rizal Commercial Banking Corporation v. Plast-Print Industries, Inc.*, G.R. No. 199308, June 19, 2019 [Per J. Caguioa, Second Division], citing Section 19 of *Batas Pambansa Blg. 129*, otherwise known as the "*Judiciary Reorganization Act of 1980.*"

[31] See id., citing *Philippine Pacific Fishing Co., Inc. v. Luna*, 198 Phil. 301, 314 (1982) [Per J. Barredo, Second Division].

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of judicial stability or non-interference in the regular orders or judgments of a co-equal court, is an elementary principle in the administration of justice: no court can interfere by injunction with the judgments or orders of another court of concurrent jurisdiction having the power to grant the relief sought by the injunction. The rationale for the rule is founded on the concept of jurisdiction: a court that acquires jurisdiction over the case and renders judgment therein has jurisdiction over its judgment, to the exclusion of all other coordinate courts, for its execution and over all its incidents, and to control, in furtherance of justice, the conduct of ministerial officers acting in connection with this judgment."[32] Further, "[t]his rule of non-interference applies not only to courts of law having equal rank ***but also to quasi-judicial agencies statutorily at par with such courts.***"[33]

Furthermore, and as aptly pointed out by the SEC, and later on, the OCA, Section 179 of the RCC pertinently states that "[n]o court below the Court of Appeals shall have jurisdiction to issue a restraining order, preliminary injunction, or preliminary mandatory injunction in any case, dispute, or controversy that directly or indirectly interferes with the exercise of the powers, duties and responsibilities of the Commission that falls exclusively within its jurisdiction." Notably, the RCC took effect on February 23, 2019,[34] or prior to KAPA's filing of the subject case on March 1, 2019.

Based on the foregoing, respondent should have refrained from acting on the subject case — as what the Presiding Judge of RTC Branch 58 did. Despite these, respondent still issued a 20-day TRO, and later on, a WPI in KAPA's favor and against the CDO issued by the SEC, a co-equal body.

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[32] *Cabili v. Balindong*, supra at 406–407; citations omitted.

[33] *Philippine Telegraph & Telephone Corp. v. Smart Communications, Inc.*, 799 Phil. 78, 93 (2016) [Per J. Jardeleza, Third Division], citing *Municipality of Malolos v. Libangang Malolos, Inc.*, 247 Phil. 254 (1988) [Per J. Melencio-Herrera, Second Division]; emphasis and underscoring supplied.

[34] See SEC Notice dated February 28, 2019, available at <https://www.sec.gov.ph/wp-content/uploads/2019/11/2019Legislation_RevisedCorporationCodeEffectivity.pdf> (last visited December 15, 2022).

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More significantly, respondent violated the doctrine on primary jurisdiction. To be sure, this doctrine states that "courts cannot or will not determine a controversy involving a question which is within the jurisdiction of the administrative tribunal prior to the resolution of that question by the administrative tribunal, where the question demands the exercise of sound administrative discretion requiring the special knowledge, experience, and services of the administrative tribunal to determine technical and intricate matters of fact."[35] To recapitulate, the SEC issued the CDO against KAPA selling securities in the form of investment contracts, in violation of RA 8799 — a special law, the enforcement of which is particularly vested in the SEC.[36] Thus, primary jurisdiction over this matter clearly falls within the SEC, and it was a grave error for respondent to have issued the said 20-day TRO and WPI.

In an attempt to absolve himself from administrative liability, respondent insisted, *inter alia*, that RTC has jurisdiction over the subject case, considering that KAPA raised the constitutional issue of free exercise of religion, and did not delve on trading and securities. However, the Court finds such insistence untenable for the simple reason that respondent cannot feign ignorance of the fact that his issuance of a TRO and WPI in the subject case will have the effect of restraining the enforcement of the CDO issued by the SEC, a co-equal body.

Verily, respondent's "lack of familiarity with the rules in interfering with the acts of a co-equal body undermines public confidence in the [J]udiciary through his demonstrated incompetence."[37] Thus, it is only proper that respondent be found administratively liable for Gross Ignorance of the Law.

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[35] *Kilusang Mayo Uno v. Hon. Aquino*, 850 Phil. 1168 (2019) [Per J. Leonen, *En Banc*], citing *Republic v. Gallo*, 823 Phil. 1090 (2018) [Per J. Leonen, Third Division].

[36] See Section 4 of RA 8799. See also *Baviera v. Paglinawan*, 544 Phil. 107 (2007) [Per J. Sandoval-Gutierrez, First Division].

[37] *Cabili v. Balindong*, supra note 29, at 411.

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III.

Respondent's administrative liability for Gross Ignorance of the Law having been established, the Court now goes to the proper imposable penalty on him.

Under the Rules, Gross Ignorance of the Law is a serious charge[38] which is punishable by any of the following penalties found under Section 17 (1) of the Rules, *i.e.*: *(a)* dismissal from service, forfeiture of all or part of the benefits as the Supreme 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; *(b)* suspension from office without salary and other benefits for more than six months but not exceeding one year; or *(c)* a fine of more than ₱100,000.00 but not exceeding ₱200,000.00.

Further, Section 19 (2) (a) of the Rules provides that a "[f]inding of previous administrative liability where a penalty is imposed, regardless of nature and/or gravity" is considered as an aggravating circumstance. Relatedly, Section 20 of the Rules instructs that "[i]f one (1) or more aggravating circumstances and no mitigating circumstances are present, ***the Supreme Court may impose the penalties of suspension or fine for a period or amount not exceeding double of the maximum prescribed under this Rule***."[39]

Here, the OCA pointed out that respondent had been previously found administratively liable for Gross Ignorance of the Law, namely: *(a)* in *BIR v. Noel, Jr.*[40] where he was admonished; and *(b)* in *Rodriguez v. Noel, Jr.*[41] where he was reprimanded and sternly warned that a repetition of the same or similar acts shall be dealt with more severely by the Court. However, for purposes

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[38] See Section 14 (j) of the Rules.

[39] Emphasis and underscoring supplied.

[40] See Notice of Resolution in A.M. No. RTJ-12-2311, February 6, 2012.

[41] See Notice of Resolution in A.M. No. RTJ-18-2525, June 25, 2018.

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of aggravating respondent's administrative liability here, only the latter case shall be taken into consideration, pursuant to the relevant annotation to the Rules which reads:

> Finally, the phrase "where a penalty is imposed" is added ***to exclude previous administrative proceedings involving respondent where he or she was merely admonished or warned, in light of case law which provides that admonition and warning are not considered as penalties.*** (*Tobias v. Veloso*, 188 Phil. 267 [1980]; *In the Matter of the Contempt Orders Against Lt. Gen. Jose M. Calimlim and Atty. Domingo A. Doctor, Jr.*, 584 Phil. 377 [2008]; *Samahan ng mga Progresibong Kabataan v. Quezon City*, 815 Phil. 1067 [2017]).

At this juncture, the Court notes that this is already the third time that respondent is being held administratively liable for Gross Ignorance of the Law. This notwithstanding, the Court opts, at least for this instance, to stay its hand in imposing the supreme penalty of dismissal from the service on respondent. This is considering that the purpose of administrative cases against public officials is not necessarily to penalize — but rather, "to exact accountability for the wrongful acts that they have committed in the performance of their official functions"[42] with the aim of "restor[ing] and preserv[ing] the public trust in our institutions."[43] In light of the foregoing, the Court finds it appropriate to impose on respondent the penalty of suspension from office without salary and other benefits for a period of two years, again with a stern warning that a repetition of the same or similar acts shall be dealt with more severely. This goes without saying that should respondent be found administratively liable for the same offense in the future, then the Court might no longer temper the penalties that may be meted on him.

As a final note, the Court reiterates that "[n]o less than the Constitution states that a member of the judiciary 'must be a person of proven competence, integrity, probity and independence.'

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[42] Dissenting Opinion of SAJ Perlas-Bernabe in *Concepcion v. Castañeda*, A.M. No. RTJ-15-2438, September 2, 2020.

[43] *Concepcion v. Castañeda*, A.M. No. RTJ-15-2438, September 2, 2020 [Per J. Leonen, *En Banc*].

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It is, therefore, highly imperative that a judge should be conversant with basic legal principles. When a judge displays an utter lack of familiarity with the rules, he erodes the public's confidence in the competence of our courts."[44] As such, he or she must be disciplined accordingly, as in this case.

ACCORDINGLY, the Court finds respondent Oscar P. Noel, Jr., Presiding Judge of the Regional Trial Court of General Santos City, South Cotabato, Branch 35, **GUILTY** of Gross Ignorance of the Law. He is hereby **SUSPENDED** from office without salary and other benefits for a period of two years, and is **STERNLY WARNED** that a repetition of the same or similar acts shall be dealt with more severely.

Let a copy of this Decision be attached to the personal record of respondent judge.

SO ORDERED.

Leonen, S.A.J. (Chairperson), Lazaro-Javier, M. Lopez, and *J. Lopez, JJ.*, concur.

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[44] *Philippine National Construction Corporation v. Mupas*, supra note 23; citations omitted.