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THIRD DIVISION

[A.M. No. RTJ-00-1586. October 24, 2003]

THELMA C. BALDADO, *complainant, vs.* **Judge ARNULFO O. BUGTAS, Regional Trial Court, Branch 2, Borongan, Eastern Samar,** *respondent.*

SYNOPSIS

Respondent judge was charged with gross ignorance of the law, gross negligence, manifest partiality, bribery and corruption relative to an election protest. Complainant challenged the decision of respondent which held that her opponent Zacate won by one vote as against her. She likewise assailed the resolution of respondent granting Zacate's motion for execution pending appeal despite the fact that his court was no longer in possession of the records of the case. The Office of the Court Administrator (OCA) found respondent guilty of violating the rule on discretionary execution. The OCA, however, found that the other charges were unsubstantiated.

The Supreme Court ruled that courts may order execution pending appeal prior to the transmittal of the original records to an appellate tribunal. Thus, respondent erred in granting execution pending appeal in the election protest case. However, such act does not amount to gross ignorance of the law. To be held liable therefor, the judge must be shown to have committed an error that was gross or patent, deliberate and malicious. When the law is sufficiently basic or elementary, not to know it or to act as if one does not know it constitutes gross ignorance of the law. Otherwise, not knowing it would only amount to simple — not gross — ignorance of the law. In the present case, an examination of related jurisprudence shows that the rule on discretionary execution is not simple or easy.

The Court likewise ruled that respondent failed to perform his official duties with due diligence, thereby violating the Code of Judicial Conduct. He was grossly negligent in promulgating a decision in which the *fallo* was totally unsupported by the body.

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As to the other charges, the Court held that complainant failed to substantiate the same. Respondent judge was fined ₱20,000.00.

SYLLABUS

1. **REMEDIAL LAW; ACTIONS; JUDGMENT; EXECUTION PENDING APPEAL; MAY BE ORDERED BY COURTS PRIOR TO THE TRANSMITTAL OF THE ORIGINAL RECORDS TO AN APPELLATE TRIBUNAL.**— [C]ourts may order execution pending appeal prior to the transmittal of the original records to an appellate tribunal. Conversely, they may not do so when they are no longer in possession of the original records.

2. **JUDICIAL ETHICS; JUDGES; GROSS IGNORANCE OF THE LAW; WHEN NOT LIABLE THEREFOR; CASE AT BAR.**— [R]espondent erred in granting execution pending appeal in Election Protest Case No. 01-98. Nonetheless, we hold that such act does not amount to *gross* ignorance of the law. To be held liable therefor, "the judge must be shown to have committed an error that was 'gross or patent, deliberate and malicious.'" When the law is sufficiently basic or elementary, not to know it or to act as if one does not know it constitutes gross ignorance of the law. Otherwise, not knowing it would only amount to *simple* — not gross — ignorance of the law. In the present case, an examination of related jurisprudence shows that Section 2 of Rule 39 is not simple or easy. It has nuances that were not yet firmly established and settled at the time respondent rendered his questioned resolutions in 1999, just two years after the rules involved herein had been substantially amended. Moreover, it should be noted that when he granted the execution, he was trying to rectify his previous error. It is also worth mentioning that even the Office of the Solicitor General was of the opinion that his subsequent grant of the execution was valid. Under the circumstances, his act did not amount to gross ignorance of the law.

3. **ID.; ID.; GROSS NEGLIGENCE; SANCTIONS.**— Respondent failed to perform his official duties with due diligence, thereby violating the Code of Judicial Conduct. He was grossly negligent in promulgating a Decision in which the *fallo* was totally unsupported by the body. Furthermore, his propensity to make rash, uninformed and unstudied rulings was shown in at least

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a couple of instances. *First*, he perfunctorily denied the Motion for Execution Pending Appeal, allegedly because of lack of jurisdiction to grant it, when he actually still had it. *Second*, he subsequently reversed his own denial — or granted the motion for execution — when he no longer had jurisdiction to grant it. Having once made a mistake, it was incumbent upon the judge to be extra careful, so that he would not commit another one when he acted to rectify the first. His successive rulings that were ill-formulated and erroneous vividly illustrated his lack of regard for the havoc that his erroneous rulings would bring upon the litigants and the justice system itself. Respondent's gross negligence constitutes a violation of the Code of Judicial Conduct. Rule 140 of the Rules of Court classifies such violation as a serious charge, for which it provides the following sanctions: "SEC. 10. *Sanctions*. — A. If the respondent is found culpable of a serious charge, any of the following sanctions may be imposed: '1. Dismissal from the service with forfeiture of benefits (except accrued leaves) and disqualification from reinstatement of appointment to any public office including a government-owned or controlled corporation; '2. Suspension for three (3) months without salary and benefits; or '3. A fine of not less than ₱20,000.00 but not more than ₱40,000.00.'"

4. REMEDIAL LAW; EVIDENCE; QUANTUM OF PROOF REQUIRED IN ADMINISTRATIVE PROCEEDINGS VERSUS JUDGES.— "[F]or a judge to be rendered culpable in any administrative proceeding, there should be a clear and sufficient evidence of his misconduct. Such a doctrine has been reiterated time and again."

5. ID.; ID.; ID.; BURDEN OF PROOF RESTS UPON COMPLAINANT.— In *Zamudio v. Penas, Jr.*, we held that in administrative proceedings, the burden of proof that the respondent committed the act complained of rested with the complainant. Complainant herein failed to substantiate her allegations. The mere fact that a decision, a resolution or an order rules against a complainant and in favor of the opposing party does not by itself taint with partiality the judge who has written it. A controversy is normally decided with one party losing and the other winning.

APPEARANCES OF COUNSEL

Hilda S. Clave for respondent.

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DECISION

PANGANIBAN, *J.*:

A judge who promulgates a decision in which the *fallo* is totally unsupported by the text violates the Code of Judicial Conduct. In the present case, respondent's negligence is shown by his propensity to make rash, uninformed and unstudied rulings, thereby making him liable to administrative sanction.

Statement of the Case and the Facts

In a Complaint-Affidavit[1] dated February 11, 2000, Thelma C. Baldado — who was then the mayor of Sulat, Eastern Samar — charged Judge Arnulfo O. Bugtas[2] with gross ignorance of the law, gross negligence, manifest partiality, and bribery and corruption relative to Election Protest Case No. 01-98. She prayed for various sanctions as follows:

"The Honorable Judge Bugtas should, therefore, be meted out the sanction of dismissal from service, disbarment from the practice of law, and other penalty applicable, for various acts which placed the dignity of the bench and the bar in disrepute, as follows:

"1. For gross ignorance of the law and rendering an unjust judgment by ignoring the rules of the Omnibus Election Code, particularly, in the appreciation of ballots, thus, enabling Zacate to win by a single vote at all cost;

"2. For gross negligence unworthy of an impartial judge in promulgating the August 13, 1999 Decision, which held that Zacate won by one (1) vote as against complainant Baldado. However, in the body of said decision, there was actually a tie, each contender was left with 2,637 votes;

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[1] *Rollo*, pp. 6-24.

[2] Also charged were Enrique C. Deala and Aquilino A. Bordios, but the Court dismissed the charges against Deala and Bordios in its August 28, 2000 Resolution.

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"3. For his manifest partiality unworthy of a dispenser of justice in promulgating the Supplemental Decision dated August 27, 1999, which invalidated six (6) ballots of the complainant in Precinct 1-A, Barangay A-et, and four (4) ballots of Zacate in Precinct 4-A, Barangay Del Remedio, thus, substantially amending the first decision so that he can have a reason to declare Zacate the winner by two (2) votes over the complainant for the position of mayor of Sulat, Eastern Samar, in the May 11, 1998 elections;

"4. For his manifest partiality in promulgating a Resolution dated October 11, 1999, which reconsidered the denial in the Supplemental Decision of Zacate's motion for execution pending appeal and directed the sheriff to execute the judgment just so he (Judge Bugtas) could install Zacate as mayor of Sulat, Eastern Samar, at all cost;

"5. For being guilty of grave abuse of judicial authority, bribery, dishonesty, violations of the Anti-Graft and Corrupt Practices Law (R.A. 3019), and grave misconduct."[3]

In response to the directive of Deputy Court Administrator Bernardo T. Ponferrada, respondent filed his Comment,[4] in which he stated in part:

"The accusations of complainant in Pars. 28–1 to 5 of same Complaint-Affidavit are highly improbable and without basis, but purely blatant lies and a sinister move to harass and oust him from the service in retaliation of the adverse decision of her case before him. Nothing in the acts of the Presiding Judge from the commencement of the case up to the time when the case was terminated shows ignorance of the law as may be justified by a gross or patent error, malicious, deliberate or in bad faith. For what had came out was a result of a diligent study and proper evaluation of the case based on honest application of the rules. The Presiding Judge endeavored diligently in ascertaining the facts and the applicable laws unswayed by partisan interest, public opinion and without fear for his dear life knowing fully well that complainant and her husband had long dominated the political supremacy in said municipality. For, otherwise, if fear would prevail, no more judge in the country would stand to be visible in representing the law and merit respect and confiden[c]e of the people. To this Presiding Judge,

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[3] Complaint Affidavit, pp. 11-12; *rollo*, pp. 16-17.

[4] *Rollo*, pp. 124-133.

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it is not enough that a party throws some tenuous allegations of partiality of the judge. No less than imperative is that it is the judge's sacred duty to administer justice without fear or favor. Herein complainant only shows her gross irresponsibility in imputing upon this Presiding Judge the alleged commission of said offenses without valid basis but purely based on personal motive to harass him, and the lawyer who assisted her in the preparation of herein Complaint-Affidavit should have, under his oath as a lawyer, prevented her from making these wild accusations. The doctrine that a judge cannot be held to account or answer criminally, civilly and administratively for an erroneous decisi[o]n rendered by him good faith remains a law."[5]

On August 28, 2000, the Court referred the case to the Court of Appeals (CA) for investigation, report and recommendation.[6] The matter was raffled to Associate Justice Bienvenido L. Reyes, who conducted hearings thereon. On January 23, 2002, he submitted his Report,[7] which was referred to the Office of the Court Administrator (OCA) for evaluation and recommendation.

In its own Report and Recommendation dated April 22, 2002, the OCA[8] summarized the facts of the case as follows:

"1. On 13 August 1999, a decision dated 3 August 1999 was promulgated by respondent judge in Election Protest Case No. 01-98. Both parties received a copy of the judgment on the same date;

"2. In his decision, respondent judge invalidated 321 votes for protestee Baldado (herein complainant) and likewise nullified 82 votes for protestant Zacate. In the final tally, Zacate won over Baldado by a margin of one (1) vote;

"3. On 13 August 1999, complainant interposed an appeal from the judgment. Zacate, on the other hand, filed on 14 August

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[5] *Id.*, pp. 131-132.

[6] *See* Resolution dated August 28, 2000; *rollo*, pp. 231-232.

[7] *Rollo*, pp. 453-464.

[8] *Id.*, pp. 473-480.

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1999 a motion for immediate execution of the appealed judgment;

"4. On 16 August 1999, complainant Baldado filed an opposition to the motion for immediate execution pending appeal on the ground that the court had already lost jurisdiction over the case inasmuch as she had already perfected her appeal to the COMELEC, as evidenced by the notice of appeal and the payment of the necessary appellate docket fees on 13 August 1999;

5. On 24 August 1999 Baldado filed an urgent motion for clarificatory judgment stating that the lower court erred in computing the invalid votes for protestant Zacate which should have been 82 and not only 81. Had it been properly deducted, Baldado and Zacate would have garnered the same number of votes, resulting in a tie;

"6. On 27 August 1999, Zacate filed a supplemental memorandum in which he alleged that respondent failed to take into consideration the number of votes declared valid for protestant, which, if included, would increase his lead not by merely one vote but by twenty-one (21) votes;

"7. As a result, respondent issued a supplemental Decision wherein he admitted having committed a 'clerical error' when he failed to deduct one vote from those earned by protestant Zacate. In this new appreciation of ballots, respondent invalidated six (6) votes for complainant-protestee and four (4) votes for protestant. He thereafter pronounced Zacate the winner by two (2) votes. However, in the same supplemental decision, he denied Zacate's motion for execution pending appeal;

"8. Pursuant to the order embodied in the Supplemental Decision, the branch clerk of the trial court transmitted on 27 August 1999, the complete records of the election protest case to the COMELEC, which received the same on 6 September 1999;

"9. Protestant Zacate received a copy of the Supplemental Decision which denied his motion for execution pending appeal on 1 September 1999. Six days later, Zacate filed a belated Motion for Partial Reconsideration of the Supplemental Decision with respect to the denial of his motion for discretionary execution;

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"10. On 9 September 1999, complainant filed an opposition to the motion for partial reconsideration, averring that the trial court had already lost jurisdiction over the case in view of the fact that it no longer had possession of the original records which had already been forwarded to the COMELEC;

"11. However, on 11 October 1999, respondent judge issued a resolution granting Zacate's motion for reconsideration. Likewise, without Zacate filing a motion for the execution of the supplemental decision, respondent ordered the issuance of a writ of execution of the said decision pending appeal and directed the sheriff to install Zacate as mayor of Sulat, Easter[n] Samar."[9]

Findings and Recommendation of the Office of the Court Administrator

Like Justice Reyes, the OCA found respondent guilty of violating Section 2 of Rule 39 of the Rules of Court on discretionary execution. It further opined that "[t]he law (Sec. 2, Rule 39, Rules of Court) violated by Judge Bugtas is so basic that not to be aware of [it] constitutes gross ignorance of the law."[10]

The OCA, however, found that "[a]s to the charge of bribery and corruption, complainant failed to substantiate the charges in connection therewith."[11]

It recommended that respondent judge "be FINED in the amount of TWENTY-FIVE THOUSAND PESOS (₱25,000.00) for gross ignorance of the law in connection with Election Protest Case No. 01-98 and WARNED that a repetition of the same or similar acts in the future shall be dealt with more severely."[12]

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[9] OCA Report signed by Deputy Court Administrator Zenaida N. Elepaño and recommending approval by Court Administrator Presbiterio J. Velasco Jr., pp. 4-5; *rollo*, pp. 476-477. Citations omitted.

[10] *Id.*, pp. 6 & 478.

[11] *Id.*, pp. 7 & 479.

[12] *Id.*, pp. 8 & 480.

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The Court's Ruling

The Court partly agrees with the findings of the OCA.

Administrative Liability

Gross Ignorance of the Law

Complainant condemns the act of respondent in granting execution pending appeal in Election Protest Case No. 01-98 despite the fact that his court was no longer in possession of the records thereof.

Section 2 of Rule 39 of the Rules of Court, which was allegedly violated by respondent, states:

"Sec. 2. *Discretionary execution* —

"(a) *Execution of a judgment or final order pending appeal.* — On motion of the prevailing party with notice to the adverse party filed in the trial court while it has jurisdiction over the case and is in possession of either the original record or the record on appeal, as the case may be, at the time of the filing of such motion, said court may, in its discretion, order execution of a judgment or final order even before the expiration of the period to appeal.

"After the trial court has lost jurisdiction, the motion for execution pending appeal may be filed in the appellate court.

"Discretionary execution may only issue upon good reasons to be stated in a special order after due hearing."

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To determine the propriety of respondent's grant of the Motion for Execution Pending Appeal, Section 9 of Rule 41 of the Rules of Court must also be examined. It provides:

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"In appeals by notice of appeal, the court loses jurisdiction over the case upon the perfection of the appeals filed in due time and the expiration of the time to appeal of the other parties.

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"In either case, *prior to the transmittal of the original record* or the record on appeal, *the court may* issue orders for the protection and preservation of the rights of the parties which do not involve any matter litigated by the appeal, approve compromises, permit appeals of indigent litigants, *order execution pending appeal in accordance with Section 2 of Rule 39*, and allow withdrawal of the appeal." (Italics supplied.)

As can be gleaned from the above, courts may order execution pending appeal prior to the transmittal of the original records to an appellate tribunal. Conversely, they may not do so when they are no longer in possession of the original records. Verily, respondent erred in granting execution pending appeal in Election Protest Case No. 01-98.

Nonetheless, we hold that such act does not amount to *gross* ignorance of the law. To be held liable therefor, "the judge must be shown to have committed an error that was 'gross or patent, deliberate and malicious.'"[13] When the law is sufficiently basic or elementary, not to know it or to act as if one does not know it constitutes gross ignorance of the law.[14] Otherwise, not knowing it would only amount to *simple* — not gross — ignorance of the law.

In the present case, an examination of related jurisprudence shows that Section 2 of Rule 39 is not simple or easy. It has nuances that were not yet firmly established and settled at the time respondent rendered his questioned resolutions in 1999, just two years after the rules involved herein had been substantially amended. Moreover, it should be noted that when he granted the execution, he was trying to rectify his previous error. It is also worth mentioning that even the Office of the Solicitor

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[13] *Zarate v. Balderian*, 329 SCRA 558, 565, April 3, 2000, per Panganiban, J.

[14] *Dadizon v. Lirios*, 337 SCRA 36, August 1, 2000; *Creer v. Fabilar*, 337 SCRA 632, August 14, 2000; *Vercide v. Hernandez*, 330 SCRA 49, April 6, 2000.

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General[15] was of the opinion that his subsequent grant of the execution was valid. Under the circumstances, his act did not amount to gross ignorance of the law.

Bribery and Corruption

As for the charges of bribery and corruption, we find no cause to controvert the findings of the investigating judge and the OCA. As explained by the latter, complainant failed to substantiate the charges as follows:

"As to the charge of bribery and corruption, complainant failed to substantiate the charges in connection therewith. It should be noted that in her complaint-affidavit, complainant submitted the sworn statements of five (5) witnesses to prove the allegation that respondent accepted bribe from Zacate in exchange for a favorable decision in the election protest case. However, during the hearing conducted before the Investigating Justice, only two (2) of the five (5) affiants were presented and cross-examined. They testified however on matters which were not personally known to them, hence their testimonies have little probative value x x x."[16]

Likewise lacking in substantiation are the accusations of dishonesty, grave abuse of judicial authority and grave misconduct. "[F]or a judge to be rendered culpable in any administrative proceeding, there should be a clear and sufficient evidence of his misconduct. Such a doctrine has been reiterated time and again."[17]

Manifest Partiality

The charge of manifest partiality also remains unsubstantiated. Apart from complainant's bare allegations, there must be

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[15] See *Zacate v. Commission on Elections*, 353 SCRA 441, March 1, 2001; *rollo*, pp. 280-292.

[16] OCA Report, pp. 7-8; *rollo*, pp. 479-480.

[17] *Cabillo v. Celis*, 83 SCRA 620, 628, June 16, 1978, per Fernando, acting *C. J.*

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convincing proof showing that respondent judge was indeed biased and partial. In *Zamudio v. Penas, Jr.*,[18] we held that in administrative proceedings, the burden of proof that the respondent committed the act complained of rested with the complainant.[19] Complainant herein failed to substantiate her allegations. The mere fact that a decision, a resolution or an order rules against a complainant and in favor of the opposing party does not by itself taint with partiality the judge who has written it. A controversy is normally decided with one party losing and the other winning.

Gross Negligence/Violation of the Code of Judicial Conduct

We, however, find much to be desired in the respondent judge's August 13, 1999 Decision on the election protest. Worth mentioning are glaring material inaccuracies and omissions therein, which caused further conflict between the parties thereto. Particularly, the invalid votes for Zacate, as tabulated in the Decision, yielded a total of 83 — not 81 as written therein.[20] The total of 83 invalid votes supports a ruling contrary to that held in the Decision. The failure of respondent to notice this contradiction shows palpable neglect on his part to review his Decision diligently before signing it. Had he carefully gone over it before signing it, he would have immediately noticed the very material omissions therein,[21] made the required corrections, and dispensed with the need for a Supplemental Decision. He would thus have given no cause for complainant to accuse him of manifest partiality.

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[18] 350 Phil. 1, February 24, 1998.

[19] *Saylo v. Rojo*, 386 Phil. 446, April 12, 2000.

[20] See RTC Decision, pp. 71-72; *id.*, pp. 91-92.

[21] Respondent, however, faults his stenographer for these errors. See Respondent's Comment, p. 3; *id.*, p. 126.

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The Code of Judicial Conduct states:

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"A judge should perform official duties honestly, and with impartiality and diligence"

Respondent failed to perform his official duties with due diligence, thereby violating the Code of Judicial Conduct. He was grossly negligent in promulgating a Decision in which the *fallo* was totally unsupported by the body. Furthermore, his propensity to make rash, uninformed and unstudied rulings was shown in at least a couple of instances. *First*, he perfunctorily denied the Motion for Execution Pending Appeal, allegedly because of lack of jurisdiction to grant it, when he actually still had it. *Second*, he subsequently reversed his own denial — or granted the motion for execution — when he no longer had jurisdiction to grant it.

Having once made a mistake, it was incumbent upon the judge to be extra careful, so that he would not commit another one when he acted to rectify the first. His successive rulings that were ill-formulated and erroneous vividly illustrated his lack of regard for the havoc that his erroneous rulings would bring upon the litigants and the justice system itself. In *Dimatulac v. Villon*, we ruled:

"*The judge x x x 'should always be imbued with a high sense of duty and responsibility in the discharge of his obligation to promptly and properly administer justice.' He must view himself as a priest for the administration of justice is akin to a religious crusade. Thus, exerting the same devotion as a priest 'in the performance of the most sacred ceremonies of religious liturgy,' the judge must render service with [diligence] commensurate with public trust and confidence reposed in him.*"[22]

Respondent's gross negligence constitutes a violation of the Code of Judicial Conduct. Rule 140[23] of the Rules of Court classifies

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[22] *Dimatulac v. Hon. Villon*, 358 Phil. 328, 365, October 12, 1998, per Davide, *J.* (now *C. J*).

[23] The amendments to this Rule were made on September 11, 2001, and took effect on October 1, 2001. Since the acts complained of in this case took place in 1999, the rules before the amendments are applicable.

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such violation as a serious charge,[24] for which it provides the following sanctions:

"*SEC. 10. Sanctions. — A. If the respondent is found culpable of a serious charge, any of the following sanctions may be imposed:*

'1. Dismissal from the service with forfeiture of benefits (except accrued leaves) and disqualification from reinstatement of appointment to any public office including a government-owned or controlled corporation;

'2. Suspension for three (3) months without salary and benefits; or

'3. A fine of not less than ₱20,000.00 but not more than ₱40,000.00.'"

WHEREFORE, Respondent Judge Arnulfo O. Bugtas is hereby *FINED* in the amount of twenty thousand pesos (₱20,000) for gross negligence in violation of the Code of Judicial Conduct and *WARNED* that a repetition of the same or similar acts in the future shall be dealt with more severely.

SO ORDERED.

Puno (Chairman), Sandoval-Gutierrez, Corona, and *Carpio Morales, JJ.,* concur.

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[24] Par. 3, Section 3.