

Republic of the Philippines
Supreme Court
Manila

EN BANC

JUDGE JAIME B. SANTIAGO,
Complainant,

**A.M. No. P-22-053 (formerly
OCA IPI No. 15-4466-P)**

Present:

- versus -

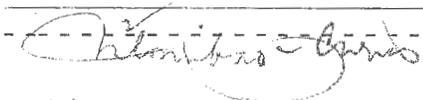
ROMELITO G. FERNANDO,
UTILITY WORKER I, BRANCH
18, REGIONAL TRIAL COURT,
[RTC], TAGAYTAY CITY,
CAVITE),

Respondent.

GESMUNDO, C.J.,
LEONEN,
CAGUIOA,
HERNANDO,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.,
GAERLAN,
ROSARIO,
LOPEZ, J.,
DIMAAMPAO,
MARQUEZ,*
KHO, JR., and
SINGH, JJ.

Promulgated:

January 17, 2023

X -----  ----- X

RESOLUTION

ROSARIO, J.:

This administrative matter arose from two Complaints initiated by Acting Presiding Judge Jaime B. Santiago (complainant judge) against

* No part due to prior action as Court Administrator.

Romelito G. Fernando (respondent) indorsed to the Office of the Court Administrator (OCA) for appropriate action.

The Antecedent Facts

Respondent was a Utility Worker I of Branch 18, Regional Trial Court of Tagaytay City, Cavite before being appointed by complainant judge as Clerk III in charge of civil cases in December 2014.¹

In a Complaint² dated August 11, 2015, complainant judge charged respondent with Insubordination, Irregularity in the Performance of Duty, and Gross Neglect of Duty.

Complainant judge alleged that respondent failed to abide by his directives despite repeated admonishment and written warnings. In particular, respondent did not immediately refer to him the Formal Offer of Documentary Evidence (Formal Offer) in two (2) land registration cases, specifically, LRC No. TG-14-035 filed on October 10, 2014³ and LRC No. TG-14-060 filed on February 17, 2015,⁴ which prevented him from deciding these cases promptly. Instead, these pleadings were belatedly given to complainant judge on August 11, 2015.

In his Comment⁵ dated November 9, 2015, respondent stated that the lapses he committed, if any, were unintentional and were due to his preoccupation with his numerous daily tasks. As to the purported delay in transmitting the Formal Offer of the cases, respondent faulted his co-employees. With regard to LRC No. TG-14-035, he claimed that it was Remy Ligsas who was tasked to attach the Formal Offer to the case folder. As regards LRC No. TG-14-060, respondent averred that it was only on February 16, 2015 that he was instructed by complainant judge to give him the case folder. Moreover, he was unable to transmit the same immediately because it was only given to him by Madonna Cunanan on May 18, 2015.

Further, in a Supplemental Complaint⁶ dated October 5, 2015, complainant judge charged respondent with Continued Irregularities, Gross Incompetence, and Gross Misconduct.

Complainant judge narrated that on September 18, 2015, Mrs. Lolita Borja arrived at court shouting and looking for respondent. She claimed that on May 22, 2015, respondent asked for ₱40,000.00 to facilitate the bail of her

¹ *Rollo*, p. 93.

² *Id.* at 1-2; see Memorandum dated August 11, 2015.

³ *Id.* at 4-6.

⁴ *Id.* at 8-10.

⁵ *Id.* at 171-173.

⁶ N.B. *Id.* at 176; See 1st Indorsement dated November 3, 2015 where the OCA treated the Memorandum dated October 5, 2015 as a Supplemental Complaint.

son, Eric Borja y Guevarra, who was detained for violation of Section 11⁷ of Republic Act No. 9165⁸ in Criminal Case No. TG-15-1030.⁹ Despite payment of the said amount, her son remained in jail. Further, the complainant judge claimed that during the January 2014 semestral inventory, he directed all staff to surrender all records in their possession. When he compared the docket with the records on hand, he noted that several criminal case records already submitted for decision/resolution were unaccounted for. He ordered his staff to search the entire office, including respondent's work area, where they discovered 51 criminal case folders and one (1) Juvenile and Domestic Relations Court case in his possession.¹⁰ In addition, on February 14, 2014, he noticed another three (3) criminal case folders in respondent's custody. When confronted, respondent claimed that Sheriff Laydabell G. Pijana instructed him to mail the orders to the Assistant Provincial Prosecutor and the Public Attorney's Office lawyer.¹¹ Complainant judge issued Sheriff

⁷ SECTION 11. *Possession of Dangerous Drugs.* — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos ([P]500,000.00) to Ten million pesos ([P]10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

- (1) 10 grams or more of opium;
- (2) 10 grams or more of morphine;
- (3) 10 grams or more of heroin; CTEDSI
- (4) 10 grams or more of cocaine or cocaine hydrochloride;
- (5) 50 grams or more of methamphetamine hydrochloride or "shabu";
- (6) 10 grams or more of marijuana resin or marijuana resin oil;
- (7) 500 grams or more of marijuana; and
- (8) 10 grams or more of other dangerous drugs such as, but not limited to, methylenedioxymethamphetamine (MDMA) or "ecstasy", paramethoxyamphetamine (PMA), trimethoxyamphetamine (TMA), lysergic acid diethylamine (LSD), gamma hydroxybutyrate (GHB), and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements, as determined and promulgated by the Board in accordance to Section 93, Article XI of this Act.

Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

- (1) Life imprisonment and a fine ranging from Four hundred thousand pesos ([P]400,000.00) to Five hundred thousand pesos ([P]500,000.00), if the quantity of methamphetamine hydrochloride or "shabu" is ten (10) grams or more but less than fifty (50) grams;
- (2) Imprisonment of twenty (20) years and one (1) day to life imprisonment and a fine ranging from Four hundred thousand pesos ([P]400,000.00) to Five hundred thousand pesos ([P]500,000.00), if the quantities of dangerous drugs are five (5) grams or more but less than ten (10) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu", or other dangerous drugs such as, but not limited to, MDMA or "ecstasy", PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or three hundred (300) grams or more but less than five hundred (500) grams of marijuana; and
- (3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos ([P]300,000.00) to Four hundred thousand pesos ([P]400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu", or other dangerous drugs such as, but not limited to, MDMA or "ecstasy", PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.

⁸ AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES.

⁹ Id. at 91-92.

¹⁰ Id. at 93.

¹¹ Id.

Laydabell G. Pijana and respondent a Memorandum¹² directing them to explain,¹³ both of them categorically denied each other's claims and pointed to each other as the culprit.¹⁴ Finally, when petitioners in LRC-No. TG-14-078 and LRC No. TG-13-1891 followed up the status of their cases, their corresponding records were nowhere to be found. This prompted complainant judge to order all his staff to search for the records. The missing case records were found inside respondent's steel drawer.¹⁵

In its 1st Indorsement¹⁶ dated November 3, 2015, the OCA directed respondent to file a Comment to the Supplemental Complaint within ten (10) days from notice. Respondent requested for an additional five (5) days or until March 29, 2016 to submit his Comment,¹⁷ citing health reasons. The OCA, in turn, granted respondent's request.¹⁸ Records reveal that respondent went on Absence Without Official Leave (AWOL) without filing the required Comment.

In its 1st Tracer¹⁹ dated January 16, 2017, the OCA reiterated its directive for respondent to file a Comment within five (5) days of receipt with a final warning that the administrative matter will be submitted to the Court without his Comment.

In a Memorandum²⁰ dated March 21, 2017, complainant judge reported that as per the Official Attendance Logbook of the Court, respondent last logged in on January 22, 2016 and thereafter, had been AWOL.

In a Resolution dated November 29, 2017, respondent's name was stricken from the rolls.²¹

Report and Recommendation by the OCA

In a Memorandum²² dated April 25, 2018, the OCA recommended the following:

1. the instant administrative complaint against respondent Romelito G. Fernando, Utility Worker I, Branch 18, Regional Trial Court, Tagaytay City, be **RE-DOCKETED** as a regular administrative matter; and

¹² Id. at 59; see Memorandum dated February 14, 2014.

¹³ Id. at 14.

¹⁴ Id. at 60; see *Salaysay* dated February 17, 2014; and Reply to Memorandum dated February 14, 2014; id. at 61-62.

¹⁵ Id. at 95-96.

¹⁶ Id. at 176.

¹⁷ Id. at 178-179; see Manifestation of Actual Receipt of the 1st Indorsement to file Comment To Supplemental Complaint with Request for Additional Period to File Comment dated March 17, 2016.

¹⁸ Id. at 182; see Letter dated April 13, 2016.

¹⁹ Id. at 188.

²⁰ Id. at 186-187.

²¹ Id. at 201-202; see Memorandum dated April 25, 2018 citing A.M. No. 17-10-252-RTC (*Re: Dropping from the Rolls of Mr. Romelito G. Fernando, Clerk III, Regional Trial Court, Branch 18, Tagaytay City*).

²² Id. at 200-204; signed by Court Administrator Jose Midas P. Marquez (now a member of this Court) and Deputy Court Administrator Raul Bautista Villanueva.

2. respondent Fernando be found **GUILTY** of Gross Insubordination and Grave Misconduct and be ordered **DISMISSED** from the service, but considering that he has been dropped from the rolls effective 29 November 2017 for having been on absence without official leave (AWOL), that respondent Fernando be imposed instead the accessory penalties of **FORFEITURE** of all benefits, except accrued leave credits, if any, and **PERPETUAL DISQUALIFICATION** from re-employment in any government instrumentality including government-owned and controlled corporations.²³

As to the charge of Gross Insubordination, the OCA held that respondent was remiss in his duty to timely present the case folders to complainant judge, which caused delay in the resolution of the cases. Considering that respondent failed to file his Comment to the Supplemental Complaint, the charge of withholding the 51 criminal case folders found in respondent's work area and the records for LRC No. TG-14-078 and LRC No. TG-13-1891 found in his steel drawer were uncontested. The OCA ruled that the foregoing resulted from respondent's disobedience to established court procedure which was tantamount to Gross Insubordination, a grave offense, punishable under Section 50(B) (9), Rule 10 of the 2017 Rules on Administrative Cases in the Civil Service punishable by suspension of six (6) months and one (1) day to one (1) year for the first offense.²⁴

Further, the OCA found respondent liable for Grave Misconduct for receiving money from a litigant. Despite the opportunity to refute this charge and challenge the authenticity of his signature affixed to a handwritten note stating that he received ₱40,000.00, respondent did not file a Comment which the OCA treated as an admission by silence.²⁵ For reference, the said handwritten note reads:

May 12, 2015
Received the amount of thirty-five thousand (₱35,000.00) for safekeeping.
May 22, 2015 plus ₱5,000.00 (₱40,000.00).

Tagaytay City, May 22, 2015.

Signed
Rommel Fernando²⁶

As to the penalty, the charges of Gross Insubordination and Grave Misconduct are sanctioned with the penalty of dismissal from service. Considering, however, that respondent has been dropped from the rolls, the OCA recommended the imposition of accessory penalties of forfeiture of all benefits, except accrued leave credits, and perpetual disqualification from re-employment in any government instrumentality, including government-owned and controlled corporations.²⁷

²³ Id. at 203-204.

²⁴ Id. at 202.

²⁵ Id. at 202-203

²⁶ Id. at 98.

²⁷ Id. at 203-204

The Issue

The issue for resolution is whether respondent can be held administratively liable for Gross Insubordination and Grave Misconduct.

The Court's Ruling

Preliminary Matters

At the onset, it bears pointing out that the applicable rule in the present case is A.M. No. 21-08-09-SC dated February 22, 2022, entitled "*Further Amendments to Rule 140 of the Rules of Court*" (Revised Rule 140), which became effective on April 4, 2022. Revised Rule 140 was envisioned to be a disciplinary framework for the entire Judiciary that is wholly independent from the Civil Service Rules and uniformly applicable to all cases, regardless of when the infractions are committed.²⁸

Further, respondent's absence without leave during the pendency of the administrative case against him will not prevent the Court from determining his liability and meting the proper penalty therefor. The filing of an administrative case is predicated on the holding of a position or office in government service and once jurisdiction has attached, the same is not lost by the mere fact that the public official or employee was no longer in office during the pendency of the case.²⁹ Thus, what is essential is that the administrative case was instituted while the court officer or employee was still in government service, which obtains in this case. Similarly, respondent's failure to file a Comment to the Supplemental Complaint will not hinder this Court from imposing the proper sanction for his infractions, if any.³⁰

²⁸ See the 15th Whereas Clause of the Revised Rule 140, which reads:

WHEREAS, Senior Associate Justice Estela M. Perlas-Bernabe was assigned by Chief Justice Alexander G. Gesmundo to conduct a comprehensive review and revision of Rule 140, which is envisioned to institutionalize a complete, streamlined, and updated administrative disciplinary framework for the entire Judiciary that is wholly independent from the Civil Service rules, harmonizes existing jurisprudence, and is uniformly applicable to all cases, regardless of when the infractions are committed;

Section 24 of said Rule also provides:

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.

²⁹ See *Cobarrubias-Nabaza v. Lavandero*, A.M. No. 2017-07-SC & A.C. No. 12323, March 14, 2022; *Office of the Court Administrator v. Fuensalida*, A.M. No. P-15-3290, September 1, 2020.

³⁰ Revised Rule 140, Section 3(3) provides:

SECTION 3. Initial Action: —

X x x

(3) *Consequence of Respondent's Failure to Answer or Comment.* — Failure of the respondent to file his or her verified answer or comment in accordance with Section 3 (1) or (2) above shall, unless otherwise justified, result in his or her waiver to participate in the proceedings, and the investigation may proceed based on the available evidence on record.

Substantive Matters

After a careful review of the records of the case, the Court adopts the findings of the OCA, but with modifications. In addition to the charges of Gross Insubordination and Grave Misconduct, the Court finds that respondent should be guilty of an additional count of Gross Insubordination for failure to file his Comment despite notice. Consequently, the Court modifies the penalty recommended by the OCA such that in addition to the forfeiture of all benefits, except accrued leave credits, and perpetual disqualification from re-employment in any government instrumentality, including government-owned and controlled corporations which is imposed *in lieu* of dismissal from service, the Court deems it proper to impose a fine in the amount of ₱300,000.00, as authorized under Section 17(1) (c) in relation to Section 18 (b) of Revised Rule 140.

We expound.

Gross Insubordination is defined as the “inexplicable and unjustified refusal to obey some order that a superior is entitled to give and have obeyed, and imports a willful or intentional disregard of the lawful and reasonable instructions of the superior.”³¹ It is manifested by a “brazen disrespect for and defiance towards one's superiors.”³² Based on the facts obtaining in this case, the Court finds that two (2) separate charges for Gross Insubordination arise: *first*, as correctly pointed out by OCA, with respect to respondent's conduct towards complainant judge, his superior and *second*, for failure to submit Comment despite repeated notice.

Aside from being mindful of their dockets, judges are tasked to keep a watchful eye on the level of performance and conduct of the court personnel under their immediate supervision who are primarily employed to aid in the administration of justice.³³ Having discovered irregularities occurring in his court, it was incumbent upon complainant judge to eliminate these irregularities; otherwise, he would be grossly negligent in the performance of his duties. Thus, complainant judge was acting well-within his authority in requiring respondent to transmit pleadings and other court records without any unnecessary delay in line with court policy.

Respondent's repeated disobedience to complainant judge's directives cannot simply be discounted. While there was insufficient evidence to attribute any corruption or clear showing of wrongdoing for respondent's unexplained withholding of case records and pleadings, the Court must still penalize respondent as cases should be decided promptly and expeditiously under the time-honored precept that justice delayed is justice denied. By

³¹ *Alano v. Delicana*, A.M. No. P-20-4050, June 14, 2022.

³² *Id.*

³³ *Office of the Court Administrator v. Chavez*, 815 Phil. 41, 45 (2017).

repeatedly disregarding complainant judge's directives to transmit court documents in a timely manner, the seasonable disposition of cases was undoubtedly affected.

Further, respondents in administrative complaints should comment on all accusations or allegations against them in the administrative complaints because it is their duty to preserve the integrity of the judiciary.³⁴ It is undisputed that despite receipt of OCA's 1st Indorsement dated November 3, 2015 directing him to file a Comment to the Supplemental Complaint, respondent failed to do so. It bears pointing out that respondent even requested an extension which notably, the OCA granted; and yet, respondent went on AWOL without submitting his Comment. Such conduct manifests a clear and willful disrespect for the lawful orders of the OCA,³⁵ through whom at the time pending the investigation, the Court exercised supervision over all lower courts and personnel.³⁶ Otherwise stated, respondent's willful refusal to comply with the directives of the OCA constituted a defiance of the lawful orders of no less than the Court itself.

Considering the severity of the charges against respondent in the Supplemental Complaint, it is contrary to logic and human experience that he opted to remain silent if these allegations against him were untrue. In line with recent jurisprudence,³⁷ respondent has left the Court with no alternative but to deduce his implicit admission of the charges against him. The Court, in *Yoshimura v. Panagsagan*,³⁸ explains:

The natural instinct of man impels him to resist an unfounded claim or imputation and defend himself. It is totally against our human nature to just remain reticent and say nothing in the face of false accusations. Silence in such cases is almost always construed as implied admission of the truth thereof. Consequently, we are left with no choice but to deduce his implicit admission of the charges levelled against him. *Qui tacet consentire videtur*. Silence gives consent.³⁹ (Underscoring supplied).

Thus, as it stands, the charges of withholding numerous criminal case records and receiving money from a litigant, remain undisputed.

Lastly, the Court sustains the OCA's conclusion finding respondent liable for Grave Misconduct.

Grave Misconduct is defined as "a serious transgression of some established and definite rule of action (such as unlawful behavior or gross negligence by the public officer or employee) that tends to threaten the very

³⁴ *Necesario v. Dinglasa*, 556 Phil. 47, 51 (2007).

³⁵ See *Gonzales v. Rimando*, 619 Phil. 392, 403-404 (2009).

³⁶ *Report on the Judicial Audit Conducted in the RTC-Br. 47, Urdaneta City*, 516 Phil. 434, 447-448 (2006).

³⁷ *Domingo-Agaton v. Cruz*, A.C. No. 11023, May 4, 2021; *Yoshimura v. Panagsagan*, 840 Phil. 16, 25 (2016).

³⁸ *Supra*.

³⁹ *Id.* at 25.

existence of the system of administration of justice an official or employee serves.”⁴⁰ It may manifest itself in corruption, or in other similar acts, done with the clear intent to violate the law or in flagrant disregard of established rules.⁴¹ Moreover, Section 2, Canon I of the Code of Conduct for Court Personnel⁴² specifically prohibits all court employees from soliciting or accepting any gift, favor or benefit based on any or explicit understanding that such gift, favor or benefit shall influence their official actions.

In several cases,⁴³ this Court has ruled that a court personnel's act of soliciting or receiving money from litigants constitutes Grave Misconduct. Corruption as an element of grave misconduct in the instant case consisted in respondent's acts of unlawfully or wrongfully using his position or character of his office to procure some benefit for himself or for another, contrary to the rights of others.⁴⁴ In the instant case, respondent neither had color of authority nor legal basis to collect ₱40,000.00 from Mrs. Lolita Borja. Grave Misconduct is the same as Gross Misconduct.⁴⁵ Hence, to use the terminology employed under Revised Rule 140, it is apparent that respondent's conduct was tantamount to Gross Misconduct constituting a violation of the Code of Conduct for Personnel as penalized under Section 14 (a).

It bears stressing, however, that respondent's culpability for receiving money from a party-litigant is not solely based on his failure to deny the accusations against him. Aside from the handwritten note presented by Mrs. Lolita Borja signed by respondent himself confirming receipt of ₱40,000.00 which stands uncontroverted, the Court gives credence to the statements taken from Mr. Cenon Borja and Mrs. Lolita Borja (spouses Borja) during the investigation conducted by complainant judge. Attached to the records of this case is the transcript⁴⁶ of the investigation where the spouses Borja detailed how they approached respondent for assistance regarding the processing of the bail of their son on May 12, 2015 and how he assured them that he would take care of everything, including the processing of the insurance, for ₱40,000.00. Even the fact that spouses Borja were the ones who approached respondent for assistance does not exculpate him from liability. The Court is emphatic that the sole act of receiving money from litigants, whatever the reason may be, is antithesis to being a court employee.⁴⁷ Thus, there is no defense in receiving money from party-litigants and act itself makes court employees guilty of Grave Misconduct.⁴⁸

⁴⁰ *Office of the Court Administrator v. Buzon*, A.M. No. P-18-3850, November 17, 2020.

⁴¹ *Id.*

⁴² Entitled “Code of Conduct for Court Personnel,” A.M. No. 03-06-13-SC, dated May 15, 2004.

⁴³ *Office of the Court Administrator v. Buzon*, supra; *Competente v. Nacion*, A.M. No. P-16-3578, September 1, 2020; *Anonymous v. Namol*, 811 Phil. 317 (2017); *Alano v. Sahi*, 745 Phil. 385, 395 (2014); *Office of the Court Administrator v. Panganiban*, 583 Phil. 500, 508 (2008); *Canlas-Bartolome v. Manio*, 564 Phil. 307, 313 (2007).

⁴⁴ See *Pulgar v. Resurreccion*, 745 Phil. 693, 709 (2014).

⁴⁵ See *Anonymous Complaint v. Judge Dagala*, 814 Phil. 103, 117 (2017), where the Court used the terms “grave misconduct and “gross misconduct” interchangeably.

⁴⁶ *Rollo*, pp. 100-114.

⁴⁷ *Cabauatan v. Uvero*, 820 Phil. 296, 304 (2017); *Villahermosa, Sr. v. Sarcia*, 726 Phil. 408, 416 (2014).

⁴⁸ *Id.*

Proper Penalties

In view of the foregoing, respondent is found liable of two (2) counts of Gross Insubordination and one (1) count of Grave Misconduct or presently designated as Gross Misconduct constituting a violation of the Code of Conduct of Court Personnel. Here, respondent is guilty of three (3) separate offenses with each offense classified as a serious charge under Section 14⁴⁹ of Revised Rule 140. The sanctions for offenses classified as serious charges are:

SECTION 17. *Sanctions.* –

- (1) If the respondent is guilty of a serious charge, any of the following sanctions shall be imposed:
 - (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 (6) months but not exceeding one (1) year; or
 - (c) A fine of more than [P]100,000.00 but not exceeding [P]200,000.00.

In addition, Section 21 of Revised Rule 140 delineates the rule with regard to the imposition of penalties when a respondent is found liable for more than one (1) offense arising from separate acts or omissions in a single administrative proceeding, as in this case, *to wit*:

SECTION 21. *Penalty for Multiple Offenses.* - If the respondent is found liable for more than one (1) offense arising from separate acts or omissions in a single administrative proceeding, the Court shall impose separate penalties for each offense. Should the aggregate of the imposed penalties exceed five (5) years of suspension or [P]1,000,000.00 in fines, the respondent may, in the discretion of the Supreme Court, be meted with the penalty of dismissal from service, forfeiture of all or part of the benefits as may be determined, 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.

⁴⁹ SECTION 14. Serious Charges. — Serious charges include:

- (a) Gross misconduct constituting violations of the Code of Judicial Conduct or of the Code of Conduct for Court Personnel;
- X x x
- (n) Gross insubordination;

On the other hand, if a single act/omission constitutes more than one offense, the respondent shall still be found liable for all such offenses, but shall, nonetheless, only be meted with appropriate penalty for the most serious offense. (Underscoring supplied.)

Thus, the Court imposes upon the respondent a separate penalty for each of the three (3) charges. However, considering that respondent has been dropped from the rolls for being AWOL as of November 29, 2017, the penalty of dismissal from service can no longer be imposed. Section 18 of Revised Rule 140 addresses this circumstance by providing for alternative penalties, thus:

SECTION 18. *Penalty in Lieu of Dismissal on Account of Supervening Resignation, Retirement, or other Modes of Separation of Service.* – If the respondent is found liable for an offense which merits the imposition of the penalty of dismissal from service but the same can no longer be imposed due to the respondent’s supervening resignation, retirement, or other modes of separation from service except death, he or she may be meted with the following penalties in lieu of dismissal:

(a) 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 benefit shall in no case include accrued leave credits; and/or

(b) Fine as stated in Section 17(1)(c) of this Rule. (Underscoring supplied).

Notably, the use of “and/or” under Section 18 authorizes the imposition of either or both the penalties enumerated therein. To recall, the OCA recommended that respondent be penalized with Section 18 (a) for one (1) charge of Gross Insubordination and one (1) charge of Gross Misconduct. Under the attendant circumstances, however, the Court deems it proper to modify OCA’s recommendation such that, the *first charge* of Gross Insubordination shall be penalized under Section 18(a), the *second charge* of Gross Insubordination shall be penalized with a fine of ₱150,000.00 and *third charge* of Gross Misconduct shall be penalized with a fine of ₱150,000.00. Finally, pursuant to Section 22⁵⁰ of Revised Rule 140, respondent shall pay the fine within a period not exceeding three (3) months from the time this Resolution is promulgated. If unpaid, such amount may be deducted from the salaries and benefits, including accrued leave credits, due to the respondent.

⁵⁰ A.M. No. 21-08-09-SC, Section 22 states:

SECTION 22. *Payment of Fines.* - When the penalty imposed is a fine, the respondent shall pay it within a period not exceeding three (3) months from the time the decision or resolution is promulgated. If unpaid, such amount may be deducted from the salaries and benefits, including accrued leave credits, due to the respondent. The deduction of unpaid fines from accrued leave credits, which is considered as a form of compensation, is not tantamount to the imposition of the accessory penalty of forfeiture covered under the provisions of this rule.

Time and again, the Court has always reminded all employees of the Judiciary, from judges to the most junior clerks, to conduct themselves in a manner exemplifying integrity, honesty and uprightness.⁵¹ Accordingly, their conduct must be guided by strict propriety and decorum at all times in order to merit and maintain the public's respect for, and trust, in the Judiciary.⁵² There is no place in the judiciary for those who cannot meet the exacting standards of judicial conduct and integrity.

WHEREFORE, the Court finds respondent Romelito G. Fernando **GUILTY** of two (2) counts of GROSS INSUBORDINATION and one (1) count of GROSS MISCONDUCT constituting a violation of the Code of Conduct of Court Personnel. Respondent Romelito G. Fernando is meted the penalty, under Section 18(a) of the Revised Rule 140 of the Rules of Court, of forfeiture of all benefits, except accrued leave credits, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations. He is also ordered to pay a **FINE** in the aggregate amount of ₱300,000.00 within a period not exceeding three (3) months from the time this Resolution is promulgated. If unpaid, such amount shall be deducted from the salaries and benefits, including accrued leave credits due to respondent. Finally, respondent Romelito G. Fernando is ordered to **RETURN** to Mrs. Lolita Borja the amount of ₱40,000.00, with interest rate at 6% per annum from finality of this Resolution until full payment.

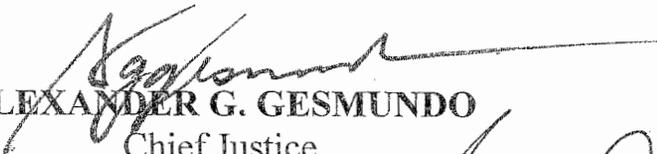
SO ORDERED.


RICARDO R. ROSARIO
Associate Justice

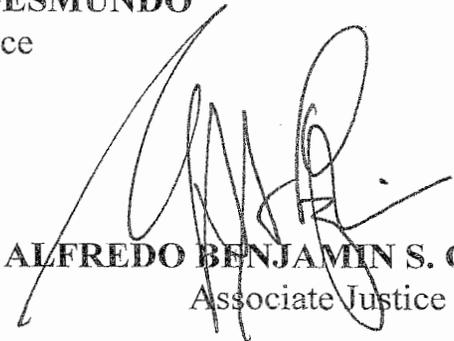
⁵¹ *Anonymous v. Namol*, supra note 37 at 338-339.

⁵² *Id.* at 339.

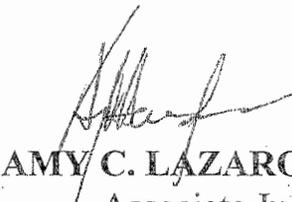
WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice


MARVIC MARIO VICTOR F. LEONEN
Senior Associate Justice

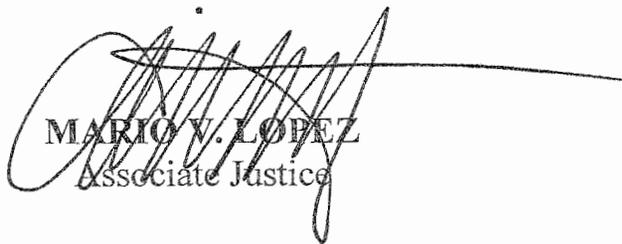

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice

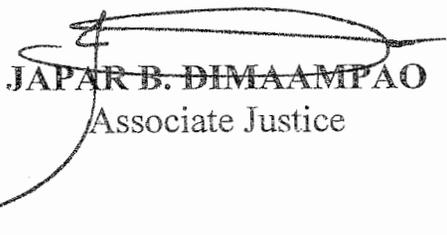

HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice

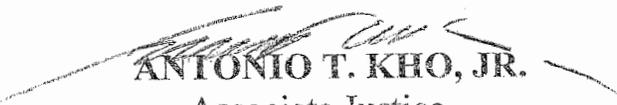

MARIO V. LOPEZ
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


JHOSEP Y. LOPEZ
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice

(no part)
JOSE MIDAS P. MARQUEZ
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice


MARIA FILOMENA D. SINGH
Associate Justice