Republic of the Philippines
Supreme Court
Manila

EN BANC

MA. REGINA S. PERALTA,
Complainant,

- versus -

JUDGE GEORGE E. OMELIO,
Respondent.

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A.M. No. RTJ-11-2259
(Formerly OCA IPI No. 10-3441-RTJ)

ROMUALDO G. MENDOZA,
Complainant,

- versus -

JUDGE GEORGE E. OMELIO,
Respondent.

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A.M. No. RTJ-11-2264
(Formerly OCA IPI No. 10-3368-RTJ)

ATTY. ASTERIA E. CRUZABRA,
Complainant,

- versus -

JUDGE GEORGE E. OMELIO,
Respondent.

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A.M. No. RTJ-11-2273
(Formerly OCA IPI No. 10-3381-RTJ)

Present:

SERENO, *C.J.*,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
PERALTA,
BERSAMIN,
DEL CASTILLO,*
ABAD,
VILLARAMA, JR.,
PEREZ,
MENDOZA,
REYES,
PERLAS-BERNABE, and
LEONEN, *JJ.*

Promulgated:
OCTOBER 22, 2013

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* On official leave.

DECISION

***PER CURIAM*:**

Before the Court are three consolidated administrative complaints against respondent George E. Omelio, presiding Judge of the Regional Trial Court (RTC) of Davao City, Branch 14, for gross ignorance of the law, grave misconduct, oppression, bias and partiality.

The Facts

A.M. No. RTJ-11-2259

Complainant Ma. Regina S. Peralta is one of the plaintiffs in Civil Case No. 32,302-08 entitled "Bentley House Furniture Company, et al. vs. Jonathon Bentley Stevens, et al." for Declaration of Nullity of Deed of Assignment, pending before the RTC of Davao City, Branch 11.[1]

On March 19, 2010, Jonathon Bentley Stevens, on behalf of the same company, and "Bentley House International Corp." represented by its Attorney-in-Fact Atty. Michael Castaños, instituted Civil Case No. 33,291-10 against Land Bank of the Philippines (LBP) for Easement of Right of Way with application for temporary restraining order (TRO), writ of preliminary injunction, damages and attorney's fees. The case was raffled off to respondent who immediately issued a TRO effective for 20 days enjoining LBP from blocking the road leading to the company-owned factory. On the strength of this TRO, Stevens accompanied by his counsels and Sheriff Hipolito Belangal of RTC Branch 13, allegedly went to the said premises taking corporate properties along with those of Peralta and her family's belongings.[2]

Contending that the TRO was in direct contravention of orders issued by RTC Branch 11 in Civil Case No. 32,302-08, Peralta filed an administrative complaint against respondent. She argued that respondent's *ex parte* issuance of the TRO violates the basic procedure laid down in Section 4 (b), (c) and (d), Rule 58 of the Rules of Court. Had respondent conducted the requisite hearing, he would have been apprised of the following: (a) The complaint filed by Stevens and Atty. Castaños was previously the subject of an "Urgent Motion to Issue Order for Road Right of Way and/or Status Quo Pending Final Resolution" dated January 27, 2010, asking for the same relief, filed with the Court of Appeals (CA) in CA-G.R. CV No. 0115-MIN; (b) "Bentley House International Inc." mentioned in the TRO does not exist and has no premises in the area where the right of way was sought; (c) LBP has in its favor a writ of possession on the property as early as March 2, 2000, which was reaffirmed by Judge

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1 *Rollo* (A.M. No. RTJ-11-2259), p. 1.
2 Id. at 2-3, 15-19, 31.

Emmanuel C. Carpio in his Order dated December 3, 2004 in Civil Case No. 28,630-2001; and (d) LBP has not prevented Stevens or his agents from gaining access to the property, but sees them daily as they walk past the LBP guardhouse to the factory.[3]

Peralta averred that the undue haste in the *ex parte* issuance of the TRO caused her great emotional and mental anguish as she had to deal with Stevens' attempt to dispose and remove from company premises personal and corporate properties, thus preventing her from spending time with her family during the Holy Week. She further alleged incurring additional expenses in employing 24-hour security personnel to watch over the factory.[4]

A.M. No. RTJ-11-2264

Complainant Romualdo G. Mendoza is one of the defendants in Civil Case No. 32,245-08 entitled "Neighborhood Assn. of Sto. Rosario Old Airport Sasa, Inc. vs. Hon. Jose Emmanuel M. Castillo, MTCC Branch 1, 11th Judicial Region, Davao City, Romualdo G. Mendoza and Elaine Matas," for Annulment of Judgment with prayer for preliminary injunction, TRO and attorney's fees, initially assigned to the RTC of Davao City, Branch 11 presided by Judge Virginia Hofileña-Europa. On November 7, 2008, Judge Europa denied the plaintiff's association's application for a writ of preliminary injunction to restrain the execution of the decision rendered by Judge Castillo in Civil Case No. 20,001-A-07 of the Municipal Trial Court in Cities (MTCC), Branch 1 for unlawful detainer filed by Mendoza against the association. The latter's motion for reconsideration was likewise denied under Judge Europa's Order dated June 22, 2009 and the case was set for pre-trial conference on July 16, 2009. However, on July 16, 2009, the association filed a motion for voluntary inhibition of Judge Europa who thereupon issued an Order dated July 16, 2009 cancelling the scheduled pre-trial conference and setting the motion for hearing on July 24, 2009. After Judge Europa inhibited herself, the case was re-raffled off and later assigned to RTC Branch 14 presided by respondent.[5]

Seven months later, the association filed another motion to reconsider and set aside the July 16, 2009 Order of Judge Europa. After due hearing, respondent issued an Order dated February 2, 2010 setting aside the July 16, 2009 Order of Judge Europa and granting the association's application for a writ of preliminary injunction. The writ of preliminary injunction was accordingly issued in favor of the association.[6]

Mendoza filed an administrative complaint against respondent charging him with gross ignorance of the law and procedure, gross

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3 Id. at 2.
4 Id. at 3.
5 *Rollo* (A.M. No. RTJ-11-2264), pp. 1-25.
6 Id. at 1-2, 28-34.

inefficiency and negligence, and violations of the New Code of Judicial Conduct, considering that: (1) The Motion for Reconsideration dated January 29, 2010 filed by the association was a second motion for reconsideration prohibited under Section 2, Rule 52 of the Rules of Court, and was filed seven months and five days after the denial of the association's motion for reconsideration by Judge Europa on June 22, 2009; (2) The application for preliminary injunction was not accompanied by an affidavit of merit; (3) Respondent had not even read the records of the case when he issued the writ of preliminary injunction as he fondly called the association's counsel, Atty. Mahipus (Davao City Councilor who was running for Congress) as "Congressman Mahipus" thus allowing his friendship with opposing counsel to inflict an injustice by being ignorant of what he was setting aside, at one time even arguing in said counsel's behalf as if respondent was actually lawyering for plaintiff association; and (4) Respondent did not even indicate in his order granting the writ the reasons for setting aside the previous denial of Judge Europa.[7]

A.M. No. RTJ-11-2273

Complainant Atty. Asteria E. Cruzabra is the Acting Registrar of Deeds of Davao City who had testified during the proceedings in Sp. Proc. No. 7527-2004 entitled "In Re: Petition for Judicial Reconstitution of Original and Owner's Duplicate of Original Certificate of Title of the Registry of Deeds for Davao City and the Inscription of the Technical Descriptions Thereto" of the RTC of Davao City, Branch 14.[8]

Helen P. Denila, petitioner in Sp. Proc. No. 7527-2004, sought the reconstitution of Original Certificate of Title (OCT) Nos. 67, 164, 219, 220, 301, 337 and 514 registered in the names of deceased spouses Constancio S. Guzman and Isabel Luna. Denila claimed to have authority, under a special power of attorney (SPA), from Bellie S. Artigas, the alleged "Administrator of Emilio Alvarez Guzman Estate, sole Heir of Constancio Guzman and Isabel Luna" who was granted 40% share in the estate of Don Constancio Guzman by virtue of an Agreement with Emilio Alvarez Guzman, which interest she had already sold to Denila.[9]

The Republic of the Philippines through the Office of the Solicitor General (OSG) filed its Opposition[10] arguing that the documents attached to the amended petition are not sufficient sources for reconstitution of original certificates of title under Republic Act (R.A.) No. 26. At the trial, Cruzabra was called to testify on the certification she issued stating that the original titles in their custody are "mutilated and/or destroyed," and was also presented as a witness for the State on the latter's exhibits showing that the OCTs sought to be reconstituted contained markings/typewritten words

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7 Id. at 2-4.
8 *Rollo* (A.M. No. RTJ-11-2273), pp. 1, 26 & 29.
9 Id. at 1-3; records, pp. 70-78, 89-90 (Annexes "A," "B" and "F" of Complainant's Position Paper).
10 Records, pp. 94-99.

indicating that said titles were already cancelled.[11]

On March 4, 2008, respondent rendered his Decision[12] in favor of Denila, the dispositive portion of which reads:

> **WHEREFORE**, finding the instant petition well founded, the same is hereby granted.
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> The Registrar Register of Deeds of Davao City is hereby ordered to reconstitute the owners Original Duplicate copy of Original Certificate of Titles No. **OCT No. 164, OCT No. 219, OCT No. 220, OCT No. 301, OCT No. 337, OCT No. 514 and OCT No. 67** with the approved Technical Description of said parcels of land attached with this petition be respectively inscribed thereto and that the titles to the said mentioned parcels of land be duly registered in the name of the original owner Constancio Guzman, and considering that the latter through his attorney-in-fact Bellie S. Artigas sold the same to herein petitioner (Exhs. "G" to "M"), the Register of Deeds, Davao City is further ordered to correspondingly issue Transfer Certificate of Titles over the subject parcels of land in the name of herein petitioner.
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> Cost against the petitioner.
>
> SO ORDERED.[13]

Cruzabra elevated the matter to the Land Registration Authority (LRA) by way of *consulta* pursuant to Section 117 of Presidential Decree No. 1529. Meanwhile, on May 26, 2008, the OSG filed a petition for relief from judgment with prayer for injunction assailing the validity of the March 4, 2008 Decision on the ground that reconstitution of OCT Nos. 219, 337, 67 and 164 was previously denied by this Court while OCT Nos. 514, 220 and 301 were cancelled on account of various conveyances and hence could not likewise be reconstituted. The OSG thus prayed that the March 4, 2008 Decision be set aside, the case be reopened and the Republic be allowed to present its evidence, and thereafter another decision be rendered by the court dismissing Denila's petition for reconstitution.[14]

On September 3, 2008, respondent voluntarily inhibited himself from the reconstitution case (Sp. Proc. No. 7527-2004), apparently in reaction to insinuations that he was impelled by improper considerations in rendering the March 4, 2008 Decision with "lightning speed" despite having just assumed office at Branch 14 after the former presiding judge returned to her permanent station. In his Order,[15] respondent admitted he just copied the draft already written by the former presiding judge and signed the same, and thereupon stated:

> As there is already a doubt cast by these concerned sectors against the sense of impartiality and independence of the undersigned Presiding

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11 *Rollo* (A.M. No. RTJ-11-2273), p. 29.
12 Id. at 26-31.
13 Id. at 31.
14 Id. at 4; records, pp. 106-112.
15 Records, pp. 113-114.

> Judge he is therefore, voluntarily INHIBITING himself from further sitting in this case.
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> Let the record of this case be transmitted to the Office of the Executive Judge of this Court for re-raffling with the exception of Branch 14. SO ORDERED.

The case was re-raffled off to Branch 15, but the presiding judge thereof, after setting the OSG's petition for relief from judgment for hearing and directing Denila to file her answer, eventually inhibited himself upon motion filed by Denila. The case was thus sent back to Branch 14.

On June 10, 2008, Denila filed a verified petition to declare Cruzabra in contempt of court (Civil Case No. 32,387-08 for Indirect Contempt) which was raffled off to Branch 14. Cruzabra had refused to comply with the writ of execution served upon her to implement the March 4, 2008 Decision in the reconstitution case. Cruzabra moved to suspend the indirect contempt proceedings, citing the pendency of the OSG's petition for relief from judgment.[16]

Meanwhile, on June 29, 2009, LRA Administrator Benedicto B. Ulep issued a Resolution in *Consulta* No. 4581 holding that based on the records, the certificates of title sought to be reconstituted in Sp. Proc. No. 7527-2004 are previously cancelled titles. The LRA thus opined that the March 4, 2008 decision is not registrable and hence the Registrar of Deeds may not be compelled to register the same despite its finality.[17]

On September 3, 2009, respondent issued an order denying the petition for relief stating that: (1) Neither the OSG nor the City Prosecutor who received a copy of the decision on March 10, 2008 filed an appeal or a motion for reconsideration; (2) Cruzabra made a wrong interpretation of the Rules by filing a *consulta* with the LRA; (3) Such gross negligence on their part resulted in the expiration of the period to appeal and the consequent issuance of a writ of execution. Prosecutor Samuel T. Atencia filed a motion for reconsideration on behalf of the Republic but respondent denied it in his Order dated October 1, 2009, on the ground that the notice of hearing was addressed to the Clerk of Court and not to the parties. In the Order dated December 8, 2009, Cruzabra was declared in contempt of court and ordered imprisoned until she complies with the March 4, 2008 Decision. On October 22, 2009, the OSG filed in the CA a petition for certiorari with urgent prayer for TRO and writ of preliminary injunction. On December 9, 2009, respondent issued a warrant of arrest against Cruzabra.[18]

Cruzabra filed a motion for reconsideration of the December 8, 2009 Order but on December 17, 2009, respondent inhibited himself from further sitting on Civil Case No. 32,387-08 (Indirect Contempt) stating in his order that he was shown a pleading he had signed almost 30 years ago involving a

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16 Id. at 115-118; *rollo* (A.M. No. RTJ-11-2273), pp. 51-53.
17 *Rollo* (A.M. No. RTJ-11-2273), pp. 45-47.
18 Records, pp. 122-182.

big tract of land, a portion of which was involved in the reconstitution case.[19]

Civil Case No. 32,387-08 (Indirect Contempt) was eventually re-raffled off to Branch 16 presided by Judge Emmanuel C. Carpio. After due hearing, Judge Carpio issued an Order[20] dated February 11, 2010 holding that Cruzabra's refusal to comply with the March 4, 2008 decision was not contumacious, thus:

> **GIVEN THE REASONS**, the Court finds merit on the Motion For Reconsideration filed by respondent Cruzabra. **CONSEQUENTLY**:
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> 1. THE Motion For Reconsideration is **GRANTED**;
> 2. Court Order dated December 8, 2009 is **SET ASIDE**;
> 3. The warrant for her arrest is **RECALLED**;
> 4. The instant petition is **DISMISSED**.
>
> **SO ORDERED**.[21]

On February 17, 2010, the LRA denied the motion for reconsideration of the Resolution dated June 29, 2009 filed by Denila. Subsequently, she filed in Sp. Proc. No. 7527-2004 (reconstitution case) a motion to declare Cruzabra, Acting Registrar of Deeds Jorlyn B. Paralisan and LRA Administrator Ulep in contempt of court "for NOT performing and openly defying their ministerial functions" to implement the March 4, 2008 decision. On February 25, 2010, she also filed a motion for reconsideration of the February 11, 2010 Order of Judge Carpio dismissing Civil Case No. 32,387-08 (Indirect Contempt).[22]

At the hearing of the motion for contempt, Prosecutor Atencia opposed the conduct of the hearing, pointing out that pursuant to Section 4, Rule 71 of the 1997 Rules of Civil Procedure, as amended, there must be an independent petition or action for indirect contempt which must be filed and docketed apart from the main case. In his Order dated March 4, 2010, respondent rejected the prosecutor's stance, stating that there is no more interest left to be represented by the State as the main case had long been decided and had become final and executory two years ago. Respondent also disagreed with the contention that since the petition for indirect contempt was dismissed by Branch 16, Denila's motion for contempt in the reconstitution case should likewise be dismissed, holding that *res judicata* does not obtain in the two cases, and further faulted the Register of Deeds for issuing the derivative titles despite the existence of the subject OCTs in the files of the LRA. Thus, respondent cited Cruzabra and Paralisan in contempt of court, while the motion for contempt with respect to Administrator Ulep for issuing a resolution tending to obstruct the administration of justice, will be dealt with in due time. A warrant of arrest was thereupon issued by respondent against Cruzabra and Paralisan.[23]

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19 *Rollo* (A.M. No. RTJ-11-2273), p. 74.
20 Records, pp. 183-186.
21 Id. at 186.
22 Id. at 187-213.
23 Id. at 214-219; *rollo* (A.M. No. RTJ-11-2273), p. 128.

On March 17, 2010, the Twenty-Second Division of CA-Mindanao Station granted in CA-G.R. SP No. 03270-MIN the Republic's prayer for a TRO which was issued effective for 60 days. On the other hand, Judge Carpio in his Order dated March 18, 2010 denied the motion for reconsideration of Denila from the order dismissing her petition for indirect contempt (Civil Case No. 32,387-08). On May 17, 2010, the appellate court also granted the Republic's application for a writ of preliminary injunction and the writ was issued "specifically enjoining the public respondent Judge George E. Omelio, his agents or deputies and all other persons acting for and [in] his behalf and under his authority, to forthwith CEASE and DESIST from enforcing, implementing, and executing the Decision of March 4, 2008, the Order of September 3, 2009, and the Order of October 1, 2009, as well as the Order of March 4, 2010 - during the pendency of this case and until final determination and judgment shall have been rendered x x x."[24]

On May 25, 2010, respondent granted Denila's motion to require the City Engineer's Office of Davao City to issue a fencing permit over the properties covered by OCT Nos. 164, 219, 220, 301, 337, 514 and 67.[25] Under Resolution dated October 5, 2010, the CA-MIN upon motion for clarification filed by Denila, assented to the said order for issuance of a fencing permit as well as a writ of demolition. Subsequently, motions to intervene with attached joint petitions for intervention were filed by third parties (Lolita P. Tano, et al. and Alejandro Alonzo, et al.) claiming to be possessors and actual occupants of lots previously covered by the OCTs sought to be reconstituted. They contended that Denila had speciously asked for the issuance of a fencing permit without disclosing that there were actual occupants and possessors of the subject properties. The City of Davao later joined the intervenors. On April 28, 2011, the CA-MIN (1) granted the motions to intervene filed by Tano, et al., Alonzo, et al. and the City of Davao and direct movants Tano, et al. and Alonzo, et al. to pay the required docket fees, and (2) recalled its October 5, 2010 Resolution insofar as the CA's assent to the issuance of a fencing permit.[26]

Cruzabra charges respondent with ignorance of law and procedure, misconduct, bias, partiality and oppression in granting Denila's petition for reconstitution despite the previous ruling of this Court in *Heirs of Don Constancio Guzman, Inc. v. Hon. Judge Emmanuel Carpio*[27] against the reconstitution of OCT Nos. 219, 337, 67 and 164, and the failure of Denila to comply with the jurisdictional requirements under R.A. No. 26 (indicating (1) the nature and description of the buildings and improvements not belonging to the owner of the land; and (2) the names and addresses of occupants or persons in possession of the property).[28]

Cruzabra likewise assails respondent for revoking his previous inhibition and denying the Republic's petition for relief from judgment without

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24 Id. at 220-224.
25 Id. at 225.
26 Id. at 228-240.
27 G.R. No. 159579, November 24, 2003 (Resolution), *rollo* (A.M. No. RTJ-11-2273), pp. 109-112.
28 Records, pp. 34-38.

conducting a hearing as required by Section 6, Rule 38 of the Rules of Court. The reason for similar denial of the motion for reconsideration filed by the OSG was also flimsy: the notice of hearing was addressed only to the Clerk of Court, even as the parties were all furnished with copies of the motion.[29]

As to Civil Case No. 32,387-08 (Indirect Contempt), Cruzabra stresses that she was cited in contempt and ordered arrested by the respondent without any hearing. Respondent simply ignored the various motions filed by Cruzabra but did not require Denila to present evidence. And after respondent inhibited himself from the case, it was re-raffled off to Judge Carpio who eventually dismissed Denila's petition and revoked the warrant of arrest earlier issued by respondent against Cruzabra. But despite Judge Carpio's ruling that Cruzabra's failure to obey the March 4, 2008 decision was not contumacious, respondent revoked his previous inhibition and proceeded to give due course to Denila's *motion* to cite Cruzabra in contempt of court in the reconstitution case. Thus, not only did respondent fail to adhere to the requirement that contempt proceedings be initiated through a verified petition, his act of taking cognizance of a mere motion to cite Cruzabra in contempt of court and ordering her incarceration in jail until she complies with the March 4, 2008 Decision, had the effect of placing Cruzabra in double jeopardy. Additionally, Cruzabra cites the petition for certiorari filed in the CA by the OSG describing respondent's acts which denied due process to the Republic as indicative of bias and partiality on his part.[30]

Lastly, Cruzabra contends that respondent's precipitous issuance of a warrant of arrest was oppressive. Respondent was overzealous in putting her to jail knowing that she cannot comply with the directive to reconstitute the owner's original duplicate copies of OCT Nos. 164, 219, 220, 301, 337, 514 and 67 because the LRA ruled against their registrability. And after learning of the dismissal by Judge Carpio of the indirect contempt case, respondent immediately revoked his previous inhibition in Sp. Proc. No. 7527-2004 (reconstitution case) and took cognizance of Denila's motion to cite in contempt Cruzabra along with Paralisan and Administrator Ulep.[31]

Respondent's Answer

In A.M. No. RTJ-11-2259, respondent claims it was filed by Peralta merely to harass him so that he would dismiss a criminal case for estafa filed against Peralta involving the sum of ₱4 million now pending before Branch 14 (Crim. Case No. 65,463-2009), as in fact Peralta filed a motion for his recusal in the said case.[32]

As to the TRO he had issued in favor of Stevens, respondent contends that the Chambers conference held at 9:00 in the morning substantially complies with the requirement of summary hearing under the Rules.

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29 Id. at 44-47.
30 Id. at 47-58.
31 Id. at 58-60.
32 Id. at 370.

Moreover, Peralta failed to exhaust her administrative remedies against the TRO before filing the present administrative complaint, such as a motion for reconsideration and petition for certiorari with the CA. Peralta also could have intervened in Civil Case No. 33,291-2010 (Easement of Road Right-of-Way). Respondent further points out that Peralta herself admitted it was LBP which allowed Stevens to freely access the subject property and hence she had no reason to complain on the TRO issued.[33]

In A.M. No. RTJ-11-2264, respondent asserts that Mendoza had no moral standing to file this administrative complaint considering that he had been indicted for Falsification under Article 172 of the Revised Penal Code, as amended, by the City Prosecutor's Office of Davao City. He alleges that Mendoza was selling properties no longer owned by him, including the property subject of the unlawful detainer case (Civil Case No. 20,001-A-2007). In its entirety, the administrative complaint narrates errors allegedly committed by respondent, for which the appropriate remedy is the filing of a motion for reconsideration. The administrative complaint was therefore prematurely filed, aside from being a mere harassment suit.[34]

In A.M. No. RTJ-11-2273, respondent vehemently denies the accusations of bias, partiality, misconduct and ignorance of the law and procedure. Cruzabra's reliance on the LRA ruling is misplaced because the LRA had no authority and jurisdiction by mere *consulta* to interfere with, review, revoke and/or override a decision of the RTC which had already become final and executory. As to the previous ruling of this Court in *Heirs of Don Constancio Guzman, Inc. v. Hon. Judge Emmanuel Carpio*,[35] what petitioners therein failed to prove, petitioner Denila in Sp. Proc. No. 7527-2004 "overwhelmingly introduced evidence and proved [her] petition by complying with the mandate of the provisions of Section 2, R.A. 26 x x x."[36]

Respondent contends that Cruzabra defiantly and deliberately refuses to perform her ministerial duty of complying with the March 4, 2008 decision, which resulted to her being cited in contempt of court. As for the denial of the OSG's petition for relief from judgment, respondent faults Cruzabra for "wrongly elevating" the March 4, 2008 Decision to the LRA Administrator - by way of *consulta*, instead of appealing the same to the CA or filing a petition for certiorari in the Supreme Court - thereby allowing the said decision to become final and executory.[37]

On the alleged denial of due process in the indirect contempt case, respondent vigorously denies it for being false and concocted, insisting that Cruzabra was formally charged but she did not bother to attend several hearings set by respondent. Contrary to the claims of Cruzabra, it is she, Paralisan and Administrator Ulep who connived and conspired with one

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33 Id. at 370-373.
34 Id. at 283-290.
35 Supra note 27.
36 Id. at 295, 305-306, 308.
37 Id. at 306-307, 353.

another in "making a mockery of justice by avoiding the execution of the final decision" of respondent. Respondent believes that the present administrative complaint was filed to destroy his good name and reputation after deciding the reconstitution case in good faith, based on the proof and evidence presented during the trial.[38]

**Report of the Investigating Justice
Of the Court of Appeals**

On March 28, 2012, Justice Zenaida T. Galapate-Laguilles of the Court of Appeals Mindanao Station submitted her Report.[39] She found the complaints in A.M. Nos. RTJ-11-2259 and RTJ-11-2264 lacking in factual and legal bases. However, she recommended that in A.M. No. RTJ-11-2273, respondent be suspended for three months and ordered to pay a fine of P30,000.00 for gross ignorance of the law, with a warning that any similar transgression in the future shall be dealt with more severely.

Justice Galapate-Laguilles found that respondent repeatedly disregarded and failed to take judicial notice of the Resolution issued by this Court in G.R. No. 159579 and rendered orders denying the OSG's petition for relief from judgment and motion for reconsideration thereof. She opined that respondent's refusal to heed or simply take note of the parallelism of facts in the decided case and the one before his court bespeaks of his cavalier treatment of legal precedents. Such display of defiance of the established guidelines, aside from being impermissible, is unbecoming a magistrate.[40]

Recommendation of the OCA

On the matter of *ex parte* issuance of TRO by respondent preceded by a conference with the parties' respective counsels at his chamber, the gist of Peralta's complaint (RTJ-11-2259), the OCA found no violation of the provisions of Rule 58, Rules of Court, which expressly allows the *ex parte* granting of a TRO. Peralta simply failed to prove that respondent acted in bad faith, fraud, dishonesty or corruption that would overturn the presumption of regularity of an official act.[41]

The OCA likewise found no merit in the complaint of Mendoza (RTJ-11-2264). Respondent's grant of the association's second motion for reconsideration is not proscribed under the Rules because the order sought to be reconsidered is an interlocutory, not a final order. There is likewise no abuse of discretion committed by the respondent in issuing the TRO and writ of preliminary injunction. The OCA noted that Mendoza did not indicate in his complaint nor in his Comment on respondent's position paper that he

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38 Id. at 314, 319-321.
39 *Rollo* (A.M. No. RTJ-11-2259), pp. 90-116.
40 Id. at 112.
41 *Rollo* (A.M. No. RTJ-11-2264), pp. 154-155.

challenged the Order and the Writ of Preliminary Injunction before the CA or this Court. Instead of exhausting the judicial remedies available to him, Mendoza, preferred to file the present administrative complaint against respondent.[42]

However, with respect to Cruzabra's complaint (RTJ-11-2273) pertaining to the failure of respondent to take judicial notice of this Court's previous ruling against the reconstitution of OCTs sought to be reconstituted in Sp. Proc. No. 7527-2004, the OCA found respondent guilty of gross ignorance of the law. The OCA said that the finding of the Investigating Justice that the attitude of respondent reflected injudiciousness is substantially supported with applicable legal principles and jurisprudence.[43]

The OCA recommended, thus –

RECOMMENDATION:

PREMISES CONSIDERED, it is respectfully recommended for the consideration of the Court that:

1. **A.M. No. RTJ-11-2264 [Formerly A.M. OCA IPI No. 10-3368-RTJ]** (Romualdo G. Mendoza vs. Judge George E. Omelio, Regional Trial Court, Branch 14, Davao City) and **A.M. No. RTJ-11-2259 [Formerly A.M. OCA IPI No. 10-3441-RTJ]** (Ma. Regina S. Peralta vs. Judge George E. Omelio, Regional Trial Court, Branch 14, Davao City) be **DISMISSED** for lack of merit; and

2. in **A.M. No. RTJ-11-2273 [Formerly A.M. OCA IPI No. 10-3381-RTJ]** (Atty. Asteria E. Cruzabra vs. Judge George E. Omelio, Regional Trial Court, Branch 14, Davao City), respondent Judge George E. Omelio be held guilty of gross ignorance of the law and be **DISMISSED** from the service with forfeiture of all his benefits, except accrued leave credits, with prejudice to his reemployment in any branch or service of the government including government-owned or controlled corporations.[44]

The Court's Ruling

We agree with the findings and recommended penalty of the OCA.

In A.M. No. RTJ-11-2259, upon receiving the complaint on March 26, 2010, respondent granted the prayer for TRO after holding at his chambers a conference with the parties' respective counsels who conformed to the issuance of a TRO. Peralta and her counsel thus had notice and the requirement of a summary hearing was substantially complied with. In any

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42 Id. at 152-154.
43 Id. at 155-158.
44 Id. at 159-160.

case, under Section 5,[45] Rule 58 of the Rules of Court, respondent was allowed to issue *ex parte* a TRO of limited effectivity and, in that time, conduct a hearing to determine the propriety of extending the TRO or issuing a writ of preliminary injunction.

Even assuming that respondent committed errors in issuing the TRO, Peralta could have pursued the appropriate remedy to challenge its validity. But nowhere in her complaint was it mentioned that she filed a motion for reconsideration or a petition for certiorari in the CA assailing the TRO. We have previously held that where sufficient judicial remedies exist, the filing of an administrative complaint is not the proper recourse to correct a judge's allegedly erroneous act.[46]

Indeed, as a matter of public policy, not every error or mistake committed by judges in the performance of their official duties renders them administratively liable.[47] Only errors that are tainted with fraud, corruption or malice may be the subject of disciplinary actions. For administrative liability to attach, respondent must be shown to have been moved by bad faith, dishonesty, hatred or some other similar motive.[48] Peralta failed to allege and prove any improper motive or bad faith on the part of respondent. She merely averred having suffered "undue emotional and financial hardships" because of respondent's act. For this reason, her complaint against the respondent must be dismissed.

As to the charges of gross ignorance of the law, partiality and prejudgment in A.M. No. RTJ-11-2264, the complaint focuses on respondent's Order dated February 2, 2010 in Civil Case No. 32,245-2008 (for "Annulment of Judgment") which granted the association's (defendant in the unlawful detainer case decided by the MCTC) motion for

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[45] SEC. 5. *Preliminary injunction not granted without notice; exception.* – No preliminary injunction shall be granted without hearing and prior notice to the party or person sought to be enjoined. If it shall appear from facts shown by affidavits or by the verified application that great or irreparable injury would result to the applicant before the matter can be heard on notice, the court to which the application for preliminary injunction was made, may issue a temporary restraining order to be effective only for a period of twenty (20) days from service on the party or person sought to be enjoined, except as herein provided. Within the said twenty-day period, the court must order said party or person to show cause, at a specified time and place, why the injunction should not be granted, determine within the same period whether or not the preliminary injunction shall be granted, and accordingly issue the corresponding order. (As amended by En Banc Resolution of the Supreme Court, Bar Matter No. 803, dated February 17, 1998.)

However, and subject to the provisions of the preceding sections, if the matter is of extreme urgency and the applicant will suffer grave injustice and irreparable injury, the executive judge of a multiple-sala court or the presiding judge of a single-sala court may issue *ex parte* a temporary restraining order effective for only seventy-two (72) hours from issuance but he shall immediately comply with the provisions of the next preceding section as to service of summons and the documents to be served therewith. Thereafter, within the aforesaid seventy-two (72) hours, the judge before whom the case is pending shall conduct a summary hearing to determine whether the temporary restraining order shall be extended until the application for preliminary injunction can be heard. In no case shall the total period of effectivity of the temporary restraining order exceed twenty (20) days, including the original seventy-two (72) hours provided herein.

x x x x

[46] *Atty. Lacurom v. Judge Tienzo,* 561 Phil. 376, 382-383 (2007), citing *Dr. Cruz v. Judge Iturralde,* 450 Phil. 77, 85 (2003).

[47] Id. at 383, citing *Planas v. Reyes,* A.M. No. RTJ-05-1905, February 23, 2005, 452 SCRA 146, 155.

[48] Id.

reconsideration of the July 16, 2009 Order issued by Judge Europa to whom the case was initially assigned. Aside from the fact that said motion was filed after the lapse of 7 months and 5 days from June 22, 2009 when Judge Europa denied the association's motion for reconsideration of the November 7, 2008 Order denying the association's application for a writ of preliminary injunction, the Order sought to be reconsidered – the July 16, 2009 Order – was, in fact, irrelevant because it merely cancelled the scheduled pre-trial conference as Judge Europa, upon motion filed by the association, inhibited herself from further handling the case. Mendoza stresses that the February 2, 2010 Order issued by respondent *granted* the association's application for a writ of preliminary injunction, which was already denied under Judge Europa's November 7, 2008 Order. He thus accuses respondent of committing patently erroneous acts in abuse of his authority when he entertained the association's Motion for Reconsideration dated January 29, 2010 despite being a second motion for reconsideration proscribed by the Rules of Court which was filed only months after the application for a writ of preliminary injunction was denied by Judge Europa, and notwithstanding that the July 16, 2009 Order refers to the cancellation of the pre-trial hearing and *not* the denial of the application for a writ of preliminary injunction. These acts, coupled with respondent's "arguing in behalf" of the association's counsel whom he even called "Congressman Mahipus," strongly indicate respondent's partiality to the association.

We agree with the OCA that while the association's motion dated January 29, 2010 was a second motion for reconsideration, said motion did not violate the rule prohibiting the filing of a second motion for reconsideration.

As Section 5, Rule 37 of the Rules of Court clearly provides, the proscription against a second motion for reconsideration is directed against "a judgment or *final* order."[49] Thus, we held in *Philgreen Trading Construction Corporation v. Court of Appeals*[50]:

> The rule that a second motion for reconsideration is prohibited by the Rules applies to final judgments and orders, not interlocutory orders. This is clear from the Interim or Transitional Rules Relative to the Implementation of B.P. 129. Section 4 of the Interim Rules provides that "[n]o party shall be allowed a second motion for reconsideration of a final order or judgment." A second motion for reconsideration attacking an interlocutory order can be denied on the ground that it is a "rehash" or mere reiteration of grounds and arguments already passed upon and resolved by the court; it, however, cannot be rejected on the ground that a second motion for reconsideration of an interlocutory order is forbidden by law.[51]

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49 *Republic v. Sandiganbayan (Fourth Division)*, G.R. No. 152375, December 13, 2011, 662 SCRA 152, 178.

50 338 Phil. 433 (1997).

51 Id. at 440.

An order granting or denying an application for preliminary injunction is interlocutory in nature.[52] The November 7, 2008 order denying the application for a writ of preliminary injunction is not a final order, and hence the association's filing of a second motion for reconsideration of the said order, is not prohibited. Being an interlocutory order which is not appealable,[53] respondent's subsequent order granting the application for preliminary injunction may be challenged in a petition for certiorari before the CA. Mendoza, however, opted to file this administrative complaint which contained no allegation that he had availed of the aforesaid remedy to set aside the writ issued by respondent.

We reiterate the rule that the filing of an administrative complaint is not the proper remedy for correcting the actions of a judge perceived to have gone beyond the norms of propriety, where a sufficient remedy exists.[54] The actions against judges should not be considered as complementary or suppletory to, or substitute for, the judicial remedies which can be availed of by a party in a case.[55] Moreover, the grant or denial of a writ of preliminary injunction in a pending case rests on the sound discretion of the court taking cognizance of the case, since the assessment and evaluation of evidence towards that end involves findings of fact left to the said court for its conclusive determination. Hence, the exercise of judicial discretion by a court in injunctive matters must not be interfered with, except when there is grave abuse of discretion.[56]

In view of the foregoing reasons, Mendoza's administrative complaint against respondent must be dismissed for lack of merit.

However, we find respondent administratively liable in A.M. No. RTJ-11-2273 for gross ignorance of the law in (a) refusing to adhere to a prior ruling of this Court against the reconstitution of certain OCTs; (b) reversing his previous inhibition in Sp. Proc. No. 7527-2004; and (c) taking cognizance of Denila's motion for indirect contempt.

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.[57] 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

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52 *Australian Professional Realty, Inc. v. Municipality of Padre Garcia, Batangas Province,* G.R. No. 183367, March 14, 2012, 668 SCRA 253, 260, citing *City of Naga v. Asuncion,* G.R. No. 174042, July 9, 2008, 557 SCRA 528, 541 and *Ex-Mayor Tambaoan v. Court of Appeals,* 417 Phil. 683 (2001).

53 Id.

54 *Government Service Insurance System v. Judge Pacquing,* 543 Phil. 1, 11 (2007), citing *Webb v. People,* 342 Phil. 206 (1997).

55 Id., citing *Balayo v. Judge Buban, Jr.,* 372 Phil. 688, 696 (1999).

56 *Australian Professional Realty, Inc. v. Municipality of Padre Garcia, Batangas Province,* supra note 52, at 261-262, citing *Barbieto v. Court of Appeals,* G.R. No. 184645, October 30, 2009, 604 SCRA 825, 840.

57 *Medina v. Canoy,* A.M. No. RTJ-11-2298, February 22, 2012, 666 SCRA 424, 433, citing *Chief Prosecutor Zuño v. Judge Cabredo,* 450 Phil. 89, 97 (2003) and *Judge Cabatingan, Sr. (Ret.) v. Judge Arcueno,* 436 Phil. 341, 350 (2002).

in cases within the parameters of tolerable misjudgment. Where the law is straightforward and the facts so evident, not to know it or to act as if one does not know it constitutes gross ignorance of the law.[58]

In granting Denila's petition for reconstitution of *original* and owner's duplicate copies of OCTs registered in the name of Constancio S. Guzman and Isabel Luna, respondent failed to take judicial notice of this Court's previous ruling rendered in *Heirs of Don Constancio Guzman, Inc. v. Hon. Judge Emmanuel Carpio*[59] which involved the same OCT Nos. 219, 337, 67 and 164. The Resolution rendered by this Court's Third Division is herein reproduced:

> Before this Court is a petition for review on certiorari seeking the reversal of the order dated May 12, 2003 of the Regional Trial Court, Branch 16, of Davao City and another order dated July 11, 2003 which denied petitioner's motion for reconsideration in Special Proceedings Nos. 5913-01 to 5916-01.
>
> The generative facts of this case follow.
>
> On June 8, 2001, petitioner filed in the trial court four separate petitions for reconstitution of lost and/or destroyed original certificates of title (OCT) nos. 219, 337, 67 and 164.
>
> Petitioner alleges that Constancio Guzman was the owner of several parcels of land located in Davao City. Constancio was beheaded by the Japanese soldiers on December 21, 1941. Thereafter, his common-law wife, Isabel Luna, also passed away. Constancio died without any direct heir and was survived by petitioner, a corporation whose stakeholders were sons, daughters and grandchildren of his only brother, the late Manuel Guzman.
>
> In compliance with the court's order, petitioner caused the publication of each petition in the Official Gazette for two consecutive weeks as well as the posting of copies of the four petitions at the City Hall and Hall of Justice of Davao City.
>
> During the initial hearing on May 16, 2002, the trial court issued an order requiring the Register of Deeds of Davao City to submit a report on the status of the aforementioned certificates of title.
>
> On July 25, 2002, the Acting Registrar of Deeds of Davao City, Atty. Florenda Patriarca, submitted a report showing that: (1) OCT No. 337 in the name of spouses Constancio Guzman and Isabel Luna had already been cancelled and was the subject of several transfers, the latest being to the Republic of the Philippines; (2) OCT No. 219 in the name of spouses Constancio Guzman and Isabel Luna had likewise been cancelled and, was the subject of several transfers, the latest being in favor of Antonio Arroyo; (3) OCT No. 164 in the name of spouses Constancio Guzman and Isabel Luna was the subject of several transfers and was now registered in the name of Antonio Arroyo; (4) OCT No. 67 in the name of Constancio Guzman alone had also been cancelled and transferred several times, the latest being in the name of Madeline Marfori.

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[58] *Amante-Descallar v. Ramas,* A.M. No. RTJ-08-2142 [OCA-IPI No. 08-2779-RTJ], March 20, 2009, 582 SCRA 22, 39.

[59] Supra note 27.

> On November 25, 2002, Madeline Marfori and Beatriz Gutierrez opposed the petitions for reconstitution and filed a motion to dismiss on the ground that the petitions failed to satisfy the jurisdictional requirements of RA 26.
>
> On May 12, 2003, the trial court issued an order dismissing all the petitions for reconstitution as it was clear from the report of the Register of Deeds that **OCT Nos. 337, 219, 164 and 67** were neither mutilated, destroyed nor lost but were in fact cancelled as a result of voluntary and involuntary transfers.
>
> Hence, this petition.
>
> At the outset, it should be stated that there is here a blatant disregard of the hierarchy of courts and no exceptional or compelling circumstance has been cited by petitioner why direct recourse to this Court should be allowed. In *Tano v. Socrates*, this Court declared that the propensity of litigants and lawyers to disregard the hierarchy of courts must be stopped in its tracks, not only because it wastes the precious time of this Court but also because it delays the adjudication of a case which has to be remanded or referred to the proper forum.
>
> Moreover, even if we were to decide the instant case on the merits, the petition would still fail. Reconstitution of certificates of title, within the meaning of RA 26, means the restoration of the instrument which is supposed to have been *lost or destroyed* in its original form and condition. Petitioner failed to prove that the certificates of title intended to be reconstituted were in fact lost or destroyed. On the contrary, **the evidence on record reveals that the certificates of title were cancelled on account of various conveyances. In fact, the parcels of land involved were duly registered in the names of the present owners whose acquisition of title can be clearly traced through a series of valid and fully documented transactions.**[60] (Italics in the original; emphasis supplied; citations omitted.)

Under Resolution[61] dated February 16, 2004, this Court issued a final denial of the motion for reconsideration filed by the petitioners in the above-cited case. In its petition for relief from judgment, the OSG brought to the attention of respondent the foregoing ruling as the Republic's good and valid defense against Denila's claim. While respondent inhibited himself from the case he eventually resumed handling the case after the presiding judge of Branch 15 inhibited himself upon motion filed by Denila. Instead of giving serious consideration to the meritorious defense raised by the Republic, respondent denied the petition for relief, finding both the City Prosecutor and Cruzabra at fault, the former in not filing a motion for reconsideration and the latter in her "wrong interpretation of the Rules" when she filed instead a *consulta* before the LRA. The City Prosecutor moved to reconsider the denial of the Republic's petition for relief from judgment, but respondent denied it on the flimsy reason that the notice of hearing was addressed to the Clerk of Court.

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60 Id.
61 Id. at 108.

In *Republic v. Tuastumban*,[62] the Court enumerated what needs to be shown before the issuance of an order for reconstitution: (a) that the certificate of title had been lost or destroyed; (b) that the documents presented by petitioner are sufficient and proper to warrant reconstitution of the lost or destroyed certificate of title; (c) that the petitioner is the registered owner of the property or has an interest therein; (d) *that the certificate of title was in force at the time it was lost or destroyed*; and (e) that the description, area and boundaries of the property are substantially the same as those contained in the lost or destroyed certificate of title.[63] That OCT Nos. 164, 219, 337 and 67 are already cancelled titles was definitively settled by this Court. Respondent's stubborn disregard of our pronouncement that the said titles can no longer be reconstituted is a violation of his mandate to apply the relevant statutes and jurisprudence in deciding cases.

In *Peltan Development, Inc. v. Court of Appeals*,[64] we emphatically declared:

> x x x In resolving a motion to dismiss, every court must take cognizance of decisions this Court has rendered because they are proper subjects of mandatory judicial notice as provided by Section 1 of Rule 129 of the Rules of Court, to wit:
>
> > "SECTION 1. *Judicial notice, when mandatory*. – A court shall take judicial notice, without the introduction of evidence, of the existence and territorial extent of states, their political history, forms of government and symbols of nationality, the law of nations, the admiralty and maritime courts of the world and their seals, the political constitution and history of the Philippines, *the official acts of the legislative, executive and judicial departments of the Philippines*, laws of nature, the measure of time, and the geographical divisions." (Italics supplied.)
>
> **The said decisions, more importantly, "form part of the legal system," and failure of any court to apply them shall constitute an abdication of its duty to resolve a dispute in accordance with law, and shall be a ground for administrative action against an inferior court magistrate**.
>
> In resolving the present complaint, therefore, the Court is well aware that a decision in *Margolles vs. CA*, rendered on 14 February 1994, upheld the validity of OCT No. 4216 (and the certificates of title derived therefrom), the same OCT that the present complaint seeks to nullify for being "fictitious and spurious." Respondent CA, in its assailed Decision dated 29 June 1994, failed to consider *Margolles vs. CA*. This we cannot countenance.[65] (Emphasis supplied; citations omitted.)

With respect to OCT Nos. 220, 301 and 514, the LRA urged the RTC to re-examine the correctness of its order to reconstitute the said titles in the hearing of the Republic's petition for relief from judgment since said titles were found to have been cancelled on account of various transactions. The

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62 G.R. No. 173210, April 24, 2009, 586 SCRA 600, 613-614.
63 As cited in *Republic v. Catarroja*, G.R. No. 171774, February 12, 2010, 612 SCRA 472, 478.
64 336 Phil. 824 (1997).
65 Id. at 834-835.

LRA resolution on Consulta No. 4581 was presented by Cruzabra as her defense to the motion for contempt filed by Denila in the reconstitution case *after* the petition for indirect contempt (Civil Case No. 32,387-08) was dismissed by Judge Carpio.

In his March 4, 2010 Order declaring Cruzabra and Paralisan in contempt of court, respondent brushed aside the LRA's findings on the subject OCTs. Respondent instead faulted the Register of Deeds for issuing the derivative titles "despite existence of the subject original certificates of titles in the files of the Land Registration Authority."[66] This stance of respondent is perplexing considering that in the March 4, 2008 Decision, respondent narrated that Denila's witness, Myrna Fernandez, Chief of the LRA's Document Section Docket Division, who presented in court certified true copies of the original copies in their file of the subject OCTs, "further testified that as record custodian they only keep a record of the said titles and *as to the cancellation thereof, it is the Register of Deeds of the said place that makes the cancellation* without need of any communication or information on their end."[67] It is thus clear that the present condition of the titles is to be verified not from the LRA but with the local Registry of Deeds where instruments of conveyance and other transactions are recorded. Indeed, the records reveal that respondent persistently ignored these findings on the status of the subject OCTs, including the previous ruling of this Court, as he even blamed the OSG for raising the matter only in their petition for relief from judgment.

But more important, respondent granted the petition for reconstitution in Sp. Proc. 7527-2004 despite non-compliance with the requirements under R.A. No. 26.

The applicable provisions are Sections 2, 12 and 13 which state:

> SECTION 2. **Original certificates of title** shall be reconstituted from such of the sources hereunder enumerated as may be available, in the following order:
>
> (a) The owner's duplicate of the certificate of title;
>
> (b) The co-owner's, mortgagee's, or lessee's duplicate of the certificate of title;
>
> **(c) A certified copy of the certificate of title, previously issued by the register of deeds or by a legal custodian thereof**;
>
> (d) An authenticated copy of the decree of registration or patent, as the case may be, pursuant to which the original certificate of title was issued;
>
> (e) A document, on file in the registry of deeds, by which the property, the description of which is given in said document, is mortgaged,

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66 *Rollo* (A.M. No. RTJ-11-2273), p. 126.
67 Id. at 28.

leased or encumbered, or an authenticated copy of said document showing that its original had been registered; and

(f) Any other document which, in the judgment of the court, is sufficient and proper basis for reconstituting the lost or destroyed certificate of title.

x x x x

SEC. 12. Petitions for reconstitution from sources enumerated in Sections **2(c),** 2(d), 2(e), 2(f), 3(c), 3(d), 3(e) and/or 3(f) of this Act, shall be filed with the proper Court of First Instance, by the registered owner, his assigns, or any person having an interest in the property. **The petition shall state or contain**, among other things, the following: (a) that the owner's duplicate of the certificate of title had been lost or destroyed; (b) that no co-owner's mortgagee's or lessee's duplicate had been issued, or, if any had been issued, the same had been lost or destroyed; (c) the location, area and boundaries of the property; (d) the nature and description of the buildings or improvements, if any, which do not belong to the owner of the land, and the names and addresses of the owners of such buildings or improvements; (**e) the names and addresses of the occupants or persons in possession of the property, of the owners of the adjoining properties and all persons who may have any interest in the property;** (f) a detailed description of the encumbrances, if any, affecting the property; and (g) a statement that no deeds or other instruments affecting the property have been presented for registration, or, if there be any, the registration thereof has not been accomplished, as yet. All the documents, or authenticated copies thereof, to be introduced in evidence in support of the petition for reconstitution shall be attached thereto and filed with the same: *Provided*, That in case the reconstitution is to be made exclusively from sources enumerated in Section 2(f) or 3(f) of this Act, the petition shall be further be accompanied with a plan and technical description of the property duly approved by the Chief of the General Land Registration Office, or with a certified copy of the description taken from a prior certificate of title covering the same property.

SEC. 13. The court shall cause **a notice of the petition**, filed under the preceding section, to be published, at the expense of the petitioner, twice in successive issues of the *Official Gazette*, and to be posted on the main entrance of the provincial building and of the municipal building of the municipality or city in which the land is situated, at least thirty days prior to the date of hearing. **The court shall likewise cause a copy of the notice to be sent, by registered mail or otherwise, at the expense of the petitioner, to every person named therein whose address is known, at least thirty days prior to the date of hearing**. Said notice shall state, among other things, the number of the lost or destroyed certificate of title, if known, the name of the registered owner, the names of the occupants or persons in possession of the property, the owners of the adjoining properties and all other interested parties, the location, area and boundaries of the property, and the date on which all persons having any interest therein must appear and file their claim or objections to the petition. **The petitioner shall, at the hearing, submit proof of** the publication, posting and **service of the notice as directed by the court.** (Emphasis supplied.)

In this case, the petition for reconstitution of the subject OCTs is based on Section 2 (c), that is, on certified true copies of the said titles issued

by a legal custodian from the LRA. However, the amended petition and the notice of hearing failed to state the names and addresses of the occupants or persons in possession of the property and all persons who may have any interest in the property as required by Section 12. There is also no compliance with the required service of notice to the said occupants, possessors and all persons who may have any interest in the property.

Records reveal that Denila indeed failed to disclose in her amended petition for reconstitution that there are occupants and possessors in the properties covered by the subject OCTs. Third parties, including the City Government of Davao filed motions for intervention in CA-G.R. SP 03270-MIN and manifested before the CA Cagayan de Oro City that several structures and buildings, including a barangay hall, a police station and a major public highway would be affected by the order for the issuance of a fencing permit and writ of demolition issued by respondent. These occupants and possessors have not been notified of the reconstitution proceedings. The March 4, 2008 decision itself shows that no notice was sent to any occupant, possessor or person who may have an interest in the properties.

The requirements prescribed by Sections 12 and 13 of R.A. No. 26 are mandatory and compliance with such requirements is jurisdictional.[68] Notice of hearing of the petition for reconstitution of title must be served on the actual possessors of the property. Notice thereof by publication is insufficient. Jurisprudence is to the effect settled that in petitions for reconstitution of titles, actual owners and possessors of the land involved must be duly served with actual and personal notice of the petition.[69] Compliance with the actual notice requirement is necessary for the trial court to acquire jurisdiction over the petition for reconstitution.[70] If no notice of the date of hearing of a reconstitution case is served on a possessor or one having interest in the property involved, he is deprived of his day in court and the order of reconstitution is null and void.[71]

In *Subido v. Republic of the Philippines*,[72] this Court ruled:

> As may be noted, Section 13 of R.A. No. 26 specifically enumerates the manner of notifying interested parties of the petition for reconstitution, namely: (a) publication in the Official Gazette; (b) posting on the main entrance of the provincial capitol building and of the municipal building of the municipality or city in which the land is situated; and (c) by registered mail or otherwise, to every person named in the notice. The notification process being mandatory, non-compliance with publication and posting requirements would be fatal to the jurisdiction of the reconstituting trial court and invalidates the whole reconstitution proceedings. So would failure to notify, in the manner specifically

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68 *Opriasa v. The City Government of Quezon City*, 540 Phil. 256, 266 (2006), citing *Republic of the Phil. v. Court of Appeals*, 368 Phil. 412, 421 (1999). See also *Puzon v. Sta. Lucia Realty and Development, Inc.*, 406 Phil. 263 (2001).

69 *Dordas v. Court of Appeals*, 337 Phil. 59, 67 (1997).

70 See *Opriasa v. The City Government of Quezon City*, supra note 68, at 265-266.

71 *San Agustin v. Court of Appeals*, 422 Phil. 686, 695 (2001).

72 522 Phil. 155 (2006).

> prescribed in said Section 13, interested persons of the initial hearing date. Contextually, Section 13 particularly requires that the notice of the hearing be sent to the property occupant or other persons interested, by *registered mail or otherwise*. The term "*otherwise"* could only contemplate a notifying mode other than publication, posting, or thru the mail. That other mode could only refer to service of notice by *hand or other similar mode of delivery*.
>
> **It cannot be over-emphasized that R.A. No. 26 specifically provides the special requirements and procedures that must be followed before the court can properly act, assume and acquire jurisdiction over the petition and grant the reconstitution prayed for. These requirements, as the Court has repeatedly declared, are mandatory.** Publication of notice in the Official Gazette and the posting thereof in provincial capitol and city/municipal buildings would not be sufficient. The service of the notice of hearing to parties affected by the petition for reconstitution, notably actual occupant/s of the land, either by registered mail or hand delivery must also be made. In the case at bar, the "posting of the notice at the place where TCT No. 95585 is situated" is not, as urged by petitioner, tantamount to compliance with the mandatory requirement that notice by registered mail or otherwise be sent to the person named in the notice.
>
> **In view of what amounts to a failure to properly notify parties affected by the petition for reconstitution of the date of the initial hearing thereof, the appellate court correctly held that the trial court indeed lacked jurisdiction to take cognizance of such petition**. And needless to stress, barring the application in appropriate cases of the estoppel principle, a judgment rendered by a court without jurisdiction to take cognizance of the case is void, *ergo,* without binding legal effect for any purpose.[73] (Emphasis supplied; citations omitted.)

In *Ortigas & Co. Ltd. Partnership v. Velasco*,[74] we have held Judge Tirso Velasco's acts of proceeding with the reconstitution despite awareness of lack of compliance with the prerequisites for the acquisition of jurisdiction under R.A. No. 26, and disregarding adverse findings or evidence of high officials of LRA that militates against the reconstitution of titles, to be of serious character warranting his dismissal from the service. We also charged Judge Velasco with knowledge of this Court's pronouncement in *Alabang Development Corporation v. Valenzuela*[75] and other precedents admonishing courts to exercise the "greatest caution" in entertaining petitions for reconstitution of allegedly lost certificates of title and taking judicial notice of innumerable litigations and controversies that have been spawned by the reckless and hasty grant of such reconstitution of allegedly lost or destroyed titles as well as of the numerous purchasers who have been victimized by forged or fake titles or whose areas simply expanded through table surveys with the cooperation of unscrupulous officials.[76]

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73 Id. at 164-166.

74 343 Phil. 115 (1997).

75 201 Phil. 727 (1982).

76 *Ortigas & Co. Ltd. Partnership v. Velasco*, supra note 74, at 136, also citing *Republic v. Court of Appeals*, 183 Phil. 426 (1979); *Director of Lands v. Court of Appeals*, 190 Phil. 311 (1981); *Tahanan Development Corp. v. Court of Appeals*, 203 Phil. 652 (1982).

Here, respondent's bad faith in disregarding the jurisdictional requirements in reconstitution proceedings is evident in his order for the issuance of a fencing permit and writ of demolition in favor of Denila. Respondent should have been alerted by the presence of actual occupants and possessors when, after the finality of the March 4, 2008 Decision which ordered the reconstitution of the subject OCTs, Denila moved for the issuance of a writ of demolition for such belied her allegation in the amended petition that "[T]here are no buildings or other structures of strong materials on the above-mentioned pieces of land, which do not belong to the herein petitioner"[77] and the absence of any name and address of any occupant, possessor or person who may have an interest in the properties.

With the failure to serve actual notice on these occupants and possessors, Branch 14 had not acquired jurisdiction over Sp. Proc. No. 7527-2004, and therefore the March 4, 2008 Decision rendered by respondent is null and void. A decision of the court without jurisdiction is null and void; hence, it can never logically become final and executory. Such a judgment may be attacked directly or collaterally.[78]

But respondent's bad faith is most evident in his reversal of his inhibition in Sp. Proc. No. 7527-2004 to act upon the petition for relief from judgment. Respondent voluntarily inhibited himself after rendition of the decision, only to resume handling the case and immediately denied the said petition for relief despite the previous order of Judge Tanjili setting the petition for hearing, and completely ignoring the jurisdictional defects of the decision raised by the OSG and Cruzabra.

It must be borne in mind that the inhibition of judges is rooted in the Constitution[79] which recognizes the right to due process of every person. Due process necessarily requires that a hearing be conducted before an impartial and disinterested tribunal because unquestionably, every litigant is entitled to nothing less than the cold neutrality of an impartial judge. All the other elements of due process, like notice and hearing, would be meaningless if the ultimate decision would come from a partial and biased judge.[80]

The rule on disqualification of judges is laid down in Rule 137, Section 1 of the Rules of Court, which reads:

> SECTION 1. *Disqualification of judges*. — No judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity or affinity, or to counsel within the fourth degree, computed according to the rules of the civil law, or in which he has been executor, administrator, guardian,

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77 *Rollo* (A.M. No. RTJ-11-2273), p. 71.
78 *Laresma v. Abellana*, 484 Phil. 766, 779 (2004).
79 Section 1, Art. III, Bill of Rights.
80 *People v. Hon. Ong*, 523 Phil. 347, 356 (2006), citing *Gutierrez v. Santos*, 112 Phil. 184, 189 (1961) and *Rallos v. Gako, Jr.*, 385 Phil. 4, 20 (2000).

> trustee or counsel, or in which he has presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record.
>
> A judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for just or valid reasons other than those mentioned above.

The second paragraph governs voluntary inhibition. Based on this provision, judges have been given the exclusive prerogative to recuse themselves from hearing cases for reasons other than those pertaining to their pecuniary interest, relation, previous connection, or previous rulings or decisions. The issue of voluntary inhibition in this instance becomes primarily a matter of conscience and sound discretion on the part of the judge.[81]

In his September 3, 2008 Order, respondent after accepting the criticism of concerned sectors particularly on his speedy rendition of judgment in Sp. Proc. No. 7527-2004 even if he had just taken over Branch 14, and acknowledging that he merely copied the draft decision of the former presiding judge, voluntarily inhibited himself from further acting on the case for the reason that "there is already a doubt cast" on his sense of impartiality and independence. Notwithstanding this perceived bias and partiality on his part, respondent readily reassumed jurisdiction over the case when Judge Tanjili, to whom the case was re-raffled off, inhibited himself upon motion filed by Denila, and subsequently denied the petition for relief.

In *Garcia v. Burgos*,[82] we found respondent judge's reversal of his previous inhibition as improper and the supposed bare allegation of prejudgment by a party litigant as insufficient and flimsy reason for revoking his voluntary inhibition. Thus:

> However, respondent judge reversed his voluntary inhibition, meekly stating in his Order dated March 12, 1996 that "[t]he allegation of prejudgment and partiality is so bare and empty as movant Osmeña failed to present sufficient ground or proof for the Presiding Judge to disqualify himself. The Judge realized the mistake in granting the motion for inhibition when defendant Osmeña misled the Court in asserting that on the same day February 26, 1996, he would be filing an administrative case against the Judge for violation of PD 1818 and Supreme Court Circulars issued in relation to said decree x x x. In that eventuality, Osmeña said, the Judge would be bias[ed] and partial to him because he [was] the complainant in the pending administrative case."
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> We find merit in petitioners' contention. Judge Burgos inhibited himself on the basis of Petitioner Osmeña's allegation of prejudgment**. In reversing his voluntary inhibition, respondent judge nebulously branded Osmeña's allegations as "so bare and empty."** Judge Burgos' claim that he was misled by Osmeña's threat of an administrative case is obviously a mere afterthought that does not inspire belief. **Although inhibition is truly discretionary on the part of the judge, the flimsy**

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81 Id. at 356-357.
82 353 Phil. 740 (1998).

> **reasons proffered above are insufficient to justify reversal of his previous voluntary inhibition**. As aptly pointed out by petitioners in their Memorandum,
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> > "'**x x x a judge may not rescind his action and reassume jurisdiction where good cause exists for the disqualification.** Furthermore, because a presumption arises, by reason of the judge's prior order of disqualification, of the existence of the factual reason for such disqualification, where the regular judge who has been disqualified revokes the order of disqualification, and objection is made to such revocation, it is not sufficient for the judge to enter an order merely saying that he or she is not disqualified; the record should clearly reveal the facts upon which the revocation is made.' (46 Am Jur 2d § 234, p. 321)"
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> We deem it important to point out that **a judge must preserve the trust and faith reposed in him by the parties as an impartial and objective administrator of justice**. When he exhibits actions that give rise, fairly or unfairly, to perceptions of bias, such faith and confidence are eroded, and he has no choice but to inhibit himself voluntarily. It is basic that "[a] judge may not be legally prohibited from sitting in a litigation, but when circumstances appear that will induce doubt [on] his honest actuations and probity in favor of either party, or incite such state of mind, he should conduct a careful self-examination. He should exercise his discretion in a way that the people's faith in the courts of justice is not impaired. The better course for the judge is to disqualify himself."[83] (Emphasis supplied; citations omitted.)

Respondent gave no reason at all for revoking his previous inhibition save for the fact that it was re-raffled off back to Branch 14 when Judge Tanjili likewise inhibited himself. Thenceforth, he continued handling the case and issued various orders for the immediate implementation of his March 4, 2008 Decision. Having acknowledged that there were already doubts cast on his impartiality, respondent should not have resumed handling the case when it was re-raffled off to him following Judge Tanjili's voluntary inhibition. Respondent by his acts transgressed Canon 3 of the New Code of Judicial Conduct on the judge's duty to perform his official duties with impartiality. Thus, we underscored in one case that:

> x x x a presiding judge must maintain and preserve the trust and faith of the parties-litigants. He must hold himself above reproach and suspicion. **At the very first sign of lack of faith and trust in his actions, whether well-grounded or not, the judge has no other alternative but to inhibit himself from the case.** The better course for the judge under such circumstances is to disqualify himself. That way, he avoids being misunderstood; his reputation for probity and objectivity is preserved. What is more important, the ideal of impartial administration of justice is lived up to. x x x[84] (Emphasis supplied.)

Further reinforcing his perceived lack of impartiality are respondent's actuations in the indirect contempt proceedings lodged by Denila against

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83 Id. at 770-772.

84 *Madula v. Judge Santos*, 457 Phil. 625, 634 (2003).

Cruzabra who persistently refused to implement the said decision.

Section 4, Rule 71, of the 1997 Rules of Civil Procedure, as amended, provides:

> Sec. 4. *How proceedings commenced*. — Proceedings for indirect contempt may be initiated *motu proprio* by the court against which the contempt was committed by an order or any other formal charge requiring the respondent to show cause why he should not be punished for contempt.
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> **In all other cases, charges for indirect contempt shall be commenced by a verified petition with supporting particulars and certified true copies of documents or papers involved therein, and upon full compliance with the requirements for filing initiatory pleadings for civil actions in the court concerned.** If the contempt charges arose out of or are related to a principal action pending in the court, the petition for contempt shall allege that fact but said petition **shall be docketed, heard and decided separately,** unless the court in its discretion orders the consolidation of the contempt charge and the principal action for joint hearing and decision. (Emphasis supplied).

Thus, a person may be charged with indirect contempt only by either of two alternative ways, namely: (1) by a verified petition, if initiated by a party; or (2) by an order or any other formal charge requiring the respondent to show cause why he should not be punished for contempt, if made by a court against which the contempt is committed. In short, a charge of indirect contempt must be initiated through a *verified petition*, unless the charge is directly made by the court against which the contemptuous act is committed.[85]

While the first contempt proceeding against Cruzabra was initiated by Denila in a verified motion and was separately docketed and heard (Civil Case No. 32,387-08), a second charge of contempt was later filed by Denila in the reconstitution case (Sp. Proc. No. 7527-2004) by way of a motion. Respondent after declaring Cruzabra in contempt of court in Civil Case No. 32,387-08 and ordering her arrest, inhibited himself upon the ground that he was apprised of a previous pleading he had signed relating to one of the properties involved in the reconstitution case. But when Civil Case No. 32,387-08 was dismissed by Judge Carpio, to whom the case was re-raffled off and who heard Cruzabra's motion for reconsideration, Denila filed a motion to declare Cruzabra, Paralisan and Administrator Ulep in contempt of court in the reconstitution case. This time, unmindful of his previous inhibition in Civil Case No. 32,387-08 (December 17, 2009 Order), respondent took cognizance of the motion for contempt. After hearing, respondent declared Cruzabra and Paralisan in contempt of court and immediately issued warrants of arrest against them (the previous warrant of arrest against Cruzabra was recalled by Judge Carpio).

Respondent once again displayed an utter disregard of the duty to

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[85] *Mallari v. Government Service Insurance System*, G.R No. 157659, January 25, 2010, 611 SCRA 32, 51.

apply settled laws and rules of procedure when he entertained the second contempt charge under a mere motion, which is not permitted by the Rules. Worse, it was done notwithstanding respondent's earlier voluntary inhibition in the indirect contempt case (Civil Case No. 32,387-08), which only raised suspicion of respondent's unusual interest in the immediate execution of the March 4, 2008 Decision despite its jurisdictional defects. The two cases being so closely related, it did not matter that respondent's previous inhibition on the matter of contempt was in the separate case (Civil Case No. 32,387-08) and not in Sp. Proc. No. 7527-2004. Notably, respondent inhibited himself from the indirect contempt case only after adjudging Cruzabra in contempt of court and issuing a warrant of arrest against her and, the motion for contempt in the reconstitution case involved the very same act of Cruzabra's refusal to comply with the March 4, 2008 Decision and was filed only after Judge Carpio had dismissed the indirect contempt case and ruled that Cruzabra's refusal to comply with the March 4, 2008 Decision was not contumacious.

All the foregoing considered, we find respondent guilty of gross ignorance of law and procedure and violation of Canon 3 of the New Code of Judicial Conduct, which merit administrative sanction.

Section 8 of Rule 140 on the Discipline of Judges and Justices, as amended by A.M. No. 01-8-10-SC,[86] classifies gross ignorance of the law and gross misconduct constituting violations of the Code of Judicial Conduct as serious charges, with the following imposable penalties:

> SEC. 11. *Sanctions.* – A. If the respondent is guilty of a serious charge, any of the following sanctions may be imposed:
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> 1. Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations. *Provided, however,* That the forfeiture of benefits shall in no case include accrued leave credits;
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> 2. Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or
>
> 3. A fine of more than P20,000.00 but not exceeding P40,000.00

As pointed out by the OCA, this is not the first time respondent was found administratively liable. In A.M. No. MTJ-08-1701 (OCA IPI No. 08-1964-MTJ) entitled "*Milagros Villa Abrille versus Judge George Omelio, Municipal Trial Court in Cities, Branch 4, Davao City and Deputy Sheriff Philip N. Betil, Branch 3, Same Court,*" respondent was found administratively liable for violation of a Supreme Court Circular for which he was fined with the amount of ₱10,000.00.[87] And in A.M. No. RT J-12-2321[88] decided just last year, respondent was found guilty of four counts of

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[86] Effective October 1, 2001.
[87] Resolution of the Third Division dated July 28, 2008, see *rollo* (A.M. No. RTJ-11-2273), pp. 416-417.
[88] *Crisologo v. Omelio*, October 3, 2012, 682 SCRA 154, 190 & 192.

gross ignorance of the law for the following acts: (a) refusal to recognize spouses Crisologo as indispensable parties; (b) granting a contentious motion in violation of the three-day notice rule; (c) non-compliance with the rules on summons; and (d) rendering a decision in an indirect contempt case that cancels an annotation of a Sheriff's Certificate of Sale on two titles without notifying the buyers, in violation of the latter's right to due process. For the said infractions, respondent was penalized with fine of ₱40,000.00.

Respondent was sternly warned in both cases that repetition of the same or similar acts shall be dealt with more severely. Yet, from the facts on record, it is clear that respondent continued transgressing the norms of judicial conduct. All his past and present violations raise a serious question on his competence and integrity in the performance of his functions as a magistrate. With these in mind, we therefore adopt the recommendation of the OCA that the supreme penalty of dismissal is the proper penalty to be imposed on respondent in this case being the third time he is found administratively liable. Indeed, the Court can no longer afford to be lenient in this case, lest it give the public the impression that incompetence and repeated offenders are tolerated in the judiciary.[89]

WHEREFORE, premises considered, Judge George E. Omelio, Presiding Judge of the Regional Trial Court, Branch 14, Davao City is found **GUILTY** of Gross Ignorance of the Law and violation of Canon 3 of the New Code of Judicial Conduct and is hereby **DISMISSED FROM THE SERVICE,** with forfeiture of all his retirement benefits, except his accrued leave credits, and with perpetual disqualification for re-employment in any branch, agency or instrumentality of the government, including government-owned or controlled corporations.

This Decision is immediately **EXECUTORY**.

SO ORDERED.

MARIA LOURDES P. A. SERENO
Chief Justice

ANTONIO T. CARPIO
Associate Justice

(no part due to relationship to party)
PRESBITERO J. VELASCO, JR.
Associate Justice

[89] *Comilang v. Belen,* A.M. No. RTJ-10-2216, June 26, 2012, 674 SCRA 477, 490.

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

ARTURO D. BRION
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

(On official leave)
MARIANO C. DEL CASTILLO
Associate Justice

ROBERTO A. ABAD
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

BIENVENIDO L. REYES
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC MARIO VICTOR F. LEONEN
Associate Justice