

Republic of the Philippines
Supreme Court
Manila

EN BANC

ANONYMOUS,

Complainant,

A.M. No. MTJ-25-035

[Formerly JIB FPI No. 21-053-MTJ]

Present:

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

- versus -

HON. JULIETO N. BAJAN,
Presiding Judge, Branch 2,
Municipal Trial Court in Cities,
Surigao City, Surigao del Norte,
Respondent.

Promulgated:

March 4, 2025

X ----- X

DECISION

ROSARIO, J.:

* No part due to prior action as Court Administrator.
** On leave.

For the Court's resolution is a Complaint¹ filed by the Office of the General Counsel (OGC) of the Judicial Integrity Board (JIB) against retired Hon. Julieta N. Bajan (Judge Bajan), former Presiding Judge of Branch 2, Municipal Trial Court in Cities (MTCC), Surigao City, Surigao del Norte, charging him with violation of Supreme Court rules, directives, circulars; violation of reasonable office rules and regulations under the 2017 Rules on Administrative Cases in the Civil Service; and conduct prejudicial to the best interest of service.

The Antecedents

The instant Complaint was prompted by two undated anonymous letter-complaints received by the Office of the Chief Justice and the Office of the Executive Judge of the MTCC Surigao City, Surigao del Norte. Both complainants explained that they are litigants in cases pending before Judge Bajan and are purposely concealing their identities out of fear of reprisal.² The first anonymous complainant³ averred that he or she was a party in a civil case pending in Judge Bajan's *sala*, whose disposition was delayed by the latter's conduct. Allegedly, trial would begin at 11:30 in the morning instead of 8:30, and parties would have to wait for more than two hours just for it to be later postponed.⁴ Moreover, Judge Bajan would smoke and sleep during trial; and heard cases in his *sala* in Surigao City although they were raffled to MTCC of Placer-Bacuag, Surigao del Norte.⁵ The second anonymous complainant⁶ echoed the allegations in the first anonymous complaint. Additionally, Judge Bajan was accused of failing to act on other court matters in a timely manner.⁷

The Office of the Court Administrator (OCA) referred the first anonymous complaint to Executive Judge Victor A. Canoy, Regional Trial Court of Surigao City (RTC EJ Canoy) for the conduct of a discreet investigation and report.⁸ Meanwhile, the second anonymous complaint was referred to Executive Judge Cesar P. Bordialba, MTCC of Surigao City, Surigao del Norte (MTCC EJ Bordialba).⁹

In their respective Reports, RTC EJ Canoy and MTCC EJ Bordialba confirmed the allegations against Judge Bajan after verification from relevant

¹ *Rollo*, pp. 67-76, the Complaint dated April 20, 2022 was signed by Romulo A. Paras, Jr., General Counsel, JIB.

² *Id.* at 4, 10.

³ *Id.* at 4.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* at 10.

⁷ *Id.*

⁸ *Id.* at 5.

⁹ *Id.* at 11.

court personnel, litigants, and lawyers. Their findings are summarized as follows:

1) Tardiness – He arrives late and conducts hearings between 11:00 and 11:30 in the morning until about 1:00 o'clock in the afternoon:

2) Smoking – He smokes in open court while holding hearings from the time he took over as Acting Presiding Judge MTCC, Branch 2 until November 2012. However, until now, he still smokes inside the judge's chambers.

3) Absences – He does not report to his regular court daily when he has no schedules in other courts; and

4) He sleeps during a court trial and the lawyers had to leave him as a consequence.

5) On delays in acting on court matters no apparent or serious delays were found considering that Judge Bajan is only an Acting Presiding Judge and holds hearings two days in a week.

6) It was confirmed that Judge Bajan had heard at MTCC Branch 2, Surigao City one case from Placer-Bacuag and one case from Sison-Tagana-an.¹⁰

The OCA referred the second anonymous complaint to Judge Bajan for comment within 10 days from receipt.¹¹

In his letter-comment¹² dated February 28, 2014, Judge Bajan requested the OCA to dismiss the second anonymous complaint, arguing that it was a mere harassment suit intended to damage his reputation. Notably, he focused on the alleged procedural flaws of the complaint—such as its lack of verification and supporting public records—rather than addressing its substance.¹³

The OCA, in a letter¹⁴ dated May 2, 2014, required Judge Bajan to submit a more comprehensive comment instead of brushing it aside as a mere harassment suit. Records reveal that Judge Bajan failed to comply with this directive twice.¹⁵ In a letter¹⁶ dated February 1, 2021, the OCA reiterated its

¹⁰ *Id.* at 6, the Report dated January 28, 2013 was submitted by Executive Judge Victor A. Canoy of RTC Surigao City; *id.* at 15, the Report dated January 23, 2013 was submitted by Executive Judge Cesar P. Bordalba of MTCC Surigao City.

¹¹ *Id.* at 21.

¹² *Id.* at 23–24.

¹³ *Id.*

¹⁴ *Id.* at 26–27.

¹⁵ *Id.* at 29.

¹⁶ *Id.*

directive requiring the filing of a more comprehensive comment. However, such directive was not complied with.

On July 14, 2021, the OCA referred the first and second anonymous complaints to the OGC for appropriate action.¹⁷ Recognizing the validity of the findings from the investigations, the OGC recommended that Judge Bajan be found liable for the following offenses:

1. Violation of OCA Circular Nos. 63-2001¹⁸ and 09-2015;¹⁹
2. [Violations] of Civil Service Commission Memorandum Circular No. 17, Series of 2009²⁰ and Office Order No. 06-2009²¹ which [constitute] a Violation of Reasonable office Rules and Regulations under Rule 10, Section 50 (F) (2) of the 2017 Rules on Administrative Cases in the Civil Service;
3. Violation of OCA Circular No. 90-2004 and Article VIII, Section [5(4)] of the 1987 Constitution; and
4. Conduct Prejudicial to the Best Interest of Service.²²

In its 1st Indorsement²³ dated May 10, 2022, the JIB directed Judge Bajan to file a verified comment within 10 days.

On March 9, 2023, the JIB directed Judge Bajan to file his verified comment on the OGC's Complaint and show cause why he should not be disciplined as a member of the Philippine Bar. He was cautioned that failure to comply with this directive would constitute a waiver to participate in the proceedings. This notwithstanding, Judge Bajan failed to comply.²⁴

Recommendation of the Judicial Integrity Board (JIB)

In its Report and Recommendation,²⁵ the Office of the Executive Director (OED) of the JIB recommended:

¹⁷ *Id.* at 70.

¹⁸ Titled "Strict Observance of Prescribed Working Hours and Session Hours and Rules on Punctuality and Attendance," October 3, 2001.

¹⁹ Strict Observance of Office Hours, January 21, 2015.

²⁰ Smoking Prohibition Based on a 100% Smoke-Free Environment Policy, May 29, 2009.

²¹ Reiterating the Ban on Smoking as Provided for in Administrative Circular No. 09-99 and Reiterated and Clarified in Memorandum Circular No. 01-2008A, January 22, 2008.

²² *Id.* at 71.

²³ *Rollo*, p. 77.

²⁴ *Id.* at 83, 99.

²⁵ *Id.* at 86–95. The May 15, 2023 Report and Recommendation was penned by Deputy Clerk of Court at-Large Office of the Court Administrator and Acting Executive Director James D.V. Navarrete.

IN VIEW OF THE FOREGOING, it is respectfully submitted for the consideration of the Honorable Board that the instant matter be **RE-DOCKETED** and the following be recommended to the Supreme Court:

1. Respondent Presiding Judge Julieta N. Bajan, Branch 2, Municipal Trial Courts in Cities, Surigao City, Surigao del Norte, be found **GUILTY** of violation of Supreme Court rules, directives and circulars and accordingly **FINED** the total amount of **[PHP] 18,000.00**, payable within a period not exceeding [three] months from the time the decision or resolution is promulgated; and

2. Respondent Judge Bajan be found **GUILTY** of simple neglect of duty and [be] **FINED** the total amount of **[PHP] 18,000.00**, payable within a period not exceeding [three] months from the time the decision or resolution is promulgated; and

3. Respondent Judge be found **GUILTY** as member of the Philippine Bar for violations of Canon 1, Rule 1.01, Canon 11, [Rules] 11.02 and 11.03 of the Code of Professional Responsibility and he be **FINED** in the amount of **[PHP] 5,000.00**.²⁶

In its Report,²⁷ the JIB made the following recommendations:

ACCORDINGLY, we respectfully **RECOMMEND** to the Honorable Supreme Court that the instant case be **RE-DOCKETED** as regular administrative matter and that retired Judge Julieta N. Bajan, Branch 2, Municipal Trial Courts in Cities, Surigao City, Surigao del Norte be found **GUILTY** of:

1. Habitual absenteeism and[/]or tardiness and be **FINED** in the sum of **[PHP] 50,000.00**, payable within a period not exceeding [three] months from the time the decision or resolution is promulgated;

2. Violation of Supreme Court Rules, Directives and Circulars for smoking during court hearings and be **FINED** in the sum of **[PHP] 50,000.00**, payable within a period not exceeding [three] months from the time the decision or resolution is promulgated;

3. Simple misconduct for sleeping during court hearings and accordingly be **FINED** in the sum of **[PHP] 50,000.00**, payable within a period not exceeding [three] months from the time the decision or resolution is promulgated;

4. Violation of Supreme Court Rules, Directives and Circulars for hearing cases not raffled to his *sala* and be **FINED** also in the sum of **[PHP] 50,000.00** payable within a period not exceeding [three] months from the time the decision or resolution is promulgated;

²⁶ *Id.* at 94–95.

²⁷ *Id.* at 96–109. The September 6, 2023 Report was penned by Justice Angelina Sandoval-Gutierrez (Ret.) and concurred in by Justices Romeo J. Callejo, Sr. (Ret.), Sesinando E. Villon (Ret.), Rodolfo A. Ponferrada (Ret.), and Cielito N. Mindaro-Grulla of the Judicial Integrity Board.

5. Simple neglect of duty in the performance of official functions for delay in resolving cases and incidents and be **FINED** in the sum of [PHP] 50,000.00, payable within a period not exceeding [three] months from the time the decision or resolution is promulgated; and

6. As a member of the Philippine Bar, respondent be found **GUILTY** of simple misconduct and be **FINED** the sum of [PHP] 50,000.00, payable within a period not exceeding [three] months from the time the decision or resolution is promulgated.²⁸

The Issue

The issue posed for resolution is whether Judge Bajan should be held administratively liable for the charges against him and for the same acts, be sanctioned as a member of the Philippine Bar.

The Court's Ruling

The Court partly adopts the findings of the JIB in its Report, with modifications insofar as the offenses committed and the penalties imposed are concerned.

At the outset, it bears pointing out that that despite Judge Bajan's retirement on May 23, 2023, the Court retains jurisdiction to declare him either innocent or guilty of the charges against him; and to impose upon him the proper penalties.²⁹ Expounding further on the matter, the Court in *Office of the Court Administrator v. Fuensalida*³⁰ held:

Jurisprudence is replete with rulings that in order for the Court to acquire jurisdiction over an administrative proceeding, the complaint must be filed during the incumbency of the respondent public official or employee. This is because *the filing of an administrative case is predicated on the holding of a position or office in the government service. However, 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.* In fine, cessation from office by reason of resignation, death or retirement is not a ground to dismiss the case filed against the said officer or employee at the time that he [or she] was still in the public service or render it moot and academic.³¹ (Emphasis supplied)

Hence, the separation of Judge Bajan from office by reason of his retirement neither warrants the dismissal of the administrative complaint initiated while

²⁸ *Id.* at 107–108.

²⁹ A.M. No. 21-08-09-SC, Further Amendments to Rule 140 of the Rules of Court, sec. 2(2), April 3, 2022.

³⁰ *Office of the Court Administrator v. Fuensalida*, 880 Phil. 561 (2020) [Per J. Delos Santos, *En Banc*].

³¹ *Id.* at 569–570.

he was still in the service nor does it render said administrative case moot and academic.³²

As will be further discussed below, Judge Bajan is found guilty of the following less serious charges under A.M. No. 21-08-09-SC or the “Further Amendments to Rule 140 of the Rules of Court” (Revised Rule 140): violation of Supreme Court rules, directives, and circulars; habitual tardiness; and simple misconduct constituting a violation of the New Code of Judicial Conduct. Additionally, he is guilty of the serious charge of gross insubordination under the same rule.

*Violation of Supreme Court
rules, directives, and circulars*

Section 15(e) of Revised Rule 140 classifies the violation of Supreme Court rules, directives, and circulars that establish an internal policy, rule or procedure, or protocol as a less serious charge.

Based on the evidence on record, Judge Bajan is liable for two separate violations of the Court’s circulars on smoking and on the prohibition of hearing cases from other courts.

The Court’s policy on smoking is embodied in Memorandum Circular No. 01-2008 and Office Order No. 06-2009. Memorandum No. 01-2008 enjoins “all officials and employees of the Judiciary to strictly observe the prohibition against smoking in the buildings of the Supreme Court, Court of Appeals, Sandiganbayan, Court of Tax Appeals and in all Halls of Justices.” Likewise, Office Order No. 06-2009 prohibits smoking in all interior areas of the buildings of the courts and the areas immediately adjacent to these buildings. Thus, smoking is allowed within court premises, but only in designated places.³³

In the instant case, the investigating judges found that Judge Bajan openly smoked during trial and in chambers. It was further noted that even court staff have complained about his smoking habits, but to no avail.³⁴

In addition, Judge Bajan violated OCA Circular No. 90-2004 when he heard and brought cases of other courts to his *sala* without any authority.

³² *Judge Cobarrubias-Nabaza v. Atty. Lavandero*, 920 Phil. 787, 791 (2022) [Per J. Perlas-Bernabe, Second Division].

³³ *Re: Smoking at the Fire Exit Area at the Back of the Public Information Office*, 627 Phil. 516, 526 (2010) [Per J. Brion, *En Banc*].

³⁴ *Rollo*, p. 92.

Under the Constitution, only the Supreme Court can order the change of venue or place of trial in order to avoid the miscarriage of justice.³⁵ To implement this Constitutional provision, OCA Circular No. 90-2004³⁶ was issued, the relevant portions of which state:

NOW THEREFORE, BE IT RESOLVED, as it is hereby resolved, that in accordance with Section 5(3), Article VIII of the Constitution, vesting this Court with the power to assign temporarily judges of lower courts to other stations as public interest may require, and with Section 6 of the same article mandating that this court shall have administrative supervision over all courts and personnel thereof, cases assigned to judges who have been transferred, detailed, or assigned to any branch within or outside the judicial region of the same court or promoted to a higher court shall be managed and decided under the following guidelines:

....

2. *Except as herein provided, all cases shall remain in the branch to which these have been raffled or assigned.* Only cases that have been submitted for decision or those past the trial stage, i.e., where all the parties have finished presenting their evidence, prior to the transfer or promotion of the judge to which these are raffled/assigned shall be resolved or disposed by him/her in accordance with the guidelines herein set forth.³⁷ (Emphasis supplied)

During the tenure of Judge Bajan as Presiding Judge of Branch 2, Municipal Circuit Trial Court (MCTC), Placer-Bacuag, Surigao del Norte, he was designated as Acting Presiding Judge of Branch 2, MTCC of Surigao City, Surigao del Norte in 2012. He was also designated as Acting Presiding Judge of MCTC of Tubod-Alegria, Surigao del Norte in 2015.³⁸ In his Investigation Report, RTC EJ Bordalba confirmed that Judge Bajan heard cases pending in the other courts at Branch 2, MCTC of Surigao City, Surigao del Norte.³⁹

Venue is essentially for the greatest convenience possible of the plaintiffs and their witnesses.⁴⁰ By hearing cases from another branch, Judge Bajan affected the orderly dispensation of justice. Indeed, Judge Bajan overstepped his authority. Aside from the inconvenience caused to litigants, it is undeniable that Judge Bajan also jeopardized the safekeeping of court records and evidence. More significantly, by hearing and transferring cases from other courts to a different station, Judge Bajan arrogated upon himself

³⁵ CONST., art. VIII, sec. 5(4).

³⁶ See OCA Circular No. 90-2004 (2004) titled "A.M. No. 04-5-19-SC Re: Guidelines in the Inventory and Adjudication of Cases Assigned to Judges who are Promoted or Transferred to Other Branches in the Same Court Level of the Judicial Hierarchy."

³⁷ *Id.*

³⁸ *Rollo*, pp. 57–60.

³⁹ *Id.* at 12.

⁴⁰ See *Marcos-Araneta v. Court of Appeals*, 585 Phil. 38, 57 (2008) [Per J. Velasco, Jr., Second Division].

authority no less than only the High Court possesses. Needless to state, such conduct cannot be tolerated.

Habitual tardiness

Similarly, habitual absenteeism or tardiness is classified as a less serious charge under section 15(c) of Revised Rule 140.

In *Re: Employees Incurring Habitual Tardiness in the 1st Semester of 2005*,⁴¹ the Court explained the rationale for penalizing habitual tardiness:

As enshrined in the Constitution, a public office is a public trust. Inherent in this mandate is the observance of prescribed office hours and the efficient use of every moment thereof for public service, if only to recompense the Government, and ultimately, the people, who shoulder the cost of maintaining the Judiciary. Thus, to inspire public respect for the justice system, court officials and employees must at all times strictly observe official time.⁴²

For this reason, the Supreme Court enjoins all judges and court personnel to strictly observe prescribed session hours. OCA Circular No. 63-2001,⁴³ the prevailing guideline at the time of the incidents mentioned in the Complaint, required session hours to be conducted from Monday to Friday, from 8:30 a.m. to 12 noon and from 2:00 p.m. to 4:30 p.m. Furthermore, OCA Circular No. 250-15⁴⁴ which is a reiteration of the same guideline additionally states:

B. Strict Observance of Session Hours

.....

2. The hours in the morning and afternoon shall be devoted to the conduct of trial, unless already done, in which case the afternoon hours shall be utilized for (1) the conduct of pre-trial conferences; (2) writing of decisions, resolutions, or orders; or (3) the continuation of trial on the merits, whenever rendered necessary, as may be required by the Rules of Court, statutes, or circulars in specified cases.

3. Except those requiring immediate action, all motions should be scheduled for hearing on Friday, or if Friday is a non-working day, in the next business day. The unauthorized practice of some judges of entertaining motions or setting them for hearing on any other day or time must be avoided.

⁴¹ 527 Phil. 1 (2006) [*Per Curiam, En Banc*].

⁴² *Id.* at 9.

⁴³ See OCA Circular No. 63-2001 (2001) titled "Strict Observance of Prescribed Working Hours and Session Hours and Rules on Punctuality and Attendance" citing Administrative Circular No. 3-99 (1999) Entitled "Strict Observance of Session Hours of Trial Courts and Effective Management of Cases to Ensure Their Speedy Disposition."

⁴⁴ See OCA Circular No. 250-15 (2015) titled "Reiteration of Strict Observance of Office and Session Hours, Posting of Court Calendar, Proper Office Attire, and Conduct of Flag Raising and Lowering Ceremonies."

An employee shall be considered habitually tardy if he or she incurs tardiness, regardless of the number of minutes, 10 times a month for at least two months in a semester or for at least two consecutive months during the year.⁴⁵ In this instance, the investigating judges reported that Judge Bajan began his court sessions between 11:00 a.m. and 11:30 a.m. to the detriment of the public who arrive as early as 8:30 a.m.⁴⁶ In response to this accusation, Judge Bajan merely stated that “[t]he work of a judge is mental in nature and as such in making resolution or decision of cases in his *sala*, he brings it into his sleep and dreams; in other words, it [is a] 24/7 work.”⁴⁷ It goes without saying that such an excuse is unacceptable.

Time and again, the Court has reminded members of the bench that circulars prescribing hours of work are not just empty pronouncements.⁴⁸ These are intended to promote efficiency and speed in the administration of justice, and thus, require prompt and faithful compliance by all concerned.⁴⁹ By requiring judges to be punctual, these circulars show that the Court values the time of litigants, witnesses, and lawyers alike. If Judge Bajan himself is not punctual, he not only sets a bad example to the Bar but indubitably, tends to create dissatisfaction in the administration of justice.

In light of the determination that Judge Bajan failed to adhere to the prescribed session hours, it is reasonable to infer that such noncompliance would lead to delays in the resolution of cases and matters presented before him across all his stations. Nonetheless, there is no factual basis in the records to support the claim that Judge Bajan delayed acting on pending matters before him. Neither investigating judge was able to confirm this charge in their respective investigations. In fact, MTCC EJ Bordialba related that he had not found any apparent or serious delays in the disposition of his pending cases.⁵⁰ Accordingly, the Court finds no basis to hold Judge Bajan guilty of simple neglect of duty for delay in resolving cases and incidents as recommended by the JIB.⁵¹

*Simple misconduct constituting
a violation of the New Code of
Judicial Conduct*

⁴⁵ *Re: Habitual Tardiness First Semester 2002*, 440 Phil. 349, 354 (2002) [Per J. Carpio, *En Banc*].

⁴⁶ *Rollo*, p. 91.

⁴⁷ *Id.* at 24.

⁴⁸ *Discreet Investigation Report Relative to the Anonymous Complaint against Judge Bacolod*, 884 Phil. 43, 56 (2020) [Per *Curiam*, *En Banc*].

⁴⁹ *Id.*

⁵⁰ *Rollo*, p. 12.

⁵¹ *Id.* at 108.

V

Judge Bajan is liable for simple misconduct constituting a violation of the New Code of Judicial Conduct, which is penalized under section 15(a) of Revised Rule 140 for his sleeping during a court hearing.

Misconduct is defined as the “intentional wrongdoing or deliberate violation of a rule of law or standard of behavior; and to constitute an administrative offense, the misconduct should relate to or be connected with the performance of the official functions and duties of a public officer.”⁵² To differentiate gross misconduct from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule, must be manifest in the former.⁵³

The Court has ruled that any scandalous behavior or act that may erode the people’s esteem for the Judiciary is tantamount to simple misconduct.⁵⁴ Clearly, Judge Bajan’s act of falling asleep during trial, leaving lawyers no other option except to step out of the courtroom, is unbecoming for a magistrate who is tasked to administer the law. Judges, as judicial frontliners, must always behave with propriety as they are the embodiments of people’s sense of justice. High standards of decorum are essential to promote public confidence in the Judiciary’s integrity and impartiality.⁵⁵ The relevant provision of the New Code of Judicial Conduct reads:

CANON 4
Propriety

Propriety and the appearance of propriety are essential to the performance of all the activities of a judge.

SECTION 1. Judges shall avoid impropriety and the appearance of impropriety in all of their activities.⁵⁶

Hence, for putting the image of the Judiciary into disrepute, Judge Bajan is guilty of simple misconduct for violation of Canon 4, Section 1 of the New Code of Judicial Conduct.

Gross insubordination

Compliance with the directive to comment on complaints against court personnel and members of the Judiciary is not a mere formality. Jurisprudence dictates that all directives of the Court Administrator and his or her deputies

⁵² *Sarno-Davin v. Quirante*, 868 Phil. 405, 411 (2020) [*Per Curiam, En Banc*].

⁵³ *Id.* at 411–412.

⁵⁴ *De Los Santos v. Vasquez*, 826 Phil. 397, 402 (2018) [*Per Curiam, En Banc*].

⁵⁵ *See Tuvillo v. Judge Laron*, 797 Phil. 449, 462–463 (2016) [*Per Curiam, En Banc*].

⁵⁶ A.M. No. 03-05-01-SC (2004), Canon 4, sec. 1.

are issued in the exercise of the Court's administrative supervision of trial courts and their personnel and hence, should be respected.⁵⁷ These directives are not mere requests, but should be complied with promptly and completely. The same principle applies with directives originating from the JIB, as it has been delegated the power to process administrative complaints against judges and other members of the Judiciary.⁵⁸

Depending on the circumstances, a respondent's failure to comment on administrative complaints has been alternatively regarded by the Court as a violation of Supreme Court rules, directives, and orders;⁵⁹ insubordination,⁶⁰ or even gross misconduct.⁶¹

In this instance, the Court finds that Judge Bajan's nonfeasance is tantamount to gross insubordination, a serious charge, under section 14(n) of Revised Rule 140 for his failure to comply with repeated directives by the OCA and the JIB to file comment.

Unlike the 2017 Rules on Administrative Cases in the Civil Service which sanctions both insubordination and gross insubordination as less grave and grave offenses, respectively, only gross insubordination was retained under Revised Rule 140 as an offense. In any case, jurisprudence defines insubordination and gross insubordination 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 [a] superior."⁶²

⁵⁷ See *Office of the Court Administrator v. Salao*, 923 Phil. 618, 623, 624 (2022) [Per J. Inting, Third Division].

⁵⁸ See A.M. No. 18-01-05-SC (2020) titled "Establishment of the Judicial Integrity Board (JIB) and the Corruption Prevention and Investigation Office (CPIO)."

⁵⁹ *Office of the Court Administrator v. Salao*, 923 Phil. 618, 624 (2022) [Per J. Inting, Third Division]; *In Re: Mendiolo*, JIB No. P-22-069 [Formerly A.M. No. 19-04-91-RTC], January 11, 2023 [Notice, Third Division]; *Dulay v. Perez*, A.M. No. P-22-062, December 13, 2023 [Notice, First Division]; *Dee C. Chuan & Sons, Inc. v. Judge Peralta*, 603 Phil. 94, 101 (2009) [Per J. Corona, First Division]; *Office of the Court Administrator v. Judge Villegas*, 474 Phil. 475, 480 (2004) [Per J. Corona, First Division].

⁶⁰ *Office of the Court Administrator v. Berondo*, A.M. No. P-22-046, February 23, 2022 [Notice, Second Division]; *Judge Zarate-Fernandez v. Lovendino*, 827 Phil. 191, 201 (2018) [*Per Curiam, En Banc*]; *Atty. Frades v. Gabriel*, 821 Phil. 36, 48 (2017) [*Per Curiam, En Banc*]; *Judge Pamintuan v. Comuyog, Jr.*, 766 Phil. 566, 575 (2015) [Per C.J. Sereno, First Division]; *Clemente v. Bautista*, 710 Phil. 10, 16 (2013) [Per J. Peralta, Third Division]; *Mendez v. Balbuena*, 665 Phil. 161, 167 (2011) [Per J. Brion, Third Division]; *Tan v. Sermonia*, 612 Phil. 314, 325 (2009) [Per J. Chico-Nazario, Third Division].

⁶¹ *Office of the Court Administrator v. Judge Galvez*, 859 Phil. 188, 196 (2019) [Per J. Inting, Third Division]; *Office of the Court Administrator v. Executive Judge Amor*, 745 Phil. 1, 9 (2014) [Per J. Perlas-Bernabe, *En Banc*]; *Atty. Enriquez v. De Castro*, 553 Phil. 244, 249 (2007) [*Per Curiam, En Banc*]; *Imbang v. Judge Del Rosario*, 485 Phil. 466, 470 (2004) [Per J. Callejo, Sr., *En Banc*].

⁶² *Judge Santiago v. Fernando*, A.M. No. P-22-053 [Formerly OCA IPI No. 15-4466-P], January 17, 2023 [Per J. Rosario, *En Banc*] at 7. This pinpoint citation refers to the copy of the Resolution uploaded to the Supreme Court website; *Judge Dalmacio-Joaquin v. Dela Cruz*, 604 Phil. 256, 261 (2009) [Per J. Velasco, Jr., Second Division].

In a letter⁶³ dated May 2, 2014, former Court Administrator, now Associate Justice Jose Midas P. Marquez, required Judge Bajan to submit a more comprehensive comment after the veracity of the allegations contained in the first anonymous complaint lodged against him was confirmed. This was because Judge Bajan failed to directly address the substance of the accusations against him, instead, dismissing them as mere harassment.⁶⁴ Despite two subsequent notices, Judge Bajan still did not comply with this directive from the OCA.⁶⁵ Similarly, Judge Bajan was directed by the JIB to file a verified comment on the instant Complaint on two separate occasions, which he likewise ignored.⁶⁶

Indeed, it should be borne in mind that the Court shall not and will not tolerate the indifference of a respondent to an administrative complaint and to resolutions requiring action on these complaints. Respondents ought to take such directives seriously by commenting on all accusations or allegations against them as it is their duty to preserve the integrity of the Judiciary.⁶⁷ The Court can hardly discharge its constitutional mandate of overseeing judges and court personnel, and of taking proper administrative sanction against them if the judge or personnel concerned does not even recognize its administrative authority.⁶⁸

Under the attendant circumstances, the Court finds that Judge Bajan's manifest indifference to, and disregard of, the directives issued to him by the OCA and the JIB is tantamount to gross insubordination.

The Court, in *Beltran v. Pabica*,⁶⁹ held respondent, a stenographer and acting clerk of court, guilty of gross insubordination for such similar conduct. Respondent was accused of solicitation and violating the prohibition against assisting a party-litigant in finding legal representation. Respondent failed to comply with the directives of the OCA and the Court itself, spanning almost 12 years, to file a comment despite notice; to show cause to explain her failure to comply with the Court's directives; and to pay the PHP 5,000.00 fine assessed against her for the same defiance of the Court's resolutions. Additionally, respondent was found guilty of gross misconduct for violating several provisions of the Code of Conduct for Court Personnel.

In view of her compulsory retirement, respondent was meted the penalty of forfeiture of retirement benefits, except accrued leave credits, with disqualification from reinstatement or appointment to any public office,

⁶³ *Rollo*, pp. 26-27.

⁶⁴ *Id.* at 99.

⁶⁵ *Id.* at 28-29, 1st Tracer dated July 24, 2015 and Letter dated February 1, 2021.

⁶⁶ *Id.* at 77-83.

⁶⁷ *Dee C. Chuan & Sons, Inc. v. Judge Peralta*, 603 Phil. 94, 103 (2009) [Per J. Corona, First Division].

⁶⁸ *Id.* at 101.

⁶⁹ A.M. No. P-14-3223, February 27, 2024 [*Per Curiam, En Banc*]. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

including government-owned or controlled corporations in accordance with section 18(a) of Revised Rule 140 for both serious charges.

Meanwhile, in *Judge Santiago v. Fernando*,⁷⁰ in addition to gross misconduct, the Court found respondent guilty of two counts of gross insubordination: first, for his repeated failure to comply with orders issued by the complainant judge; and second, for seeking an extension to file comment and thereafter, going on absence without leave without filing the required comment. Records disclosed that initially, respondent submitted a comment to the complaint, but failed to comply with subsequent directives by the OCA to file a comment on the supplemental complaint charging him with equally serious infractions. For the first count of gross insubordination, the Court ordered the dismissal of the respondent from service, but as he was already dropped from the rolls of court employees, he was penalized with forfeiture of retirement benefits, except accrued leave credits, with disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations. For the second charge of gross insubordination for noncompliance with OCA directives, he was fined PHP 150,000.00.

Similar to the *Beltran* case, over 10 years have passed since Judge Bajan was instructed to submit a more comprehensive comment on the charges against him, yet he has failed to do so. Further, as observed in *Judge Santiago*, compliance with the directive to comment on an administrative complaint should not be complied with partially or selectively; otherwise, the appropriate sanction will be imposed. Ultimately, Judge Bajan's actions unmistakably demonstrate his disregard and defiance, not only towards the OCA and the JIB, but also towards the Court itself, who holds direct administrative authority over all court personnel, thereby rendering him culpable for gross insubordination.⁷¹

Judge Bajan has no liability as a member of the Philippine Bar

It is worth noting that both the anonymous complaints and the Complaint filed by the OGC do not mention any administrative liability being pursued against Judge Bajan in his capacity as a lawyer. Still, the Court notes that the JIB recommended imposing an additional penalty on Judge Bajan as a member of the Philippine Bar.

Considering the facts of the case, however, We conclude that no additional disciplinary sanction is warranted.

⁷⁰ A.M. No. P-22-053 [Formerly OCA IPI No. 15-4466-P], January 17, 2023 [Per J. Rosario, *En Banc*]. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁷¹ See *Mendez v. Balbuena*, 665 Phil. 161, 167 (2011) [Per J. Brion, Third Division].

In the present case, the JIB charged Judge Bajan for violating several provisions of the Code of Professional Responsibility (CPR), which was then the governing code of conduct and ethical standards for lawyers. As previously discussed, Judge Bajan failed to comply with the show cause order which accompanied the directive to file comment. Such failure was, therefore, construed as his waiver to participate in the proceedings.⁷²

In the show cause Order,⁷³ the JIB cited the following provisions allegedly violated by Judge Bajan: Canon 1, Rules 1.01 and 1.02;⁷⁴ and Canon 11, Rules 11.02 and 11.03⁷⁵ of the CPR. During the interim, however, the Code of Professional Responsibility and Accountability (CPRA) was passed which repealed the CPR. Accordingly, the JIB evaluated his actions anew under the CPRA and in its Report, explained the rationale for its recommendation to hold Judge Bajan guilty for simple misconduct and be fined in the amount of PHP 50,000.00, thus:

Regarding respondent Judge's liability as a member of the Philippine Bar, the Court mandates that every lawyer should act and comport himself in a manner that would promote public confidence in the integrity of the legal profession. The acts of respondent of smoking during office hours, starting hearing beyond the time frame set by the Supreme Court, and even sleeping during trial contravene Section 1 and 2, Canon II (Propriety) of the Code of Professional Responsibility and Accountability (CPRA) which provide:

Canon II PROPRIETY

A lawyer shall, at all times, act with propriety and maintain the appearance of propriety in personal and professional dealings, observe honesty, respect and courtesy, and uphold the dignity of the legal profession consistent with the highest standards of ethical behavior.

SECTION 1. *Proper conduct.* — A lawyer shall not engage in unlawful, dishonest, immoral, or deceitful conduct.

SECTION 2. *Dignified conduct.* — A lawyer shall respect the law, the courts, tribunals, and other government agencies, their officials, employees, and processes, and act with courtesy, civility, fairness, and candor towards fellow members of the bar.

⁷² Rollo, p. 83.

⁷³ *Id.* at 80–81.

⁷⁴ CODE OF PROF. RESPONSIBILITY, Canon 1 states:

Canon 1— A lawyer shall uphold the Constitution, obey the laws of the land, and promote respect for law and legal processes.

Rule 1.01. — A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

Rule 1.02. — A lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system.

⁷⁵ CODE OF PROF. RESPONSIBILITY, Canon 11 states:

Canon 11— A lawyer shall observe and maintain the respect due to the Courts and to judicial officers and should insist on similar conduct by others.

Rule 11.01. — A lawyer shall appear in court properly attired.

Rule 11.02— A lawyer shall punctually appear at court hearings.

A lawyer shall not engage in conduct that adversely reflects on one's fitness to practice law, nor behave in a scandalous manner, whether in public or private life, to the discredit of the legal profession.⁷⁶

Essentially, section 4 of Revised Rule 140 provides that the same acts which leads to the imposition of disciplinary sanctions against members of the Judiciary may likewise be the basis of imposing upon them disciplinary sanctions as members of the legal profession. It is Our view, however, that section 4 does not contemplate automatically holding judges liable for all improper acts that have a corresponding provision under the CPRA or the Revised Lawyer's Oath. As a code of ethics, the provisions of the CPRA and the Revised Lawyer's Oath are broad and all-compassing. Consequently, nearly all actions of a judge could inevitably serve as grounds for disciplinary action as lawyers.

Associate Justice Alfredo Benjamin S. Caguioa, in his Concurring Opinion in the case of *Castillo v. Asuncion*,⁷⁷ makes this important clarification:

Indeed, Section 4, Rule 140 of the Rules of Court, as amended, allows for a disciplinary action against a respondent as a member of the Bar:

SECTION 4. Administrative Case Considered as Disciplinary Actions Against Members of the Philippine Bar. — An administrative case against any of those mentioned in Section 1(1) of this Rule shall also be considered as a disciplinary action against him or her, *provided* that the complaint specifically states that the imputed acts or omissions therein likewise constitute a violation of the Lawyer's Oath, the Code of Professional Responsibility, the Canons of Professional Ethics, or such other forms of breaches of conduct that have been traditionally recognized as grounds for the discipline of lawyers.

If the complaint fails to include such specific statement, or if the disciplinary proceedings are instituted *motu proprio*, the respondent, in the interest of due process, must first be required to show cause in this respect before he or she is likewise disciplined as a member of the Philippine Bar *as may be warranted by the circumstances of the case*.

I draw attention, however, to the abovementioned proviso in the first paragraph and to the phrase in the second paragraph "as may be warranted by the circumstances of the case." To my mind, these cautionary provisions mean that not every offense under Rule 140 ipso facto merits a similar disciplinary action against a respondent as a member of the Bar.

⁷⁶ *Rollo*, p. 104.

⁷⁷ A.M. No. RTJ-23-039 [Formerly JIB FPI No. 21-075-RTJ], August 20, 2024 [Per J. Inting, *En Banc*].

Parenthetically, before the amendment of Rule 140 and the inclusion of Section 4 therein, what was in effect was A.M. No. 02-9-02-SC. This resolution was entitled “*Re: Automatic Conversion of **Some** Administrative Cases Against Justices of the Court of Appeals and the Sandiganbayan; Judges of Regular and Special Courts; and Court Officials Who are Lawyers as Disciplinary Proceedings Against Them Both as Such Officials and as Members of the Philippine Bar.*” It relevantly provides in part that “[~~s~~**ome** administrative cases against [J]ustices of the Court of Appeals and the Sandiganbayan Judges of regular and special courts; and the court officials who are lawyers are based on grounds which are likewise grounds for the disciplinary action of members of the Bar for violation of the Lawyer’s Oath, the Code of Professional Responsibility[,] and the Canons of Professional Ethics, or for such other forms of breaches of conduct that have been traditionally recognized as grounds for the discipline of lawyers.” *This only goes to show that, historically—and by the very language of the Court—the recognition has always been that not all administrative cases against a judge call for a concomitant disciplinary action against him or her as a member of the Bar.*⁷⁸ (Emphasis supplied)

Thus, before judges facing allegations under Revised Rule 140 may also be subjected to disciplinary action as lawyers, an inquiry must be made to determine whether their alleged misconduct, if later proven, would call into question their integrity as members of the legal profession.⁷⁹ Thus, beyond impacting the Judiciary’s image as a whole, an assessment must be made whether the judge’s transgressions also cast serious doubt on his or her moral fitness.⁸⁰ After all, possession of good moral character is not simply a requirement for the admission to the Bar, but also a continuing requirement for its members.⁸¹ Hence, the imposition of additional disciplinary measures should be confined to cases involving the commission of patently unlawful acts, immorality, abuse of power, deceitful, or dishonest conduct,⁸² among others, that clearly reflect on their personal character or moral fitness to continue practicing law. It should seriously affect the standing of the judge or court personnel as an officer of the court.

⁷⁸ J. Caguioa, Concurring Opinion in *Castillo v. Asuncion*, A.M. No. RTJ-23-039 [Formerly JIB FPI No. 21-075-RTJ], August 20, 2024 [Per J. Inting, *En Banc*] at 2. This pinpoint citation refers to the copy of the Concurring Opinion uploaded to the Supreme Court website.

⁷⁹ CODE OF PROF. RESPONSIBILITY & ACCOUNTABILITY, Preamble.

⁸⁰ *Magayanes v. Vasquez-Abad*, A.M. No. MTJ-23-014 [Formerly JIB FPI No. 21-0240-MTJ], April 11, 2024 [Per *Curiam*, *En Banc*] at 35. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website; *Office of the Court Administrator v. Judge Indar*, 685 Phil. 272, 293 (2012) [Per *Curiam*, *En Banc*]; *Samson v. Judge Caballero*, 612 Phil. 737, 748-749 (2009) [Per *Curiam*, *En Banc*].

⁸¹ *Magayanes v. Vasquez-Abad*, *id.*

⁸² *See Id.*

Applied to the facts of the present case, while smoking within court premises, failing to observe the proper session hours, conducting hearings outside the designated courts and even sleeping during trial are improper, they clearly pertain to the performance of Judge Bajan's official functions. More importantly, these actions do not rise to a level of moral delinquency that would justify Us reconsidering his continued membership in the legal profession or imposing additional sanctions. Thus, while his conduct undeniably fell short of the high standards expected of a magistrate, the same does not necessarily apply to his standing as a member of the legal profession.

The proper penalties

In totality, Judge Bajan is found guilty of the five offenses: (1) two counts of violation of Supreme Court rules, directives, and circulars that establish an internal policy, rule or procedure, or protocol; (2) habitual tardiness; (3) simple misconduct constituting a violation of the New Code of Judicial Conduct; and (4) gross insubordination. Accordingly, five distinct penalties shall be imposed on Judge Bajan in accordance with prevailing rules.⁸³

Relevantly, there is no modifying circumstance which can serve to mitigate Judge Bajan's liability. His more than 10 years⁸⁴ of government service cannot be appreciated as a mitigating circumstance, since this presupposes that he has had no previous disciplinary record resulting in an administrative penalty.⁸⁵ The Court notes, however, that Judge Bajan has been previously held administratively liable in the following cases:

1. In A.M. No. MTJ-20-1941⁸⁶ – Judge Bajan was fined PHP 21,000.00 for gross ignorance of the law, PHP 12,000.00 for undue delay in rendering a decision, and PHP 20,000.00 for habitual tardiness. He was sternly warned that a repetition of the same or similar acts shall be dealt with more severely;

2. In A.M. No. MTJ-16-1868⁸⁷ – Judge Bajan was fined PHP 30,000.00 for gross ignorance of the law and procedure; and

3. In A.M. No. P-17-3707 (*Re: Order of Judge Bajan suspending Process Server Mercy Canoy for 30 days*)⁸⁸ – Judge Bajan was fined PHP 1,000.00 for

⁸³ Revised Rule 140, sec. 21.

⁸⁴ *Rollo*, p. 106.

⁸⁵ Revised Rule 140, sec. 19 states:

Section 19. *Modifying Circumstances*. — In determining the appropriate penalty to be imposed, the Court may, in its discretion, appreciate the following mitigating and aggravating circumstances:

(1) Mitigating Circumstances:

.....

(b) Length of service of at least ten (10) years with no previous disciplinary record where respondent was meted with an administrative penalty

⁸⁶ *Rollo*, pp. 31–41, *Chua v. Bajan*, A.M. No. MTJ-20-1941, August 27, 2020 [Notice, First Division].

⁸⁷ *Id.* at 34; *Abogadye v. Bajan*, A.M. No. MTJ 16-1868, March 2, 2016 [Notice, Second Division].

⁸⁸ *Id.*; see *Chua v. Bajan*, A.M. No. MTJ-20-1941, August 27, 2020 [Notice, First Division].

immediately suspending respondent, which was increased to PHP 2,000.00 when Judge Bajan failed to file his comment despite receipt of the OCA directive to show cause why he should not be held in contempt of court.

Meanwhile, section 17 of Revised Rule 140 outlines the sanctions that may be imposed on a respondent based on the classification of the charge against a respondent. Considering that Judge Bajan has already retired from service, he can no longer serve the penalty of suspension. Thus, the Court deems it appropriate to order him to pay a fine for his infractions. For offenses classified as serious charges, the fine is more than PHP 100,000.00, but not exceeding PHP 200,000.00.⁸⁹ For offenses classified as less serious charges, on the other hand, the fine ranges from PHP 35,000.00, but not exceeding PHP 100,000.00.⁹⁰

Guided by these parameters, the Court adopts the recommendation of the JIB to impose a fine of PHP 50,000.00 each for smoking within court premises, for transferring cases without any authority, and for simple misconduct constituting a violation of the New Code of Judicial Conduct which are less serious charges. Meanwhile, the Court deems it proper to impose a fine of PHP 100,000.00 for habitual tardiness in spite of only being a less serious charge, since this is the second time that Judge Bajan has been held administratively liable for the same offense;⁹¹ and has been warned that a repetition of the act will be dealt with more severely.⁹²

With respect to the serious charge of gross insubordination, the Court deems it proper to impose a fine of PHP 300,000.00, which exceeds the maximum fine for a serious charge.⁹³ This is to take in consideration the fact

⁸⁹ Revised Rule 140, sec. 17 (1) states:

- (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] months but not exceeding [one] year; or
 - (c) A fine of more than [PHP] 100,000.00 but not exceeding [PHP] 200,000.00.

⁹⁰ Revised Rule 140, sec. 17 (2) states:

- (2) If the respondent is guilty of a less serious charge, any of the following sanctions shall be imposed:
- (a) Suspension from office without salary and other benefits for not less than [one] month nor more than [six] months; or
 - (b) A fine of more than [PHP] 35,000.00 but not exceeding [PHP] 100,000.00.

⁹¹ See Revised Rule 140, sec. 20, which states:

Section 20. *Manner of Imposition.* — *If one (1) or more aggravating circumstances and no mitigating circumstances are present, the Supreme Court may impose the penalties of suspension or fine for a period or amount not exceeding double of the maximum prescribed under this Rule.*

If one (1) or more mitigating circumstances and no aggravating circumstances are present, the Supreme Court may impose the penalties of suspension or fine for a period or amount not less than half of the minimum prescribed under this Rule.

If there are both aggravating and mitigating circumstances present, the Supreme Court may offset each other. (Emphasis supplied)

⁹² See *Chua v. Bajan*, A.M. No. MTJ-20-1941, August 27, 2020 [Notice, First Division].

⁹³ Revised Rule 140, sec. 20.

that this is Judge Bajan's second offense, and to further underscore the necessity of strict compliance with the Court's directives to file comment.

We are not unaware that dismissal from service is an available sanction for offenses classified as serious charges and in lieu thereof, the forfeiture of retirement benefits and disqualification from reinstatement or appointment to any public office.⁹⁴ However, the Court, in the exercise of its sound discretion, opts to extend Judge Bajan compassion, although not to the extent of a mitigating circumstance due to his previous administrative record. The Court notes that during his tenure as Presiding Judge of MTCC, Surigao del Norte, he was likewise designated as Executive Judge of the same MTCC⁹⁵ and Acting Presiding Judge in two other stations, MCTC of Sison-Tagana-an and MCTC of Tubod-Alegria.⁹⁶ Further, unlike the aforecited cases of *Beltran* and *Judge Santiago*, where the respondents were also found guilty of other serious charges along with gross insubordination, Judge Bajan faces gross insubordination as the only serious charge against him. The Court further observes that while his conduct as a magistrate was improper, there is no evidence that he neglected his judicial duties. Considering these circumstances, the Court finds that when a less severe penalty suffices, any missteps should not be met with excessively harsh consequences.⁹⁷

Conclusion

Time and again, the Court stressed that the behavior of all employees and officials involved in the administration of justice, from judges to the most junior clerks, is circumscribed with heavy responsibility. The Court, in the case of *Fuensalida*,⁹⁸ explains:

It must be emphasized that those in the Judiciary serve as sentinels of justice, and any act of impropriety on their part immeasurably affects the honor and dignity of the Judiciary and the people's confidence in it. The Institution demands the best possible individuals in the service and it had never and will never tolerate nor condone any conduct which would violate the norms of public

⁹⁴ Revised Rule 140, sec. 18.

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 for 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 benefits shall in no case include accrued leave credits; and/or

(b) Fine as stated in Section [17(1)(c)] of this Rule.

⁹⁵ *Rollo*, pp. 61.

⁹⁶ *Id.* at 57–60.

⁹⁷ See *Judge Pamintuan v. Comuyog, Jr.*, 766 Phil. 566, 580 (2015) [Per C.J. Sereno, First Division].

⁹⁸ *Office of the Court Administrator v. Fuensalida*, 880 Phil. 561 (2020) [Per J. Delos Santos, *En Banc*].

accountability, and diminish, or even tend to diminish, the faith of the people in the justice system.⁹⁹

Indeed, judges are the visible representation of the law and more importantly, of justice. They should uplift the honor of the Judiciary, rather than bring it to disrepute. For this reason, the Court will not hesitate to discipline members of the Bench upon their failure to meet stringent judicial standards and undermine its efforts towards an effective and efficient administration of justice.

ACCORDINGLY, respondent Judge Julieta N. Bajan, former Presiding Judge, Branch 2, Municipal Trial Court in Cities, Surigao City, Surigao del Norte is **GUILTY** of the following offenses under A.M. No. 21-08-09-SC:

(1) Two counts of **violation of Supreme Court rules, directives, and circulars that establish an internal policy, rule or procedure, or protocol**, as sanctioned under section 15(e) for: (i) smoking during trial and within court premises and (ii) violation of the prohibition of hearing cases from other courts. He is **FINED** in the amount of **PHP 50,000.00 for each offense**;

(2) **Habitual tardiness**, as sanctioned under section 15(c) in relation to section 20. He is **FINED** in the amount of **PHP 100,000.00**;

(3) **Simple misconduct constituting a violation of the New Code of Judicial Conduct**, as sanctioned under section 15(a). He is **FINED** in the amount of **PHP 50,000.00**; and

(4) **Gross insubordination**, as sanctioned under section 14(n). He is **FINED** in the amount of **PHP 300,000.00**.

The fines in the aggregate amount of **PHP 550,000.00** shall be paid within 30 days from the finality of this Decision.¹⁰⁰ If unpaid within the period given, contempt proceedings shall be commenced against the respondent pursuant to Rule 71, Section 3 of the Rules of Court for disobeying a lawful order of this Court.¹⁰¹

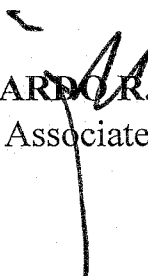
Let copies of this Decision be furnished to the Office of the Bar Confidant, the Integrated Bar of the Philippines, and the Office of the Court Administrator for their information and guidance.

⁹⁹ *Id.* at 567.

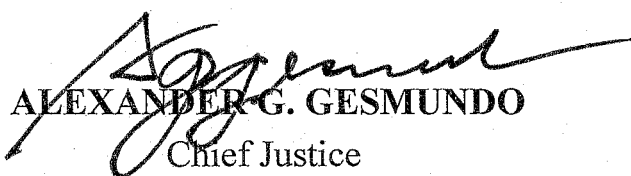
¹⁰⁰ Revised Rule 140, section 22; *Ignacio v. Balading*, A.M. No. P-24-150 [Formerly OCA IPI No. 13-4030 P], July 30, 2024 [Per J. Leonen, *En Banc*] at 7–8. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

¹⁰¹ *Id.*

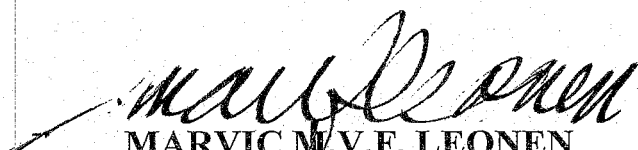
SO ORDERED.

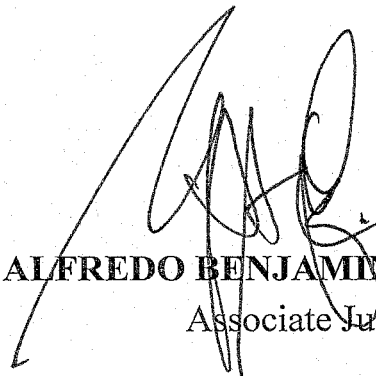

RICARDO R. ROSARIO
Associate Justice

WE CONCUR:

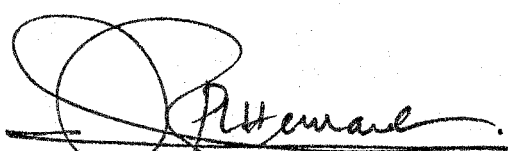

ALEXANDER G. GESMUNDO
Chief Justice

See separate opinion



MARVIC M.V.F. LEONEN
Associate Justice

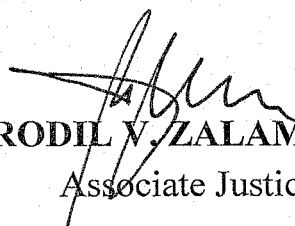

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

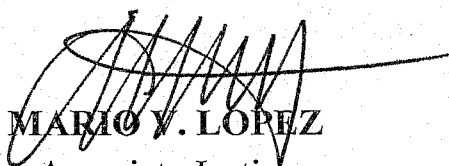
*See
Concurring
Opinion*


RAMON PAUL L. HERNANDO
Associate Justice

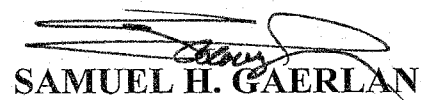

AMY C. LAZARO JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice



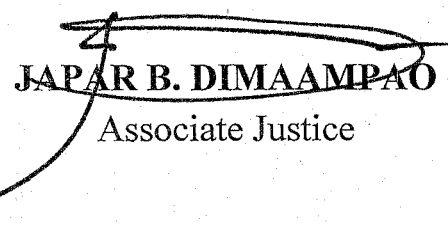
MARIO V. LOPEZ
Associate Justice



SAMUEL H. GAERLAN
Associate Justice

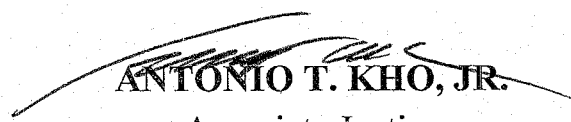


JHOSEP Y. LOPEZ
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice

No part
JOSE MIDAS P. MARQUEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice

ON LEAVE
MARIA FILOMENA D. SINGH
Associate Justice

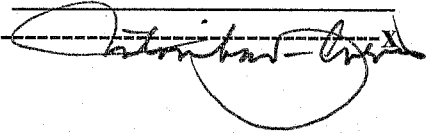
EN BANC

A.M. No. MTJ-25-035 [Formerly JIB FPI No. 21-053-MTJ] – ANONYMOUS, Complainant, v. HON. JULIETO N. BAJAN, Presiding Judge, Branch 2, Municipal Trial Court in Cities, Surigao City, Surigao del Norte, Respondent.

Promulgated:

March 4, 2025

X-----



SEPARATE CONCURRING AND DISSENTING OPINION


LEONEN, J.:

I concur that respondent Retired Judge Juliето N. Bajan (respondent judge), former presiding judge of Branch 2, Municipal Trial Court in Cities, Surigao City, Surigao del Norte, should be held administratively liable for: (a) violation of Supreme Court rules, directives, and circulars for his separate acts of (1) smoking during trial and within court premises and (2) hearing cases from other courts; (b) habitual tardiness for arriving at 11:30 am in his *sala* to hear cases; (c) simple misconduct constituting violation of the New Code of Judicial Conduct for falling asleep during trial; and (d) gross insubordination for failure to file his comment despite repeated directives from the Office of the Court Administrator and the Judiciary Integrity Board.

However, respondent judge's multiple infractions should merit the penalty of dismissal from service, more so when he had been previously found administratively liable thrice and had been warned that a repetition of a similar offense would merit a graver penalty.

Section 21 of A.M. No. 21-08-09-SC (Further Amendments to Rule 140 of the Rules of Court) states the penalties for multiple offenses, thus:

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 [PHP] 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.



On the other hand, if a single act/omission constitutes more than one (1) offense, the respondent shall still be found liable for all such offenses, but shall, nonetheless, only be meted with the appropriate penalty for the most serious offense.

In *Boston Finance and Investment Corp. v. Judge Gonzales*,¹ the Court held that the respondent in administrative cases under Rule 140 of the Rules of Court shall be imposed with separate penalties for every offense, and thus, fined respondent PHP 30,000.00 upon finding of guilt for gross ignorance of the law, and PHP 11,000.00 for undue delay in rendering an order. The same respondent was eventually dismissed from service by the Court in *Office of the Court of Administrator v. Judge Gonzales*² upon a finding of guilt for the serious charge of gross misconduct, and he was also separately fined with PHP 35,000.00 each for (1) delay in rendering decisions, and (2) making untruthful statements in his certificates of service and docket inventory.³

In *Office of the Court of Administrator v. Judge Salvador*,⁴ the Court found respondent liable for multiple counts of gross ignorance of the law when he presided over cases and issued orders even after his retirement. The Court thus imposed upon him the penalty of dismissal from service and a fine in the amount of PHP 20,000.00 for violation of Supreme Court rules, directives, and circulars.⁵

In *Judge Maddela III v. Judge Pamintuan*,⁶ the Court imposed separate penalties for each count of administrative liabilities of gross misconduct, undue delay in rendering decisions, and violation of Supreme Court rules, directives, and circulars committed by the respondent,⁷ thus:

For his gross misconduct in attempting to bribe Exec. Judge Paradeza to enter a guilty verdict in the case of *People v. Terrie*, the Court imposes upon respondent the penalty of dismissal from service with forfeiture of all retirement benefits, except his accrued leave credits, and with prejudice to re-employment in the government, including government-owned or controlled corporations.

Considering that the Court has already dismissed respondent, the penalty of suspension from office without salary and other benefits is no longer possible. Hence, the penalty of fine is more appropriate in the case of his three less serious charges. The Court, thus, imposes on respondent a fine of Twelve Thousand Pesos ([PHP] 12,000.00) each for (1) undue delay in rendering a decision in the cases assigned to him, (2) violation of the Supreme Court rules, directives, and circulars due to his act of shirking from

¹ 841 Phil. 701 (2018) [Per J. Perlas-Bernabe, *En Banc*].

² A.M. No. RTJ-16-2463, July 27, 2021 [Per *Curiam*, *En Banc*].

³ *Id.*

⁴ 855 Phil. 724 (2019) [Per J. Perlas-Bernabe, *En Banc*].

⁵ *Id.* at 734–745.

⁶ 859 Phil. 148 (2019) [Per *Curiam*, *En Banc*].

⁷ *Id.* at 184–185.

judicial duty, and (3) violation of the New Code of Judicial Conduct for the Philippine Judiciary by engaging in conflict-of-interest activities.⁸ (Citation omitted)

In *Re: Anonymous Complaint against Presiding Judge Aldea-Arocena*,⁹ respondent was likewise separately penalized for each administrative offense she was found liable, such as: (1) dismissal from service with forfeiture of all retirement benefits, except accrued leave credits, and perpetual disqualification from holding public office, for the serious charges of Gross Misconduct constituting violations of the Code of Judicial Conduct and Gross Ignorance of the Law; and (2) fine of PHP 15,000.00 each for violations of Section 1, Rule 137 of the Rules of Court and Paragraphs B (2) and (4) of OCA Circular No. 49-2003, or a total fine of PHP 30,000.00.¹⁰

In *Office of the Court Administrator v. Judge Villarosa*,¹¹ the Court adjudged respondent guilty of four counts of gross ignorance of the law and violation of A.M. No. 03-3-03-SC dated July 8, 2014, and imposed separate penalties for each violation, thus:

In sum, the Court finds Judge Villarosa liable for: (1) violation of A.M. No. 03-3-03-SC dated July 8, 2014 when he deliberately failed to transfer eight commercial cases to Branch 137; and (2) four counts of gross ignorance of the law and procedure when he (a) transferred cases for JDR to Branch 149 without conducting the first stage of judicial proceedings, including JDR, in violation of the Consolidated and Revised Guidelines to Implement the Expanded Coverage of CAM and JDR; (b) ordered the consolidation of Civil Case No. 09-524 pending in his court with Civil Case No. CEB-34790 pending in Branch 10, RTC, Cebu City, in violation of Section 1, Rule 31 of the Rules of Court; (c) issued a TRO that was effective beyond the 20-day period prescribed in Section 5, Rule 58 of the Rules of Court and Administrative Circular No. 20-95 in Civil Case No. 11-1059; and (d) issued a TRO against the DOTC in SP M-7574, in violation of Section 3 of R.A. No. 8975.

....

Accordingly, as penalty for the first count of Gross Ignorance of the Law and in view of his supervening retirement (which obviates the implementation of the penalty of dismissal from service), the Court deems it proper to **forfeit all of Judge Villarosa's retirement benefits except accrued leave credits**, and likewise impose the **accessory penalty of disqualification from reinstatement or appointment to any public office, including government-owned and controlled corporations**.

In addition, the Court imposes the following: (a) for the other three counts of Gross Ignorance of the Law, fines in the amount of [PHP] 40,000.00 each; and (b) for his violation of A.M. No. 03-3-03-SC dated July 8, 2014, a fine in the amount of [PHP] 20,000. **Judge Villarosa is therefore**

⁸ *Id.* at 186–187.

⁹ 861 Phil. 143 (2019) [*Per Curiam, En Banc*].

¹⁰ *Id.* at 166–167.

¹¹ 869 Phil. 600 (2020) [*Per Curiam, En Banc*].

fined a total of [PHP] 140,000.00, which amount is to be deducted from his accrued leave credits. In case his leave credits are insufficient, the OCA is directed to order Judge Villarosa to pay within 10 days from notice, the said amount.¹² (Emphasis in original, citation omitted)

In *Office of the Court Administrator v. Judge Flor*,¹³ the Court considered respondent's repeated infractions of disregarding the rules on bail applications in finding him liable for multiple counts of gross ignorance of the law and thus imposed upon him the supreme penalty of dismissal.¹⁴

In *Office of the Court Administrator v. Judge Reyes*,¹⁵ the Court found respondent guilty of Gross Ignorance of the Law, Gross Misconduct, and violation of Canons 1, 2, and 3 of the New Code of Conduct for the Philippine Judiciary, and held that he should be meted the ultimate penalty of dismissal from service had he not retired from service.¹⁶

[T]his Court finds respondent Judge administratively liable for gross ignorance of the law, gross misconduct and violations of Canons 1, 2, and 3 of the New Code of Judicial Conduct, as such, respondent Judge should be meted the ultimate penalty of dismissal from service. However, during the pendency of the administrative complaint, respondent Judge compulsorily retired on November 20, 2017, thus dismissal from service can no longer be effected. Nevertheless, such compulsory retirement cannot render this case moot, since it is still proper to order the forfeiture of all his benefits, except accrued leave credits, with perpetual disqualification from employment to any public office, including government- owned and controlled corporations.¹⁷

In *Berso, Jr. v. Judge Rabe*,¹⁸ the Court held that respondent judge was guilty of two counts of gross ignorance of the law, gross misconduct and undue delay in rendering a decision, and was penalized with: (1) dismissal from service with forfeiture of retirement benefits, except accrued leave credits, and with prejudice to re-employment in the government for his gross ignorance of the law; and (2) payment of fine in the amount of PHP 100,000.00 each, or a total of PHP 200,000.00, to be deducted from his accrued leave credits, for his gross misconduct and undue delay in rendering an order.¹⁹

In *Judge Santiago v. Fernando*,²⁰ this Court ruled that the respondent court personnel was guilty of: (a) two counts of gross insubordination for "first, as correctly pointed out by OCA, with respect to respondent's conduct

¹² *Id.* at 614–618.

¹³ 878 Phil. 47 (2020) [*Per Curiam, En Banc*].

¹⁴ *Id.* at 58.

¹⁵ 889 Phil. 622 (2020) [*Per Curiam, En Banc*].

¹⁶ *Id.* at 639.

¹⁷ *Id.*

¹⁸ 916 Phil. 231 (2021) [*Per Curiam, En Banc*].

¹⁹ *Id.* at 249.

²⁰ A.M. No. P-22-053 (formerly OCA IPI No. 15-4466-P), January 17, 2023 [*Per J. Rosario, En Banc*].

towards complainant judge, his superior and second, for failure to submit Comment despite repeated notice”;²¹ and (b) one count of gross misconduct constituting a violation of the Code of Conduct of Court Personnel, and then he was meted the penalty of: (a) forfeiture of all benefits, except accrued leave credits, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations because respondent has been dropped from the rolls for being absent without leave; and (b) payment of a fine in the aggregate amount of PHP 300,000.00.²²

Here, the *ponencia* found respondent judge administrative liable for: (a) violation of Supreme Court rules, directives, and circulars for his separate acts of (1) smoking during trial and within court premises and (2) hearing cases from other courts; (b) habitual tardiness for arriving at 11:30 a.m. in his *sala* to hear cases; (c) simple misconduct constituting violation of the New Code of Judicial Conduct for falling asleep during trial; and (d) gross insubordination for failure to file his comment despite repeated directives from the Office of the Court Administrator and the Judiciary Integrity Board.

Thereafter, he was meted the penalties of: (a) payment of the fine of PHP 50,000.00 for his two separate acts of violation of Supreme Court rules, directives, and circulars; (b) payment of the fine of PHP 100,000.00 for habitual tardiness; (c) payment of the fine of PHP 50,000.00 for simple misconduct constituting violation of the New Code of Judicial Conduct; and (d) payment of the fine of PHP 300,000.00 for gross insubordination. He was further directed to pay the fines in the aggregate amount of PHP 550,000.00 within three months from promulgation of the Resolution pursuant to Section 22 of A.M. No. 21-08-09-SC.

However, I submit that respondent judge’s multiple infractions should merit the penalty of dismissal from service, more so when he had been previously found administratively liable thrice and had been warned that a repetition of a similar offense would merit a graver penalty.

Under A.M. No. 21-08-09-SC, the charges of gross insubordination is a serious charge²³ punishable by dismissal from service, while (1) simple misconduct constituting violations of the Code of Judicial Conduct, (2) habitual tardiness and (3) violation of Supreme Court rules, directives, and circulars that establish an internal policy, rule of procedure, or protocol are all less serious charges,²⁴ which merit the following penalty:

²¹ *Id.*

²² *Id.*

²³ A.M. No. 21-08-09-SC, sec. 14 (c), (d), (n).

²⁴ A.M. No. 21-08-09-SC, sec. 15.

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 [PHP] 100,000.00 but not exceeding [PHP] 200,000.00.

(2) If the respondent is guilty of a less serious charge, any of the following sanctions shall be imposed:

(a) Suspension from office without salary and other benefits for not less than one (1) month nor more than six (6) months; or

(b) A fine of more than [PHP] 35,000.00 but not exceeding [PHP] 100,000.00.²⁵

Respondent judge had been held administratively liable thrice and sternly warned that a repetition of the same acts—habitual tardiness in A.M. No. MTJ-20-194167 and also, failure to file his comment despite receipt of the Office of the Court Administrator directive to show cause why he should not held in contempt of court in A.M. No. P-17-3707—shall be dealt with more severely, thus:

1. In A.M. No. MTJ-20-1941 – Judge Bajan was fined PHP 21,000.00 for gross ignorance of the Law, PHP 12,000.00 for undue delay in rendering a decision, and PHP 20,000.00 for habitual tardiness. He was sternly warned that a repetition of the same or similar acts shall be dealt with more severely;

2. In A.M. No. MTJ-16-1868—Judge Bajan was fined PHP 30,000.00 for gross ignorance of the law and procedure; and

3. In A.M. No. P-17-3707 (*Re: Order of Judge Bajan suspending Process Server Mercy Canoy for 30 days*)— Judge Bajan was fined PHP 1,000.00 for immediately suspending respondent, which was increased to PHP 2,000.00 when Judge Bajan failed to file his comment despite receipt of the OCA directive to show cause why he should not held in contempt of court.²⁶ (Citations omitted)

²⁵ Further Amendments to Rule 140 of the RULES OF COURT, sec. 17 (1).

²⁶ *Ponencia*, pp. 18–19.

Respondent judge's defiant and stubborn attitude of refusing to follow Court orders, circulars and directives should never be tolerated, and his single letter to the Office of the Court Administrator dismissing one of the complaints as a mere harassment suit and insufficient in form cannot be considered the comment required from him. Furthermore, in the letter, respondent judge even admitted his repeated infraction of habitual tardiness and act of sleeping during trial when he stated that "[t]he work of a judge is mental in nature and as such in making resolution or decision of cases in his *sala*, he brings it into his sleep and dreams; in other words, it [is a] 24/7 work."²⁷ Such flimsy excuses should not be tolerated. Other judges or court personnel may simply do the same, more so if the offense is without a commensurate penalty. The Court has stated that "all employees of the Judiciary, from judges to the most junior clerks, [should] conduct themselves in a manner exemplifying integrity, honesty and uprightness"²⁸ and thus, judges and court personnel shall be treated alike and imposed upon the same penalties for the same violations.

As discussed above, with multiple infractions and considering his previous administrative liabilities where he had been sternly warned that a repetition of a similar offense shall be dealt with more severely, respondent judge should already be meted with a harsher penalty. He should be dismissed from service. Nevertheless, since respondent judge already retired effective May 23, 2023, Section 18 of A.M. No. 21-08-09-SC should apply:

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 for 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 benefits shall in no case include accrued leave credits; and/or


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

ACCORDINGLY, I vote that respondent Retired Judge Julieta N. Bajan, former Presiding Judge of Branch 2, Municipal Trial Court in Cities, Surigao City, Surigao del Norte, be held administratively liable for one count of gross insubordination, two counts of violation of Supreme Court rules, directives, and circulars, one count of habitual tardiness, and one count of simple misconduct, and that he be meted with the penalty of **FORFEITURE**

²⁷ *Id.* at 10.

²⁸ *Judge Santiago v. Fernando*, A.M. No. P-22-053 (formerly OCA IPI No. 15-4466-P), January 17, 2023 [Per J. Rosario, *En Banc*]. (Citation omitted)

of retirement benefits, except accrued leave credits, with prejudice to re-employment in any branch or instrumentality of the government.



MARVIC M.V.F. LEONEN
Senior Associate Justice

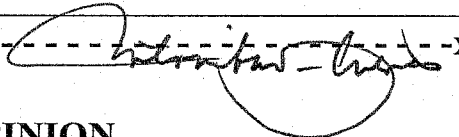
EN BANC

A.M. No. MTJ-25-035 [Formerly JIB FPI No. 21-053-MTJ] – ANONYMOUS, Complainant, v. HON. JULIETO N. BAJAN, Presiding Judge, Branch 2, Municipal Trial Court in Cities, Surigao City, Surigao del Norte, Respondent.

Promulgated:

March 4, 2025

X



X

CONCURRING OPINION

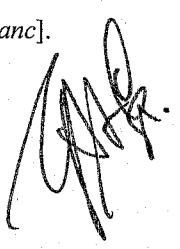
CAGUIOA, J.:

The *ponencia* finds respondent Hon. Julieta N. Bajan (Judge Bajan) administratively liable under Rule 140 of the Rules of Court for the following misconduct: (i) smoking during court hearings and within court premises; (ii) conducting court hearings of cases from other trial courts in the Municipal Trial Court in Cities (MTCC) of Surigao City; (iii) habitual absenteeism and tardiness; (iv) sleeping while conducting trial; and (v) delaying the resolution of cases. The *ponencia* also finds Judge Bajan liable for disregarding the directives issued to him by the Office of the Court Administrator and the Judicial Integrity Board (JIB). There is no dispute that all of these actions were performed in Judge Bajan's capacity as Presiding Judge of Branch 2, MTCC of Surigao City, and as such, I fully agree with the *ponencia* in holding him liable in this capacity.

However, it bears noting that the JIB likewise recommended to hold Judge Bajan liable as a lawyer for simple misconduct. While the *ponencia* did not adopt this recommendation—and rightfully so—I write this Concurring Opinion to expound on the reasons for modifying the JIB's recommendation. I emphasize that Section 4, Rule 140 of the Rules of Court, as amended by A.M. No. 21-08-09-SC,¹ does not apply to any and all misconduct of an erring judge. Again, I reiterate that, as in my position in *Castillo v. Judge Asuncion*² (*Castillo*), the administrative liability of judges may only be considered as disciplinary actions against them as lawyers when their misconduct goes into their moral fitness as a member of the Bar. Section 4, Rule 140 of the Rules of Court provides that a disciplinary action against members of the Judiciary shall also be considered as a disciplinary action against him or her as a member of the Philippine Bar under the following circumstances:

¹ Further Amendments to Rule 140 of the Rules of Court, February 22, 2022.

² A.M. No. RTJ-23-039 (Formerly JIB FPI No. 21-075-RTJ), August 20, 2024 [Per J. Inting, *En Banc*].



- (i) the complaint explicitly states that the imputed acts or omissions are also grounds for disciplinary action against the respondent as a lawyer; or
- (ii) if the complaint does not include such specific statement, or if the disciplinary proceedings are instituted *motu proprio*, the respondent was required to show cause in this respect.

In this instance, the JIB directed Judge Bajan to show cause why he should not be disciplined as a member of the Bar for violating several provisions of the Code of Professional Responsibility (CPR),³ which at that time was the governing code of conduct and ethical standards for lawyers. However, the conduct for which Judge Bajan is being sanctioned as a lawyer is the same conduct that he committed in his capacity as a judge. This is evident from the cited provisions of the CPR that he purportedly violated, i.e., the provisions on unlawful and deceitful conduct, defiance of the law, respect to the courts, punctuality, and proper attire.

To be sure, Section 4, Rule 140 does not operate to hold judges liable for acts relating to their adjudicative functions by simply finding the corresponding provision in the CPR, or the Code of Professional Responsibility and Accountability (CPRA), as the case may be. If the Court were to rule in this manner, this would mean that every offending conduct of a judge warrants a similar disciplinary action against him or her as a member of the Bar. However, Section 4, Rule 140 does not contemplate disciplining a judge as a member of the Bar when the alleged acts pertain to his or her judicial functions alone.⁴

In my Concurring Opinion in *Castillo*, I emphasized that Section 4, Rule 140 of the Rules of Court should apply only to instances when the charge or liability of the respondent affects his or her moral fitness or character as a lawyer. In assessing whether the respondent in Rule 140 should also be disciplined as a member of the Bar, the charges against the respondent, assuming them to be true, must also affect the moral fitness to practice the legal profession. This is apparent from the long line of cases applying A.M. No. 02-9-02-SC⁵ or the predecessor of Section 4, prior to the amendments to Rule 140 of the Rules of Court.⁶

³ CODE OF PROFESSIONAL RESPONSIBILITY, Canon 1, rules 1.01 and 1.02, and Canon 11, rules 11.02 and 11.03.

⁴ See Letter of Associate Justice Maria Filomena D. Singh dated August 5, 2024.

⁵ Re: Automatic Conversion of Some Administrative Cases Against Justices of the Court of Appeals and the Sandiganbayan; Judges of Regular and Special Courts; and Court Officials Who are Lawyers as Disciplinary Proceedings Against Them Both as Such Officials and as Members of the Philippine Bar, September 17, 2002.

⁶ See Concurring Opinion of Associate Justice Alfredo Benjamin S. Caguioa in *Castillo v. Hon. Asuncion*, which summarized the following cases:

In *Cañada v. Judge Suerte*, respondent judge therein was charged with grave abuse of authority, grave misconduct, grave coercion, dishonesty, harassment, oppression, and violation of Article 215 of the Revised Penal Code and the Canons of Judicial Ethics. The case stemmed from an agent-broker arrangement between respondent judge and therein



For instance, in *Nava II v. Artuz*,⁷ the Court found that therein respondent judge, who made false statements in her Personal Data Sheet (PDS) to conceal the fact that she had pending cases at the time of her application with the Judicial and Bar Council (JBC), was found administratively liable for grave misconduct, dishonesty, and falsification of official documents. After directing

complainant that went awry. The Court ultimately found respondent judge guilty of dishonesty. At the same time, the Court applied AM. No. 02-9-02-SC, disbarring respondent judge after ruling that he also violated Rule 1.01, Canon 1 of the CPR, which enjoins a lawyer from engaging in unlawful, dishonest or deceitful conduct, and Rule 10.01 of Canon 10, which enjoins a lawyer from doing any falsehood or from misleading the court.

In *Samson v. Judge Caballero*, an administrative complaint for dishonesty and falsification of a public document was filed against respondent judge therein when, during his interviews before the Judicial and Bar Council (JBC), he allegedly concealed the fact that he had pending administrative charges against him and checked the box indicating “No” to the question “Have you ever been formally charged?” in his March 21, 2006 Personal Data Sheet. In dismissing respondent judge from service, the Court was convinced of his capacity to lie and evade the truth, which misled the JBC and tarnished the image of the Judiciary. Furthermore, the Court also considered the administrative case against respondent judge as a disciplinary proceeding against him as a member of the Bar, pursuant to A.M. No. 02-9-02-SC. In disbarring respondent judge, the Court ruled that his dishonest act was against the Lawyer’s Oath to “do no falsehood, nor consent to the doing of any in court,” and likewise constituted a contravention of Section 27, Rule 138 of the Rules of Court, which strictly enjoins a lawyer from committing acts of deceit.

In *Office of the Court Administrator v. Judge Indar*, respondent judge therein was charged with and found guilty of gross misconduct and dishonesty for issuing decisions on numerous cases for annulment of marriage without conducting any judicial proceedings. At the same time, the Court held that the administrative case shall also be considered as a disciplinary proceeding against respondent judge as a member of the Bar, in accordance with A.M. No. 02-9-02-SC. The Court then disbarred respondent judge after ruling that his gross misconduct and dishonesty likewise constituted a breach of Rule 1.01, Canon 1, and Canon 7 of the CPR and violated the Lawyer’s Oath to “do no falsehood, nor consent to the doing of any in court.”

In *Office of the Court Administrator v. Judge Alinea*, respondent judge therein was administratively charged for demanding and receiving the amount of PHP 15,000.00 from plaintiffs therein in a land dispute case pending before his court. The Court found that not only did respondent judge gravely violate his duty to dispense justice solely in accordance with the merits of the case, but also put the trust and confidence of the people in the judiciary and the rule of law into serious peril, thereby rendering him utterly unfit to continue dispensing his duties as a public official and a member of the Bar. Hence, the Court did not only impose upon respondent judge the extreme penalty under Rule 140, but also disbarred him, pursuant to A.M. No. 02-9-02-SC.

Finally, in *Cobarrubias-Nabaza v. Lavandero*, respondent therein was a Court Attorney from the Legal Office of the Office of the Court Administrator and was a litigant in a *Batas Pambansa Blg. 22* case pending before the *sala* of therein complainant. A ruling favorable to respondent was made and some of the properties of the defendant in the case were placed in *custodia legis* for levy, execution, and auction sale. One of these properties was a sedan. Complainant discovered that despite the absence of any public auction, respondent had taken the subject vehicle in and out of court premises on three (3) occasions without her prior knowledge and approval, as evidenced by various CCTV footages. This prompted complainant to write a letter to the Office of the Court Administrator, which in turn, referred the same to the Office of Administrative Services-Supreme Court for formal investigation and was docketed as a regular administrative case against respondent. Subsequently, the Court docketed the matter as a separate administrative case against respondent and thereafter, required him to show cause as to why he should not be sanctioned as a member of the Bar. The Court eventually found respondent guilty of Conduct Prejudicial to the Best Interest of the Service. As a lawyer, respondent was also found guilty of failing to fulfill his solemn oath of upholding and obeying the law and its legal processes, and even misused court processes for his own personal gain. In so doing, he committed an act of falsehood and engaged in unlawful, dishonest, and deceitful conduct—for which he was duly sanctioned. (Citations omitted) *J. Caguioa*, Concurring Opinion in *Castillo v. Hon. Asuncion*, *supra* note 2, at 3–4. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁷ 871 Phil. 1 (2020) [*Per Curiam, En Banc*].



the respondent to show cause, the Court ruled that her untruthfulness and dishonesty in filling up the PDS constituted a breach of the CPR, particularly, the canons that enjoin lawyers to promote and respect the law, and prohibit the commission of any falsehood. The Court also found that she violated Section 27, Rule 138 of the Rules of Court, which prohibits lawyers from committing any deceit or from violating the Lawyer's Oath. Therein respondent was meted with the penalty of disbarment.⁸

In *Office of the Court Administrator v. Tormis*⁹ (*Tormis*), the Court disbarred the respondent judge after she was dismissed from the service for gross inefficiency, neglect of duty, and gross ignorance of the law. It was found that she solemnized marriages despite glaring irregularities in the requirements under the law, including missing or incomplete documents such as marriage licenses.¹⁰ By virtue of her participation in the alleged marriage scam, the Court held that she also violated the canons in the CPR proscribing lawyers from engaging in unlawful or dishonest conduct, or those that adversely affect their fitness to practice law. The Court's pronouncement in *Tormis* is worth echoing:

Respondent used her authority as a judge to make a mockery of marriage. As a judicial officer, she is expected to know the law on solemnization of marriages. "A judge is not only bound by oath to apply the law; he [or she] must also be conscientious and thorough in doing so. Certainly, judges, by the very delicate nature of their office[,] should be more circumspect in the performance of their duties."

Similarly, as a lawyer who is an officer of the court, respondent should have not permitted herself to be an instrument of any violation of law. Her careless attention in dispensing with the necessary requirements of marriage and in conniving with court employees to further monetary interests underscores her utter disregard of the sanctity of marriage.

....

Respondent's conduct has fallen short of the strict standards required by the legal profession. **Hence, her repeated failure to live up to the values expected of her as an officer of the court renders her unfit to be a member of the bar.**¹¹ (Emphasis supplied; citations omitted)

As well, the respondent judge in *Avancena v. Liwanag*¹² was disbarred following his dismissal from the service for violating Republic Act No. 3019, or the Anti-Graft and Corrupt Practices Act, after he demanded the amount of PHP 1,000,000.00 to acquit an accused charged with violating Batas Pambansa Blg. 22 before his court. The Court held that his malfeasance warranted the

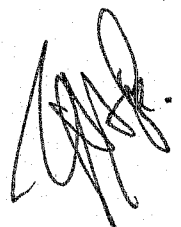
⁸ *Id.* at 8–10, 13.

⁹ 794 Phil. 1 (2016) [*Per Curiam, En Banc*].

¹⁰ *Id.* at 9–10; see also *Office of the Court Administrator v. Necessario*, 707 Phil. 328, 349–350 (2013) [*Per Curiam, En Banc*].

¹¹ *Office of the Court Administrator v. Tormis*, *supra* note 9, at 29–31.

¹² 454 Phil. 20 (2003) [*Per Curiam, En Banc*].



supreme penalty of disbarment, as he failed to live up to the exacting standards demanded by the legal profession.

These cases illustrate that the respondent judges' misconduct tarnished not only their integrity as judges, but their personal moral character. As such, this required an assessment of therein respondents' fitness to continue practicing the legal profession. As held in *Magayanes v. Vasquez-Abad*,¹³ where the respondent judge made false certifications and even misappropriated the salary of her staff:

Here, it is apparent that the acts of Judge Alamada did not only affect the image of the judiciary but also put her moral character in serious doubt and rendered her unfit to continue in the practice of law. **Possession of good moral character is not only a prerequisite to admission to the bar but also a continuing requirement for the practice of law. If the practice of law is to remain an honorable profession and attain its basic ideals, those counted within its ranks should not only master its tenets and principles but should also accord continuing fidelity to them.** The requirement of good moral character is of much greater import, as far as the general public is concerned, than the possession of legal learning.¹⁴ (Emphasis supplied; citation omitted)

That being said, there are cases when the Court ruled that: (i) the respondent judge deemed grossly ignorant of the law should be similarly liable as a lawyer because the CPR enjoins lawyers to uphold the Constitution and the laws;¹⁵ (ii) the respondent judge who used humiliating language against lawyers should also be penalized as a lawyer because the CPR proscribes the use of abusive language;¹⁶ and (iii) the respondent judge who failed to resolve cases within the reglementary period also violated the canons of the CPR prohibiting lawyers from unduly delaying a case.¹⁷ To my mind, however, these cases set too low a bar to also serve as a ground to discipline the respondents as lawyers, and the Court should henceforth refrain from perpetuating the interpretation it employed in these cases. Such interpretation, I submit, is erroneous as it practically allows any and all acts of judges to also serve as a ground to discipline them as lawyers.

At this juncture, it must be clarified that there is no disagreement on the propriety of holding Judge Bajan liable as member of the Bench. As the most visible representation of the law, trial court judges are expected to avoid impropriety and any appearance thereof. They are expected to conduct themselves in a manner that befits their stature as high officers of the court.

¹³ A.M. Nos. MTJ-23-014 (Formerly JIB FPI No. 21-024-MTJ), MTJ-23-015 (Formerly JIB FPI No. 21-032-MTJ), MTJ-24-026 (Formerly JIB FPI No. 21-033-MTJ) and MTJ-24-027 (Formerly JIB FPI No. 21-042-MTJ), April 11, 2024 [*Per Curiam, En Banc*].

¹⁴ *Id.* at 35. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

¹⁵ *Mariano v. Nacional*, 598 Phil. 6 (2009) [*Per J. Corona, En Banc*].

¹⁶ *Dela Cruz (Concerned Citizen of Legazpi City) v. Carretas*, 559 Phil. 5 (2007) [*Per J. Corona, First Division*].

¹⁷ *Office of the Court Administrator v. Ismael*, 624 Phil. 275 (2010) [*Per J. Corona, Third Division*]; *Re: Report on the Judicial Audit Conducted in the MCTC, Jimenez-Sinacaban, Misamis Occ./Judge Hernandez*, 610 Phil. 237 (2009) [*Per Curiam, En Banc*]; *Dee C. Chuan & Sons, Inc. v. Peralta*, 603 Phil. 94 (2009) [*Per J. Corona, First Division*].

By sleeping and smoking during trial, failing to report during office hours, reporting late for work, and irregularly conducting hearings outside the designated courts, Judge Bajan is rightfully administratively liable for his misconduct. However, there should be no similar finding of liability as a member of the Bar, as the actions for which he is being held liable were exercised, not in his capacity as a lawyer, but in the performance of his duties as a judge. More importantly, absent any finding that his misconduct is of such character that establishes his moral delinquency, there is no basis to similarly hold him liable under the CPRA.

Given the foregoing, the application of Section 4, Rule 140 of the Rules of Court should be reserved to the commission of patently unlawful acts and to clear cases of dishonesty, immorality, or deceitful conduct. I emphasize anew, as I did in *Castillo*, that the loose application of Section 4, Rule 140 of the Rules of Court is tantamount to unfairly charging and punishing the respondent judge twice for the discharge of his official functions. The Court must therefore make a distinction between misconduct that is of such character that the judge's qualification as a lawyer is affected, as the misfeasance illustrates a moral delinquency on his or her part, and a judge who may have some shortcomings in the discharge of his or her official duty.

To be sure, a judge, who is inevitably also a member of the Bar, has a distinct role from a lawyer. While lawyers are also enjoined to uphold the Constitution and the law, their professional duties involve fidelity to the cause of their client. Judges, on the other hand, are expected to be impartial and beyond reproach, and to dispense justice in accordance with the rule of law. Thus, the canons under the New Code of Judicial Conduct do not have a one-to-one correspondence with the CPRA. The *ponencia* correctly ruled that the threshold that should govern is the moral character of the respondent, both as a member of the Judiciary and as a member of the Bar.

ACCORDINGLY, I concur that respondent Hon. Julieta N. Bajan should only be held liable in his capacity as a judge for the following offenses: (i) two counts of violation of Supreme Court rules, directives, and circulars that establish an internal policy, rule or procedure, or protocol; (ii) one count of habitual tardiness; (iii) one count of simple misconduct under Section 15(a), Rule 140 of the Rules of Court; and (iv) one count of gross insubordination, punishable under Section 14(n), Rule 140 of the Rules of Court.



ALFREDO BENJAMIN S. CAGUITA
Associate Justice