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[A.M. No. RTJ-07-2063 (Formerly OCA I.P.I. No. 07-2588-RTJ), June 26, 2009]

REPUBLIC OF THE PHILIPPINES, COMPLAINANT, VS. JUDGE RAMON S. CAGUIOA, PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF OLONGAPO CITY, BRANCH 74, RESPONDENT.

[A.M. NO. RTJ-07-2064 (FORMERLY OCA I.P.I. NO. 07-2608-RTJ)]

COMMISSIONER OF CUSTOMS, COMPLAINANT, VS. JUDGE RAMON S. CAGUIOA, PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF OLONGAPO CITY, BRANCH 74, RESPONDENT.

[A.M. NO. RTJ-07-2066 (FORMERLY OCA I.P.I. NO. 07-2628-RTJ)]

CHARLES T. BURNS, JR., COMPLAINANT, VS. JUDGE RAMON S. CAGUIOA, PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF OLONGAPO CITY, BRANCH 74, AND CHRISTOPHER T. PEREZ, SHERIFF IV, REGIONAL TRIAL COURT OF OLONGAPO CITY, BRANCH 74, RESPONDENTS.

D E C I S I O N

PER CURIAM:

> *Judges are not common men and women, whose errors men and women forgive and time forgets. Judges sit as the embodiment of the people's sense of justice, their last recourse where all other institutions have failed.* -- **Dela Cruz v. Pascua, A.M. No. RTJ-99-1461, June 26, 2001, 359 SCRA 569.**

Before us are three administrative cases against Judge Ramon S. Caguioa, Presiding Judge of Branch 74, Regional Trial Court (RTC) of Olongapo City.

I.
A.M. No. RTJ-07-2063

On November 29, 2006, the Republic of the Philippines, represented by the Office of the Solicitor General (OSG), charged Judge Ramon S. Caguioa with gross ignorance of the

law, manifest partiality and conduct prejudicial to the best interest of the service. The complaint concerned Civil Case No. 102-0-05 entitled "Indigo Distribution Corp. Inc., et al. vs. The Hon. Secretary of Finance, et al." for Declaratory Relief with Prayer for Temporary Restraining Order (TRO) and Preliminary Mandatory Injunction, pending before the *sala* of respondent judge.

Complainant Republic is the respondent in said civil case. Petitioners therein, Indigo Distribution Corp. Inc., et al. (Indigo, et al.), sought to nullify the implementation of Section 6 of Republic Act (R.A.) No. 9334 as unconstitutional.[1] Section 6 provides:

> **SEC. 6.** Section 131 of the National Internal Revenue Code of 1997, as amended, is hereby amended to read as follows:
>
> "SEC. 131. *Payment of Excise Taxes on Imported Articles.* -
>
> "(A) *Persons Liable.* - Excise taxes on imported articles shall be paid by the owner or importer to the Customs Officers, conformably with the regulations of the Department of Finance and before the release of such articles from the customs house, or by the person who is found in possession of articles which are exempt from excise taxes other than those legally entitled to exemption.
>
> "In the case of tax-free articles brought or imported into the Philippines by persons, entities, or agencies exempt from tax which are subsequently sold, transferred or exchanged in the Philippines to non-exempt persons or entities, the purchasers or recipients shall be considered the importers thereof, and shall be liable for the duty and internal revenue tax due on such importation.
>
> "The provision of any special or general law to the contrary notwithstanding, the importation of cigars and cigarettes, distilled spirits, fermented liquors and wines into the Philippines, *even if destined for tax and duty-free shops, shall be subject to all applicable taxes, duties, charges, including excise taxes due thereon. This shall apply to cigars and cigarettes, distilled spirits, fermented liquors and wines brought directly into the duly chartered or legislated freeports of the Subic Special Economic and Freeport Zone, created under Republic Act No. 7227*; the Cagayan Special Economic Zone and Freeport, created under Republic Act No. 7922; and the Zamboanga City Special Economic Zone, created under Republic Act No. 7903, and such other freeports as may hereafter be established or created by law: *Provided, further,* That importations of cigars and cigarettes, distilled spirits, fermented liquors and wines made directly by a government-owned and operated duty-free shop, like the Duty-Free Philippines (DFP), shall be exempted from all applicable duties only: *Provided, still further,* That such articles directly imported by a government-owned and operated duty-free shop, like the Duty-Free Philippines, shall be labeled 'duty-free' and 'not for resale': *Provided, finally,* That the removal and transfer of tax and duty-free goods, products, machinery, equipment and other similar articles other than

cigars and cigarettes, distilled spirits, fermented liquors and wines, from one freeport to another freeport, shall not be deemed an introduction into the Philippine customs territory." [Emphasis supplied.]

x x x

Indigo, et al., petitioners in Civil Case No. 102-0-05, are importers and traders licensed to operate inside the Subic Bay Freeport Zone. By virtue of R.A. No. 7227,[2] enacted in 1992, they were granted Certificates of Registration and Tax Exemptions by the Subic Bay Metropolitan Authority (SBMA). With the enactment of the abovequoted provision of R.A. No. 9334 in 2005, however, they are now subject to sin taxes or excise taxes on tobacco and alcohol products.

On February 7, 2005, SBMA issued a Memorandum directing the departments concerned to require importers in the Subic Bay Freeport Zone to pay the corresponding duties and taxes on their importations of cigars, cigarettes, liquors and wines before they are cleared and released from the freeport.

Unwilling to pay said duties and taxes, petitioners brought before the RTC of Olongapo City a special civil action, Civil Case No. 102-0-05 for declaratory relief to have certain provisions of R.A. No. 9334 declared as unconstitutional. Alleging great and irreparable loss and injury, they prayed for the issuance of a writ of preliminary injunction and/or Temporary Restraining Order (TRO) and preliminary mandatory injunction to enjoin the directives issued by the Republic, as represented by the Secretary of Finance, Commissioner of the Bureau of Internal Revenue, Commissioner of Customs, Collector of Customs of the Port of Subic, and the Administrator of the SBMA.

In an Order dated May 4, 2005, respondent judge granted the application for the issuance of a writ of preliminary injunction. He enjoined the public respondents from implementing the pertinent provisions of R.A. No. 9344. He also approved the injunction bond amounting to one million pesos for all petitioners. On May 11, 2005, he issued a writ of preliminary
injunction. Respondent judge found that: (1) the tax exemptions under R.A. No. 7227 granted to petitioners therein, Indigo, et al., coupled with their Certificates of Registration and Tax Exemption from the SBMA, vested in them a clear and unmistakable right or right *in esse* that would be violated should R.A. No. 9334 be implemented; and the invasion of such right was substantial and material, as they would be compelled to pay more than what they should by way of taxes to the national government; (2) the *prima facie* presumption of validity of R.A. No. 9334 had been overcome by petitioners; respondent judge held that as a partial amendment of the National Internal Revenue Code (NIRC) of 1997, as amended, R.A. No. 9334 is a general law that could not prevail over a special statute like R.A. No. 7227; (3) the repealing provision of R.A. No. 9334 does not expressly mention the repeal of R.A. No. 7227; hence, its repeal could only be an implied repeal, which is not favored; and since R.A. No. 9334 imposes new tax burdens, whatever doubts arising therefrom should be resolved against the taxing authority and in favor of the taxpayer; (4) R.A. No.

9334 violates the terms and conditions of petitioners' subsisting contracts with SBMA, which are embodied in their Certificates of Registration and Exemptions in contravention of the constitutional guarantee against the impairment of contractual obligations; (5) greater damage would be inflicted on petitioners if the writ of injunction would not be issued as compared with the injury that the government and the general public would suffer from its issuance; and that the damage that petitioners are bound to suffer once the assailed statute is implemented - including the loss of confidence of their foreign principals, loss of business opportunity and unrealized income, and the danger of the closing down of their businesses due to uncertainty of continued viability - could not be measured accurately by any standard; and (6) with regard to the rule that injunction is improper to restrain the collection of taxes, respondent judge held that what was sought to be enjoined was not *per se* the collection of taxes, but the implementation of a statute that had been found preliminarily to be unconstitutional.

The Republic filed a petition for certiorari and prohibition before this Court to annul said Order and the Writ of Preliminary Injunction that was issued pursuant to such Order. The petition, docketed as G.R. No. 168584, also sought to enjoin, restrain and inhibit respondent judge from enforcing the impugned issuances and from further proceeding with the trial of Civil Case No. 102-0-05.

During the pendency of the petition, respondent judge granted various *ex parte* motions for intervention of different corporations claiming to be similarly situated with petitioner Indigo, and allowed them to ride on the one million peso injunctive bond previously posted by Indigo.

Complainant Republic alleged that it was denied due process because it did not receive a copy of the motions for intervention, which were favorably acted upon by respondent judge. It was only on August 11, 2005, December 1, 2005, and July 19, 2006 when complainant learned of respondent's issuances in favor of the movants. These Orders of respondent judge granted the separate motions of Metatrans International Trading Corp. and Hundred Young Subic International, Inc., Siam Corporations, Transglobe Subic Corp. and Diageo Freeport Philippines, Inc., that they be allowed to intervene in Civil Case No. 102-0-05.

Respondent judge immediately implemented said orders despite the subsequent motions for reconsideration filed by complainant on September 7, 2005, December 16, 2005, and August 14, 2006. It took respondent judge almost 10 months to act on 1 out of the 3 motions filed by the government. On July 17, 2006, complainant received the Order dated July 5, 2006 issued by respondent judge denying its Motion for Reconsideration dated September 7, 2005.

On September 15, 2006, complainant likewise sought to nullify the August 11, 2005, December 1, 2005, and July 19, 2006 Orders of respondent judge before this Court. The petition, docketed as G.R. No. 174385, has not been resolved to date.

On July 31, 2007, this Court, upon the recommendation of the Office of the Court Administrator, considering the two other administrative cases filed against respondent, resolved to preventively suspend respondent judge without pay, pending the resolution of said administrative cases.

On October 9, 2007, we resolved to refer the consolidated administrative cases to an Associate Justice of the Court of Appeals for investigation, report and recommendation.

On October 15, 2007, this Court declared the May 4, 2005 Order of respondent judge and the Writ of Preliminary Injunction, subject of G.R. No. 168584, null and void, to wit:

> **WHEREFORE**, the Petition is **PARTLY GRANTED**. The writ of certiorari to nullify and set aside the Order of May 4, 2005 as well as the Writ of Preliminary Injunction issued by respondent Judge Caguioa on May 11, 2005 is **GRANTED**. The assailed Order and Writ of Preliminary Injunction are hereby declared **NULL AND VOID** and accordingly **SET ASIDE**. The writ of prohibition prayed for is, however, **DENIED**.

We held that respondent judge gravely abused his discretion in ordering the issuance of the Writ of Preliminary Injunction. For a writ of preliminary injunction to issue, the applicant must establish that (1) there is a clear and unmistakable right to be protected; (2) the invasion of the right sought to be protected is material and substantial; and (3) there is an urgent and paramount necessity for the writ to prevent serious damage. We ruled that petitioners failed to show a clear legal right that ought to be protected by the court. The rights granted under the Certificates of Registration and Tax Exemption of petitioners are not absolute and unconditional as to constitute rights *in esse*. These certificates granting petitioners a "permit to operate" their respective businesses are in the nature of licenses, which can be revoked at any time. There is no vested right in a tax exemption, more so when the latest expression of legislative intent renders its continuance doubtful. Being a mere statutory privilege, a tax exemption may be modified or withdrawn at will by the granting authority.

Further, the feared injurious effects of the imposition of duties, charges and taxes on imported tobacco and alcohol products on petitioners' businesses cannot possibly outweigh the dire consequences that the non-collection of taxes would wreak on the government. With regard to the injunction bond, we also found respondent judge to have overstepped his discretion when he arbitrarily fixed the injunction bond of petitioners at only P1 million. Considering the number of petitioner enterprises and the volume of their businesses, the injunction bond is undoubtedly not sufficient to answer for the damages that the government was bound to suffer as a consequence of the suspension of the implementation of the assailed provisions of R.A. No. 9334. Section 4(b), Rule 58 of the Rules of Court, provides that a bond is executed in favor of the party enjoined to answer for *all* damages that it may sustain by reason of the injunction.

Nonetheless, we found lacking the requisite proof of respondent judge's alleged partiality; thus, we found no ground to prohibit him from proceeding with the case for declaratory

relief.

On December 11, 2007, this Court granted the request of respondent judge that he be allowed to draw his income as a judge during the pendency of the administrative cases against him.

II.
A.M. No. RTJ-07-2064

On December 21, 2006, the Commissioner of Customs (Commissioner) charged Judge Ramon S. Caguioa with gross ignorance of the law, manifest partiality and conduct prejudicial to the best interest of the service. The complaint concerned Civil Case No. 153-0-2006 entitled "Andres D. Salvacion Jr. vs. Gracia Z. Caringal, et al.," a Petition for Mandamus, with Prayer for the Issuance of a Temporary Restraining Order (TRO) and Writ of Preliminary Injunction, which is pending before the *sala* of respondent judge.

Petitioner Salvacion in Civil Case No. 153-0-2006 was formerly the District Collector of the Port of Subic. On March 20, 2006, complainant Commissioner issued Customs Personnel Order (CPO) No. B-149-2006, reassigning Salvacion, among others, to the Office of the Commissioner; and designating, in his place as Acting District Collector of the Port of Subic, respondent Caringal.

On March 31, 2006, complainant issued CPO No. B-169-2006, reassigning 20 customs personnel to different ports and offices. In said CPO, Caringal was designated as Acting District Collector of the Port of Cebu, and named to take her place at the Port of Subic was Marietta Zamoranos.

However, on April 4, 2006, Department of Finance Secretary Margarito Teves issued a memorandum holding in abeyance the implementation of CPO Nos. B-149-2006 and B-169-2006. The following day, Deputy Customs Commissioner Alexander Arevalo, who was then Officer-in-Charge of the Bureau of Customs, issued another memorandum directing customs personnel, who were affected by CPO Nos. B-149-2006 and B-169-2006, to report back to their respective port assignments prior to the issuance of said CPOs.

Allegedly because of the failure of Caringal to vacate the Office of the District Collector of the Port of Subic, Salvacion filed against her said petition for mandamus.

On May 22, 2006 and June 14, 2006, respondent judge issued a TRO and Writ of Preliminary Injunction, respectively, enjoining Caringal from acting as District Collector of Customs in the Port of Subic during the pendency of the case.

On June 21, 2006, upon motion of Salvacion, respondent Judge issued another Order, joining complainant Commissioner and the Secretary of Finance (Secretary) as party-respondents, being necessary parties, and directed them to observe and respect the TRO and Writ of Preliminary Injunction.

Subsequently, complainant Commissioner issued CPO No. B-309-2006, approved by the Secretary, reassigning, among others, Salvacion to the port of Cagayan de Oro and designating Marietta Zamoranos as Acting District Collector of Subic.

Dissatisfied with his transfer, Salvacion filed on July 7, 2006 another motion for the issuance of a TRO and writ of preliminary injunction to enjoin complainant Commissioner and the Secretary from implementing CPO No. B-309-2006. He also prayed that Zamoranos be restrained from assuming the post of Acting District Collector of the Port of Subic. On July 10, 2006, however, Zamoranos assumed her duties and responsibilities as Acting District Collector of Subic.

On July 11, 2006, Salvacion moved to amend and/or supplement his Petition for Mandamus to: (1) cover the issuance of CPO No. B-309-2006 as a supervening event; (2) make complainant Commissioner and the Secretary not just necessary but indispensable parties; and (3) include, as respondents, Zamoranos and the Acting Deputy Customs Commissioner for Administration who is tasked to implement CPO No. B-309-2006. He prayed that Caringal and/or Zamoranos be enjoined from acting as the District Collector of Customs of the Port of Subic, and complainant Commissioner and the Secretary from implementing CPO No. B-309-2006.

On the other hand, complainant Commissioner, the Secretary, the Acting Deputy Customs Commissioner for Administration, and Zamoranos moved to dismiss the petition on the following grounds: (1) the venue was improperly laid; (2) petition had become moot and academic with the assumption of office of Zamoranos; (3) the petition was premature for failure to exhaust administrative remedies; and (4) the matter of CPO No. B-309-2006 should not have been included in Civil Case No. 153-0-2006, since it was issued after Salvacion filed his petition.

In an Order dated August 9, 2006, respondent judge granted the issuance of a writ of preliminary injunction in favor of Salvacion. He enjoined the officers concerned from further implementing and enforcing CPO No. B-309-2006. He also enjoined Zamoranos from further exercising the duties and functions of the District Collector of Customs in the Port of Subic, and reinstalled Salvacion as the duly designated District Collector of Customs in the Port of Subic during the pendency of the case.

Complainant Commissioner, the Secretary, Acting Deputy Customs Commissioner for Administration, and Acting District Collector of Customs of the Port of Subic Marietta Zamoranos filed with the Court of Appeals a Petition for Certiorari, assailing the August 9, 2006 Order of respondent judge. The petition was docketed as CA-G.R. SP No. 95750.

In a Decision dated November 16, 2006, the Court of Appeals: (1) set aside the Order dated August 9, 2006; (2) lifted the Writ of Preliminary Injunction issued pursuant thereto; and (3) ordered the dismissal of Civil Case No. 153-0-2006.

Complainant Commissioner alleges that respondent judge exhibited gross ignorance of the law, manifest partiality and conduct prejudicial to the best interest of the service, committed as follows:

First, as ruled by the Court of Appeals, respondent judge should have dismissed the case for improper venue, which ground had been timely raised by complainant, the Secretary and the Acting Deputy Customs Commissioner for Administration. Section 4, Rule 65 of the Rules of Court, provides that a petition for mandamus, which relates to the acts of officers like complainant, et al., must be filed in the Regional Trial Court exercising jurisdiction over the territorial area covering said officers. Complainant, et al. all hold office in Manila. Accordingly, the petition for mandamus should have been filed with the Regional Trial Court of Manila, which has territorial jurisdiction over the administrative officials whose actions are in question.

Further, respondent judge had no authority to issue a writ of preliminary injunction enjoining acts performed outside his territorial jurisdiction. Respondent judge should have known that the injunctive writs he issued were enforceable only within his territorial jurisdiction, or any part, of the Third Judicial Region. In Civil Case No. 153-0-2006, the writ of injunction, which respondent judge issued, was directed against complainant, the Secretary and the Acting Deputy Customs Commissioner for Administration whose offices in Manila are outside the territorial jurisdiction of the Regional Trial Court of Olongapo City.

Second, respondent judge should have dismissed the amended/ supplemental petition for mandamus on the ground of Salvacion's failure to exhaust his administrative remedies. Alleging that his transfer was unjustified, Salvacion's remedy was to appeal to the Civil Service Commission (CSC). It is fundamental that disciplinary cases and cases involving personnel actions affecting employees in the civil service -- such as promotion, transfer, detail, reassignment, demotion, etc. -- are within the exclusive jurisdiction of the CSC. Failure to observe the rule on exhaustion of administrative remedies rendered Salvacion's petition premature and, hence, dismissible.

Lastly, the Court of Appeals held that Salvacion failed to establish that he had a clear and unmistakable right that was violated so as to warrant the issuance of preliminary injunction. Salvacion could not claim a vested right to his position in the Port of Subic. There is no such thing as a vested interest in an office, or even an absolute right to hold it. Also, the appellate court held that the questioned injunction tend to do more than maintain the status quo. It, in effect, disposed of the main case without trial. In issuing the writ of preliminary injunction, respondent judge virtually accepted Salvacion's contention that his reassignment was invalid, which amounted to a prejudgment of the case.

On March 7, 2007, Solicitor Thomas M. Laragan of the Office of the Solicitor General submitted an affidavit to this Court to show the proclivity of respondent judge to issue writs of preliminary injunction in the absence of requirements mandated by the rules, even if the acts complained of were performed outside his territorial jurisdiction, and even if the

venue of the case was improperly laid.[3] Solicitor Laragan is a member of the Office of the Solicitor General-Bureau of Customs (OSG-BOC) Legal Task Force, which handles exclusively the legal cases of the BOC and its officials. He was assigned certain cases which were raffled to, and heard by, respondent judge. He enumerated the following cases:

(1) Civil Case No. 02-0-2002, "Flores v. Villanueva," involved CPO No. B-407-2001 issued by former Commissioner of Customs Titus B. Villanueva ordering the reassignment of two BOC employees then stationed at the Port of Subic. The concerned employees filed a petition for prohibition, with prayer for a TRO and/or writ of preliminary injunction, impugning their reassignment. The OSG, representing the BOC, moved to dismiss the petition for improper venue and the lack of authority of respondent judge to interfere with the act of the Commissioner of Customs,
an act that was performed outside of its territorial jurisdiction. Respondent judge issued a writ of preliminary injunction.

The Court of Appeals, in CA-G.R. SP No. 69386, set aside the writ of preliminary injunction issued by respondent judge, and ordered the dismissal of Civil Case No. 02-0-2002 because of improper venue.

(2) Civil Case No. 275-0-2003, "Asia International Auctioneers, Inc., et al. v. Secretary Isidro Camacho, et al." stemmed from the issuance by then Bureau of Internal Revenue (BIR) Commissioner Guillermo Parayno, Jr. of two revenue memorandum circulars, which provided for the guidelines of the imposition of value-added tax (VAT) on sales through public auction and/or negotiated sales of imported motor vehicles. Petitioners who are investors at the Subic Bay Freeport and given authority to import motor vehicles and conduct auction sales of these vehicles, assailed the legality of the circulars and contended that only Congress may impose and fix the amount of taxes. They sought the issuance of a TRO and/or writ of preliminary injunction.

The OSG, representing the BIR, moved to dismiss the case. It argued that respondent judge had no authority to review the assailed circulars because the jurisdiction to review rulings, opinions or interpretations of the BIR Commissioner or the Secretary of Finance is vested by law with the Court of Tax Appeals (CTA).

Respondent judge granted petitioners' application for a writ of preliminary injunction.

The Court of Appeals, in CA-G.R. SP No. 79329, found that respondent judge gravely abused his discretion in issuing the Writ. Accordingly, it set aside the Writ of Preliminary Injunction issued by respondent judge, and ordered the dismissal of Civil Case No. 275-0-2003.

(3) In Civil Case No. 63-0-04, "Subic Metromovers Group, Inc., et al. v. Executive Secretary, et al.," petitioners assailed a provision of Executive Order (E.O.) No. 156, which prohibits the importation into the country, inclusive of the Freeport, of all types of used motor vehicles. During the pendency of the case, they prayed for the issuance of a TRO

and/or writ of preliminary injunction.

The OSG opposed the prayer because: (a) petitioners failed to satisfy the mandatory legal requirements for the issuance of an injunctive writ; (b) respondent judge had no authority to enjoin the acts of government officials that were performed outside its judicial territory; and (c) the issuance of a writ was contrary to the proclamation of this Court discouraging trial court judges from issuing injunctive writs on the ground of an alleged nullity of a law, ordinance or executive issuance.

Respondent judge issued a writ of preliminary injunction enjoining the implementation of E.O. No. 156.

The Court of Appeals, in CA-G.R. SP No. 83283, found that respondent judge gravely abused his discretion in issuing the Writ. Accordingly, it reversed and set aside the Writ of Preliminary Injunction issued by respondent judge.

(4) In Civil Case No. 279-0-2005, "Unitrans Subic Ventures Corp., et al. v. Executive Secretary, et al.," petitioners assailed a provision of E.O. No. 418, which imposed an additional specific duty of P500,000.00 for every imported used motor vehicle. They prayed for the issuance of a TRO and/or writ of preliminary injunction.

The OSG opposed the prayer, arguing, among others, that petitioners failed to establish a clear legal right to an injunctive writ, and that a preliminary injunction should not be issued on the basis solely of an alleged nullity of a law, ordinance or executive issuance.

Respondent judge issued an order, granting petitioners' prayer for an injunctive writ.

The OSG sought to nullify the Writ before the Court of Appeals. The petition for certiorari, docketed as CA-G.R. SP No. 93298, has not been resolved to date.

III.
A.M. No. RTJ-07-2066

On June 1, 2006, complainant Charles T. Burns, Jr. charged Judge Ramon S. Caguioa and Sheriff IV Christopher T. Perez, both of Branch 74 of the Regional Trial Court of Olongapo City, with Grave Misconduct. The administrative complaint concerned Civil Case No. 77-0-97, entitled "Mary Agnes Burns v. Spouses Juan C. Beltran, et al." for recovery of ownership and possession over several parcels of land, the complaint was filed and tried in the *sala* of respondent judge.

Complainant Charles T. Burns, Jr. is the son of plaintiff Mary Agnes who substituted the latter in said civil case. Complainant alleged that he and several others are the occupants of one of the properties in litigation, a parcel of land located in Asinan Proper, Subic, Zambales. In the course of the proceedings, Pacific Rare Metals, Inc. was allowed to intervene, because it alleged that it was the true and lawful owner of the property by virtue

of Certificates of Title issued in its name.

The defendants and intervenor filed a Motion to Dismiss, which was initially denied on July 18, 2001 by then Acting Presiding Judge Philbert Itturalde. Upon a Motion for Reconsideration, respondent judge reconsidered the July 18, 2001 Order and, on December 3, 2002, dismissed the case on the principal ground of prescription. He thus ruled:

> Plaintiff therefore, in filing this case in 1997, was late by roughly four (4) years.
>
> With the resolution of the principal issue of prescription, the court does not find it necessary anymore to discuss the other grounds for dismissal raised by the movants.
>
> WHEREFORE, foregoing considered, the motion for reconsideration filed on September 28, 2001 is GRANTED. The order of the court dated July 18, 2001 is RECONSIDERED and SET ASIDE. This case is DISMISSED.
>
> SO ORDERED.

Plaintiff filed a Motion for Reconsideration but this was denied in an Order dated June 14, 2004. She then filed a Notice of Appeal, but this was not given due course in the Order of April 7, 2005, for having been filed out of time.

The defendants and intervenor then urgently moved for the issuance of a writ of execution to place them in physical possession of the property. On January 13, 2006, respondent judge granted the motion and accordingly issued a writ of execution. The Order, in part, provides:

> x x x
>
> Anent the issue of execution, the court concurs with the position of the defendants-intervenors. Undoubtedly, the issue of ownership has been put to rest by the court in its April 7, 2005 order, notwithstanding the fact that the basic ground that this case was dismissed was because of prescription. Plaintiff cannot deny that she sued in the first place to recover ownership, including possession as an attribute of ownership, as clearly alleged in her complaint. Furthermore, plaintiff failed to prove to the satisfaction of the court that the preliminary injunction issued by Branch 72, RTC Olongapo City dated November 4, 1996 involves the same property that is the subject matter of this litigation. Without such evidence, the principle that a court can not reverse the Order of a co-equal court, finds no ample application.
>
> Foregoing considered, the Urgent Motion for the Isuance of a Writ of Execution is hereby GRANTED. Let a writ issue.
>
> SO ORDERED.

The Writ of Execution, issued on January 23, 2006, ordered the respondent sheriff, as follows:

> NOW THEREFORE, you are hereby ordered to place defendants title holders Juan Beltran and PRMII Subic Corp. in possession of the property covered by their Original Certificate of Title No. 6932 in the name of Juan Beltran and now by Transfer Certificate of Title No. T-47486 in the name of defendant PRMII Subic Corp.; to cause plaintiffs, their privies, successors and assigns and all persons claiming rights from them as well as all other occupants of the subject property to peaceably vacate, remove their improvements and deliver possession thereof to the defendants particularly title holders Juan Beltran and PRMII Subic Corp. and make return of your proceedings with this writ of execution within a period prescribed by law.
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> x x x

On February 1, 2006, plaintiffs were served with the Notice to Vacate. On June 5, 2006, a Notice of Removal of Improvements was served. Consequently, the houses of complainants and the other occupants of the disputed land were demolished.

Plaintiff Mary Agnes Burns sought to nullify before the Court of Appeals the Orders of respondent judge dated: (1) April 7, 2005, denying due course to plaintiff's Notice of Appeal; and (2) January 13, 2006, denying plaintiff's Motion for Reconsideration, and granting the Motion for Execution filed by defendants and intervenor. The petition was docketed as CA-GR SP No. 93025.

On November 10, 2006, the Court of Appeals nullified the Orders dated April 7, 2005 and January 13, 2006, including the Writ of Execution dated January 23, 2006, and the Notice to Vacate dated February 1, 2006. Respondent judge was likewise directed to give due course to and approve plaintiff's Notice of Appeal dated July 12, 2004.

The Court of Appeals ruled that the trial court actually dismissed the case, not on the ground of prescription, but because plaintiff Mary Agnes has no personality to file the action for recovery of ownership and possession of the land. Plaintiff was a mere homestead applicant, not an owner of the subject property, who recognized the State ownership of the land and its character as public land. Only the State can bring such action, as in fact it did in the consolidated cases for nullification of patents and titles issued to various defendants covering the subject parcels of land. The suits for reversion filed by the Solicitor General are still pending in another branch of the Regional Trial Court of Olongapo City. This fact was disclosed by plaintiff in her complaint, where she stated that she had intervened in the reversion suits filed by the State over the subject land, for which she sought a declaration of ownership in this case.

Next, the appellate court ruled that the Writ of Execution dated January 23, 2006, issued pursuant to the Order dated January 13, 2006 of respondent judge, could not be sustained. A writ of execution must substantially conform to the dispositive portion of the

promulgated decision. The writ cannot vary or go beyond the terms of the judgment. If it does, it becomes null and void. In the instant case, the December 3, 2002 Order of dismissal did not adjudicate any rights of the parties and resolved no other matter except the dismissal of the case on the ground of "prescription." It does not justify at all the subsequent execution placing the private respondents in possession, where no adjudication of even possessory rights over the disputed property was made.

Further, the Court of Appeals held that another compelling reason why execution was highly improper was the fact that respondent judge had been apprised of the pendency of the reversion suits filed by the Republic involving the same parcels of land. The ruling of respondent judge -- that the disposition of the case under the order of dismissal on the ground of prescription also adjudicated the issue of ownership between the parties -- constituted grave abuse of discretion, considering, more so, that whatever final judgment may be rendered in the reversion suits would amount to res judicata in the present proceeding.

On March 23, 2007, the parties to the civil case below, including complainants in the instant administrative case, filed before respondent judge a "Manifestation of Withdrawal of Claim" and a "Joint Manifestation and Motion to Approve Compromise Agreement with Motion to Dismiss." Finding the provisions of the compromise agreement to be not contrary to law, public policy and morals, respondent judge on March 28, 2007 granted the motion and proceeded to dismiss the case.

IV.
SUMMARY OF ARGUMENTS OF RESPONDENTS

In all three administrative cases against him, respondent judge argues that the mistakes he committed in issuing the questioned orders should be considered as mere errors of judgment that do not warrant administrative disciplinary action,[4] because his acts were never proven to be, and were in fact never, motivated by bad faith, ill will, fraud and corrupt motives.[5] Respondent judge explains that the rule which proscribes the imposition of administrative liability on judges for committing mistakes or errors which have not been shown to be "motivated by fraud, dishonesty, corruption or any other evil motive" is a rule grounded on public policy, not only that judges cannot be expected to be infallible, but that the judiciary would be paralyzed if its members are penalized for each and every single error they, in good faith, commit.[6] Further, he reasons that all his acts were based on law and jurisprudence.

In moving for the dismissal of the administrative complaints, respondent judge argues that the acts complained of are judicial in nature; and that the cases involve the same issues raised by the complainants before this Court[7] and the Court of Appeals.[8] He also cites the ruling of this Court in G.R. No. 168584, where we held that respondent judge therein erred in issuing the injunction order, but that the evidence of his alleged partiality was insufficient to prohibit him from proceeding with the case.

Respondent Sheriff Christopher T. Perez, on the other hand, alleged that he received the Writ of Execution on January 23, 2006, ordering him to implement it and cause plaintiff and all other occupants to peacefully vacate the property and remove their improvements. On February 2, 2006, he served on plaintiff and other occupants of the property that Writ of Execution and Notice to Vacate. The latter failed to comply with the Writ and pleaded for an extension. On June 5, 2006, respondent sheriff served the Notice of Removal of Improvements. Consequently, he demolished the houses of complainants and the other occupants of the disputed land.

Respondent sheriff claimed that he acted in accordance with the Writ of Execution issued by the court and within the bounds of his duty as a sheriff. He did not gravely abuse his power or commit any misconduct.

V.
FINDINGS of the INVESTIGATING JUSTICE

On August 8, 2008, Associate Justice Isaias Dicdican of the Court of Appeals submitted his Report and Recommendation.

For A.M. No. RTJ-07-2063, the Investigating Justice found respondent judge guilty of Gross Ignorance of the Law and Conduct Prejudicial to the Best Interest of the Service. However, on the charge of Manifest Partiality, he concurred with the Decision of this Court, dated October 15, 2007, in G.R. No. 168584, which denied the Writ of Prohibition sought to be issued against respondent judge. We ruled that evidence of respondent judge's alleged partiality was insufficient.

Justice Dicdican reached the same conclusion in A.M. No. RTJ-07-2064. He found respondent judge guilty of Gross Ignorance of the Law and Conduct Prejudicial to the Best Interest of the Service, but found that the charge of Manifest Partiality had not been duly substantiated by complainant.

For A.M. No. RTJ-07-2066, Justice Dicdican found respondent judge guilty only of Simple Misconduct.

Finally, Justice Dicdican recommends that respondent judge be meted the penalty of suspension from the service for one year, with a stern warning that the commission of similar or other offenses in the future shall be dealt with more drastically.

VI.
RULING of the COURT

We adopt the findings of the Investigating Justice.

In A.M. No. RTJ-07-2063, respondent judge issued a Writ of Preliminary Injunction,

enjoining the collection of taxes. Taxes are the lifeblood of the government, and it is of public interest that the collection of which should not be restrained.[9] Further, the applicants for the Writ showed no clear and unmistakable right that was material and substantial as would warrant the issuance of the Writ. Neither were the applicants able to demonstrate the urgency and necessity of the Writ. The burden that the applicants' businesses would sustain because of the imposition of the sin tax on their tobacco and alcohol products cannot possibly be greater than the heavy government revenue losses that would result from the non-collection of taxes. In addition, the improper issuance of the Writ of Preliminary Injunction was aggravated by the inadequate injunctive bond. As Justice Dicdican pointed out, respondent judge approved the one million-peso bond for the 13 original petitioners and 5 intervenors. The purpose of an injunctive bond is to protect the opposing party (the government, in the instant case) against loss or damage by reason of the injunction in case the court finally decides that the applicants (importers/traders inside the Subic Bay Freeport Zone) are not entitled to it.[10]

To make matters worse, respondent judge failed to observe the constitutionally-guaranteed right of the Republic to due process. Records show that the Office of the Solicitor General was not served copies of the motions for intervention. Thus, respondent judge should not have acted upon such motions without the necessary proof of service on all parties,[11] much less, proceeded with their hearing *ex parte*, to the prejudice of the Republic and other respondents. The investigating justice stressed that respondent judge disregarded the right of the Republic to due process, not only once, but five times in all the motions for intervention filed by the intervenors-corporations.

In A.M. No. RTJ-07-2064, respondent judge again issued a Writ of Preliminary Injunction that did not satisfy the legal requisites for its issuance, and which was enforced outside his territorial jurisdiction. The applicant, in this case, questions his reassignment as District Collector of the Port of Subic to the Port of Cagayan de Oro. We uphold the ruling of the Court of Appeals that the applicant failed to establish that he has a clear and unmistakable right that was violated so as to warrant the issuance of a preliminary injunction. He could not claim a vested right to his position in the Port of Subic. A public office is not a private property.

Further, the Writ of Preliminary Injunction was issued to enjoin acts performed outside the territorial jurisdiction of respondent judge. It was directed against government officials whose offices in Manila are outside the territorial jurisdiction of the Regional Trial Court of Olongapo City. Respondent judge argues that the instant case is an exception to the general rule that a trial court has no jurisdiction to issue a writ of preliminary injunction to enjoin acts being performed or about to be performed outside its territorial jurisdiction. He cites **Gayacao v. Executive Secretary**,[12] where we held that "the theory of non-jurisdiction is inapplicable." In **Gayacao**, a petition for mandamus was filed in the City of Basilan against the Executive Secretary, the Secretary of Agriculture and Natural Resources, and the Director of Lands, all of whom hold office in Manila. The petition questioned the validity of administrative orders and decisions issued by respondents. In

ruling against respondents, we held that, where the sole point in issue is whether the decision of respondent public officers was legally correct or not, "we see no cogent reason why this power of judicial review should be confined to the courts of first instance of the locality where the offices of respondents are maintained, to the exclusion of the courts of first instance in those localities where the plaintiffs reside, and where the questioned decisions are being enforced."

Respondent judge cited **Gayacao** to support his issuance of the Writ of Preliminary Injunction against government officers holding office in Manila which was outside his territorial jurisdiction, to enjoin them from implementing CPO No. B-309-2006 "inside the Subic Bay Freeport Zone," which is within the jurisdiction of respondent judge's court.

However, **Gayacao** is not applicable to his case. Gayacao applies only when the sole issue before the court is whether the decision of respondent public officer was legally correct or not. In A.M. No. RTJ-07-2064, the applicant for the Writ was not merely inquiring into the legality of CPO No. B-309-2006, but was also seeking to enjoin its enforcement outside the jurisdiction of Branch 74 of the RTC in Olongapo City. In the petition for mandamus in **Gayacao**, the prayer of petitioner that the land authorities be ordered to reinstate her original application is purely corollary to the main relief sought for a reversal of the questioned administrative decision would necessarily lead to the same result.

The requisites for the issuance of a writ of preliminary injunction are basic and elementary, and should have been known by respondent judge. More importantly, as the Investigating Justice points out, respondent judge should have been more cautious in issuing writs of preliminary injunction. These writs are strong arms of equity which must be issued with great deliberation. The Affidavit of Solicitor Larangan, which enumerates cases wherein respondent judge issued injunctive writs which were subsequently nullified by a higher court, shows his propensity for issuing improvident writs of injunction.

Further, the rules on jurisdiction and venue are also basic, and judges should know them by heart.

All told, in A.M. Nos. RTJ-07-2063 and RTJ-07-2064, we find respondent judge guilty of gross ignorance of the law and conduct prejudicial to the best interest of the service. However, on the charge of manifest partiality, we reiterate our ruling in G.R. No. 168584 that evidence of respondent judge's alleged partiality was insufficient.

Ignorance of the law is the mainspring of injustice. Judges are called upon to exhibit more than just a cursory acquaintance with statutes and procedural rules. Basic rules should be at the palm of their hands. Their inexcusable failure to observe basic laws and rules will render them administratively liable. Where the law involved is simple and elementary, lack of conversance with it constitutes gross ignorance of the law. "Verily, for transgressing the elementary jurisdictional limits of his court, respondent

should be administratively liable for gross ignorance of the law."[13]

"When the inefficiency springs from a failure to consider so basic and elemental a rule, a law or a principle in the discharge of his functions, a judge is either too incompetent and undeserving of the position and title he holds or he is too vicious that the oversight or omission was deliberately done in bad faith and in grave abuse of judicial authority."[14]

Under A.M. No. 01-8-10-SC, or the Amendment to Rule 140 of the Rules of Court Re Discipline of Justices and Judges, gross ignorance of the law is a serious charge, punishable by a fine of more than P20,000.00, but not exceeding P40,000.00, suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months, or dismissal from the service. In the instant administrative cases, the offense of gross ignorance of the law, which respondent is charged with and found guilty of, are for several counts; and the prejudice he caused to the service is significantly great. He has also once been found guilty of the same offense. We, thus, do not hesitate to impose upon respondent judge the penalty of dismissal.

In A.M. No. RTJ-07-2066, respondent judge issued a Writ of Execution without basis. The Writ ordered respondent sheriff to place private respondents in possession of the disputed property, even when no adjudication of even possessory rights over the subject property was made.

Respondent judge cannot hide behind the doctrine in **Unson v. Lacson**[15] and **Perez v. Evite**,[16] where we held that "a judgment is not confined to what appears upon the face of the decision, but also those necessarily included therein or necessary thereto." In **Unson**, we ruled in favor of petitioner Unson and voided the contract of Lease between Mayor Lacson of Manila and Genato Commercial Corporation. After the decision had become final, petitioner Unson asked the court to issue a writ of execution to direct respondent Genato to remove any construction it had made on the land leased from the City. Respondent Genato objected because there was nothing in the Decision that ordered it to remove any building on the leased property. The trial court issued execution as prayed for, which this Court sustained. Our decision in the **Unson** case did not contain any order for demolition, because the only issue concerned the validity of the lease. The parties practically conceded that if the lease was valid, Genato's construction stayed; but if the contract was void, the building had no reason to continue.

In **Perez**, the defendants were declared the owners of a parcel of land. The Writ of Execution ordered the sheriff "to deliver the ownership of the portion of the land in litigation to the defendant Vicente Evite." The sheriff placed the defendants in possession. Plaintiffs moved to quash the Writ on the ground that, because the decision sought to be executed merely declared the defendants owners of the property and did not order its delivery to said parties, the Writ putting them in possession thereof was at variance with the decision and, consequently, null and void. On appeal, the Writ was upheld here. We ruled that a situation in which the actual possessor had some rights which must be respected and defined, or a valid right over the property enforceable even against the owner, is absent. In **Perez**, there is no such right that may be appreciated in favor of the

possessor. The trial court declared in its Decision that "the plaintiffs have not given any reason why they are retaining the possession of the property."

The instant case of Burns has a different factual milieu. Respondent judge did not adjudicate any rights of the parties and resolved no other matter except the dismissal of the case on the ground of "prescription." Thus, the order to place private respondents in possession of the disputed property is not necessarily included in or necessary to the judgment of dismissal of the case on the ground of "prescription."

As the Court of Appeals held, another compelling reason why execution was highly improper was the fact that respondent judge has been apprised of the pendency of the reversion suits filed by the Republic, involving the same parcels of land, in another branch of the RTC of Olongapo City, which even issued a writ of preliminary injunction to enjoin the defendants therein from committing acts of ownership over the property. At first, respondent judge reasoned that plaintiff Burns failed to prove to the satisfaction of the court that the preliminary injunction issued by Branch 72, RTC Olongapo City, and dated November 4, 1996 involves the same property that is the subject matter of this litigation. However, as the appellate court stressed, respondent judge overlooked the fact that the lot covered by the Certificate of Title in the name of private respondent Beltran, whom he ordered to be placed in possession of the disputed property, was but purchased from Blas Flores, whose title formed part of Lot No. 5010 being claimed by plaintiff Mary Agnes Burns. Next, in his letter to the Chief Justice dated August 2, 2007, respondent judge admitted that he had knowledge of the reversion suit filed by the Republic, pending before another branch of the RTC and involving the same parcels of land. He argued that he made the judicial call to grant the motion for execution in Civil Case No. 77-0-97, because to suspend its resolution pending the final outcome of the reversion suit carried no foreseeable time frame. Between ruling on a motion for the issuance of a writ of execution and waiting indefinitely for the outcome of the reversion suit, respondent judge decided that "it was more fair to grant the writ of execution of a final and executory judgment that is my ministerial duty."

On respondent judge's argument that these cases should be dismissed because the acts complained of are judicial in nature, and the cases involve the same issues raised by the complainants before this Court and the Court of Appeals, we agree that as a matter of policy, the acts of a judge in his judicial capacity are not subject to disciplinary action.[17] In the absence of fraud, malice or dishonesty in rendering the assailed decision or order, the remedy of the aggrieved party is to elevate the assailed decision or order to the higher court for review and correction.[18] However, an inquiry into a judge's civil, criminal and/or administrative liability may be made after the available remedies have been exhausted and decided with finality.[19] This is the situation we have before us. The appellate tribunals have spoken with finality. Hence, respondent judge's administrative liability is ripe for adjudication.

In this instance, we follow the conclusion of the investigating justice that respondent judge

is guilty only of Simple Misconduct in ordering, without basis, the issuance of the Writ of Execution in Civil Case No. 77-0-97, without basis. For grave misconduct to exist, the judicial act complained of should be corrupt or inspired by the intention to violate the law, or a persistent disregard of well-known rules. This is not clearly evident in this case.

In A.M. No. RTJ-05-1919 dated June 27, 2005, **Nestor F. Dantes v. Judge Ramon S. Caguioa**, respondent was fined five thousand pesos for gross ignorance of the law. In this case, respondent judge denied the request of complainant Dantes to be allowed to post a bond for his provisional liberty. We ruled that the denial violated complainant's right to due process-his right to avail of the remedies of certiorari or prohibition pending resolution of which the execution of the judgment should have been suspended.

As to respondent sheriff Christopher T. Perez, we find no reason to hold him administratively liable. He cannot be faulted for implementing the Writ of Execution pursuant to the Order of respondent judge dated January 13, 2006. He is obliged to implement the Writ of the court strictly to the letter. It is well-settled that the sheriff's duty in the execution of a writ issued by a court is purely ministerial. When a writ is placed in the hands of a sheriff, it is his duty, in the absence of any instructions to the contrary, to proceed with reasonable celerity and promptness to execute it according to its mandate.[20]

IN VIEW WHEREOF, in A.M. No. RTJ-07-2066, respondent Ramon S. Caguioa, Presiding Judge of the Regional Trial Court of Olongapo City, Branch 74 is found **GUILTY** of simple misconduct, and is hereby ordered **SUSPENDED** from office without pay, for a period of **THREE MONTHS.**

In A.M. Nos. RTJ-07-2063 and RTJ-07-2064, respondent Ramon S. Caguioa, Presiding Judge of the Regional Trial Court of Olongapo City, Branch 74 is found **GUILTY** of gross ignorance of the law and conduct prejudicial to the best interest of the service, and is hereby ordered **DISMISSED FROM THE SERVICE** with forfeiture of retirement benefits, except leave credits.

The complaint against respondent Sheriff Christopher T. Perez is **DISMISSED** for lack of merit.

This Decision is final and immediately executory.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Chico-Nazario, Leonardo-De Castro, Brion, Peralta, and Bersamin, JJ., concur.
Corona, Velasco, Jr., and *Nachura, JJ.,* no part.
Carpio Morales, J., on leave.

[1] Act Increasing the Excise Tax Rates Imposed on Alcohol and Tobacco Products, Amending for the Purpose Sections 131, 141, 142, 143, 144 and 288 of the Internal Revenue Code of 1997, as amended.

[2] An Act Accelerating the Conversion of Military Reservations Into Other Productive Uses, Creating the Bases Conversion and Development Authority for this Purpose, Providing Funds Therefor and for Other Purposes.

[3] A.M. No. RTJ-07-2064, *rollo*, pp. 219-227.

[4] A.M. No. RTJ-07-2066, *rollo*, p. 2.

[5] A.M. No. RTJ-07-2066, *rollo*, p. 349.

[6] A.M. No. RTJ-07-2063, *rollo*, p. 731; A.M. No. RTJ-07-2064, *rollo*, p. 641.

[7] G.R. Nos. 168584 and 174385.

[8] CA-G.R. SP Nos. 95750 and 93025.

[9] Sec. 218, NIRC. Injunction not Available to Restrain Collection of Tax. - No court shall have the authority to grant an injunction to restrain the collection of any national internal revenue tax, fee, or charge imposed by this Code.

[10] *Republic v. Caguioa*, G.R. No. 168584, October 15, 2007, 536 SCRA 193, *citing Paramount Insurance Corporation v. Court of Appeals*, 369 Phil. 641, 653 (1999) and *Valencia v. Court of Appeals*, 331 Phil. 590, 607 (1996).

[11] Rules of Court: Rule 15, Sec. 6. *Proof of service necessary.* - No written motion set for hearing shall be acted upon by the court without proof of service thereof.

[12] 121 Phil. 729 (1965).

[13] *Enriquez v. Camanade*, A.M. No. RTJ-05-1966, March 21, 2006, 485 SCRA 98.

[14] *Macalintal v. Teh*, A.M. No. RTJ-97-1375, October 16, 1997, 280 SCRA 623.

[15] 112 Phil. 752 (1961).

[16] 111 Phil. 564 (1961).

[17] *Castaños v. Escaño, Jr.*, A.M. No. RTJ-93-955, December 12, 1995, 251 SCRA 174.

[18] *Pitney v. Abrogar,* A.M. No. RTJ-03-1748, November 11, 2003, 415 SCRA 377.

[19] *Estrada, Jr. v. Himalaloan*, A.M. No. MTJ-05-1617, November 18, 2005, 475 SCRA 353.

[20] *Equatorial Realty Development, Inc. v. Sps. Frogozo*, G.R. No. 128563, March 25, 2004, 426 SCRA 271; *Sison v. Florendo*, A.M. OCA IPI No. 04-1901-P, February 28, 2005.
