



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **November 15, 2021**, which reads as follows:*

“A.M. No. SCC-21-001-J [Formerly OCA IPI No. 16-40-SCC-J] (Sittie T. Maulana and Morata Maulana v. Presiding Judge Montano K. Kalimpo and Clerk of Court II Mohammad A. Abdulrahman, 1st Shari’a Circuit Court, Cotabato City-Sultan Kudarat, Maguindanao). – This administrative matter stemmed from a Complaint¹ dated March 15, 2016 filed by Sittie T. Maulana and Morata Maulana (complainants) against Presiding Judge Montano K. Kalimpo (Judge Kalimpo) and Clerk of Court II Mohammad A. Abdulrahman (Abdulrahman; collectively, respondents) for Dishonesty, violation of Republic Act No. (R.A.) 3019, otherwise known as the “Anti-Graft and Corrupt Practices Act,” Gross Misconduct, Indirect Bribery, and Gross Ignorance of the Law and Procedure.

Complainants aver that respondents acted in conspiracy, with intent to gain, in charging them exorbitant fees and in not giving them official receipts when they filed their petition for support and maintenance, thereby committing dishonesty and violating the provisions of R.A. 3019. Further, Judge Kalimpo committed Gross Misconduct and Gross Ignorance of the Law and Procedure when he delayed the disposition of the case for more than one year and a half and when he dismissed their petition without trial on the merits in violation of the complainants’ right to due process of law and the Code of Judicial Conduct. Lastly, Judge Kalimpo committed Indirect Bribery when he lent money to Cawa Maulana (Cawa), the first wife of Judge Canlaon Z. Maulana (Judge Maulana), to fund her travel expenses to the Supreme Court to follow up the retirement benefits of Judge Maulana.²

Through separate 1st Indorsements,³ Judge Kalimpo and Abdulrahman were directed to comment on the complaint within 10 days from receipt of the Indorsement. Respondents submitted their separate comments to the complaint dated May 30 and June 1, 2016 respectively.⁴

¹ *Rollo*, pp. 1-6.

² *Id.* at 4-5.

³ *Id.* at 50-51.

⁴ *Id.*

In a Memorandum⁵ dated October 24, 2018, the Office of the Court Administrator recommended that the instant administrative case be referred to Acting Presiding Judge Rassad S. Laguindab (Judge Laguindab), Fifth Shari'a District Court, Cotabato City for investigation, report and recommendation. In a Resolution⁶ dated March 18, 2019, the Court referred the case to Judge Laguindab for investigation.

Report and Recommendation of the Investigating Judge

In his Investigation Report⁷ dated September 24, 2020, Judge Laguindab recommended the dismissal of the administrative complaint for lack of merit.

During his investigation, Judge Laguindab found that Judge Kalimpo had no participation in the assessment and collection of the filing fees paid by the complainants. Further, the amount of the filing fees was based from the ₱9,000,000.00 retirement benefits of Judge Maulana to which the complainants pray to have a share from, other than the prayer for support and maintenance in their petition. Hence, the Clerk of Court cannot be faulted for arriving at the amount of ₱11,625.00 for their filing fees. Moreover, the complainants did not object or complain to the said amount. It was only in the instant administrative case that they questioned the same. Neither did they file any claim for refund of the excess filing fees they paid. Thus, there is no merit on the claim that respondents committed dishonesty and violated the provisions of R.A. 3019.⁸

Further, Judge Kalimpo was not remiss in the performance of his official duties so as to warrant the charge of gross misconduct. The delay in the case alleged by the complainants is not attributable to Judge Kalimpo. There was a necessity to appoint a legal guardian over the person and property of Judge Maulana before the petition for support, maintenance and distribution of retirement benefits can proceed. Moreover, the constitution of the Agama Arbitration Council was in accordance with the Special Rules of Procedure for the Shari'a Courts. The motion to set hearing submitted by the complainants was filed even before the Council can submit its Finding/Report on August 28, 2015. Hence, Judge Kalimpo cannot grant the same. Upon submission of the report of the Council, Judge Kalimpo issued the Order dated September 2, 2015 directing the parties to submit their witnesses' statements, other evidence and memoranda. Likewise, the issues to be discussed were set forth in the same order.⁹

⁵ Id. at 84-90.

⁶ Id. at 93.

⁷ Id. at 95-104.

⁸ Id. at 96-98.

⁹ Id. at 98-100.

As found by Judge Laguindab, the Order dated January 29, 2016 of Judge Kalimpo dismissing the petition without prejudice was valid and legal. The complainants failed to comply with the Order dated September 2, 2015. They did not file any motion for extension to file their memoranda. Hence, Judge Kalimpo was constrained to dismiss the petition in accordance with Rule 17, Section 3 of the Rules of Court.¹⁰

As to the issue of indirect bribery, there is no merit on the same charge because Judge Kalimpo did not lend Cawa money to fund her travel expenses to the Supreme Court but to help his fraternity brother, Judge Maulana, to fund his medical and food expenses.¹¹

Lastly, on the issue of gross ignorance of the law and procedure, Judge Laguindab found that Judge Kalimpo did not err in dismissing the petition for failure of the complainants to comply with the latter's Order dated September 2, 2015. During the hearing, Atty. Mentang T. Kabagani (Atty. Kabagani), counsel of the complainants, admitted that he was able to receive the order but failed to comply with the same because at that time, he suffered stroke and was hospitalized. The dismissal of the petition was in accordance with Rule 17, Section 3 of the Rules of Court.¹²

Ruling of the Court

The Court finds the report and recommendation of the investigating judge proper under the circumstances. The instant administrative case against respondents is dismissed for lack of substantial evidence to support the same.

Dishonesty is defined as the disposition to lie, cheat, deceive or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray.¹³ On the other hand, misconduct is defined as a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer¹⁴, which act has a direct relation to and be connected with the performance of official duties amounting either to maladministration or willful, intentional neglect and failure to discharge the duties of the office.¹⁵ For a misconduct to be considered grave, it must have any of the additional elements of corruption, willful intent to violate the law, or to disregard established rules, which must be established by substantial evidence.

¹⁰ Id.

¹¹ Id. at 101-102.

¹² Id. at 103.

¹³ *Corpuz v. Ramiterre*, 512 Phil. 506 (2005); *Office of the Court Administrator v. Ibay*, 441 Phil. 474 (2002); and *OCAD v. Yan*, 496 Phil. 843 (2005).

¹⁴ *Buenaventura v. Benedicto*, 148 Phil. 63 (1971).

¹⁵ Id.

Meanwhile, indirect bribery is the act of the public officer in accepting any gift by reason of his office, regardless of whether the gift was accepted in exchange for a favor or not. Further, gross ignorance of the law is the disregard of basic rules and settled jurisprudence. A judge may be administratively liable if shown to have been motivated by bad faith, fraud, dishonesty or corruption in ignoring, contradicting or failing to apply settled law and jurisprudence.¹⁶

Upon review of the case, the Court finds that the complainants failed to substantiate the charges of Dishonesty, violation of R.A. 3019, Gross Misconduct, Indirect Bribery, and Gross Ignorance of the Law against respondents.

There is no dishonesty and violation of R.A. 3019 because respondents did not lie about the filing fees assessed against the complainants' petition and neither did they commit any corruption in collection of the filing fees. As duly found by the investigating judge, the filing fees were determined on the basis of the ₱9,000,000.00 retirement benefits of Judge Maulana to which the complainants pray a share from. Further, the filing fees they paid were duly accounted for in the July 2014 Report submitted by respondents to the Supreme Court and Official Receipts were issued to the complainants as evidenced by Official Receipt Nos. 8800724B and 8800324B.¹⁷

Likewise, the charge of gross misconduct against Judge Kalimpo deserves scant consideration. The alleged delay in the disposition of the case was not imputable to him. The delay was caused by the necessity to appoint a legal guardian over the person and properties of Judge Maulana which took ten months from the filing of the petition for support and maintenance and distribution of retirement benefits before it was granted and Letters of Guardianship were issued. Upon appointment of the guardian, Judge Kalimpo issued an Order constituting the Agama Arbitration Council, which is allowed under the Special Rules of Procedure for Shari'a Courts wherein the parties involved are belonging to one family. The Council was constituted to facilitate the mediation and settlement of the parties before proceeding to trial. It was only on August 28, 2015 that the Council submitted its Report/Finding before Judge Kalimpo. Upon receipt of the report recommending that the case proceed to trial on the merits for failure of the parties to arrive at a settlement, Judge Kalimpo issued an Order on September 2, 2015 directing the parties to submit their witnesses' statements, other evidence and memoranda. Likewise, in the same Order, Judge Kalimpo defined the issues to be settled in the case. The issuance of the said Order was likewise in accordance with the Special Rules of Procedure for the Shari'a Courts.¹⁸

¹⁶ *Department of Justice v. Judge Mislang*, 791 Phil. 219, 227 (2016).

¹⁷ *Rollo*, pp. 80-81.

¹⁸ *See* Part I, Section 6 – Pre-trial.

It was the complainants who failed to comply with the aforementioned Order as admitted by Atty. Kabagani and Bainola Mama, the representative of the complainants who received the Order dated September 2, 2015 on their behalf. Hence, Judge Kalimpo cannot be faulted for issuing the Order dated January 29, 2016 dismissing without prejudice the petition for failure of the complainants to comply with his Order dated September 2, 2015 in accordance with Rule 17, Section 3 of the Rules of Court. As such, Judge Kalimpo was not remiss in the performance of his official duties. Neither did he commit corruption, willful intent to violate the law or to disregard established rules so as to support the charge of gross misconduct.

Similarly, there is no merit in the charge of gross ignorance of the law. As aptly discussed above, respondents acted within the bounds of the law in assessing the filing fees against complainants and in issuing the dismissal Order dated January 29, 2016.

Lastly, the charge of indirect bribery must be dismissed for lack of merit. There was no evidence provided by the complainants that Judge Kalimpo received any gift from anyone by reason of his office. In order for the charge of indirect bribery to prosper, the complainants must establish that the public officer received or accepted gifts offered to him by reason of his officer, regardless of whether a favor was asked in exchange for the gift. In this case, the conduct being complained of was Judge Kalimpo's act in lending money to Judge Maulana's first wife, Cawa, allegedly to fund her travel expenses to the Supreme Court to follow up Judge Maulana's retirement benefits. The act of lending money does not constitute indirect bribery as contemplated by the law. Hence, Judge Kalimpo cannot be held administratively liable for the same.

The Court takes seriously the charges raised against judges and officers of the court as they are the frontline officials of the Judiciary. As such, they are mandated to act with efficiency and probity at all times. They must maintain the mandate of the Constitution that a public office is a public trust and public officers must at all times be accountable to the people; serve them with utmost responsibility, integrity, loyalty, and efficiency; act with patriotism and justice; and lead modest lives. However, administrative charges, in order to prosper, must be supported primarily by substantial evidence, the lack of which shall result in the dismissal of the administrative case. It is incumbent upon the complainants to prove that the accusations raised against the public officials are supported by the required quantum of proof under the Rules.

(1) Not later than thirty (30) days after the answer is filed, the case shall be calendared for pre-trial. Should the parties fail to arrive at an amicable settlement (*sulkh*), the court shall clarify and define the issues of the case which shall be set forth in a pre-trial order;

(2) Within ten (10) days from receipt of such order, the parties or counsels shall forthwith submit to the court the statement of witnesses (*shuhud*) and other evidence (*bayyina*) pertinent to the issues so clarified and defined, together with the memoranda setting forth the law and the facts relied upon by them;

WHEREFORE, premises considered, the administrative complaint against Presiding Judge Montano K. Kalimpo and Clerk of Court II Mohammad A. Abdulrahman, both of 1st Shari'a Circuit Court, Cotabato City-Sultan Kudarat, Maguindanao, is **DISMISSED** for lack of merit.

SO ORDERED."

By authority of the Court:

Misael D C Batt
MISAEAL DOMINGO C. BATTUNG III
Division Clerk of Court
11/15/21

Ms. Sittie T. Maulana
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Ms. Morata T. Maulana
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Hon. Rassad S. Laguindab
Acting Presiding Judge
5th Shari'a District
9600 Cotabato City

Hon. Montano K. Kalimpo
Respondent-Presiding Judge
Bagua II Usman Subdivision
9600 Cotabato City

Atty. Mohammad A. Abdulrahman
Respondent-Presiding Judge
1st Shari'a Circuit Court, Cotabato
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