



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

**SPOUSES JESUS G. CRISOLOGO
and NANNETTE B. CRISOLOGO,**
Complainants,

A.M. No. RTJ-12-2321

Present:

CARPIO, J., Chairperson,
LEONARDO-DE CASTRO,*
BRION,
PEREZ, and
PERLAS-BERNABE, JJ.

- versus -

JUDGE GEORGE E. OMELIO,
Regional Trial Court, Branch 14,
Davao City,

Promulgated:

Respondent.

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DECISION

CARPIO, J.:

The Case

This is an administrative complaint filed by Spouses Jesus G. Crisologo and Nannette B. Crisologo (Sps. Crisologo) against Judge George E. Omelio (Judge Omelio) of the Regional Trial Court, Branch 14, Davao City. In their Complaint-Affidavit, Sps. Crisologo charged Judge Omelio with the following: (a) gross ignorance of the law and interference with the proceedings of a co-equal and coordinate court in issuing a writ of preliminary injunction which frustrates the execution of a final and executory decision of RTC, Branch 15; (b) gross ignorance of the law and grave abuse of discretion for issuing a writ of preliminary injunction without

* Designated Acting Member per Special Order No. 1308 dated 21 September 2012.

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an evidentiary hearing and in the absence of a clear and positive ground; and (c) gross ignorance of the law, grave abuse of discretion, gross dereliction of duty and manifest bias for refusing to recognize them as indispensable parties, and giving due course to an action where the plaintiff merely impleads the indispensable parties as John Does and Jane Does despite full knowledge of their identities.¹

In the Supplement to the Affidavit-Complaint and Reply, Sps. Crisologo charged Judge Omelio with gross ignorance of the law for granting the contentious Motion to Render Judgment Granting Plaintiff the Relief Prayed for with Memorandum Attached, which was filed on 6 December 2010, but set for hearing on 8 December 2010, in violation of the three-day notice requirement under Section 4, Rule 15 of the Rules of Court.² In their Memorandum, Sps. Crisologo likewise charged Judge Omelio with manifest bias for: (a) proceeding with the case despite non-compliance with the rules on summons; (b) cancelling the registration of sale where Sps. Crisologo are buyers in another case without due process; and (c) issuing two conflicting orders, with one showing prejudgment.³

In response, Judge Omelio filed his Comment and Counter-complaint, claiming that the present administrative complaint was intended to harass him for unfavorable rulings he made against the Sps. Crisologo.⁴ Judge Omelio prayed that the case be dismissed and Sps. Crisologo and their counsel be administratively punished.⁵

¹ *Rollo*, p. 1.

² *Id.* at 226.

³ *Id.* at 391, 411.

⁴ *Id.* at 193.

⁵ *Id.* at 194.

The Facts

The Report of the Investigating Justice of the Court of Appeals of Cagayan de Oro provides the factual antecedents of this case:

The case involves the following properties:

Transfer Certificate of Title (TCT) No. T-325675

- i. *A parcel of land (lot 650-B-2-A-2, Psd-11-058939 being portion of lot 650-B-2-A, Psd-11-021976), situated in the Barrio of Bud-Bud, City of Davao, Island of Mindanao. Bounded on the NE., along line 2-3 by lot 3465-A-1, Psd-11-021976; on SE., along line 2-3 by lot 650-B-2-B, Psd-11-021976; the SW., along line 4-1 by lot 650-A, (LRC) Psd-123024; on the NW., along the line 1-2 by lot 650-B-2-A-1 of the subd. plan. xxx xxx*

Transfer Certificate of Title (TCT) No. T-325676

- ii. *A parcel of land (lot 3465-A-1-B, Psd-11-058938 being portion of lot 3465-A-1, Psd-11-021976), situated in the Barrio of Bud-Bud, City of Davao, Island of Mindanao. Bounded on the NE., along line 2-3-4 by lot 3254-B, (LRC) Psd-104282; on the SE., along line 4-5 by lot 3465-A-2, Psd-11-021976; on the SW., along line 5-1 by lot 650-B-2-A, Psd-11-021976; on the NW., along the line 1-2 by lot 3465-A-1-A of the subd. plan. xxx xxx*

Both aforesaid properties were originally owned by So Keng Koc under TCT Nos. T-292597 and T-292600, respectively. So Keng Koc was the defendant [in] a number of cases, to wit:

- (a) Civil Case No. 26,513-98 entitled SY SEN BEN vs. SO KENG KO[C];
- (b) Civil Case No. 26,534-98 entitled EMMA SENG and ESTHER SY vs. SO KENG KO[C];
- (c) Civil Case Nos. 26,810-98 and 26,811-98 entitled NANNETE B. CRISOLOGO and JESUS CRISOLOGO vs. SO KENG KO[C], et al.;
- (d) Civil Case No. 26,792-98 entitled RENE ALVAREZ LIM vs. SO KENG KO[C], et al.;
- (e) Civil Case No. 26,857-98 entitled LERLIN AGABIN vs. SO KENG KO[C], et al.;
- (f) Civil Case No. 27,029-98 entitled EVANGELINE JUSAY vs. SO KENG KO[C], et al.

Accordingly, notices of levy on attachment were issued in the aforesaid cases. The levies were annotated at the back of the TCT Nos. T-292597 and T-292600, in the following order:

“Annotations on TCT No. T-292597:

- 1. Entry Nos. 1121176 and 1121177 for Civil Case No. 26,513-98 on September 8, 1998;*
- 2. Entry Nos. 1121178 and 1121179 for Civil Case No. 26,534-98 on September 8, 1998;*
- 3. Entry Nos. 1127625 and 1127626 for Civil Case No. 26,810-98 on October 7, 1998;*
- 4. Entry Nos. 1127627 and 1127629 for Civil Case No. 26,811-98 on October 7, 1998;*
- 5. Entry No. 1169654 for Civil Case No. 26,792-98 on July 12, 1999;*
- 6. Entry No. 1169655 for Civil Case No. 27,029-99 on July 12, 1999;*
- 7. Entry No. 1169656 for Civil Case No. 26,857-98 on July 12, 1999.*

“Annotations on TCT No. T-292600:

- i. Entry Nos. 1121176 and 1121177 for Civil Case No. 26,513-98 on September 8, 1998;*
- ii. Entry Nos. 1121178 and 1121179 for Civil Case No. 26,534-98 on September 8, 1998;*
- iii. Entry Nos. 1127625 and 1127626 for Civil Case No. 26,810-98 on October 7, 1998;*
- iv. Entry Nos. 1127627 and 1127629 for Civil Case No. 26,811-98 on October 7, 1998;*
- v. Entry No. 1169654 for Civil Case No. 26,792-98 on July 12, 1999;*
- vi. Entry No. 1169655 for Civil Case No. 27,029-99 on July 12, 1999;*
- vii. Entry No. 1169656 for Civil Case No. 26,857-98 on July 12, 1999.”*

Sy Ben and So Keng Koc, parties in Civil Case No. 26,513-98, entered into a Compromise Agreement which the RTC, Br. 8 approved and made the basis of its Decision dated October 19, 1998. The pertinent portion of the Decision states:

“The parties filed a Compromise Agreement on October 15, 1998 which is quoted as follows:

1. xxx xxx xxx

3. As settlement of the aforesaid claim of the plaintiff, defendants bind themselves to convey the properties of defendant So Keng Koc in favor of the plaintiff and/or his authorized representative;

4. Upon execution of this Compromise Agreement, So Keng Koc shall execute the requisite deeds of transfer in favor of the plaintiff or his authorized representative, the following properties of the defendant, So Keng Koc as follows:

<i>TITLE NO.</i>	<i>SQUARE METER</i>	<i>MARKET VALUE</i>
<i>T-206276</i>	<i>156 square meter(s)</i>	<i>624,000.00</i>
<i>T-59197</i>	<i>5,292 square meter(s)</i>	<i>1,111,320.00</i>
<i>T-195366</i>	<i>600 square meters</i>	<i>960,000.00</i>
<i>T-292597</i>	<i>13,078 square meters</i>	<i>1,617,390.00</i>
<i>T-80758</i>	<i>542 square meters</i>	<i>325,200.00</i>
<i>T-80757</i>	<i>600 square meters</i>	<i>297,020.00</i>
<i>T-292600</i>	<i>9,654 square meters</i>	<i>1,333,980.00</i>

as FULL and FINAL settlement of the obligations of the defendants in instant case in favor of the herein plaintiff;

5. xxx xxx xxx.

WHEREFORE, finding the aforequoted Compromise Agreement to be in order and not otherwise contrary to law, morals and public policy, the same is hereby approved and judgment is hereby rendered in accordance with its terms and conditions, without pronouncement as to costs.

Parties are hereby directed to comply with the terms and conditions of the aforequoted agreement failure of which execution shall issue upon motion seasonably filed.”

Consequently, the subject properties were sold to one Nilda T. Lam on August 26, 1999. New titles were subsequently issued – TCT Nos. T-316182 and T-316181. Eventually, these properties were sold to JEWM Agro-Industrial Corporation, thus, the TCT Nos. T-325675 and T-325676 were issued in JEWM’s name. Entry Nos. 1127625 and 1127626 for Civil Case No. 26,810-98 and Entry Nos. 1127629 and 1127627 for Civil Case No. 26,811-98, all inscribed on October 7, 1998, were carried over to TCT Nos. T-325675 and T-325676.

Meanwhile, the complainant-spouses Crisologo obtained a favorable judgment in Civil Case Nos. 26,810-98 and 26,811-98. The same became final and executory on March 3, 2010. Pursuant thereto and upon the instance of the complainant-spouses, a Writ of Execution was issued by RTC, Branch 15 on June 15, 2010. The Writ reads:

“xxx xxx xxx

WHEREAS, on appeal, the Honorable Court of Appeals modified this court’s decision as follows:

WHEREFORE, in view of the foregoing, the instant appeal is partially GRANTED. Accordingly, the assailed Decision of the Regional Trial Court, 11th Judicial Region, Branch 15, Davao City dated July 1, 1999 is hereby MODIFIED in the sense that appellant’s loan obligations are subject to an interest of twelve percent (12%) per annum, to be computed from December 16, 1997 (for Case No. 26,810-98) and September 23, 1998 (for case No. 26,811-98) until fully paid, and that the award for exemplary damage[s] is hereby DELETED.

xxx xxx xxx

WHEREAS, on July 6, 2010, defendants-appellants filed a Petition for Review on certiorari to the Supreme Court which was DENIED by the Honorable Supreme Court per its Resolution dated August 17, 2009 and an Entry of Judgment dated March 3, 2010 was issued declaring the said resolution to be final, unappealable and executory;

WHEREAS, on June 9, 2010, the court issued an Order granting the Motion for Issuance of Writ of Execution;

THEREFORE, you are commanded to implement the writ for the satisfaction of the judgment in the decision in accordance with the Rules of Court xxx xxx xxx.”

Subsequently, a Notice of Sale was issued by Sheriff Robert M. Medialdea, Sheriff IV, Regional Trial Court on the subject properties: (1) Lot 650-B-2-A-2 covered by TCT No. T-325675, a derivative of TCT No. T-292597; and (2) Lot 3465-A-1-B covered by TCT No. T-325676, a derivative of TCT No. T-292600.

As the foregoing properties are already in JEWM’s name, JEWM, through its representative, filed an Affidavit of Third-Party Claim and an Urgent Motion Ad Cautelam before RTC, Branch 15. These were denied by the said court in its Order dated August 26, 2010 stating in part that *it cannot issue a restraining order directing the sheriff to exclude the subject properties on the basis of AD CAUTELAM motions and affidavit[s] of third party claim as these were not the proper mode of action prescribed by the Rules of Court to seek injunctive relief from the court.*

Aggrieved, JEWM filed a complaint for Cancellation of Lien, with Application for Writ of Preliminary Injunction against the Register of Deeds, Davao City, Sheriff Robert Medialdea, JOHN and JANE DOES, and all persons acting under their directions on September 16, 2010[.] The case was docketed as Civil Case No. 33,557-2010; and was subsequently raffled to RTC-Branch 14, Davao City.

On September 22, 2010, Atty. Rene Andrei Q. Saguisag, Jr., representing herein complainant-spouses, entered his appearance and manifested that spouses Crisologo are parties in interest in Civil Case No. 33,557-2010. He argued that the issuance of the writ of injunction would interfere with the proceedings of a co-equal court, RTC, Branch 15, which ordered the execution of the decision in Civil Case Nos. 26,810-98 and 26,811-98. He also posited that there exist[s] no cause for the issuance of the writ as the bond they posted in Civil Case Nos. 26,810-98 and 26,811-98 is substantial enough to cover any damage JEWM might sustain by reason of the implementation of the Writ of Execution.

Atty. Saguisag also filed in open court a Very Urgent Manifestation (ad cautelam) and he signified his clients' intention to file a proper motion to intervene. Thus, on September 27, 2010, herein complainant-spouses filed an Omnibus Motion reiterating their positions manifested during the hearing on the issuance of a preliminary writ of injunction.

In addition, complainant-spouses posited that JEWM failed to present evidence of damage it would suffer or the amount of damage it would sustain. They stressed that the subject properties are still encumbered, and whoever buys encumbered property purchases the same subject to the attachment thereon. They also argued that they are the John and Jane Does referred to in Civil Case No. 33,557-2010, because the annotations JEWM sought to cancel include their liens. They insisted that they are indispensable parties, being John and Jane Does of Civil Case No. 33-557-2016, hence, intervention is no longer necessary.

The RTC, Branch 14, issued an Order dated September 27, 2010 directing the issuance of a preliminary writ of injunction enjoining the Register of Deeds, Davao City, Sheriff Robert Medialdea, John and Jane Does and all persons acting in their respective stead from enforcing the first and second notices of auction sale in so far as TCT Nos. T-325675 and T-325676 are concerned. After JEWM posted the required bond of Php500,000.00, a Writ of Preliminary Injunction was issued on October 5, 2010, to quote:

“After a careful scrutiny and analysis on the evidence thus far shown by the plaintiff-applicant, the court is of its considered view and so hold to grant the ancillary relief for preliminary writ of injunction applied for.

WHEREFORE, let [the] preliminary writ of injunction issue xxx xxx xxx during the pendency or until final adjudication on the merit of this case, or until final order from this Court.”

Dissatisfied, herein complainant-spouses filed a Motion for Reconsideration and a Very Urgent Omnibus Motion on October 4, 2010 asking the RTC, Branch 14 to resolve the Omnibus Motion filed on September 27, 2010, the Very Urgent Omnibus Motion, and for the reconsideration of the Order dated September 27, 2010. The same was denied and ordered stricken off the records by RTC, Branch 14 in its Order dated November 9, 2010.

On October 15, 2010, complainant-spouses filed this present case before the Office of the Court Administrator.

Complainant-spouses Crisologo principally aver the following:

1. They are plaintiffs in a collection suit docketed as Civil Case Nos. 26,810-98 and 26-811-98 raffled to RTC, Branch 15, Davao City. They obtained a favorable judgment which had become final and executory on March 3, 2010. Accordingly, a Writ of Execution dated June 15, 2010 was issued for the satisfaction of said final judgment. Notice of

Sale and publication requirements were allegedly complied with. The Notice included two (2) properties covered by Transfer Certificates of Title (TCTs) Nos. 325675 and 325676, which contained annotations, to wit:

xxx xxx xxx

2. The subject properties are now in the name of JEWM but were formerly owned by SO KENG KOC and attached by order of the RTC, Branch 15, Davao City as early as 1998 in Civil Case Nos. 26,810-98 and 26,811-98;

3. JEWM filed an Affidavit of Third Party Claim and a Motion to Exclude the Subject Properties from the Auction Sale, but were all denied by RTC, Branch 15 in its Order dated August 25, 2010. Instead, the court directed the sheriff to proceed with the sale on August 26, 2010;

4. The auction sale was, however, rescheduled to October 7, 2010 because the sheriff, accordingly, orally demanded the posting of a bond in accordance with Section 16, Rule 39 of the Rules of Court;

5. JEWM filed an action for cancellation of liens with prayer for the issuance of a preliminary injunction on September 16, 2010 involving two (2) aforesaid properties covered by Transfer Certificates of Title (TCTs) Nos. 325675 and 325676;

6. The issuance of the Writ of Preliminary Injunction enjoining the execution of a final and executory judgment of RTC Branch 15, a co-equal and coordinate court was without an evidentiary hearing;

7. Respondent Judge's refusal to recognize complainants as indispensable parties being lien holders of the subject properties was tainted with manifest bias and partiality.

They prayed that respondent Judge be held administratively liable, his actions allegedly constitute gross ignorance of the law, grave abuse of discretion and gross dereliction of duty and manifest bias.

On January 3, 2011, complainant-spouses again filed a Very Urgent Manifestation (ad cautelam) stating that they cannot be declared in default as they were not yet served with summons.

The Office of the Court Administrator in its 1st Indorsement dated January 10, 2010 required respondent Judge to submit his Comment to the instant Affidavit-Complaint. In his Comment dated February 8, 2011, he vehemently denied the material allegations in the affidavit-complaint. He contends that to constitute gross ignorance of the law, he must be moved by bad faith, fraud, dishonesty or corruption which complainant-spouses allegedly failed to adduce.

Furthermore, respondent Judge avers that he did not interfere with the proceedings of a co-equal and coordinate court, RTC, Branch 15, when he issued the Writ of Preliminary Injunction. The subject properties had already been made to satisfy the first annotated levy on attachment – the Entry Nos. 1121176 and 1121177 made on September 8, 1998 for Civil Case No. 26,513-98 filed before RTC, Branch 8, Davao City pursuant to a final judgment in said case.

In addition, JEWM is not a party to Civil Case Nos. 26,810-98 and 26,811-98 both entitled “Nannette B. Crisologo and Jesus Crisologo vs. Robert Allan Limso and So Keng Koc, et al.” He asserts that complainant-spouses did not file a proper Motion to Intervene with Pleading-in-Intervention in observance of the requirements laid down in Rule 19 of the Rules of Court. He stresses that while he granted the assailed injunction and denied the appearance of the complainants, the same did not constitute gross ignorance of the law. He likewise points out Supreme Court’s proscription on the filing of an administrative complaint before exhaustion of judicial remedies against questioned errors of a judge in the exercise of its jurisdiction. He also filed a Counter-Complaint where he emphasized the exhaustion of judicial remedies as pre-requisite to the filing of an administrative case. He prayed that complainant-spouses and their counsel be administratively punished for knowingly and unjustly filing the alleged unfounded administrative complaint against him.

In a Resolution dated September 12, 2011, the Second Division of the Supreme Court resolved to refer the instant administrative complaint to a Justice of the Court of Appeals, Cagayan de Oro City for investigation, report and recommendation within sixty (60) days from receipt of the records thereof.⁶

Report of the Investigating Justice of the Court of Appeals

After notice and hearing, the Investigating Justice of the Court of Appeals of Cagayan de Oro City recommended the following:

IN VIEW OF THE FOREGOING, it is respectfully recommended that:

a) The charge of interference with proceedings of a co-equal and coordinate court be dismissed for lack of merit;

b) As to the issuance of a Writ of Preliminary Injunction without conducting an evidentiary hearing, respondent Judge George E. Omelio be ordered to pay a FINE in the amount of ₱30,000.00 with a STERN WARNING that a repetition of the same or similar acts shall be dealt with more severely; and

⁶ Report, pp. 2-17.

c) Anent the charge of refusing to recognize the complainants as indispensable parties, respondent Judge be ADMONISHED to be more careful and diligent in the discharge of his judicial functions.⁷

On the charge of interference with the proceedings of a co-equal and coordinate court in issuing a writ of preliminary injunction which frustrates the execution of a final and executory decision, the Investigating Justice found that there was no interference. Section 16, Rule 39 of the Rules of Court allows third-party claimants of properties under execution, such as JEWM Agro Industrial Corp. (JEWM) in this case, to vindicate their claims to the property in a separate action with another court, which in the exercise of its own jurisdiction, may issue a temporary restraining order.⁸

On the charge of issuing a writ of preliminary injunction without evidentiary hearing, the Investigating Justice found Judge Omelio guilty. Judge Omelio claimed that Sps. Crisologo were not able to adduce evidence to prove that he was moved by corruption in issuing the injunctive relief. The Investigating Justice, however, found no merit in this argument because lack of malicious intent cannot completely free a respondent judge from liability. The Investigating Justice found that Judge Omelio conducted a summary hearing on 22 September 2010 and issued the writ of preliminary injunction on the same day, despite the absence of any testimonial or documentary evidence. For this reason, the Investigating Justice found Judge Omelio grossly ignorant of the law and recommended a fine of thirty thousand pesos (₱30,000.00) as appropriate penalty.⁹

On the third issue of refusing to recognize Sps. Crisologo as indispensable parties, the Investigating Justice recommended admonishing Judge Omelio for failure to notify the Sps. Crisologo, as well as to order that they be impleaded. Judge Omelio argued that Sps. Crisologo should have

⁷ Id. at 28-29.

⁸ Id. at 19-21.

⁹ Id. at 22-25.

filed the proper Motion to Intervene. He further claimed that the Sps. Crisologo failed to show they are the persons in control of the subject property or under the direct orders of defendants Register of Deeds and Sheriff Medialdea. However, the Investigating Justice, citing *Gonzales v. Judge Bersamin*,¹⁰ ruled that notice was required to be given to parties whose annotations appear on the back of the certificate of title in an action for cancellation of the annotations.¹¹ For this reason, the Investigating Justice recommended admonishing Judge Omelio for his failure to notify the Sps. Crisologo and to order that they be impleaded in the petition for cancellation of liens annotated on the certificate of title.

The Issues

In contrast to the three issues resolved by the Investigating Justice, Sps. Crisologo raised seven issues in their Affidavit-Complaint, Supplement to Affidavit-Complaint and Reply, and Memorandum enumerating the charges against Judge Omelio, as follows:

1. Gross ignorance of the law and interference with the proceedings of a co-equal and coordinate court in issuing a writ of preliminary injunction which frustrates the execution of a final and executory decision;¹²
2. Gross ignorance of the law and grave abuse of discretion for issuing a writ of preliminary injunction without an evidentiary hearing and in the absence of a clear and positive ground;¹³
3. Gross ignorance of the law, grave abuse of discretion, gross dereliction of duty and manifest bias for refusing to recognize Sps. Crisologo as indispensable parties, and giving due course to an action where the plaintiff merely impleads the indispensable parties as John Does and Jane Does despite full

¹⁰ 325 Phil. 120 (1996).

¹¹ Report, pp. 25-28.

¹² *Rollo*, p. 1.

¹³ *Id.*

knowledge of their identities;¹⁴

4. Manifest bias for granting a contentious motion despite violation of the three-day notice rule;¹⁵

5. Manifest bias for proceeding with the case despite non-compliance with the rules on summons;¹⁶

6. Manifest bias for cancelling the registration of sale where Sps. Crisologo are buyers in another case without due process;¹⁷ and

7. Manifest bias in issuing two conflicting orders, with one showing prejudice.¹⁸

The Ruling of this Court

We adopt the recommendation of the Investigating Justice with respect to the charges on: (a) interference with the proceedings of a co-equal and coordinate court; and (b) refusing to recognize Sps. Crisologo as indispensable parties.

We reverse the recommendation of the Investigating Justice with respect to the charge on issuance of the writ of preliminary injunction without an evidentiary hearing and dismiss this charge for lack of merit. The Rules of Court allow the issuance of the writ of preliminary injunction based on the verified application, for as long as there is notice and hearing.

We find Judge Omelio guilty of gross ignorance of the law for the following acts: (a) granting a contentious motion that was in violation of the three-day notice rule; (b) not complying with the rules on summons; and (c) rendering a decision in an indirect contempt case that cancels an

¹⁴ Id.

¹⁵ Id. at 226, 411.

¹⁶ Id. at 411.

¹⁷ Id.

¹⁸ Id.

annotation of a certificate of sale without notifying the buyer, in violation of the latter's right to due process.

We dismiss for lack of merit the charge of issuing conflicting orders.

**Non-interference with the proceedings
of a co-equal and coordinate court**

As correctly pointed out by the Investigating Justice, Section 16, Rule 39 of the Rules of Court allows for the institution of a separate action by a third-party claimant who seeks to protect his interests in an execution proceeding:

SEC. 16. *Proceedings where property claimed by third person.*—If the property levied on is claimed by any person other than the judgment obligor or his agent, and such person makes an affidavit of his title thereto or right to the possession thereof, stating the grounds of such right or title, and serves the same upon the officer making the levy and a copy thereof upon the judgment obligee, the officer shall not be bound to keep the property, unless such judgment obligee, on demand of the officer, files a bond approved by the court to indemnify the third-party claimant in a sum not less than the value of the property levied on. In case of disagreement as to such value, the same shall be determined by the court issuing the writ of execution. No claim for damages for the taking or keeping of the property may be enforced against the bond unless the action therefor is filed within one hundred twenty (120) days from the date of the filing of the bond.

The officer shall not be liable for damages for the taking or keeping of the property, to any third-party claimant if such bond is filed. **Nothing herein contained shall prevent such claimant or any third person from vindicating his claim to the property in a separate action**, or prevent the judgment obligee from claiming damages in the same or a separate action against a third-party claimant who filed a frivolous or plainly spurious claim.

x x x x (Emphasis supplied)

In *Naguit v. Court of Appeals*,¹⁹ the Court considered Naguit, whose exclusive property was executed for the debts of her husband, a stranger to

¹⁹ 400 Phil. 829 (2000).

the case against the husband. Naguit was allowed to institute a separate action to vindicate her right of ownership over her exclusive property, which action was not considered an encroachment upon the jurisdiction of a co-equal and coordinate court:

In the case at bar, petitioner filed an independent action for the annulment of the certificate of sale issued in favor of private respondent, contending that the property levied upon and sold to private respondent by virtue of the writ of execution issued in Criminal Case No. 90-2645 was her exclusive property, not that of the judgment obligor. Pursuant to our ruling in *Sy v. Discaya*, petitioner is deemed a stranger to the action wherein the writ of execution was issued and is therefore justified in bringing an independent action to vindicate her right of ownership over the subject property.

Contrary to the stand taken by the trial court, the filing of such an independent action cannot be considered an encroachment upon the jurisdiction of a co-equal and coordinate court. The court issuing the writ of execution may enforce its authority only over properties of the judgment debtor; thus, the sheriff acts properly only when he subjects to execution property undeniably belonging to the judgment debtor. If the sheriff levies upon the assets of a third person in which the judgment debtor has no interest, then he is acting beyond the limits of his authority and is amenable to control and correction by a court of competent jurisdiction in a separate and independent action. This is in consonance with the well-established principle that no man shall be affected by any proceeding to which he is a stranger. Execution of a judgment can only be issued against a party to the action, and not against one who has not yet had his day in court.²⁰

Consistent with *Naguit v. Court of Appeals*,²¹ JEWM can be considered a third-party claimant and stranger to the case, because, despite not being the judgment obligor, JEWM's properties are being executed for So Keng Koc's liabilities. The Rules of Court allow JEWM to vindicate its claim to the properties in a separate action. The court exercising jurisdiction over the separate action, which in this case is RTC, Branch 14, may issue an injunction, enjoining the execution of JEWM's properties in satisfaction of So Keng Koc's liabilities. For this reason, we dismiss the Sps. Crisologo's charge against Judge Omelio for gross ignorance of the law due to interference with the proceedings of a co-equal and coordinate court.

²⁰ Id. at 66-67.

²¹ Supra note 19.

**Issuance of a writ of preliminary injunction
without an evidentiary hearing**

Section 5, Rule 58 of the Rules of Court provides for the procedure in issuing preliminary injunctions:

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

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

In the event that the application for preliminary injunction is denied or not resolved within the said period, the temporary restraining order is deemed automatically vacated. The effectivity of a temporary restraining order is not extendible without need of any judicial declaration to that effect and no court shall have authority to extend or renew the same on the same ground for which it was issued.

However, if issued by the Court of Appeals or a member thereof, the temporary restraining order shall be effective for sixty (60) days from service on the party or person sought to be enjoined. A restraining order issued by the Supreme Court or a member thereof shall be effective until further orders. (Emphasis supplied)

This provision provides for the general rule that writs of preliminary injunction shall only be issued with hearing and prior notice to the party or person sought to be enjoined. Should great or irreparable injury result to the applicant based on affidavits or the verified application before the matter can be heard with prior notice to the parties, the court may issue a temporary restraining order effective for a period of 20 days. Within the 20-day period, the court must notify the other party and order him to show cause why injunction should not be granted.

The Investigating Justice found that a summary hearing was conducted on 22 September 2010. In the hearing, there was no presentation of witnesses to substantiate the allegations in the complaint or identification of documentary exhibits for evidentiary purposes. Without testimonial and documentary evidence, the Investigating Justice deemed the applicant of the injunctive writ to have failed to establish a clear and unmistakable right as pre-condition for the issuance of the writ of injunction. For this reason, the Investigating Justice found Judge Omelio guilty of “gross ignorance of the basic and simple procedure of requiring an evidentiary hearing in application for the issuance of an injunctive writ” and recommended the penalty of a fine of ₱30,000.00.²²

We disagree. Although the general rule is that a sampling of evidence is required to be submitted during the hearing on the motion for preliminary injunction, there are also instances when the writ of preliminary injunction can be issued based on the verified application, provided there is notice and hearing.

²² Report, pp. 22-23.

In *Humol v. Judge Clapis*,²³ an administrative case was filed against respondent judge therein for issuing an injunction without the parties presenting or offering their respective evidences during the hearing. In fact, the issuance of the injunctive writ was based merely on testimonies of resource persons invited by the court, with counsels not being given the opportunity to cross-examine the resource persons.²⁴ Despite the absence of the applicant's offer of evidence in the hearing on the motion for issuance of preliminary injunction, the Court dismissed the charge of impropriety exhibited by the judge because the issue on the propriety of the issuance of the writ of injunction was judicial in nature and cannot be threshed out in an administrative action.²⁵ Errors or irregularities committed by the judge in rendering his decision should be remedied first through a motion for reconsideration, appeal, special civil action for certiorari, prohibition or mandamus, motion for inhibition or petition for change of venue.²⁶

In this case, Sps. Crisologo charge Judge Omelio with gross ignorance of the law for issuing the writ of preliminary injunction without an evidentiary hearing and in the absence of a clear and positive ground. The Rules of Court, however, provide that a temporary restraining order may be issued not only based on affidavit, but also based simply on the verified application and its supporting documents, provided there is notice and hearing. Judge Omelio is given a wide latitude of discretion in issuing the writ of preliminary injunction after the hearing, especially when a clear and unmistakable right to the issuance of the injunctive writ can be gleaned from affidavits or the verified application and its supporting documents, considering the peculiar circumstances of this case.

²³ A.M. No. RTJ-11-2285, 27 July 2011, 654 SCRA 406.

²⁴ Id. at 411.

²⁵ Id. at 418-419.

²⁶ Id.

This case concerns the cancellation of liens on the transfer certificates of title, involving issues which can be comprehended by the judge based on a cursory examination of the verified application and its supporting documents. During the hearing on 22 September 2010 (which is a requirement in the issuance of a writ of preliminary injunction), both counsels were given the opportunity to argue their case before Judge Omelio.²⁷ Neither counsel raised the issue of authenticity of the titles, subject of the case. **Both counsels were in agreement with regard to the facts: (a) that there were several liens over the properties;²⁸ (b) that the property held by JEWM was a derivative title in satisfaction of the first lien;²⁹ and (c) that the Sps. Crisologo were executing JEWM's property based on the second lien.³⁰** With no factual issues or disputes, the issues raised by counsels before Judge Omelio were purely legal in nature, which could be resolved from an examination of the verified application and its supporting documents. A clear and unmistakable right to the issuance of the writ of injunction in favor of JEWM could easily be gathered from examining the submitted pleadings and their supporting documents.

For this reason, we find Judge Omelio not guilty of gross ignorance of the law in issuing a writ of preliminary injunction without requiring the parties to present testimonial evidences during the hearing. Judge Omelio already received documentary evidences as supporting documents in the verified application and accorded both counsels the opportunity to be heard in oral arguments before him during the hearing. We find that the hearing conducted by Judge Omelio in the motion for issuance of the writ of preliminary injunction was adequate and compliant with the Rules of Court. For this reason, we reverse the Investigating Justice's finding of guilt in this charge, including the recommended penalty of fine of ₱30,000.00. We

²⁷ *Rollo*, pp. 68-98.

²⁸ *Id.* at 86.

²⁹ *Id.* at 82-84.

³⁰ *Id.* at 77-79.

dismiss this charge of gross ignorance of the law for issuing a writ of preliminary injunction without evidentiary hearing for lack of merit.

**Manifest bias for proceeding with the case
despite non-compliance with the rules on summons**

Another indispensable requirement for the issuance of a writ of preliminary injunction is the service of summons upon defendants, in accordance with Section 5, Rule 58 of the Rules of Court. The disputed case is entitled *JEWM Agro-Industrial Corporation v. Register of Deeds, Sheriff Medialdea, John & Jane Does and all persons acting under their directions*, which prayed for the cancellation of liens annotated at the back of TCT Nos. T-325675 and T-325676.

The liens annotated at the back of a certificate of title can be cancelled through: (a) a petition with the land registration court, under Section 112 of Act No. 496;³¹ or (b) an ordinary civil action filed against the parties whose liens are sought to be cancelled.³² In a petition under Section 112 of Act No. 496, notice to the lienholder is a jurisdictional requirement. In an ordinary civil action, service of summons to the lienholder is a jurisdictional requirement. In case the lienholder is unknown, such as what the plaintiff claimed in the disputed case, service of summons for unknown defendants should strictly be complied with. Otherwise, the judgment cannot be considered binding on the unknown defendants.

Rule 14 of the Rules of Court provides for the procedure on summons:

³¹ *PNB v. International Corporate Bank*, 276 Phil. 551, 558-559 (1991).

³² *In Re: Petition for Cancellation of Encumbrances Annotated on TCT Nos. 22120 and 22121, Registry of Deeds of Nueva Ecija*, No. L-27358, 20 February 1981, 102 SCRA 747, 752.

SECTION 1. *Clerk to issue summons.* - Upon the filing of the complaint and the requisite legal fees, the clerk of court shall forthwith issue the corresponding summons to the defendants.

x x x x

SEC. 14. *Service upon defendant whose identity or whereabouts are unknown.* - In any action where the defendant is designated as an unknown owner, or the like, or whenever his whereabouts are unknown and cannot be ascertained by diligent inquiry, service may, by leave of court, be effected upon him by publication in a newspaper of general circulation and in such places and for such time as the court may order.

In this case, service of summons was made only upon the Register of Deeds and Sheriff Robert Medialdea.³³ The notice of hearing for the preliminary injunction was likewise served only upon defendants Register of Deeds and Sheriff Robert Medialdea.³⁴ No procedure for service of summons was observed upon the John and Jane Does impleaded in the complaint. Judge Omelio's Order dated 19 November 2010 declared only defendants Register of Deeds and Sheriff Robert Medialdea in default. The Order was silent on the declaration of default of the John and Jane Does.³⁵

Sps. Crisologo claim that the case should not have proceeded because no summons were made upon the John and Jane Does impleaded in the complaint. Since defendants John and Jane Does are unidentified persons, summons must be made with leave of court and by publication.³⁶ Judge Omelio, on the other hand, claims that the requirements for service of summons are not applicable where the parties claiming entitlement to summons have already appeared in court during the hearing of the petition.³⁷

As a general rule, jurisdiction cannot be acquired over the defendant without service of summons, even if he knows of the case against him.

³³ *Rollo*, p. 35.

³⁴ *Id.* at 34.

³⁵ *Id.* at 233.

³⁶ *Id.* at 391.

³⁷ *Id.* at 344.

Jurisdiction, however, can be acquired without service of summons, if the defendant voluntarily submits to the jurisdiction of the court by appearing through his counsel in filing the appropriate pleadings.³⁸ In this case, Judge Omelio claims that service of summons to unknown defendants can be dispensed with because Sps. Crisologo voluntarily appeared and submitted themselves to the jurisdiction of the court. However, Judge Omelio's argument on voluntary appearance presents a conflicting position in relation to his actions during the pendency of the case. On 9 November 2010, despite the Sps. Crisologo's voluntary appearance, Judge Omelio issued an Order striking the omnibus motion and all pleadings filed by Sps. Crisologo, who claim to be defendants under John and Jane Does, due to lack of legal standing.³⁹ Judge Omelio claims that Sps. Crisologo must file the necessary pleading-in-intervention in order to be recognized in court. Judge Omelio's stubborn refusal to recognize Sps. Crisologo in the case reflects an appearance of partiality in favor of JEWM.

Judge Omelio's failure to effect proper service of summons upon the defendants John and Jane Does in the complaint constitutes gross ignorance of the law. The rules and procedures on summons are very elementary, that non-observance and lack of knowledge on them constitute gross ignorance of the law, especially for judges who are supposed to exhibit more than just a cursory acquaintance with the procedural rules. For failing to cause the proper service of summons upon defendants John and Jane Does and Sps. Crisologo, we find Judge Omelio guilty of gross ignorance of the law.

**Refusal to recognize Sps. Crisologo
as indispensable parties**

Section 2, Rule 3 of the Rules of Court provides:

³⁸ *Habaña v. Vamenta, Jr.*, 144 Phil. 650, 663-664 (1970).

³⁹ *Rollo*, pp. 231-232.

SEC. 2. *Parties in interest.* - A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest.

In this case, Sps. Crisologo, through their counsel, were pleading before Judge Omelio to recognize their entry of appearance as real parties in interest under defendants John and Jane Does in the hearing for preliminary injunction on 22 September 2010. The case involved the cancellation of several liens carried over in TCT Nos. T-325675 and T-325676, including the liens in favor of Sps. Crisologo.

However, Judge Omelio refused to recognize Sps. Crisologo due to lack of legal standing.⁴⁰ Judge Omelio bases his refusal to recognize Sps. Crisologo on the ground of lack of the proper Motion to Intervene with Pleading-in-Intervention.⁴¹ In addition, Judge Omelio further claims that the complaint identifies the “John & Jane Does” as defendants who may or hereinafter be in control of the property of the subject complaint and/or those persons or agents who may be acting under the direct orders of the Register of Deeds and Sheriff Medialdea.⁴² Since Sps. Crisologo are not yet in control of the property nor are they acting under the direct orders of the Register of Deeds and Sheriff Medialdea, they should not be considered as the defendants in this case.⁴³ Judge Omelio argues that Sps. Crisologo are not indispensable parties because their participation is not indispensable in the determination of whether or not the subsequent liens annotated on the titles of the subject properties may be properly cancelled.⁴⁴

⁴⁰ Id. at 66.

⁴¹ Id. at 180.

⁴² Id. at 181.

⁴³ Id.

⁴⁴ Id. at 181-182.

We are not persuaded. Parties with liens annotated on the certificate of title are entitled to notice in an action for cancellation of their liens. The Court, in *Southwestern University v. Laurente*,⁴⁵ adopted the following reasoning of the lower court:

The Court is in accord with his contention (that *if there should be notice, it should be limited to the parties annotated in the certificate of title itself, and should not be extended to subsequent parties who, even granting that they acquired the interests of these persons annotated in the certificate of title, failed to have their rights accordingly annotated in said certificate of title*) of petitioner Southwestern University, and maintains that inasmuch as the law specifically provides notice to parties in interest, such notice if any, should be limited to the parties listed or annotated on the certificate of title. x x x.⁴⁶ (Italicization in the original)

In this case, it is not disputed that Sps. Crisologo's liens were annotated at the back of JEWM's certificates of title. The cancellation of Sps. Crisologo's liens without notice to them is a violation of their right to due process. Consistent with *Southwestern University v. Laurente*,⁴⁷ Judge Omelio should be penalized for failing to recognize Sps. Crisologo as indispensable parties and for requiring them to file a motion to intervene, considering that a simple perusal of the certificates of title would show Sps. Crisologo's adverse rights because their liens are annotated at the back of the titles. For this reason, we find Judge Omelio guilty of gross ignorance of the law for refusing to recognize Sps. Crisologo as indispensable parties in the disputed case.

**Manifest bias for granting a contentious motion
despite violation of the three-day notice rule**

The Investigating Justice failed to discuss the next four issues raised by Sps. Crisologo in their Supplement to the Affidavit-Complaint and Reply⁴⁸ and their Memorandum.⁴⁹

⁴⁵ 135 Phil. 44 (1968).

⁴⁶ Id. at 47.

⁴⁷ Supra.

⁴⁸ *Rollo*, pp. 226-230.

⁴⁹ Id. at 386-393.

Sps. Crisologo claim that JEWG filed a Motion to Render Judgment Granting Plaintiff the Relief Prayed for with Memorandum Attached on 6 December 2010.⁵⁰ The motion, however, was heard on 8 December 2010,⁵¹ in violation of the three-day notice requirement.

Section 4, Rule 15 of the Rules of Court provides for the procedure in hearing motions:

SEC. 4. *Hearing of motion.* - Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.

Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice.

This provision mandates service to the adverse party at least three days before the hearing date of a written motion required to be heard and its notice of hearing.

In *Philippine Advertising Counselors v. Revilla*,⁵² the Court held that the motion for reconsideration which contained a defective notice of hearing did not suspend the running of the period to appeal, and the trial court exceeded its jurisdiction when it granted the defective motion:

Finally, Section 4, Rule 15 of the Rules of Court provides that notice of a motion shall be served by the applicant to all parties concerned, at least three (3) days before the hearing thereof, together with a copy of the motion, and of any affidavits and other papers accompanying it; and Section 5 of the same Rule requires the notice to be directed to the parties concerned and to state the time and place for the hearing of the motion. A motion which fails to comply with these requirements is nothing but a useless piece of paper.⁵³

⁵⁰ Id. at 226, 235-237, 391.

⁵¹ Id. at 237.

⁵² 152 Phil. 213 (1973).

⁵³ Id. at 224.

In *J. King & Sons Co., Inc. v. Judge Hontanosas, Jr.*,⁵⁴ the Court suspended respondent judge for three months without pay, and declared him guilty, among others, of gross ignorance of the law for granting a motion that was in violation of the three-day notice rule:

We agree with the Investigating Justice's finding that respondent is guilty of gross ignorance of the law for not holding a full-blown hearing on the motion to lift attachment and for violating the three-day notice rule.

x x x x

A perusal of the motion to lift attachment shows that a copy of the same was mailed to plaintiff's counsel only on July 3, 2002. The court's receiving stamp showed that said motion was filed in court only at 11:02 in the morning of July 5, 2002, despite the fact that the notice of hearing for said motion stated that said motion would be set for hearing at 8:30 in the morning of July 5, 2002. The proximity of the date of mailing of the copy of the motion to the other party and the hearing date indicated in the notice of hearing clearly shows that it is impossible for the other party to receive said motion at least three days before the date of hearing. Evidently, the party filing the motion to lift attachment had already violated the three-day notice rule. Such circumstances should have already warned respondent that plaintiff in the subject case had not yet been apprised of the filing of such a motion, much less the holding of a hearing for said motion. Yet, despite said patent defects in the motion, respondent consented to hold a hearing on the motion at 11:20 of the very same morning of July 5, 2002. Although Section 4, Rule 15 of the 1997 Rules of Civil Procedure provides that the court, for good cause, may set the hearing on shorter notice, the rule is explicit that notice of hearing cannot be altogether dispensed with. In this case, common knowledge dictates that it would be impossible for a copy of the motion, mailed only on July 3, 2002, to be delivered by registered mail to counsel for the plaintiff on or before July 5, 2002. Obviously, therefore, the plaintiff had no notice whatsoever of the filing of the motion and the hearing date for the same.

x x x x

It has been oft repeated that judges cannot be held to account or answer criminally, civilly or administratively for an erroneous judgment [or] decision rendered by him in good faith, or in the absence of fraud, dishonesty or corruption. However, it has also been held that when the law violated is elementary, a judge is subject to disciplinary action. The principles of due notice and hearing are so basic that respondent's inability to accord a litigant their right thereto cannot be excused. In this case, we believe that respondent's actuations reek of malice and bad faith. Thus, we find respondent guilty of gross ignorance of the law for violating the three-day notice rule and failing to give herein complainant due notice and the opportunity to be heard on the matter as mandated by Section 12, Rule 57

⁵⁴

482 Phil. 1 (2004).

of the 1997 Rules of Civil Procedure.⁵⁵

In this case, JEWM filed a motion to render judgment based on the pleadings on 6 December 2010.⁵⁶ The annotations on the copy furnished portion of the motion show that service was made to the Register of Deeds of Davao City and Sheriff Robert Medialdea on 6 December 2010.⁵⁷ The hearing was conducted on 8 December 2010.⁵⁸ Judge Omelio granted JEWM's motion on 13 December 2010.

A motion to render judgment based on the pleadings is a litigious motion because the grant of such motion will eliminate trial and the case will be considered submitted for decision. For this reason, service to the adverse parties of such litigious motion should be made at least three days before the date of the hearing, as mandated by Section 4, Rule 15 of the Rules of Court.

In this case, Judge Omelio granted a contentious motion which contained a defective notice of hearing. The notice of hearing was defective because it was only served two (2) days before the hearing date, instead of the mandatory three-day notice rule. Such motion should have been considered a mere scrap of paper. Judge Omelio should have denied the motion on the ground that it violated the three-day notice rule, without prejudice to JEWM's re-filing of said motion in accordance with the Rules.

In *Almeron v. Judge Sardido*,⁵⁹ the Court held:

[M]embers of the judiciary are supposed to exhibit more than just a cursory acquaintance with the statutes and procedural rules, more so with legal principles and rules so elementary and basic that not to know them, or to act as if one does not know them, constitutes gross ignorance of the

⁵⁵ Id. at 23-27.

⁵⁶ *Rollo*, pp. 235-237.

⁵⁷ Id. at 237.

⁵⁸ Id.

⁵⁹ 346 Phil. 424 (1997).

law.⁶⁰

In this case, Judge Omelio granted a litigious motion, in violation of the elementary three-day notice rule on motions. Applying *J. King & Sons Co., Inc. v. Judge Hontanosas, Jr.*,⁶¹ Judge Omelio is considered guilty of gross ignorance of the law for granting the defective motion. The three-day notice rule on motions is so elementary, that not knowing and observing it, especially in litigious and contentious motions, constitute gross ignorance of the law. For this reason, we find Judge Omelio guilty of gross ignorance of the law for granting a contentious motion that was in violation of the three-day notice rule on motions.

**Manifest bias for cancelling the registration of sale
without due process where Sps. Crisologo are buyers**

Sps. Crisologo claim that Judge Omelio, in a complaint for indirect contempt against Sheriff Medialdea, rendered a Decision,⁶² not only declaring Sheriff Medialdea guilty of indirect contempt, but also directed the Register of Deeds of Davao City to cancel any registration or annotation of the Sheriff's Certificate of Sale at the back of TCT Nos. T-325675 and T-325676.⁶³ Such cancellation of Sps. Crisologo's annotation of the Sheriff's Certificate of Sale in the titles, in a decision for indirect contempt, without notifying the Sps. Crisologo, constitutes a denial of their right to due process.⁶⁴ Judge Omelio, on the other hand, claims that no notice was given to the Sps. Crisologo because they are not parties to the complaint for indirect contempt.⁶⁵

⁶⁰ Id. at 429-430.

⁶¹ Supra note 54.

⁶² *Rollo*, pp. 407-409.

⁶³ Id. at 409.

⁶⁴ Id. at 392.

⁶⁵ Id. at 346.

The subject complaint for indirect contempt, Civil Case No. 33,1104-2010, was filed on 14 October 2010 and entitled *JEWM Agro-Industrial Corporation v. Sheriff Robert Medialdea and Register of Deeds for the City of Davao*.⁶⁶ JEWM, as plaintiff in the indirect contempt complaint, prayed that: (a) Sheriff Medialdea be found guilty of indirect contempt and be penalized a fine not exceeding ₱30,000.00 and imprisoned for not more than six months, in accordance with Section 7, Rule 71 of the Rules of Court; and (b) the auction sale annotated on TCT Nos. T-325675 and T-325676, stating Sps. Crisologo are buyers, be declared illegal and the Register of Deeds of Davao City be directed to cancel such annotation of sale.⁶⁷

In his Decision dated 27 January 2011,⁶⁸ Judge Omelio granted JEWM's prayers. The dispositive portion of the decision reads as follows:

WHEREFORE, in view of all the foregoing, defendant Sheriff Robert Medialdea is hereby declared GUILTY of indirect contempt and is ordered to pay a fine of Five Thousand (₱5,000.00) Pesos. Similar offense in the future will be dealt with more severely.

Corollary thereto, for being illegal, the auction sale on October 8, 2010 and the corresponding sheriff's certificates of sale pertaining to the property of plaintiff covered by TCT No. T-325675 and TCT No. T-325676 are hereby declared null and void and without force and effect of the law.

The Register of Deeds for Davao City is hereby directed to cancel any registration or annotation of the subject Sheriff's Certificates of Sale at the back of TCT No. T-325675 and TCT No. T-325676.

Let copy of this decision be furnished the Office of the Court Administrator for proper administrative action.

SO ORDERED.⁶⁹ (Emphasis supplied)

⁶⁶ Id. at 241-245.

⁶⁷ Id. at 245.

⁶⁸ Id. at 247-249.

⁶⁹ Id. at 249.

Judge Omelio's decision in the indirect contempt complaint ordered the cancellation in TCT Nos. T-325675 and T-325676 of the annotation of the Sheriff's Certificate of Sale in favor of the Sps. Crisologo. Although the case was an indirect contempt complaint, it can still be considered a petition to cancel annotations because of its prayer. As provided in Section 112 of Act No. 496 and *Southwestern University v. Laurente*,⁷⁰ notice is required to be given to parties whose annotations appear on the back of the certificate of title in an action for cancellation of annotations on the certificate of title.⁷¹ In this case, however, no summons or notices were issued to Sps. Crisologo. Only the Register of Deeds and Sheriff Medialdea were impleaded. Judge Omelio should have notified the Sps. Crisologo of the indirect contempt complaint because it included the prayer for cancellation of the annotation of sale on the subject titles, where the latter are buyers. Failure to notify the Sps. Crisologo constitutes gross ignorance of the law.

This is not the first time Judge Omelio has rendered a decision affecting third parties' interests, without even notifying the indispensable parties. In the first disputed case, *JEWM Agro-Industrial Corporation v. Register of Deeds, Sheriff Medialdea, John & Jane Does and all persons acting under their directions*, Judge Omelio failed to cause the service of proper summons upon the John and Jane Does impleaded in the complaint. Even when Sps. Crisologo voluntarily appeared in court to be recognized as the John and Jane Does, Judge Omelio refused to acknowledge their appearance and ordered the striking out of Sps. Crisologo's pleadings. For this reason, the Investigating Justice recommended admonishing Judge Omelio for failing to recognize the Sps. Crisologo as indispensable parties in that case. Here, in the indirect contempt complaint entitled *JEWM Agro-Industrial Corporation v. Sheriff Robert Medialdea and Register of Deeds for the City of Davao*, which included a prayer for cancellation of

⁷⁰ Supra note 45.

⁷¹ Id. at 658.

annotations on the titles, Judge Omelio once again failed to notify the Sps. Crisologo, the lienholders who would be affected by the cancellation of the annotation. Worse, Judge Omelio granted the prayer for cancellation of the annotations of Sps. Crisologo's Sheriff's Certificate of Sale without notifying them of the complaint. Clearly, the cancellation of the annotation of the sale without notifying the buyers, Sps. Crisologo, is a violation of the latter's right to due process. Since this is the second time that Judge Omelio has issued an order which fails to notify or summon the indispensable parties, we find Judge Omelio guilty of gross ignorance of the law, with a warning that repetition of the same or similar act will merit a stiffer penalty in the future.

Manifest bias in issuing conflicting orders

Sps. Crisologo claim that Judge Omelio exhibited manifest bias when he issued two conflicting orders on the same day, with one already showing prejudgment.⁷² In Judge Omelio's Order dated 7 October 2010, he declared:

The Omnibus Motion dated October 1, 2010 filed by Rene Andrei Q. Saguisag, which is submitted without argument, counsel for the plaintiff is directed to file a comment within five (5) days x x x.⁷³

In another Order likewise dated on 7 October 2010, Judge Omelio held:

Atty. R.A.Q. Saguisag, Jr., without first filing a written formal notice of appearance pursuant to the Rules of Court, hence he lacks locus standi in court to participate in the proceeding of the case x x x his very urgent omnibus motion dated October 1, 2010 therefore is denied x x x.⁷⁴

Sps. Crisologo allege that Judge Omelio exhibited manifest bias in issuing the conflicting orders, but failed to indicate which provision in the

⁷² *Rollo*, p. 391.

⁷³ *Id.* at 405.

⁷⁴ *Id.* at 406.

Rules of Court or the Code of Judicial Conduct Judge Omelio violated when he issued these orders. For this reason, we dismiss this charge for lack of merit.

Application of Penalties

In this case, Judge Omelio is found guilty of four counts of gross ignorance of the law for the following acts: (a) refusal to recognize Sps. Crisologo as indispensable parties; (b) granting a contentious motion in violation of the three-day notice rule; (c) non-compliance with the rules on summons; and (d) cancelling the annotation of the Sheriff's Certificate of Sale on the titles without notifying the buyers, in violation of the latter's right to due process.

Section 8, Rule 140 of the Rules of Court considers gross ignorance of the law or procedure as a serious charge. Section 11 of Rule 140, on the other hand, provides for the sanctions on respondents guilty of serious charges:

SEC. 11. *Sanctions.* - A. If the respondent is guilty of a serious charge, any of the following sanctions may be imposed:

1. Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations. *Provided, however,* That the forfeiture of benefits shall in no case include accrued leave credits;
2. Suspension from office without salary and other benefits for more than three (3) months, but not exceeding six (6) months; or
3. A fine of more than ₱20,000 but not exceeding ₱40,000.

x x x x

Section 55 of the Revised Uniform Rules on Administrative Cases in the Civil Service (Revised Uniform Rules) provides that if the respondent is

found guilty of two or more charges or counts, the penalty to be imposed should be that corresponding to the most serious charge or count and the rest shall be considered as aggravating circumstances. Section 54(c) of the same Revised Uniform Rules states that the maximum of the penalty shall be imposed where only aggravating and no mitigating circumstances are present.

The Court, in a number of cases, has adopted the Revised Uniform Rules in the discipline of erring court officers and judges.⁷⁵ In *Garcia v. Alejo*,⁷⁶ the Court found Alejo guilty of two offenses: (a) dereliction of duty; and (b) violation of reasonable office rules and regulations. The penalty imposed upon Alejo was the penalty for the more serious charge, dereliction of duty, taking into consideration the fact that he had previously been admonished in an earlier case.

In this case, Judge Omelio is found guilty of four counts of the serious charge of gross ignorance of the law, with no mitigating circumstances. Based on the rules on penalties in administrative cases, the sanction to be imposed is the penalty for the serious charge of gross ignorance of the law in its maximum, due to the presence of aggravating circumstances.

In its Resolution dated 28 July 2008, the Court, in A.M. No. MTJ-08-1701,⁷⁷ imposed a fine of Ten Thousand Pesos (₱10,000.00) on Judge Omelio for violation of a Supreme Court Circular with a stern warning that repetition of the same or similar act shall be dealt with more severely. Because of this previous violation, we impose the penalty of fine of Forty Thousand Pesos (₱40,000.00) on Judge Omelio for four counts of gross

⁷⁵ See *OCA v. Judge Indar*, A.M. No. RTJ-10-2232, 10 April 2012; *Reyes v. Vidor*, 441 Phil. 526 (2002); *Falsification of Daily Time Records of Ma. Emcisa A. Benedictos*, A.M. No. P-10-2784, 19 October 2011, 659 SCRA 403.

⁷⁶ A.M. No. P-09-2627, 26 January 2011, 640 SCRA 487.

⁷⁷ Entitled "*Milagros Villa Abrille v. Judge George Omelio, Municipal Trial Court in Cities, Branch 4, Davao City and Deputy Sheriff Philip N. Betil, Branch 3, same court.*"

ignorance of the law.

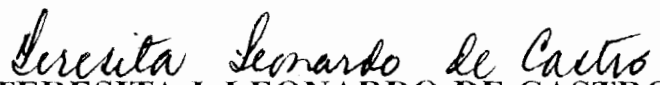
WHEREFORE, we **DISMISS** the following charges against Judge George E. Omelio for lack of merit: (a) gross ignorance of the law for interfering with the proceedings of a co-equal and coordinate court; (b) gross ignorance of the law for issuing a writ of preliminary injunction without an evidentiary hearing; and (c) manifest bias for issuing conflicting orders. We find Judge George E. Omelio **GUILTY** of four counts of the serious charge of gross ignorance of the law for the following acts: (a) refusing to recognize Spouses Jesus G. Crisologo and Nannette B. Crisologo as indispensable parties; (b) granting a contentious motion in violation of the three-day notice rule; (c) non-compliance with the rules on summons; and (d) rendering a decision in an indirect contempt case that cancels an annotation of a Sheriff's Certificate of Sale on two titles without notifying the buyer, in violation of the latter's right to due process. Accordingly, we impose upon Judge George E. Omelio the penalty of fine of Forty Thousand Pesos (₱40,000.00), with a warning that repetition of the same or similar acts will be dealt with more severely.

SO ORDERED.

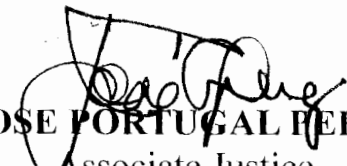



ANTONIO T. CARPIO
Associate Justice

WE CONCUR:


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


ARTURO D. BRION
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice