

SPECIAL SECOND DIVISION

[A.M. No. RTJ-10-2255 (Formerly OCA I.P.I. No. 10-3335-RTJ), February 08, 2012]

**SPOUSES DEMOCRITO AND OLIVIA LAGO, COMPLAINANTS, VS.
JUDGE GODOFREDO B. ABUL, JR., REGIONAL TRIAL COURT,
BRANCH 43, GINGOOG CITY, RESPONDENT.**

R E S O L U T I O N

MENDOZA, J.:

Subject of this disposition is the motion for reconsideration of the Court's January 17, 2011 Decision, filed by respondent Judge Godofredo B. Abul, Jr. (*Judge Abul*), Presiding Judge, Regional Trial Court, Branch 4, Butuan City, finding him guilty of gross ignorance of the law and imposing upon him a fine in the amount of P25,000.00.

Disciplinary action was meted on him for (1) assuming jurisdiction over Civil Case No. 2009-905 without the mandated raffle and notification and service of summons to the adverse party and issuing a temporary restraining order (*TRO*); (2) setting the case for summary hearing beyond the 72-hour required by the law in order to determine whether the *TRO* could be extended; and (3) issuing a writ of preliminary injunction without prior notice to the complainants and without hearing.

Judge Abul stresses that contrary to the allegations of the complainants, the Clerk of Court conducted a raffle of the case in question. In support thereof, he attached the Letter^[1] dated July 3, 2009 of Atty. Rhodora N. Restituto, Clerk of Court VI, RTC, Misamis Oriental, to prove that the case was indeed raffled on June 9, 2009 to RTC, Branch 43, Gingoog City. He explained that he issued the 72-hour *TRO* pursuant to the 2nd paragraph of Section 5, Rule 58 of the Rules in order to avoid injustice and irreparable damage on the part of the plaintiff. He pointed out, however, that the 72-hour *TRO* was issued only on July 7, 2009 because he was not physically present in the RTC, Branch 43, from July 2, 2009 to July 6, 2009.

Judge Abul admits not conducting a summary hearing before the expiration of the 72 hours from the issuance of the *ex parte* *TRO* to determine whether it could be extended to twenty (20) days. He, however, explained that the holding of the summary hearing within 72 hours from the issuance of the *TRO* was simply not possible and was scheduled only on July 14, 2009 because the law office of the plaintiff's counsel was 144 kilometers away from Gingoog City and under that situation, the service of the notice could only be made on the following day, July 8, 2009. Hence, it would be impractical to set the hearing on July 8, 2009. In addition, on July 9, 10 and 13, 2009, he was conducting hearings in his permanent station, RTC, Branch 4, Butuan City.

As to the charge that he failed to cause the service of summons on the complainants