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EN BANC

[I.P.I. No. 16-243-CA-J. October 11, 2016]

ARTHUR F. MORALES I, COMPLAINANT, VS. LEONCIA REAL-DIMAGIBA, JHOSEP Y. LOPEZ, AND RAMON R. GARCIA, ASSOCIATE JUSTICES, FIFTEENTH DIVISION, COURT OF APPEALS, MANILA, RESPONDENTS.

RESOLUTION

PEREZ, J.:

This case stemmed from the complaint filed by Arthur F. Morales I (complainant) charging Associate Justices Leoncia Real-Dimagiba, Jhosep Y. Lopez, and Ramon R. Garcia, all of the Fifteenth Division of the Court of Appeals (CA), with gross ignorance of the law, procedure and jurisprudence, rendering them unfit to perform their judicial functions.

Culled from the records are the following antecedent facts:

On 13 May 2015, a fire razed the warehouse of Kentex Marketing Corporation (Kentex) located at 6159 Tatalon St., Ugong, Valenzuela City. The incident caused the death of not less than seventy-four (74) employees of Kentex.

Investigation conducted after the incident revealed that Valenzuela City Mayor Rexlon T. Gatchalian (Mayor Gatchalian) issued a mayor's permit to Kentex without requiring the latter to submit a Fire Safety Inspection Certificate (FSIC), in violation of the Revised Fire Code of the Philippines (R.A. No. 9514).

Criminal and Administrative complaints were thereafter filed by the Fact-Finding Investigation Bureau-Military and Other Law Enforcement Officers (FFIB-MOLEO) against Mayor Gatchalian and other officials of Valenzuela City before the Office of the Ombudsman (OMB).

In a Joint Resolution dated 11 February 2016, the OMB found Mayor Gatchalian, among others, guilty of grave misconduct and gross neglect of duty and were meted the penalty of

dismissal from the service with the accessory penalties of forfeiture of benefits and privileges and perpetual disqualification to hold public office.

Mayor Gatchalian assailed the OMB ruling before the CA through a Petition for Certiorari with Urgent Prayer for Issuance of Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction. The case was docketed as CA-G.R. SP No. 144428 entitled “Rexlon T. Gatchalian v. Hon. Conchita Carpio Morales, et al.” and raffled to the Fifteenth Division of the CA. In support of his application for injunctive relief, Mayor Gatchalian contended that the immediate implementation of the assailed Joint Resolution would cause him undue and irreversible damage considering that he would be precluded from seeking a second term as mayor of Valenzuela City as he was, at that time, vying for reelection.

On 4 March 2016, the Fifteenth Division of the CA issued a resolution the dispositive portion of which reads:

ACCORDINGLY, let a **Temporary Restraining Order** (TRO) be issued, good for 60 days from notice, enjoining respondents or any persons and all persons acting on their behalf from executing, or implementing the assailed Joint Resolution of the Ombudsman dated 11 February 2016 in OMB-P-A-10581 as against the petitioner. x x x”^[1]

Fearing that a Writ of Preliminary Injunction would follow, complainant filed the instant administrative complaint against respondent associate justices of the Fifteenth Division of the CA.

Complainant cited as his basis the case of *Villaseñor, et al. v. Ombudsman*^[2] wherein this Court ruled that Section 7, Rule III of the Rules of the Ombudsman, as amended by A.O. No. 17 dated 15 September 2003, is “categorical in providing that an appeal shall not stop the decision from being executory, and that such shall be executed as a matter of course” and hence, “(a)n appeal shall not stop the decision from being executory. In case the penalty is suspension or removal and the respondent wins such appeal, he shall be considered as having been under preventive suspension and shall be paid the salary and such other emoluments that he did not receive by reason of the suspension or removal.”^[3]

Complainant thus maintained that the Joint Resolution dated 11 February 2016 of the OMB involving the dismissal from the service of Mayor Gatchalian cannot be enjoined by a TRO or

Writ of Preliminary Injunction of the CA. He averred that the TRO issued by the respondent associate justices on 4 March 2016 was a direct contravention of the pronouncements of the Supreme Court in *Facura v. CA*^[4] and *Villaseñor, et al. v. Ombudsman*.^[5] Further, complainant argued that the *Carpio-Morales v. Binay*^[6] case cited by the respondent associate justices is not applicable considering that what was assailed therein was the OMB's order preventively suspending then Mayor Jejomar Erwin Binay of Makati City. In contrast, what was assailed in the case of Mayor Gatchalian is the penalty of dismissal from the service for grave misconduct and gross neglect of duty.

Complainant contended that the respondent associate justices' ratiocination in the issuance of the TRO that the "execution of the Joint Resolution (of the OMB) will be hard to undo" clearly showed their lack of awareness of the existing jurisprudence that in case the removed official wins his appeal, then he shall be considered only to have been preventively suspended and as a consequence thereof, said official may still run for public office.^[7]

Complainant implores this Court to dismiss the respondent associate justices from the judiciary for grave ignorance of the law and jurisprudence.

In a Resolution^[8] dated 9 August 2016, this Court required the respondent associate justices to comment on the verified complaint of Arthur F. Morales I.

In their respective comments, respondents averred that the administrative complaint against them is without basis in fact and in law. They maintained that the resolution they issued granting the application for TRO is supported by existing law and jurisprudence. They claimed that they were guided by the Supreme Court's ruling in *Carpio-Morales v. Binay*^[9] which struck down the second paragraph of Section 14 of R.A. 6770 as unconstitutional. Moreover, they insist that they cannot be held liable for ignorance of the law because the complaint did not ascribe any improper motive or bad faith in any of them in their issuance of the TRO enjoining the OMB from implementing the imposed penalty of dismissal from the service of Mayor Gatchalian. They argued that even assuming that they erred in issuing the TRO, they cannot be held liable for it was an official act done in good faith, guided only by the dictate of their conscience, in accord with applicable laws and jurisprudence.

Our Ruling

The instant administrative complaint was filed by Arthur F. Morales I allegedly in his

capacity as a resident, taxpayer and registered voter of Valenzuela City. He claimed that he shall be directly affected by the continuance of the incompetent work of Mayor Gatchalian, who, as found by the OMB, was responsible for the death of not less than 74 workers of Kentex. He further claimed that he filed the case because he does not want the same incident to happen again in Valenzuela City which would be possible in view of the continuance of the administration of Mayor Gatchalian.

As correctly noted by respondent Justice Leoncia Real-Dimagiba in her comment,^[10] complainant is not a party in CA-G.R. SP No. 144428, which is still in its initial stage. Neither is he one of the private complainants who commenced the administrative case against Mayor Gatchalian before the OMB. Strictly speaking, complainant has no legal interest to contest the propriety of the CA Fifteenth Division's issuance of the TRO.

Even assuming that complainant is a proper party to the case, still the administrative complaint is not the remedy to assail the TRO. The complaint was intended as a judicial remedy. It was aimed at halting the subsequent issuance by respondent associate justices of a Writ of Preliminary Injunction. It is evident that complainant was aware that the instant administrative complaint would have been dismissed outright had it been filed by one of the parties in the OMB case. We have previously explained that administrative complaints against magistrates cannot be pursued simultaneously with the judicial remedies accorded to parties aggrieved by the erroneous orders or judgments of the former. Administrative remedies are neither alternative to judicial review nor do they cumulate thereto, where such review is still available to the aggrieved parties and the cases not yet been resolved with finality.^[11] The parties in interest in the OMB case should have availed of judicial remedies instead of complainant herein filing an administrative case against respondent associate justices. Since the issuance of a TRO is judicial in nature, the parties could have opted to file a motion to lift the TRO or a motion for reconsideration or could have sought recourse from this Court.

At the outset, it is clear that the assailed resolutions were issued by respondent justices in the proper exercise of their judicial functions. As such, these are not subject to administrative disciplinary action. Other than complainant's bare allegations, there were no evidence presented to show any wrong-doings or bad faith on the part of respondent justices. We have settled the rule that a judge may not be administratively sanctioned from mere errors of judgment in the absence of showing of any bad faith, fraud, malice, gross ignorance, corrupt purpose, or a deliberate intent to do an injustice on his or her part.^[12] Judicial officers cannot be subjected to administrative disciplinary actions for their

performance of duty in good faith.^[13]

The complaint was anchored on the provisions of the Rules of Procedure of the Office of the Ombudsman. It should be noted that the issuances of the OMB, particularly A.O. No. 7, otherwise known as, the “Ombudsman Rules of Procedure” emanated from R.A. No. 6770, otherwise known as “The Ombudsman Act of 1989”. Section 14 thereof provides:

Sec. 14. *Restrictions.* – No writ of injunction shall be issued by any court to delay an investigation being conducted by the Ombudsman under this Act, unless there is a *prima facie* evidence that the subject matter of the investigation is outside the jurisdiction of the Office of the Ombudsman.

No court shall hear any appeal or application for remedy against the decision or findings of the Ombudsman, except the Supreme Court, on pure question of law. (Emphasis supplied)

The Fifteenth Division of the CA is not without basis in acting on the petition of Mayor Gatchalian. In the decision in *Carpio-Morales v. Binay, Jr.*,^[14] this Court declared the second paragraph of Section 14 of R.A. No. 6770 **UNCONSTITUTIONAL**, while the policy against the issuance of provisional injunctive writs by courts other than the Supreme Court to enjoin an investigation conducted by the Office of the Ombudsman under the first paragraph of the said provision was **DECLARED** ineffective until the Court adopts the same as part of the rules of procedure through an administrative circular duly issued therefor.

Although the case of Erwin Binay, Jr. pertains to a preventive suspension, the pronouncement therein may arguably apply to any other OMB case since this Court did not make any distinction. The doctrine laid down in the case is that the CA has the authority to issue TRO and injunctive writs in the exercise of its *certiorari* jurisdiction conferred to it under Section 9 (1), Chapter I of Batas Pambansa 129, as amended. In arriving at the decision in the *Binay, Jr.*^[15] case, the Court cited in part the case of *Smothers v. Lewis*, to wit:

x x x In the exercise of this power, a court, when necessary in order to protect or preserve the subject matter of the litigation, to protect its jurisdiction and to make its judgment effective, may grant or issue a temporary injunction in aid of or ancillary to the principal action.

The control over this inherent judicial power, in this particular instance the injunction, is exclusively within the constitutional realm of the courts. As such, it is not within the purview of the legislature to grant or deny the power nor is it within the purview of the legislature to shape or fashion circumstances under which this inherently judicial power may be or may not be granted or denied.

x x x x

We reiterate our previously adopted language, “. . . a court, once having obtained jurisdiction of a cause of action, has, as incidental to its general jurisdiction, inherent power to do all things reasonably necessary to the administration of justice in the case before it. . .” **This includes the inherent power to issue injunctions.** (Emphasis in the original)

The determination, therefore, on whether there was error on the part of the respondent associate justices in issuing the TRO or whether the CA justices can now enjoin all decisions of the OMB would have to be squarely addressed by this Court the moment the issue is raised before it in a proper judicial proceeding. It should be consequentially clear that we are not making a ruling in this administrative case on the correctness of the issuance of a TRO. We are merely saying that under the facts of the matter at hand and cognizant of our ruling in *Carpio Morales v. Binay, Jr.*^[16] we are not prepared to conclude that respondent associate justices are administratively liable for gross ignorance of the law in issuing a TRO in CA-G.R. SP No. 144428.

In order to be held administratively liable it must be shown that the respondent associate justices have been motivated by bad faith, fraud, dishonesty or corruption in ignoring, contradicting or failing to apply settled law and jurisprudence.^[17] No such ill motivation was shown, nay alleged, to have caused the issuance of the TRO.

Further on the issue, the Court has ruled that 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.^[18] Justices are presumed to be conversant with the law and the rules. When the law or procedure is so elementary, such as the provisions of the Rules of Court, not to know it or to act as if one does not know it constitutes gross ignorance of the law.^[19] Such ignorance of a basic rule in court procedure would be tantamount to gross

ignorance and would render them administratively liable. In view of the unreconciled pronouncements in the cases of *Facura* and *Villaseñor*, on one hand, and the *Carpio-Morales v. Binay, Jr.* case, on the other, the subject matter here involved is not one which can be considered elementary.

To press the point, the present Resolution should not be read as an allowance *carte blanche* for the issuance of TROs against the OMB's decision in criminal and administrative complaints against officials and employees of the government. Foremost, we did not rule on the validity of the issuance of the TRO by the respondent associate justices. What we said is that there is a relevant ruling in the *Binay, Jr.* case which removes the issuance by respondent associate justices from the ambit of gross ignorance of the law. Just as important, the validity of the issuance of a TRO, owing to the fact that a TRO is merely a provisional remedy which is an adjunct to a main suit,^[20] which in this case is the main petition of Mayor Gatchalian pending before the CA, is a judicial issue that cannot be categorically resolved in the instant administrative matter.

The administrative case against respondents is mere veneer to the objective of outlawing the TRO issued by respondents. That aim is beyond the range of this case. We cannot review the actions taken by the CA unless these are brought before us through the proper judicial process.

The remedy against the issuance of the TRO is unarguably and by its very nature, resolvable only thru judicial procedures which are, a motion for reconsideration and, if such motion is denied, a special civil action of *certiorari* under Rule 65.^[21] It is the ruling granting the prayer for the writ of *certiorari* that a basis for an administrative action against the judge issuing the TRO may arise. Such happens when, from the decision on the validity of the issuance, there is a pronouncement that indicates gross ignorance of the law of the issuing judge.^[22] The instant administrative complaint cannot be a substitute for the aforesaid judicial remedies.

In fine, in the absence of proof to the contrary, the presumption is that respondent associate justices issued the TRO in good faith. As a matter of public policy, a judge cannot be subjected to liability for any of his official acts, no matter how erroneous, as long as he acts in good faith. To hold otherwise would be to render judicial office untenable, for no one called upon to try the facts or interpret the law in the process of administering justice can be infallible in his judgment.^[23]

WHEREFORE, in view of the foregoing, the instant administrative complaint filed by Arthur F. Morales I against Associate Justices Leoncia Real-Dimagiba, Jhosep Y. Lopez and Ramon R. Garcia, all of the Fifteenth Division, Court of Appeals, Manila is hereby **DISMISSED** for lack of merit.

SO ORDERED.

Sereno, C. J., on official leave.

*Carpio, ** Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Mendoza, Reyes, Perlas-Bernabe, Jardeleza, and Caguioa, JJ.*, concur.

Velasco, Jr., on leave.

Leonen, J., on official leave.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on October 11, 2016 a Decision/Resolution, copy attached herewith, was rendered by the Supreme Court in the above-entitled administrative matter, the original of which was received by this Office on November 9, 2016 at 8:35 a.m.

Very truly yours,
(SGD)
FELIPA G.
BORLONGAN-ANAMA
Clerk of Court

****** Acting Chief Justice per Special Order No. 2389 dated 29 September 2016.

[1] *Rollo*, pp. 101-102.

[2] G.R. No. 203303, 4 June 2014, 725 SCRA 230.

[3] *Rollo*, p. 8.

[4] The CA, even on terms it may deem just, has no discretion to stay a decision of the Ombudsman, as such procedural matter is governed specifically by the Rules of Procedure of the Office of the Ombudsman.

The CA's issuance of a preliminary mandatory injunction, staying the penalty of dismissal imposed by the Ombudsman in this administrative case, is thus an encroachment on the rule making powers of the Ombudsman under Section 13 (8), Article XI of the Constitution and Sections 18 and 27 of R.A. No. 6770, which grants the Office of the Ombudsman the authority to promulgate its own rules of procedure. The issuance of an injunctive writ renders nugatory the provisions of Section 7, Rule III of the Rules of Procedure of the Office of the Ombudsman. 658 Phil. 554 (2011).

^[5] Supra note 2.

^[6] G.R. No. 217126-27, 10 November 2015.

^[7] *Rollo*, pp. 8-9.

^[8] *Id.* at 110-111.

^[9] Supra note 6.

^[10] *Rollo*, pp. 2-3.

^[11] *Rodriguez v. Gatdula*, 442 Phil. 307, 308 (2002).

^[12] *Ceniza-Layese v. Asis*, 590 Phil. 56, 60 (2008).

^[13] *Re: Complaint filed by Lucena B. Rallos against Justices Gabriel T. Ingles, Pamela Ann Maxino, and Carmelita S. Manahan*, 723 Phil. 1, 4 (2013).

^[14] Supra note 6.

^[15] *Id.*

^[16] Supra note 6.

^[17] *Cabatingan, Sr. v. Arcueno*, 436 Phil. 341, 350 (2002).

^[18] *See Rep. of the Phils. v. Caguioa*, 608 Phil. 577, 605 (2009).

^[19] *See Baculi v. Belen*, 604 Phil. 1, 10 (2009).

^[20] *Bernardez v. Commission on Elections*, 628 Phil. 720, 732 (2010) citing *Caneland Sugar Corporation v. Alon*, 559 Phil. 462, 470 (2007) further citing *Philippine National Bank v. CA*,

353 Phil. 473, 479 (1998).

^[21] *Brizuela v. Dingle*, 576 Phil. 611, 624 (2008).

^[22] *Rep. of the Phils. v. Caguioa*, 608 Phil. 577, 604 (2009); *De Jesus v. Dilag*, 508 Phil. 173, 181 (2005).

^[23] *Crisologo v. Daray*, 584 Phil. 366, 374 (2008).

Date created: November 23, 2018