

801 Phil. 194

EN BANC

[I.P.I. No. 15-227-CA-J. November 29, 2016]

RE: VERIFIED COMPLAINT DATED 17 NOVEMBER 2014 OF DOLORA CADIZ KHANNA AGAINST HON. EDGARDO L. DELOS SANTOS, HON. MARILYN B. LAGURA-YAP AND HON. JHOSEP Y. LOPEZ, ASSOCIATE JUSTICES, COURT OF APPEALS, JUDGE RONALD H. EXMUNDO, REGIONAL TRIAL COURT, BRANCH 4, KALIBO, AKLAN, JUDGE FRICIA C. GOMEZ-GUILLEN, BRANCH 15, METROPOLITAN TRIAL COURT, MANILA AND JUAN S. APOLINAR,⁽¹⁾ SHERIFF III, BRANCH 17, METROPOLITAN TRIAL COURT, MANILA.

RESOLUTION

PEREZ, J.:

This resolves the complaint^[2] filed by Dolora Cadiz Khanna (Khanna) charging Hon. Edgardo L. Delos Santos (Justice Delos Santos), Hon. Marilyn B. Lagura-Yap (Justice Lagura-Yap) and Hon. Jhosep Y. Lopez (Justice Lopez), Associate Justices, Court of Appeals (CA), Judge Ronald H. Exmundo (Judge Exmundo), Regional Trial Court (RTC), Branch 4, Kalibo, Aklan, Judge Fricia C. Gomez-Guillen (Judge Gomez-Guillen), Branch 15. Metropolitan Trial Court (MeTC), Manila and Apolinar S. Juan, Sheriff III (Sheriff Juan), Branch 17, MeTC, Manila with corruption and extortion.

Khanna alleged that sometime in 2007, she and her husband named Summit bought parcels of land located at Bolabog, Balabag, Malay, Aklan from Atty. Lucas Licerio (Atty. Licerio). She alleged that they paid over P30,000,000.00 for all the lots, not knowing that the properties are part of the inalienable reserved forest land of the government by virtue of Proclamation 1064.

Sometime in May or June 2007, the spouses took possession of the lots and started building their dream house thereon. They developed the property which was then a forest, coco and grassy land. Seeing the potential of the property, they later on developed it into a luxury resort community which they called "The Cliff Resorts."

Khanna claimed that in the latter part of 2009, Atty. Licerio and his cohorts started harassing them by filing numerous cases of Estafa thru Falsification of Public Documents.

Khanna narrated that she filed, through her counsel Atty. Lorna Kapunan (Atty. Kapunan), a Petition for Injunction with Prayer for the Issuance of Temporary Restraining Order (TRO) against Atty. Licerio and twenty John Does before the RTC, Kalibo, Aklan. The case was docketed as Civil Case No. 8988 entitled “Dolora Khanna vs. Lucas Licerio and Twenty John Does” and raffled to RTC, Branch 4, presided over by Judge Exmundo.

After filing the case, Khanna requested one of her employees, a province mate of Judge Exmundo from Iloilo, to seek the assistance of the latter. Khanna alleged that during their conversation, she ventilated to Judge Exmundo the injustices committed against them by Atty. Licerio.

Judge Exmundo allegedly instructed Khanna to secure the services of Atty. Mateo C. Hachuela (Atty. Hachuela) to be her counsel in lieu of Atty. Kapunan. She was also told to give P300,000.00 in order for Judge Exmundo to grant her prayer for the issuance of a TRO.

In compliance with the directive, Khanna contended that she hired Atty. Hachuela; paid the latter his acceptance fee; and gave the P300,000.00 for the TRO. As agreed upon, on 3 November 2010, Judge Exmundo issued the TRO. By virtue thereof, she and her husband regained possession of the premises which were unlawfully and forcibly taken from them by Atty. Licerio and his armed goons.

During the pendency of the case, Atty. Hachuela allegedly informed Khanna that Judge Exmundo was demanding P2,000,000.00 for a favorable decision of the Petition for Injunction that they filed. Believing on the merits of her case, she did not concede to the demand.

She noted that on 7 December 2012, Atty. Licerio again forcibly took over the property even without any court order. Khanna alleged that she received information from a reliable source that Atty. Licerio had already paid Judge Exmundo to rule in his favor. The same source likewise told her that Atty. Hachuela and Judge Exmundo travelled to Hongkong after receiving the payment from Atty. Licerio. Khanna stated that during the take-over of the property, she called and informed Atty. Hachuela about what happened. She claimed that during their conversation she heard slot machines and Judge Exmundo’s voice in the background.

Khanna contended that for her failure to cough up P2,000,000.00 and after Atty. Licerio met with Judge Exmundo, a decision was rendered on 21 December 2012 denying the Petition for Injunction. The Motion for Reconsideration she subsequently filed was likewise denied by Judge Exmundo.

Thereafter, Atty. Licerio filed a Motion for Execution Pending Appeal before RTC, Branch 4, Kalibo, Aklan. Atty. Hachuela, the alleged bagman of Judge Exmundo, again asked the spouses to give P1,000,000.00 for the denial of the aforesaid motion. Considering that their property was at stake, the spouses agreed to the demand and gave Atty. Hachuela the amount of P1,00,000.00 consisting of two checks of P500,000.00 each, dated 20 and 25 March 2013, respectively. As agreed upon, Judge Exmundo denied the motion filed by Atty. Licerio. Khanna attached in her complaint a photocopy of the two checks cleared by the bank, as well as a copy of the exchanges of text messages between her and Atty. Hachuela.

Atty. Licerio then filed a Motion for Execution Pending Appeal before the CA. The case was docketed as CA-G.R. CV No. 04899 and raffled to the 19th Division of the CA, Cebu City.

On 12 September 2014, the 19th Division of the CA composed of Associate Justices Delos Santos, Lagura-Yap and Lopez granted the motion filed by Atty. Licerio. Khanna claimed that the associate justices of the CA totally disregarded the valid objections she raised and issued the resolution without basis and despite the absence of good reason. Consequently, Khanna filed a Motion for Reconsideration and Addendum (to the Motion for Reconsideration).

Khanna claimed that on 27 September 2014 at around 7:00 p.m., she and her husband, together with their friend Paul from the National Bureau of Investigation (NBI), met Judge Gomez-Guillen of the MeTC, Branch 15, Manila; the latter's husband Miller Guillen; and Sheriff of MeTC, Branch 17, Manila. During the meeting, the spouses discussed with the group their case which is pending in the CA. The group allegedly told the spouses that they can assist in having the CA rule in their favor. The meeting was allegedly recorded in the CCTV camera of Woodfire Pizza at Rockwell Makati.

The meeting was allegedly followed by several telephone conversations wherein the spouses were informed that the CA justices were asking for Twelve Million Pesos for the lifting of the writ of execution earlier issued and the issuance of an order of .permanent injunction.

Khanna further stated that on one occasion, Miller Guillen even called and requested for an amount of P10,000.00 to cover the dinner expenses for his alleged meeting with CA Justice

Lopez. The amount requested was deposited to the bank account of Miller Guillen. Khanna attached to her complaint a photocopy of the deposit slip as evidence.

On 8 November 2014, Miller Guillen again called the spouses and informed them that the 15-day period given to the other party is about to expire. They were told that after that, the CA justices will release a decision and the justices will expect the payment of half of the amount, which is P6,000,000.00.

Feeling threatened, Khanna's husband thereafter talked to Judge Gomez-Guillen and the latter explained that the CA justices are expecting the money as soon as possible. At that time, the spouses informed Judge Gomez-Guillen that they cannot afford to give such large amount of money and that they are already sick and tired of the extortion and corruption. Khanna alleged that since then, they never communicated with the group again.

Khanna, thereafter, filed the instant administrative complaint against herein respondents with the prayer that an order be issued directing Judge Exmundo and the associate justices of the 19th division of the CA to cease and desist from further proceeding in the cases pending before them and to inhibit themselves from the subject cases.

In a Resolution^[3] dated 21 January 2015, the Court required the respondents to comment on the verified complaint filed by Khanna.

In compliance with the resolution, Judge Exmundo filed his comment^[4] on 6 March 2015. He narrated that the complaint of Khanna arose from Civil Case No. 8988, entitled Dolora Khanna vs. Lucas Licerio and Twenty John Does, for Injunction with Prayer for the Issuance of a Writ of Preliminary Injunction and/or Temporary Restraining Order. The case was filed before RTC, Branch 4, Kalibo, Aklan, where he is the presiding judge. Based on the merits of the case, he denied the petition in his decision dated 21 December 2012.

Judge Exmundo averred that all the allegations hurled against him are mere conjectures, false, baseless and product of an evil and malicious mind. He claimed that Atty. Hachuela was personally hired by complainant as collaborating counsel of Atty. Kapunan without his intervention as it is not his task to do so considering that the case is being heard in his sala. He denied that he demanded, through Atty. Hachuela, the amounts of P300,000.00 for a favorable issuance of a temporary restraining order and P2,000,000.00 for a favorable decision in Civil Case No. 8998. He alleged that these are but products of complainant's imagination. He maintained that the exchange of text messages between Khanna and Atty. Hachuela is part of attorney-client relationship and the person referred to as "Pope" therein

can be anybody but definitely not and cannot be him. He contended that he never transacted nor discussed Civil Case No. 8998 with Atty. Hachuela. He also contended that the allegation: that he travelled to Hong Kong and Macau with Atty. Hachuela is untrue and without any basis.

In her comment,^[5] Judge Gomez-Guillen admitted that she, her husband Miller and their friend Sheriff Juan met and had dinner with Khanna and the latter's husband Summit at a pizza restaurant in Power Plant Mall, Makati City. They were introduced by their friend Paul from the NBI as his "Tita Dolly." Judge Gomez-Guillen, however, denied that they discussed or that Khanna consulted about the latter's case pending before the CA. She likewise denied that she spoke with complainant's husband to explain that the justices of the 19th Division of the CA want P6,000,000.00 for a favorable ruling. She averred that neither she nor her husband personally knows the CA justices mentioned in the complaint and that there is no way for them to approach or even communicate with any of them. She concluded that the complaint seemed to be desperate move from a disgruntled litigant.

Sheriff Juan, for his part, likewise admitted that they had dinner with Khanna and the latter's husband at Woodfire Pizza Restaurant in Rockwell Power Plant, Makati City. Khanna allegedly introduced herself as a businesswoman and owner of a resort in Boracay. She allegedly offered him an opportunity to earn commission by selling her condominium at Rockwell and by looking for investors in her resort business. He declined the offer since he doesn't know of any person wealthy enough to afford the properties she's selling.

Contrary to the allegations in the complaint, Sheriff Juan contended that he and the Guillen spouses never claimed that they knew Justice Lopez of the CA. On the other hand, he alleged that it was Khanna who asked if they knew Justice Lopez and offered to give money if they could assist them in their case pending before the CA. Sheriff Juan further alleged that on one occasion, Khanna called the cellphone of Miller Guillen and insisted on talking to him. Khanna allegedly persisted on seeking assistance from him since he is a sheriff and the former had a mistaken notion that as such, he knew a lot of judges and justices. He claimed that he told Khanna that he doesn't know any justice and even if he knew them, he cannot help because what the complainant was asking is wrong and illegal. It was allegedly at that time that Khanna threatened to file a case against him and the Guillen spouses.^[6]

In their respective comments,^[7] the respondent associate justices of the CA denied vehemently the allegations against them in the complaint. The respondent justices were categorical in their statements that they do not know complainant Khanna, Miller

Guillen,' Judge Gomez-Guillen, Sheriff Juan and a certain Paul from the NBI. Justice Lagura-Yap even added that she does not know Khanna's present and previous counsel or the counsel of the latter's opponent.

They denied demanding P6,000,000.00, P12,000,000.00 or any other amount from Khanna through Miller Guillen, Judge Gomez-Guillen, Sheriff Juan or Paul from NBI. Neither were they promised by appellee Atty. Licerio nor received from him, Khanna's personal homes, gifts or any favor.

The respondent justices presented evidence of their detailed whereabouts on 6 and 7 November 2014 to prove that they did not meet with Miller Guillen and NBI Paul to discuss the case and the terms of payment for a favorable ruling. Justice Delos Santos even challenged Khanna to produce the necessary evidence showing their presence during the alleged SM Convention Center meeting. He claimed that with the advent of modern technology, CCTV footage can be obtained by Khanna if indeed the alleged meeting at SM Convention Center took place. They reported that they were in Manila on those days but not to meet regarding the case of Khanna but to attend the *En Banc* session of the CA in the afternoon of 7 November 2014 and to vote in the selection of the Division Clerk of Court of the Eighteenth division for the Visayas station. They presented itineraries, airplane tickets, credit card billing statements, Uber receipts, Agenda of the CA *En Banc* session and affidavits of persons they were with during the subject dates and time.

They maintained that the assailed resolution they issued on 12 September 2014 in CA-G.R. CV NO. 04899 has factual and legal basis. They averred that the resolution was supported by law and jurisprudence and that they merely applied the law. They concluded that Khanna was prompted to file the instant administrative complaint only because she was not satisfied with the aforesaid resolution, not having received a favorable ruling thereon. They submit that the administrative complaint was clearly intended to pressure and harass them.

Our Ruling

This Court has consistently ruled that in administrative proceedings, the burden of proof that respondent committed the acts complained of rests on the complainant.^[8] After a careful perusal of the records, we find no substantial evidence to support the allegations against the respondent associate justices of the CA. The record is absent of any affidavits of persons who have personal knowledge regarding the supposed extortion and corruption

allegedly committed by the CA justices or even documents to corroborate the accusations against them. Clearly, the allegations against them were based solely on hearsay evidence.

In all the instances stated in the Complaint-Affidavit involving the respondent CA justices, we noted that Khanna relied solely on what Miller Guillen, Judge Gomez-Guillen, Sheriff Juan or Paul from the NBI told her and/or her husband. Although, Khanna attached in her complaint the affidavit of her staff, Agnes Ramos, a reading of the same would only show that it was Miller Guillen, not the respondent CA justices, who asked for the P12,000,000.00 bribe.

These are only second hand accounts which have no probative value because these do not establish the acts complained of, that the CA justices demanded money in exchange for a favorable order and that they were a part of the scheming plan to extort money from complainant. Other than complainant's bare allegations and informations coming from her brokers, fixers or agents, there were no evidence presented to show any wrong doings or bad faith on the part of respondent CA justices.

The relevant portion of the assailed CA resolution reads:

Under Section 4, Rule 39 of the Revised Rules of Court, judgments in actions for injunction are not stayed by appeals taken therefrom. Thus:

Sec. 4. Judgments not stayed by appeal. - Judgments in actions for injunction, receivership, accounting and support, and such other judgments as are now or may hereafter be declared to be immediately executory, shall be enforceable after their rendition and shall not be stayed by an appeal taken therefrom, unless otherwise ordered by the trial court. On appeal therefrom, the appellate court in its discretion may make an order suspending, modifying, restoring, or granting the injunction, receivership, accounting, or award of support.

The above rule is well-established and has been cited by the Honorable Supreme Court in a number of cases. In *Intramuros Tennis Club, Inc. vs. Philippine Tourism Authority*, the Honorable Supreme Court, citing *Crisostomo vs. Securities and Exchange Commission* and *Defensor-Santiago vs. Vasquez*, held that judgments in actions for injunction are not stayed by the pendency of an

appeal taken therefrom. This rule has been held to extend to judgments decreeing the dissolution of a writ of preliminary injunction, which are immediately executory.^[9]

The assailed resolution was issued by respondent CA justices in the proper exercise of their judicial functions. As such, this is not subject to administrative disciplinary action. The resolution issued was indeed based on existing law and jurisprudence. 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.^[10] Judicial officers cannot be subjected to administrative disciplinary actions for their performance of duty in good faith.^[11]

We noted that on 8 January 2015, respondent CA justices issued a resolution granting Khanna's motion for reconsideration and ordered for the staying of the execution of the court a quo's judgment, conditioned upon her posting of the bond in the amount of P500,000.00. Such later ruling only indicates that the respondent justices were just exercising their authority to pass upon and in their sound discretion, correct its earlier resolution. We further noted that the later resolution was issued even before the respondent CA justices received a copy of the administrative complaints filed against them. Such scenario rendered the allegations in the complaint against respondent CA justices illogical. If money was the consideration for a favorable ruling, then why was the motion for reconsideration of Khanna granted if she declined to accede to the alleged demand for money? The only plausible answer is that the resolution was issued based on the merits of the case.

In the aforesaid resolution dated 8 January 2015, the respondent CA justices explained that since Khanna was in possession of the property and was able to adduce evidence that she spent millions in renovating the subject property, it is but proper to stay the execution of the judgment and preserve the status *quo*.

In fine, in the absence of proof to the contrary, the presumption is that the respondent CA justices issued the resolutions 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.^[12]

The same thing cannot be said with respect to the other respondents herein. In the case of Judge Exmundo, Judge Gomez-Guillen and Sheriff Juan, the evidence presented by Khanna which were based on her personal knowledge, if established, would be sufficient to hold them administratively liable.

It appears that complainant is primarily to be blamed for the extortions because even at the outset she kept on looking for people who could assist her in getting favorable rulings from the courts where her cases are pending. It is regrettable, however, that Judge Exmundo, Judge Gomez Guillen and Sheriff Juan allowed themselves to be part of that scheme to thwart the administration of justice. These officials and personnel of the court preyed on a willing victim. Their actions although they may have been done outside the confines of their courts clearly tarnished the image of the judiciary.

WHEREFORE, in the light of the foregoing premises, the Court hereby resolved to:

- RE-DOCKET** the instant administrative complaint filed by Dolora Cadiz Khanna as a regular administrative matter against Judge Ronald H. Exmundo, Regional Trial Court, 1) Branch 4, Kalibo, Aklan, Judge Fricia C. Gomez-Guillen, Branch 15, Metropolitan Trial Court, Manila and Apolinar S. Juan, Sheriff III, Branch 17, Metropolitan Trial Court, Manila;
- DIRECT** the Court Administrator, through any of his Deputy Court Administrators, to 2) investigate the aforesaid administrative complaint and **SUBMIT** a report and recommendation thereon within Forty Five (45) days from receipt hereof;
- DISMISS** the administrative complaint against Associate Justices Edgardo L. Delos Santos; Marilyn B. Lagura-Yap; and Jhosep Y. Lopez, all of the Nineteenth Division, 3) Court of Appeals for utter lack of merit.

SO ORDERED.

Sereno, C. J., Carpio, Velasco, Jr., Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Mendoza, Reyes, Perlas-Bernabe, Leonen, Jardeleza, and Caguioa, JJ., concur.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on November 29, 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 December 16, 2016 at 1:10 p.m.

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

^[1] Apolinar S. Juan as stated in his Verified Comment dated 16 February 2015, *rollo*, pp. 116-120.

^[2] *Rollo*, pp. 3-14.

^[3] *Id.* at 102-103.

^[4] *Id.* at 173-178.

^[5] *Id.* at 108-112.

^[6] *Id.* at 116-120.

^[7] *Id.* at 16-146, 162-168 and 195-205.

^[8] *Rivera v. Mendoza*, 529 Phil. 600, 602 (2006) citing *Barcena v. Gingoyon*, 510 Phil. 546, 555 (2005).

^[9] *Rollo*, pp. 70-71.

^[10] *Ceniza-Layese v. Asis*, 590 Phil. 56, 60 (2006).

^[11] *Re: Complaint filed by Lucena B. Rallos against Justices Gabriel T. Ingles, Pamela Ann Maxino, and Carmelita S. Manahan*, 723 Phil. 1, 4 (2013).

^[12] *Crisologo v. Daray*, 584 Phil. 366, 374 (2008).

Date created: March 06, 2019