

**RICARDO L. PARAS, COMPLAINANT, VS. JUDGE REYNALDO ROURA,
REGIONAL TRIAL COURT, BRANCH 55, MACABEBE, PAMPANGA,
ATTY. FRUMENCIO C. PULGAR, AND MR. DIOSDADO CARREON,
DEPUTY SHERIFF...**

Adm. Case No. 3180. June 29, 1988

Ponente: FELICIANO, J.

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FELICIANO, J.:

This is an administrative case against: (1) Judge Reynaldo Roura, Regional Trial Court, Branch 55, Macabebe, Pampanga; (2) Atty. Frumencio C. Pulgar, Makati, Manila and (3) Mr. Diosdado Carreon, Deputy Sheriff, Regional Trial Court, Branch 55, Macabebe, Pampanga — for disregarding and violating a Resolution of the Court of Appeals dated 3 March 1987 issued in CA-G.R. No. 11443 entitled "Philippine Rabbit Bus Lines, Inc. vs. Hon. Reynaldo V. Roura, etc. et al." The complainant is Mr. Ricardo L. Paras, who apparently filed this Complaint in his capacity as General Manager of Philippine Rabbit Bus Lines, Inc. ("Philippine Rabbit").

This administrative case arose from the following undisputed facts.

On 8 August 1986, respondent Judge Roura rendered a Decision finding Oscar G. Tiglao, former driver of the Philippine Rabbit, guilty of the crime of damage to property with multiple serious physical injuries through reckless imprudence. This Decision awarded complainant Rosanna Del Rosario the following sums: P74,861.82 for actual damages; P54,000.00 for lost income; and P150,000.00 for moral damages. The Decision became final and executory and a Writ of Execution was issued against Oscar G. Tiglao.

Because the Writ of Execution was returned unsatisfied, respondent Judge issued an Order dated 5 December 1986 directing issuance of a Subsidiary Writ of Execution against the employer of Oscar G. Tiglao, that is, the Philippine Rabbit. Upon receipt of this Order, Philippine Rabbit filed a Notice of Appeal which was denied by the respondent Judge in an Order dated 14 January 1987. Meantime, on 6 December 1986, a Subsidiary Writ of Execution was issued to respondent Deputy Sheriff Carreon. Two months later, on 6 February 1987 respondent Sheriff Carreon levied upon an Isuzu bus of Philippine Rabbit, with Body No. 239. Respondent Sheriff Carreon issued a Notice of Sale of Philippine Rabbit Bus No. 239 and scheduled the public auction sale thereof on 6 March 1987.

Philippine Rabbit's Motion for Reconsideration of the 5 December 1986 Order of respondent Judge was denied in another Order dated 27 February 1987.

On 2 March 1987, Philippine Rabbit went on a Petition for Certiorari and Prohibition, with prayer for a preliminary mandatory injunction, before the Court of Appeals, seeking to enjoin the implementation of the Subsidiary Writ of Execution issued on 6 December 1986. Philippine Rabbit impleaded respondents Judge Roura, Deputy Sheriff Carreon, and complainant Rosanna del Rosario "represented [therein] by Atty. Frumencio N. Pulgar."

On 3 March 1987, the Court of Appeals issued a Resolution, the relevant part of which read as follows:

"In the meantime, in order that the issues raised in this petition may not be considered moot and academic, let a temporary restraining order be issued enjoining the herein respondents or any person or persons acting for and on their behalf from implementing the questioned Subsidiary Writ of Execution dated December 6, 1986 and from proceeding with the scheduled Sheriff Sale to be held on March 6, 1987 at 9:30 A.M. until further Order (sic) from this court.

SO ORDERED."

Pursuant to the above Resolution, a Temporary Restraining Order addressed to all three (3) respondents herein was issued by the Court of Appeals on the same date.

By Letter dated 30 March 1987, respondent Pulgar, acting as counsel for Rosanna del Rosario, reminded Deputy Sheriff Carreon that the Temporary Restraining Order, dated 3 March 1987, issued by the Court of Appeals had expired on 24 March 1987. Respondent Pulgar cited B.P. 224 as well as *Dionisio vs. Court of First Instance, South Cotabato, Branch II*, 124 SCRA 222 (1983) and *Ubarra vs. Tecson*, 134 SCRA 4 (1985) and requested the Deputy Sheriff to proceed with the sale of Philippine Rabbit Bus No. 239 on 10 April 1987. Acting on this request, respondent Deputy Sheriff Carreon issued a Sheriffs Notice of Sale on 7 April 1987 setting the date of the public auction sale of Bus No. 239 on 14 April 1987.

Philippine Rabbit reacted by filing, on 13 April 1987, with the Court of Appeals an Urgent Motion seeking the extension of the lifetime of the Temporary Restraining Order on the same date and by filing with the respondent Judge an "Urgent Ex-Parte Motion to Hold in Abeyance the scheduled sale of PRBL, Inc. property."

In his Order dated 14 April 1987, respondent Judge denied Philippine Rabbit's Ex-Parte Motion for having become moot and academic, the auction sale of Philippine Rabbit Bus No. 239 having taken place as scheduled and Rosanna del Rosario, being the highest bidder, having already bought Bus No. 239 for the amount of P250,000.00.

By Resolution dated 8 May 1987, the Court of Appeals, among other things, granted Philippine Rabbit's application for a preliminary injunction, the effectivity of which was conditioned upon Philippine Rabbit's filing a bond covering the award of damages by the trial court. Upon subsequent motion of Philippine Rabbit, the Court of Appeals by still another Resolution dated 30 June 1987, resolved to annul the 14 April 1987 auction sale conducted by respondent Deputy Sheriff Carreon, as violative of its Resolutions dated 3 March 1987 and 8 May 1987. The Court of Appeals ordered respondent Judge to release Bus No. 239 to Philippine Rabbit, the latter having posted the required bond.

In this administrative case, complainant contends that respondents Judge Roura, Deputy Sheriff Carreon and Atty. Pulgar are administratively liable for implementing the Subsidiary Writ of Execution notwithstanding the presence of the Temporary Restraining Order of 3 March 1987 issued by the Court of Appeals restraining the respondents from implementing that Subsidiary Writ of Execution "until further order (sic) from [the Court of Appeals]." It appears to be complainant's theory that the phrase "until further order from [the Court of Appeals]" had the effect of restraining respondents from implementing the Subsidiary Writ indefinitely until the restraining order is lifted by the issuing court.

This administrative complaint has no legal basis.

Section 8 of the Interim Rules and Guidelines embodied in the en banc Resolution of the Supreme Court dated 11 January 1983, which section in effect reproduces Section 5, Rule 58 of the Rules of Court, as amended by B.P. Blg. 224 dated 16 April 1982, set out a general rule concerning the duration of effectivity of restraining orders

issued by "all inferior courts" in the following terms:

"Section 8. Preliminary Injunction not granted without notice; issuance of restraining order. No preliminary injunction shall be granted without notice to the defendant. If it shall appear from the facts shown by affidavits or by the verified complaint that a great or irreparable injury would result to the applicant before the matter can be heard on notice, the judge to whom the application for preliminary injunction was made, may issue a restraining order to be effective only for a period of twenty days from the date of its issuance. Within said twenty-day period, the court must cause an order to be served on the defendant, requiring him to show cause, at a specified time and place, why the injunction should not be granted, and shall accordingly issue the corresponding order. In the event that the application for preliminary injunction is denied, the restraining order is deemed automatically vacated" (*Italics supplied*)

In *Celso Defalobos v. Hon. Gregorio U. Aquilizan, etc., et al.*,^[1] this Court dealt with the effect of lapse of the 20-day period upon the restraining orders. There, in ordering the release on habeas corpus of petitioner who had been imprisoned for contempt of court for disregarding a temporary restraining order issued by the respondent court, the Supreme Court said:

"At the outset, the extension by the respondent judge of the restraining order issued on March 23, 1983 was already void for being violative of Batas Pambansa Blg. 224. It is well settled that the life span of a temporary restraining order automatically expires on the 20th day by the sheer force of law and no judicial declaration to that effect is necessary. (See *Ortigas & Company Limited Partnership v. Hon. Vivencio M. Ruiz, et al.*, G.R. No. 33952, March 9, 1987). Therefore, as correctly contended by the Solicitor-General, there was no effective restraining order which the petitioner could have disobeyed, x x x."^[2]

More recently, on 12 April 1988, in *Delbros Hotel Corporation v. The Intermediate Appellate Court, etc., et al.*, G.R. No. 72566, the Supreme Court in a ten (10) to four (4) decision (with one abstention) held that the abovequoted Section 8 of the Interim Rules and Guidelines is applicable to temporary restraining orders issued by the Court of Appeals. The majority, speaking through Mr. Justice Fernan, said:

"The applicability of the above-quoted provision to the then Intermediate Appellate Court, now the Court of Appeals, can hardly be doubted. The Interim Rules and Guidelines were promulgated to implement the Judiciary Reorganization Act of 1981 (B.P. Blg. 129) which included the Intermediate Appellate Court among the courts reorganized thereunder. This is emphasized in the preamble of the Interim Rules which states that the same shall apply to 'all inferior courts according to the Constitution.' The term 'inferior courts' as used therein refers to all courts except the Supreme Court, the Sandiganbayan and the Court of Tax Appeals. Thus, paragraphs 14 and 15 of the Interim Rules expressly provide for 'Procedure in the Intermediate Appellate Court.'

Indeed, if paragraph 8 of the Interim Rules were not intended to apply to temporary restraining orders issued by the respondent Court, there would have been absolutely no reason for the inclusion of said paragraph in the Interim Rules. The limited life-span of temporary restraining orders issued by the regional trial courts and municipal trial courts is already provided for in B.P. Blg. 224. It was precisely to include the Intermediate Appellate Court within the same limitation as to the effectivity of its temporary restraining orders that B.P. Blg. 224 was incorporated in the Interim Rules, with the significant change of the word 'judge' to 'court,' so as to make it clear and unequivocal that the temporary restraining orders contemplated therein are those issued not only by trial judges but also by justices of the appellate court.

Private respondents argue that it is impractical to apply paragraph 8 of the Interim Rules to the respondent court because the latter's processes are enforceable throughout the country and there could be instances when the twenty-day period of the effectivity of a temporary restraining order would lapse before it is served on the parties concerned. This allegation appears to be more illusory and imaginary than real. Private respondents have not cited any single, actual instance when such eventuality had occurred. Its possibility is deemed remote

and unlikely considering the present state of fast and efficient modes of communication as well as the presumed eagerness of a party-litigant who has secured a temporary restraining order to have the same immediately served on the parties concerned with the least waste of time."

It follows, therefore, that respondent Judge Roura did not violate any legally effective act or order of the Court of Appeals when he dismissed Philippine Rabbit's ex parte Motion to Hold in Abeyance the scheduled sale of PRBL, Inc. property. Similarly, the Temporary Restraining Order of 3 March 1987 of the Court of Appeals had already lapsed when Deputy Sheriff Carreon implemented anew on 14 April 1987 the Subsidiary Writ of Execution and Atty. Pulgar's act of requesting in writing the Deputy Sheriff to proceed with the Notice of Sale upon expiration of the twenty-day period, was strictly in accordance with law. There was no legal impediment to the acts of Atty. Pulgar and Deputy Sheriff Carreon. Finally, there is nothing in the record to suggest that the respondents acted otherwise than in entire good faith.

ACCORDINGLY, Administrative Case No. 3180 is hereby DISMISSED for lack of merit. Costs against complainant.

Fernan (Chairman), Bidin, and Cortes, JJ., concur.
Gutierrez, Jr., J., on leave.

[1] 150 SCRA 55 (1987).[2] 150 SCRA at 58; italics supplied.

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