LORENZO PASCUAL, RODOLFO FELIX, EDDIE BARLAN, CELSO DIZON MANEJA, AND NARDITO METURADA, COMPLAINANTS, VS. JUDGE CESAR M. DUMLAO, MUNICIPAL TRIAL COURT, SAN MATEO, ISABELA, RESPO...

A.M. No. MTJ-01-1350. July 20, 2001

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an administrative complaint filed against Judge Cesar M. Dumlao of the Municipal Trial Court, San Mateo, Isabela for gross negligence in the performance of his duties as a judge and gross ignorance of the law in connection with the trial of three cases of forcible entry, namely: (1) Civil Case No. 2293, entitled "Zosimo Agbayani v. Estrella Felix, Eddie Barlan, Rodolfo Felix, Celso Dizon, Elmer Pascual, Lorenzo Pascual, and Narding Meturada"; (2) Civil Case No. 2294, entitled "Mario Tolentino, represented by Attorney-in-fact Pedro Pascual v. Estrella Felix, et al."; and (3) Civil Case No. 2295 entitled, "Juanito Castro v. Estrella Felix, et al."

Complainants were the defendants in those cases. It appears that complainants' claim to the lands in question is based on the grant made by the Deparment of Environment and Natural Resources (DENR) in 1992, to complainants' predecessors-in-interest, Feliza Vda. De Felix and Estrella Felix, who in 1995 instituted the herein complainants to help them in the cultivation of the land.

The three cases were assigned to respondent Judge Cesar M. Dumlao. On the same day (December 4, 1995) the cases were filed, respondent judge issued a Joint Order,[1] directing the issuance of a temporary restraining order against herein complainants enjoining them from committing further acts of dispossession against the therein plaintiffs.

Complainants moved for a reconsideration[2] on the ground that it was issued in violation of this Court's Circular No. 20-95. But respondent judge in another order,[3] dated March 26, 1996, denied the motion for reconsideration for being moot and academic on the ground that the effectivity of the TRO had expired without an injunction issued against complainants who in fact remained in possession of the subject premises.

On March 25, 1996, the therein plaintiffs in the forcible entry cases filed a "Motion to Deposit Harvest," praying that complainants be ordered to deposit in court their net harvest from the lands in dispute. On the same day, respondent Judge Dumlao issued another Joint Order granting the Motion to Deposit Harvest. His order reads:

> JOINT ORDER
>
> SUBMITTED for the consideration of the Court is a Motion to Deposit Harvest filed by the plaintiffs pending the final disposal of the case.
>
> Considering the urgency of the motion, it being harvest season, and in order that the harvest from the land subject of litigation be properly accounted and protected for the final disposition of the court in favor of the prevailing parties, the motion is hereby granted.

> WHEREFORE, premises considered, the defendants and all persons acting in their behalf are hereby ordered to deposit the harvest from the land subject of the litigation.
>
> The Clerk of Court or any appointed Sheriff shall supervise the harvesting and threshing activities in the farm. For this purpose, the assistance of the Philippine National Police in the jurisdiction may be engaged to preserve peace and order. All parties shall be notified and present during the harvesting and threshing.
>
> It is further ordered that defendants submit to [the] court an itemized expenses incurred from the preparation of the land, [from] planting up to the harvesting for study and scrutiny by the plaintiff[s] to arrive at the actual net harvest. The expenses of the land prior to [the] harvest shall be deducted from the gross harvest and to be delivered to the defendants as reimbursements. The net proceeds from the harvest shall be deposited to the Court in its peso equivalent for final disposition upon the termination of the case to the prevailing party/parties.
>
> SO ORDERED.[4]

Complainants moved for a reconsideration[5] on the ground that respondent's order was issued in violation of Rule 15, specifically §§4 and 5, of the Rules of Court which require that every written motion required to be heard must be served to the adverse party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice, and that the notice of hearing must specify the time and date of hearing. Complainants further contended that neither the Civil Code nor the Rules of Court authorizes the trial court to order the deposit of the harvest in forcible entry cases.

Anticipating the denial of their motion, complainants sought the inhibition of respondent Judge Dumlao[6] on the ground of manifest partiality towards the plaintiffs. On April 8, 1996, respondent set complainants' motion for reconsideration of the order, dated March 25, 1996, granting the deposit of the harvest and the motion for the inhibition of respondent. At the hearing, complainants demanded a formal accounting of the harvest taken by the sheriff.

On April 17, 1996, complainants filed this administrative complaint against respondent, accusing the latter of bad faith and gross ignorance of the law in issuing the Joint Order, dated December 4, 1995, directing the issuance of the temporary restraining order, and the Joint Order, dated March 25, 1996, granting the motion to deposit the harvest in violation of Supreme Court Administrative Circular No. 20-95 and Rule 15, §§4 and 5 of the Rules of Court. Complainants averred that respondent judge erred in issuing the order of March 25, 1996 as the question in the three cases for forcible entry was possession, and did not touch upon the harvest of the land; that respondent judge was grossly negligent in failing to act on their motion for reconsideration of the Joint Order, dated December 4, 1995, granting a TRO until after the lapse of more than three (3) months by which time the TRO had already expired; and that respondent judge, through dishonesty and corruption, failed to act on their demand for an accounting of the harvest, despite the fact that Sheriff Asirit and his group had taken the harvest more than ten (10) days before.[7]

Commenting on the allegations against him, respondent maintains that he issued the temporary restraining order without prior hearing "to avert any harm, injuries or even death as what usually happens during the land preparation period." He claims that complainants were subsequently heard on the application for a writ of preliminary injunction. He alleges that the forcible entry cases had long been disposed of and the appellate court's decision had already been duly executed. Respondent avers that complainants admitted during the trial of the cases that they intruded on other adjacent properties beyond the three-hectare area awarded by the DENR to their predecessors-in-interest and later vacated the rest to the lawful owners. Respondent insists that "he should be praised, rather than being reprimanded, for his quick response to the dangerous situation, to protect the life and limb of the parties to the case."[8]

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In its report, dated January 15, 2001, the Office of Court Administrator found the complaint in this case to be partly meritorious. It concedes that it is discretionary on the part of the judge to determine whether or not there exists an extreme urgency of the situation necessitating the issuance of a restraining order. However, it believes that in fixing the duration of the TRO, respondent acted with gross ignorance of the law, in violation of this Court's Administrative Circular No. 20-95. As to the charge of negligence in resolving complainants' motion for reconsideration of the Joint Order, dated December 4, 1995 (which granted the prayer for TRO), the OCA found the evidence presented by complainants to be inconclusive on the ground that complainants failed to state whether or not the plaintiffs had filed an opposition to complainants' motion and the date when their motion was submitted for resolution.

On the question of the deposit of the harvest, the OCA found that respondent judge erred in granting the same on the same day the motion was filed without a hearing thereon and despite the fact that the motion of the plaintiffs was defective as it did not contain a notice of hearing addressed to the therein defendants. However, as these grounds were not raised by complainants, the OCA believes complainants waived the same.

As to the propriety of respondent judge's act in granting the motion of therein plaintiffs to deposit the harvests with the trial court, the OCA found the same to be essentially judicial in nature, and, therefore, not a proper ground for an administrative complaint. Nonetheless, the OCA agreed with complainants that respondent erred in failing to order an accounting of the harvest.

The OCA also noted that aside from the instant case, respondent judge has two other cases[9] pending against him. The OCA recommends that the complaint be redocketed as a regular administrative matter and that respondent judge be fined in the amount of P10,000.00 for gross ignorance of the law with a warning that a repetition of the same offense will be dealt with more severely in the future.

We find the recommendation to be well taken.

First. Administrative Circular No. 20-95 provided:

> SUBJECT: RE: SPECIAL RULES FOR TEMPORARY RESTRAINING ORDERS AND PRELIMINARY INJUNCTIONS
>
> (1) Where an application for temporary restraining order (TRO) or writ of preliminary injunction is included in a complaint or any initiatory pleading filed with the trial court, such complaint or initiatory pleading shall be raffled only after notice to the adverse party and in the presence of such party or counsel.
>
> (2) The application for a TRO shall be acted upon only after all parties are heard in a summary hearing conducted within twenty-four (24) hours after the records are transmitted to the branch selected by raffle. The records shall be transmitted immediately after raffle.
>
> (3) If the matter is of extreme urgency, such that unless a TRO is issued, grave injustice and irreparable injury will arise, the Executive Judge shall issue the TRO effective only for seventy-two (72) hours from issuance but shall immediately summon the parties for conference and immediately raffle the case in their presence. Thereafter, before the expiry of the seventy-two (72) hours, the Presiding Judge to whom the case is assigned shall conduct a summary hearing to determine whether the TRO can be extended for another period until a hearing in the pending application for preliminary injunction can be conducted. In no case shall the total period of the TRO exceed twenty (20) days, including the original seventy-two (72) hours, for the TRO issued by the Executive Judge.
>
> (4) With the exception of the provisions which necessarily involve multiple-sala stations, these rules shall apply to single-sala stations especially with regard to immediate notice to all parties of all applications for TRO.

In Civil Case No. 2293, the complaint for forcible entry against complainants stated in pertinent parts:

> - That on November 20, 1995, the defendants, [through] stealth and strategy, surreptitiously entered the above-described land, and began to plow the same, without justification; Plaintiff protested and advised defendants to refrain from further entering and cultivating the property, but they refused. Plaintiff then reported the incident to the Barangay Captain, but it was not settled.
>
> - That the concerted acts of the defendants had deprived plaintiff of his cultivation of his landholdings which is his only means of income, harvesting therefrom at least 195 cavans every cropping season;
>
> - That upon the filing of this complaint, a temporary restraining order should be issued by the court against defendants to maintain the status quo. That likewise a preliminary injunction be issued by the court after hearing and upon plaintiffs posting a bond to answer whatever damages defendants may suffer by reason of the injunction.[10]

Except for the amount of the harvest that each plaintiff allegedly lost or stood to lose due to complainants' occupation of the properties, the complaints in Civil Case No. 2294 and 2295[11] basically had the same allegations.

Injunction is a preservative remedy for the protection of one's substantive right or interest. It is granted only when there is a pressing necessity to avoid injurious consequences which cannot be remedied under any standard compensation. Its issuance rests upon the existence of an emergency or a special reason before the main case can be regularly heard.[12] It is for the party requesting an injunction to demonstrate clearly the presence of one or more of the grounds for its issuance.[13]

The allegations in the complaints in the three cases as above-quoted are insufficient to justify the issuance of a temporary restraining order. As correctly pointed out by complainants in their first motion for reconsideration, irreparable injury does not have reference to the amount of damages that may be caused but rather to the difficulty of measuring the damages inflicted. Administrative Circular No. 20-95 in clear terms requires that a grave and irreparable injury should exist, or may occur, to justify the issuance of a temporary restraining order without a hearing. What is more, complainants were in possession of the lands and the effect of the TRO was to dispossess them of the land, if not to transfer possession thereof to the plaintiffs.[14] Respondent's failure to comply with Administrative Circular No. 20-95 in issuing the TRO constitutes grave abuse of authority prejudicial to the proper administration of justice.[15]

Respondent says that the disputed land is agricultural and that injuries, or even death, are suffered during the "land preparation period." But if complainants were in possession of the lands, it is those seeking to oust them from possession of the lands who should be restrained rather than complainants. In any event, this does not excuse him from his failure to ascertain the factual basis for his issuance of the assailed temporary restraining order. Nor does it appear that within 72 hours of the issuance of the TRO he called the parties and heard them on the matter of injunction in order to minimize any possible prejudice to complainants.

We agree with the OCA that complainants failed to substantiate their claim that respondent acted in bad faith and from corrupt and dishonest motives in resolving their motion for reconsideration of the order granting the TRO. In administrative proceedings, the complainant has the burden of proving, by substantial evidence, the allegations in his complaint.[16]

Second. Respondent abused his authority in granting the Motion to Deposit Harvest of the plaintiffs on the same day and without notice of hearing addressed to the complainants given not later than 10 days after the filing of the motion as required in Rule 15, §§4 and 5 of the Rules of Court.[17] As complainants state:

> A cursory examination of the motion filed by the plaintiffs to deposit harvest of the land in controversy reveals that it failed to comply with the required 3-day notice rule provided for by Section 4, Rule 15, of the Rules of Court, the non-compliance of which renders the motion fatally defective, and that the court granting the said motion committed grave abuse of discretion (Ruiz, Jr. v. Court of Appeals, 220 SCRA 490 (1993)); that the motion did not contain a notice of hearing addressed to the defendants indicating the date and place of said hearing, pursuant to the provisions of Section 5, Rule 15, of the Rules of Court, non-compliance of which renders the motion to deposit a "mere scrap of paper" and it represents no question which merits the attention and consideration of the Court (Bank of the Philippine Islands v. Far East Molasses Corp., 198 SCRA 689 (1991); Prado v. Veridiano II, 204 SCRA 654 (1991); and Goldloop Properties, Inc. v. Court of Appeals, 212 SCRA 498 (1992)).
>
> The motion to deposit, however, contains a request addressed to the Clerk of Court, which states: "Please submit the foregoing motion for the consideration of the Honorable Court without further argument." In the case of Cledera v. Sarmiento, 39 SCRA 552 (1971), it was held that where a motion is (a) directed to the Clerk of Court, not to the parties, and (b) merely states that the same is submitted "for resolution of the court upon receipt thereof", said motion is fatally defective. In the case of Andrada v. Court of Appeals, 60 SCRA 379 (1974), it was likewise held that a "Manifestation and Motion" addressed to the Clerk of Court asking him to submit the motion to the Court, did not comply with the requirements of Section 5, Rule 15 and the subsequent action of the court thereon did not cure the flaw, for a motion with a notice fatally defective is a "useless piece of paper."[18]

Third. We also agree with the OCA's finding that respondent should be held liable for failure to order an accounting of the harvest taken by the sheriff.

To recapitulate, we find respondent guilty of abuse of authority and conduct prejudicial to the best interest of the service-

- In granting a TRO on the same day the motion was filed and without notice and hearing to complainants when the allegations in complaints did not show that grave or irreparable injury would be caused unless the TRO was issued;

- In granting the Motion to Deposit Harvest filed by the plaintiffs also on the same day the motion was filed and without notice and hearing; and

- In failing to order the sheriff to render an accounting of the harvest.

WHEREFORE, the Court finds Judge Cesar M. Dumlao of the Municipal Trial Court, San Mateo, Isabela, GUILTY of gross ignorance of the law and negligence in the performance of his duties and IMPOSES on him a FINE in the total amount of Ten Thousand Pesos (P10,000.00) with WARNING that repetition of the same or similar acts will be dealt with more severely.

SO ORDERED.

Bellosillo, (Chairman), Buena, and De Leon, Jr., JJ., concur.
Quisumbing J., on official business.

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[1] Annex F of Complaint, Rollo, p. 20.

[2] Annexes G, G-1, G-2, and G-3 of Complaint, id., pp. 21-24.

[3] Annex H of Complaint, id., p. 25.

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[4] Annex J of Complaint; id., p. 27.

[5] Annexes K, K-1, K-2, K-3, and K-4 of Complaint, id., pp. 28-32.

[6] Annexes L, L-1, L-2, L-3, and L-4 of Complaint, id., pp. 33-37.

[7] Rollo, pp. 3-5.

[8] Id., pp. 50-51.

[9] OCA IPI NO. 99-703-MTJ, entitled "Efren Morales, Sr. v. Judge Cesar Dumlao," for abuse of authority, conduct unbecoming a judge and violation of Circular No. 1-90; OCA IPI NO. 97-394-MTJ, entitled "Exec. Judge Artemio Alivia v. Judge Cesar Dumlao," for anomalous reduction of bail.

[10] Rollo, pp. 11-12.

[11] Id., pp. 15, 17-18.

[12] Lopez v. Court of Appeals, 322 SCRA 686 (2000) citing Philippine Airlines v. NLRC, 287 SCRA 672 (1998); Medina v. City Sheriff of Manila, 276 SCRA 133 (1997).

[13] Merville Park Homeowners Association, Inc. v. Velez, 196 SCRA 189 (1991).

[14] Central Bank v. De la Cruz, 191 SCRA 346 (1990).

[15] Adao v. Lorenzo, 316 SCRA 570 (1999); Abundo v. Manio, Jr., 312 SCRA 1 (1999); Golangco v. Villanueva, 278 SCRA 414 (1997).

[16] Cortes v. Agcaoili, 294 SCRA 423 (1998).

[17] Prior to the 1997 amendments.

[18] Rollo, pp. 29-30.

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