ATTY. ROMEO G. ROXAS, COMPLAINANT, VS. JUDGE ANTONIO N. EUGENIO, JR., REGIONAL TRIAL COURT, BRANCH 24, MANILA, RESPONDENT.

A.M. NO. RTJ-06-2008 [OCA-IPI NO. 05-2229-RTJ]. July 17, 2006

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

On April 5, 2005, Atty. Romeo G. Roxas filed a complaint against Judge Antonio M. Eugenio of the Regional Trial Court of Manila, Branch 24 charging him with gross ignorance of the law and abuse of authority.

Complainant alleges that he is one of the defendants in Civil Case No. 05-112229 entitled Auxencio Penaranda, in his own behalf, and Philippine Veterans Bank, represented by Auxencio Penaranda in his capacity as a Minority Stockholder in this Intra-corporate Derivative Suit v. Atty. Romeo G. Roxas, Col. Emmanuel De Ocampo, Atty. Peregrino Andres, Atty. Federico Manalo and the Board of Directors of Philippine Veterans Bank for "Disqualification of Stockholder, Annulment of Transfer of Shares; Cancellation of Subscription; Reconveyance and/or Restitution of Issued Shares and dividends; Damages and Injunction, with Prayer for Preliminary Injunction and TRO."

Atty. Roxas charges respondent judge with gross ignorance of the law and abuse of authority when he took cognizance of the said civil case and granted the prayer for the issuance of a temporary restraining order despite the fact that venue was improperly laid. He claims that the venue of the case lies with the courts of Makati considering that the principal office of the Philippine Veterans Bank is located in Makati City; that the defendants therein hold office in Makati City; and that herein complainant also resides in Makati City. Complainant further claims that he was denied his right to due process because he was not properly served with summons.

In his Comment, respondent judge states that he properly took cognizance of the civil case and that the courts of the City of Manila have authority to hear and determine the allegations thereof, citing Section 1 of Republic Act No. 3518, the Act creating the Philippine Veterans Bank which established the principal domicile and place of business of the bank in the City of Manila. He finds it immaterial and irrelevant that the present principal place of business of the bank is in Makati City.

As regards complainant's allegation that he was not effectively served with summons, the record shows that the hearing on April 1, 2005 proceeded only as against the other defendants and the order extending the temporary restraining order specifically exempted complainant from its effects.

The Office of the Court Administrator (OCA) in its Report dated May 5, 2006 recommended the dismissal of the instant administrative complaint for lack of merit.

We agree with the findings and recommendation of the OCA.

Respondent judge's alleged administrative liability hinges on the resolution of the issue of whether venue was improperly laid. This is a question of law and complainant's remedy is to question the same in an appropriate

judicial proceeding, not through an administrative case. It is axiomatic, as this Court has repeatedly stressed, that an administrative complaint is not the appropriate remedy for every irregular or erroneous order or decision issued by a judge where a judicial remedy is available, such as a motion for reconsideration, or an appeal. For, obviously, if subsequent developments prove the judge's challenged act to be correct, there would be no occasion to proceed against him at all. Besides, to hold a judge administratively liable for every erroneous ruling or decision he renders, assuming he has erred, would be nothing short of harassment and would make his position doubly unbearable. 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. It is only where the error is so gross, deliberate and malicious, or incurred with evident bad faith that administrative sanctions may be imposed against the erring judge.[1]

The filing of the instant administrative case against respondent judge is precipitate and premature. We note that simultaneous with the filing of this administrative complaint, an Urgent Motion to Dismiss (With Opposition to the Application of Preliminary Injunction with Motion to Lift Temporary Restraining Order) was filed by complainant. An administrative complaint against a judge cannot be pursued simultaneously with the judicial remedies accorded to parties aggrieved by his erroneous order or judgment. Administrative remedies are neither alternative nor cumulative to judicial review where such review is available to aggrieved parties and the same has not yet been resolved with finality. For until there is a final declaration by the appellate court that the challenged order or judgment is manifestly erroneous, there will be no basis to conclude whether respondent judge is administratively liable.[2]

Finally, to merit disciplinary action, the error or mistake committed by a judge should be patent, gross, malicious, deliberate, or done in bad faith. In the instant case, there is no allegation that the alleged error or mistake was deliberately committed by respondent judge with malice or bad faith.

WHEREFORE, in view of the foregoing, the instant administrative complaint is DISMISSED for lack of merit.

SO ORDERED.

Panganiban, C.J., (Chairman), Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

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[1] Mendova v. Afable, 441 Phil. 694, 701 (2002).

[2] Rodriguez v. Gatdula, 442 Phil. 307, 308-309 (2002).

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