GLORIA LUCAS, COMPLAINANT, VS. JUDGE AMELIA A. FABROS, METC, BRANCH 9, MANILA, RESPONDENT.

A.M. No. MTJ-99-1226. January 31, 2000

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

In a verified complaint[1] dated May 20, 1997, complainant Gloria Lucas charged respondent, Judge Amelia A. Fabros of the Metropolitan Trial Court, Branch 9, Manila, with Gross Ignorance of the Law and Grave Abuse of Discretion relative to Civil Case No. 151248 entitled "Editha F. Gacad, represented by Elenita F. Castelo vs. Gloria Lucas, for Ejectment".

Complainant, who was the defendant in the aforecited case, alleged that Judge Amelia A. Fabros issued an Order[2] dated February 26, 1997 granting the plaintiff's motion for reconsideration of the Order[3] dated January 13, 1997, which dismissed the case for failure of plaintiff and her counsel to appear at the Preliminary Conference.

Complainant averred that it is elementary, under Section 19 (c) of the Rules of Summary Procedure, that a motion for reconsideration is prohibited, but respondent judge, in violation of the rule, granted the motion for reconsideration. She added that, notwithstanding the fact that the respondent herself had pointed out in open court that the case is governed by the Rules on Summary Procedure,[4] the judge ordered the revival of the case out of malice, partiality and with intent to cause an injury to complainant.

Further, complainant alleged that the actuations of the respondent is in blatant disregard of the established rules on procedure, and it is an instance where the doctrine of IPSA LOQUITOR may once again may be applied by the Court to discipline judges.

On June 18, 1997, respondent judge was required to comment on the administrative complaint. In her Comment[5] dated September 16, 1997, she admitted that she granted the motion for reconsideration even if the same is a prohibited motion in an ejectment case. She explained, however, that it was granted in the interest of justice.

In her Comment, respondent stated:

> "The Order subject of this complaint is the Order dated January 13, 1997 dismissing the complaint for ejectment for failure of the plaintiff to appear for preliminary conference and more importantly her lawyer, Atty. Jose Suing, who was duly empowered to appear for preliminary conference by virtue of a Special Power of Attorney.
>
> Immediately upon learning the said order of dismissal and awarding of attorney's fees, Atty. Suing filed a Motion for Reconsideration on January 17, 1997 (Annex "A") stating that he failed to appear due to a sudden excruciating stomach pain. He further stated that his Secretary called the Court but to no avail until finally the call came through and she was informed that the case was dismissed. Over the objection of the defendant that the Motion for Reconsideration was a prohibited pleading which this Presiding Judge is fully aware of under

> the Rule on Summary Procedure, the Motion for Reconsideration was nonetheless granted in the interest of justice. The question is poised. Are the actuations of judges to be governed strictly by the Rule on Summary Procedure despite their belief in good faith that in special cases, its observance would result in a miscarriage of justice? This Presiding Judge does not think so. Judges are supposed to responsible Public Officials and should be able to perceive and discern circumstances which might lead to miscarriage of justice, thus, negating the very purpose and essence of the Rule on Summary Procedure. The Rule on Summary Procedure is not a straight jacket and it is believed it was never meant to be that. This is the reason why we have in the Rules of Court Section 5 (g) of Rule 135 which is one of the inherent powers of the Court, that is, to amend and control its process and orders so as to make them conformable to law and justice. Ignorance of the law, to the mind of the undersigned, is the act of a judge in taking legal steps or adopting procedure unknowingly aware that they are contrary to established Rules which should be known to the judge. This Presiding Judge in this particular case was fully aware of the Rule on Summary Procedure. She fully knew that the Motion for Reconsideration was a prohibited pleading but she still considered it because to deny it would result in a miscarriage of justice. It was not a capricious, whimsical and despotic act when viewed in the light of this circumstance.
>
> With respect to the allegation that the charge of ignorance of the law was compounded by the failure to issue a writ of execution, it bears stressing that the Order dated January 13, 1997 never gained finality because the plaintiff was able to file the Motion for Reconsideration within the fifteen (15) day period, that is, on January 17, 1997. But even if it is argued validly that the Motion for Reconsideration being a prohibited pleading did not interrupt the running of the period of appeal, still the said Order did not gain finality as far as defendant Gloria Lucas is concerned because as the record shows, it was she who received the Order, not her lawyer, Atty. Sulit."

The complaint and the Comment were referred to the Office of the Court Administrator for evaluation, report and recommendation after the case was docketed as an administrative matter. On August 25, 1997, OCA in a Memorandum, submitted the following findings:

> "After a careful perusal of the records of the case, we find that respondent Judge Fabros abused her discretion in granting the Motion for Reconsideration.
>
> Respondent Judge Fabros maintained that she could not be guilty of gross ignorance of the law as she knows that a motion for reconsideration of judgment is a prohibited motion in an ejectment case. She explained that although there is already a judgment dismissing the case, she granted the plaintiff's motion for reconsideration in the interest of justice since the reasons stated in the motion for reconsideration are meritorious.
>
> Respondent failed to realize that the first duty of the court is to apply the law and that when the law is clear and unambiguous, there is no room for interpretation. Although her intention was good, this could not free her from liability.
>
> Respondent should have denied the motion since the plaintiff had other judicial remedies like appeal."[6]

The Office of the Court Administrator recommended that respondent judge be fined in the amount of P2,000.00 for grave abuse of discretion. The Court, however, finds this recommendation without factual and legal basis.

As a rule, a motion for reconsideration is a prohibited pleading under Section 19 of the Revised Rule on Summary Procedure. Thus,

> "SEC. 19. Prohibited pleadings and motions. – The following pleadings, motions, or petitions shall not be allowed in the cases covered by this Rule.

xxx

> (c)

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> Motion for new trial, or for reconsideration of a judgment, or for reopening of trial;

xxx"

This rule, however, applies only where the judgment sought to be reconsidered is one rendered on the merits. As held by the Court in an earlier case involving Sec. 15 (c) of the Rules on Summary Procedure, later Sec. 19 (c) of the Revised Rules on Summary Procedure effective November 15, 1991: "The motion prohibited by this Section is that which seeks reconsideration of the judgment rendered by the court after trial on the merits of the case."[7] Here, the order of dismissal issued by respondent judge due to failure of a party to appear during the preliminary conference is obviously not a judgment on the merits after trial of the case. Hence, a motion for the reconsideration of such order is not the prohibited pleading contemplated under Section 19 (c) of the present Rule on Summary Procedure. Thus, respondent judge committed no grave abuse of discretion, nor is she guilty of ignorance of the law, in giving due course to the motion for reconsideration subject of the present complaint.

ACCORDINGLY, the complaint filed against respondent Judge Amelia A. Fabros is DISMISSED.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

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[1] Rollo, pp. 1-2.

[2] Id. at 3.

[3] Id. at 3-A.

[4] Id. at 5.

[5] Id. at 9-11.

[6] Id. at 29.

[7] Joven v. Court of Appeals, 212 SCRA 700, 707-708 (1992)

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