

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
CELESTINA B. CORPUZ, CLERK OF COURT IV, MUNICIPAL TRIAL
COURT IN CITIES, URDANETA CITY, PANGASINAN, RESPONDENT.**

A.M. No. P-00-1418. September 24, 2003

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This administrative case for Ignorance of the Law, Abuse of Authority and Grave Misconduct against respondent Celestina B. Corpuz originated from another administrative case, A.M. No. MTJ-99-1199[1] entitled "Francisco Lu vs. Judge Orlando Ana F. Siapno, MTC-Urdaneta, Pangasinan, Domingo S. Lopez, Sheriff IV, RTC-Urdaneta, Pangasinan, Branch 45 and Private Prosecutor Joselino A. Viray." In A.M. No. MTJ-99-1199, the Court, in its Decision dated 6 July 2000,[2] directed the Court Administrator to institute an administrative case against respondent Celestina Corpuz ("Corpuz"), Clerk of Court IV of the MTC-Urdaneta.[3]

The Facts

Francisco Lu ("Lu") was the defendant in a civil case for ejectment[4] raffled to Judge Orlando Ana F. Siapno[5] ("Judge Siapno") and docketed as Civil Case No. 4112. On 7 September 1995, Judge Siapno rendered a decision, the dispositive portion of which reads:

IN VIEW OF THE FOREGOING, judgment is rendered against Francisco Lu the following (sic):

- Ordering the defendant to immediately vacate the premises;
- The plaintiff may get the amount of P18,000.00 from the Office of the Municipal Treasurer, Urdaneta, Pangasinan, representing back rentals since August, 1992;
- To pay attorney's fees in the amount of P10,000.00;
- In accordance with the Rules, let a Writ of Execution be issued. (Emphasis supplied).

Lu's counsel received the decision on 13 September 1995. Lu filed a Notice of Appeal on the same day. Meanwhile, on 11 September 1995, Corpuz issued a writ of execution. Sheriff Domingo S. Lopez[6] ("Sheriff Lopez") implemented the writ on the same date by forcibly ejecting Lu from the premises.

Lu elevated the case to the Regional Trial Court of Urdaneta, Pangasinan, Branch 47 ("RTC-Branch 47"). While on appeal, RTC-Branch 47 issued a writ of preliminary mandatory injunction and declared void the writ of execution earlier issued by the MTC-Urdaneta. On 5 February 1996, RTC-Branch 47 rendered a judgment modifying the MTC decision by deleting the paragraph "(I)n accordance with the Rules, let a Writ of Execution be issued."

Lu filed an administrative complaint against Judge Siapno, Sheriff Lopez, and Atty. Joselino A. Viray,[7]

docketed as A.M. OCA IPI No. 97-381-MTJ and re-docketed as A.M. No. MTJ-99-1199. Lu charged Judge Siapno with: (1) gross incompetence in the performance of his duties for not dismissing Civil Case No. 4112; (2) gross ignorance of the law for rendering a decision providing in its dispositive portion the issuance of a writ of execution without notice and hearing; (3) abdication of official function; and (4) gross misconduct.

The Court,[8] in its Decision dated 6 July 2000, found Judge Siapno guilty of gross ignorance of the law for declaring, in the dispositive portion, the immediate execution of his decision. The Court thus fined Judge Siapno P5,000. The Court also found Sheriff Lopez guilty of gross abuse of authority and fined him P5,000. The Court forwarded the charge against Atty. Joselino A. Viray to the Office of the Bar Confidant for appropriate action. The Court directed the Office of the Court Administrator ("OCA") to institute the appropriate administrative case against Corpuz who was not impleaded in A.M. No. MTJ-99-1199. Thus, in the administrative complaint dated 10 August 2000, the OCA charged respondent Corpuz with Ignorance of the Law, Abuse of Authority and Grave Misconduct.

On 11 September 2000, the Court required respondent Corpuz to comment on the administrative complaint against her.

In her Comment dated 17 October 2000, Corpuz denies the charges against her. Corpuz alleges that she never signed any court process or writ without instruction from her superior. She claims that Judge Siapno "angrily" told her to implement the decision as it already directed the issuance of a writ of execution. She feared that Judge Siapno might cite her for insubordination. Corpuz admits that she issued the writ of execution. However, Corpuz claims that she issued the writ with the knowledge of Judge Siapno who instructed her to sign the writ. Corpuz further claims that the stenographer had already typed the writ when it was presented to her for signature.

The Court referred the administrative case against Corpuz to Executive Judge Joven F. Costales ("Investigating Judge Costales") of the RTC-Urdaneta, Pangasinan, Branch 45, for investigation, report and recommendation.

Report and Recommendation of the Investigating Judge

During the investigation, Corpuz admitted that there were several instances when she issued writs of execution immediately after Judge Siapno promulgated the decisions. Corpuz admitted that there were three ejectment cases - Civil Cases Nos. 4007, 4009, and 4124 - wherein the decisions and the writs of execution were signed, promulgated and issued on the same dates but no one complained. Investigating Judge Costales deduced that Judge Siapno did not force or coerce Corpuz into signing the writ of execution previously prepared by the stenographer. There was no reason for Judge Siapno to force or coerce Corpuz into signing the writ of execution because this was their practice as shown by the three ejectment cases Corpuz mentioned.

Investigating Judge Costales observed that Corpuz took literally what Judge Siapno declared in his Decision of 7 September 1995 that "[I]n accordance with the Rules, let a Writ of Execution be issued." Investigating Judge Costales believed that as second in command in the office, Corpuz should have guided or assisted her presiding judge. Investigating Judge Costales opined that Corpuz should have read the rules and procedure regarding the issuance of a writ of execution and could not simply reason out that she was doing a ministerial duty. Granting that Corpuz was only a commerce graduate, Investigating Judge Costales believed that Corpuz should have taken her position seriously by reading the basic laws to guide her work. Investigating Judge Costales recommended that Corpuz be fined P2,000.

OCA's Report and Recommendation

The OCA agrees with the findings and recommendation of Investigating Judge Costales. The OCA opines that the acts of signing and issuing a writ of execution without a motion for execution or a hearing prior to the issuance of

the writ indicate irresponsibility and incompetence. Having been a clerk of court for years, Corpuz should have been conversant with the specific requirements of the Rules of Court on the signing and issuance of the writ of execution. She occupies a very sensitive position that requires competence and efficiency to insure the public's confidence in the administration of justice. The OCA likewise agrees with the recommendation of Investigating Judge Costales that Corpuz be fined P2,000 for gross ignorance of the rules, with a warning that a repetition of the same or similar offense will be dealt with more severely.

The Court's Ruling

We agree with the conclusions and recommendation of the OCA and Investigating Judge Costales.

There is no dispute that Lu's counsel received the MTC decision on 13 September 1995 and filed a notice of appeal on the same day. Corpuz issued the writ of execution on 11 September 1995. Sheriff Lopez implemented the writ on the same day. In short, Corpuz issued the writ, and Sheriff Lopez implemented the same, at least two days before Lu's counsel received the MTC decision. Clearly, this is an improper procedure because the clerk of court issued the writ of execution before the losing party received the decision. As held in *Felongco v. Dictado*,^[9] reiterating the earlier case of *Dy v. Court of Appeals*,^[10] the losing party must first receive notice of the judgment before the court or its personnel can execute the judgment. The reason is that if such judgment is immediately executed without prior notice to the losing party, then such a party has no remedy if the evidence or law does not support the judgment.

Moreover, even if the MTC decision itself ordered that "a writ of execution be issued," this does not mean that notice of the motion for execution to the adverse party is unnecessary.^[11] The court cannot direct the issuance of a writ of execution *motu proprio*. This is what Section 8 of Rule 70^[12] provides:

SEC. 8. Immediate execution of judgment. How to stay same. – If judgment is rendered against the defendant, execution shall issue immediately, unless an appeal has been perfected and the defendant to stay execution filed a sufficient bond, approved by the justice of the peace or municipal court and executed to the plaintiff to enter the action in the Court of First Instance and to pay the rents, damages, and costs accruing down to the time of the judgment appealed from, and unless, during the pendency of the appeal, he deposits with the appellate court the amount of the rent due from time to time under the contract, if any, as found by the judgment of the justice of the peace or municipal court to exist. xxx

All moneys so paid to the appellate court shall be deposited in the provincial or city treasury, and shall be held there until the final disposition of the appeal, unless the court, by agreement of the interested parties, or in the absence of reasonable grounds of opposition to a motion to withdraw, or justifiable reasons, shall decree otherwise. Should the defendant fail to make the payments above prescribed from time to time during the pendency of the appeal, the appellate court, upon motion of the plaintiff, of which the defendant shall have notice, and upon proof of such failure, shall order the execution of the judgment appealed from with respect to the restoration of possession, but such execution shall not be a bar to the appeal taking its course until the final disposition thereof on its merits. (Emphasis supplied).

Section 8, Rule 70 explicitly provides that although execution is immediately executory, judgment may be stayed by perfecting an appeal, filing a supersedeas bond approved by the court and periodically paying the rents during the pendency of the appeal. As explained in *Kaw v. Judge Anunciacion, Jr.*,^[13] a party is not in a position to stay execution unless he receives notice of the filing of a motion for execution. After all, a party has 15 days to perfect his appeal and stay execution by filing a notice of appeal and supersedeas bond and periodically depositing the rentals. Unless he receives notice of a motion for execution, he cannot take these steps to stay execution. While the MTC decision authorized Corpuz to issue a writ of execution, its issuance prior to receipt by Lu of the decision was precipitate and against all sense of fair play. Clearly, Corpuz abused her authority.

Corpuz worked with the MTC-Urdaneta in 1974 as clerk and became a clerk of court in 1979 up to her retirement in 2002.[14] The fact that she was only a commerce graduate will not mitigate the offense or its penalty. As clerk of court for about 23 years, Corpuz should have been conversant with the specific requirements of the Rules of Court on the signing and issuance of the writ of execution.

As clerk of court, Corpuz occupies a very sensitive position that requires competence and efficiency to insure the public's confidence in the administration of justice. A clerk of court is a role model for other court employees to emulate in the performance of duties as well as in the conduct and behavior of a public servant. A clerk of court cannot err without affecting the integrity of the court or the efficient administration of justice.[15] Corpuz failed to meet these standards.

In his Report, Findings and Recommendation dated 23 October 2001, Investigating Judge Costales stated that Corpuz "is already 64 years old and soon she will be on compulsory retirement." [16] The OCA confirmed that Corpuz compulsorily retired on 5 May 2002 but her retirement benefits were withheld because of pending administrative cases.

WHEREFORE, we find the recommendations of Investigating Judge Joven F. Costales and the Office of the Court Administrator well-taken. Respondent Celestina B. Corpuz is FINED Two Thousand Pesos (P2,000) for gross ignorance of the Rules of Court and abuse of authority. This fine shall be deducted from her retirement benefits.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, and Ynares-Santiago, JJ., concur.
Azcuna, J., on leave.

[1] Formerly OCA IPI No. 97-381-MTJ.

[2] Penned by Associate Justice Minerva P. Gonzaga-Reyes (now retired), with Associate Justices Jose A.R. Melo (now retired), Jose C. Vitug, Artemio V. Panganiban, and Fidel P. Purisima (now retired), concurring.

[3] Now Municipal Trial Court in Cities.

[4] Entitled "Sps. Jorge San Juan and Maria Rosario San Juan v. Francisco Lu."

[5] Presiding Judge, MTC-Urdaneta, Pangasinan.

[6] Sheriff IV, RTC-Urdaneta, Pangasinan.

[7] Counsel of plaintiff in the ejectment case. See note 4.

[8] Third Division.

[9] A.M. No. RTJ-86-50, 28 June 1993, 223 SCRA 696.

[10] G.R. No. 93756, 22 March 1991, 195 SCRA 585.

[11] *Kaw v. Judge Anunciacion, Jr.*, 312 Phil. 1 (1995).

[12] The MTC decision was rendered on 7 September 1995 before an amendment was introduced in the 1997 Rules on Civil Procedure. Section 8 is now Section 19 of Rule 70, which reads:

SEC. 19. Immediate execution of judgment; how to stay same. – If judgment is rendered against the defendant,

execution shall issue immediately upon motion, unless an appeal has been perfected and the defendant to stay execution files a sufficient supersedeas bond, approved by the Municipal Trial Court and executed in favor of the plaintiff to pay the rents, damages, and costs accruing down to the time of the judgment appealed from, and unless, during the pendency of the appeal, he deposits with the appellate court the amount of rent due from time to time under the contract, if any, as determined by the judgment of the Municipal Trial Court. In the absence of a contract, he shall deposit with the Regional Trial Court the reasonable value of the use and occupation of the premises for the preceding month or period at the rate determined by the judgment of the lower court on or before the tenth day of each succeeding month or period. The supersedeas bond shall be transmitted by the Municipal Trial Court, with the other papers, to the clerk of the Regional Trial Court to which the action is appealed. xxx (Emphasis supplied).

[13] Supra, see note 11.

[14] Report, Findings and Recommendation of Investigating Judge Joven F. Costales, p. 4.

[15] Angeles v. Base, A.M. No. P-03-1670, 22 January 2003.

[16] p. 9, thereof.

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