

DEVELOPMENT BANK OF THE PHILIPPINES, COMPLAINANT, VS. JUDGE FEDERICO A. LLANES, JR., RESPONDENT.

A.M. No. MTJ-96-1105. January 14, 1997

Ponente: REGALADO, J.

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REGALADO, J.:

In a sworn complaint filed on May 31, 1995 with this Court by herein complainant, Development Bank of the Philippines (DBP), respondent Judge Federico A. Llanes, Jr. was administratively charged with gross ignorance of the law, gross neglect of duty and acts prejudicial to the interest of the Government based on his official actuations in Civil Case No. 2551 assigned to Branch I, Municipal Trial Court in Cities (MTCC) Laoag, City.

The case involved a complaint for unlawful detainer filed in that court on April 14, 1992 by complainant, as plaintiff, against one Julio Agcaoili. It is claimed that judgment was rendered therein in favor of DBP on October 14, 1993, which judgment became final and executory since no appeal was seasonably taken therefrom. On motion of herein complainant, a writ of execution was issued on January 21, 1994, but despite the lapse of more than six months, the writ was never enforced despite several motions of complainant for its implementation.

According to the findings of the Office of the Court Administrator, an administrative complaint was consequently filed by DBP against Leticia M. Aguto, Clerk of Court and Antonio Espejo, Deputy Sheriff, both of the same court, for the unreasonable delay in the enforcement of the writ. However, Judge Wenceslao Agnir, as investigating judge, dismissed the same due to the admission of herein respondent judge in the latter's First Indorsement, dated October 17, 1994, that it was he who directed Mrs. Aguto to hold in abeyance the enforcement of the aforestated writ because he had ordered an inventory of all cases pending in his court as of January 22, 1994. How and why the mere taking of the inventory should suspend regular court operations and judicial processes is not explained.

Required to comment because of the foregoing report and the present complaint of the DBP against him, respondent complied on March 8, 1996. This drew a reply from DBP which was filed on May 3, 1996 and to which respondent judge, this time through counsel, filed a rejoinder on August 26, 1996.

The Office of the Court Administrator correctly summarized the antecedents of this case, as culled from the records and the comment of respondent judge, these pertinent parts of which we adopt:

1. On April 14, 1992, DBP filed a complaint for unlawful detainer against Julio Agcaoili which was docketed as Civil Case No. 2551 pending before MTCC, Branch I, Laoag City where respondent was the permanently appointed Presiding Judge thereat;
2. On August 26, 1992, respondent issued an Order setting Civil Case No. 2551 for Preliminary Conference on September 10, 1992. On said date, however, while plaintiff and counsel were present, defendant and counsel were absent. Thus, respondent Judge granted complainant's manifestation that the case be reset to October 7, 1992;

3. After the Order dated September 10, 1992 was issued, respondent was detailed by the Honorable Supreme Court to preside over MTC of Manila on October 2, 1992;
4. Judge Manuelito A. Cid of MTC of Bacarra, Ilocos Norte, became the Acting Presiding Judge of MTCC, Branch I, Laoag City;
5. On March 29, 1993, plaintiff DBP filed a MANIFESTATION/MOTION submitted to the Court for consideration praying that the case be resolved;
6. On May 11, 1993, both parties filed a Joint Motion to Suspend Proceedings based on the allegations therein. However, respondent alleged that the record does not reflect whether or not Judge Manuelito Cid did act on the MANIFESTATION/MOTION, Joint Motion to Suspend Proceedings submitted for resolution;
7. On October 14, 1993, Acting Presiding Judge Cid unilaterally and arbitrarily rendered Judgment in Civil Case No. 2551, finding for the plaintiff and ordering defendant to vacate the subject premises;
8. On November 23, 1993 DBP filed a Motion for Execution of the Judgment dated October 14, 1993 on the alleged ground that the decision had become final and executory. However, on November 25, 1993 the MTCC-I received by registered mail a Notice of Appeal dated November 4, 1993 filed by defendant's counsel Atty. Pablo P. Magno which was registered on November 5, 1993, within the reglementary period to appeal. However, the clerk of Atty. Magno erred in addressing the envelope as follows:

The Clerk of Court

Regional Trial Court

Branch I

Laoag City

Hence, the mail was returned to Atty. Magno and finding the mistake, the Notice of Appeal was re-registered on November 18, 1993 with the following address:

The Clerk of Court

Municipal Trial Court

Branch I

Laoag City

(a)nd said Notice of Appeal was received by MTCC-I on November 25, 1993.

9. Likewise, Atty. Magno, counsel for the defendant Agcaoili filed in the same mail(ing) envelope of the Notice of Appeal, his pleading entitled "Motion to Amend Decision" dated November 3, 1993. Hence, it suffered the same fate as the Notice of Appeal and same was also received by the MTCC-I on November 25, 1993. This Motion was however ruled upon on December 1, 1993 by Judge Cid as follows:

"Under consideration is a Motion to Amend Decision.

It being a Motion amounting to no less than a Motion for Reconsideration of a Judgment (Section 19 [c], Revised Rules on Summary Procedure) the same is hereby denied for being prohibited under said Rules.

SO ORDERED.”

10. On December 1, 1993, however, Judge Cid issued an Order, considering the Notice of Appeal as filed within the reglementary period;

11. On December 8, 1993, the MTCC-I received a Motion for Reconsideration (of) Order of December 1993 and to Dismiss Appeal filed by plaintiff. However, MTCC-I received a Telegram addressed to Judge Cid from Atty. Pablo Magno, requesting that incidents in subject case be set for hearing on September 20, 1993;

12. On December 21, 1993, Judge Cid issued the following Order:

“The reglementary period therefor allowed has already lapsed for reasons which defendant has failed to amplify, the appeal was not perfected there being no docket fee and appeal bond submitted as other requisites for its perfection as required by the Rules. Other matters such as the hearing of incidents of the case as alleged in the telegraphic transmittal of counsel for the defendant are rendered moot and academic.

Wherefore, the Notice of Appeal is hereby denied and Judgment has become final and executory.”

13. On January 19, 1994, DBP filed a Motion for Execution by virtue of which a Writ of Execution dated January 21, 1994 was issued by Acting Executive Judge Cid. But the records as alleged by respondent do not show that an order was promulgated by Judge Cid granting the Motion for Execution furnishing a copy thereof to the defendant or Atty. Pablo Magno;

14. On January 24, 1994 respondent Judge returned to his permanent station;

15. On February 21, 1994 defendant Julio Agcaoili filed an Affidavit with MTC-I and the MTC-I received a telegram from Atty. Magno addressed to Judge Cid which reads:

“CIVIL CASE NO. 2551, DBP VS. JULIO AGCAOILI DEFENDANT JULIO AGCAOILI’S COUNSEL FILED THROUGH MAILS MOTION RECONSIDERATION ORDER DATED DECEMBER 21, 1993 ENCLOSING DOCUMENTS SHOWING APPEAL ON TIME, OFFICIAL RECEIPT OF PAYNET (PAYMENT) OF DOCKET FEE AND APPEAL.

AND STOP PLEASE AWAIT MOTION BEFORE RESOLVING OTHER INTEREST

THANK YOU

ATTY. PABLO P. MAGNO

COUNSEL FOR AGCAOILI”

16. On March 7, 1994 DBP filed an Ex-Parte Motion to Designate DBP Special Sheriff and since the issue of whether or not a proper appeal was perfected by defendant Agcaoili, respondent issued an Order dated March 10, 1994 which reads:

“In the interest of justice, the Clerk of Court is hereby directed to verify immediately as to the truthfulness of the allegations contained in the telegram of Atty. Pablo P. Magno, counsel for the defendant to this Court dated February 22, 1994 regarding the Motion for Reconsideration dated December 21, 1993 which he allegedly filed through the mail and where documents showing that appeal was filed on time, the official receipt of payment of docket fee and appeal bond were enclosed therein. A report on the matter should be submitted to the Court within 10 days from today.

SO ORDERED.”

After investigation and based on the records, the docketing fees were actually paid on November 10, 1993 as per Official Receipts Nos. 3344127 and 3344036 (pp. 128-129, 132, rec.);

17. Hence, on April 18, 1994, respondent Judge issued an ORDER which set for hearing pending incidents in Civil Case No. 2551 on May 20, 1994 at 8:30 A.M. but said hearing was reset to July 14, 1994 with notice properly served to both parties;

18. On July 14, 1994, a new collaborating counsel for defendant Julio Agcaoili, Atty. German Coloma, appeared; but because of the absence of DBP's counsel despite notice and the manifestations of Atty. Coloma, thereafter respondent issued an ORDER explaining the available facts and the situation existing, and rescheduled the hearing of all incidents on August 11, 1994 at 8:30 A.M.;

19. On August 11, 1994, both parties appeared in Court. After manifestations were made, Atty. Bacolor of DBP asked that the hearing on his Ex-Parte Motion to Designate DBP Sheriff be reset after 15 days and the case was reset to August 18, 1994;

20. On August 18, 1994, both parties appeared thru their respective counsel who manifested their respective theories/positions. After hearing both parties, respondent issued an ORDER which reads:

“As prayed for by Atty. Herman Coloma, counsel for the defendant, that he be given 15 days within which to file his position paper on the observations he has made on the proceedings of the case leading to the rendition of the Judgment which observations seem to convey that there was non-compliance of the pertinent provisions of the Rules on Summary Procedure in arriving (at) the aforesaid Judgment of this case, the same is hereby granted.

Wherefore, Atty. Herman Coloma is hereby ordered to file his aforesaid position paper within fifteen (15) days upon receipt of this Order, furnishing a copy thereof to Atty. Rogelio Bacolor, counsel for the plaintiff, for his comment or opposition thereon which should be filed within the same period of fifteen (15) days.

SO ORDERED.”

21. On September 2, 1994, Atty. Coloma filed his POSITION PAPER raising and discussing the following issues:

- “1. That there was mis-trial if not lack or violation of due process in the case;
2. That indispensable parties were not joined in the action; and
3. That the proceedings in the case is full of legal irregularities if not infirmities.”

22. On October 11, 1994, respondent issued an ORDER, (the) pertinent portion of which (reads):

x x x

xxx Plaintiff's counsel was ordered to file his comment to the position paper within the same period of 15 days from receipt of his copy but (up) to the present he has not complied or submitted his comment to the aforesaid Position Paper, the Court therefore, in the interest of justice, hereby sets the hearing on the Position Paper of the defendant on October 27, 1994 at 2:00 in the afternoon.

Notify all parties to this case.

SO ORDERED.”

23. After October 11, 1994, the Court was furnished with papers demonstrating negotiations between Julio Agcaoili and DBP and by acquiescence of the parties the proceedings were in effect suspended. But on March 15, 1995, respondent issued the following ORDER:

“The case, not having been heard on October 27, 1994, as previously scheduled, by reason of the fact that the herein Presiding Judge was then in the Supreme Court on official business and as in the interregnum, there has been submitted to this Court a proposed agreement to repurchase the foreclosed properties including the lot and house subject matter of this action, which may lead to a Compromise Agreement, and since the Court has not as yet been informed as to whether or not said agreement has already been realized/finalized, in the interest of justice, this Court sets the Position Paper and the Proposed Agreement to Repurchase for hearing on March 31, 1995 at 9:00 in the morning.

Let the parties and their respective counsels be notified accordingly.

SO ORDERED.”

24. For the hearing on March 31, 1995, Atty. Coloma requested for a subpoena upon Mr. Francisco Domingo, DBP Branch Manager of Laoag City but he was not present on first call of the calendar. Hence, the respondent effected another subpoena to be served upon him to appear at 11:00 A.M. on the same date of hearing. He refused to comply;

25. On May 18, 1995, respondent after discussing the issues raised and the facts established, decided in his ORDER, thus -

“WHEREFORE, based on all the foregoing, and considering further the inherent power of the Court vested in it under Section 5 (g), Rule 135 of the Revised Rules of Court, to amend and control its processes and orders so as to make them conformable to law and justice, this Court has no alternative but to declare a mis-trial and set aside all the proceedings held in the case at bar; to (include) indispensable parties namely: Modesty Ranada, Antonio H. Agcaoili, and Lucila Goyma, in addition to the original defendant Julio H. Agcaoili in this action. Consequently, let this be tried anew.

SO ORDERED.”

On the foregoing factual background, and as earlier stated, DBP claims that respondent judge should be held liable for ignorance of the law, gross neglect of duty, and acts prejudicial to the interest of the Government, specifically with respect to his order dated May 18, 1995. Respondent demurs and contends, on the other hand, that his questioned order was arrived at and issued in good faith, all in accordance with the law and the undisputed facts on record.

In support of his defense, respondent submits certain propositions which may be synthesized as follows:

- a) Respondent honestly and in good faith believes that the proceedings held before Judge Manuelito A. Cid are full of serious irregularities and violations of law which render the JUDGMENT dated October 14, 1993, ORDER dated December 21, 1993, and WRIT OF EXECUTION dated January 21, 1994 null and void, among others;
- b) Respondent honestly and in good faith believes that he had to rule and decide the new issues raised by counsel of defendant Agcaoili which complainant DBP failed to oppose and rebut despite notice and opportunity given by respondent to do so;

c) Respondent honestly and in good faith believes that he attended to all the incidents of the case before him without unnecessary delay. Had complainant DBP entertained the opinion that it was mandatory for respondent to implement the WRIT OF EXECUTION issued by Judge Cid as a ministerial duty, it should have forthwith filed with the Regional Trial Court and/or with the Court of Appeals a petition for mandamus questioning the actuations of respondent and compelling respondent to implement said WRIT OF EXECUTION, a remedy which i(t) failed to avail (itself of) and pursue; and

d) Even in the remote possibility that the respondent's ORDER dated May 18, 1995 is completely erroneous, nevertheless respondent rendered the same in good faith and the remedy of DBP is to appeal therefrom or question said ORDER by means of certiorari, prohibition and/or injunction with the appellate courts questioning the validity of said ORDER.

We are not persuaded by the remonstrations of respondent judge; on the contrary, we are favorably impressed with the merits of the evaluation submitted by the Office of the Court Administrator.

Primarily, it is clear from the records that the supposed notice of appeal of defendant Agcaoili was filed with the MTCC, Branch I, Laoag City only on November 25, 1993. This is further confirmed by a certified true copy of that notice of appeal with the date of November 25, 1993 stamped thereon as the actual date of its filing. Defendant Agcaoili having received the decision of the lower court on October 22, 1993, the notice of appeal filed thirty-four days thereafter was definitely out of time. It is somewhat absurd for respondent to argue that the notice was timely filed, only it was sent to the wrong court, that is, the Regional Trial Court (RTC), Branch I, Laoag City. There was no such RTC in Laoag City, hence when the notice was returned and ultimately received by the MTCC, the period for appeal had long expired. It thus strains reason to argue that during the hegira of the itinerant notice of appeal the reglementary period was suspended.

It is further a source of curiosity why respondent judge still had to set the case for hearing supposedly to resolve the issue as to whether or not there was a notice of appeal filed on time. This, in the face of the documentary evidence on record before him, and in spite of the fact that the matter had already been resolved and a writ of execution had been issued after such verification. We cannot, therefore, fault DBP for claiming that respondent was in effect allowing the procedural maneuvers of defendant Agcaoili to delay the execution of the judgment in its favor.

As further pointed out by the Office of the Court Administrator, even granting the very remote possibility that the notice of appeal was timely filed, the defendant had also failed to file in due time the requisite supersedeas bond, on which other count the judgment of the trial court had thereby become immediately executory. In view of this additional aspect, even if the case had been elevated on appeal to the proper court, the latter could not acquire appellate jurisdiction thereover, much less reverse or substantially modify the judgment of the court a quo.

Indeed, the Office of the Court Administrator was understandably abraded by the order issued by respondent on March 10, 1994 requiring the clerk of court to verify the claim of the defendant that he had filed by mail a motion for reconsideration regarding his submission of the appeal bond and payment of the docket fee. Respondent could not have been unaware that a motion for reconsideration is a prohibited pleading under Section 19 of the Revised Rule on Summary Procedure. To compound the mistake, he allowed the proceedings to drag thereafter and eventually exacerbated the protracted controversy by declaring a so-called "mis-trial" in the case although the judgment therein had long become executory.

We need not belabor jurisprudence to accommodate respondent's argument which in effect posits that not every judicial error bespeaks ignorance of the law and that, if committed in good faith, does not warrant administrative sanction. So we have ruled and so we have acted, but only in cases within the parameters of tolerable misjudgment. Where, however, the issues are so simple and the facts so evident as to be beyond permissible

margins of error, to still err thereon amounts to ignorance of the law which, hopefully, was not merely feigned to subserve an unworthy purpose.

WHEREFORE, respondent Judge Federico A. Llanes, Jr. is hereby ordered to pay a FINE of TEN THOUSAND PESOS (P10,000.00), to be deducted from either the salaries or retirement benefits due him, whichever is appropriate, in view of the reported approval of his disability retirement.
SO ORDERED.

Romero, Puno, Mendoza, and Torres, Jr., JJ., concur.

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