

CHARLTON TAN, COMPLAINANT, VS. JUDGE ABEDNEGO O. ADRE, RESPONDENT.

A.M. NO. RTJ-05-1898 (FORMERLY OCA IPI NO. 04-2037-RTJ). January 31, 2005

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

The instant administrative complaint arose from the affidavit-complaint[1] of Charlton Tan, charging Judge Abednego O. Adre, Regional Trial Court of Quezon City, Branch 88, with grave abuse of authority and gross ignorance of the law filed before the Office of the Court Administrator (OCA).

Complainant Charlton Tan was the respondent in a habeas corpus case[2] filed by his wife Rosana Reyes-Tan. On 24 March 2004, after giving due course to the petition, respondent judge issued the writ prayed for and ordered complainant to bring before the court the body of their daughter, Charlene Reyes Tan on 26 March 2004.[3] On the scheduled date of hearing,[4] the court provisionally turned over the custody of the child to the mother. A motion for reconsideration[5] praying for the return of the child to complainant or a shared custody be given to the parents was filed on 20 April 2004. When the motion was heard on 26 April 2004, the case was rescheduled to 03 August 2004, as Mrs. Tan was indisposed.[6] Allegedly sensing the partiality of respondent judge, complainant on 25 May 2004 filed a motion[7] to inhibit him, but the same was denied in an Order dated 15 June 2004.[8]

In his verified complaint dated 29 June 2004, complainant alleged that respondent judge acted with grave abuse of authority under the following circumstances: 1) when he at once issued the Order[9] granting the issuance of a writ of habeas corpus commanding him to appear before the court on 26 March 2004 at 8:30 in the morning and bring with him the subject minor, without first conducting a hearing for that purpose; 2) when he hurriedly turned over the custody of their daughter to his wife Rosana on the day of the hearing on 12 April 2004, immediately after their respective lawyers entered their appearances, without first hearing his side; and 3) respondent judge should have considered the fitness of Rosana as a mother, as the latter is not qualified because she is working in Japan and only comes to the Philippines for a five (5) to ten (10) days vacation; that she is now involved with another man, a Canadian named Marc Beauclair; and she does not possess the financial capacity to support Charlene.

Complainant questions the issuance of the Order[10] dated 26 April 2004, re-setting the hearing of the case on 03 August 2004 or an interval of four (4) months after respondent judge awarded provisional custody in favor of his wife to the detriment of his daughter. He added that respondent judge would be retiring on 10 July 2004, and this would unduly delay the case for he would have retired before the case can be heard and it may take time before a new judge will be appointed. Complainant also assails the denial of his motion for inhibition.

According to the complainant, the actuations of respondent judge showed abuse of authority and ignorance of the law.

In his comment,[11] respondent judge denied the complainant's allegations and maintained that the questioned order finds support in law and jurisprudence.

On 12 October 2004, the OCA submitted its report[12] recommending the dismissal of the complaint for lack of merit.

The Court finds the recommendation of the OCA to be well-taken.

The issues to be addressed in this complaint are: (1) whether or not the order of respondent judge issuing the writ constitutes abuse of authority; and (2) whether or not the order of respondent judge ordering the provisional custody of the four-year old child to her mother constitutes ignorance of the law.

Complainant asserts[13] that respondent judge acted with grave abuse of authority when he ordered the issuance of the writ, commanding him to appear before the court and bring with him the subject minor, without first conducting a hearing.

The contention is without merit.

A close scrutiny of Section 5, Rule 102 of the Rules of Civil Procedure on Habeas Corpus, shows that a court may grant the writ if it appears upon presentation of the petition that the writ ought to be issued. Thus, Section 5 states:

SEC. 5. When the writ must be granted and issued. –A court or judge authorized to grant the writ must, when a petition therefor is presented and it appears that the writ ought to issue, grant the same forthwith, and immediately thereupon the clerk of court shall issue the writ under the seal of the court; or in case of emergency, the judge may issue the writ under his own hand, and may depute any officer or person to serve it.

Clearly therefore, respondent judge was well within his authority when he issued the writ as no hearing is required before a writ may be issued.

Anent the grant of provisional custody of the minor, We find the same proper.

The law grants the mother the custody of a child under seven (7) years of age.[14] In the case at bar, it is uncontroverted that the child subject of the habeas corpus case is only four years old, thus, the custody should be given to the mother. Be it noted also that the questioned order was only provisional. As the term implies, “provisional” means temporary, preliminary or tentative.[15] The provisional custody granted to the mother of the child does not preclude complainant from proving the “compelling reasons” cited by him which can be properly ventilated in a full-blown hearing scheduled by the court for that purpose. We find the judge’s actuation in conformity with existing law and jurisprudence.

The acts of a judge which pertain to his judicial functions are not subject to disciplinary power unless they are committed with fraud, dishonesty, corruption or bad faith.[16] As a matter of policy, in the absence of fraud, dishonesty or corruption, the acts of a judge in his judicial capacity are not subject to disciplinary action even though such acts are erroneous.[17] Otherwise, a judicial office would be untenable, for “no one called upon to try the facts or interpret the law in the administration of justice can be infallible.”[18] He cannot be subjected to liability - civil, criminal, or administrative - for any of his official acts, no matter how erroneous, as long as he acts in good faith. In such a case, the remedy of the aggrieved party is not to file an administrative complaint against the judge but to elevate the error to the higher court for review and correction,[19] because an administrative complaint is not an appropriate remedy where judicial recourse is still available.[20] The court has to be shown acts or conduct of the judge clearly indicative of arbitrariness or prejudice before the latter can be branded the stigma of being biased and partial.[21] Not every error or mistake that a judge committed in the performance of his duties renders him liable, unless he is shown to have acted in bad faith or with deliberate intent to do an injustice.[22] Otherwise, perhaps, no judge, however competent, honest or dedicated he may be, can ever hope to retire from the judiciary with an unblemished record.[23]

For liability to attach for ignorance of the law, the assailed order of a judge must not only be erroneous; more importantly, it must be motivated by bad faith, dishonesty, hatred or some other similar motive.[24] In the case at bar, the questioned orders were issued after considering the pleadings filed by the parties. The orders were not issued without rhyme and reason. Respondent judge issued the questioned orders in apparent good faith without any proof or showing of malice, corrupt motives or improper consideration. There is not a scintilla of evidence, not even a remote indication, that the respondent judge, in issuing the questioned orders, was impelled by ill-will, malice, revenge, personal animosity, impulse to do injustice, greed, corrupt consideration or other similar motive. As a matter of public policy then, the acts of the judge in the case at bar in his official capacity are not subject to disciplinary action since good faith and absence of malice, corrupt motives or improper considerations, are sufficient defenses in which a judge charged with ignorance of the law can find refuge.[25]

It must be stressed that 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 the aggrieved parties and the same has not been resolved with finality 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.[26] In the case at bar, if complainant felt prejudiced by the order of respondent judge, he should have waited for the presentation of evidence in the hearing set for that purpose. In the event that respondent judge renders an adverse decision, he can file an appeal in the appropriate court, and not an administrative complaint against the judge.

Assuming in gratia argumenti that the questioned orders were erroneous, it must be remembered that mere error of judgment is not a ground for disciplinary proceeding.[27] Thus, respondent judge cannot be held liable, for if any error is involved, it is only an error of judgment.

Gross ignorance of the law is a serious accusation, and a person who accuses a judge of this very serious offense must be sure of the grounds for the accusation. When an administrative charge against a judge or any personnel of the court has no basis whatsoever, this Court will not hesitate to protect him against any groundless accusation that trifles with judicial processes. We will not shirk from our responsibility of imposing discipline upon employees and officials of the Judiciary, but neither shall we hesitate to shield the same officials or employees from unfounded suits that only serve to disrupt rather than promote the orderly administration of justice.[28]

WHEREFORE, the instant administrative complaint is DISMISSED for utter lack of merit.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, and Tinga, JJ., concur. Callejo, Sr., J., on official leave.

[1] Rollo, pp. 2-7.

[2] Sp. Proc. No. Q-04-52190.

[3] Rollo, pp. 14, 15.

[4] Rollo, pp. 16-26, TSN dated 12 April 2004.

[5] Rollo, pp. 54-58.

[6] Rollo, p. 58.

[7] Rollo, pp. 61-64.

- [8] Rollo, p. 68.
- [9] Rollo, p. 14.
- [10] Rollo, p. 58.
- [11] Rollo, pp. 70-74.
- [12] Rollo, pp. 75-78.
- [13] Rollo, p. 2, Affidavit-Complaint, p. 5.
- [14] Article 213 of the Family Code; David v. Court of Appeals, G.R. No. 111180, 16 November 1995, 250 SCRA 82.
- [15] Black's Law Dictionary, Fifth Edition, 1102.
- [16] Atty. Alberto P. Quinto v. Judge Gregorio S. Vios, Municipal Trial Court, Kapatagan, Lanao del Norte, A.M. No. MTJ-04-1551, 21 May 2004.
- [17] Daracan v. Natividad, A.M. No. RTJ-99-1447, 27 September 2000, 341 SCRA 161.
- [18] Villanueva-Fabella v. Lee, A.M. No. MTJ-04-1518, 15 January 2004, 419 SCRA 440.
- [19] Castanos v. Escano, Jr., A.M. No. RTJ-93-955, 12 December 1995, 251 SCRA 174.
- [20] Cepeda v. Cloribel-Purugganan, A.M. No. RTJ-04-1866, 30 July 2004.
- [21] Abdula v. Guiani, G.R. No. 118821, 18 February 2000, 326 SCRA 1.
- [22] Rallos v. Gako, Jr., A.M. No. RTJ-99-1484 (A), 17 March 2000, 328 SCRA 324.
- [23] Guerrero v. Villamor, A.M. No. RTJ-90-483, 25 September 1998, 296 SCRA 88.
- [24] Supra, note 18.
- [25] Guillermo v. Reyes, Jr., A.M. No. RTJ-93-1088, 18 January 1995, 240 SCRA 154.
- [26] Supra, note 16.
- [27] Balsamo v. Suan, A.M. No. RTJ-01-1656, 17 September 2003, 411 SCRA 189.
- [28] Dadizon v. Asis, A.M. No. RTJ-03-1760, 15 January 2004, 419 SCRA 456.

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