

DR. LUIS C. BENZON, COMPLAINANT, VS. JUDGE LUISITO ADAOAG, RESPONDENT.

A.M. No. MTJ-95-1045. November 28, 1995

Ponente: MENDOZA, J.

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MENDOZA, J.:

Respondent is judge of the Municipal Trial Court of Camiling, Tarlac. He is charged with ignorance of law, incompetence, bias, hostility, persecution, harassment, obstruction of justice and abuse of authority for holding in abeyance the resolution of complainant's motion for demolition in an ejectment case.

The ejectment case was filed by complainant and his wife against Eustaquia Sadiamora-Fernandez and Cristy Fernandez. Defendants moved to dismiss the complaint alleging that the case was a tenancy case over which the MTC had no jurisdiction. The MTC denied the motion, holding that the land was not primarily devoted to the production of rice and corn and therefore not covered by the P.D. No. 27.

On July 7, 1994 judgment was rendered in favor of complainant, in a decision by Judge Eleanor A. De Jesus, who also issued on August 25, 1994, over the opposition of the defendants and Romeo Fernandez, a writ of execution after the defendants failed to appeal from it. However, the defendants refused to vacate the land, insisting that it was under litigation in the Department of Agrarian Reform Adjudication Board (DARAB). On September 9, 1994, a Temporary Restraining Order was in fact issued by the Provincial Adjudication Board of the Department of Agrarian Reform in Tarlac which enjoined the herein complainant and the Sheriff of the Municipal Trial Court from ejecting the defendants in view of the claim of Romeo Fernandez that the land belonged to him as shown by a Certificate of Land Transfer issued pursuant to P.D. No. 27. (Rollo, pp. 32-33)

But complainant was unyielding. He filed a motion for demolition of the house of the defendants on the disputed land on October 24, 1994. Judge De Jesus set the motion for hearing and ordered the defendants to submit documents relating to the tenancy case, but shortly thereafter, on November 21, 1994, she retired without being able to resolve the matter.

Respondent Judge Luisito Adaoag took over the case. He held in abeyance the resolution of complainant's motion for demolition until the decision in the tenancy case. Judge Adaoag took notice of the claim of Romeo Fernandez that he was not a party in the ejectment case and that he owned the lot by virtue of a Certificate of Land Transfer.

Complainant moved for a reconsideration of the resolution, contending that Romeo Fernandez was bound by the judgment in the ejectment case because the defendants are the mother and sister of Romeo Fernandez and that Romeo Fernandez could not have been a beneficiary of the Agrarian Reform Law because he lived in Metro Manila and not in Camiling, Tarlac. Complainant also claimed that Fernandez's Certificate of Land Transfer had either been fraudulently secured or it covered another parcel of land. As Judge Adaoag denied the motion, this complaint was filed against him.

Complainant accuses respondent judge of ignorance of the law, incompetence and abuse of authority, among

other things, in taking cognizance of the tenancy case, alleging that the issue had already been resolved by the court when it denied the motion to dismiss filed by the defendants. He accuses respondent judge of hostility and bias, citing the fact that when he greeted the judge one morning the judge ignored him and that during the hearing of the case, the judge refused to allow complainant to speak.

In his comment respondent judge stated that he issued the resolution in question on the basis of the following facts found in the records of the case:

- Romeo Fernandez, clothed with a certificate of land transfer No. 085171 in his name, is claiming ownership over a 1.5000 hectares portion of the land in question and the house sought to be demolished thereon;
- Romeo Fernandez has fully paid the value of the land to the Land Bank of the Philippines per Land Bank Certification dated January 26, 1993 marked as Annex 2-A to defendants' motion to dismiss;
- The plaintiffs did not implead Romeo Fernandez as a party defendant in their complaint even if they knew at the outset that Romeo Fernandez is the real, proper and indispensable party by virtue of the Certification of the Land Bank of the Philippines attached to defendant's motion to dismiss;
- The issue of possession and ownership of the 1.5000 hectares portion of the agricultural land in question together with the house thereon is now the subject matter of a pending case before the Department of Agrarian Reform Adjudication Board (DARAB for short) of Tarlac docketed as DARAB Case No. 667-T-94 entitled Romeo Fernandez versus Sps. Dr. Luis Bengzon and Remedios Bengzon as admitted by the complainant under paragraph 1 of the instant administrative complaint.

Respondent claims that he acknowledged and returned complainant's greetings by nodding his head and offering him and his counsel seats but maybe complainant did not notice him. He states that at first he allowed complainant to speak in his behalf but later disallowed him to give way to complainant's lawyer.

The Office of the Court Administrator, to which this case was referred for investigation, recommends the dismissal of the complaint for being premature, because the assailed resolution of respondent judge is now pending review in the Regional Trial Court of Camiling, Tarlac, by reason of a petition for certiorari filed by complainant. (Sps. Dr. Luis C. Bengzon and Remedios I. Bengzon v. Hon. Luisito T. Adaoag, Sp. Civil Action No. 95-20-Cam.)

Complainant's remedy is really judicial, not administrative, and since he has already filed a petition in court for the annulment of the order which he questions in this case, the Court concurs in the recommendation of the OCA to dismiss this administrative case. Indeed, we find no basis for finding respondent guilty of the administrative charges levelled against him. For although respondent judge's resolution suspending judgment on the motion for demolition may be erroneous, the error can at most amount only to an error of jurisdiction — what in Rule 65, §1 of the Rules of Court is termed "grave abuse of discretion." To warrant a finding of ignorance of the law and abuse of authority, the error must be "so gross and patent as to produce an inference of ignorance or bad faith or that the judge knowingly rendered an unjust decision." (144 SCRA 462, 474-475 (1976); see also *De la Cruz v. Concepcion*, 235 SCRA 597 (1994); *Roa v. Imbing*, 231 SCRA 59 (1994)) The error must be "so grave and on so fundamental a point as to warrant condemnation of the judge as patently ignorant or negligent." (*Negado v. Autojay*, 222 SCRA 295, 297 (1993)) Otherwise, to hold a judge administratively accountable for every erroneous ruling or decision he renders, assuming that the judge erred, would be nothing short of harassment and that would be intolerable.

In the case at bar, it appears that respondent judge issued his questioned resolution on the basis of his finding that (1) Romeo Fernandez, who owns the house sought to be demolished, was not a party in the ejectment case; (2)

that Fernandez had a Certificate of Land Transfer issued in his favor under P.D. No. 27 covering a portion of the land of complainant and (3) that he had filed a tenancy case against herein complainant in the DARAB involving the disputed land, in which a TRO had been issued. Given these facts it cannot be said that respondent judge acted with patent abuse of authority or in gross ignorance of the law in suspending proceedings in the ejectment case.

Of course complainant charges that the Certificate of Land Transfer issued to Romeo Fernandez was fraudulently obtained or that it covers a different parcel of land. That does not show, however, that respondent judges acted maliciously or in sheer ignorance of the law or with gross negligence. After all his order was merely to postpone resolution of complainant's motion for demolition. What he did was prudent.

Needless to repeat, our dismissal of the complaint in this case is not based on a finding that the resolution suspending action on the motion for demolition was correct but on the fact that whether the resolution should be set aside for having been issued in excess of jurisdiction or — what is the same thing — with grave abuse of discretion must be determined in the certiorari case which complainant filed with the RTC.

WHEREFORE, the complaint is DISMISSED for lack of merit.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, Puno, and Francisco, JJ., concur.

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