

DOMINGO B. PANTIG, COMPLAINANT, VS. JUDGE LAMBERTO A. DAING, JR., REGIONAL TRIAL COURT, BRANCH 46, JUDGE CARMELITA GUTIERREZ-FRUELDA, REGIONAL TRIAL COURT, BRANCH 43, JUDGE PEDR...

A.M. No. RTJ-03-1791. July 08, 2004

Ponente: CORONA, J.

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CORONA, J.:

This is an administrative matter stemming from the affidavit-complaint^[1] filed by complainant Dominador Pantig charging the following judges with conduct unbecoming of officers of the court: Judge Lamberto Daing, Jr., Regional Trial Court of San Fernando, Pampanga, Branch 46; Judge Pamela Ann Maxino, Municipal Trial Court of Guagua, Pampanga, Branch 1; Judge Pedro Sunga, Regional Trial Court of San Fernando, Pampanga, Branch 42 and Judge Carmelita Gutierrez-Fruelda, Regional Trial Court of San Fernando Pampanga, Branch 43.

In his affidavit-complaint, Pantig alleged that he and his siblings (Baltazar, Pedro and Ursula Pantig-Sahagun) were co-owners of Lot 1471, a 13.99 hectare fishpond. In 1969, ownership of Lot 1471 (together with Lots 1747 and 1801) was awarded, pursuant to original registration, to Venancio Baltazar. However, Baltazar's ownership over Lot 1471 was challenged by complainant Pantig and his siblings in an action for reconveyance. The Regional Trial Court of San Fernando, Pampanga, Branch 41 ruled in favor of the Pantigs and ordered Baltazar to surrender the possession of Lot 1471. The dispositive portion of the decision rendered by Judge Felipe B. Kalalo read:

Wherefore, and in view of the foregoing a new judgment is hereby rendered as follows:

- That portion of the Decision rendered on August 24, 1969 confirming applicant-respondent's title to Lot 1471, is hereby set aside;
- Petitioner's title to Lot 1471, described in plan AP-19164 (Exhibit D) and in its technical description (Exhibit H), is hereby confirmed and orders that the same be decreed in an undivided equal shares in favor of petitioners Baltazar Pantig, Domingo Pantig, Pedro Pantig, Filipinos, of legal ages, all married, the first two being residents of Sexmoan, Pampanga, and the last two being residents of Guagua, Pampanga; and
- Upon the finality of this decision, respondent Venancio Baltazar is hereby ordered to surrender possession of Lot 1471 to the petitioners and to render within sixty (60) days thereof an accounting of the produce thereof from 1969.

Once this decision becomes final, let the corresponding decree issue.

With costs against applicants, respondent Venancio Baltazar.^[2]

The April 5, 1984 decision of Judge Kalalo was affirmed by both the Court of Appeals and the Supreme Court.^[3] It became final and executory on February 7, 1997. However, in spite of the issuance of a writ of execution and an Original Certificate of Title (OCT) in the name of complainant Pantig, the Baltazars continued to be in possession

of the property without any accounting of the produce rendered.

Complainant Pantig alleges that the final and executory decision has not been implemented because of the maneuverings of the Baltazars through their counsel, Atty. Ernesto Pangalangan, and the acts of the respondent judges which amount to conduct unbecoming of officers of the court.

As summarized by the Office of the Court Administrator (OCA), the acts complained of are:

a) JUDGE LAMBERTO A. DAING, JR. Complainant alleges that he filed an indirect contempt charge against the Baltazars' counsel, Atty. Ernesto Pangalangan, docketed as SP Civil Case No. 12056 before the RTC, Branch 45, San Fernando City presided by respondent Judge Lamberto A. Daing, Jr. A motion to dismiss the complaint was filed by Atty. Pangalangan after which the court ordered him to file his position paper. Complainant received a copy of Atty. Pangalangan's position paper on 28 June 2000 and filed his comment thereon on 03 August 2000. However, despite lapse of almost two (2) years, respondent Judge has not resolved the motion to dismiss in violation of the rules.

b) JUDGE CARMELITA GUTIERREZ-FRUELDA

Complainant avers that, relative to the above-mentioned Land Registration Case No. N-850 LRC Rec. No. N-35668 entitled "Baltazar Pantig, et al. vs. Venancio Baltazar," RTC, Branch 41, San Fernando, Pampanga issued an order on 01 September 1999 finding defendant Baltazars guilty of indirect contempt and ordering them to pay P25,000.00 each for their refusal to render an accounting on the produce of the subject fishpond from 1969 up to the present. Upon the motion of plaintiff Pantigs, the court issued another Order dated 07 June 2000 further ordering the imprisonment of defendant Baltazars until they comply with the Order of 01 September 1999.

Complainant maintains that on 27 June 2000 the Baltazars filed their first Urgent Motion to Reconsider Order of 07 June 2000 etc. On 20 December 2001, Judge Simbulan issued an order denying the motion; rejecting the accounting submitted by the Baltazars; and ordering the issuance of the warrants of arrest. A second Urgent Motion to Reconsider Order dated 20 December 2001 was filed by the Baltazars which was likewise denied on 17 January 2002. Later, upon the motion of the Baltazars, Judge Simbulan inhibited himself from hearing the case. The case was then re-assigned to RTC, Branch 43 presided by respondent Judge Carmelita Gutierrez-Fruelda.

Complainant contends that for the third time the Baltazars filed an urgent Motion to Reconsider Order dated 17 January 2002. During the hearing on the motion, complainant's counsel emphasized that the motion ought to be denied for being pro-forma and actually the third motion filed by the Baltazars seeking the reconsideration of the Order dated 07 June 2000 which cited them in contempt of court. The Pantigs observed that during said trial Atty. Pangalangan, counsel for the Baltazars, was unusually silent and it was respondent Judge who was actively arguing with their counsel. Sensing bias on the part of the judge they requested their counsel to file a motion for her inhibition. Their suspicion was confirmed when on 19 February 2002 respondent Judge issued an order granting the motion and setting aside the Order of 01 September 1999 which cited the Baltazars in contempt of court. The same order accepted the accounting previously rejected by Judge Simbulan and considered the same as their substantial compliance with the accounting mandated by the dispositive portion of the Decision dated 05 April 1984 even in the absence of any receipt or voucher showing how the expenses were incurred.

c) JUDGE PEDRO M. SUNGA, JR.

Complainant alleges that respondent Judge Pedro M. Sunga, Jr., issued an Order dated 07 June 2000 in LRC No. N-850 N-35668 ordering the imprisonment of the Baltazars until they comply with the Order dated 10 February 1998. However, upon the Baltazars' filing of an "Urgent Motion to Reconsider Order of 07 June 2000" dated 27 June 2000, respondent Judge immediately recalled the Warrants of Arrest issued against

respondent Baltazars without first giving the plaintiffs the opportunity to comment on the said motion.

d) JUDGE PAMELA ANN A. MAXINO

Complainant avers that he is one of the plaintiffs in a forcible entry case against the Baltazars docketed as Civil Case No. 732. On 13 August 2001, respondent Judge Maxino ordered expunged the Position Paper and the supporting affidavits of the Baltazars for having been filed out of time and considered the case submitted for decision. On 31 August 2001, Atty. Pangalangan filed a Motion for Reconsideration which did not contain a notice of hearing. Instead of disregarding the motion for being defective, respondent Judge, on 06 September 2001, set the said motion for hearing on 28 September 2001. Complainant's counsel objected thereto saying that the court had no obligation to set the motion for hearing and that such hearing would unnecessarily delay the case. Yet the hearing proceeded. On 03 October 2001, respondent judge instead of deciding the case, merely inhibited herself as a consequence of which the case remained pending and the Baltazars were given the undue advantage of staying on the fishpond for some more years to the prejudice of the Pantigs.[4]

Respondent judges submitted their respective comments denying that their acts constituted conduct unbecoming of officers of the Court. As summarized by the OCA, the comments of respondent judges follow:

- COMMENT dated 02 May 2002 of respondent Judge Lamberto A. Daing, Jr.

Respondent Judge Daing avers that although the pending incident in the subject case was the motion to dismiss and the opposition thereto, he claims that both parties already presented their respective evidence on the merits. Several documents were allegedly submitted by them revering to some records of no less than three separate cases aside from the pleadings and decisions of the Court of Appeals and the Supreme Court. Due to these voluminous records, he admits that through sheer inadvertence and oversight, he was able to resolve the pending incident only on 10 May 2002. He asserts though that his inaction was not attended or brought about by malice or ill-motive to unjustifiably favor one party over another.

- COMMENT dated 06 May 2002 of respondent Judge Carmelita S. Gutierrez-Fruelda denying the charge against her.

Respondent Judge Fruelda states that the charge against her hinges on the Order dated 19 February 2002 which she issued as the Presiding Judge of RTC, Branch 43, San Fernando City, Pampanga, in LRC No. N850 N-35668 entitled "Baltazar Pantig, et al vs. Venancio Baltazar," the dispositive portion of which, inter alia, states: "Considering all the foregoing, this Court believes and so holds that, in view of the compliance by the Baltazars (thru counsel) with the Decision and the Orders aforesated, by rendering an accounting of the produce of the fishpond from 1969 up to the present, notwithstanding that some entries in the accounting may not be acceptable to the opposing party, there is still compliance made by the respondents. Since there was compliance the fine of P25,000.00 for each of the respondents must be reconsidered and the Warrant of Arrest issued against all the respondents must necessarily be recalled."

Respondent Judge Fruelda in justifying her afore-mentioned Order states, inter alia, thus:

- Specifically, the April 5, 1984 Decision, required the person of VENANCIO BALTAZAR, and none other to render an accounting of the income and expenses of the fishpond from 1969 to the present;
- The person of Venancio Baltazar failed to render the ordered accounting until he died on February 5, 1979;
- The record does not show that the respondents, who were cited for contempt and ordered imprisoned, were duly named substitutes to the principal respondent, the deceased Venancio Baltazar. Neither were they appointed executors or administrators of the estate of the deceased respondent.
- In fact, there is no showing in the record that the respondents, who were ordered arrested, had a hand in the management and administration of the subject fishpond for them to get involved in the matter of rendering an

accounting which is personal in nature;

- The order for these respondents to render an accounting, otherwise face incarceration, compelled them to hire a public accountant who prepared one for them, and hence, upon submission of the same would be treated as full compliance of the order, the non-acceptance of the same by petitioner notwithstanding. As such, the re-issuance of the warrants of arrest against them would be iniquitous and unjust;

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- If the herein complainant found error in the questioned order of the undersigned respondent Judge, the proper remedy, if she may suggest, is to attach the same in a petition for certiorari, as the same is not proper for an administrative complaint against the judge issuer thereof.

- COMMENT dated 22 April 2002 of respondent Judge Pedro M. Sunga, Jr. denying the charge against him.

Respondent Judge alleges that as the then designated Acting Presiding Judge of RTC, Branch 41, he issued the Order dated 07 June 2000 in LRC No. N-850 N-35668 finding defendant Baltazars guilty of indirect contempt and ordering them to pay a fine of P25,000.00 each and to be imprisoned until they comply with the Order dated 23 June 1998 by rendering an accounting of the produce of the fishpond in issue from 1969 up to the present. On 15 June 2000, he issued the corresponding Order of Arrest. On 23 June 2000, counsel for the Baltazars filed an "Urgent Motion to Reconsider Order of 07 June 2000 and to Set Aside Order of Imprisonment or to Quash Warrant of Arrest for Having Become Moot and Academic" wherein the required accounting was incorporated. According to respondent Judge, considering that the Baltazars had already submitted the required accounting, he immediately ordered the recall of the warrants of arrest per his Order dated 27 June 2000. He argues that whether or not the submitted accounting is correct and/or acceptable to complainant is of no moment for as long as an accounting was submitted as required by the order. The parties may prove the correctness or incorrectness of the accounting by submitting evidence thereof but in the meanwhile the court cannot order the Baltazars to be imprisoned until the accounting submitted is proven correct.

- COMMENT dated 15 May 2002 of respondent Judge Pamela Ann A. Maxino denying the charges against her.

Respondent Judge Maxino says that the subject Civil Case No. 732 for forcible entry, together with three (3) other Criminal Cases Nos. 2068, 2080 and 2081 involving the same parties, were assigned to her by the Executive Judge after the Presiding Judges of Sasmuan, Branch 2 of Guagua and Floridablanca inhibited themselves from hearing said cases. Relative to civil Case No. 732, she admits that she issued the Order dated 13 August 2001 granting the plaintiff's motion to expunge the Baltazars' Position Paper, Specific Offer of Exhibits and the Affidavits of their witnesses for having been filed out of time. She further admits that she gave due course on the Baltazars' motion for reconsideration by setting the same for hearing although said motion did not contain any notice of hearing because she later realized the importance and evidentiary value of the position paper, exhibits and affidavits which, in a forcible entry case covered by the 1991 Revised Rule on Summary Procedure, are submitted in lieu of evidence presented during trial and without which the Baltazars' would be left without any evidence at all. Thus, she set the motion for hearing in order for her to have a second hard look at her earlier ruling and hear the parties' respective arguments.

Moreover, respondent Judge mentioned the case of *Sun Uy Giok vs. Matusa*, 101 Phil. 727 cited in 1 Regalado, Remedial Law Compendium 233 [6th Revised Edition, 1997], wherein the Court held as follows:

"x x x. Where plaintiffs have had the chance to present and did not present their objection to the motion to dismiss, the Honorable Supreme Court held that the ends of justice had been served and the court's failure to note that on the date of the hearing of said motion, plaintiffs had no notice thereof became an error without

prejudice which may well be overlooked. x x x.”

She claims that the plaintiffs in Civil Case No. 332 received the Order dated 06 September 2001 setting the motion for reconsideration for hearing on 28 September 2001. They were afforded the opportunity to comment on or oppose the motion for reconsideration as they in fact filed a Manifestation with Respectful Objections on 20 September 2001. Hence, they were not prejudiced. And following the aforequoted ruling of this Court, the error in the notice of hearing may well be overlooked.

As to her order of inhibition, respondent Judge maintains that she had no other recourse but to inhibit herself from hearing the forcible entry case as well as the related Criminal Cases Nos. 2068, 2080 and 2081 because in Criminal Case No. 2068, entitled “People of the Philippines vs. Norben O. Dimalanta, et al.” for frustrated usurpation of real rights in property, the accused therein alleged that she (respondent Judge) had taught or coached the prosecution on what to do and not to do thereby accusing her of bias and partiality in favor of the Baltazars. Although it was baseless and untrue, she opted to inhibit herself to avoid any appearance of impropriety.[5]

Deputy Court Administrator (DCA) Jose P. Perez, as approved by Court Administrator Presbitero J. Velasco, Jr., recommends that the charges against Judges Gutierrez-Fruelda, Sunga, Jr. and Maxino be dismissed because the acts complained of pertained to the exercise of their judicial discretion. However, he recommends that Judge Daing, Jr. be fined P2,000 for his delay in resolving the motion to dismiss. To the DCA, there was no reasonable excuse for Judge Daing’s failure to promptly decide the case since judges must have an efficient recording and filing system to ensure the speedy disposition of cases.

We adopt the recommendations of the OCA with modification.

With regard to respondent Judges Gutierrez-Fruelda, Sunga, Jr. and Maxino, the Court finds that the acts[6] complained of as constituting conduct unbecoming of public officers were not tainted with fraud, dishonesty, corruption or bad faith and thus, not subject to disciplinary action by this Court.[7]

We have ruled that, 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 may be erroneous.[8] A judge may not be disciplined for error of judgment unless there is proof that the error is made with a conscious and deliberate intent to commit an injustice. Thus, as a matter of public policy, not every error or mistake of a judge in the performance of his official duties makes him liable therefor.[9]

In the case at bar, the questioned orders of respondent judges were well-reasoned and legally sound. Although the accounting of the Baltazars was unsatisfactory to the Pantigs, one was nevertheless still rendered and thus the order of the court was deemed complied with. If complainant did not approve of the accounting submitted by the Baltazars, then he should have filed an action questioning it instead of seeking to hold them in direct contempt. Certainly, an administrative complaint is not the appropriate course of action when judicial remedies exist (such as a motion for reconsideration or an appeal) and are available to question an allegedly irregular or aberrant judicial act. Obviously, if subsequent developments prove the judge’s challenged act to be correct, then there would be no reason to proceed against him at all.[10]

The Court notes, however, that the execution of the decision in complainant’s favor has long been delayed. The April 5, 1984 decision awarding ownership of the fishpond to complainant became final and executory in 1997. It has been seven years since then and complainant is still not in possession of his property. The judge handling the case should not condone the delaying tactics of complainant’s opponent and ought to dispose of the case at the soonest possible time.

With regard to Judge Daing, Jr., the Court adopts the recommendation of the OCA that respondent judge should

be fined for his unreasonable delay in resolving the motion to dismiss. Judge Daing took almost two years to resolve the motion to dismiss in violation of Section 15(1), Article 8 of the Constitution^[11] which requires him to resolve such matters within 90 days from the submission of the last pleading. His only explanation for the delay was inadvertence and oversight due to the voluminous case records. This does not excuse him from administrative sanction by this Court.

Canon 6, Section 5^[12] of the new Code of Judicial Conduct provides that judges shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness. In the case of *Guintu vs. Judge Lucero*,^[13] we said that:

Delay in resolving motions and incidents pending before a judge within the reglementary period of ninety (90) days fixed by the Constitution and the law is not excusable and constitutes gross inefficiency. The judge is likewise guilty of a violation of Rule 3.05, Canon 3 of the Code of Judicial Conduct which mandates that a magistrate shall dispose of the court's business promptly and decide cases within the required periods. This Court cannot countenance such undue delay of a judge especially now when there is an all-out effort to minimize, if not totally eradicate, the twin problems of congestion and delay which have long plagued our courts. Thus, judges are called upon to exercise the utmost diligence and dedication in the performance of their duties. A member of the bench cannot pay mere lip service to the 90-day requirement for deciding a case but should, in fact, persevere in its implementation. The people's faith in the administration of justice would be greatly impaired if decisions are long in coming, more so from trial courts which, unlike collegiate tribunals where there is a need for extended deliberations, could be expected to act with dispatch.

Under Section 9 of Rule 140 of the Rules of Court, undue delay in rendering a decision or order is classified as a less serious offense. A judge who is found guilty of a less serious charge may either be (1) suspended from office without salary and other benefits for not less than one nor more than three months, or (2) fined in the amount of more than P10,000 but not exceeding P20,000.^[14]

In this case, Judge Daing should be meted a fine of P20,000 as a reminder to all judges of their paramount duty to resolve cases with dispatch.

WHEREFORE, judgment is hereby rendered approving the findings and recommendation of the Court Administrator with modification:

- Judge Lamberto A. Daing is hereby ORDERED to PAY a FINE of P20,000 and is WARNED that a repetition of the same or similar acts will be dealt with more severely; and
- the charge of conduct unbecoming of officers of the Court against Judge Carmelita Gutierrez-Fruelda, Judge Pedro M. Sunga and Judge Pamela Ann Maxino is hereby DISMISSED for lack of merit.

SO ORDERED.

Vitug, (Chairman), Sandoval-Gutierrez, and Carpio Morales, JJ., concur.

[1] Rollo, pp.1-5.

[2] RTC Decision dated April 5, 1984.

[3] *Pantig vs. Baltazar*, 191 SCRA 830 [1990].

[4] OCA Recommendation, pp. 1-3.

[5] OCA Recommendation, pp. 3-5.

[6]

- Judge Carmelita Gutierrez-Fruelda – for issuing the Order dated 19 February 2002 in LRC No. N-850 N-35668 setting aside the Order of 01 September 1999 citing the Baltazars in contempt of court and accepting as compliance the accounting submitted by the latter;

- Judge Pedro M. Sunga, Jr. – for issuing the Order dated 27 June 2000 in LRC No. N-850 N-35668 ordering the recall of the warrants of arrest issued against respondent Baltazars; and

- Judge Pamela Ann A. Maxino – for issuing the Order dated 06 September 2001 in Civil Case No. 732 setting the Motion for Reconsideration for hearing despite its alleged defect of lack of notice of hearing and for issuing an order of inhibition.

[7] De Leon vs. Judge Bonifacio, 280 SCRA 434 [1997].

[8] Uy vs. Judge Medina, 342 SCRA 393 [2000].

[9] Riego et al. vs. Judge Leachon, Jr., 268 SCRA 777 [1997].

[10] Supra note 2.

[11] “Sec.15. (1) All cases or matters filed after the effectivity of this Constitution must be decided or resolved within twenty-four months from date of submission for the Supreme Court, and unless reduced by the Supreme Court, twelve months for all lower collegiate courts, and three months for all other lower courts.”

[12] Formerly Canon 3, Rule 3.05 of the Code of Judicial Conduct.

A judge shall dispose of the courts business promptly and decide cases within the required periods.

[13] 261 SCRA 1, 7 [1996].

[14] Section 11, Rule 140, Rules of Court.

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