

JUDGE ANTONIO J. FINEZA, PRESIDING JUDGE, REGIONAL TRIAL COURT OF CALOOCAN CITY, BRANCH 131, COMPLAINANT, VS. ROMEO P. ARUELO, CLERK III, RTC, BRANCH 122, CALOOCAN CITY, RESPOND...

A.M. No. P-01-1522. July 30, 2002

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

On May 28, 1997, the Metropolitan Trial Court (MeTC) of Quezon City, Branch 31, rendered a decision against the defendants in Civil Case No. 14303, entitled Praxedes Pacquing Flores vs. Winnie Bajet, et al., a case for forcible entry. The MeTC ordered the defendants to vacate the two parcels of land they were occupying; to jointly and severally pay plaintiff the sum of P3,000.00 a month as reasonable compensation for the use of the premises, starting from the date of the first demand until such time defendants shall have vacated the premises; and to pay the plaintiff the sum of P3,000.00 as attorney's fees plus cost of suit.[1]

The defendants elevated the case to the Regional Trial Court (RTC) of Quezon City. The case was docketed therein as Civil Case No. Q-97-31799 and was raffled to Branch 77 thereof, then presided by Judge Normandie B. Pizarro.[2]

On September 11, 1997, the plaintiff-appellees filed a Motion for Execution pending appeal,[3] alleging that the defendants-appellants failed to file a supersedeas bond and to deposit with the RTC the amount of rent due. However, counsel for defendants-appellants failed to appear on the date set for the hearing on the motion. Thus, Judge Pizarro issued an Order[4] considering the motion submitted for resolution.

On October 9, 1997, Judge Pizarro issued an Order[5] directing the issuance of a writ of execution.

On October 20, 1997, the defendants-appellants Winnie Bajet, et al. filed an Urgent Motion for Reconsideration[6] of the Order of October 9, 1997 granting the motion for execution. Defendant-appellants claimed that the motion for execution did not contain proof of service to them.

Judge Pizarro, in an Order dated November 11, 1997,[7] denied the defendants-appellants' motion for reconsideration for lack of merit.

On November 25, 1997, the Branch Clerk of Court issued a Writ of Execution[8] pursuant to the Order dated October 9, 1997.

On November 28, 1997, the defendants-appellants filed an Omnibus Motion[9] praying for the recall or suspension of the implementation of the writ of execution, reiterating that the motion for execution did not contain any proof of service.

In the meantime, respondent Judge Vivencio S. Baclig was assigned presiding judge of Branch 77 vice Judge Pizarro. Respondent judge denied the Omnibus Motion in an Order dated May 29, 1998.[10]

Subsequently, defendants-appellants filed with the Court of Appeals a petition for certiorari with prayer for a temporary restraining order and writ of preliminary injunction. Petitioners (defendants-appellants) challenged the RTC Order dated October 9, 1997, directing the issuance of a writ of execution pending appeal; the Order dated November 11, 1997, denying the defendants-appellants' motion for reconsideration; and the Order dated May 29, 1998, denying the defendants-appellants' Omnibus Motion. Petitioners alleged that the RTC committed grave abuse of discretion when it acted upon the motion for execution pending appeal without proof of actual receipt of the copy of said motion by petitioners.

On October 9, 1998, the Court of Appeals rendered its Decision[11] dismissing the petition for certiorari. The court held that while indeed the motion for execution did not contain any proof of service, petitioners were not deprived of due process since they were heard on motion for reconsideration.

On November 9, 1998, the plaintiffs-appellees filed an Ex Parte Motion for Issuance of Alias Writ of Execution,[12] which respondent judge granted in an Order[13] dated November 12, 1998. The motion did not contain any proof of service on the defendants-appellants.

In the meantime, the case was re-raffled to Branch 84 of the Quezon City RTC after respondent judge inhibited himself. Judge Areola, on May 31, 1999, issued an Order denying complainant's motion for reconsideration and/or to quash/lift alias writ of execution. On July 16, 1999, Judge Areola ordered the issuance of another Alias Writ of Execution. Subsequently, Judge Mariflor P. Punzalan Castillo rendered a decision affirming the decision of the Quezon City MeTC, Branch 31.[14]

On January 28, 1999, the Office of the Ombudsman received a criminal complaint from Winnie Bajet, one of the defendants-appellants in Civil Case No. Q-97-31799, charging Judge Vivencio S. Baclig with violating the Anti-Graft and Corrupt Practices Act. Complainant added that the charge also served as her administrative complaint against respondent judge.

On February 12, 1999, the Office of the Ombudsman referred the complaint to the Office of the Court Administrator (OCA), which required respondent judge to comment.

Complainant accuses respondent judge of giving "unwarranted benefits, advantage or preference" to the plaintiff-appellant, of "manifest partiality, evident bad faith or inexcusable negligence." She also charges him with "serious neglect of duties, gross incompetence and oppression." Specifically, complainant faults respondent judge for entertaining the ex parte motion for issuance of alias writ of execution despite lack of proof of service. This is purportedly in violation of Section 4, Rule 15 of the 1997 Rules of Civil Procedure, which provides:

SEC. 4. Hearing of motion. – Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.

Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice.

More to the point, Section 6 of the same Rule provides:

SEC. 6. Proof of service necessary. – No written motion set for hearing shall be acted upon by the court without proof of service thereof.

In addition, respondent judge allegedly failed to decide the case within the period prescribed by the Constitution.[15]

Respondent judge claims that he acted within the bounds of law in granting the Ex Parte Motion for Issuance of

Alias Writ of Execution even though the motion did not contain any proof of service. He argues that since the defendants-appellants failed to file a supersedeas bond and to deposit the rentals, “it [was] mandatory for the regional trial court to order execution of the appealed judgment. Its duty to do so is ministerial and imperative.”[16]

It bears clarifying that respondent judge is charged not with entertaining the motion for the original issuance of a writ of execution but with issuing the alias writ of execution, the motion for which did not contain any proof of service.

Alias writs of execution are usually issued in lieu of the original writ of execution that had already lapsed. Before the 1997 revision to the Rules of Civil Procedure, the lifetime of a writ of execution, under then Section 11, Rule 39 “was 60 days from its receipt by the officer required to enforce the same and after said period, the writ becomes functus officio.”[17]

Sec. 11. Return of writ of execution. – The writ of execution may be made returnable, to the clerk or judge of the court issuing it, at any time not less than ten (10) days nor more than sixty (60) days after its receipt by the officer who must set forth in writing on its back the whole of his proceedings by virtue thereof, and file it with the clerk or judge to be preserved with the other papers in the case. A certified copy of the record, in the execution book kept by the clerk, of an execution by virtue of which real property has been sold, or of the officer’s return thereon, shall be evidence of the contents of the originals whenever they, or any part thereof, have been lost or destroyed.

Apparently, plaintiffs-appellees in Civil Case No. Q-97-31799 were of the impression that the writ of execution issued on November 25, 1997 had already lapsed when they filed their motion for an alias writ on November 9, 1998.

However, it must be noted that under the present Section 14, Rule 39, the lifetime of the writ of execution is no longer 60 days but “during the period within which the judgment may be enforced by motion, that is, within 5 years from entry thereof.”[18]

Sec. 14. Return of writ of execution. – The writ of execution shall be returnable to the court issuing it immediately after the judgment has been satisfied in part or in full. If the judgment cannot be satisfied in full within thirty (30) days after his receipt of the writ, the officer shall report to the court and state the reason therefor. Such writ shall continue in effect during the period within which the judgment may be enforced by motion. The officer shall make a report to the court every thirty (30) days on the proceedings taken thereon until the judgment is satisfied in full, or its effectivity expires. The returns or the periodic reports shall set forth the whole of the proceedings taken, and shall be filed with the court and copies thereof promptly furnished the parties.

Thus, the original writ of execution, which was issued on November 25, 1997, was still effective when plaintiff-appellee filed his motion for issuance of alias writ of execution on November 9, 1998. The alias writ was superfluous; there was no need for respondent judge to issue one.

Viewed in this light, the motion in question was nothing more than a mode by which the plaintiff-appellee informed or reminded the court that the writ had not yet been implemented. Likewise, the “alias” writ of execution may be construed as an order directing the sheriff to implement the “original” writ. The motion need not be litigated since the court “may act upon the same without prejudicing the rights of the adverse party.”[19] The prejudice to the defendants-appellants that would result from an order directing the implementation of the writ would have been no greater than the previous issuance of the “original” writ. As there was no need for a hearing on the motion, the provisions of Sections 4 and 6 of Rule 15 – in particular, that of proof of service to the adverse party – are inapplicable.

Defendants-appellants could not have successfully argued that they were deprived of due process as a result of the ex parte issuance of the “alias” writ. First, they were already heard on motion for reconsideration after the court issued the “original” writ. Second, if defendants-appellants wished to stay execution because of, say, “supervening circumstances”[20] or some other ground, they could have filed a motion to that effect. The “original” writ, to repeat, was still in effect and had not expired.

While respondent judge’s rationale for issuing the “alias” writ is based on grounds different from those stated herein, in the end, he did not commit error in granting the motion ex parte. In any case, to justify the taking of drastic disciplinary action, the law requires that the error or mistake, should there be any, must be gross or patent, malicious, deliberate or in bad faith.[21] The Court does not discern any inclination on his part to give “unwarranted benefits, advantage or preference” to the plaintiff-appellant or of any “manifest partiality, evident bad faith or inexcusable negligence” when he issued the order granting the alias writ.

Nevertheless, respondent judge is administratively liable for the delay in deciding Civil Case No. Q-97-31799. Indeed, he admitted the delay and “some sort of administrative lapse” on his part, and “plead[s] on bended knees for... understanding, compassion and mercy.” He explained that his heavy workload caused him to rely greatly on his subordinate, who inadvertently failed to include Civil Case No. Q-97-31799 in the list of cases submitted for decision.

(a) At the time of my appointment as Presiding Judge of the RTC, Branch 77, Quezon City, in November 1997, I was on detail at the RTC, Branch 17, Manila. And having been previously detailed for more than 2-1/2 years at the RTC, Branch 157, Pasig City, I had to continue hearing the cases which I have started in Pasig City by virtue of an existing Supreme Court Circular mandating it. So in the early months of my stint in the RTC of Quezon City, I was hearing cases in three (3) different courts: in RTC, Branch 77, Quezon City, in RTC, Branch 157, Pasig City, and in RTC, Branch 17, Manila. I heard cases in Quezon City in the morning, and held sessions in Pasig City and Manila alternately in the afternoon. Because of such tight schedule, I devised a simple system by which I could be reminded of the cases for decision in Quezon City. I caused the posting of two (2) white boards, wherein, upon my instruction, the Branch Clerk of Court, Atty. Jennifer A. Pilar, listed all the cases submitted for decision and stating therein the dates of submission for decision and the due dates for deciding them. But they inadvertently failed to include the subject appealed ejectment case in the list, as has been attested to by Atty. Jennifer A. Pilar in her attached Affidavit which has been marked as Annex “O”;

(b) In or about March, 1997, I was directed to continue handling the election protest, entitled “Alan Peter Cayetano vs. Loida Labao”, in Branch 157, RTC, Pasig City, wherein I had previously inhibited myself on the ground of delicadeza extrema. I had to personally open about seven hundred 700 ballot boxes and, in doing so, I had to go to Pasig City every afternoon, I think, for more than two (2) months and toiled into the late afternoon and even early evening to complete the examination of the ballots in about 700 ballot boxes in Taguig, Metro Manila.

(c) After I decided the election protest sometime in June, 1998, I studied the records of five (5) inherited cases which were sent to me by the Office of the Court Administrator for decision. Although, I believed that these cases should have been decided by the new Presiding Judge of the RTC, Branch 157, Pasig City, I dutifully decided the cases, which were old cases with voluminous records, and submitted my decisions to the Office of the Court Management, Office of the Court Administrator sometime in September, 1998.[22]

The Court finds the foregoing explanation unacceptable. A judge is mandated to render judgment not more than ninety (90) days from the time the case is submitted for decision and his inability to decide a case within the required period is not excusable and constitutes gross inefficiency.[23]

Respondent judge's reliance on the branch clerk of court whose alleged carelessness caused the delay does not excuse him from liability. As the OCA, in its Report, pointed out, "a judge ought to know the cases submitted to him for decision or resolution and is expected to keep his own record of cases so that he may act on them promptly." [24] Ultimately, the administrative responsibility for the prompt and speedy disposition of cases rests on the judge's shoulders. The Code of Judicial Conduct requires judges to organize and supervise the court personnel to ensure the prompt and efficient dispatch of business, and require at all times the observance of high standards of public service and fidelity. [25] The same Code charges him with the duty of diligently discharging administrative responsibilities, maintaining professional competence in court management, and facilitating the performance of the administrative functions of other judges and court personnel. [26]

Respondent's undisputed claim that he resolved all other cases within the 90-day period, his candor in acknowledging the delay, and the lack of undue damage upon complainant caused by the delay, however, serve to mitigate his liability. [27] Court Administrator Alfredo L. Benipayo recommended that respondent be fined the amount of One Thousand Pesos.

WHEREFORE, the Court finds respondent Judge Vivencio S. Baclig of the Regional Trial Court of Quezon City administratively liable for gross inefficiency. He is ordered to pay a FINE in the amount of One Thousand Pesos (P1,000.00) and WARNED that a repetition of the same or similar act shall be dealt with more severely.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, Ynares-Santiago, and Austria-Martinez, JJ., concur.

[1] Comment, p. 1.

[2] Ibid.

[3] Id., Annex "A."

[4] Id., Annex "B."

[5] Id., Annex "C."

[6] Id., Annex "D."

[7] Id., Annex "E."

[8] Id., Annex "F."

[9] Id., Annex "G."

[10] Id., Annex "K."

[11] Id., Annex "L."

[12] Id., Annex "M."

[13] Id., Annex "N."

[14] Supplemental Comment, p. 1.

[15] Complaint, p. 1.

[16] Comment, pp. 4-5, citing *Base vs. Leviste*, 99 SCRA 575 (1980) and *Hualam Construction and Development*

Corporation vs. Court of Appeals, 214 SCRA 612 (1992).

[17] I Regalado, F. D., Remedial Law Compendium 439-440, 6th Ed.

[18] Id., at 440.

[19] Rules of Court, Rule 15, Section 4.

[20] This Court has recognized exceptions to the rule in forcible entry and unlawful detainer cases that appealed judgments in favor of the plaintiff are immediately executory if the defendant fails to comply with the requisites for staying such execution. (Section 19, Rule 70, Rules of Court.) “Supervening events occurring subsequent to the judgment bringing about a material change in the situation of the parties which makes execution inequitable, or where there is no compelling urgency for the execution because it is not justified by the prevailing circumstances,” are such exceptions. See Puncia vs. Gerona, 252 SCRA 424 (1996).

[21] Fernandez vs. Español, 289 SCRA 1 (1998); Punio vs. Go, 296 SCRA 1 (1998); Guerrero vs. Villamor, 296 SCRA 88 (1998).

[22] Comment, pp. 6-7.

[23] Re: Report on the Judicial Audit Conducted in the RTC, Br. 68, Camiling, Tarlac, 305 SCRA 61 (1999); Request of Judge Masamayor, RTC-Br. 52, Talibon, Bohol, For Extension of Time to Decide Civil Case No. 0020 and Criminal Case No. 98-384, 316 SCRA 219 (1999); Office of the Court Administrator vs. Quiñanola, 317 SCRA 37 (1999).

[24] Citing Office of the Court Administrator vs. Judge Amelita D.R. Benedicto, 296 SCRA 62 (1998).

[25] Rule 3.09.

[26] Rule 3.08.

[27] Bernardo vs. Fabros, 307 SCRA 28 (1999).

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