

BENJAMIN A. RIVERA, SIMEON B. QUILANG, JR. AND NICANOR ASUNCION, PETITIONERS, VS. JUDGE TEODULO E. MIRASOL, REGIONAL TRIAL COURT, BRANCH 23, ROXAS, ISABELA, RESPONDENT.

A.M. No. RTJ-04-1885. July 14, 2004

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

On February 22, 2002, Benjamin Rivera, Simeon Quilang, Jr. and Nicanor Asuncion filed with the Court an Affidavit-Complaint against Judge Teodulo E. Mirasol[1] of the Regional Trial Court, Branch 23, Roxas, Isabela (RTC for brevity) charging him with gross ignorance of the law.

Complainants are the defendants in Civil Case No. 618, a case for recovery of possession of property filed by the Municipality of Roxas, Isabela, on September 16, 1999, then pending before the sala of respondent Judge.[2]

Complainants aver that on September 28, 1999, without summons having been served, the municipality filed an unverified motion for preliminary mandatory injunction against them with motion for writ of demolition. Complainants filed their answer to the complaint opposing the motion.[3]

On November 24, 1999, respondent issued an order granting the writ of preliminary injunction and placing the municipality in possession of the areas occupied by complainants.[4] Complainants sought reconsideration of the Order but respondent denied the same.[5]

On February 15, 2000, the municipality filed a motion for the issuance of a writ of demolition which respondent granted in his Order dated February 18, 2000.[6] Consequently, by virtue of a writ of demolition issued on March 14, 2000, the structures built by complainants on the subject property were demolished.

From April 2000 to January 2002, no pre-trial was conducted or scheduled in Civil Case No. 618.

On February 1, 2002, the municipality filed a motion for the issuance of an alias writ of demolition with regard to the remaining structures on the subject property which respondent Judge granted on February 8, 2002.[7] Complainants brought the incident to the Court of Appeals via special action for certiorari, docketed as CA-G.R. SP No. 69187.[8]

In his Answer to the affidavit-complaint, respondent contends that the charge against him being administrative in character, the complaint is now moot and academic as he had already compulsorily retired from the service. Respondent Judge maintains that since the issue is judicial in nature, it is the Court of Appeals that can pass upon the legality of his questioned orders, complainants having brought the issue to the Court of Appeals on certiorari.[9]

After evaluation, Deputy Court Administrator Jose P. Perez, endorsed by Court Administrator Presbitero J. Velasco, Jr., recommended the dismissal of the complaint for lack of merit as the issues raised therein were

indeed judicial in nature and similar to those raised by complainants in their petition for certiorari before the Court of Appeals.[10] As a result, the Court dismissed the administrative complaint for lack of merit per Resolution dated September 18, 2002.[11]

Complainants, however, filed a motion for reconsideration of the Court's dismissal on the ground that the Court of Appeals had already decided CA-G.R. SP No. 69187 on August 27, 2002, and annulled respondent Judge's questioned orders. The Court of Appeals held:

On the first issue, we find that the Order granting the preliminary injunction was not validly and legally issued by the respondent Judge. Section 4, Rule 58 of the Rules of Court explicitly provides in part, that:

...

It should be noted that the respondent's application for a writ of preliminary injunction was not verified and no bond was executed in relation thereto. These are patent disregard of the rules and an Order granting an application, which did not conform to the required form and procedure, was obviously issued with certain irregularity.

...

Thus, by granting the motion, the reliefs sought by the respondent municipality in its complaint had already been granted and the respondent Judge had already decided the main case without any trial. In so doing, "[R]espondent judge gravely abused his discretion in issuing a writ of preliminary injunction which in effect practically granted the principal relief sought."

...

Anent the second issue, we hold that since the writ of demolition was issued pursuant to the Order granting the writ of preliminary injunction, which was not validly and legally issued, necessarily, the writ of demolition has no legal basis to stand on its own.[12]

The decision of the Court of Appeals became final and executory on September 20, 2002 and entry of judgment was accordingly made.[13]

In the meantime, in A.M. No. 10929-Ret (Re: Claims for Compulsory Retirement Benefits under R.A. No. 910 by Judge Teodulo E. Mirasol, Regional Trial Court, Roxas, Isabela, Branch 23), the Court ordered the release of respondent Judge's claim for compulsory retirement benefits, but set aside the amount of P20,000.00 pending resolution of the present case.[14] Complainants filed a motion for reconsideration. In his Comment, respondent Judge points out, if at all, it was merely an error of judgment that he committed in issuing the questioned orders.[15]

In his Memorandum dated April 17, 2004, DCA Perez, with the endorsement of Court Administrator Velasco, Jr., finds respondent guilty of gross ignorance of the law and recommends, as follows:

(1) Judge Teodulo E. Mirasol, then Presiding Judge, Regional Trial Court, Branch 23, Roxas, Isabela, be FINED the amount of Ten Thousand (P10,000.00) Pesos for gross ignorance of the law, to be deducted from the amount of Twenty Thousand (P20,000.00) Pesos retained from his retirement benefits, pursuant to the resolution of the 1st Division of the Honorable Court dated 11 September 2002, in AM No. 10929-Ret.;

(3) the remaining Ten Thousand (P10,000.00) Pesos be RELEASED to Judge Mirasol considering that the Legal

Office, OCA has certified that there is no other pending case against him;

(4) the instant administrative complaint be re-docketed as a regular administrative matter against Judge Mirasol so it may be reflected in his personal files.[16]

The Court adopts the findings and recommendations of the Office of the Court Administrator.

At the outset, it must be stressed that the decision of the Court of Appeals in CA-G.R. SP No. 69187 is already final and executory. Thus, for all intents and purposes, parties herein are bound by the findings of the appellate court with regard to the facts and issues raised therein which the Court must respect.

Respondent Judge does not deny that he issued the writ of preliminary injunction and the concomitant writs of demolition based on an unverified application filed by the Municipality of Roxas, Isabela. However, he claims that his determination of the propriety of the issuance of the writs of preliminary injunction and demolition is merely an error of judgment.

Indeed, as a matter of public policy, not every error or mistake of a judge in the performance of his official duties renders him liable. In the absence of fraud, dishonesty or corruption, the acts of a judge in his official capacity do not always constitute misconduct although the same acts may be erroneous. True, a judge may not be disciplined for error of judgment absent proof that such error was made with a conscious and deliberate intent to cause an injustice. This does not mean, however, that a judge need not observe propriety, discretion and due care in the performance of his official functions.[17]

Canon 3 of the Code of Judicial Conduct is explicit:

Rule 3.02. – In every case, a judge shall endeavor diligently to ascertain the facts and the applicable law unswayed by partisan interests, public opinion or fear of criticism.

Moreover, Rule 58, Section 4 (a) of the Rules of Court is clear with regard to the procedure to be followed in the issuance of writs of preliminary injunction, i.e., a preliminary injunction or temporary restraining order may be granted only when the application in the action or proceeding is verified, and shows facts entitling the applicant to the relief demanded. The rule is very explicit in its requirement that a preliminary injunction may be granted only when the complaint is verified. Absence of verification makes an application or petition for preliminary injunction patently insufficient both in form and substance.[18]

Clearly, in the present case, the issuance of the writ of preliminary injunction is not a mere deficiency in prudence, discretion and judgment on the part of respondent Judge but a patent disregard of well-known rules and, therefore, constitutive of gross ignorance of the law.[19] It is a pressing responsibility of judges to keep abreast with the law and changes therein, as well as with the latest decisions of the Supreme Court. One cannot seek refuge in a mere cursory acquaintance with the statute and procedural rules. Ignorance of the law, which everyone is bound to know, excuses no one – not even judges. *IGNORANTIA JURIS QUOD QUISQUE SCIRE TENETUR NON EXCUSAT*. [20]

Finally, respondent Judge's retirement from office does not render the present administrative case moot and academic. Complainants filed the case on February 22, 2002, before respondent judge compulsorily retired from office on April 4, 2002. As such, the Court retains authority to pursue the administrative complaint against him. Cessation from office because of retirement does not warrant the dismissal of the administrative complaint filed against him while he was still in service.[21]

WHEREFORE, complainants' Motion for Reconsideration of our Resolution dated September 18, 2002 is

GRANTED. The Court finds respondent Judge GUILTY of GROSS IGNORANCE OF THE LAW and hereby imposes upon him a FINE of Ten Thousand Pesos (P10,000.00), to be deducted from the amount of Twenty Thousand Pesos (P20,000.00) retained from his retirement benefits, pursuant to the resolution of the First Division of the Honorable Court dated September 11, 2002, in A.M. No. 10929-Ret. The remaining Ten Thousand Pesos (P10,000.00) is ordered RELEASED to Judge Mirasol.

Let this resolution be attached to the personal files of respondent Judge.

SO ORDERED.

Puno, (Chairman), Quisumbing, Callejo, Sr., and Tinga, JJ., concur.

[1] Retired on April 4, 2002.

[2] Rollo, pp. 31-39.

[3] Id., pp. 41-43.

[4] Id., pp. 66-67.

[5] Id., pp. 71-72.

[6] Id., p. 75.

[7] Id., p. 80.

[8] Id., pp. 6-17.

[9] Id., pp. 82-84.

[10] Id., pp. 87-88.

[11] Id., p. 91.

[12] Id., pp. 99-102.

[13] Id., p. 119.

[14] Id., p. 111.

[15] Id., p. 116.

[16] Id., p. 124.

[17] Enojas, Jr. vs. Gacott, Jr., A.M. No. RTJ-99-1513, January 19, 2000, 322 SCRA 272, 281.

[18] Republic vs. Villarama, Jr., G.R. No. 117733, September 5, 1997, 278 SCRA 736, 748, citing Prado v. Veridiano II, 204 SCRA 654, 669 [1991].

[19] Aurillo, Jr. vs. Francisco, Adm. Matter No. RTJ-93-1097, August 12, 1994, 235 SCRA 283, 289.

[20] Ibid.

[21] Cabarloc vs. Cabusora, A.M. No. MTJ-00-1256, December 15, 2000, 348 SCRA 217, 226.

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