ANSELMA G. SANTOS, PETITIONER, VS. HON. ALICE C. GUTIERREZ, IN HER OFFICIAL CAPACITY AS PRESIDING JUDGE OF RTC, BRANCH 193, MARIKINA CITY, METRO MANILA; AND SPOUSES ROLANDO S. C...

Ponente: PAREDES, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/6a17332d1197/

PAREDES, J.:

THE CASE

THIS PETITION[1] FOR CERTIORARI under Rule 65, Rules of Court, with prayer for the issuance of a temporary restraining order (TRO) and/or writ of preliminary injunction (WPI) filed by Anselma G. Santos (petitioner), seeks to set aside and nullify the: (1) Order[2] dated December 8, 2011 denying the petition to inhibit of petitioner, and (2) Order dated March 1, 2012 denying petitioner's motion for reconsideration; issued by the Regional Trial Court, Branch 193, Marikina City (RTC-Branch 193), in LRC Case No. 2006-874-MK.

THE ANTECEDENTS

Sometime in October, 2002, petitioner filed a complaint[3] for the annulment of the promissory note and the real estate mortgage constituted over her property covered by Transfer Certificate of Title (TCT) No. 327503 of the Register of Deeds of Marikina City, against private respondents spouses Rolando S. Cruz, Sr. and Carmelita V. Cruz (private respondents), Mary Ann Santos-Matic, and the Register of Deeds of Marikina City, docketed as Civil Case No. 2002-830 raffled to RTC-Branch 193. After having been served with summons, private respondents filed their answer with counterclaim[4]. Pre-trial and trial on the merits ensued.

On August 3, 2006, private respondents filed an ex-parte application for the issuance of a writ of possession[5] docketed as LRC Case No. 2006-874-MK, (originally) raffled to RTC-Branch 192.

On February 26, 2007, as no formal hearing had, as yet, been conducted by RTC-Branch 192 in LRC Case No. 2006-874-MK, petitioner filed a motion for the consolidation[6] of LRC Case No. 2006-874-MK with Civil Case No. 2002-830-MK pending at RTC-Branch 193. Petitioner's motion for consolidation was granted[7] on May 7, 2007, directing, for the orderly administration of justice, the consolidation of LRC Case No. 2006-874-MK with Civil Case No. 2002-830-MK, and the transmittal of the records of the former to RTC-Branch 193.

On August 17, 2007, public respondent issued an Order[8], quoted in full, thus:

> Re-raffled to this Branch is the above-captioned petition for writ of possession filed by Rolando S. Cruz, Sr. and Carmelita V. Cruz, for consolidation with Civil Case No. 2002-830-MK for annulment of mortgage and promissory note, etc. filed by plaintiff Anselma Santos against defendants Rolando S. Cruz, Sr. and Carmelita V. Cruz, et. al.
>
> Thereafter, applicants (private respondents), through counsel, filed a Motion to Hear Separately LRC Case No. 2006-874-MK.

> Considering that the said cases involve related issues, and in order not to prejudice the outcome of Civil Case No. 2002-830-MK, let the proceedings on the petition for issuance of writ of possession be held in abeyance until after the resolution on the issues in Civil Case No. 2002-830-MK.
>
> SO ORDERED.

On June 28, 2011, a Decision[9] was issued in Civil Case No. 2002-830-MK dismissing the complaint for declaration of nullity of the promissory note and real estate mortgage. Petitioner filed a notice of appeal[10] which is docketed as CA-G.R. No. 97799.

Thereafter, on July 16, 201[1][11], the public respondent issued an Order[12] in LRC Case No. 2006-874-MK, which reads:

> The above-captioned case was ordered consolidated with Civil Case No. 2002-830-MK by the Hon. Geraldine C. Fiel-Macaraig on May 07, 2007. The entire record of the case was transmitted to this court where Civil Case No. 2002-830-MK was then pending.
>
> On August 17, 2007, this court issued an order for the suspension of the proceedings in the above-captioned case, until after the resolution of the issues in Civil Case No. 2002-830-MK.
>
> On June 30 (sic; should be “June 28”), 2011, the court issued a decision in Civil Case No. 2002-830-MK, hence, the proceedings in this case should be revived.
>
> WHEREFORE, let the proceedings in the above-entitled case be ordered revived and the presentation of evidence for the petitioner is set on September 05, 2011 at 8:30 in the morning.
>
> SO ORDERED.

On September 5, 2011, petitioner filed a petition to inhibit[13] arguing that in view of the consolidation of Civil Case No. 2002-830-MK and LRC Case No. 2006-874-MK, there must be only one decision to be issued; that since the Decision dated June 28, 2011 in Civil Case No. 2002-830-MK has not yet attained finality due to petitioner's appeal to the Court of Appeals, the proceedings in LRC Case No. 2006-874-MK should not proceed; and, that in view of these circumstances, public respondent will not have the cold neutrality of a magistrate to decide the issues in LRC Case No. 2006-874-MK; praying that public respondent (voluntarily) inhibit herself from further acting on any incident pending in LRC Case No. 2006-874-MK.

On December 8, 2011, the assailed Order was issued denying petitioner's motion to inhibit. Petitioner's motion for reconsideration[14] having been denied[15] in the second assailed Order dated March 1, 2012, she filed the instant petition.

In their comment[16] to the petition, private respondents contend that the action for annulment of mortgage or foreclosure sale does not stay the issuance of the writ of possession. In her reply[17], petitioner maintains that there may be a possible conflict in decision with Civil Case 2002-830-MK if a trial on the merits is conducted in LRC Case No. 2006-874-MK.

On October 24, 2013, a Resolution[18] was issued denying petitioner's application for TRO and/or WPI.

On April 11, 2014, the parties were directed[19] to inform the Court of any other case and/or proceeding involving the same parties and issues pending before this Court or in any other courts. In her compliance[20], petitioner stated that aside from the appeal from the Decision dated June 28, 2011 in Civil Case No. 2002-830-MK docketed as CA-G.R. CV No. 97799, a petition for review was filed, docketed as CA-G.R. SP No. 128406, from the appeal to RTC-Branch 193 (Crim. Case No. 2011-13055-MK) of the MeTC Decision in Crim. Case No. 09-57016, MeTC Br. 75/76, and appeal had also been filed in LRC Case No. 2006-874-MK, docketed as

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

CA-G.R. No. 101536.

As the issue in this petition for certiorari was different from that in CA-G.R. No. 101536, consolidation was not ordered.

Thereafter, this petition was declared submitted[21] for decision on February 5, 2015. On March 11, 2015, petitioner filed a manifestation[22] informing the Court that a Decision[23] dated February 6, 2015 had been issued in CA-G.R. No. 97799 on the appeal in Civil Case No. 2002-830-MK.

THE ISSUE

At the core of this petition is the issue of whether or not public respondent acted with grave abuse of discretion amounting to lack or excess of jurisdiction when she denied the petition for inhibition filed by the petitioner.

THE COURT'S RULING

The petition must fail.

The rule on compulsory disqualification and voluntary inhibition of judges is provided under Section 1, Rule 137 of the Rules of Court:

> No judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity or affinity, or to counsel within the fourth degree, computed according to the rules of the civil law, or in which he has been executor, administrator, guardian, trustee or counsel, or in which he has presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record.
>
> A judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for just or valid reasons other than those mentioned above.

The second paragraph afore-quoted is what concerns Us in the case at bar. The case of Kilosbayan Foundation and Bantay Katarungan Foundation, as represented by Jovito R. Salonga vs. Leoncio M. Janolo, Jr., Presiding Judge, RTC, Branch 264, Pasig City; Gregory S. Ong, Associate Justice, Sandiganbayan; and The Local Civil Registrar of San Juan, Metro Manila[24], is instructive as it is enlightening, thus:

> While the second paragraph does not expressly enumerate the specific grounds for inhibition and leaves it to the sound discretion of the judge, such should be based on just or valid reasons. The import of the rule on the voluntary inhibition of judges is that the decision on whether to inhibit is left to the sound discretion and conscience of the judge based on his rational and logical assessment of the circumstances prevailing in the case brought before him. It makes clear to the occupants of the Bench that outside of pecuniary interest, relationship or previous participation in the matter that calls for adjudication, there might be other causes that could conceivably erode the trait of objectivity, thus calling for inhibition. That is to betray a sense of realism, for the factors that lead to preferences and predilections are many and varied.
>
> In the final reckoning, there is really no hard and fast rule when it comes to the inhibition of judges. Each case should be treated differently and decided based on its peculiar circumstances. The issue of voluntary inhibition is primarily a matter of conscience and sound discretion on the part of the judge. It is a subjective test, the result of which the reviewing tribunal will not disturb in the absence of any manifest finding of arbitrariness and whimsicality. The discretion given to trial judges is an acknowledgment of the fact that they are in a better position to determine the issue of inhibition, as they are the ones who directly deal with the parties-litigants in their courtrooms. (Underscoring in the original)

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

> Impartiality being a state of mind, there is thus a need for some kind of manifestation of its reality, in order to provide "good, sound or ethical grounds" or "just and valid reasons" for inhibition. Bare allegations of bias and prejudice are not enough in the absence of clear and convincing evidence to overcome the presumption that a judge will undertake his noble role to dispense justice according to law and evidence and without fear or favor. In Gochan v. Gochan, the Court elucidated further:
>
> Verily, the second paragraph of Section 1 of Rule 137 does not give judges the unfettered discretion to decide whether to desist from hearing a case. The inhibition must be for just and valid causes. The mere imputation of bias or partiality is not enough ground for them to inhibit, especially when the charge is without basis. This Court has to be shown acts or conduct clearly indicative of arbitrariness or prejudice before it can brand them with the stigma of bias or partiality.
>
> In a string of cases, the Supreme Court has said that bias and prejudice, to be considered valid reasons for the voluntary inhibition of judges, must be proved with clear and convincing evidence. Bare allegations of their partiality will not suffice. It cannot be presumed, especially if weighed against the sacred oaths of office of magistrates, requiring them to administer justice fairly and equitably– both to the poor and the rich, the weak and the strong, the lonely and the well-connected. (Emphasis and underscoring supplied in the original)
>
> The Court applied the same precept in Pagoda Philippines, Inc. v. Universal Canning, Inc. where the judge's right to inhibit was weighed against his duty to decide the case without fear of repression. Indeed, the automatic granting of a motion for voluntary inhibition would open the floodgates to a form of forum-shopping, in which litigants would be allowed to shop for a judge more sympathetic to their cause, and would prove antithetical to the speedy and fair administration of justice.
>
> A judge must decide based on a rational and logical assessment of the circumstances prevailing in a case brought before him. (Citations omitted)

In this case, the avowed purpose for the filing of petitioner of a petition to inhibit is "to prevent the respondent Judge in hearing separately LRC Case No. R-2006-874-MK"[25], arguing[26] that: (a) the consolidation of LRC Case No. R-2006-874-MK with Civil Case No. 2002-830-MK is final and irrevocable, and the Decision dated June 28, 2011 is a decision in both cases, and since the assailed Decision has been appealed, it has not yet attained finality; (b) a separate trial for LRC Case No. R-2006-874-MK is illegal and contrary to jurisprudence as it may result to two conflicting decisions which is sought to be avoided by the consolidation of the two cases; (c) taking into account that the order of consolidation is final and irrevocable under Section 1, Rule 41, Revised Rules of Court, the applicable case is "Active Wood Products Co., Inc. vs. Court of Appeals, Etal" (G.R. No. 86603, February 5, 1990, 181 SCRA 744), not "Autocorp Group and Authographics, Inc. vs. Court of Appeals" (437 SCRA 6780) relied upon by respondent Judge in her December 8, 2011 Order.

Clearly, the purpose for the filing of the petition to inhibit is to prevent the public respondent from dispensing with her duties and functions as a magistrate, a purpose which this Court cannot sanction as being inimical to public service and the orderly administration of justice.

The petition for inhibition has
become moot and academic

After this petition for certiorari was submitted for decision on February 5, 2015, the Court was apprised of the fact that on September 12, 2013, RTC-Branch 193 had issued an Order[27] in LRC Case No. 2006-874-MK granting the writ of possession and that a notice of appeal[28] was duly filed and docketed as CA-G.R. CV No. 101536[29].

In view of the fact that the instant petition for certiorari has been superseded by the filing of a subsequent appeal, questioning the RTC Order dated September 12, 2013, there is no more reason for the Court to act on or resolve

the instant petition. The issues raised in the petition have become intertwined with, and formed an integral part of, the appeal. Thus, the instant petition has already become moot and academic. Any decision that will be issued in this case will not produce any practical legal effect.

In Osmeña III vs. Social Security System of the Philippines[30], the Supreme Court defined a moot and academic case or issue as follows:

> A case or issue is considered moot and academic when it ceases to present a justiciable controversy by virtue of supervening events, so that an adjudication of the case or a declaration on the issue would be of no practical value or use. In such instance, there is no actual substantial relief which a petitioner would be entitled to, and which would be negated by the dismissal of the petition. (Emphasis supplied)

The appeal negated the instant
petition for certiorari

Section 1, Rule 65 of the Rules of Court, clearly provides that a petition for certiorari is available only when "there is no appeal, or any plain, speedy and adequate remedy in the ordinary course of law." A petition for certiorari cannot co-exist with an appeal or any other adequate remedy. The existence and availability of the right to appeal are antithetical to the availment of the special civil action for certiorari. As the Court has held, these two remedies are mutually exclusive[31]. In the case at bar, the subsequent appeal constitutes an adequate remedy. In fact it is the appropriate remedy because it assails not only the RTC Order dated September 12, 2013 but also the two assailed Orders in this petition for certiorari.

WHEREFORE, premises considered, the petition is DISMISSED.

SO ORDERED.

Dicdican, I. P., Chairperson, and Ybañez, E. A., JJ. , concur.

---

[1] Rollo, pp. 3-27.

[2] Rollo, pp. 138-9.

[3] Rollo, pp. 28-32.

[4] Rollo, pp. 36-9.

[5] Rollo, pp. 40-43.

[6] Rollo, pp. 70-2.

[7] Order dated May 7, 2007 in LRC Case No. 2006-874 of RTC, Branch 192, Marikina City, rollo, p. 86.

[8] Rollo, p. 87.

[9] Rollo, pp. 269-81.

[10] Rollo, pp. 118-9.

[11] Corrected from the erroneous date which read "July 16, 2010".

[12] Rollo, p, 121.

[13] Rollo, pp. 122-4.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

[14] Motion for Reconsideration, rollo, pp. 140-52.

[15] RTC Order dated March 1, 2012, rollo, pp. 153-4.

[16] Rollo, pp. 202-6.

[17] Rollo, pp. 209-18.

[18] Rollo, pp, 221-3.

[19] Resolution dated April 11, 2014, rollo, p. 303.

[20] Rollo, pp. 304-6.

[21] Resolution dated February 5, 2015, rollo, pp. 316-7.

[22] Rollo, pp. 318-9.

[23] Rollo, pp. 321-30.

[24] G.R. No. 180543, August 18, 2010.

[25] Rollo, p. 6.

[26] Rollo, pp. 8-22.

[27] Looseleaf attached to rollo.

[28] Ibid.

[29] CMIS, ibid.

[30] G.R. No. 165272, 13 September 2007, 533 SCRA 313, citing Province of Batangas v. Romulo, G.R. No. 152774, 27 May 2004, 429 SCRA 736, 754; Olanolan v. Comelec, 494 Phil. 749,759 (2005); Paloma v. CA, 461 Phil. 269, 276-277 (2003).

[31] Ley Construction & Development Corporation, vs. Hyatt Industrial Manufacturing Corporation, et. al., G.R. No. 133145, August 29, 2000.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.