

ABELARDO CRUZ, COMPLAINANT, VS. JUDGE JAIME N. NICOLAS, RESPONDENT.*A.M. No. MTJ-89-286. March 05, 1991*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/722476f4e37e/>**PER CURIAM:**

In a verified complaint dated 24 April 1989, complainant charged respondent Jaime N. Nicolas, Presiding Judge of Municipal Trial Court ("MTC"), Branch 1, Tarlac, Tarlac, with ignorance of the law, bias and oppression and malicious delays in the administration of justice.

The Court required respondent judge to answer the petition. Respondent's answer was filed on 17 November 1989.

On 14 December 1989, the Court referred this administrative case to the Executive Judge, Regional Trial Court ("RTC"), Tarlac, Tarlac, for investigation, report and recommendation.

Executive Judge Miguel G. Sta. Romana, RTC, Tarlac, Tarlac set the case for hearing on 12 and 14 February 1990 and, in addition, required complainant and respondent judge simultaneously to file a memorandum before the first date set for hearing. Complainant filed his Memorandum, dated 8 February 1990 with the investigating executive judge. Respondent judge filed a Comment on Complainant's Memorandum, dated 27 February 1990 and, moreover, filed a Memorandum dated 12 February 1990 with this Court, which Memorandum together with complainant's Rejoinder dated 19 February 1990 and complainant's Manifestation dated 22 February 1990 were referred by this Court to the investigating executive judge. Respondent judge in turn filed a Comment on the Memorandum for the Complainant dated 3 April 1990, while complainant filed a Rejoinder to the Comment dated 3 April 1990, dated 24 April 1990, both before the investigating judge.

The investigating judge rendered a Resolution dated 15 August 1990. From this Resolution, and from the numerous pleadings and counter-pleadings filed in this administrative case, the relevant facts may be summarized as follows:

Complainant Abelardo Cruz was plaintiff in an ejectment case filed in the MTC of Tarlac, Tarlac, Branch 1. After trial, the MTC rendered a decision dated 3 September 1984 in favor of the complainant ordering defendants therein to vacate the premises. On appeal, the RTC of Tarlac reversed the decision of the MTC. However, when the case was elevated to the Court of Appeals, the appellate court on 29 December 1985 reversed the decision of the RTC and reinstated in toto the decision of the MTC, in C.A. - G.R. No. SP-06635.

The Court of Appeals' decision became final and the record of C.A. - G.R. No. SP-06635 was remanded to the MTC for execution. On 22 May 1987, complainant asked for a writ of execution to enforce the decision of the Court of Appeals; the motion was granted and a corresponding Writ issued on 26 May 1987 by respondent judge. On 17 June 1987, however, the Writ was returned unsatisfied in view of defendants' refusal to vacate the premises despite the grace period given them.

On 29 June 1987, complainant moved for an Alias Writ of Execution; the motion was denied for being premature

by respondent judge on 2 July 1987. Complainant then filed a motion for reconsideration of the 2 July 1987 order and for a Special Order of Demolition. Respondent judge denied this motion by an Order dated 22 July 1987 on the same ground of prematurity.

On 28 July 1987, complainant once more moved for issuance of an Alias Writ of Execution. This time the motion was granted and the corresponding Alias Writ was issued on 4 August 1987.

On 11 August 1987, the defendants in the ejectment case filed a Motion to Quash the Alias Writ of Execution, on the ground that the decision ordering the ejectment of defendants was null and void for being contrary to the provision of P.D. No. 1517, otherwise known as the Urban Land Reform Law. Defendants claimed that under the provisions of that law, they were entitled to purchase the property involved and hence could not be ejected therefrom. Defendants asked respondent judge to set the Motion to Quash for hearing and the judge did so. On the date set for hearing, complainant failed to appear and respondent judge issued an order allowing the defendants to postpone the case in order to obtain the services of a lawyer. The hearing was reset to 15 September 1987.

On 9 September 1987, complainant filed an Opposition to the Motion to Quash Alias Writ upon the ground, among others, that defendants could not be allowed to question a final judgment by raising new issues during the stage of execution. On 15 September 1987, respondent judge granted defendants an additional period of ten (10) days to engage the services of a counsel, since the original counsel did not show up. On 25 September 1987, defendants appeared for hearing with new counsel. Considering that the new lawyer was apparently unprepared at the time, respondent judge gave such counsel twenty (20) days within which to submit any pleading or position paper he wished to support the Motion to Quash Alias Writ. Accordingly, on 14 October 1987, defendants filed a Supplemental Motion to Quash Alias Writ. Two (2) days later, the Alias Writ was returned once more unsatisfied. On 30 October 1987, respondent judge issued an order giving both parties fifteen (15) days to submit memoranda on the Motion to Quash Alias Writ.

Five (5) months later, on 9 March 1988 (more than two [2] years after the Court of Appeals had reinstated the original MTC decision), complainant went on certiorari, prohibition and mandamus to the Court of Appeals to restrain respondent judge from accepting dilatory pleadings of defendants.

The Court of Appeals, on 25 August 1988, issued a decision which, in its dispositive portion, commanded respondent judge and the deputy sheriffs of the latter's sala "to execute post-haste the decision of the Municipal Trial Court of Tarlac, Tarlac (Branch 1) in Civil Case No. 3610 affirmed by the Court of Appeals in C.A.-G.R. No SP-06635".

On 16 September 1988, complainant once more moved for issuance of a Writ of Execution. Respondent judge issued the corresponding Writ on 20 September 1988.

On 22 September 1988, defendants in the original case filed an "Urgent Motion for Reconsideration and to Suspend Implementation of the Writ of Execution". Respondent judge denied this Urgent Motion.

On 10 November 1988, the Writ of Execution was returned still unsatisfied. From the record, it appears the writ remains unsatisfied to date.

From the foregoing, it is clear to this Court that respondent judge was remiss in the performance of his duties in entertaining the Motion to Quash Alias Writ of Execution which the defendants in the original ejectment case filed on 11 August 1987, long after the decision of the MTC on 3 September 1984 ordering defendants to vacate the premises involved had been reinstated by the Court of Appeals and had become final and executory. Respondent judge should have known that questions like those raised by the defendants in their Motion to Quash Alias Writ of Execution were totally inappropriate and unwarranted at that stage. Respondent judge's acts seemed

almost designed to re-open the MTC judgment that had become final by inviting defendants to submit any pleading they wished to support their Motion to Quash Alias Writ and thereafter requiring both parties to submit Memoranda on the Motion and Supplemental Motion to Quash Alias Writ. Upon the finality of the decision of the MTC, respondent judge lost all jurisdiction in respect of the case, save only to enforce that decision. This is elementary, so elementary that not to know it, or to act as if he did not know it, constitutes gross ignorance of the law.

Respondent judge's acts forced complainant to have recourse to the Court of Appeals seven (7) months after the defendants' Motion to Quash Writ of Execution.

The party which prevails after going through the full course of litigation is entitled to a writ of execution and to the energetic service and enforcement thereof upon the losing party. To impose oppressive delays upon the issuance, service and enforcement of a writ of execution is unjustly to deprive the prevailing party of the fruits of his labor before the courts and can only bring black suspicion and disrepute upon the judge, the court and the judicial process generally. Respondent judge cannot be allowed to pass on the blame to the deputy sheriffs who were officers of his court and subject to his orders and control.

The Court holds that respondent judge is guilty of gross ignorance of law and oppressive delay and misconduct in the carrying out of his official duties. The Court believes that under the circumstances of this case, the penalty of mere reprimand recommended by the investigating judge is grossly inappropriate.

ACCORDINGLY, the Court Resolved to IMPOSE a fine of Ten Thousand (P10,000.00) Pesos upon respondent judge. In addition, respondent judge is hereby severely REPRIMANDED and WARNED that repetition of this or a similar offense will result in the imposition of a more severe penalty. Costs against respondent.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Griño-Aquino, Medialdea, Regalado, and Davide, Jr., JJ., concur.

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