

MARGIE MACIAS CORPUS, COMPLAINANT, VS. JUDGE WILFREDO G. OCHOTORENA, RTC – BR. 11, SINDANGAN, ZAMBOANGA DEL NORTE, RESPONDENT.*A.M. No. RTJ- 04-1861. July 30, 2004*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/74d230329e60/>**TINGA, J.:**

On May 22, 2001, the Office of the Court Administrator (OCA) received the verified Complaint^[1] of Margie Corpus-Macias (Mrs. Macias) dated May 11, 2001, accusing Judge Wilfredo G. Ochotorena, then Presiding Judge, Regional Trial Court (RTC), Branch 11, Sindangan, Zamboanga Del Norte, of bias, partiality and violation of judicial conduct in connection with his disposition of Civil Case No. S-695 for declaration of nullity of marriage, entitled “Mariano Joaquin S. Macias v. Margie Corpus-Macias.”

The antecedents follow.

On February 6, 2001, a verified Complaint for declaration of nullity of marriage was filed against Mrs. Macias by Mariano Joaquin S. Macias (“Mr. Macias”), her husband and incumbent presiding judge of RTC, Branch 11, Liloy, Zamboanga Del Norte. The case was raffled to the respondent’s court.^[2] On the same day the Complaint was filed, the respondent immediately issued Summons to Mrs. Macias.^[3] However, the Summons was not served on Mrs. Macias for the reason that her whereabouts were allegedly unknown.^[4] Consequently, Mr. Macias filed a motion to serve summons by publication. The respondent granted the motion in his Order^[5] dated March 7, 2001, with the directive that Mrs. Macias should file her answer within 30 days after notice. Thereafter, Mr. Macias caused the publication of the Summons in the local weekly newspaper, “Tingog Peninsula,” based in Dipolog City in its March 11-17, 2001 issue.^[6]

Mrs. Macias claims she learned of the aforesaid publication of Summons during the first week of April 2001. Without delay, on April 10, 2001 or within the 30-day period to file an answer, she filed a Motion to Dismiss, which she set for hearing on April 20, 2001.^[7] However, instead of first acting upon the motion, the respondent judge set the hearing on the merits of the subject case on April 19, 2001, or one day before.

On April 19, 2001, respondent judge denied the Motion to Dismiss and re-set the hearing on the merits to April 30, May 2 and 3, 2001.^[8] After the scheduled hearings, the respondent judge terminated the proceedings and declared the case submitted for decision.^[9]

In the interim, from April 10, 2001 up to April 30, 2001, various motions and manifestations, one after the other but interrelated, were filed by the counsel of Mrs. Macias opposing the hearing on the merits of the case before the respondent judge.^[10] One was denied while the rest were ignored. As previously stated, the respondent proceeded with the hearing on April 30, 2001 without resolving the other motions and manifestations.

It is in the light of the foregoing that Mrs. Macias believes that the respondent judge deprived her of the fundamental right to due process with utmost bias and partiality for Mr. Macias; hence, she filed the instant Complaint containing the above-cited facts before the Office of the Court Administrator (OCA).^[11] Also in the

Complaint is her prayer that an order be issued ex-parte directing the respondent judge to desist from taking any further action in the subject case and imposing an administrative sanction against him.

Without waiting for the OCA's Indorsement, the respondent judge submitted his Comment/Answer[12] on May 25, 2001.[13]

The respondent judge claims that the instant Complaint is fatally defective because it is not supported by the affidavits of persons who have knowledge of the facts and documents needed to substantiate the allegations therein. Also, he asserts that malice, bad faith, and the intention to harass, embarrass and humiliate him had motivated Mrs. Macias to file the said Complaint.

The respondent judge disputes violating Mrs. Macias' right to due process. He argues that Mrs. Macias was given the opportunity to be heard but chose not to give her side, as shown by her failure to appear during the trial despite prior notice. Furthermore, he points out that the records of the case would show that the proceedings was done in good faith and based on law and jurisprudence.

Furthermore, the respondent judge posits that even if he may have committed an error, such should be corrected by availing of judicial remedies and not by resorting to the filing of an administrative action. He argues that it is only after the Supreme Court finds that a judge had committed malice or gross ignorance that he should be administratively sanctioned. Moreover, respondent claims that a Petition[14] dated May 11, 2001, containing similar allegations as the instant complaint, was filed before the Court of Appeals, a copy of which he received on May 21, 2001.

Finally, respondent judge insists that his Decision[15] is valid and prays for the dismissal of the instant Complaint for lack of merit.

In her Reply[16] which she filed on July 19, 2001, Mrs. Macias admits having filed a petition for certiorari[17] under Rule 65 of the 1997 Rules of Civil Procedure with the Court of Appeals, docketed as CA-G.R. SP No. 64733 entitled "Margie Corpus Macias v. Judge Wilfredo G. Ochotorena" on May 18, 2001.[18]

In addition, Mrs. Macias claims that the Court of Appeals decided the Petition for Certiorari and Prohibition with Application for Prayer for Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction in her favor on July 13, 2001, finding respondent judge blatantly transgressing her right to due process and ignorant of the basic rudiments of Civil Procedure. She notes that the Decision[19] nullified the assailed proceedings and the Decision[20] rendered by the respondent judge on May 15, 2001 in Civil Case No. S-695.[21] And finally, Mrs. Macias stresses that the instant charge against respondent judge may simply be verified by checking the records of the case.

On June 4, 2001, the respondent judge retired from the service. However, pursuant to the Resolution of the Court in A.M. No. 10597-Ret. dated 22 October 2001, the Court retained the amount of Forty Thousand Pesos (P40,000.00) from his retirement benefits, to answer for whatever administrative sanction the Court may impose in relation to the instant case.[22]

In summary, Mrs. Macias now asserts before the Court that the respondent judge's actuations constitute bias, partiality and conduct unbecoming a judge. Moreover, according to her, what is more glaring and conclusive from the records is that the respondent is grossly ignorant of the law and procedure. For these administrative lapses, Mrs. Macias concludes that the Court should sanction him.

The conclusion is amply supported by the Court of Appeals' Decision which states that the respondent judge totally disregarded Mrs. Macias' right to due process when he proceeded with the trial on the merits of the case

completely ignoring the fact that her Motion to Dismiss, which was filed within the 30-day reglementary period, was still pending resolution.

The respondent judge disregarded the provisions of Section 1, Rule 18 of the 1997 Rules on Civil Procedure, which states that: “After the last pleading has been served and filed, it shall be the duty of the plaintiff to promptly move ex-parte that the case be set for pre-trial.” Considering that the last pleading was Mrs. Macias’ Motion to Dismiss, the respondent judge should have first resolved the motion and then waited for Mr. Macias’ motion to set the case for pre-trial.

What happened in the case is a classic example of “railroading” or “procedural short-cut.” Instead of resolving the Motion to Dismiss, the respondent judge completely ignored it and proceeded with the trial on the merits of the case by receiving Mr. Macias’ evidence ex-parte.

The respondent judge compounded his blunder when, after denying Mrs. Macias’ Motion to Dismiss, he continued with the reception of Mr. Macias’ evidence ex-parte, ordered the termination of the trial and thereafter, considered the case submitted for decision despite Mrs. Macias’ filing of a Motion for Reconsideration of the order denying her Motion to Dismiss. In holding the trial of the case up to its completion, the respondent judge had acted utterly oblivious to the pending Motion for Reconsideration.

It is also worth mentioning that, as correctly found by the appellate court, even if Mrs. Macias failed to file her answer to the complaint after the period therefor had elapsed, the respondent judge was not authorized to conduct a hearing of the case on its merits. The Rules of Court prohibits default proceedings in cases involving declaration of nullity of marriage.[23]

In that regard, Mrs. Macias had already filed her Motion to Dismiss where she indicated her address and, hence, can be notified by the Public Prosecutor of his investigation.[24]

Section 3, Rule 9 of the 1997 Rules of Civil Procedure states: “If the defending party in an action for annulment or declaration of nullity of marriage or for legal separation fails to answer, the court shall order the prosecuting attorney to investigate whether or not a collusion between the parties exists, and if there is no collusion, to intervene for the State in order to see to it that the evidence submitted is not fabricated.” Thus, the report of the Public Prosecutor is a condition sine qua non for further proceedings to go on in the case. Respondent judge ignored this procedural rule.

While the record shows that Public Prosecutor Arturo M. Paculanag had filed a Certification dated May 04, 2001[25] with the respondent judge’s court, stating, among others, that he appeared in behalf of the Solicitor General during the ex-parte presentation of plaintiff’s evidence, even cross-examining the plaintiff and his witness, the psychiatrist Dr. Cheryl T. Zalsos, and that he had no objection to the granting of the petition for declaration of nullity of marriage, such Certification does not suffice to comply with the mandatory requirement that the court should order the investigating public prosecutor whether a collusion exists between the parties. Such directive must be made by the court before trial could proceed, not after the trial on the merits of the case had already been had. Notably, said Certification was filed after the respondent judge had ordered the termination of the case.

Considering the foregoing, the Court rules that the respondent judge violated Mrs. Macias’ right to due process when he completely ignored the pertinent rules. A judge is called upon to exhibit more than just a modicum of acquaintance with statutes and procedural rules, it is his duty to keep always abreast with law and jurisprudence.[26] When the law or procedure is so elementary, for him not to know it or to act as if he does not know it constitutes gross ignorance.[27]

Under Section 3 in relation to Section 10 of Rule 140 of the Rules of Court, gross ignorance of the law is considered a serious offense, for which a penalty of either dismissal from the service with forfeiture of benefits, suspension from office for more than three (3) months but not exceeding six (6) months or a fine of more than Twenty Thousand Pesos (P20,000.00) but not exceeding Forty Thousand Pesos (P40,000.00) may be imposed.

Respondent compulsorily retired from the service on June 04, 2001, thus, dismissal or suspension from the service is no longer possible. Nonetheless, a penalty of fine may still be imposed upon him considering that under the Resolution of the First Division in A.M. No. 10597-Ret. dated October 22, 2001,[28] the Court retained the amount of Forty Thousand Pesos (P40,000.00) from his retirement benefits to answer for whatever administrative sanction the Court may impose upon him with regard to this case. Considering that this is the first time the respondent judge will be meted a penalty,[29] the Court finds a fine of Twenty Thousand Pesos (P20,000.00) appropriate.

WHEREFORE, Judge Wilfredo G. Ochotorena is found GUILTY of gross ignorance of the law and incompetence and is hereby FINED the amount of Twenty Thousand Pesos (P20,000.00) to be taken from the amount earlier withheld from his retirement benefits. The Fiscal Management Office of the OCA is DIRECTED to immediately release to the respondent judge the remaining balance of Twenty Thousand Pesos (P20,000.00) from the aforesaid retained amount, unless there are other valid reasons for its further retention.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Rollo, pp. 47-55.

[2] Id. at 57-64.

[3] Id. at 66.

[4] Id. at 68.

[5] Id. at 67-68.

[6] Id. at 73-74.

[7] Id. at 77-83.

[8] Id. at 108-112.

[9] Id. at 280.

[10] The following motions and manifestations were filed by Mrs. Macias: (1) Manifestation and Motion filed on April 18, 2001 by registered mail stating among others, the need to resolve the pending Motion to Dismiss before proceeding with the trial on the merits considering that the Motion to Dismiss was filed within the 30-day period to file an answer/responsive pleading. (Rollo, pp. 92-96) (2) Revised Manifestation and Motion also filed on April 18, 2001 by registered mail praying for the cancellation of the hearing on the merits of the case scheduled for April 19, 2001 and setting the hearing on the Motion to Dismiss on April 30, 2001 instead. (Rollo, pp 97-100) (3) Manifestation dated April 26, 2001 praying that the Motion to Dismiss be resolved without appearance of counsel and oral argument. (Rollo, pp. 101-A -102) (4) Manifestation filed on April 27, 2001 objecting to the proceedings taken by the respondent prior to April 30, 2001. (Rollo, p.105)

[11] Also in the said Complaint is Mrs. Macias' assertion that the Order of the respondent judge to summon her

by publication and the case itself, Civil Case No. S-695 for declaration of nullity of marriage, are highly irregular. She submits to the Court that she has previously instituted an action for legal separation before the same Regional Trial Court where this case is pending, except that, it was raffled only to a different branch. Accordingly, her address is on file. To bolster her contention, she adds that Mariano Macias was also represented by the same counsel in both cases.

[12] Rollo, pp. 3-7.

[13] Acting Court Administrator Zenaida N. Elepaño indorsed the Complaint on May 29, 2001 and required respondent judge to file his comment.

[14] Rollo, pp. 338-352.

[15] Id. at 283-386.

[16] Id. at 427-432.

[17] Id. at 338-352.

[18] Mrs. Macias brought to the attention of the Court the Resolution of the Court of Appeals dated May 23, 2001, granting her prayer for TRO, restraining respondent judge from further proceeding with the subject case.

[19] Rollo, pp. 434-456, Court of Appeals Decision penned by Justice (now Supreme Court Justice) Romeo J. Callejo, Sr. and concurred by Justices Renato C. Dacudao and Perlita J. Tria Tirona.

[20] Id. at 283-336.

[21] On September 12, 2001, Macias filed a Manifestation stating that the respondent and Mariano Macias moved for reconsideration of the July 13, 2001 Decision which was denied by the Court of Appeals for being barren of merit.

[22] Rollo, p. 473.

[23] Sec. 3(c), Rule 9, 1997 Rules of Civil Procedure.

[24] Rollo, p 454; Court of Appeals Decision in the case of Margie Corpus Macias v. Honorable Wilfredo G. Ochotorena, CA-GR. SP No. 64733, promulgated on July 13, 2001.

[25] Id. at 282; Annex "F" to the comment/answer of Ret. Judge Ochotorena.

[26] Tapiru v. Biden, A.M. No. MTJ-00-1262, April 6, 2000, 330 SCRA 40.

[27] Domondon v. Lopez, A.M. No. RTJ-02-1696, June 20, 2002, 383 SCRA 376; Lu v. Siapno, A.M. No. MTJ-99-1199, July 6, 2000, 335 SCRA 181; Dadizon v. Lirios, A.M. No. MTJ-00-1295, August 1, 2000, 337 SCRA 36.

[28] Supra note 22 at 473.

[29] Rollo, p. 464.

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