

**SPOUSES ARTURO AND JOSEFINA DE GUZMAN, COMPLAINANTS, VS.
JUDGE FERNANDO VIL PAMINTUAN, REGIONAL TRIAL COURT,
BRANCH 3, BAGUIO CITY, RESPONDENT.**

A.M. No. RTJ-02-1736. June 26, 2003

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

A judge may not always be subjected to disciplinary action for every erroneous order or decision he renders. An administrative complaint is not an appropriate remedy where judicial recourse is still available, such as a motion for reconsideration, an appeal, or a petition for certiorari, unless the assailed order or decision is tainted with bad faith, fraud, malice or dishonesty. This is the standing policy of this Court.[1]

This administrative case stemmed from a sworn letter-complaint of spouses Arturo and Josefina de Guzman, charging Judge Fernando Vil Pamintuan of the Regional Trial Court (RTC), Branch 3, Baguio City, with gross ignorance of the law, gross incompetence, manifest favoritism and/or misconduct.

Records show that Arturo de Guzman filed with the Office of the City Mayor of Baguio an application for a writ of demolition of the house of Wilson Gomez built without permission on complainants' residential lot. On March 26, 2001, the Office of the City Mayor issued Demolition Order No. 22.

After the service of the Demolition Order upon Gomez, he filed with respondent's court Civil Case No. 4918-R for specific performance with prayer for a temporary restraining order and preliminary injunction against complainants and the City Mayor of Baguio.

Gomez alleged, among others, in his complaint that spouses De Guzman promised to give him a portion of their residential lot in exchange for the services he rendered as "caretaker gratis" of the property; and that they allowed him to build concrete wall and galvanized roof on his shanty.

On April 26, 2001, respondent judge issued a temporary restraining order and on May 10, 2001, a writ of preliminary injunction. On May 18, 2001, Gomez posted an injunctive bond in the sum of P 100,000.00 through the Pacific Union Insurance Company (Pacific Union). Considering that the Assistant Clerk of Court found the bond to be in order, respondent judge approved the same.

On May 24, 2001, the Clerk of Court issued a Certification that the bond is defective because the clearance attached thereto pertains to Mega Pacific Insurance Company, the sister company of Pacific Union. Upon being apprised of the mistake, Pacific Union filed with respondent's court a letter of apology explaining that the bond was inadvertently "typed" on the forms of Mega Pacific.

Meanwhile, on May 25, 2001, the Assistant Officer-in-Charge in the Legal Office of the Court Administrator issued a Certification quoted as follows:

"This is to certify that the latest certification issued by this Office to MEGA PACIFIC INSURANCE

CORPORATION certifying that it has no pending obligation with respect to criminal and civil cases in the Regional Trial Court of Baguio City was dated April 6, 2001 and valid up to May 2, 2001 only. Thereafter this Office has not issued a similar certification."

Thus, on June 8, 2001, complainants filed a motion to dissolve the writ of preliminary injunction previously issued by respondent judge on the ground that the bond is defective. In view of the continuing objection of the complainants, Pacific Union decided to withdraw the bond.

Gomez posted another bond, this time, through BF General Insurance Company. However, defendant City Mayor of Baguio filed an opposition on the ground that the person who signed the bond was not authorized by the company.

On June 14, 2001, the Clerk of Court submitted to respondent judge a manifestation that the said bonding company has a pending liability before Branch 6 "in connection with confiscated bonds issued by it in Criminal Cases Nos. 18146-R and 18147-R." Hence, respondent judge ordered its cancellation.

On June 21, 2001, complainants filed a supplemental motion to dissolve the writ of preliminary injunction. In an Order dated July 25, 2001, respondent judge denied the motion.

Thereafter, Gomez secured another bonding company, the Capital Insurance & Surety Co., Inc. (Capital Insurance). Again, the bond posted was found to be defective. The OCA certified that Capital Insurance has a pending liability and therefore can not transact business.

On August 8, 2001, complainants instituted the instant administrative complaint. On August 16, 2001, they filed with respondent's court a motion for inhibition. On September 18, 2001, respondent judge issued an order denying the same.

In his Report and Recommendation dated September 6, 2002, Deputy Court Administrator Jose P. Perez found that respondent judge, by failing to dissolve the writ of preliminary injunction, is liable for gross ignorance of the law and grave abuse of authority and recommended that a fine of P5,000.00 be imposed upon him with a stern warning that a repetition of the same or similar acts will be dealt with more severely.

In a Resolution dated November 11, 2002, this Court ordered that this case be docketed as an administrative matter and required the parties to manifest, within 20 days from notice, whether they are submitting the case for decision on the basis of the pleadings already filed.

Both parties filed their respective manifestations that they are willing to have the case so decided.

The sole issue for our resolution is whether respondent judge is administratively liable as charged for denying complainants' motion to dissolve the writ of preliminary injunction he issued in Civil Case No. 4918-R.

It is the established doctrine and policy of this Court that an administrative action is not the appropriate remedy for every irregular or erroneous order or decision issued by a judge where a judicial remedy is available, such as a motion for reconsideration, an appeal, or a petition for certiorari. Disciplinary proceedings against a judge are not complementary or suppletory of, nor a substitute for, these judicial remedies, whether ordinary or extraordinary. For, obviously, if subsequent developments prove the judge's challenged act to be correct, there would be no occasion to proceed against him at all. Besides, to hold a judge administratively accountable for every erroneous ruling or decision he renders, assuming he has erred, would be nothing short of harassment and would make his position doubly unbearable. To hold otherwise would be to render judicial office untenable, for no one called upon to try the facts or interpret the law in the process of administering justice can be infallible in his judgment. It is only where the error is tainted with bad faith, fraud, malice or dishonesty that administrative sanctions may be

imposed against the erring judge.[2]

In *Flores vs. Abesamis*,[3] we held:

"As everyone knows, the law provides ample judicial remedies against errors or irregularities being committed by a Trial Court in the exercise of its jurisdiction. The ordinary remedies against errors or irregularities which may be regarded as normal in nature (i.e., error in appreciation or admission of evidence, or in construction or application of procedural or substantive law or legal principle) include a motion for reconsideration (or after rendition of a judgment or final order, a motion for new trial), and appeal. The extraordinary remedies against error or irregularities which may be deemed extraordinary in character (i.e., whimsical, capricious, despotic exercise of power or neglect of duty, etc.) are inter alia the special civil actions of certiorari, prohibition or mandamus, or a motion for inhibition, a petition for change of venue, as the case may be.

"Now, the established doctrine and policy is that disciplinary proceedings and criminal actions against Judges are not complementary or suppletory of, nor a substitute for, these judicial remedies, whether ordinary or extraordinary. Resort to and exhaustion of these judicial remedies, as well as the entry of judgment in the corresponding action or proceeding, are pre-requisites for the taking of other measures against the persons of the judges concerned, whether of civil, administrative, or criminal nature. It is only after the available judicial remedies have been exhausted and the appellate tribunals have spoken with finality, that the door to an inquiry into his criminal, civil or administrative liability may be said to have opened, or closed.

"*Flores* (complainant) resorted to administrative prosecution (or institution of criminal actions) as a substitute for or supplement to the specific modes of appeals or review provided by law from court judgments or orders, on the theory that the Judges' orders had caused him 'undue injury.' This is impermissible, as this Court has already more than once ruled. Law and logic decree that 'administrative or criminal remedies are neither alternative nor cumulative to judicial review where such review is available, and must wait on the result thereof' (See *In Re: Wenceslao Laureta*, 148 SCRA 382, 417-418 [1987]; *In Re: Joaquin T. Borromeo*, 241 SCRA 405 [1995]. Indeed, since judges must be free to judge, without pressure or influence from external forces or factors, they should not be subject to intimidation, the fear of civil, criminal or administrative sanctions for acts they may do and dispositions they may make in the performance of their duties and functions; and it is sound rule, which must be recognized independently of statute, that judges are not generally liable for acts done within the scope of their jurisdiction and in good faith; and that exceptionally, prosecution of a judge can be had only if 'there be a final declaration by a competent court in some appropriate proceeding of the manifestly unjust character of the challenged judgment or order, and x x x also evidence of malice or bad faith, ignorance or inexcusable negligence, on the part of the judge in rendering said judgment or order' or under the stringent circumstances set out in Article 32 of the Civil Code (see *In Re: Joaquin T. Borromeo*, at pp. 464-465).

"x x x. In fine, *Flores* filed his administrative and criminal complaints prematurely, before ascertainment of the existence of foundation therefor; x x x." (emphasis added)

In the present case, complainants did not bother at all to file a motion for reconsideration of respondent judge's order denying the motion to dissolve the writ of preliminary injunction. Following our settled pronouncements cited above, we find the instant administrative complaint vulnerable to dismissal for being premature.

Moreover, to constitute gross ignorance of the law, the acts complained of must not only be contrary to existing law and jurisprudence, but were motivated by bad faith, fraud, malice or dishonesty.[4] Here, we can not discern from the records any taint of those defects on the part of respondent judge in denying complainants' motion to dissolve the writ of preliminary injunction. At the very least, his act constitutes an error of judgment correctible by a motion for reconsideration and other applicable subsequent remedies under the Rules.

Complainants moved that respondent judge inhibit himself inasmuch as an administrative complaint was filed

against him. Suffice it to state that a mere filing of an administrative case against a judge is not a ground for disqualifying him from hearing a case.[5]

Finally, as to the allegations of bias and partiality, we find no reason to delve into these matters as they are not sustained by evidence but are only based on the opinion of complainants. Mere suspicion that a judge is partial is not enough. There should be clear and convincing evidence to prove this charge. The only exception to the rule is when the error is so gross and patent as to produce an ineluctable inference of bad faith and malice[6] which is not present here.

WHEREFORE, the instant administrative complaint against respondent Judge Fernando Vil Pamintuan is hereby DISMISSED.

SO ORDERED.

Puno, (Chairman), Panganiban, Corona, and Carpio-Morales, JJ., concur.

[1] Abraham L. Mendova vs. Crisanto B. Afable, A.M. No. MTJ-02-1402, December 4, 2002.

[2] Mendova vs. Afable, supra, citing Santos vs. Orlino, 357 Phil. 102 (1998); In Re: Joaquin T. Borromeo, 311 Phil. 441 (1995); Rodrigo vs. Quijano, A.M. No. 731-MJ, September 9, 1977, 79 SCRA 10, 12; Dizon vs. De Borja, A.C. No. 163-J, January 28, 1971, 37 SCRA 46, 52; Urbina vs. Maceren, 156 Phil. 402 (1974).

[3] A.M. No. SC-96-1, July 10, 1997, 275 SCRA 302, 316-317.

[4] Dayot vs. Garcia, A.M. No. MTJ-00-1282, March 1, 2001, 353 SCRA 280.

[5] Cruz vs. Joven, 415 Phil. 598 (2001).

[6] Philippine Geriatrics Foundation, Inc. vs. Layosa, A.M. No. MTJ-00-1249, September 4, 2001, 364 SCRA 287.

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