

GARY P. ROSAURO, REPRESENTING GAUDIOSO GARY A. ROSAURO, JR. AND JULIUS ALEXIS A. ROSAURO, COMPLAINANT, VS. JUDGE WENCESLAO R. VILLANUEVA, JR., BRANCH 3, REGIONAL TRIAL COURT OF ...*A.M. No. RTJ-99-1433. June 26, 2000*

Ponente: KAPUNAN, J.

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In two separate sworn complaints dated March 5, 1997 and March 24, 1997, respectively, Mr. Gary P. Rosaura charges Judge Wenceslao R. Villanueva, Jr. of the Regional Trial Court of Legazpi City, Branch 3, with Gross Inefficiency, Deliberate Violation of Supreme Court Guidelines, Grave Abuse of Discretion and Authority, and Ignorance of the Law relative to Civil Case No. 9078 entitled "Gaudioso Gary A. Rosaura, Jr., et.al. vs. Carlos V. Los Baños," for Specific Performance Plus Damages

Complainant alleges that he is the representative of plaintiffs Gaudioso Gary A. Rosaura, Jr. and Julius Alexis A. Rosaura in Civil Case No. 9078 filed before the RTC, Legazpi City, Branch 3. He avers that the respondent judge, due to "gross inefficiency, deliberate violation of Supreme Court guidelines, giving undue consideration to a party-litigant, grave abuse of authority, and ignorance of the law," delayed the issuance of the writ of execution against the defendant in said case, which writ orders the delivery to plaintiffs of the certificate of title as well as the actual physical possession of the half portion of a parcel of land subject of the suit.[1]

A perusal of the records reveals that the parties in said Civil Case No. 9078 for Specific Performance plus Damages entered into a compromise agreement whereby the defendant, among others, obligated himself to deliver to the plaintiffs the certificate of title to a lot he sold to them. The compromise was approved by the trial court and incorporated in its decision rendered on November 29, 1995. Subsequently, due to defendant's failure to comply with the terms of the agreement, the plaintiffs, through herein complainant, were forced to file a motion for execution of the judgment. The hearing of the motion was initially set on March 22, 1996 but was reset to April 11, 1996. A day before said date, the defendant therein filed a motion for extension of time to file his reply to an opposition to the postponement of the hearing filed by complainant. Thus, the hearing of the motion for execution of judgment was again postponed. Complainant now avers that the motion for extension of time to file reply should have been outrightly denied since it was a clear violation of the rule on motions.[2]

The writ of execution was finally issued on April 25, 1996, but defendant still refused to deliver the actual possession of the subject property. Hence, a motion to cite defendant in contempt was filed on May 23, 1996. Hearing of the motion was set on June 25, 1996. The defendant filed a motion for postponement of the said hearing which the trial court granted.[3]

On October 1, 1996, the complainant again filed a "Motion to Resolve Motion for Contempt" and strongly opposed the defendant's filing of another motion for postponement. Such opposition, notwithstanding, the scheduled hearing was again cancelled and reset to another date. Complainant now alleges that the decision on

Civil Case No. 9078 has not been implemented up to the present and has been reduced to a mere scrap of paper.[4]

Complainant further alleges that a new motion to resolve the motion for contempt filed sometime in January 1997 and the motion for issuance of an alias writ of execution has, likewise, not been acted upon. He claims that the delay has caused him mental anxiety, deprivation of possession of his property, as well as loss of income.[5]

On May 30, 1997, complainant filed a supplemental letter-complaint reiterating therein his charges against respondent judge. Complainant further recommends that an audit of pending cases in RTC, Legazpi City, Branch 3 be conducted to determine whether there are other cases which have not been resolved within the 90-day period required by the rules.[6]

On June 23, 1997, the respondent judge filed his comment denying therein the allegations in the complaint. He explains that the delay in resolving the questioned motion for contempt was due to the fact that a certain Bolinas (a third party) filed a petition before the Court of Appeals to prevent the respondent judge, the sheriff and the plaintiffs from enforcing the writ of execution. Respondent avers that he indefinitely suspended the hearing on the motion for contempt pending the ejectment case filed by plaintiffs and defendant against said Bolinas.[7]

Respondent judge further explains that the alleged delay was due to complainant's successive filing of motions making it difficult for the former to attend to all the motions, as before one could be ruled upon, another would have already been filed. The respondent judge avers that all motions have already been acted on except for the contempt charge. He further claims that the delay in the resolution of the complainant's motions was also due to the formal motions for postponement filed by the parties themselves.[8]

Finally, before the court could act on the urgent motion to empower the sheriff, a motion for inhibition was filed by complainant, which motion was granted in the court's Order dated May 9, 1997. The records of the case were then transferred to the Executive Judge for assignment to another branch.[9]

There is merit in complainant's allegations.

A judge should not only render a just, correct, and impartial decision but should do so in such a manner as to be free from any suspicion as to its fairness and impartiality and as to his integrity.[10] While a judge should possess proficiency in law in order that he can competently construe and enforce the law, it is more important that he should act and behave in such a manner that the parties before him should have confidence in his impartiality.[11] Thus, it is not enough that he decides cases without bias and favoritism. Nor is it sufficient that he in fact rids himself of prepossessions. His actions should moreover inspire that belief. Like Caesar's wife, a judge must not only be pure but beyond suspicion.[12]

This Court has, in a number of cases, imposed disciplinary action against judges who have committed grave misconduct or inefficiency. Examples of misconduct or inefficiency which have invited disciplinary action from reprimand to removal from office against the judge who committed it include judicial partiality in favor of a litigant.[13]

A review of the records in the instant case, particularly the respondent judge's orders attached thereto, will reveal that there is indeed basis for the complainant's perception that the former was biased in favor of defendants in the case before his court; and, that respondent judge may have bent backwards to accommodate the defendants and/or their counsel.

There appears to be no cogent reason why a simple motion for execution should be set for hearing some three weeks from the date of filing thereof; and, postponed further at defendant's instance. On the new date agreed upon

for the hearing or on April 11, 1996, the motion could not again be heard because the day before, the defendants filed a motion for a ten-day extension of time to reply to the opposition to postponement of the hearing filed by the complainant.[14] It is worthy to note that contrary to respondent judge's claim, the records do not show that the postponements were agreed upon by the parties. What the records do show is that the complainant, strongly opposed the said postponements.

As a rule, a judgment upon a compromise is at once final and immediately executory.[15] Once a judgment becomes final and executory, the prevailing party can have it executed as a matter of right and the granting of execution becomes a ministerial duty of the court.[16] The non-fulfillment of the terms and conditions of a compromise agreement approved by the court justifies execution thereof and the issuance of a writ for the said purpose is the court's ministerial duty, enforceable by mandamus.[17]

Furthermore, under Rule 3.05 of the Code of Judicial Conduct, a judge shall dispose of the court's business promptly and decide cases within the required periods. In the case at bar, the judge failed in his duty to dispose of Civil Case No. 9078 in a prompt and expeditious manner. Rather, he has wittingly delayed the execution of the judgment to which the complainant was entitled.

Justice delayed is often justice denied, and delay in the disposition of the cases erodes the faith and confidence of the people in the judiciary, lowers its standard and brings it into disrepute.

WHEREFORE, in view of the foregoing, the Court hereby RESOLVES to impose upon respondent Judge Wenceslao R. Villanueva, Jr. a FINE of Five Thousand Pesos (P5,000.00), with a STERN WARNING that a repetition of the same or similar act will be dealt with more severely.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Pardo, and Ynares-Santiago, JJ., concur.

[1] Report of the Office of the Court Administrator dated January 5, 1999, Rollo, p. 1.

[2] *Id.*, at 2.

[3] *Id.*

[4] *Id.*

[5] *Id.*

[6] *Id.*

[7] *Id.*

[8] Report of the OCA dated January 5, 1998, Rollo, p. 3.

[9] *Ibid.*

[10] Agpalo, *Legal Ethics*, Fourth Edition (1989), pp. 454-455 citing *Martinez vs. Gironella*, 6 SCRA 245 (1975); *Umale vs. Villaluz*, 51 SCRA 84 (1973)

[11] *Id.*, at 455 citing *Tan, Jr. vs. Gallardo*, 73 SCRA 306 (1976); *Fernandez vs. Presbiterio*, 79 SCRA 60 (1977)

[12] *Ibid.*, citing *Palang vs. Zosa*, 58 SCRA 776 (1974)

[13] *Prudential Bank vs. Castro*, 142 SCRA 223 (1986)

[14] Report of the Office of the Court Administrator dated January 5, 1999, Rollo, p. 3.

[15] Regalado, Remedial Law Compendium Book 1, Fifth Revised Edition (1988) citing Pamintuan vs. Muñoz, 22 SCRA 1109 (1968); Central Bank vs. CA, et. al., 61 SCRA 348 (1974); The Pasay City Government, et al. vs. CFI of Manila, et. al., 132 SCRA 156 (1984)

[16] Cruz vs. Leabres, 244 SCRA 194 (1995)

[17] Abinujar vs. CA, 243 SCRA 531 (1995)

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