

SALVACION P. ONQUIT, COMPLAINANT, VS. JUDGE AURORA BINAMIRA-PARCIA, AND SHERIFF IV DANILO O. MATIAS, RESPONDENTS.

A.M. No. MTJ-96-1085. October 08, 1998

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This is an administrative complaint charging respondents, namely: Judge Aurora Binamira-Parcia, Municipal Circuit Trial Court (5th Judicial Region), Ligao-Oas, Albay, with grave abuse of authority, bias and grave misconduct; and, Sheriff IV Danilo O. Matias, with grave misconduct, misbehavior in the performance of his official duties, and collusion.[1]

The charge against respondent Judge stems from a forcible entry case[2] with prayer for temporary restraining order and preliminary injunction with damages. Said case was assigned to her sala. The complainant and her two brothers were therein co-defendants. Complainant raised the issue of jurisdiction stating that said case falls within the original and exclusive jurisdiction of the Department of Agrarian Reform (DAR) because it involves tenancy over an agricultural land. Thereafter, complainant and her co-defendants filed with respondent Judge, an Ex-Parte Motion for Disqualification, Request for Disqualification and Request for Resolution. Basically, these motions were founded on the trial court's alleged lack of jurisdiction. In a single Order,[3] respondent Judge denied all three motions ruling that jurisdiction is determined by the allegations in the complaint and not those raised by defendants. Moreover, according to respondent Judge, the claim regarding the nature of the case at bar would not automatically divest the court of its jurisdiction.

Subsequently, plaintiff in the lower court filed an injunction bond which was approved by respondent Judge and a writ of preliminary injunction was issued against the defendants, including herein complainant. A seizure order followed which directed respondent Sheriff to seize the palay from the land in question.[4]

In the complaint now before this Court, complainant details several allegations as follows:

- (1) That the land subject of the forcible entry case is an agricultural riceland, thus, it is the Department of Agrarian Reform which has original and exclusive jurisdiction, and not the respondent Judge's court;
- (2) That the plaintiff's injunction bond was approved by respondent Judge without first serving a copy to the complainant resulting in a violation of due process. Complainant avers that it left her no opportunity to object to the sufficiency of the bond. Further, a copy of the writ of injunction was not served on complainant's counsel;
- (3) That a notice regarding the Motion for Issuance of Seizure Order was not served on the complainant thereby depriving her of a chance to oppose it;
- (4) That respondent Judge has been heard saying that complainant and his co-defendants ought to leave the land because it is certain that they will lose their case;

(5) And that, with regard to respondent Sheriff, upon the issuance of the seizure order, he seized all the palay harvested without issuing a receipt, despite demand therefor, and delivered the palay to the plaintiff.[5]

In her Comment, respondent Judge asserts principally that the complaint was maliciously filed to harass her. She recounts that ejectment cases were earlier filed before her sala against some of complainant's family members involving different areas of the disputed lot. In these separate cases, respondent Judge ordered their ejectment,[6] which she claims is the reason for complainant's vindictiveness. She claims moreover, that in a Special Civil Case (No. 1852) filed against her before the Albay Regional Trial Court, to restrain her from taking cognizance of Civil Case No. 1048-L, she nevertheless proceeded Civil Case No. 1048-L, after the special civil case was dismissed. She then ordered the issuance of a writ of preliminary injunction, and required an injunction bond from complainant's opponents.[7] All these were resented, according to the respondent Judge, by the complainant.

With regard to the averment by complainant that she and her co-defendants were not furnished a copy of the bond before its approval, respondent Judge replies that the records of the case would show that complainant's counsel was furnished with a copy of the Motion to Admit Bond. Furthermore, even granting that the complainant and co-defendants were not furnished with a copy of the bond, the failure to serve a copy would be merely a formal defect. She states that complainant should have asked the court to furnish the parties with a copy, but complainant failed to do so.[8]

In response to the accusation regarding her order denying the Motion to Fix Defendant's Bond and to Dissolve the Writ of Preliminary Injunction, she states that the injunction bond posted by plaintiff was sufficient to cover damages to which complainant and her co-defendants might be entitled, in case a judgment would be rendered in their favor.[9]

As for the questioned seizure order, respondent Judge maintains that the reason for this order was that even after the issuance of an injunction, complainant and co-defendants re-entered the land in question and harvested the palay thereon. It was an ex-parte motion which she had to grant considering the urgency of the matter, keeping in mind that there was an injunction bond for the benefit of complainant and co-defendants.[10]

Respondent Judge denies ever talking to complainant in her chambers. According to her, it was Merle Porte, a sister of complainant and not a party to the case, who approached respondent Judge in the afternoon of April 10, 1996. Porte pleaded that her brothers and sisters be allowed to harvest the palay and that they would settle the matter with the plaintiff in said case. Respondent Judge states that her reply was for Porte to discuss the matter with their lawyer instead of personally speaking with her. Further, respondent Judge denies for being totally untrue the incident alleged by complainant wherein she was allegedly confronted concerning a purported payment to her of P20,000 by plaintiff. According to respondent Judge, it was actually complainant's counsel, a former professor of respondent Judge, who went inside her chambers to ask that she should deny the plaintiff's request for an injunction.[11] For the satisfaction of complainant and her co-defendants, respondent Judge inhibited herself from rendering judgment in Civil Case No. 1048-L and from further hearing the Petition for Contempt filed by plaintiff against complainant.[12]

In sum, respondent Judge avers to this Court that from the outset complainant and her co-defendants were already doing all that they could do to disqualify her from taking cognizance of Civil Case No. 1048-L. As a matter of fact, when the Presiding Judge of the Regional Trial Court of Ligao, Albay, denied the plaintiff's petition seeking respondent Judge to be disqualified from hearing said case, complainant filed a similar administrative case against the Presiding Judge.[13]

Concerning the charges of Grave Misconduct, Misbehavior in the Performance of Official Duties and Collusion against respondent Sheriff, he states in his Comment that when the Clerk of Court received the Seizure Order, he

was ordered to implement it immediately. Police assistance was requested from the station commander to accompany respondent Sheriff in entering the ricefield. He stated that despite the heavy rain in the area he found complainant and her co-defendants harvesting the palay. Said palay was seized as ordered and placed inside sacks, and then brought by him to the Hall of Justice. Early the following morning, he went to the Hall of Justice, and had the palay, although wet, threshed and cleaned. He decided that it was best to turn over the palay to the wife of the plaintiff due to the fact that the grains were dripping wet from the previous day's rains and if not dried immediately would deteriorate as, in fact, there were already grains showing signs of germination. A copy of the receipt of the Sheriff's Return of Service was signed by the wife of plaintiff. He admits though that the vehicle used in transporting the seized palay was provided for by plaintiff, which he concluded was the reason behind the alleged collusion between him and plaintiff.

On the charge by complainant that he refused to issue a receipt upon seizure, respondent Sheriff replied that he could not do so immediately upon seizure as the palay was not yet threshed and he would only know the number of cavans seized after such was threshed and cleaned. He claims that he did this the next day after the palay was threshed and cleaned. Only then was it quantifiable as to the number of cans in which they were stored. Respondent Sheriff then furnished the receipt to complainant's counsel of record, together with the Sheriff's Return of Service.[14]

Complainant subsequently filed a Reply to each of the Comments submitted by respondent Judge and respondent Sheriff. The Reply to the Comment of respondent Judge centered on the fact that there was personal bias involved, which accounted for the way respondent Judge conducted herself towards the hearing of complainant's case.[15] As to her Reply to the respondent Sheriff's Comment, complainant denied the allegation that they reacted defiantly to the writ of preliminary injunction. According to complainant, the land was owned by another family who, together with her co-defendants, were the actual occupants thereof. Further, complainant maintains that aside from the illegality of the seizure order, the respondent Sheriff made an error in his Sheriff's Return, when he reported his estimate of the seized palay way below the actual volume of the palay.[16]

Considering the Complaint, the Comments, and the Reply as well as the pleadings and exhibits submitted, we find no grave abuse of authority, grave misconduct and bias on the part of respondent Judge.

The fact that respondent Judge took cognizance of the forcible entry case did not taint her action with grave abuse of authority, even if defendant had alleged that the land in question was under agricultural tenancy, and that there was an issue of jurisdiction. Well-settled is the principle that the courts shall not be divested of jurisdiction over a case merely by what is raised in the answer. What determines the nature of an action and a court's jurisdiction over it are the allegations set up by the plaintiff.[17] "Basic is the rule that the material averments in the complaint, which in this case is for ejectment, determine the jurisdiction of the court. And, jurisprudence dictates that the court does not lose its jurisdiction over an ejectment case by the simple expedient of a party raising as a defense therein the alleged existence of a tenancy relationship between the parties." [18] It is the duty of the court to receive evidence to determine the veracity of allegations of tenancy. In an Order of respondent Judge dated 09 February 1996, it was ruled that, considering the evidence presented, the land in question is an irrigated riceland, but not tenanted.[19] This matter was even brought up on a petition for certiorari with prohibition to the Regional Trial Court of Ligao, Albay, but said petition was denied.[20] These antecedents are sufficient to convince us that the respondent Judge did not act with grave abuse of authority in assuming jurisdiction over the case filed in her sala.

With regard to the allegation of having failed to furnish to the defendants a copy of the bond and the writ of preliminary injunction, we give credence to the findings made by the Office of the Court Administrator, as follows:

"However, Section 8, Rule 58 of the Revised Rules of Court in conjunction with Section 3, Rule 70 thereof provides that 'the [p]arty filing the bond shall forthwith served (sic) a copy of such bond on the other party, who may except to the sufficiency of the bond, or of the surety or sureties thereon.' This means that the plaintiff and not the Court or the respondent Judge for that matter, who (sic) is duty bound to serve a copy of the injunction bond to the defendants. x x x Nevertheless, the failure of the plaintiff to serve a copy of the injunction bond to the defendant is merely a formal defect and not a reversible error. For in this case the defendant may ask the [c]ourt to order the plaintiff to serve upon him the copy of the bond.

x x x x x x x x

On the other hand, the records belie the claim of complainant that the Writ of Preliminary Injunction was not served to (sic) the defendants. Records show that said writ was served to (sic) the defendants on February 16, 1996 at their residence but all refused to acknowledge receipt therefor, nevertheless the executing Sheriff left each a copy to (sic) the defendants (Annex H, rollo, p.41)."[21]

We also find that there was no impropriety on the part of respondent Judge when she issued the seizure order. It was apparent that the complainant and her co-defendants showed defiance of the writ of preliminary injunction. This was all the more demonstrated when they re-entered the land and harvested the palay, in direct and open violation of the writ. The order to seize the harvested palay was issued to preserve the status quo, and in no way done with grave abuse of authority.

The charges of bias imputed on respondent Judge, specifically, that she received money from the plaintiffs and that she told complainant that they will surely lose the case, are only allegations which are not supported by evidence apart from the self-serving statements made by complainant. Given no support on the record, we are not persuaded by said accusations hurled by complainant simply because there is no evidence thereon to implicate the respondent Judge.

With regard to the charges against respondent Sheriff, we find that his actuation of immediately implementing the seizure order did not constitute grave misconduct nor was it an act of collusion with the adverse party. He did what was expected of any sheriff given charge of enforcing a court order. When a writ is placed in the hands of a sheriff, it is his ministerial duty to proceed with reasonable celerity and promptness to execute it in accordance with its mandates.[22]

Neither are we convinced that respondent Sheriff was remiss in his duty to issue a receipt for the palay he seized. Admittedly, he did not issue the receipt on the spot, but we accept the reason stated earlier for issuing it when the palay was already cleaned and measured, next day. From the record, complainant made no averment that respondent Sheriff derived pecuniary benefit in not immediately giving complainant a receipt. It was reasonable to briefly wait until measurement could be made as to the volume of the palay after being cleaned and threshed before issuance of the receipt. In the absence of contrary evidence, the presumption prevails that the sheriff has regularly performed his official duty.[23]

On the matter of where to deposit the seized palay, however, it was incumbent on respondent Sheriff to deliver the palay to the court considering it was still considered property in custodia legis. Deposit of seized items in litigation is not a discretionary matter. Until the court had made its decision as to the disposal of the palay, the presumption was that the seized palay should remain in the court's custody, hence to be deposited in court. Respondent Sheriff should not have handed them over to the plaintiff in the absence of a directive to that effect in the seizure order. However, this Court takes note of the circumstances surrounding respondent Sheriff's delivery to the plaintiff of what was seized. Although the palay was already threshed and cleaned, it was still dripping wet from the previous day's heavy rains and respondent Sheriff felt that if not dried immediately the grains would deteriorate and might just eventually be rendered useless. This leads us to conclude that there was no bad faith in

his acts. Furthermore, he documented his turnover of the seized grains in the presence of witnesses from the barangay. His actuation was without malice and could be deemed not unreasonable under the circumstances obtaining, although not in strict compliance with official duty concerning a matter in custodia legis.

WHEREFORE, the Court hereby resolves to DISMISS the administrative charges against respondent Judge Aurora Binamira-Parcia for lack of merit. The charges against respondent Sheriff Danilo Matias are also DISMISSED, but he is hereby ADMONISHED to strictly observe always the rules and regulations governing the performance of his duties in regard to the enforcement of seizure orders of the court.

SO ORDERED.

Davide, Jr., (Chairman), Bellosillo, Vitug, and Panganiban, JJ., concur.

[1] ADMINISTRATIVE COMPLAINT- Rollo, p.1.

[2] Civil Case No. 1048-L; Annex "F", Rollo, pp. 34- 36.

[3] Ibid.

[4] MEMORANDUM, p. 1.

[5] Ibid. pp. 1-2; Rollo pp. 50-51.

[6] COMMENT p.1; Rollo, p. 17

[7] Ibid., p. 3: Rollo, p. 19.

[8] Id., p. 4; Rollo, p. 20.

[9] Id., p. 5; Rollo, p. 21.

[10] Id.

[11] Id., p.6; Rollo, p. 22.

[12] Id., p.7; Rollo, p. 23.

[13] Id.

[14] COMMENT; Rollo, pp. 10-13.

[15] REPLY; Rollo, pp. 45-47.

[16] Supra 4 at pp. 4-5.

[17] Sandel vs. Court of Appeals, 262 SCRA 101; Bernardo, Sr. vs. Court of Appeals, 263 SCRA 660; Javelosa vs. Court of Appeals, 265 SCRA 493.

[18] De la Cruz vs. Bautista, 186 SCRA 517, 525. See also, De Luna vs. Court of Appeals, 221 SCRA 703, 709.

[19] Annex "F", Rollo, p. 34.

[20] Annex "G", Rollo, pp. 37-40.

[21] Supra 4 at 6.

[22] Jumio vs. Egay-Eviota, 231 SCRA 551.

[23] Navale vs. Court of Appeals, 253 SCRA 705.

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