

SERGIO & GRACELDA N. ANDRES, COMPLAINANTS, VS. JUDGE JOSE S. MAJADUCON, REGIONAL TRIAL COURT, BRANCH 23, ELMER D. LASTIMOSA, CLERK OF COURT AND EX-OFFICIO PROVINCIAL SHERIFF, RT...

A.M. No. RTJ-03-1762 [formerly OCA I.P.I. No. 02-1422-RTJ]. December 17, 2008

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

This administrative case arose from the complaint-affidavit[1] dated February 21, 2002 of Sergio N. Andres, Jr. and Gracelda N. Andres charging respondents Judge Jose S. Majaducon, Executive Judge, Regional Trial Court (RTC), General Santos City, and Presiding Judge, Branch 23, with violation of Supreme Court Circular No. 7, Gross Ignorance of the Law and Grave Misconduct, and both Elmer D. Lastimosa, Ex-Officio Provincial Sheriff of South Cotabato, and Nasil S. Palati, Sheriff IV, Regional Trial Court, Branch 23, General Santos City, with Abuse of Authority, Ignorance of the Law and Grave Misconduct.

The complaint stemmed from the Special Order of Demolition[2] issued by Judge Majaducon on August 22, 2001 in connection with the consolidated Civil Case Nos. 1291[3] and 4647,[4] an action for declaration of nullity of documents and recovery of possession of real property with writ of preliminary mandatory injunction and damages. The said order directed the provincial sheriff of General Santos City to demolish the improvements erected by the heirs of John Sycip and Yard Urban Homeowners Association on the land belonging to spouses Melencio Yu and Talinanap Matualaga. Pursuant to the Order of Demolition, a Notice to Vacate[5] dated September 12, 2001 was issued by Sheriff Palati and noted by Provincial Sheriff Lastimosa. The said notice was addressed to the heirs of John Sycip, all members of Yard Urban Homeowners Association, and "all adverse claimants and actual occupants" of Lot No. 2, Psu-135740, the land subject of Civil Case Nos. 1291 and 4647.

To forestall the demolition of their houses, complainants, who claimed an interest over Lot No. 2, Psu-135740, filed a Special Appearance with Urgent Ex-Parte Manifestation[6] informing the court of the pending protest between them and the heirs of Melencio Yu and Talinanap Matualaga before the Department of Environment and Natural Resources (DENR), docketed as RED Claim No. 3735.[7] In the Ex-Parte Manifestation, complainants alleged that they and their predecessor-in-interest Concepcion Non Andres introduced improvements and authorized the construction of several improvements on Lot No. 2, Psu-135740. They also averred that they are not bound by the judgment rendered in Civil Case Nos. 1291 and 4647 because neither they nor their predecessor-in-interest were impleaded as parties therein. They prayed that the provincial sheriff or any of his deputies be enjoined from implementing the special order of demolition on the improvements they made. They also wrote a letter[8] addressed to respondents Lastimosa and Palati enjoining them from executing the order of demolition under pain of administrative sanction.

On February 6, 2002, notwithstanding complainants' manifestation and letter, Lastimosa and Palati proceeded with the demolition of the improvements erected by the complainants and their predecessor-in-interest.

Thus, on February 18, 2002, complainants instituted, with the RTC of General Santos City, Civil Case No. 7066, an action for Specific Performance, Reconveyance and Damages against the heirs of Melencio Yu and impleaded Judge Majaducon, Lastimosa and Palati as co-defendants. The complaint alleged that complainants' title over Lot No. 2, Psu-135740 was valid, that they had been occupying the property since 1957 and that the reckless and arbitrary demolition of their improvements had unlawfully disturbed their peaceful occupation of the property.[9] Complainants also filed an Urgent Motion for Special Raffle of said Civil Case No. 7066.

In an Order[10] dated February 18, 2002, Judge Majaducon, acting as the Executive Judge of RTC, General Santos City, denied the Urgent Motion for Special Raffle and dismissed outright Civil Case No. 7066. On the same day, respondent judge issued another Order[11] declaring complainants in direct contempt of court for allegedly filing a complaint based on a quitclaim that had already been pronounced null and void by the Supreme Court. Accordingly, complainants were ordered to pay a fine of P2,000.00 and to suffer the penalty of imprisonment for ten (10) days.

This prompted complainants to file the instant administrative complaint. They averred that the actions of herein respondents constitute bad faith, malicious motive, serious partiality, grave misconduct and gross ignorance of the law. They also alleged that prior to his appointment in the judiciary, Judge Majaducon was the former counsel of Melencio Yu and his mother Dominga Pinagawang.

In his Comment[12] dated April 16, 2002, respondent judge vehemently denied the accusations hurled against him. He explained that he issued the special order of demolition in the consolidated Civil Case Nos. 1291 and 4647 after a decision[13] was rendered and a resolution[14] was issued by the Supreme Court affirming the judgments of the RTC and the Court of Appeals (CA) declaring spouses Melencio Uy and Talinanap Matualaga as the rightful owners of Lot No. 2, Psu-135740 and ordering all occupants to vacate the premises. This was also the reason why he ordered the outright dismissal of Civil Case No. 7066 filed by herein complainants. He believed that complainants had no cause of action because the courts had already decided that the quitclaim upon which complainants based their action was null and void. Thus, to entertain the complaint would be just a waste of time on the part of the court. Anent the contempt order, he maintained that the same was justified because complainants had instituted an unfounded suit based on a falsified document, thereby demonstrating an obvious defiance and disrespect of the authority and dignity of the court.

As to the charge of partiality, respondent judge denied being the former counsel of Melencio Yu's mother, Dominga Pinagawang. He explained that his real client was Cesar Bañas who requested him to write a letter demanding the squatters to vacate the lot owned by Dominga. He asserted that after writing the letter, another counsel took over the case.

Respondents Lastimosa and Palati filed their own Comment[15] on April 9, 2002 and averred that they faithfully observed the correct procedure in the implementation of the order of demolition, including the twin requirements of notice and hearing. According to them, they were extra careful in implementing the same especially because it was, by far, the biggest demolition undertaken by their office as it involved a 12-hectare property and about 1,500 persons. It also generated interest among the media, thus they made sure that they consulted with respondent judge all issues and questions relative to its implementation.

In the Agenda Report[16] dated December 12, 2002, the Office of the Court Administrator (OCA) recommended that respondent judge be fined in the amount of P10,000.00 for violation of the rules governing the raffle of cases, and that the administrative case against him be redocketed as a regular administrative matter. The OCA, however, found that respondents Lastimosa and Palati did not abuse their authority in the implementation of the order of demolition and accordingly recommended the dismissal of the complaint against them.

In the Resolution dated March 5, 2003, the Court required the parties to manifest their willingness to submit the case for resolution based on the pleadings filed.[17] Pursuant to respondents' manifestation,[18] they filed their memorandum with additional exhibits on April 22, 2003.[19] Complainants, on the other hand, manifested that they would no longer file a memorandum and that they were submitting the case for resolution.

Complainants assailed the respondent judge's issuance of a special order of dismissal in connection with Civil Case Nos. 1291 and 4647 despite their pending protest before the DENR. To complainants, the issuance of said order of demolition constituted gross ignorance of the law.

We are not persuaded. The evidence on hand shows that respondent judge issued the special order of demolition only after carefully determining that there was no more hindrance to issue the same. For one, the trial court, in Civil Case Nos. 1291 and 4647, had already adjudged that the land in question belonged to spouses Yu and Matualaga and even nullified the quitclaim and all documents of conveyance of sale in favor of complainants' predecessor-in-interest.[20] In fact, the records of the case disclosed that the decision of the trial court was affirmed by the CA in CA-G.R. No. 69000[21] and CA-G.R. CV No. 54003[22] and ultimately by this Court via its decision dated November 9, 1990 in G.R. No. 76487[23] and resolution dated July 19, 1999 in G.R. No. 138132.[24]

It is thus beyond dispute that the judgment in Civil Case Nos. 1291 and 4647 had already attained finality. The special order of demolition was issued by respondent judge so that the final judgment could be fully implemented and executed, in accordance with the principle that the execution of a final judgment is a matter of right on the part of the prevailing party, and mandatory and ministerial on the part of the court or tribunal issuing the judgment.[25] To be sure, it is essential to the effective administration of justice that, once a judgment has become final, the winning party be not, through a mere subterfuge, deprived of the fruits of the verdict.[26]

However, respondent judge abused his authority in dealing with Civil Case No. 7066 which cast serious doubt as to his impartiality. Respondent judge's outright dismissal of Civil Case No. 7066 entitled "Heirs of Concepcion Non Andres, namely Sergio, Sergio Jr., and Sofronio and Gracelda, all surnamed Andres v. Heirs of Melencio Yu and Talinanap Matualaga, namely Eduardo, Leonora, Virgilio, Vilma, Cynthia, Imelda and Nancy, all surnamed Yu, and represented by Virgilio Yu and Cynthia Yu Abo, Atty. Elmer Lastimosa, in his capacity as Ex-Officio Provincial Sheriff of South Cotabato, Mr. Nasil Palati, in his capacity as Deputy Sheriff, Regional Trial Court, Branch 23, General Santos City, and Hon. Jose S. Majaducon, Presiding Judge of the Regional Trial Court, Branch 23, General Santos City" was irregular. As correctly found by the OCA, respondent judge completely ignored the procedure for the raffling of cases mandated by Supreme Court Circular No. 7 dated September 23, 1974, which we reproduce hereunder:

I. RAFFLING OF CASES

All cases filed with the Court in stations or groupings where there are two or more branches shall be assigned or distributed to the different branches by raffle. No case may be assigned to any branch without being raffled. The raffle of cases should be regularly conducted at the hour and on the day or days to be fixed by the Executive Judge. Only the maximum number of cases, according to their dates of filing, as can be equally distributed to all branches in the particular station or grouping shall be included in the raffle. x x x

Clearly, respondent judge violated the explicit mandate of the Court when he took cognizance of Civil Case No. 7066 wherein he was named as one of two defendants and instantly dismissed it without first conducting the requisite raffle. The Court, enunciating the importance of the raffling of cases, held in the case of *Ang Kek Chen v. Bello*[27] :

The procedure for the raffling of cases under Supreme Court Circular No. 7 is of vital importance to the administration of justice because it is intended to ensure the impartial adjudication of cases. By raffling the cases, public suspicion regarding the assignment of cases to predetermined judges is obviated. A violation or disregard of the Court's circular on how the raffle of cases should be conducted is not to be countenanced.

Respondent judge cannot excuse himself from his duty as Executive Judge by dispensing with the raffle of the case and dismissing it outright on the pretext that it would be just a waste of time on his part to raffle and entertain the case. As Executive Judge, he ought to know that raffling of cases is his personal duty and responsibility. He is expected to keep abreast and be conversant with Supreme Court rules and circulars that affect the conduct of cases before him and strictly comply therewith at all times. Failure to abide by these rules undermines the wisdom behind them and diminishes respect for the rule of law. Judges should therefore administer their office with due regard to the integrity of the system of law itself, remembering that they are not depositories of arbitrary power, but judges under the sanction of law.[28]

By declaring complainants guilty of direct contempt of court, sentencing them to pay a fine of P2,000.00 and to suffer the penalty of imprisonment for ten (10) days, respondent judge exhibited his bias against herein complainants.

Contempt of court is a defiance of the authority and dignity of the court or a judge acting judicially, or such conduct as tends to bring the authority of the court and the administration of justice into disrepute or disrespect.[29] Here, respondent judge cited complainants in direct contempt of court for filing a complaint (Civil Case No. 7066) based on a deed of quitclaim that had already been declared null and void, instead of having the said case, wherein he was one of the defendants, raffled to the court which could properly act on the case. While the power to punish in contempt is inherent in all courts so as to preserve order in judicial proceedings and to uphold due administration of justice, still, judges must be slow to punish for direct contempt. This drastic power must be used judiciously and sparingly. A judge should never allow himself to be moved by pride, prejudice, passion, or pettiness in the performance of his duties.[30]

The salutary rule is that the power to punish for contempt must be exercised on the preservative, not vindictive principle, and on the corrective and not retaliatory idea of punishment. The courts must exercise the power to punish for contempt for purposes that are impersonal, because that power is intended as a safeguard not for the judges as persons but for the functions that they exercise.[31]

It has time and again been stressed that besides the basic equipment of possessing the requisite learning in the law, a magistrate must exhibit that hallmark judicial temperament of utmost sobriety and self-restraint which are indispensable qualities of every judge. A judge should be the last person to be perceived as a petty tyrant holding imperious sway over his domain.[32]

Indeed, Section 6 of Canon 6 of the New Code of Judicial Conduct states that:

Judges shall maintain order and decorum in all proceedings before the court and be patient, dignified and courteous in relation to litigants, witnesses, lawyers and others with whom the judge deals in an official capacity.

Respondent judge's act of unceremoniously citing complainants in direct contempt is a clear evidence of his unjustified use of the authority vested upon him by law.

Respondent judge also took cognizance of Civil Case No. 7066 despite the fact that prior to his appointment as judge, respondent served as counsel for Melencio Yu and his mother, Dominga Pinagawang.

Respondent's explanation that it was Cesar Bañas who was his client and not Melencio and Dominga was belied

by the demand letter^[33] dated June 20, 1980, which was signed by him.

Respondent judge clearly acted as counsel not only for Cesar Bañas but for Melencio and Dominga as well. Section 2 of Canon 3 of the New Code of Judicial Conduct specifically provides that "judges shall ensure that his or her conduct, both in and out of court, maintains and enhances the confidence of the public, the legal profession and litigants in the impartiality of the judge and of the judiciary." Section 5 of the same Canon further states that "judges shall disqualify themselves from participating in any proceedings in which they are unable to decide the matter impartially or in which it may appear to a reasonable observer that they are unable to decide the matter impartially. Such proceedings include, but are not limited to, instances where (b) the judge previously served as lawyer in the matter in controversy."

Respondent judge violated the above canon when he dispensed with the raffle and took cognizance of Civil Case No. 7066 as well as ordered its outright dismissal and cited the complainants in contempt of court. He thus created the impression that he intended to favor his former clients, Melencio and Dominga. His actuations gave ground for the parties to doubt his impartiality and objectivity. A judge should strive to be at all times wholly free, disinterested, impartial and independent. He has both the duty of rendering a just decision and the duty of doing it in a manner completely free from suspicion as to its fairness and as to its integrity.^[34] Well-known is the judicial norm that judges should not only be impartial but should also appear impartial. A critical component of due process is a hearing before an impartial and disinterested tribunal, for all the other elements of due process, like notice and hearing, would be meaningless if the ultimate decision would come from a partial and biased judge.^[35]

We take this occasion once more to impress upon a trial judge that he must at all times maintain and preserve the trust and faith of litigants in the court's impartiality. When he exhibits actions that give rise, fairly or unfairly, to perceptions of bias, such faith and confidence are eroded, and he has no choice but to inhibit himself voluntarily. It is basic that a judge may not be legally prohibited from sitting in a litigation, but when circumstances appear that will induce the slightest doubt on his honest actuations and probity in favor of either party, or incite such state of mind, he should conduct a careful self-examination. He should exercise his discretion in a way that the people's faith in the courts of justice is not impaired. The better course for the judge is to disqualify himself.^[36]

Respondent judge was a party defendant in Civil Case No. 7066 which was enough reason not to act on the same and just leave the matter to the Vice-Executive Judge. His reluctance to let go of the case all the more induced doubts and suspicions as to his honest actuations, probity and objectivity. Evidently, respondent judge violated the clear injunction embodied in the aforecited Canon of the Code of Judicial Conduct.

Be that as it may, we rule that there is no merit in complainants' charge of gross ignorance of the law leveled against respondent judge. For liability to attach for ignorance of the law, the assailed order, decision or actuation must not only be contrary to existing law and jurisprudence but, most importantly, it must also be established that he was moved by bad faith, fraud, dishonesty, and corruption.^[37] Gross ignorance of the law is a serious accusation, and a person who accuses a judge of this very serious offense must be sure of the grounds for the accusation.

The violation of Supreme Court Circular No. 7 by respondent judge is classified as a less serious charge under Section 9 of Rule 140 of the Rules of Court. Section 11(B) of the same Rule provides the following sanctions for less serious offenses:

Sec. 11. Sanctions.

B. If the respondent is guilty of a less serious charge, any of the following sanctions shall be imposed:

- Suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months; or
- A fine of more than P10,000.00 but not exceeding P20,000.00.

Finally, as regards the charge against Ex-Officio Provincial Sheriff Elmer Lastimosa and Sheriff IV Palati, complainants maintain that they abused their authority when they enforced the order of demolition against complainants even though they were not impleaded as parties in Civil Case Nos. 1291 and 4647 where the order of demolition was issued.

The dispositive portion of the order of demolition issued by respondent judge reads:

NOW THEREFORE, we command you to demolish the improvements erected by the defendants HEIRS OF JOHN SYCIP (namely: NATIVIDAD D. SYCIP, JOSE SYCIP, JR., ALFONSO SYCIP II, ROSE MARIE SYCIP, JAMES SYCIP & GRACE SYCIP), Represented by NATIVIDAD D. SYCIP, in Civil Case No. 1291 and the plaintiffs YARD URBAN HOMEOWNERS ASSOCIATION, INC. ET AL. in Civil Case No. 4647, on that portion of land belonging to plaintiffs in Civil Case No. 1291 and defendants in Civil Case No. 4647, MELENCIO YU and TALINANAP MATUALAGA, covered by Original Certificate of Title No. (V-14496) (P-2331) P-523, located in Apopong, General Santos City.

This Special Order of Demolition shall be returned by you to this Court within ten (10) days from the date of receipt hereof, together with your proceedings indorsed hereon.[38]

Clearly, respondent judge neither ordered the eviction of any other person occupying the property of spouses Yu and Matualaga other than the parties in Civil Case Nos. 1291 and 4647, nor directed the Ex-Officio Sheriff to demolish the houses or structures of any person other than the said parties. However, the notice to vacate issued by Palati and noted by Lastimosa was addressed not just to the parties but to "all adverse claimants and actual occupants of the land subject of the case." It directed that the houses and improvements of the parties, as well as those of adverse claimants including complainants who were not parties in Civil Case Nos. 1291 and 4647, would be demolished.

Worth quoting here is the decision of the CA in CA-G.R. CV No. 54003, which decided the appeal of the decision in Civil Case No. 4647, viz:

Finally, the appellants' assertion that they are not bound by the decision in Civil Case No. 1291 because they are not parties therein and that the appellees should first institute an action for ejectment in order to acquire possession of the property is without merit. The appellants' failure to establish a vested and better right, either derivative or personal, to the land in question as against the appellees, forecloses any posturing of exemption from the legal force and effect of the writ of execution issued by the trial court to enforce a final judgment under the guise of denial of due process. A judgment pertaining to ownership and/or possession of real property is binding upon the defendants and all persons claiming right of possession or ownership from the said defendant and the prevailing party need not file a separate action for ejectment to evict the said privies from the premises.(Emphasis supplied)[39]

Evidently, the decision in Civil Case Nos. 1291 and 4647, which had long become final and executory, can be enforced against herein complainants although they were not parties thereto. There is no question that complainants merely relied on the title of their predecessor-in-interest who was privy to John Sycip, the defendant in Civil Case No. 1291. As such, complainants and their predecessor-in-interest can be reached by the order of demolition.[40]

Respondent sheriffs cannot be faulted with grave misconduct and abuse of authority in implementing the order of demolition. The records before us are simply bereft of any indication supportive of the allegation. Quite the

contrary, we find Lastimosa and Palati to have faithfully observed the correct procedure in the implementation of respondent judge's order. In fact, they were extra careful in the enforcement of the same knowing that a lot of attention was given to it by the media, involving as it did a 12-hectare property and about 1,500 persons. Despite the controversy, they were able to carry out the demolition peacefully and successfully.

It is well-settled that when an order is placed in the hands of a sheriff, it is his ministerial duty to proceed with reasonable promptness to execute it in accordance with its mandate. The primary duty of sheriffs is to execute judgments and orders of the court to which they belong. It must be stressed that a judgment, if not executed, would be an empty victory on the part of the prevailing party. It is said that execution is the fruit and the end of the suit and is very aptly called the life of the law. It is also indisputable that the most difficult phase of any proceeding is the execution of judgment. Hence, the officers charged with this delicate task must act with considerable dispatch so as not to unduly delay the administration of justice, otherwise, the decisions, orders, or other processes of the courts of justice would be futile.[41]

We take note of the fact that respondent judge had compulsorily retired from the service on February 24, 2001.[42]

IN VIEW OF THE FOREGOING, the Court finds Judge Jose Majaducon GUILTY of abuse of his authority for which he is meted a fine of P20,000.00 to be deducted from his retirement benefits.

For lack of merit, the charge of grave abuse of authority against Elmer Lastimosa and Nasil Palati is hereby DISMISSED.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio, Azcuna, and Chico-Nazario,[*] JJ., concur.

[*] Additional member in lieu of Justice Renato C. Corona as per Special Order No. 541.

[1] Rollo, pp. 1-8.

[2] Id., at 56-57.

[3] Entitled, Melencio Yu and Talinanap Matualaga v. Heirs of John Sycip, represented by Natividad Sycip.

[4] Entitled, Yard Urban Homeowners Association, Inc., et al. v. Melencio Yu, et al.

[5] Rollo, p. 58.

[6] Id., at 36-37.

[7] Entitled, Concepcion Non Andres (dec.) now her Heirs, represented by Gracelda N. Andres v. Melencio Yu (dec.), now his Heirs, represented by Virgilio Yu.

[8] Rollo, p. 38.

[9] Id., at 9-21.

[10] Id., at 48.

[11] Id., at 40-43.

[12] Id., at 81-88.

- [13] In G.R. No. 76487, entitled, Heirs of John Sycip v. Court of Appeals, November 9, 1990. Id., at 44-47.
- [14] In G.R. No. 138132, entitled, Yard Urban Homeowners Association, Inc. et al. v. Melencio Yu, et al., July 19, 1999. Id., at 141.
- [15] Id., at 53-55.
- [16] Id., at 172-177.
- [17] Id., at 178.
- [18] Id., at 180,183-185.
- [19] Id., at 202-204.
- [20] Id., at 89-96.
- [21] Id., at 97-103.
- [22] Id., at 133-140.
- [23] See Note 13.
- [24] See Note 14.
- [25] Suyat v. Gonzales-Tesoro, G.R. No. 162277, December 7, 2005, 476 SCRA 615, 623.
- [26] Honrado v. Court of Appeals, G.R. No. 166333, November 25, 2005, 476 SCRA 280, 291.
- [27] Nos. L-76344-46, June 30, 1988, 163 SCRA 358.
- [28] Hilario v. Ocampo III, A.M. No. MTJ-00-1305, December 3, 2001, 371 SCRA 260, 270-271.
- [29] Abad v. Somera, G.R. No. 82216, July 2, 1990, 187 SCRA 75, 84-85.
- [30] Sison v. Caoibes, Jr., A.M. No. RTJ-03-1771, May 27, 2004, 429 SCRA 258, 265.
- [31] Cañas v. Castigador, G.R. No.139844, December 15, 2000, 348 SCRA 425, 433.
- [32] Rodriguez v. Bonifacio, A.M. No. RTJ-99-1510, November 6, 2000, 344 SCRA 519, 535.
- [33] Rollo, p. 33.
- [34] Garcia v.Dela Peña , A.M. No. MTJ-92-687, February 9, 1994, 229 SCRA 766, 774.
- [35] Webb v. People, G.R. No. 127262, July 24, 1997, 276 SCRA 243, 252.
- [36] Orola v. Alovera, G.R. No. 111074, July 14, 2000, 335 SCRA 609, 619.
- [37] Guerrero v. Villamor, A.M. No. RTJ-90-483, September 25, 1998, 296 SCRA 88, 98.
- [38] Rollo, p. 57.
- [39] Id., at 176.
- [40] Vda. De Medina v. Cruz, No. L-39272, May 4, 1988, 161 SCRA 36, 43-44.
- [41] Zarate v. Untalan, A.M. No. MTJ-05-1584, March 31, 2005, 454 SCRA 206, 216.
- [42] Rollo, p. 176.

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