

AGUINALDO MORAL, COMPLAINANT, VS. SILVINO LU BARRO, CITY JUDGE OF GINGOOG CITY, RESPONDENT.*Adm. Matter No. 179 (CJ). September 28, 1973*

Ponente: TEEHANKEE, J.

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The Court finds that while respondent judge's imposition of an interest award at the rate of twelve (12%) per cent per month was not due to gross ignorance of the law and incompetence, nevertheless, the commission of such a gross error was due to carelessness and negligence, mitigated only by the fact that after an interval he discovered and corrected *motu proprio* his own error. A severe reprimand with warning is administered upon respondent, with the injunction to exercise henceforth due care and diligence in the discharge of his functions.

Upon receipt from the Department of Justice of the verified letter-complaint dated May 17, 1973, of the complainant addressed to the President requesting that administrative action be instituted against respondent for "gross ignorance of the law and incompetency", the Court required respondent's comment thereon, which was submitted under date of June 19, 1973.

On the complainant's basic complaint that respondent had declared him in default in Civil Case No. 476 of respondent's court, wherein one Chan Kiat Shing as plaintiff sued complainant as defendant for recovery of the sum of P4,490.00 entrusted to complainant for the purchase of coprax and coffee grains (which complainant failed to do) with one-third thereof as attorney's fees and "to pay the interest", and in an order dated August 29, 1972, rendered judgment "ordering the defendant (complainant) to pay the plaintiff the sum of P4,490.00 plus interest thereon at the rate of 12% a month from July 12, 1972 till the same is fully paid, and P200.00 as attorney's fee"[1] or 144% interest per annum and issued a writ of execution dated April 29, 1973 for the satisfaction of such "illegal decision", respondent replied that the 12% monthly interest imposed by him in the judgment and writ of execution was an error, which he corrected after he discovered the same on May 17, 1973, while checking the civil cases in his docket.

Respondent submitted a copy of his amendatory order dated May 17, 1973 correcting the rate of interest to "12% a year from July 12, 1972" and ordering that copy thereof be furnished to deputy sheriff Ismael Wahiman, so that the original writ (ordering 12% interest per month) would not be enforced. The sheriff accordingly corrected the notice of levy and sheriff's notice of auction sale both dated May 3, 1973 levying upon two parcels of coconut land of complainant for satisfaction of the principal amount awarded in the judgment of P4,490.00 plus interest at 12% per annum and P200.00 as attorney's fees. The auction sale was carried out on June 5, 1973 as scheduled, with only one parcel of land of complainant having been sold to the highest and only bidder, one Joseph Malimas, for the sum of P5,726.50 which was duly turned over to the judgment creditor in full satisfaction of the judgment.

The Court is satisfied from the foregoing that respondent's actions do not spell out a case of "gross ignorance of the law and incompetence." Yet, respondent's explanation that his imposition in his original judgment of interest at the illegal and shocking rate of "12% a month" was an oversight and an error, which he carried over in the writ

of execution issued later by him on April 29, 1973, is far from satisfactory.

It is obvious that respondent's overlooking such a glaring error was due to carelessness and negligence on his part, mitigated only by the fact that a month after he issued the writ of execution, he finally discovered *motu proprio* his gross error and accordingly corrected the same to "12% a year" per his amendatory order of May 17, 1973. Yet, even in this instance, respondent betrayed a lack of circumspection, diligence and care in two respects: first, since the complaint prayed only for an award of interest as to which there was no stipulation between the parties, respondent should have ordered the payment of only "the legal interest, which is six percent per annum" as provided by Article 2209 of the Civil Code instead of the 12% annual interest awarded by him in his amendatory order, and second, he should have ordered that copy of his amendatory order be served not only upon the deputy sheriff but also upon the parties, particularly the defendant-complainant, so that complainant would have been duly and timely notified of the correction made by him in the interest awarded and thus afforded the opportunity to ask respondent to lower further the rate of interest awarded in the amendatory order to conform to the cited codal provision. Respondent shall accordingly be reprimanded for his carelessness and negligence.

It cannot be overstressed that judges should strive always to exercise due care and diligence in the study and determination of cases before their courts. A proper degree of circumspection would certainly avoid the commission of such glaring errors such as that involved here and prevent the litigant's faith in the administration of justice from being severely shaken. Courts should ever seek to render their decisions with the utmost care and thoroughness and with the conviction that the decisions so rendered are just, fair and equitable, regardless of the recourse of appeal to a higher court being available. In this manner, the people's faith and confidence in the courts and in the administration of justice are enhanced. The litigant realizing the fairness of the judgment (such as the ordinary action here involved of recovery of a sum of money) would in all probability desist from pursuing an appeal, leaving the appellate courts free to devote their time to the study and determination of meritorious controversies.

As to the secondary complaint of complainant that respondent should have inhibited himself from the case as the plaintiff herein was his close friend and retainer, the Court finds satisfactory respondent's explanation that said plaintiff was not his retainer and that the mere fact that both plaintiff and complainant-defendant had been clients of his in specific civil cases long before his appointment to his position in June, 1969, was no ground for self-inhibition. Besides, there is no showing that complainant had sought the inhibition of respondent by a proper motion for disqualification under Rule 137 which is the proper remedy in such cases, rather than the filing of an administrative complaint.[2]

ACCORDINGLY, respondent judge is hereby severely reprimanded for his carelessness and negligence, and enjoined to exercise henceforth due care and diligence in the discharge of his functions, with the warning that a repetition of such misconduct would be dealt with more severely.

Makalintal, Acting C.J., Zaldivar, Ruiz Castro, Fernando, Barredo, Antonio, and Esguerra, JJ., concur.
Makasiar, J., no part.

[1] Annex H, respondent's comment; emphasis furnished.

[2] See *Soriano vs. Abiera*, Adm. Case No. 191-J, October 24, 1972.

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