

RAFAEL RONDINA, ROLAND GERON, ARTURO ORTEGA, BERNARDO RAMOS, ROBIN ROBIN RONDINA AND DANILO ABARAO, COMPLAINANTS, VS. ASSOCIATE JUSTICE ELOY R. BELLO, JR., COURT OF APPEALS, RES...

A.M. No. CA-05-43 (A.M. OCA IPI No. 04-72-CA-J). July 08, 2005

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

The instant administrative matter arose when Rafael Rondina, Roland Geron, Arturo Ortega, Bernardo Ramos, Robin Rondina and Danilo Abarao, forwarded to Chief Justice Hilario Davide, Jr. a Letter-Complaint dated March 7, 2004 charging Court of Appeals (CA) Associate Justice Eloy R. Bello, Jr. with alleged misconduct and unethical behavior relative to G.R. No. 134903 entitled "Unicraft Industries International Corporation v. Court of Appeals." The letter-complaint is herein quoted, as follows:

Dear Mr. Chief Justice,

We, RAFAEL RONDINA and 31 other co-employees, at Cogon Victoria, San Remegio, Cebu, are lowly employees of Unicraft Industries International Corporation et al. since [the] 1980s. We were loyal and dedicated workers, deprived of the statutory minimum wages and standard benefits. When we formed a union to ask for our rights, we were dismissed in 1995. We promptly filed our complaints NLRC RAB 7 Cebu City and [were] assigned to Labor Arbiter DOMINADOR ALMIRANTE, who referred our case to Voluntary Arbitration. After being selected voluntary arbitrator, Mr. FLORANTE CALIPAY conducted hearings and ordered [the] submission [of] position papers and evidence, after which, he rendered judgment on March 15, 1997.

On March 31, 1997, Unicraft went to the Court of Appeals (CA) on certiorari docketed as CA G.R. No. 43765, which issued a TRO on April 4, 1997. On June 18, 1998, [the] CA ordered execution of the VA judgment. Unicraft filed [a] motion for reconsideration, which was denied by the CA on July 31, 1998.

In a petition for certiorari dated 22 August 1998, docketed as G.R. NO. 134903, Unicraft went to the Supreme Court which, on 26 March 2001, remanded the case for reception of evidence of VA Calipay. We moved for reconsideration fearing that Unicraft et al. would only further delay the proceedings by not cooperating with VA Calipay. You Mr. Chief Justice joined Justice REYNATO PUNO in dissent opting to dismiss the Unicraft Petition for lack of merit. The ponente, Justice CONSUELO YNARES-SANTIAGO, who wanted to remand the case to Calipay for reception of evidence, was joined by Justices KAPUNAN & PARDO. Copy of the Order and the dissent are attached as Annex A & B.

In compliance, the VA issued an Order on 27 December 2002 for the parties to submit their position paper, pleadings with evidence. While we submitted additional pleadings and evidence, Unicraft refused to do so. Clearly then, Unicraft's cry at the Supreme Court that they were deprived [of] due process is a ploy to obstruct the administration of justice. Unicraft maliciously misled Justice CONSUELO YNARES-SANTIAGO. On 23 January 2004, the Voluntary Arbitrator issued its Judgment.

On 19 February 2004, we received a copy of a telegram from Atty. VIRGINIA ABELLA, Division Clerk of Court, announcing that a resolution was issued by the Court of Appeals on 18 February 2004 restraining or stopping voluntary arbitration proceedings. We later were furnished copy of the Order and realized that Unicraft had filed another certiorari with the CA, docketed as CA G.R. SP No. 81951 and it was Justice ELOY BELLO who signed the TRO that obstructed and cause[d] extreme delay to the proceedings. Copy of the Telegram is attached as Annex C.

Mr. Chief Justice Davide, we had been dismissed from our job in 1995 but up to the present Unicraft is just bringing the case up and down the judicial structure and it is Justice ELOY BELLO who again restrained the VA proceedings even when the CA and the Supreme Court had reviewed and ordered the proceedings be ruled out by VA Calipay and that justice be done. Justice BELLO had committed grave injustice by again restraining the VA proceedings, making the litigation eternal and our sufferings endless.

Unicraft, the Dino family and their counsel, Atty. JOSHUA DACUMOS want to delay [the] proceedings and the delivery of labor justice to us and our families causing us [to] suffer deeper deprivation and despair. We have suffered almost (10) years of extreme hunger, delays and physical threats [from] Unicraft and the Dino family, who wanted us to surrender by sheer delay and hopelessness in our justice system.

The Dino family and Unicraft officials, through their agents continue to threaten and entice us to withdraw our complaints since according to them they had "paid," "settled" and "transacted" with Justice ELOY BELLO of the Court of Appeals, to block the VA proceedings despite the Supreme Court's order to proceed. They promised that there will be no justice for us since we are poor. According to them, Justice Bello is committed to them to defeat our case. We are overwhelmed by discouragement and despair. Until when should we wait Mr. Chief Justice? How many times do we have to go up and down the Supreme Court and the Court of Appeals? We have waited for almost 10 years already. How many more years do we have to wait?

WE PRAY, please protect us from JUSTICE ELOY BELLO of the Court of Appeals. We pray that he be prohibited from issuing [a] restraining order against our case.

Justice Bello, for his part, vehemently denied the allegations against him. He averred that he does not know any member of the Dino family, any official of Unicraft Industries, or their lawyers, and that he has not transacted nor talked to anyone regarding the said case. He clarified that Unicraft, together with Robert Dino, et al., filed a petition for certiorari under Rule 65 of the Rules of Court with prayer for preliminary injunction and/or temporary restraining order, seeking to restrain the execution of the Voluntary Arbitrator's Decision dated January 23, 2004. An Urgent Ex-Parte Motion reiterating the request for the immediate issuance of a temporary restraining order and/or preliminary injunction was, thereafter, filed on February 4, 2004, followed by another motion filed on February 17, 2004 reiterating the same prayer. Unicraft's prayer for a temporary restraining order was granted in a Resolution[1] dated February 18, 2004, with Associate Justices Amelita G. Tolentino and Arturo D. Brion concurring. Justice Bello averred that the resolution was issued in the exercise of his sound discretion, and on his "rational and logical assessment of the circumstances prevailing in the incident brought before [him]."

Justice Bello also averred that any error committed in the issuance of the February 18, 2004 Resolution may be corrected via motion for reconsideration and other applicable remedies under the Rules. He pointed out that the complainants had not filed a motion for reconsideration of the said resolution. He lamented that the resort to an attack on his character or integrity as a judicial officer was uncalled for, thus:

While a judicial officer has to be patient and tolerant in dealing with intrigues affecting his office, it is extremely unfair to impute such venal acts against me based on hearsay information. Fully aware that they have no direct knowledge of the alleged acts being imputed, Mr. Rondina, et al. should have been more circumspect in casting aspersions against my honesty and integrity not only as a person but as a judicial officer. Indeed, such irresponsible, unfounded, and false accusations does not promote the orderly

administration of justice, and achieves nothing but to unduly burden a public servant who has done no wrong.

...

Indeed, the frustration that litigants would at times encounter in procedural rules is understandable. In fact, courts should be cognizant of the anguish that they undergo as they seek justice. However, they should also realize that the responsibility of the courts is to render justice, and the rules have been designed to insure the proper dispensation of the same. While the expeditious disposal of cases is desirable, it should never be at the expense of justice . . .[2]

The Court, thereafter, resolved to require the complainants to file their reply.

In the meantime, Justice Bello retired compulsorily on November 2, 2004. In a Letter dated November 5, 2004, he requested for the approval of his retirement papers and that, if needed, a certain amount be deducted from his retirement benefits. He further prayed that a clearance be issued with respect to the money value of his accumulated leave credits to facilitate the processing of his retirement benefits. The Court noted the said letter in its Resolution dated December 1, 2004.

Thereafter, in a verified Letter dated March 11, 2005, complainants Rafael and Robin Rondina alleged that before a restraining order/injunction can be issued, a hearing is required; no such hearing was conducted in the subject case. According to the complainants, the order suspending the execution of the arbitration judgment was issued outright; they were not given an opportunity to present their side, and the consequences of the issuance of the restraining order to their cause for justice was not considered. According to the complainants, they were surprised when Justice Bello ordered the stopping of the voluntary arbitration proceedings, since the Supreme Court itself had ordered the case remanded to the voluntary arbitrator for speedy judgment; the issuance of the said resolution stopped the administration of justice. According to the complainants, "one must post a bond equal to the value of the judgment one seeks to stop;" the bond required in the said case was less than 1% of the value of the judgment which execution was sought to be restrained.

The complaint is without merit and must forthwith be dismissed.

A complaint against a magistrate, when instituted by any person, must be verified and duly supported by affidavits of persons who have personal knowledge of the facts alleged therein, or by documents substantiating such allegations. In this case, the complainants failed to attach such affidavits to prove the alleged "transaction" between Justice Bello and Unicraft; no evidence was offered to prove the allegations in the complaint. This requirement is set forth in Section 1, Rule 140[3] of the Revised Rules of Court on the Discipline of Judges of Regular and Special Courts and Justices of the Court of Appeals and the Sandiganbayan, to wit:

Section 1. Proceedings for the discipline of Judges of regular and special courts and Justices of the Court of Appeals and the Sandiganbayan may be instituted *motu proprio* by the Supreme Court or upon verified complaint, supported by affidavits of persons who have personal knowledge of the facts alleged therein or by documents which may substantiate said allegations, or upon anonymous complaint, supported by public records of indubitable integrity. The complaint shall be in writing and shall state clearly and concisely the acts and omissions constituting violations of standards of conduct prescribed for Judges by law, the Rules of Court, or the Code of Judicial Conduct.

The rationale of this requirement is to protect magistrates from the filing of flimsy and virtually unsubstantiated charges against them. In fact, the Court has recognized this "proliferation of unfounded or malicious administrative or criminal cases against members of the Judiciary for purposes of harassment," and issued A.M. No. 03-10-01-SC[4] which took effect on November 4, 2003. It reads in part:

- If upon an informal preliminary inquiry by the Office of the Court Administrator, an administrative complaint

against any Justice of the Court of Appeals or Sandiganbayan or any Judge of the lower courts filed in connection with a case in court is shown to be clearly unfounded and baseless and intended to harass the respondent, such a finding should be included in the report and recommendation of the Office of the Court Administrator. If the recommendation is approved or affirmed by the Court, the complainant may be required to show cause why he should not be held in contempt of court. If the complainant is a lawyer, he may further be required to show cause why he or she should not be administratively sanctioned as a member of the Bar and as an officer of the court.

- If the complaint is (a) filed within six months before the compulsory retirement of a Justice or Judge; (b) for an alleged cause of action that occurred at least a year before such filing and (c) shown prima facie that it is intended to harass the respondent, it must forthwith be recommended for dismissal. If such is not the case, the Office of the Court Administrator must require the respondent to file a comment within ten (10) days from receipt of the complaint, and submit to the Court a report and recommendation not later than 30 days from receipt of the comment. The Court shall act on the recommendation before the date of compulsory retirement of the respondent, or if it is not possible to do so, within six (6) months from such date without prejudice to the release of the retirement benefits less such amount as the Court may order to be withheld, taking into account the gravity of the cause of action alleged in the complaint.

On this ground alone, the charges against Justice Bello should be dismissed outright.

Indeed, it is a settled rule in administrative proceedings that the complainant has the burden of proving the allegations in his or her complaint with substantial evidence. In the absence of evidence to the contrary, the presumption that the respondent has regularly performed his duties will prevail. Even in administrative cases, if a magistrate should be disciplined for a grave offense, the evidence against him should be competent and should be derived from direct knowledge.[5] Charges based on mere suspicion and speculation cannot be given credence.[6] Hence, when the complainant fails to substantiate a claim of corruption and bribery, relying merely on conjectures and suppositions, the administrative complaint must be dismissed for lack of merit.[7] The Court has to be shown acts or conduct of the judge clearly indicative of arbitrariness or prejudice before the latter can be branded the stigma of being biased and partial.[8]

It is also imperative to state that the questioned resolution was not rendered by Justice Bello alone, in his individual capacity. The CA is a collegiate court, whose members reach their conclusions in consultation and accordingly render their collective judgment after due deliberation. Thus, the Court has held that a charge of violation of the Anti-Graft and Corrupt Practices Act on the ground that a collective decision is "unjust" cannot prosper.[9] Consequently, the filing of charges of misconduct and unethical behavior against a single member of the appellate court, in this case Justice Bello, is inappropriate.

Contrary to the allegations of the complainants, Section 5,[10] Rule 58 of the Rules of Court provide the instances where a temporary restraining order may be issued ex parte, without need of hearings.

Furthermore, a careful perusal of the records failed to indicate any improper motive on the part of Justice Bello and the concurring Justices when they rendered the assailed resolution. As a matter of public policy, the acts of a judge in his official capacity are not subject to disciplinary action even though such acts may be erroneous, provided he acts in good faith and without malice.[11] The Court has to be shown acts or conduct of the judge clearly indicative of arbitrariness or prejudice before the latter can be branded the stigma of being biased and partial. Good faith and absence of malice, corrupt motives or improper considerations are sufficient defenses in which a judge can find refuge. Thus, not every error or mistake that a judge commits in the performance of his duties renders him liable, unless he is shown to have acted in bad faith or with deliberate intent to do an injustice;[12] hence, the failure to correctly interpret the law or to properly appreciate the evidence presented does not necessarily render a judge administratively liable.[13]

Indeed, magistrates are not expected to be infallible in their judgments.[14] To hold a judge administratively accountable for every erroneous rule or decision rendered would be nothing short of harassment and would make the 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 administration of justice can be infallible in his judgment.[15]

The Court, likewise, stresses that 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 fraud, malice, or dishonesty.[16]

CONSIDERING THE FOREGOING, the administrative complaint against Court of Appeals Associate Justice Eloy R. Bello, Jr. is DISMISSED for lack of merit.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Austria-Martinez, Carpio-Morales, Azcuna, Tinga, Chico-Nazario, and Garcia, JJ., concur.

Sandoval-Gutierrez, Carpio, and Corona, JJ., on official leave.

[1] The said resolution is worded as follows:

It appearing that the assailed decision which . . . allegedly has become final and executory is now in the process of being executed, and considering that this court is faced with the issue of whether or not public respondent has afforded petitioners herein due process in accordance with our existing laws, this Court needs more ample time to go over the records for us to properly address the issues involved.

So as not to render the instant petition from becoming moot and academic, let a Temporary Restraining Order be issued enjoining the public respondent herein from further proceeding with the respondents' Motion for Execution. (emphasis supplied)

A bond for the Temporary Restraining Order in the amount of P50,000.00 is hereby set pursuant to Sec. 4(b), Rule 58 of the 1997 Rules on Civil Procedure. Moreover, in lieu of a hearing, both parties are hereby required to file their respective memoranda within fifteen (15) days from receipt to show cause why a preliminary injunction shall not be issued.

Without necessarily giving due course to the instant Petition for Certiorari and Injunction, private respondents are hereby given ten (10) days from notice hereof to comment on the said petition. With the filing of the Comment, petitioners may reply thereto, within five (5) days from receipt of copy of the Comment.

SO ORDERED.

[2] 3[rd] Indorsement dated April 16, 2004.

[3] As amended by A.M. 01-8-10-SC, promulgated 11 September 2001.

[4] Entitled "Resolution Prescribing Measures To Protect Members Of The Judiciary From Baseless And Unfounded Administrative Complaints."

[5] *Montes v. Mallare*, A.M. No. MTJ-04-1528, 6 February 2004, 422 SCRA 309, citing *Urgent Appeal/Petition for Immediate Suspension & Dismissal of Judge Emilio B. Legaspi*, Regional Trial Court, Iloilo City, Branch 22, 405 SCRA 514 (2003).

[6] *Lambino v. De Vera*, 341 Phil. 42 (1997).

[7] *Fernandez v. Versola*, A.M. No. CA-04-40, 13 August 2004, 436 SCRA 369; See also *Cortes v. Chico-Nazario*, A.M. No. SB-04-11-J, 13 February 2004, 422 SCRA 541.

[8] See *Abdula v. Guiani*, G.R. No. 118821, 18 February 2000, 326 SCRA 1.

[9] *In Re: Wenceslao Laureta*, 12 March 1987, 148 SCRA 382.

[10] SEC. 5. Preliminary injunction not granted without notice; exception. - No preliminary injunction shall be granted without hearing and prior notice to the party or person sought to be enjoined. If it shall appear from the facts shown by affidavits or by the verified application that great or irreparable injury would result to the applicant before the matter can be heard on notice, the court to which the application for preliminary injunction was made, may issue ex parte a temporary restraining order to be effective only for a period of twenty (20) days from service on the party or person sought to be enjoined, except as herein provided. Within the said twenty-day period, the court must order said party or person to show cause, at a specified time and place, why the injunction should not be granted, determine within the same period whether or not the preliminary injunction shall be granted, and accordingly issue the corresponding order.

However, and subject to the provisions of the preceding sections, if the matter is of extreme urgency and the applicant will suffer grave injustice and irreparable injury, the executive judge of a multiple-sala court or the presiding judge of a single-sala court may issue ex parte a temporary restraining order effective for only seventy-two (72) hours from issuance but he shall immediately comply with the provisions of the next preceding section as to service of summons and the documents to be served therewith. Thereafter, within the aforesaid seventy-two (72) hours, the judge before whom the case is pending shall conduct a summary hearing to determine whether the temporary restraining order shall be extended until the application for preliminary injunction can be heard. In no case shall be the total period of effectivity of the temporary restraining order exceed twenty (20) days, including the original seventy-two hours provided herein.

In the event that the application for preliminary injunction is denied or not resolved within the said period, the temporary restraining order is deemed automatically vacated. The effectivity of a temporary restraining order is not extendible without need of any judicial declaration to that effect and no court shall have authority to extend or renew the same on the same ground for which it was issued.

However, if issued by the Court of Appeals, or a member thereof, the temporary restraining order shall be effective for sixty (60) days from service on the party or person sought to be enjoined. A restraining order issued by the Supreme Court or a member thereof shall be effective until further orders.

[11] *Flores v. Adefuin-De La Cruz*, A.M. No. CA-04-39, 5 October 2004, 440 SCRA 106.

[12] *Rallos v. Judge Gako, Jr.*, 385 Phil. 4 (2000); *Calleja v. Judge Santelices*, 384 Phil. 595 (2000).

[13] *Mina v. Judge Gatdula*, 426 Phil. 371 (2002).

[14] *De la Rosa v. Sabio, Jr.*, A.M. No. CA-03-35, 24 July 2003, 407 SCRA 213.

[15] *Cordero v. Enriquez*, A.M. No. CA-04-36, 18 February 2004, 423 SCRA 181.

[16] *De Guzman v. Pamintuan*, A.M. No. RTJ-02-1736, 26 June 2003, 405 SCRA 22.

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