LEONARDO L. RIVERA, COMPLAINANT, VS. JUDGE BERNABE B. MENDOZA, CLERK OF COURT VI JONATHAN FLORO D. DELA CRUZ AND SHERIFF IV RIZALDE V. SEVERINO, ALL OF THE REGIONAL TRIAL COURT ...

A.M. NO. RTJ-06-2013 [OCA-IPI NO. 06-2509-RTJ]. August 04, 2006

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

In a letter dated October 28, 2005, complainant Leonardo L. Rivera charged respondents Judge Bernabe B. Mendoza, Clerk of Court VI Jonathan Floro D. Dela Cruz and Sheriff IV Rizalde V. Severino, all of the Regional Trial Court of Roxas, Isabela, Branch 23, with Manifest Bias and Partiality relative to Civil Case No. 23-569 entitled Sps. Leonardo and Francisca Rivera v. Dolores Ll. Querubin.

Rivera alleged that Judge Mendoza issued a writ of execution despite lack of final and executory judgment and that he was biased in favor of Querubin who was an Australian citizen.

On November 18, 2005, then Court Administrator Presbitero J. Velasco, Jr.[1]informed Rivera that his complaint could not be acted upon for failure to state clearly and concisely the acts and omissions constituting the alleged violations of the respondents. Moreover, the complaint was not written in clear, simple and concise language as to apprise the respondents of the nature of the charge against them and to enable them to prepare their defense. Rivera was thus directed to comply with the foregoing requirements.

However, in a letter dated December 21, 2005, Rivera merely stated that respondents did not give credence to the nationality of Querubin. Moreover, he prayed for this Court to intercede in Civil Case No. 23-569 by ordering the partition of the subject property between him and Querubin.

In the Report dated May 30, 2006, the Office of the Court Administrator (OCA) noted that the complaint did not comply with the requirements set forth under Section 1, Rule 140 of the Rules of Court and that Rivera failed to establish the charges as he only made bare allegations without adducing evidence in support thereof. Hence, the OCA found that there is no necessity for the respondents to comment on the complaint and thus recommended that the instant administrative case be dismissed for lack of merit.

We agree with the findings and recommendation of the OCA.

Section 1, Rule 140 of the Rules of Court provides:

> SECTION 1. How instituted. - 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 propio by the Supreme Court or upon a 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 an 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. (Emphasis supplied)

Likewise, the Uniform Rules on Administrative Cases in the Civil Service require that the complaint against all civil servants, like respondents Clerk of Court Dela Cruz and Sheriff Severino, be written in a clear, simple and concise language and in a systematic manner, otherwise the same will be dismissed.[2]

In the instant case, complainant alleged that Judge Mendoza is biased in favor of Querubin when he did not give credence to the latter's nationality and when he issued a writ of execution in Civil Case No. 23-569 despite lack of a final and executory judgment. As regards respondents Clerk of Court Dela Cruz and Sheriff Severino, we find that there is no allegation as to their alleged infractions.

We agree with the observation of the OCA that complainant failed to allege specific acts or to present proof that would show that respondent judge indeed failed to consider the nationality of Querubin or how it affected the outcome of Civil Case No. 23-569. Anent the issuance of the writ of execution, complainant likewise failed to prove the status of Civil Case No. 23-569 or the fact that there was yet no final and executory judgment thereon. As regards respondents clerk of court and sheriff, there was no averment as to their participation in the alleged infraction. Clearly, complainant failed to comply with the requirements laid down in Section 1, Rule 140 of the Rules of Court and Section 8, Rule II of the Uniform Rules on Administrative Cases in the Civil Service.

It is likewise well-settled that in administrative proceedings, the burden of proof that respondents committed the acts complained of rests on the complainant.[3] In the instant case, we find that the charge of manifest bias and partiality is bereft of factual or legal basis hence, the same must be dismissed. Bare allegations of bias and partiality are not enough in the absence of clear and convincing evidence to overcome the presumption that the judge will undertake his noble role to dispense justice according to law and evidence and without fear or favor. There should be clear and convincing evidence to prove the charge of bias and partiality. Extrinsic evidence is required to establish bias, bad faith, malice or corrupt purpose, in addition to the palpable error that may be inferred from the decision or order itself.[4]

Even assuming that respondent judge erred in failing to consider the nationality of Querubin in deciding Civil Case No. 23-569, or in issuing the writ of execution without a final and executory judgment, complainant's remedy is not through this administrative complaint. It has been held that the filing of an administrative complaint is not the proper remedy for the correction of actions of a judge perceived to have gone beyond the norms of propriety, where a sufficient judicial remedy exists,[5] thus:

> [T]he law provides ample judicial remedies against errors or irregularities being committed by a Trial Court in the exercise of its jurisdiction. The ordinary remedies against errors or irregularities which may be regarded as normal in nature (i.e., error in appreciation or admission of evidence, or in construction or application of procedural or substantive law or legal principle) include a motion for reconsideration (or after rendition of a judgment or final order, a motion for new trial), and appeal. The extraordinary remedies against error or irregularities which may be deemed extraordinary in character (i.e., whimsical, capricious, despotic exercise of power or neglect of duty, etc.) are inter alia the special civil actions of certiorari, prohibition or mandamus, or a motion for inhibition, a petition for change of venue, as the case may be.
>
> Now, the established doctrine and policy is that disciplinary proceedings and criminal actions against Judges are not complementary or suppletory of, nor a substitute for, these judicial remedies, whether ordinary or extraordinary. Resort to and exhaustion of these judicial remedies, as well as the entry of judgment in the corresponding action or proceeding, are pre-requisites for the taking of other measures against the persons of the judges concerned, whether of civil, administrative, or criminal nature. It is only after the available judicial remedies have been exhausted and the appellate tribunals have spoken with finality, that the door to an inquiry into his criminal, civil or administrative liability may be said to have opened, or closed.[6]

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Hence, when the complainant relies on mere conjectures and suppositions, and fails to substantiate his claim, as in this case, the administrative complaint must be dismissed for lack of merit.[7] This Court will not shirk from its responsibility of imposing discipline upon erring employees and members of the bench. At the same time, however, the Court should not hesitate to shield them from unfounded suits that only serve to disrupt rather than promote the orderly administration of justice. This Court will not be the instrument to destroy the reputation of any member of the bench or any of its employees by pronouncing guilt on mere speculation.[8]

WHEREFORE, in view of the foregoing, the instant administrative case against respondents Judge Bernabe B. Mendoza, Clerk of Court VI Jonathan Floro D. Dela Cruz and Sheriff IV Rizalde V. Severino, all of the Regional Trial Court of Roxas, Isabela, Branch 23, is DISMISSED for lack of merit.

SO ORDERED.

Panganiban, C.J., (Chairperson), Austria-Martinez, Callejo, Sr. and Chico-Nazario, JJ., concur.

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[1] Now an Associate Justice of this Court.

[2] UNIFORM RULES ON ADMINISTRATIVE CASES IN THE CIVIL SERVICE, Rule II, Sec. 8 reads:

> Complaint. – A complaint against a civil service official or employee shall not be given due course unless it is in writing and subscribed and sworn to by the complainant. However, in cases initiated by the proper disciplining authority, the complaint need not be under oath.
>
> No anonymous complaint shall be entertained unless there is obvious truth or merit to the allegations therein or supported by documentary or direct evidence, in which case the person complained of may be required to comment.
>
> The complaint should be written in a clear, simple and concise language and in a systematic manner as to apprise the civil servant concerned of the nature and cause of the accusation against him and to enable him to intelligently prepare his defense or answer.
>
> The complaint shall contain the following:
>
> - full name and address of the complainant;
>
> - full name and address of the person complained of as well as his position and office of employment;
>
> - a narration of the relevant and material facts which shows the acts or omissions allegedly committed by the civil servant;
>
> - certified true copies of documentary evidence and affidavits of his witnesses, if any; and
>
> - certification or statement of non-forum shopping.
>
> In the absence of any one of the aforementioned requirements, the complaint shall be dismissed.

[3] Barcena v. Gingoyon, A.M. No. RTJ-03-1794, October 25, 2005, 474 SCRA 65, 74.

[4] Elefant v. Inting, A.M. No. RTJ-05-1938, July 15, 2005, 463 SCRA 457, 460, citing Mamerto Maniquiz Foundation, Inc. v. Pizarro, A.M. No. RTJ-03-1750, January 14, 2005, 448 SCRA 140.

[5] Barbers v. Laguio, Jr., A.M. No. RTJ-00-1568, February 15, 2001, 351 SCRA 606, 618.

[6] Flores v. Abesamis, A.M. No. SC-96-1, July 10, 1997, 275 SCRA 302, 316.

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[7] Planas v. Reyes, A.M. No. RTJ-05-1905, February 23, 2005, 452 SCRA 146, 161.

[8] Id.

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