

RUDY T. SALCEDO, COMPLAINANT, VS. JUDGE AMADO S. CAGUIOA AND SHERIFF BIENVENIDO C. ARAGONES, MUNICIPAL TRIAL COURT IN CITIES, BAGUIO CITY (BRANCH 3), RESPONDENTS.*A.M. No. MTJ-00-1328. February 11, 2004*

Ponente: AUSTRIA-MARTINEZ, J.

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In an Affidavit-Complaint[1] dated September 9, 1998, Rudy T. Salcedo charged Judge Amado S. Caguioa and Sheriff Bienvenido C. Aragones, both of the Municipal Trial Court in Cities, Baguio City (Branch 3), with Partiality and Gross Inexcusable Negligence relative to Civil Case No. 10099, entitled “Peliz Loy Realty Corp. vs. Rudy T. Salcedo.”

Complainant was the defendant in Civil Case No. 10099 for unlawful detainer involving a hotel known as Veny’s Inn located at No. 22-24 Session Road, Baguio City. On August 18, 1998, respondent Judge rendered a decision in said case against complainant. On the same day, complainant filed a notice of appeal. On August 21, 1998, the plaintiff, Peliz Loy Realty Corp. (Peliz Loy, for brevity), filed a Motion for the Issuance of a Writ of Execution pending appeal. On August 24, 1998, complainant filed a Motion to Strike Out the Motion for Execution Pending Appeal on the ground that the motion did not contain a notice of hearing as well as a proof of service in violation of Sections 4, 5 and 6 of Rule 15 of the 1997 Rules of Civil Procedure. On the same day, respondent Judge issued an Order granting the motion for execution pending appeal. On August 25, 1998, complainant filed a Petition for Certiorari with the Regional Trial Court (RTC) of Baguio City praying for the annulment of the Order dated August 24, 1998 issued by respondent, granting the motion for execution pending appeal. Complainant filed before respondent Judge a Manifestation and Motion to Suspend the Order of August 24, 1998, praying that the execution be suspended until his application for temporary restraining order, which was pending with the RTC, has been acted upon. Nonetheless, on August 25, 1998, respondent Sheriff implemented the writ of execution.

Complainant alleges that respondent Judge issued the writ of execution without notice to him and respondent Sheriff forcibly ejected him and his family from Veny’s Inn without affording them time to bring out jewelries and cash as well as personal properties and effects. He claims that jewelries amounting to P450,000.00 and cash of P200,000.00 were lost. Complainant submits that respondents conspired with Peliz Loy and its counsel, Atty. Galo R. Reyes, in the issuance and enforcement of the illegal order of execution, thereby giving Peliz Loy unwarranted benefits, advantage or preference in the discharge of their official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence.[2]

In his Comment, respondent claims that the instant administrative complaint is an offshoot of the Order, dated August 31, 1998, of the RTC of Baguio City (Branch 7) which issued a temporary restraining order (TRO) to enjoin the implementation of the writ of execution. He submits that the RTC erred in issuing the TRO because the writ has already been implemented on August 25, 1998. He maintains that the writ of execution is valid and properly implemented because Section 19, Rule 70 of the 1997 Rules of Civil Procedure makes it ministerial and

mandatory for the court to grant execution after a decision is rendered in an ejectment case which is adverse to defendant. He adds that the only way to stay execution is by perfecting an appeal, filing a supersedeas bond and depositing from time to time with the RTC, during the pendency of such appeal, the amount of rents or the reasonable value of the use and occupation of the property as fixed by the court of origin. He argues that complainant in this case did not file a supersedeas bond. Besides, he submits that a motion for issuance of a writ of execution is not a litigated motion.[3]

For his part, respondent Sheriff claims that he acted in accordance with his sworn duty as a sheriff and officer of the court. He contends that there is no truth to complainant's claim that he was not able to bring out his jewelries and cash because all the occupants of the building were given time to remove their personal effects.[4]

Both respondents insist that no unwarranted benefits or advantage were given to Peliz Loy. Respondent Judge claims that he merely relied on the evidence adduced and the applicable law and complainant cannot now claim that respondents acted with manifest partiality, evident bad faith or gross inexcusable negligence because the former even tolerated the dilatory motions of the latter. Respondents submit that the instant complaint is without basis and filed merely to harass them.[5]

Subsequently, in a letter[6] dated August 5, 1999, complainant prayed for the dismissal of the case against respondents considering that his dispute with Peliz Loy had been fully settled amicably to the satisfaction of the parties.

Consistent with the policy of the Court to proceed with investigations on complaints for misconduct and similar charges against a judge or court personnel despite desistance by complainant or withdrawal of complaint, the Court in a Resolution,[7] dated October 25, 2000, docketed the case as a regular administrative matter and required the parties to manifest whether they were willing to submit the case for resolution based on the pleadings filed.

In compliance, respondent Judge filed his letter-manifestation[8] dated November 28, 2000 praying for a favorable resolution. Complainant filed his Compliance[9] dated December 13, 2000 manifesting his willingness to have the case submitted for resolution based on the pleadings.

Upon a show cause order[10] of the Court dated September 8, 2003, respondent Sheriff filed on November 20, 2003 his manifestation of willingness to submit the case for resolution on the basis of the pleadings filed.[11]

In its Evaluation Report, the Office of the Court Administrator (OCA), applying *Kaw vs. Anunciacion, Jr.*[12], opines that respondent judge committed Gross Ignorance of the Law when he issued the Order granting the motion for execution pending appeal without hearing and notice to complainant, since the purpose of Sections 4, 5, and 6 of Rule 15 of the 1997 Rules of Civil Procedure in requiring that the motion shall be in writing and notice of the hearing thereof shall be served upon the adverse party is to give the latter the opportunity to argue against the motion so that he could avail of a remedy. Thus, the OCA recommends to the Court that respondent Judge be fined P5,000.00.

With respect to the charge against respondent Sheriff, the OCA opines that a sheriff, in the exercise of ministerial functions, cannot be held liable for implementing the writ of execution issued by the court since there is no proof that he oppressively disregarded procedural rules. The OCA adds that the allegation that "jewelries amounting to P450,000.00 and cash of P200,000.00 were lost" is unsubstantiated since nary an iota of proof, testimonial or otherwise, was adduced to prove the same. Thus, the OCA recommends that the charge against respondent Sheriff be dismissed for insufficiency of evidence.

We do not agree with to the OCA's finding that respondent Judge is administratively liable for Gross Ignorance

of Law.

It is plain from the complaint that the error attributable to respondent Judge pertains to the exercise of his adjudicative functions. Settled is the rule that errors committed by a judge in the exercise of his adjudicative functions cannot be corrected through administrative proceedings, but should instead be assailed through judicial remedies. In the recent case of *Bello III vs. Diaz*,^[13] we reiterated that disciplinary proceedings against judges do not complement, supplement or substitute judicial remedies, whether ordinary or extraordinary; an inquiry into their administrative liability arising from judicial acts may be made only after other available remedies have been settled. We extensively quoted therein the rationale for the rule as laid down in *Flores vs. Abesamis*,^[14] to wit:

As everyone knows, the 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 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 action 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.

Flores resorted to administrative prosecution (or institution of criminal actions) as a substitute for or supplement to the specific modes of appeals or review provided by law from court judgments or orders, on the theory that the Judges' orders had caused him 'undue injury.' This is impermissible, as this Court has already more than once ruled. Law and logic decree that 'administrative or criminal remedies are neither alternative nor cumulative to judicial review where such review is available, and must wait on the result thereof'. Indeed, since judges must be free to judge, without pressure or influence from external forces or factors, they should not be subject to intimidation, the fear of civil, criminal or administrative sanctions for acts they may do and dispositions they may make in the performance of their duties and functions; and it is sound rule, which must be recognized independently of statute, that judges are not generally liable for acts done within the scope of their jurisdiction and in good faith; and that exceptionally, prosecution of the judge can be had only if "there be a final declaration by a competent court in some appropriate proceeding of the manifestly unjust character of the challenged judgment or order, and ** also evidence of malice or bad faith, ignorance of inexcusable negligence, on the part of the judge in rendering said judgment or order" or under the stringent circumstances set out in Article 32 of the Civil Code.^[15] (Emphasis supplied)

Complainant herein utilized the available judicial remedy of certiorari before the RTC of Baguio City (Branch 7) to seek a review of the questioned order of respondent Judge. Complainant has not shown that a final decision has already been rendered by the RTC on the alleged impropriety of the order of execution to warrant this administrative recourse. Therefore, a decision on the propriety of the order of respondent Judge in this administrative proceeding would be premature. It has been said that a complainant who resorts to administrative disciplinary action, even before the judicial remedies are settled, in effect, abuses court processes.^[16]

With regard to the charges against respondent Sheriff, we find that his act of immediately implementing the writ of execution does not constitute "partiality, evident bad faith or gross inexcusable negligence" nor is it an act of

collusion with Peliz Loy. He acted within the bounds of his duty. It is elementary that a sheriff's duty in the execution of the writ is purely ministerial; he is to execute the order of the court strictly to the letter.[17] He has no discretion whether to execute the judgment or not.[18] When a writ is placed in the hands of the sheriff, it is his duty, in the absence of any instructions to the contrary, to proceed with reasonable celerity and promptness to implement it in accordance with its mandate.[19]

Complainant alleged that he lost jewelry and cash during the enforcement of the writ but the same remains unsubstantiated. Needless to stress, in administrative proceedings, the complainant has the burden of proving, by substantial evidence, the allegations in the complaint.[20] In the absence of contrary evidence, what will prevail is the presumption that a sheriff has regularly performed his official duty.[21] We agree with observation of the OCA that "[complainant's] desistance only negates the allegations that he had lost personal belongings and cash money. If he felt really aggrieved, he should have pursued his case against the sheriff."

WHEREFORE, the present administrative complaint against Judge Amado S. Caguioa of the Municipal Trial Court in Cities, Baguio City (Branch 3) is DISMISSED for being premature; and, the administrative complaint against Sheriff Bienvenido C. Aragon is DISMISSED for lack of merit.

SO ORDERED.

Puno, (Chairman), Quisumbing, Callejo, Sr., and Tinga, JJ., concur.

[1] The Affidavit-Complaint was initially filed with the Office of the Deputy Ombudsman for Luzon. The latter referred the affidavit-complaint to the Office of the Court Administrator, Rollo, p. 1.

[2] Rollo, pp. 2-6.

[3] Id., pp. 21-25.

[4] Id., p. 25.

[5] Ibid.

[6] Id., p. 47.

[7] Id., p. 57.

[8] Id., p. 59.

[9] Id., p. 70.

[10] Id., p. 86.

[11] Id., p. 88.

[12] 242 SCRA 1 (1995).

[13] AM-MTJ-00-1311, October 3, 2003.

[14] 275 SCRA 302 (1997).

[15] Id. at pp. 316-317 (1997).

[16] Caguioa vs. Laviña, 345 SCRA 49, 57 (2000).

[17] Wenceslao vs. Madrazo, 247 SCRA 696, 704 (1995); Eduarte vs. Ramos, 238 SCRA 36, 40 (1994).

[18] Aristorenas vs. Molina, 246 SCRA 134, 137 (1995); Evangelista vs. Penserga, 242 SCRA 702, 709 (1005).

[19] Francisco vs. Cruz, 340 SCRA 76, 85 (2000); Mamanteo vs. Magumun, 311 SCRA 259, 265 (1999).

[20] Sinnott vs. Barte, 372 SCRA 282, 292 (2001); Lorena vs. Encomienda, 302 SCRA 632, 641 (1999).

[21] Onquit vs. Binamira-Parcia, 297 SCRA 354, 364 (1998); Navale vs. Court of Appeals, 253 SCRA 705, 710 (1996).

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