

CRISPIN BARTIDO, COMPLAINANT, VS. HON. CESAR LARROBIS, RESPONDENT.

A.M. No. 917-MJ. July 21, 1978

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

Municipal Judge Cesar C. Larrobis of Naga, Cebu is charged with alleged partiality and deliberately ignoring Presidential Decree No. 20 in deciding an ejectment case (Civil Case No. R-107) before his sala on May 31, 1974 against the plaintiff therein, sister of the complainant.[1]

The charges are:

"PARTIALITY:

While he considered the Receipt of Land rental of the defendant which was paid on November 21, 1973 (six days after the property was redeemed by plaintiff) as proof of open and upright occupation of the lot; yet, the receipts of land rental of plaintiff which was based on her obligation to pay arising from Lease Contract with the Municipal Government, was considered 'Post Litem Motam and was rejected.

DELIBERATELY IGNORING THE LAW:

On June 15, 1974 we filed a motion for reconsideration, stating among other things, that his decision ordering the plaintiff to remove her house from the lot in order that the defendant could construct his own house of the same lot, is contrary to law, civil code and Presidential Decree No. 20, yet, the respondent judge denied the same as per its order dated July 19, 1974. Thus, he deliberately and intentionally ignored the laws aforesaid. Further, this particular portion of his decision shows that the respondent judge is ignorant of the laws on Preference, The Rules of Court and the Civil Code."[2]

On March 7, 1975 the respondent was required to comment. He complied in a second indorsement dated March 26, 1975. The respondent submits that "The instant complaint is one of such malicious charges."[3]

In a resolution dated August 29, 1977, this Court referred the case to the Executive Judge of the Court of First Instance of Cebu City for investigation, report and recommendation regarding the charges in the original complaint and the complainant's rejoinder to respondent's comment.[4]

Executive Judge Jose R. Ramolete submitted a report the pertinent portion of which reads:

"x x x The hearing was then set on February 20, 1978, at 2:00 P.M. with notices to the parties. The respondent as well as his counsel appeared on this date while the complainant, notwithstanding due notice, failed to appear. The respondent, thru counsel, moved either for the dismissal of the case for failure to prosecute or to consider this case submitted for decision on the basis of the comments submitted by him (p. 89, Record). To give the complainant another chance to prove his charges, this motion of the respondent was denied and the hearing was reset to March 14, 1978, at 2:00 P.M. with the warning that should the complainant fail again to appear the case will be recommended for dismissal (p. 91, Record).

Again, when this date arrived and in spite due notice, the complainant failed to appear while the respondent and his counsel appeared for which reason he (respondent) reiterated his motion he made on February 20, 1978 to have the case dismissed or considered submitted for decision based on his comments filed with the Supreme Court (p. 96, Record).

FINDINGS

The charges of partiality and deliberately ignoring the law are mere conclusions of the complainant and even granting that they are true, the undersigned considers them as mere errors of judgment of the respondent in deciding the ejectment case the remedy of which to have them rectified is by appeal and not by filing this administrative case against the respondent judge. The explanation of the respondent by way of denial of these charges is, to the mind of the undersigned, well-taken.

The additional charge of dishonesty made in the rejoinder of the complainant to the comments of the respondent which is not verified and the fact that the affiants, Rodulfo M. Navales and Camilo Bartido were not presented by the complainant to substantiate their allegations in their respective affidavits does not merit consideration and, therefore, the affidavits are mere hearsay which are inadmissible in evidence."^[5]

Agripina Bartido, sister of the complainant, appealed from the decision of the respondent municipal judge to the Court of First Instance of Cebu. According to the report of Executive Judge Jose R. Ramolete who investigated this administrative case, the decision of the respondent judge in the ejectment case, Civil Case No. R-107, against Agripina Bartido, was reversed by the Court of First Instance in a decision rendered by said Judge Ramolete dated February 7, 1975. The decision has already been executed.^[6]

The decision of the respondent judge is not patently erroneous.^[7] Executive Judge Ramolete considered the errors of the respondent judge "as mere errors of judgment of the respondent in deciding the ejectment case the remedy of which to have them rectified is by appeal and not by filing this administrative case xxx".^[8]

The complainant failed to support his charges although he was given ample opportunity to do so. We concur in the findings and recommendations of Judge Ramolete of Cebu City that the charges are mere conclusions of the complainant which have not been substantiated.

WHEREFORE, the complaint is DISMISSED for lack of merit.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Muñoz Palma, and Guerrero, JJ., concur.

[1] Sworn letter complaint, Rollo, pp. 1-3.

[2] Rollo, pp. 2-3.

[3] Rollo, p. 20.

[4] Rollo, p. 61.

[5] Rollo, pp. 100-101.

[6] Rollo, p. 101.

[7] Rollo, pp. 13-15.

[8] Rollo, p. 101.

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