

**RE: LETTER OF EXECUTIVE JUDGE SALVADOR S. ABAD SANTOS***A.M. No. 96-1-05-RTC. January 28, 2003*

Ponente: MENDOZA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-m-no-96-1-05/>**MENDOZA, J.:**

This case originated from a letter,[1] dated October 13, 1995, which Executive Judge Salvador Abad Santos had sent to then Chief Justice Andres R. Narvasa. In his letter, Judge Abad Santos reported that Judge Salvador P. de Guzman, Jr. of Branch 142 of the Makati Regional Trial Court (RTC) had decided Civil Case No. 90-659 of that court and had later ordered the execution of his decision pending appeal despite the fact that at that time he (Judge De Guzman, Jr.) was on detail to the RTC of Manila and his sala had been taken over by Judge Gil P. Fernandez. The civil case had been filed by Alexander Van Twest, a German national, against his former business partner, Gloria A. Anacleto, and the INTERBANK. Van Twest alleged that Anacleto had withdrawn DM269,779.37 from their joint savings account and transferred the amount to her personal account in the INTERBANK's Buendia Branch. Van Twest claimed that the money belonged to him.

In *Van Twest v. Court of Appeals*,[2] this Court had earlier upheld a writ of injunction issued by Judge De Guzman, Jr. in Civil Case No. 90-659, enjoining the defendants therein from effecting withdrawals from the savings account which Gloria Anacleto had allegedly opened using Van Twest's money. In another case, *Allado v. Diokno*,[3] this Court enjoined the prosecution of Van Twest's attorneys, who had been accused of kidnapping and killing Van Twest, on the ground that Van Twest's death had not been indubitably shown.

On January 24, 1995, Judge De Guzman, Jr. rendered a decision[4] in Civil Case No. 90-659, ordering the INTERBANK to return the proceeds of Gloria Anacleto's account to Van Twest and to pay him, jointly and severally with Gloria Anacleto, P500,000.00 as moral damages, P250,000.00 as exemplary damages, and P200,000.00 as attorney's fees, and costs. The decision was appealed to the Court of Appeals, but, upon motion of Van Twest's counsel, Judge De Guzman, Jr. ordered the execution pending appeal of his decision.[5]

Justifying his decision, Judge De Guzman, Jr. claims that Civil Case No. 90-659 had been fully heard by him and that it submitted to him for decision on May 27, 1993,[6] before his detail to the Pasay City RTC on August 19, 1993; that at the 1994 Christmas party at Branch 142 of the RTC of Makati, he was informed by Judge Gil P. Fernandez (who had been designated in his place in Makati) that the records of Civil Case No. 90-659 had already been returned by this Court following the decision in the case of *Van Twest v. Court of Appeals*;<sup>[7]</sup> that he "accepted the case, knowing that [it] had been submitted to him for decision"; that the hearings he held after his transfer from Makati were limited to certain incidents after the promulgation of his decision; that the INTERBANK's lawyers were aware of his detail to Manila and did not object to his continuing to hear the case in Makati; that he ordered the INTERBANK to deliver the money to Van Twest's counsel because this Court held in *Van Twest v. Court of Appeals*<sup>[8]</sup> that the funds actually belonged to Van Twest, although as a precautionary measure he required Van Twest's counsel to post a bond for P5 million. Judge De Guzman, Jr. contends that under Rule 135, § 9 of the Rules of Court and Administrative Circular No. 3-94, A(2), dated January 26, 1994, he had authority to decide Civil Case No. 90-659. In turn, respondent judge accused Judge Abad Santos of furnishing

lawyers of the Union Bank (who owned the INTERBANK) with a copy of his report which they later used in their motion for issuance of a temporary restraining order in their petition for certiorari in the Court of Appeals.

In its resolution of October 22, 1996, the Court, as recommended by the Office of the Court Administrator, held in abeyance action on the complaint in this case pending resolution of the appeal from the decision of Judge De Guzman, Jr. in Civil Case No. 90-659 (CA-G.R. CV No. UDK-5289, later 50966) and the certiorari case (CA-G.R. SP No. 38663) filed against his order of execution pending appeal.

Respondent Judge Salvador P. De Guzman, Jr. moved for reconsideration, praying, among other things, that the Court order an investigation of his countercharge that Judge Salvador Abad Santos had allegedly given a copy of his letter-report to the lawyers of Union Bank.

In its resolution of January 14, 1997, the Court denied respondent judge's motion on the ground that his case against Judge Abad Santos should be separately filed.

On November 7, 2002 and again on November 11, 2002, Judge De Guzman, Jr. wrote to the Court inquiring about the status of a supposed complaint he had filed on May 28, 1998 against Executive Judge Abad Santos as well as this case against him. The complaint allegedly filed on May 28, 1998 is not attached to the rollo in this case. Indeed, in accordance with the resolution of January 14, 1997, such complaint must be filed in a separate proceeding.

As to the status of this case, the Office of the Court Administrator in a memorandum, dated January 6, 2003, reported that the appeal in CA-G.R. CV No. 50966 was still pending in the Court of Appeals, while CA-G.R. SP No. 38663 (for certiorari) had been decided on December 22, 1995 by the Court of Appeals, which annulled the order of execution pending appeal issued on July 17, 1995 by Judge De Guzman, Jr. The petition for review of the Court of Appeals decision was denied in a resolution of this Court, dated April 16, 1997, in G.R. No. 124740.

In the meantime, Judge De Guzman, Jr. retired on December 6, 1997. Per certification, dated January 16, 2003, of the Fiscal Management Office of the Office of the Court Administrator, Judge De Guzman, Jr. was paid terminal leave in the amount of P566,567.50 and retirement gratuity in the amount of P1,759,839.80 on February 3 and 9, 1998, respectively.

The first question is whether the retirement of respondent has rendered this case moot and academic. We answer the question in the negative. As held in *Sy Bang v. Mendoza*:<sup>[9]</sup>

[T]he jurisdiction that was ours at the time of the filing of the administrative complaint was not lost by the mere fact that the respondent public official had ceased to be in office during the pendency of his case. The Court retains its jurisdiction either to pronounce the respondent official innocent of the charges or declare him guilty thereof. A contrary rule would be fraught with injustices and pregnant with dreadful and dangerous implication. . . . If innocent, respondent official merits vindication of his name and integrity as he leaves the government which he has served well and faithfully; if guilty, he deserves to receive the corresponding censure and a penalty proper and imposable under the situation.

It was also held in *Raval v. Romero*<sup>[10]</sup> that even if a respondent judge is no longer in service, the decision finding him guilty must be "spread on his record" for the guidance of members of the bench.

In this case, the record shows that on May 24, 1989, Judge De Guzman, Jr. was appointed Presiding Judge of the Regional Trial Court, Branch 142, Makati. On May 27, 1993, Civil Case No. 90-659 was submitted to him for decision. Before he could decide the case, however, Judge De Guzman, Jr. was detailed on August 19, 1993 to Branch 113 of the same court, with station at Pasay City. In his place, Judge Gil P. Fernandez of the Regional Trial Court, Branch 80, Morong, Rizal was designated Acting Presiding Judge.<sup>[11]</sup> On November 29, 1994, Judge

De Guzman, Jr. was designated Acting Presiding Judge of the Regional Trial Court, Branch 49, Manila.[12] On January 24, 1995, while on detail there, he decided Civil Case No. 90-659 by giving judgment for Van Twest. Then, on July 17, 1995, he granted Van Twest's motion for execution of the decision pending appeal by the INTERBANK.

Respondent judge invokes Administrative Circular No. 3-94(2), which states:

Cases submitted for decision at the time of the appointment of a new judge shall be decided by the judge to whom they were submitted for decision, including motions for reconsideration and motions for new trial thereafter filed. However, if a new trial is granted, the new judge shall preside over the new trial until terminated.

and Rule 135, § 9 which provides:

Signing judgments out of province. — Whenever a judge appointed or assigned in any province or branch of a Court of First Instance in a province shall leave the province by transfer or assignment to another court of equal jurisdiction, or by expiration of his temporary assignment, without having decided a case totally heard by him and which was argued or an opportunity given for argument to the parties or their counsel, it shall be lawful for him to prepare and sign his decision in said case anywhere within the Philippines. . . .

Administrative Circular No. 3-94 provides guidelines for the distribution of cases among reassigned judges and those of newly created branches. Paragraph A(2) thereof speaks of "cases submitted for decision at the time of appointment of a new judge" which shall be decided by the judge to whom the cases were submitted for decision. This provision obviously does not apply to this case because no new judge had been appointed to Branch 142 of the RTC of Makati in place of respondent judge.

Nor can paragraph A(1) of Administrative Circular No. 3-94, which provides that "every trial judge who has started hearing a case shall continue to hear and decide the case even if a new judge is appointed or designated to replace him," be applied to this case. This case does not involve the authority of a judge to continue hearing a case partly heard by him before the appointment or designation of another judge in his place.

What governs this case is Rule 135, § 9, also invoked by respondent judge in his defense. In *People v. Bellafor*,[13] the facts were as follows: Judge Willermo C. Fortun was assisting judge in the Regional Trial Court of Mandaue, Branch 28. As such, he heard Criminal Case No. DU-1805 until it was submitted by the parties for decision. However, on February 12, 1991, he was designated to the Regional Trial Court of Manila, Branch 27, to assist Judge Ricardo Diaz. In his place, Judge Rodolfo M. Bellaflor was assigned as an assisting judge of the Regional Trial Court of Mandaue, Branch 28. On May 3, 1991, while on detail to the Manila RTC, Judge Fortun decided Criminal Case No. DU-1805 and convicted the accused of the crime of arson.

The issue was whether Judge Fortun had authority to decide the criminal case heard by him while he was in Mandaue City.

This Court sustained his authority on the ground that Judge Fortun had not vacated his office as judge of the Regional Trial Court. of Mandaue but he was merely detailed to the Regional Trial Court, Branch 27, NCJR, Manila to act as assisting judge. The case was decided under Rule 135, § 9 of the Rules of Court.

Applying this ruling to the case at bar, the Court holds that respondent judge had authority to decide Civil Case No. 90-659 notwithstanding his detail to the RTC of Manila. Indeed, as has been said in another case:[14]

More than the successor, the judge who heard the witnesses testify, who presumably had pored over the documentary evidence, certainly is in much better position to appraise the facts and thereafter to apply the statute or codal provision involved. A litigant's expectation as to his suit being adjudged with care and

thoroughness has greater chances than of being satisfied under such circumstances. This is so even on the assumption that the one who succeeds him on the bench is much more skillful and penetrating in his scrutiny of the proof and much more proficient in the jurist's art. Independently then of the social considerations involved, the notion of law as a reflection of reason and given expression under conditions that assure an impartial and thorough adjudicative process is more likely to be served when the one who hears the case renders the decision himself.

But while respondent judge had authority to render a decision in Civil Case No. 90-659, it was an entirely different matter for him to hear and grant a motion for execution of his decision pending appeal.

Respondent judge cites Administrative Circular No. 3-94, A(2) as basis of his authority to hear the motion for execution pending appeal in the RTC of Makati. This paragraph reads:

Cases submitted for decision at the time of the appointment of a new judge shall be decided by the judge to whom they were submitted for decision, including motions for reconsideration and motions for new trial thereafter filed. However, if a new trial is granted, the new judge shall preside over the new trial until terminated. (Emphasis added)

The underscored portion of paragraph A(2), according to respondent judge, authorized him to resolve the motion for execution pending appeal. This is error. Under this provision, even though a judge who has been replaced (whether permanently or temporarily) by another judge is authorized to resolve motions for reconsideration or for new trial, only the new judge can conduct the new trial. For it would be incongruous to have more than one judge presiding over a court at the same time. Hence, Administrative Circular 3-94 must be deemed to apply only to the decisions of cases or the resolution of motions for reconsideration or new trial thereof by the judge replaced by another. In this case, it was improper for respondent judge to hear and later act on the motion for execution filed in the RTC of Makati while he was on detail to the Manila RTC.

It is noteworthy that the order of execution pending appeal issued by him was set aside by the Court of Appeals, which found respondent judge to have acted with grave abuse of discretion. As this Court ruled in denying review of the decision of the Court of Appeals in CA-G.R. SP No. 38663 (certiorari):

[T]here was no extreme urgency in allowing the execution pending appeal because it was admitted by petitioner's counsel that petitioner Van Twest has been missing since 1993; that there was no evidence as to the damage that he might incur in the event the execution pending appeal was not granted. Moreover, there were still other issues to be resolved other than the ownership of the bank deposit. Respondent bank's liability for the money withdrawn by Anacleto has yet to be determined since this matter was not included in this Court's previous decision and that respondent bank was not impleaded therein.

We agree with the findings of the Court of Appeals that the order of the trial court granting the execution pending appeal was premature as there was no judgment or final order that could be the proper subject of execution. The appellate court did not commit a reversible error in issuing the questioned decision and resolution.[15]

Strong grounds therefore exist for holding respondent judge administratively liable for the issuance of the order of execution pending appeal.[16] The fact that he required a P5 million bond from Van Twest's counsel cannot shield him from liability. The filing of a bond by the prevailing party cannot be a substitute for the urgent and compelling reason contemplated by the Rules. [17]

WHEREFORE, respondent Judge Salvador P. de Guzman, Jr. is ordered to pay a fine of Five Thousand Pesos (P5,000.00) for improper conduct. Let a copy of this decision be attached to his record.

**SO ORDERED.**

Davide, Jr., C.J., Puno, Vitug, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., and Azcuna, JJ., concur.

Bellosillo, J., I vote to dismiss the case respondent judge having long compulsorily retired.

Panganiban, J., No part. Was former counsel in a related case and was privy to some facts and issues in the present proceedings.

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[1] Rollo, pp. 1-2.

**[2] 230 SCRA 42 (1994).**

**[3] 232 SCRA 192 (1994).**

[4] Letter-Report, Annex E; Rollo, pp. 50-60.

[5] Per Order of July 17, 1995, Letter-Report, Annex A; Rollo, pp. 34-39.

[6] Per Order of May 27, 1993, Verified Comment, Annex 1; Rollo, p. 166.

[7] Supra note 2.

[8] Id.

[9] 287 SCRA 84, 92-93 (1998) citing Gallo v. Cordero, 245 SCRA 219 (1995) and Zarate v. Romanillos, 242 SCRA 593 (1995).

**[10] 72 SCRA 172 (1976).**

[11] Administrative Order No. 147-93.

[12] Administrative Order No. 204-94.

**[13] 233 SCRA 136 (1994).**

[14] Valentin v. Santa Maria, 55 SCRA 40, 66 (1974).

[15] Min. Res., G.R. No. 124740, April 16, 1997.

[16] See Tolentino v. Cabral, 329 SCRA 1 (2000).

[17] Eudela v. Court of Appeals, 211 SCRA 546 (1992); Roxas v. Court of Appeals, 157 SCRA 390 (1988).

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