

ERNESTO RIEGO, CLAUDIO VILLAPA, SR., TEODORO ABA, PRISCILLA ASIS, TOMASA CIPRIANO, TEODY VENZON, GAUDENCIO JUAN, RAFAEL PACLABARE, VICTOR PUDDAO, FELICISIMO REYES, ERNESTO LOPEZ...

A.M. No. RTJ-97-1368. February 27, 1997

Ponente: PUNO, J.

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PUNO, J.:

On February 15, 1996, fifteen (15) complainants[1] filed with the Office of the Court Administrator an administrative case against respondent JUDGE EMILIO L. LEACHON, JR., Presiding Judge, Branch CCXXIV, Regional Trial Court of Quezon City, charging him with manifest partiality, knowingly rendering an unjust and oppressive order, and misconduct in connection with an injunction case (Civil Case No. Q-95-25779) pending before his sala.

The records show that on December 1, 1995, complainants filed with the RTC of Quezon City a complaint for injunction,[2] with prayer for a temporary restraining order, to enjoin defendants therein, Claudine Borlongan, et al., from summarily demolishing complainants' houses. Their complaint was raffled to the sala of respondent judge.

Defendants filed their Opposition[3] to the issuance of a temporary restraining order, with motion to dismiss. Hearing on the issuance of the preliminary injunction was held on December 5, 1995. Three (3) days later or on December 8, 1995, respondent judge issued an Order[4] denying the preliminary injunction and dismissing the complaint. He further ordered the demolition of complainants' houses but in deference to the Christmas season, he deferred its execution until January 1, 1996.

On December 12, 1995, complainants filed their Notice of Appeal. On December 13, 1995, the Court of Appeals gave due course to their appeal and directed the trial court to transmit the records of the case for review.

On December 27, 1995, at about 7:00 p.m., the trial court's sheriff served on complainants' counsel a copy of defendant Borlongan's motion[5] for execution pending appeal which was set for hearing on December 29, 1995, at 8:30 a.m. The motion did not comply with the three-day notice rule.

On December 28, 1995, complainants filed their Opposition to the Motion for Execution. They contended that respondent judge had lost jurisdiction over the case with the perfection of their appeal with the Court of Appeals. When complainants' counsel presented the Opposition to respondent judge's personnel, he was informed that respondent judge had already prepared an Order granting defendant's motion for execution pending appeal.

Nonetheless, on December 29, 1995, the date set for hearing of defendants' motion, complainants' counsel appeared in court. He was informed that respondent judge would not be arriving for the latter had already issued an Order[6] of even date granting defendant's motion. Complainants' counsel was furnished the Order upon his demand.

Complainants then questioned respondent judge's December 29, 1995 Order by certiorari to the Court of Appeals. On January 2, 1996, the Court of Appeals issued a TRO enjoining the implementation of said Order.

On January 24, 1996, a writ of execution[7] was issued by respondent judge's officer-in-charge Rowena Camacho and was implemented on the same day without notice to complainants or their counsel.

On February 15, 1996, the Court of Appeals issued a Decision[8] finding that respondent judge gravely abused his discretion in issuing his December 29, 1995 Order and permanently enjoined defendants and respondent judge from implementing said Order.

On even date, complainants filed this administrative case against respondent judge for manifest partiality, knowingly rendering an unjust and oppressive order, and misconduct. Complainants also charged that respondent judge entertained litigants inside his office under suspicious circumstances. On March 7, 1996, the Office of the Court Administrator referred the case to this Court for appropriate action.

In compliance with the directive of this Court to answer the charges against him, respondent judge filed his Comment.[9] To justify his dismissal of the complaint for injunction, respondent judge cites two (2) previous cases involving the same lot which were decided with finality against herein complainants. He asserts thus:

"In the course of the hearing, it surfaced and appeared from the pleadings and oral arguments of the parties that before the instant case was filed, two previous cases were filed by same herein plaintiffs against the Gaffud Family, former owner of the subject property, which touched and dealt on the right of the herein plaintiffs to stay on the subject property.

"The first case was filed by the herein plaintiffs against the owners of the property docketed as Civil Case No. Q-89-1896, RTC, Branch 95, Quezon City, for the extension of lease and injunction, with prayer for (the) issuance of writ of preliminary injunction and damages where a Decision was rendered by Hon. Presiding Judge Aloysious Alday on December 11, 1990, the dispositive portion of which reads as follows:

'Wherefore, judgment is hereby rendered: (a) extending for a period of eight months from finality of this Decision each of the respective leases of plaintiffs Priscilla Asis, Napoleon Dulay, Sr., Victor Puddao, Teody Venzon, and Claudio Villapa, Sr., over the subject premises; (b) denying and dismissing for lack of merit the rest of plaintiffs' Amended Complaint and prayers, as well as private defendants' counterclaim and prayers herein; (c) making permanent (the) writ of preliminary injunction heretofore issued insofar as it concerns plaintiffs Priscilla Asis, Napoleon Dulay, Sr., Victor Puddao, Teody Venzon and Claudio Villapa, Sr., and lifting said writ insofar as it concerns the rest of the plaintiffs herein; and ordering private defendants to pay the cost of (the) suit.'

"Th(is) Decision x x x was appealed by the herein plaintiffs to the Court of Appeals which dismissed the appeal x x x and also denied the Motion for Reconsideration x x x. On Petition for Review to the Supreme Court x x x, the Supreme Court affirmed the Decision of the Court of Appeals and the RTC Decision x x x in G.R. No. 120351.

"It would appear therefore that only five (5) of the herein plaintiffs were granted extension of lease for eight months and the rest of 14 plaintiffs herein were declared by the Court to have no Contracts of Lease with the owners of the subject property, the Gaffud Family, and the Writ of Injunction denied and the Amended Complaint dismissed as against them in favor of the defendant owners of the subject property. The eight months extension granted the five (5) of the herein plaintiffs have long expired and they have not entered into new lease contracts with the subject owners to this date, neither have they paid rentals for their stay on the subject premises to stave off eviction.

"In sum, all the herein 19 plaintiffs have not been paying rentals on the subject property which were admitted in open Court by herein plaintiffs thru their counsel, Atty. Antonio Inton, and being deforciant tenants, they are

subject to eviction and their houses also demolished, pursuant to the Order of the defendant Quezon City government officials for violation of the National Building Code.

"The second case filed by the herein plaintiffs against the former owners of the subject property was docketed as Civil Case No. Q-91-9681, Regional Trial Court, Branch 82, presided x x x by Honorable Salvador E. Ceguera. The second case which was for injunction to enjoin or restrain the intended demolition of the subject structures was likewise dismissed for violation of the Supreme Court Circular against forum shopping, the dispositive portion of which reads as follows:

'In view of the foregoing, the plaintiffs are now applying before this Court for the issuance of a Writ of Preliminary Injunction or Restraining Order.

'In view of the aforesaid case, plaintiffs applied for a writ of preliminary injunction against the said threats of demolition made by the private respondents. Now the plaintiffs are again praying for another writ of preliminary injunction also against the threats of demolition made by the private defendants on plaintiffs' dwellings x x x. The Honorable Aloysius C. Alday already made a ruling on the prayer for relief before this Court. They are clearly forum shopping, in search of a Court which will be favorably disposed to granting the relief they seek. This cannot be countenanced x x x.

"The third case filed by herein plaintiffs is the instant case which could be dismissed also outright for being violative of the Supreme Court Circular against Forum-Shopping and also because the cause of action herein has been barred by prior judgment." [10]

Respondent judge further explained that although complainants had already perfected their appeal, he issued the questioned Order granting execution pending appeal, pursuant to Section 4, Rule 39 of the Rules of Court. Moreover, he did not require the defendants in said case to post a bond since complainants' interests were sufficiently safeguarded for the latter could always go after the properties subject of the litigation should they win in their appeal before the Court of Appeals.

Respondent judge also clarified that when he received the January 2, 1996 Order of the Court of Appeals temporarily restraining him from executing his questioned Order, he did not allow the defendants in the injunction case to proceed with the scheduled demolition of complainants' houses on that day.

On January 23, 1996, defendant Borlongan filed a motion to proceed with the eviction. Complainants opposed and hearing thereon was set on January 24, 1996, as requested by complainants. However, complainants and their counsel failed to appear at the hearing of the motion. Thus, respondent judge issued an Order granting the motion for execution pending appeal since the 20-day period for the validity of the TRO already expired. On January 29, 1996, the demolition and eviction were completed and the subject property was turned over to defendant Borlongan.

As to the charge that he entertains litigants in his chambers under suspicious circumstances, respondent judge explained that the same has no basis for his office and that of his eleven (11) staff consists merely of a small room with an area of only about three by four meters. Given this cramped space, it is inconceivable how he could entertain said litigants "under suspicious circumstances" within the presence and hearing distance of his entire personnel.

Our evaluation of this case reveals that although the Court of Appeals found that respondent judge abused his discretion in issuing the questioned order, it was not satisfactorily shown that he acted in bad faith, with malice or in wilful disregard of a litigant's right. As a matter of public policy, not every error or mistake of a judge in the performance of his official duties make him liable therefor. In the absence of fraud, dishonesty or corruption, the acts of a judge in his official capacity does not always amount to misconduct although such acts may be

erroneous. A judge may not be disciplined for error of judgment unless there is proof that the error was made with a conscious and deliberate intent to do an injustice. Nevertheless, this is not to say that a judge need not observe due care in the performance of his functions.

In the case at bar, respondent judge, in ordering the dismissal of the complaint, relied on the final rulings of this Court and the Regional Trial Court in two (2) previous cases which essentially involved the same parties and dealt with the same subject matter. Believing in good faith that the third case filed before his sala is a mere reiteration of the same issues earlier laid to rest and resolved with finality by other courts, respondent judge ordered the dismissal of the complaint. Nevertheless, although his order granting the motion to dismiss was timely appealed by complainants to the Court of Appeals, respondent judge proceeded to issue an Order directing the execution of his appealed order, which eventually resulted in the demolition of complainants' houses. On top of this, respondent judge did not require a bond to support defendant's application for a writ of execution. Under the circumstances, respondent judge had lost jurisdiction to entertain the motion for execution after the perfection of the appeal and after the lower court had been ordered to transmit the records of the case to the appellate court for review. Needless to state, his precipitate action on the motion for execution resulted in legal complications and hardship on the part of complainants which merits the imposition of an administrative sanction.

As to the charge against respondent judge that he entertains litigants in his office under suspicious circumstances, the same is dismissed for lack of basis and merit.

IN VIEW WHEREOF, respondent JUDGE EMILIO L. LEACHON, JR. is reprimanded for continuing to act in Civil Case No. Q-95-25779 when he had lost jurisdiction over the case.

SO ORDERED.

Regalado, (Chairman), Romero, and Torres, Jr., JJ., concur.

Mendoza, J., no part because of close association with respondent.

[1] Namely: Ernesto Riego, Claudio Villapa, Sr., Teodoro Aba, Priscilla Asis, Tomasa Cipriano, Teody Venzon, Gaudencio Juan, Rafael Paclabare, Victor Puddao, Felicisimo Reyes, Ernesto Lopez, Leonides Rabasol, Pablito Semano, Remedios Dulay and Nenita Demetria.

[2] Rollo, pp. 53-63.

[3] Id., pp. 78-81.

[4] Id., pp. 11-14.

[5] Rollo, pp. 15-16.

[6] Id., pp. 17-18.

[7] Rollo, pp. 19-20.

[8] Penned by Associate Justice Salome A. Montoya, and concurred in by Associate Justices Godardo A. Jacinto and Oswaldo D. Agcaoili; Rollo, pp. 33-38. This Decision became final when this Court resolved to declare the case terminated upon failure of Claudine Borlongan to appeal said decision within the period required by the Court; SC First Division Resolution, dated November 18, 1996, G.R. No. 125414.

[9] Rollo, pp. 44-52.

[10] Comment, pp. 2-4; Rollo, at pp. 45, 47.

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