

**GOV. JOSEFINA M. DELA CRUZ, MALOLOS, BULACAN,
COMPLAINANT, VS. JUDGE VICTORIA VILLALON-PORNILLOS, RTC,
BRANCH 10, MALOLOS, BULACAN, RESPONDENT.**

A.M. No. RTJ-04-1853 (Formerly OCA-IPI No. 03-1655-RTJ). June 08, 2004

Ponente: TINGA, J.

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TINGA, J.:

Before us is a verified Complaint[1] filed by Governor Josefina M. Dela Cruz of Bulacan on December 16, 2002 leveling against Judge Victoria Villalon-Pornillos[2] the charges of Abuse of Authority and Gross Ignorance of the Law.

The antecedent facts, succinctly outlined in the report[3] of the Office of the Court Administrator (OCA), are as follows:

... on September 14, 1994, the Provincial Government of Bulacan, thru Engr. Castro, the Provincial Services Officer of Bulacan filed a complaint for Unlawful Detainer against Atty. Francisco Galman-Cruz and Jimmy Legaspi in the Municipal Trial Court of Malolos, Bulacan. Due to the Motion for Inhibition filed by defendant Galman-Cruz against the presiding judge of MTC Malolos, Bulacan, the Executive Judge of the RTC of Malolos, Bulacan issued Administrative Order No. 37-95 designating Hon. Ester R. Chua-Yu, presiding judge of the MTC Bulacan, Bulacan to hear and try the case. On September 5, 1997, the MTC of Bulacan, Bulacan rendered a judgment against defendant Galman-Cruz ordering the latter and all persons claiming rights under him to:

- (1) Vacate the leased premises and surrender possession thereof to the plaintiff.
- (2) x x x
- (3) x x x (Annex “E”)

The decision of the Municipal Trial Court was appealed to the Regional Trial Court. On March 3, 1999 the RTC affirmed in toto the decision appealed from (Annex “D”). Not satisfied, defendant Galman-Cruz filed a Petition for Review with Prayer for issuance of TRO and Preliminary Injunction with the Court of Appeals. One of the issues raised in said petition was the alleged lack of personality of Engr. Castro to represent the Province of Bulacan for no specific authorization or empowerment was extended by the Province, thru its Sangguniang Panlalawigan, for the institution or prosecution of the complaint for ejectment. On February 28, 2000, the Seventh Division of the Court of Appeals promulgated decision denying the petition and affirmed the assailed decision (Annex “C”). Petitioner elevated the case to the Supreme Court by filing a petition for Review on Certiorari but it was denied by the Second Division of the Supreme Court for late filing. A motion for reconsideration was filed, but the Court, “Resolved to Deny the Motion with Finality for no compelling reason have been adduced and the petitioner failed to sufficiently show that the Court of Appeals had committed any reversible error. xxx” (Annex “B-1”). As Per Entry of Judgment issued, the decision became final and executory on November 20, 2000 and was recorded in the Book of Entries of Judgment. (Annex “B”)

On August 27, 2001, the Municipal Trial Court, on motion, issued an Order of Execution. (Annex “F”). Defendant Atty. Galman-Cruz filed a Motion for Reconsideration alleging that the Supreme Court has not yet finally resolved the above-entitled case (Annex “G”). On October 4, 2001, the court denied the Motion for Reconsideration (Annex “H”).

In order to prevent the execution of the final and executory judgment, defendant Galman-Cruz filed with the RTC Malolos, Bulacan a Petition for Certiorari and Mandamus with Preliminary Mandatory and Prohibitory Injunction with Prayer for an issuance of a TRO. Branch 19, RTC Malolos, Bulacan where the case was raffled off denied the Petition (Annex “J”).

On November 12, 2001 the Writ of Execution was issued by the Municipal Trial Court of Bulacan, Bulacan but the same was returned unsatisfied because defendant Galman-Cruz refused to comply with the writ. On August 21, 2002, the court, on motion, issued a Special Writ of Demolition. Dilatory tactics were employed by defendant Galman-Cruz to delay the implementation of the writ by filing several motions, one of which was a Motion for Inhibition of the judge from hearing the Motion for Demolition. After an Alias Writ of Demolition was issued by the court, defendant Galman-Cruz, filed a Petition for Certiorari (on the Order of Demolition) with Prayer for Issuance of a Temporary Restraining Order and Preliminary Injunction with the Regional Trial Court of Malolos, Bulacan which was raffled off to Branch 10 presided over by the respondent judge. Respondent judge issued a TRO on November 7, 2002 and, later a preliminary injunction was issued, as prayed for by petitioner Galman-Cruz.[4]

With this factual backdrop, Governor Dela Cruz filed the instant administrative complaint averring that the respondent judge’s issuance of an order restraining the implementation of a final and executory decision of the MTC without even conducting a hearing on the application therefor constitutes gross ignorance of the law particularly Administrative Circular No. 20-95 of the Supreme Court now embodied in Section 5, Rule 58 of the 1997 Rules of Civil Procedure.[5]

In her Comment[6] dated March 26, 2003, the respondent judge vigorously refutes the allegation that she erred when she issued the TRO on November 7, 2002. She maintains that what she did was merely to prevent the illegal and unauthorized demolition of petitioner’s (defendant Atty. Francisco Galman-Cruz) properties, the Flying A Hotel and the Pinoy Gas Station, on the strength of what she considers to be a questionable Writ of Demolition which is the offspring of an equally ineffective Writ of Execution.[7] The respondent judge avers that a reading of the entire records of the case would reveal that there were vital issues which were raised by the defendants but which were left unresolved by the Special Judge (MTC Judge Ester R. Chua-Yu) who heard the case outside of her jurisdiction without any prior order or authorization to do so. She, thus, concludes that the decision is a complete nullity in itself.[8] The respondent judge further claims that when she issued the TRO in question, the facts set forth in the verified Petition of Atty. Francisco Galman-Cruz persuaded her that there were equitable grounds for interference which called for the issuance of the TRO. According to her, there was a need for her court to interfere in the civil case because the writ of demolition was allegedly hastily issued, i.e., without first resolving the pending motions and prior to a determination by a duly licensed Geodetic Engineer of the exact metes and bounds of the 400 square meters, more or less, of the leased premises subject thereof.[9]

The respondent judge claims that a hearing was conducted on the Motion to Quash the Temporary Restraining Order filed by the Provincial Government of Bulacan and the application for the issuance of a writ of preliminary injunction. During the hearing, both parties were able to present testimonial and documentary evidence in support of their position. Allegedly, it was only after the hearing that she issued an order for the issuance of a writ of preliminary injunction.[10] Hence, the respondent judge stresses that she acted in accordance with the provisions of the Interim or Transitional Rules and Guidelines implementing the Judiciary Reorganization Act of 1980.[11]

In a Reply[12] dated April 22, 2003, Governor Dela Cruz reiterates the arguments in her Complaint. She admits

that there is indeed an action for the annulment of the decision in the unlawful detainer case now pending before the Regional Trial Court, Branch 18 of Malolos, Bulacan.[13]

The OCA limits the issue in the instant administrative case to whether the respondent judge can be allowed to restrain or stay the execution of a final and executory judgment. According to the OCA, the respondent judge gravely abused her discretion when she issued the writ of preliminary injunction which, in effect, nullified the final and executory decision of the MTC. Correspondingly, the OCA recommends that the

respondent judge be fined the amount of Five Thousand Pesos (P5,000.00) for ignorance of the law.[14]

A reading of the Complaint readily reveals that what is questioned therein is the issuance of the TRO in violation of Administrative Circular No. 20-95 and not the subsequent issuance of the writ of preliminary injunction.

Administrative Circular No. 20-95 provides:

- Where an application for temporary restraining order (TRO) or a writ of preliminary injunction is included in a complaint or any initiatory pleading filed with the trial court, such complaint or initiatory pleading shall be raffled only after notice to the adverse party and in the presence of such party or counsel.
- The application for a TRO shall be acted upon only after all parties are heard in a summary hearing conducted within twenty-four (24) hours after the records are transmitted to the branch selected by raffle. The records shall be transmitted immediately after raffle.
- If the matter is of extreme urgency, such that unless a TRO is issued, grave injustice and irreparable injury will arise, the Executive Judge shall issue the TRO effective only for seventy-two (72) hours from issuance but shall immediately summon the parties for conference and immediately raffle the case in their presence. Thereafter, before the expiry of the seventy-two (72) hours, the Presiding Judge to whom the case is assigned shall conduct a summary hearing to determine whether the TRO can be extended for another period until a hearing on the pending application for preliminary injunction can be conducted. In no case shall the total period ... exceed twenty (20) days, including the original seventy-two (72) hours, for the TRO issued by the Executive Judge.

Clearly, whenever an application for a TRO is filed, the court may act on the application only after all parties have been notified and heard in a summary hearing. A summary hearing may not be dispensed with. [15]

The respondent judge is expected to be aware of this settled rule which has, in fact, been embodied in Section 5, Rule 58[16] of the 1997 Rules of Civil Procedure. It was her duty to apply the rule for those who wield the judicial gavel have the duty to study our laws and their latest wrinkles. They owe it to the public to be legally knowledgeable for ignorance of the law is the mainspring of injustice.[17]

The respondent judge, however, miserably failed in her duty to keep abreast of developments in law and jurisprudence. She was obviously completely unacquainted with Administrative Circular No. 20-95 and the pertinent provisions of the 1997 Rules of Civil Procedure. In her Comment, she even cited as authority for her issuance of a TRO the long-amended Interim or Transitional Rules and Guidelines implementing the Judiciary Reorganization Act of 1980.[18]

It is well to impress upon the respondent judge that the Circular aims to restrict the ex parte issuance of a TRO only to cases of extreme urgency, in order to avoid grave injustice and irreparable injury.[19] It is a reform measure intended to prevent the precipitate and improvident issuance of TROs. Had she made herself aware of the Circular, as she should, she would have been apprised of the history of the case, i.e., that the MTC decision has been reviewed by the Regional Trial Court, the Court of Appeals, and this Court, and rendered final and executory.

Instead, by her own admission, the respondent judge apparently rushed the issuance of the TRO without the benefit of a summary hearing and on the same day that the petition therefor was received by her sala on November 7, 2002.[20] This is precisely the situation Administrative Circular No. 20-95 seeks to avoid.

We have held that a judge's disregard of the Supreme Court's pronouncement on TROs was not just ignorance of the prevailing rule; to a large extent, it was misconduct, conduct prejudicial to the proper administration of justice, and grave abuse of authority. However, to be punishable, an act constituting ignorance of the law must not only be contradictory to existing law

and jurisprudence, he must also be motivated by bad faith, fraud, dishonesty or corruption.[21] But in this case, where the respondent displayed ignorance of the Supreme Court Circular involved to the great detriment of the Province of Bulacan where she was and is up to now holding court, seven (7) years after it was issued and five (5) years after it was incorporated in the 1997 Rules of Civil Procedure, the infraction deserves the penalty of at least a fine.

WHEREFORE, Judge Victoria Villalon-Pornillos is meted a FINE in the amount of Five Thousand (P5,000.00) Pesos for failure to comply with Administrative Circular No. 20-95. She is sternly warned that a commission of similar acts shall be dealt with more severely in the future.

SO ORDERED.

Puno, (Chairman), Quisumbing, Austria-Martinez, and Callejo, Jr., concur.

[1] Rollo, pp. 1-6.

[2] Regional Trial Court, Branch 10, Malolos, Bulacan.

[3] Dated August 14, 2003; Rollo, pp. 138-145.

[4] Id. at 141-143.

[5] Id. at 3, Complaint-Affidavit of Complainant.

[6] Id. at 87-129.

[7] Id. at 140.

[8] Ibid.

[9] Ibid.

[10] Id. at 112-120.

[11] Id. at 106.

[12] Id. at 133-137.

[13] Id. at 134.

[14] Id. at 145.

[15] *Gustilo v. Real*, A.M. No. MTJ--00-1250, February 28, 2001, 353 SCRA 1, citing *Abundo v. Manio*, A.M. RTJ-98-1416, August 6, 1999, 312 SCRA 1.

[16] Sec. 5. Preliminary injunction not granted without notice; exception. – No preliminary injunction shall be

granted without hearing and prior notice to the party or person sought to be enjoined. If it shall appear from facts shown by affidavits or by the verified application that great or irreparable injury would result to the applicant before the matter can be heard on notice, the court to which the application for preliminary injunction was made, may issue ex-parte a temporary restraining order to be effective only for a period of twenty (20) days from service on the party or person sought to be enjoined, except as herein provided. Within the said twenty-day period, the court must order said party or person to show cause, at a specified time and place, why the injunction should not be granted, determine within the same period whether or not the preliminary injunction shall be granted, and accordingly issue the corresponding order.

However, and subject to the provisions of the preceding sections, if the matter is of extreme urgency and the applicant will suffer grave injustice and irreparable injury, the executive judge of a multiple-sala court or the presiding judge of a single-sala court may issue ex parte a temporary restraining order effective for only seventy-two (72) hours from issuance but he shall immediately comply with the provisions of the next preceding section as to service of summons and the documents to be served therewith. Thereafter, within the aforesaid seventy-two (72) hours, the judge before whom the case is pending shall conduct a summary hearing to determine whether the temporary restraining order shall be extended until the application for preliminary injunction can be heard. In no case shall the total period of effectivity of the temporary restraining order exceed twenty (20) days, including the original seventy-two hours provided herein.

In the event that the application for preliminary injunction is denied or not resolved within the said period, the temporary restraining order is deemed automatically vacated. The effectivity of a temporary restraining order is not extendible without need of any judicial declaration to that effect and no court shall have authority to extend or renew the same on the same ground for which it was issued.

However, if issued by the Court of Appeals or a member thereof, the temporary restraining order shall be effective for sixty (60) days from service on the party or person sought to be enjoined. A restraining order issued by the Supreme Court or a member thereof shall be effective until further orders.

[17] *Bio v. Valera*, A.M. No. MTJ-96-1074, June 20, 1996, 257 SCRA 462.

[18] *Supra*, note 6 at 106.

[19] *Vda. De Sayson v. Zerna*, A.M. No. RTJ-99-1506, August 9, 2001, 362 SCRA 409.

[20] *Supra*, note 1 at 112.

[21] *Abundo v. Manio*, *supra* at note 15, citing *Golangco v. Villanueva*, A.M. No. RTJ-96-1355, September 4, 1997. See also *Vda. De Sayson v. Zerna*, *supra*.

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