EQUITABLE PCI BANK, INC., COMPLAINANT, VS. JUDGE CELSO D. LAVIÑA, PRESIDING JUDGE OF BRANCH 71, REGIONAL TRIAL COURT OF PASIG CITY, RESPONDENT.

A.M. NO. RTJ-06-2001 (FORMERLY OCA I.P.I. NO. 05-2234-RTJ). August 16, 2006

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

For our resolution is the complaint of Equitable PCI Bank charging respondent Judge Celso D. Laviña, presiding judge of the Regional Trial Court, Branch 71, Pasig City, with gross misconduct, conduct unbecoming a judge and member of the bar, gross ignorance of the law and procedure, and knowingly rendering an unjust judgment and order.

This case stems from what complainant Equitable PCI Bank alleges is visible bias by respondent in favor of the plaintiffs in Civil Cases Nos. 70098 and 68287, and hostility against the bank. However, since respondent's acts in Civil Case No. 68287 are also subject of another pending administrative matter,[1] we limit this resolution to Civil Case No. 70098 only.

Civil Case No. 70098, entitled Camden Industries, Inc. v. Equitable PCI Bank, was for specific performance, accounting, and damages with prayer for the issuance of a temporary restraining order and preliminary injunction. Camden sought to enjoin Equitable PCI Bank from unjustly foreclosing the mortgage on the residential house and lot of Camden's president and from taking any further action to collect from Camden on the basis of certain trust receipt transactions, which Camden alleged were already fully paid. Camden also prayed that the bank be ordered to render a full accounting of all payments made through debit memos and deductions from its savings account.[2]

On August 16, 2004, respondent issued a temporary restraining order. He heard Camden's application for preliminary injunction on August 31, 2004. He gave Equitable PCI Bank opportunity to present its lone witness, account officer Louie Landayan, who testified on direct, cross and re-direct examinations.[3] Equitable PCI Bank asked that it be allowed to file a memorandum until September 3, 2004, or the Friday immediately preceding the expiration of the TRO which was set to expire the coming Sunday. Respondent denied the request. Then, on September 1, 2004, respondent granted the preliminary injunction against the bank. Pre-trial conference was set on October 21, 2004.

Meantime, because of the case, other banks began cutting Camden's credit line. No longer able to carry on with its import business, Camden sought to speed up the case. On September 6, 2004, Camden moved that the pre-trial conference be reset to an earlier date. Respondent found Camden's reasons meritorious and granted the motion. The pre-trial conference was thus moved to September 23, 2004.[4]

Eight days before the pre-trial, however, Atty. Allan Christopher Agati, counsel for Equitable PCI Bank, manifested to the court that he would be out of town on said date. He asked for a resetting, which respondent granted on September 23, 2004. Pre-trial conference was moved to October 5, 7 and 21, 2004.

Atty. Agati was unable to attend on October 5, 2004, as he had manifested. Respondent thus rescheduled the pre-trial to October 14, 2004 but cancelled the other two previously set dates. Later, respondent also denied the motion to reconsider the grant of preliminary injunction.[5]

On October 14, 2004, the pre-trial conference was held. Equitable PCI Bank moved that the case be referred to mediation, as required by A.M. No. 03-1-09-SC, since both parties had manifested in their pre-trial briefs their willingness to compromise. Camden opposed the motion arguing that referral to mediation was futile and dilatory because the parties had taken irreconcilable positions. Camden cited that while it claimed that all its debts had been fully paid, the bank insisted that Camden still owed hundreds of millions. Camden also stressed that the bank had filed a criminal case for violation of the trust receipts law against Camden's president, thus making amicable settlement of the dispute highly unlikely.[6]

Finding amicable settlement through mediation impossible, respondent continued with the pre-trial and finished it on the same day despite the bank's objections. By agreement of the parties, who both committed to present only one witness each, reception of evidence for Camden was set on October 28, 2004 and November 5, 2004 for Equitable PCI Bank.[7]

Equitable PCI Bank then went to the Court of Appeals on a petition for certiorari to assail the order granting the preliminary injunction, the denial of the motion for reconsideration, as well as the denial of its motion to refer the case to mediation.

The petition, docketed as CA-G.R. SP No. 87030, was eventually dismissed and the dismissal affirmed by this Court.[8] Meanwhile, however, Equitable PCI Bank sought to defer the proceedings at the trial court. Atty. Agati filed a motion to defer proceeding shortly before the hearings scheduled on October 28, 2004, then insisted that he be heard on his arguments although said motion, having been filed only that morning, was not set for hearing. Because there was no temporary restraining order from the Court of Appeals, respondent denied the motion in open court.[9]

Aggrieved, Atty. Agati manifested that Equitable PCI Bank will no longer participate in the hearings. He nonetheless attempted to explain further his motion, but before he could, a bomb threat was reported. Respondent thus simply reiterated the denial and immediately ordered a short recess.[10] When the proceedings resumed later that morning, Atty. Agati was no longer in the premises. Respondent then ordered the sheriff to find Atty. Agati but to no avail.[11]

Thus, respondent allowed Camden's lone witness to testify on direct examination. Upon Camden's motion, and pursuant to the One-Day Examination of Witness Rule,[12] respondent declared Equitable PCI Bank to have waived its right to cross-examination. After that, Camden offered orally and ex parte its additional documentary exhibit. Respondent admitted the exhibit, then ordered that trial continue for the reception of evidence for Equitable PCI Bank on November 5, 2004, as previously set.[13] Equitable PCI Bank did not seek reconsideration of the order declaring it to have waived its right to cross-examine Camden's witness.

Instead, Equitable PCI Bank changed counsels. Atty. Winston Esguerra entered his appearance on November 4, 2004, as the bank's new counsel. He moved that the hearing be reset to December 3, 2004, because of a previously scheduled hearing in another court and to give him time to study the case.[14]

It does not appear that a formal order was issued acting on the motion for postponement, but no hearing was conducted on November 5, 2004 since respondent was on leave. The Branch Clerk of Court on the same date promptly issued notices to the parties that the hearing had been moved to November 11, 2004.[15] Said notice was received by Atty. Esguerra on November 9, 2004.

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Meantime, Equitable PCI Bank believed that it could no longer expect a fair judgment from respondent. It filed a motion for voluntary inhibition on November 8, followed by a supplemental motion on November 9, 2004.

On November 11, 2004, hearing for the reception of evidence for Equitable PCI Bank was conducted. Equitable PCI Bank's new counsel was absent despite notice. Thus, Camden moved that Equitable PCI Bank be deemed to have waived its right to present evidence. Respondent granted the motion and ordered the parties to submit their memoranda within 30 days.[16] Equitable PCI Bank, however, never filed any. Neither did Equitable PCI Bank move for a reconsideration of the order declaring it to have waived its right to present evidence.

On November 12, 2004, respondent heard the motion and supplemental motion for inhibition. It appeared that the main motion for inhibition complied with the 3-day notice rule, but Camden had not filed any opposition nor comment. Hence, respondent deemed said motion submitted for decision. It also appeared that Camden only received the supplemental motion with two days advance notice. Thus, respondent gave Camden ten days to comment on the motion, over the objection of Equitable PCI Bank, which insisted that Camden nonetheless be deemed to have waived its right to be heard on the motion for failing to appear.[17]

On January 21, 2005, respondent denied Equitable PCI Bank's motion and supplemental motion for inhibition. Equitable PCI Bank sought reversal of the order, but respondent denied the motion for reconsideration.[18] Then, on March 30, 2005, respondent rendered a decision in Civil Case No. 70098 against Equitable PCI Bank.[19]

Equitable PCI Bank timely filed a motion for reconsideration or new trial asking that it be allowed to present evidence. Later, Equitable PCI Bank also brought the trial court's decision to the Court of Appeals on a petition for certiorari, which was docketed as CA-G.R. SP No. 89370.[20] In the meantime, respondent issued a special order on April 15, 2005, granting execution pending appeal over the opposition of Equitable PCI Bank.[21]

Equitable PCI Bank now alleges in the instant complaint that respondent railroaded the case in Camden's favor, in obvious hostility against Equitable PCI Bank.

Equitable PCI Bank avers that respondent is liable for grave misconduct, conduct unbecoming a judge and a member of the bar, gross ignorance of the law, and knowingly rendering an unjust judgment or order since (1) respondent allegedly gave Equitable PCI Bank only 15 minutes to adduce its evidence during the hearing on Camden's application for preliminary injunction; (2) respondent denied its request to submit a memorandum to support its opposition to the application; (3) respondent granted Camden's motion to set the pre-trial conference at an earlier date than the previous date set, despite Atty. Agati's manifestation that he would not be available at said earlier date; (4) respondent refused to refer the case to mediation in violation of A.M. No. 03-1-09-SC and despite the statement of the parties in their briefs that they are open to an amicable settlement of the case; (5) respondent refused to suspend the proceedings notwithstanding the pendency of a petition for certiorari at the Court of Appeals questioning his refusal to refer the case to mediation; (6) he allowed Camden to present evidence ex parte and to offer its evidence orally in one trial date notwithstanding the bomb threat on that day; (7) he gave Equitable PCI Bank only one trial date; (8) he denied Atty. Esguerra's request for time to study the case; (9) he hastily set the November 11, 2004 hearing despite the pending motion for inhibition and motion by Atty. Esguerra to move the presentation of evidence for Equitable PCI Bank to December 3, 2004; (10) he took advantage of the absence of the bank's counsel during the November 11, 2004 hearing to declare Equitable PCI Bank to have waived its right to present evidence; (11) he refused to inhibit himself; and (12) he acted with undue haste to decide the case.[22]

Complainant prays that respondent be dismissed from the service, with forfeiture of all his retirement benefits and further, that he be disbarred.

In his Comment, respondent claims that Equitable PCI Bank's two counsels, Attys. Agati and Esguerra, maliciously filed the case to block the early release of his retirement benefits and cover for their professional incompetence which caused Equitable PCI Bank to lose its case.[23]

He urges this Court to dismiss the complaint, arguing that the complaint is insufficient in form and substance. Attys. Agati and Esguerra, according to him, were not properly authorized to file the case. The Board Resolution providing a standing authority to certain bank officials to file cases on behalf of the bank was allegedly insufficient because it was too broad and did not specifically authorize either of them to file the instant complaint. Also, the complaint contained no certification against forum shopping and the verification was signed by only one of them.[24]

Respondent adds that the instant complaint is premature and that the issues involved are sub judice. He stresses that Equitable PCI Bank has filed with the Pasig RTC a motion for reconsideration or new trial and has likewise assailed the decision in a petition for certiorari at the Court of Appeals.[25]

On June 8, 2005, Equitable PCI Bank filed a supplemental complaint to which respondent filed a comment. In said supplemental complaint, Equitable PCI Bank adds that respondent has likewise railroaded execution.[26] Respondent counters that execution pending appeal was justified even over the opposition of Equitable PCI Bank because of the merit of the motion as well as Equitable PCI Bank's failure to present any evidence, cross-examine Camden's witness during trial, and file the required memorandum.[27]

On December 12, 2005, the Office of the Court Administrator found respondent liable for gross misconduct and recommended a fine of P30,000 as penalty.

As herein elucidated, we are unable to agree with OCA's finding and recommendation.

From the records of the case, as well as the parties' respective allegations, it is evident that the acts being complained of relate to the validity of the proceedings before respondent as well as to the propriety of respondent's orders in Civil Case No. 70098. Some of those assailed acts, particularly those relating to the grant of preliminary injunction as well as the refusal to refer to mediation, have already been found proper and correct both by the Court of Appeals and by this Court.[28] There is thus no cause to proceed administratively against respondent as regards those acts.[29]

The propriety of the other acts occurring after the pre-trial, which include the order holding Equitable PCI Bank to have waived its right to cross-examine Camden's witness and to present evidence, as well as the order granting execution pending appeal, for their part, could best be resolved by availing of the judicial remedies provided for under the Rules of Court and not by way of an administrative complaint.

Indeed, we have held that the filing of an administrative complaint against a judge is not an appropriate remedy where judicial recourse is still available, such as a motion for reconsideration, an appeal, or a petition for certiorari, unless it appears that the assailed order or decision is tainted with bad faith, fraud, malice or dishonesty.[30]

In Bello III v. Diaz,[31] we reiterated that disciplinary proceedings against judges do not complement, supplement or substitute judicial remedies, whether ordinary or extraordinary. Administrative complaints against judges cannot be pursued simultaneously with the judicial remedies accorded to parties aggrieved by their erroneous orders or judgments.[32] An inquiry into their administrative liability arising from judicial acts may be made only after other available remedies have been settled with finality.

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 criminal, civil or administrative 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.[33] For obviously, if subsequent developments prove the judge's challenged act to be correct, there would be no occasion to proceed against him at all.[34]

Indeed, since judges must be free to judge, without pressure or influence from external forces or factors, they should not be subject to intimidation, or the fear of criminal, civil or administrative sanctions for acts they may do and dispositions they may make in the performance of their duties and functions.[35]

Moreover, aside from the availability of judicial remedies and the fact that the issues involved here are still sub judice, Equitable PCI Bank has failed to substantiate its charge of bias and partiality or bad faith by respondent. Equitable PCI Bank has relied mainly on surmises and conjectures, its incorrect recall of procedural rules, on allegations that are unsupported and sometimes even belied by the records, and on the mere fact that the orders were adverse to it. Bias and partiality can never be presumed, especially if weighed against the sacred obligation of judges whose oaths of office require them to administer justice without respect to person and to do equal right to the poor and the rich.[36] The Court has to be shown acts or conduct of the judge clearly indicative of arbitrariness or prejudice before the latter can be branded the stigma of being biased and partial.[37] Similarly, bad faith or malice cannot be inferred simply because the judgment or order is adverse to a party, contrary to the finding of the Office of the Court Administrator. There being absolutely no evidence to the contrary, the presumption that the respondent has regularly performed his duties will prevail.[38]

Well to reiterate, while this Court will never tolerate or condone any act, conduct or omission that would violate the norm of public accountability or diminish the people's faith in the judiciary, neither will it hesitate to shield those under its employ from unfounded suits that only serve to disrupt rather than promote the orderly administration of justice.[39]

WHEREFORE, the instant administrative complaint is DISMISSED for lack of merit.

SO ORDERED.

Carpio, Carpio Morales and Tinga, JJ., concur.
Velasco, Jr., no part due to prior action in OCA.

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[1] Rollo, p. 819.

[2] Id. at 26-29, 33-36.

[3] Id. at 735, 810-811.

[4] Id. at 54-55.

[5] Id. at 70-72.

[6] Id. at 454-464.

[7] Id. at 468, 470-473.

[8] Id. at 361-362.

[9] Id. at 521-523.

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[10] Id.

[11] Id. at 342.

[12] A.M. No. 03-1-09-SC – RE: PROPOSED RULE ON GUIDELINES TO BE OBSERVED BY TRIAL COURT JUDGES AND CLERKS OF COURT IN THE CONDUCT OF PRE-TRIAL AND USE OF DEPOSITION-DISCOVERY MEASURES

Par. 5(i) . . . The One-Day Examination of Witness Rule, that is, a witness has to be fully examined in one (1) day only, shall be strictly adhered to subject to the courts' discretion during trial on whether or not to extend the direct and/or cross-examination for justifiable reasons. On the last hearing day allotted for each party, he is required to make his formal offer of evidence after the presentation of his last witness and the opposing party is required to immediately interpose his objection thereto. Thereafter, the Judge shall make the ruling on the offer of evidence in open court. However, the judge has the discretion to allow the offer of evidence in writing in conformity with Section 35, Rule 132;

[13] Rollo, pp. 9, 145.

[14] Id. at 170-172.

[15] Id. at 177.

[16] Id. at 146.

[17] Id. at 564-565.

[18] Id. at 363-367.

[19] Id. at 598-607.

[20] Id. at 343.

[21] Id. at 734-739.

[22] Id. at 21-22.

[23] Id. at 341-342.

[24] Id. at 341.

[25] Id. at 344-345, 347.

[26] Id. at 706-712.

[27] Id. at 753.

[28] Id. at 361-361.

[29] De Guzman v. Pamintuan, A.M. No. RTJ-02-1736, June 26, 2003, 405 SCRA 22, 26.

[30] Claro v. Efondo, A.M. No. MTJ-05-1585 (Formerly A.M. OCA I.P.I. No. 03-1505-MTJ), March 31, 2005, 454 SCRA 218, 226; Tan v. Adre, A.M. No. RTJ-05-1898 (Formerly OCA IPI No. 04-2037-RTJ), January 31, 2005, 450 SCRA 145, 152.

[31] A.M. No. MTJ-00-1311 (Formerly AM-OCA-IPI-97-460-MTJ), October 3, 2003, 412 SCRA 573, 578.

[32] Hilado v. Reyes, A.M. No. RTJ-05-1910 (Formerly A.M. OCA I.P.I. No. 03-1904-RTJ), April 15, 2005, 456

SCRA 146, 162.

[33] Flores v. Abesamis, A.M. No. SC-96-1, July 10, 1997, 275 SCRA 302, 316.

[34] Visitacion v. Libre, A.M. No. RTJ-05-1918 (Formerly OCA-I.P.I.-03-1834-RTJ), June 8, 2005, 459 SCRA 398, 407; De Guzman v. Pamintuan, supra note 29.

[35] Supra note 33.

[36] Dimo Realty & Development, Inc. v. Dimaculangan, G.R. No. 130991, March 11, 2004, 425 SCRA 376, 384.

[37] Rondina v. Bello, Jr., A.M. No. CA-05-43 (A.M. OCA I.P.I. No. 04-72-CA-J), July 8, 2005, 463 SCRA 1, 14; Hilado v. Reyes, supra note 32, at 163; Tan v. Adre, supra note 30.

[38] See Urgent Appeal/Petition for Immediate Suspension & Dismissal of Judge Emilio B. Legaspi, RTC, Iloilo City, Br. 22, A.M. No. 01-1-15-RTC, July 10, 2003, 405 SCRA 514, 518.

[39] Elefant v. Inting, A.M. No. RTJ-05-1938 (OCA-I.P.I. No. 04-2034-RTJ), July 15, 2005, 463 SCRA 457, 461.

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