

**PAMA P. DIMAPANAT, ABDELNAZER U. MAHOMMAD ISA AND
DIOLOSON A. AMIL (IN THEIR CAPACITIES AS OFFICERS OF
DOTC-ARMM, COTABATO CITY, PETITIONERS-APPELLEES, VS.
ANSARUDDIN A. ADIONG,...**

Ponente: CAMELLO, J.

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CAMELLO, J.:

This is an appeal from the Order dated 11 May 2011[1] of the Regional Trial Court, Branch 13, Cotabato City, which granted the petitioners' petition for mandamus and prohibition against Acting Regional Governor Ansaruddin A. Adiong (1) to execute the Memorandum of the DILG Secretary requiring Atty. Alnie Burahim, the sitting DOTC-ARMM Secretary, to peacefully step down from office and yield the said office to petitioner Pama P. Dimapanat, (2) to refrain from releasing funds appropriated for DOTC-ARMM through the accounts of the agency except as authorized only by petitioner Pama P. Dimapanat, and (3) to recognize only Director IV Pama P. Dimapanat as the Head of DOTC-ARMM or his duly authorized representative in the disbursement of the funds of the said agency.[2]

On 19 May 2011, respondent Ansaruddin Adiong filed a Notice of Appeal,[3] to which the RTC gave due course in an Order dated 07 September 2011.

Records further shows that on 24 May 2011, petitioners filed a Motion for Execution Pending Appeal,[4] which respondents opposed.[5]

On 21 June 2011, the RTC issued an Order[6] granting petitioners' Motion for Execution Pending Appeal and requiring petitioners to post a cash bond in the amount of One Hundred Fifty Thousand (P150,000.00) Pesos to answer for any damage/s by reason of the issuance of the writ of execution.

After petitioners posted the required cash bond under Official Receipt No. 6821494-A[7] to the Office of the Clerk of Court, the RTC issued the Writ of Execution Pending Appeal.[8]

Aggrieved, respondents Ansaruddin Adiong and Alnie Burahim filed a petition for certiorari, prohibition with prayer for temporary restraining order and/or writ of preliminary injunction against the Order dated 21 June 2011 of the RTC which ordered the issuance of the writ of execution of the Order dated 11 May 2011 pending appeal.

On 24 November 2011, this Court received the record of this case of mandamus on appeal. The Special Cases Unit of this Court, however, found the record incomplete.[9]

On 02 December 2011, this Court issued a Letter-Directive[10] requiring the Branch Clerk of Court of the RTC to submit the records of the case with the necessary table of contents with the corresponding reference.

On 27 December 2011, OIC - Branch Clerk of Court Abdul S. Buayan explained that his staff assistant believed that there was no more need for a table of contents because there were no exhibits marked during the oral arguments of the parties.[11] Nevertheless, pursuant to the order of this Court, he requested that the entire records

of this case be returned to the RTC.[12]

Thus, in a Resolution dated 29 May 2012, this Court directed the Judicial Records Division to return the original records of this case to the court of origin and the Branch Clerk of Court of the RTC is directed to make the table of contents with the corresponding page reference.[13]

On 11 June 2012, this Court returned the records of this case to the court of origin, and in a Letter-Directive[14] required the OIC - Branch Clerk of Court of the RTC (1) to make the table of contents with corresponding page reference and (2) to return the original records back to the Court of Appeals within ten (10) days from receipt of the records.

After more than eight (8) months from the date of the Letter-Directive, still no compliance was made by the OIC - Branch Clerk of Court.[15] Thus, in a Resolution dated 12 March 2013,[16] this Court directed the OIC – Branch Clerk of Court to show cause why no appropriate disciplinary action should be taken against him for failure to comply with this Court's directives.

In a Minute Resolution 30 July 2013,[17] this Court noted the compliance filed by Abdul S. Buayan, OIC – Branch Clerk of Court of the RTC. Branch 13, Cotabato City. This Court also required the Judicial Records Division to determine the completeness of the records of this case, and, if so, to issue the Notice to File memorandum in accordance with Section 10, Rule 44 of the Rules of Court.

On 10 February 2014, this Court sent to the respective counsels of petitioners-appellees and respondents-appellants a Notice to File Memoranda within thirty (30) days from receipt of the notice.[18]

On 27 February 2014, petitioner-appellee Dimapanat, assisted by Atty. Edilberto B. Cosca, filed a Motion to Withdraw Petition.[19] In his motion, petitioner-appellee Dimapanat prays for the withdrawal of this appeal stating?

x x x

1. That the respondents file a petition of [sic] this Honorable Court raffle[d] in 21st Division entitled Adiong vs. Dimapanat docketed [as] C.A. G.R. SP. No. 04290-MIN in 21st Division.

2. That the petition of the respondents raffle in [sic] 21st Division entitled Adiong vs. Dimapanat docketed [as] C.A. G.R. SP. No. 04290-MIN in 21st Division is [sic] denied for a long period to this date no further appeal to the Honorable Supreme Court who is no longer as [sic] Regional Acting Governor [sic] presently he is a House of Representative elect [sic] (Congressman) of the 2nd District of Lanao del Sur. [o]n January 14, 2014 the petitioner file [sic] in a court a quo a Very Urgent Motion to Resolve Motion for Refund and/or Release Supersedeas Bond were [sic] it was granted by the court a quo x x x.[20]

Petitioner-appellee Dimapanat further pointed out that both petitioners-appellees and respondents-appellants have already abandoned this case as evidenced by the lack of memorandums filed by the parties.[21] He attached to his motion the RTC Order[22] dated 16 January 2014, which reads in full, as follows:

A Very Urgent Motion To Resolve Motion for Refund and/or Release Supersedeas Bond was filed on January 14, 2014 which the court treats as a Motion To Release Supersedeas Bond posed by the petitioner Pama P. Dimapanat.

The records show that this case was earlier appealed to the Court of Appeals, Mindanao in Cagayan de Oro City by the Respondents. The court of appeals had already rendered its decision and there being no further appeal to the Supreme Court to this date, the same had become final and executory.

Consequently, the purpose for which the supersedeas bond was posted had become moot and academic. Hence,

the afore-stated motion is granted.

WHEREFORE, the Clerk of Court, this Court is hereby ORDERED to release the supersedeas bond posted by Director Pama P. Dimapanat to the bailee under proper receipt.

SO ORDERED.

[Emphasis supplied.]

It appears that the Order of the RTC dated 21 June 2011, granting the motion to release supersedeas bond, was based on the erroneous belief that this Court of Appeals already rendered a final and executory decision in this appeal.

On 03 March 2014, this Court received from petitioner-appellee Dimapanat an Urgent Motion to Resolve motion to withdraw petition dated 27 February 2014. Petitioner-appellee Dimapanat asked for the release of the Official Receipt No. 6821494-A dated 22 June 2011 attached to the record of this case which he needed for the release in the RTC of the supersedeas bond in the amount of One Hundred Fifty Thousand (P150,000.00) Pesos which he needed to contribute to the operation of a certain patient named Asia Masla Parcol.[23]

Considering that it was not petitioner-appellee Dimapanat who brought the appeal to this Court but the respondents in Special Civil Action No. 2010-154, his Motion to Withdraw Petition is DENIED.

Records, however, show that in a Compliance dated 27 June 2012, Atty. Sahara Alia J. Silongan, the OIC Attorney General of the ARMM, informed this Court that respondents-appellants Ansaruddin A. Adiong, Atty. Ernie A. Masarong, and Atty. Alnie Burahim, are no longer connected with the Autonomous Regional Government as of December 2011.[24] Thus, Section 17, Rule 3 of the Rules of Court applies, to wit:

Section 17. Death or separation of a party who is a public officer. — When a public officer is a party in an action in his official capacity and during its pendency dies, resigns, or otherwise ceases to hold office, the action may be continued and maintained by or against his successor if within thirty (30) days after the successor takes office or such time as may be granted by the court, it is satisfactorily shown to the court by any party that there is a substantial need for continuing or maintaining it and that the successor adopts or continues or threatens to continue or adopt the action of his predecessor. Before a substitution is made, the party or officer affected, unless expressly assenting thereto, shall be given reasonable notice of the application therefor and accorded an opportunity to be heard.

Well-settled is the rule that failure to make a substitution pursuant to Section 17, Rule 3 of the Rules of Court is a ground for the dismissal of an action.[25] For the valid substitution of a public officer who has sued or has been sued in his or her official capacity, the following requisites must be satisfied:

1. satisfactory proof by any party that there is substantial need for continuing or maintaining the action;
2. the successor adopts or continues or threatens to adopt or continue the acts of his or her predecessor;
3. the substitution must be effected within 30 days after the successor assumes office or within the time granted by the court; and,
4. notice of the application to the other party.[26]

In this case, no substitution was effected pursuant to Section 17, Rule 3 of the Rules of Court despite the lapse of 30 days after the successors of respondents-appellants took office.

FOR THIS REASON, this appeal is DISMISSED for failure of respondents-appellants' successors to effect a substitution.

SO ORDERED.

Inting and Perez, JJ., concur.

[1] Rollo, pp. 284-295.

[2] Rollo, p. 294.

[3] Records, pp. 296-298.

[4] Records, pp. 302-304. See Reply to the Opposition to the Motion for Execution Pending Appeal; Records, pp. 369-379.

[5] See Opposition to the Motion for Execution Pending Appeal; Records, pp. 314-323; See Rejoinder to the Reply to the Opposition to the Motion Pending Appeal; Records, pp. 414-424.

[6] Records, pp. 444-448.

[7] See Records, p. 440.

[8] Records, pp. 449-450.

[9] Rollo, p. 5.

[10] Rollo, p. 5

[11] Rollo, p. 6.

[12] Ibid.

[13] Rollo, pp. 10-11.

[14] Rollo, p. 12.

[15] See Verification Report dated 13 February 2013; Rollo, back of p. 16.

[16] Rollo, pp. 18-19

[17] Rollo, p. 28.

[18] Rollo, p. 29.

[19] Rollo, pp. 30-31.

[20] Rollo, pp. 30-31.

[21] Rollo, p. 31.

[22] Rollo, p. 33.

[23] Which name appears in the Radiology Report as “Masra, Asia y Parcon; Rollo, p. 37.

[24] See Compliance filed by Atty. Sahara Alia J. Silongan, OIC Attorney General; Rollo, pp. 13-15.

[25] *Rodriguez v. Jardin*, G.R. No. 141834, 30 July 2007 citing *Roque, et al. v. Delgado, et al.*, 95 Phil. 723, 726 (1954). See also *Heirs of Mayor Galvez v. Court of Appeals*, G.R. No. 119193, 29 March 1996.

[26] *Rodriguez v. Jardin*, *supra*.

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