

JESUS G. CRISOLOGO, COMPLAINANT, VS. JUDGE MARIVIC TRABAJO DARAY, REGIONAL TRIAL COURT, DIGOS CITY, DAVAO DEL SUR, RESPONDENT.

A.M. No. RTJ-07-2036 (Formerly OCA IPI No. 07-2543-RTJ). August 20, 2008

Ponente: NACHURA, J.

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NACHURA, J.:

In a Complaint^[1] dated September 1, 2006, complainant Jesus G. Crisologo charged respondent Judge Marivic Trabajo Daray, in her capacity as Acting Presiding Judge of the Regional Trial Court (RTC) in Digos City, Branch 19, with Gross Misconduct, Undue Delay in Rendering a Decision or Order and Gross Ignorance of the Law of Procedure relative to the denial of the Motion for Intervention filed by complainant in Civil Case Nos. 3220 and 3387 respectively entitled "Marina Crisologo, Jr. vs. Victor Callao and Rural Bank of Tagum, Inc." and "Salvador Crisologo vs. Marina Crisologo, Jr. and Rural Bank of Tagum, Inc."

As found by the Report of the Investigating Justice of the Court of Appeals (CA), the following circumstances prompted the complainant to file this administrative complaint:

On May 23, 1995, Marina Crisologo, Jr. filed a complaint to Declare Documents Null and Void and Set Aside Auction Sale and Attorney's Fees against Victor Callao and the Rural Bank of Tagum, Inc. (RBTI). The case docketed as Civil Case No. 3220 was raffled to RTC-Branch 19 in Digos City.

Afterward, on September 10, 1996, Salvador Crisologo filed an action for Annulment of Real Estate Mortgage, Documents, Reconveyance, Damages and Attorney's Fees against Marina, Jr. and RBTI. The case docketed as Civil Case No. 3387 was raffled to RTC-Branch 19 and consolidated with Civil Case No. 3220.

On January 22, 2004, before trial on the merits can be had in the civil cases, Marina, Jr., Salvador, Victor and RBTI submitted a Compromise Agreement with RTC-Branch 19, which was then presided over in an acting capacity by respondent Judge. In said compromise agreement, Marina, Jr. and Salvador ceded full ownership of the subject land covered by Transfer Certificate of Title (TCT) No. T-22236, including all improvements found thereon, in favor of RBTI.

On February 13, 2004, soon after being informed of the existence of the compromise agreement, complainant Jesus G. Crisologo and his sister Carolina C. Abrina, represented by Atty. Rodolfo Ta-asan, moved to intervene in the civil cases alleging among others that: [a] the property in litigation involves the Crisologo family's ancestral home; [b] they are co-owners of the subject property together with Marina, Jr. and their other siblings; [c] while the subject property is registered in the name of Marina, Jr., she merely holds said property in trust for them and their other siblings; and [d] they seek to intervene in the civil cases to protect their proprietary right and legal interest over the subject property.

Meanwhile, on April 21, 2004, Atty. Ta-asan withdrew his appearance as counsel for complainant and Carolina, and was substituted by Atty. Jenette Marie Crisologo. Atty. Crisologo's entry of appearance was acknowledged by Respondent Judge in an Order dated May 17, 2004.

In an Order dated August 23, 2004, respondent Judge denied complainant's motion for intervention, thus: FOR RESOLUTION IS THE Motion for Intervention filed by movants-intervenors Jesus G. Crisologo and Carolina C. Abrina through counsel, seeking permission from this Court to intervene in the cases above-mentioned, so as to protect their proprietary rights and legal interest over the subject property.

AFTER A CAREFUL ASSESSMENT of the instant motion vis-à-vis the Comment/Opposition thereto, this Court holds and is of the view that the Motion for Intervention could not be entertained anymore considering that the Compromise Agreement had already been entered into and to allow the intervention will unduly delay the adjudication of the rights of the original parties, particularly so that the instant cases began almost a decade ago in 1995. Moreover, whatever claims and rights that Jesus G. Crisologo may have over the subject property may and should be the subject of a separate case between and among his siblings. (Magat, et al. vs. Delizo, et al., G.R. No. 135199, July 5, 2001)

WHEREFORE, PREMISES CONSIDERED, the Motion for Intervention is hereby DENIED.

SO ORDERED.

On September 15, 2004, complainant moved for the reconsideration of the Order dated August 23, 2004, arguing that he is a co-owner of the properties in litigation, and as such, he is an indispensable party whose participation is essential before a final adjudication can be had in the civil cases.

On October 1, 2004, RBTI manifested that complainant's motion for reconsideration does not contain a notice of hearing, hence, a mere scrap of paper.

In an Order dated October 15, 2004, respondent Judge denied complainant's motion for reconsideration for lack of the requisite notice of hearing. However, a copy of the Order dated October 15, 2004 was sent to Atty. Ta-asan instead of Atty. Crisologo who is complainant's counsel of record.

Subsequently, on October 27, 2004, Respondent Judge issued a Decision approving the compromise agreement. The dispositive portion of which reads:

WHEREFORE, finding the afore-quoted Compromise Agreement to be not contrary to law, public morals, good customs and public policy, this Court hereby APPROVES the same. The parties in this case are hereby ordered to strictly comply with all the terms and conditions set forth in said agreement. By virtue of the approval of the compromise agreement, this case is now deemed TERMINATED.

SO ORDERED.

Again, a copy of the decision was sent to Atty. Ta-asan instead of complainant's counsel, Atty. Crisologo. Thus, complainant was left unaware that his motion for reconsideration was denied and that a decision approving the compromise agreement has already been rendered by respondent Judge in the civil cases.

On November 3, 2004, RBTI moved for the execution of the decision on compromise agreement and prayed, among other things, for RTC-Branch 19: [a] to order the immediate ejectment of the plaintiffs, including all other persons claiming rights under them, from the subject property; [b] to place RBTI in complete possession, control and enjoyment of the subject property, including all improvements thereon; and [c] to order the cancellation the notice of lis pendens in the certificate of title of the subject property.

On November 4, 2004, complainant was informed by his brother Ramon Crisologo, who is one of the occupants of the subject property, about RBTI's motion for execution. Thus, on November 5, 2008, complainant, accompanied by Atty. Crisologo, lost no time and proceeded to RTC-Branch 19 to inquire about the hearing schedule of RBTI's motion for execution, and was surprised to learn that his motion for reconsideration of the denial of his motion for intervention has already been denied and that in fact a decision on compromise agreement

has already been rendered by respondent Judge.

Immediately thereafter, on November 8, 2004, complainant filed an Urgent Manifestation and Notice of Appeal decrying the lack of notice to him of the trial court's [October] 15, 2004 Order and appealing the denial of his motion for intervention to the Court of Appeals. On the same date, complainant also filed an Urgent Motion for Voluntary Inhibition of respondent Judge in the civil cases on the ground of lack of impartiality.

On December 7, 2004, when respondent Judge failed to act on his notice of appeal, complainant filed a petition for certiorari, prohibition and mandamus under Rule 65 of the Rules of Court with the Court of Appeals.

On December 8, 2004, respondent Judge gave due course to complainant's motion for voluntary inhibition and voluntarily inhibited herself in the civil cases, but refrained from acting on complainant's notice of appeal. It was only on March 15, 2005, that complainant's notice of appeal was acted upon by Judge Carmelita Sarno-Dav[i]n, the newly appointed presiding judge of RTC Branch-19.

On July 20, 2006, the Court of Appeals rendered a Decision finding grave abuse of discretion in the denial of complainant's motion for intervention to warrant the issuance of writs of certiorari and mandamus in favor of complaint.[2]

In her Comment[3] dated October 31, 2006, respondent denied and refuted the charges in the complaint. She contended that the failure to furnish complainant, through his counsel of record, Atty. Jenette Marie Crisologo, with a copy of the Order denying his motion for reconsideration vis-a-vis the denial of his motion for intervention, as well as of the decision on the compromise agreement, was unintentional and brought about by an honest oversight on the part of her court personnel, who inadvertently sent copies of the court processes to complainant's previous counsel, Atty. Rodolfo Ta-asan, Jr. Thus, respondent insisted that she could not be made administratively liable for gross misconduct on account of such omission absent a clear showing of bad faith.

Likewise, respondent denounced the charge of undue delay in passing upon complainant's notice of appeal in light of her voluntary inhibition from hearing the civil cases. She pointed out that she could no longer be expected to pass upon complainant's notice of appeal after she had voluntarily inhibited herself.

Lastly, respondent asserted that the denial of complainant's motion for intervention was prompted by the prevailing factual circumstances of the civil cases. She reasoned out that while the denial of the motion for intervention was made prior to a rendition of judgment in the civil cases, such denial was proper in view of the Compromise Agreement between the original parties to the case. Respondent insisted that the civil cases had been pending for almost a decade; thus, when presented with a compromise agreement between the original parties, she felt it proper, in the interest of justice, to deny complainant's motion for intervention and promulgate a decision based on said compromise agreement.

Respondent underscored that the administrative case is purely harassment, designed to malign her for denying complainant's motion for intervention.

On November 12, 2007, this Court referred the complaint to the Executive Justice of the CA, Cagayan de Oro City station, for investigation, report and recommendation.[4]

In the Report dated June 12, 2008, the Investigating Justice recommended that respondent be ordered to pay a fine of P10,000.00 for undue delay in rendering a decision or order, and P20,000.00 for gross ignorance of the law or procedure.

On the failure to furnish the complainant's new counsel of record with copies of the court's processes, the Investigating Justice found that this omission does not amount to gross misconduct. He then recommended that

respondent be absolved from administrative liability on this ground.

As for the charge of undue delay in resolving complainant's notice of appeal, the Investigating Justice brushed aside respondent's excuse that she could no longer act on the notice of appeal since she already inhibited herself from the case. The Investigating Justice noted that the notice of appeal was filed simultaneously with the motion for inhibition and that respondent inhibited herself only after complainant filed a petition for certiorari with the CA assailing the denial of his motion for intervention. The Investigating Justice opined that respondent's inhibition was a mere afterthought to escape liability for her negligence to act on the notice of appeal.

Finally, the Investigating Justice held that respondent displayed gross ignorance of the rule on intervention in denying complainant's motion for intervention and in ruling that the complainant's interest would be better protected in a separate civil action.

While we concur with the Investigating Justice's finding that respondent is not guilty of gross misconduct, we are not in agreement with his recommendation that respondent be held administratively liable for undue delay in rendering a decision or order and gross ignorance of the law or procedure.

It is settled that as a matter of policy, the acts of a judge in his judicial capacity are not subject to disciplinary action. He cannot be subjected to liability - civil, criminal or administrative - for any of his official acts, no matter how erroneous, as long as he acts in good faith.[5] To hold otherwise would be to render judicial office untenable, for no one called upon to try the facts or interpret the law in the process of administering justice can be infallible in his judgment.[6]

However, the judges' inexcusable failure to observe the basic laws and rules will render them administratively liable. When the law is so simple and elementary, lack of conversance therewith constitutes gross ignorance of the law.[7] In any case, to constitute gross ignorance of the law, it is not enough that the subject decision, order or actuation of the judge in the performance of his official duties is contrary to existing law and jurisprudence but, most importantly, such decision, order or act must be attended by bad faith, fraud, dishonesty, or corruption. Good faith and absence of malice, corrupt motives or improper considerations, are sufficient defenses in which a judge charged with ignorance of the law can find refuge.[8]

The allowance or disallowance of a motion to intervene is addressed to the sound discretion of the court. The permissive tenor of the rules shows the intention to give to the court the full measure of discretion in permitting or disallowing the intervention.[9]

There is no doubt that respondent was cognizant of the rule on intervention, and she complied with it in good faith. In fact, respondent has explained that she denied the motion for intervention because it would only delay, to the prejudice of the original parties, the civil cases which had already been pending for almost a decade. Respondent maintains that she sincerely believed that the rights of the complainant would be better protected in a separate action. Under the rule on intervention, these are valid considerations in deciding whether or not to grant a motion to intervene. There is no showing that respondent judge was motivated by any ill-will in denying the complainant's motion for intervention; hence, she cannot be sanctioned therefor.

The filing of an administrative complaint is not the proper remedy for the correction of actions of a judge perceived to have gone beyond the norms of propriety, where a sufficient judicial remedy exists.[10]

Complainant erroneously thought that when respondent failed to act on his notice of appeal, he lost his right to appeal the court's order denying his motion for intervention and that his only remedy was to file a petition for certiorari with the CA which he, in fact, filed. He failed to consider that a party's appeal by notice of appeal is deemed perfected as to him, upon the filing of the notice of appeal in due time and upon payment of the docket

fees. The notice of appeal does not require the approval of the court. The function of the notice of appeal is merely to notify the trial court that the appellant was availing of the right to appeal, and not to seek the court's permission that he be allowed to pose an appeal.[11]

The trial court's only duty with respect to a timely appeal by notice of appeal is to transmit the original record of the case to the appellate court. The court is given thirty (30) days from the perfection of the appeal within which to transmit the record.[12]

We note, however, that complainant also filed a motion for inhibition on the same day that he filed the notice of appeal. On the 30[th] day since the notice of appeal was filed, respondent inhibited herself from the case. It goes without saying that from that time on, respondent could no longer perform any act pertaining to the complainant's appeal. That duty would then devolve upon the judge who will replace the respondent. Hence, respondent should not be sanctioned for her failure to act on the notice of appeal after she had inhibited herself from the case.

WHEREFORE, this administrative case against Judge Marivic Trabajo Daray is DISMISSED.

SO ORDERED.

Carpio[*], Austria-Martinez, Chico-Nazario, and Reyes, JJ., concur.

[*] Additional member replacing Associate Justice Consuelo Ynares-Santiago per raffle dated August 6, 2008.

[1] Rollo, pp. 7-34.

[2] Report dated June 12, 2008, pp. 4-10.

[3] Rollo, pp. 195-207

[4] Id. at 264.

[5] Maylas, Jr. v. Judge Sese, A.M. No. RTJ-06-2012, August 4, 2006, 497 SCRA 602, 605.

[6] Santos v. Judge How, A.M. No. RTJ-05-1946, January 26, 2007, 513 SCRA 25, 36.

[7] Enriquez v. Judge Caminade, A.M. No. RTJ-05-1966, March 21, 2006, 485 SCRA 98, 105.

[8] Santos v. Judge How, supra note 6, at 36-37.

[9] San Miguel Corporation v. Sandiganbayan, 394 Phil. 608, 651-652 (2000).

[10] Supra note 5, at 606.

[11] Victory Liner, Inc. v. Malinias, G.R. No. 151170, May 29, 2007, 523 SCRA 279, 295.

[12] Rules of Court, Rule 41, Section 12.

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