

SEVERO A. CORDERO, COMPLAINANT, VS. JUSTICE JUAN Q. ENRIQUEZ, COURT OF APPEALS, RESPONDENT.

A.M. No. CA-04-36 (A.M. OCA-IPi No. 01-30-CA-J). February 18, 2004

Ponente: YNARES-SATIAGO, J.

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YNARES-SATIAGO, J.:

In an Affidavit-Complaint[1] dated September 11, 2000, complainant Severo A. Cordero charged then Presiding Judge Juan Q. Enriquez[2] of the Regional Trial Court of Quezon City, Branch 92, with gross ignorance of the law, gross incompetence and partiality to a party litigant.

In the aforesaid complaint, complainant averred that he was the plaintiff in Civil Case No. Q-98-35160 entitled, “Severo A. Cordero, Plaintiff versus Gilbert A. Villota, Defendant,” for breach of contract and damages with preliminary attachment filed with respondent’s court. It appears that plaintiff extended to defendant a loan in the amount of P180,000.00, secured by a Chattel Mortgage on defendant’s taxi-cab. However, defendant failed to surrender to plaintiff the certificate of registration and official receipt of registration of the vehicle. Meanwhile, it was agreed that defendant shall continue to operate the vehicle as a taxi-cab and remit to plaintiff the daily earnings therefrom as payment for the loan. Defendant breached his obligation, which compelled plaintiff to file the said complaint.

After trial, respondent rendered judgment on September 15, 1999, to wit:

WHEREFORE, judgment is hereby rendered, as follows:

The Writ of Preliminary Attachment is hereby ordered recalled and the vehicle subject of this case be delivered immediately to the defendant;

Ordering the defendant to deliver the original Certificate of Registration and Official Receipt of the subject vehicle to the plaintiff.

Ordering the defendant to pay the P400.00 (four hundred pesos) daily earnings to the plaintiff from the time the subject vehicle is actually delivered to him except on color coding days, holidays and Sundays.

Ordering both parties to religiously comply with the written terms of the Deed of Chattel Mortgage up to March 19, 2001.

SO ORDERED.

Complainant filed a Motion for Reconsideration, which was denied on December 28, 1999.[3] A notice of appeal was filed on January 11, 2000, which was approved on January 12, 2000.[4] Two days after the grant of the notice of appeal, respondent judge set the notice of appeal for hearing.

Gilbert Villota, the defendant in Civil Case No. Q-98-35160, filed a motion to discharge attachment which was denied on June 6, 2000,[5] on the ground that respondent judge had already lost jurisdiction over the case upon the perfection of the plaintiff’s appeal and the expiration of time for the defendant to appeal.

On June 2, 2000, complainant filed a motion[6] to sell at public auction the attached taxi-cab of the defendant Gilbert Villota and to deposit the proceeds of the sale with the court pending the final resolution of Civil Case No. Q-98-35160. The motion was denied.

A motion for reconsideration[7] was filed by complainant which was set for hearing on July 14, 2000. However, the hearing was reset on August 25, 2000,[8] because respondent was not available. Complainant learned later on that respondent judge has been appointed Associate Justice of the Court of Appeals.

Complainant Severo A. Cordero charges respondent judge with the following:

13.1 – He refused to award damages to me despite the fact that material and relevant evidence was presented in support of the same;

13.2 – While the period for the payment of the principal obligation appearing in the chattel mortgage, subject of the case, is fixed in February 2000, Judge Enriquez unlawfully stretched the same to March 19, 2001.

13.3 – He still entertained the defendant's "Motion to Discharge Attachment" despite the clear provision of the rules that he has no more jurisdiction to act on the same. It was only due to my timely and vigorous objection that said motion was denied;

13.4 – He had already approved the Notice of Appeal and ordered the forwarding of the records of the case to the Court of Appeals on January 12, 2000, and yet he countermanded that for no valid reason by setting the Notice of Appeal for hearing; and,

13.5 – He refused to act on my "Motion" to sell the attached taxi cab although the same was properly set for hearing and the same is meritorious and allowed under the rules of court. And neither did he cause the immediate forwarding of the records to the Court of Appeals. Thus maliciously stalling the proceedings[9]

In his comment, respondent judge averred that he did not award damages to the complainant in Civil Case No. Q-98-35160 because neither party in the said case was entitled to such award. Since both parties were in default and in *pari delicto*, each one bears the respective damages sustained; that he extended the original period for the payment of the principal obligation on grounds of justice and equity; that since the parties agreed that the payment of the principal obligation shall come from the proceeds of the taxi operation, it was only proper that the period during which the vehicle was under attachment should be excluded from the period agreed upon by the parties; that his denial of the motion to discharge attachment was due to loss of jurisdiction over the case after complainant interposed an appeal; that he and his court interpreter erred when they set the notice of appeal for hearing and when they discovered the error, they recalled the copies of the Order; that he was not able to act on the motion for reconsideration/clarification of the Order dated June 23, 2000 because on the date set for hearing of the motion, he went to the office of the Judicial and Bar Council; that on August 25, 2000, he had been appointed Associate Justice of the Court of Appeals; and that he was not able to elevate immediately the records of the case to the Court of Appeals because of the pendency of complainant's motion for reconsideration/clarification.

On August 19, 2003, the Court assigned the case to retired Associate Justice Bernardo P. Pardo for investigation, report and recommendation.

On December 1, 2003, complainant's counsel submitted to the Investigating Justice a sworn statement of the complainant stating that he was withdrawing the complaint against respondent Justice Juan Q. Enriquez, Jr. for the reason: "dahil ito ay isa lang malaking abala at higit sa lahat matanda na ako at mahina na hindi ko na kaya ang pagpunta-punta sa husgado; wala na akong interes na ipagpatuloy pa ang aking reclamo laban kay Justice Juan Q. Enriquez at hindi na ako dadalo sa mga hearing."

On January 13, 2004, Justice Pardo submitted his Report wherein he recommended the dismissal of the charges

against respondent.

After a careful review of the evidence on record, we find the recommendation to be well-taken.

The records disclose that the filing of the administrative charges against herein respondent justice was premature. Complainant admitted that he interposed an appeal from the decision of respondent judge and that the case is now pending before the Court of Appeals.[10] An administrative complaint is not the appropriate remedy for every irregular or erroneous order or decision issued by a judge where a judicial remedy is available, such as a motion for reconsideration or an appeal.[11]

Disciplinary proceedings and criminal actions against judges are not complementary or suppletory of, nor a substitute for, judicial remedies. Resort to and exhaustion of these remedies, as well as the entry of judgment in the corresponding action or proceeding, are prerequisites for the taking of other measures against the persons of the judges concerned, whether civil, administrative, or criminal in nature.

The charge of gross ignorance of the law against respondent is devoid of any factual or legal basis. Respondent's decision not to grant complainant damages was based on his findings that both parties were in default and considered in *pari delicto*; thus neither is entitled to damages. As to the period of payment of the principal obligation, respondent extended the same because based on the parties' agreement, payment of the loan shall come from the proceeds of the taxi operation. Justice and equity dictates that the time when the taxi was not in operation, being under attachment, should be deducted from the period originally agreed upon by the parties. As to the motion to discharge attachment, it was his duty to rule upon the motions filed before him.[12]

We likewise find no basis on the charge of gross incompetence. No evidence was presented to show that respondent judge failed to consider a basic and elemental rule, law or principle in the discharge of his duties. It is an established rule in administrative cases that complainant bears the onus of establishing or proving the averments in his complaint by substantial evidence.[13] Respondent's error in setting the notice of appeal for hearing was not borne out of ignorance of the basic rule on procedure. Notably, as soon as the respondent judge realized his mistake, he directed his court interpreter to recall the copies of the erroneous order from the party litigants and to remove them from the case records.

Finally, the charge of partiality to a party litigant, because of the refusal of respondent to act on the complainant's motion to sell the attached taxi unit, is likewise without merit. Respondent correctly refrained from further acting on the case in view of complainant's having perfected an appeal. The court loses jurisdiction over the case upon the perfection of the appeal.[14] Moreover, at the time of the scheduled hearing of complainant's motion, respondent has been appointed as an Associate Justice of the Court of Appeals.

Well settled is the rule unless the acts were committed with fraud, dishonesty, corruption, malice or ill-will, bad faith or deliberate intent to do an injustice, the respondent judge may not be held administratively liable for gross misconduct, ignorance of the law or incompetence of official acts or acts in the exercise of judicial functions and duties, particularly in the adjudication of cases.[15] Further, to hold a judge administratively accountable for every erroneous rule or decision he renders would be nothing short of harassment and would make his position doubly unbearable. 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 the administration of justice can be infallible in his judgment.[16]

WHEREFORE, in view of all the foregoing, the instant administrative complaint against respondent Associate Justice Juan Q. Enriquez is **DISMISSED** for lack of merit.

SO ORDERED.

Davide, Jr., C.J., Puno, Vitug, Panganiban, Quisumbing, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna and Tinga, JJ., concur.

[1] Rollo, pp. 1-5.

[2] Justice Enriquez was appointed to the Court of Appeals on August 16, 2000. He assumed office as a Justice of the Court of Appeals on August 21, 2000.

[3] Id., at 16.

[4] Id., at 17.

[5] Id., at 22-22.

[6] Id., at 23-24.

[7] Id., at 26-29. The motion was dated July 11, 2000 and it was received by the office of respondent on July 12, 2000.

[8] Id., at 30. A constancia signed by the Branch Clerk of Court of the Regional Trial Court of Quezon City, Branch 92, re-setting the hearing of herein complainant's motion on August 25, 2000.

[9] Id., at 5.

[10] Report and Recommendation, *supra* at 11.

[11] *Abraham L. Mendova v. Crisanto B. Afable*, A.M. No. MTJ-02-1402, 4 December 2002.

[12] *Tolentino v. Malanyaon*, A.M. No. RTJ-99-1444, 3 August 2000, 337 SCRA 162.

[13] *Fr. Michael Sinnot, et al. v. Judge Recaredo P. Barte*, A.M. No. RTJ-99-1453, 14 December 2001, 372 SCRA 282.

[14] 1997 Rules of Civil Procedure, Rule 41, Section 9.

[15] *Dr. Isagani Cruz v. Judge Philbert I. Itturalde*, A.M. No. RTJ-03-1775, 30 April 2003; *Relova v. Judge Rosales*, A.M. No. RTJ-02-1711, 26 November 2002; *Canson v. Justice Garchitorena*, 370 Phil. 287 (1999).

[16] *Guillermo v. Reyes, Jr.*, A.M. No. RTJ-93-1088, 18 January 1995, 240 SCRA 154.

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