

LEONARDO R. OCAMPO, COMPLAINANT, VS. HONORABLE GINA M. BIBAT-PALAMOS, PRESIDING JUDGE, METROPOLITAN TRIAL COURT, PASAY CITY, BRANCH 47, RESPONDENT.

A.M. NO. MTJ-06-1655 (FORMERLY A.M. OCA IPI NO. 06-1814-MTJ). March 06, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Before Us is respondent's Second Motion for Reconsideration of the Resolution dated 30 August 2006, which censured respondent Judge Gina M. Bibat-Palamos, for her delay in issuing the writ of execution in Civil Case No. 754-95 entitled, "Leonardo R. Ocampo v. Leonora Tirona," an ejectment case on which the decision has already become final and executory.

On 26 July 2006, the Office of the Court Administrator (OCA) submitted its report and recommendation. It recommended that:

- That the instant complaint be RE-DOCKETED as a regular administrative matter;
- That respondent Executive Judge Gina M. Bibat-Palamos be CENSURED with a STERN WARNING that a repetition of the same or similar act would be dealt with more severely.[1]

The report ratiocinated thus:

The Motion for Execution was filed by herein complainant way back 26 September 2005, after the ejectment case was finally resolved by the Supreme Court last 10 August 2005. Respondent Judge resolved the said Motion only on 11 January 2006 and the same was received by the complainant only on 11 February 2006 after almost five (5) months from the time it was filed. Notably, the resolution of the motion came a week after Mr. Ocampo filed this complaint and was mailed almost a month thereafter.

It is an elementary rule that in ejectment proceedings the decision in favor of the plaintiff is immediately executory. The plaintiff is entitled to reacquire possession of the subject property, after judgment is ruled in his favor, in order to prevent further damage to him arising from the loss of possession of the property in question. (*Hualam Construction and Development Corporation v. Court of Appeals*, G.R. No. 85466, 16 October 1992, 214 SCRA 612). While we give respondent credit for finally issuing the order for a Writ of Execution, we cannot but observe that the same could have been issued at the outset when the motion for execution was filed in accordance with the law. The fact that she finally complied with the requirements of the law is of no moment. Respondent cannot now be allowed to evade the effects of her inaction or ignorance of procedural law that give rise to this administrative complaint.

Her failure to comprehend the basic purpose of resolving the Motion for Execution in Ejectment cases promptly and expeditiously albeit one already resolved and decided by the Supreme Court constitutes gross ignorance of the law, for which she may be held administratively liable. It must be emphasized that the adoption of the Rule on Summary Procedure is part of the commitment of the judiciary to enforce the constitutional right of litigants to a speedy disposition of their cases. It was promulgated for the purpose of

achieving "an expeditious and inexpensive determination of cases." Any member of the Judiciary who causes delay sought to be prevented by the Rule is sanctionable. (Velez v. Flores, A.M. No. MTJ-01-1366, 7 February 2003).[2]

Deliberating on the case, the First Division (now Third Division) adopted the findings and conclusion of the OCA.[3]

A Motion for Reconsideration was filed, but the same was denied in a Resolution[4] dated 29 November 2006.

In her second motion for reconsideration, respondent explained there was no delay in her acting on the complainant's motion for execution, thus:

5. x x x [T]he Motion for Execution was filed by the complainant on September 27, 2005 (Annex "A"). It was set for hearing on September 30, 2005. An Order was issued by the undersigned dated October 3, 2005 (Annex "B") requiring the defendant to file their comment/opposition to the Motion for Execution within ten (10) days from the date of the issuance of the said Order. On October 10, 2005, the defendant filed an "Urgent Ex-Parte Motion for Extension of Time to File Comment (Annex "C"). An Order dated October 14, 2005 was issued by the undersigned granting the defendant's motion and giving her until October 20, 2005 (Annex "D") to file her comment to herein complainant's Motion for Execution. Defendant did not comply with the Order dated October 14, 2005. Hence, the period to resolve the "Motion for Execution" of the herein complainant commenced to run from the time that the period given to the defendant has lapsed which was on October 20, 2005 and not on September 27, 2005 or the time of the filing of the Motion for Execution. The Motion for Execution was resolved and granted on January 11, 2006 (Annex "E") or eighty three (83) days after it was deemed submitted for resolution. Paragraph 1 of Section 15 of Article VIII of the 1987 Philippine Constitution states: "All cases or matters filed after the effectivity of this Constitution must be decided or resolved within twenty four (24) months from date of submission for the Supreme Court, and, unless reduced by the Supreme Court, twelve (12) months for all lower collegiate courts, and three (3) months for all other lower courts." The Constitution further states in Paragraph 2 of the said Section that: "A case or matter shall be deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the Rules of Court or by the court itself."

and that therefore, the motion for execution was resolved within the reglementary period. The respondent further explained:

6. That the alleged delay between the issuance of the Order dated January 11, 2006 and its subsequent mailing on February 17, 2006 can be explained by the fact that the Court during that said period was conducting a Physical Inventory of all its cases as required (sic) Administrative Circular No. 1, January 28, 1988, and all records of the Court has to be sorted out and filed by the Court's staff and Orders that (sic) required to be sent to mail likewise needs to be sorted out.

7. That while the undersigned agrees with the complainant's claim that "the resolution of the motion is a matter of duty on his part- it is not a complicated matter as he could not anymore revised or modify the judgment," it is equally the undersigned's duty, taking note that case may still be compromised notwithstanding the finality of the decision therein, to exhaust every means to shift the attitudes of the parties from adversarial to a problem-solving opportunity to resolve their differences in ways that are productive for their lives. This principle is inculcated in the minds of today's judges by no other than our Supreme Court. Furthermore, the undersigned has to check if there is any supervening event that may render the issuance of a Writ of Execution moot and academic taking note that a considerable length of time has lapsed between the promulgation of Petition for Review and the filing of the "Motion for Execution." Prudence dictates and justice requires that a judge should hear both parties and not rely on the one-sided allegation of another.[5]

Article VIII, Section 15, par. 1 of the 1987 Constitution states:

All cases or matters filed after the effectivity of this Constitution must be decided or resolved within twenty four months from date of submission for the Supreme Court, and, twelve (12) months for all lower collegiate courts, and three (3) months for all other lower courts.

Further, Paragraph 2 of the said Section further states:

A case or matter shall be deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the Rules of Court or by the court itself.

As may be gleaned above, lower court judges are to dispose of the court's business promptly and decide cases within three (3) months or ninety (90) days from the filing of the last pleading, brief or memorandum.

As a rule, the prescribed periods for the performance of certain acts must be followed with fealty as they are designed primarily to speed up the final disposition of the case. Such reglementary periods are indispensable interdictions against needless delays and for an orderly discharge of judicial business. Deviations from the rules cannot be tolerated. More importantly, its observance cannot be left to the whims and caprices of the parties.[6]

Applying the foregoing discussion in the case at bar, we are persuaded that the resolution of the subject motion for execution filed by complainant sufficiently complied with the period provided. As a matter of fact, complainant had seven (7) days left when the motion was decided within eighty three (83) days from the time it was submitted for decision. The period to resolve the "Motion for Execution" of herein complainant commenced to run from the time that the period given to the defendant in the ejectment case has lapsed which was on 20 October 2005, and ended at the time the Motion for Execution was resolved and granted by the respondent on 11 January 2006. From 20 October 2005 to 11 January 2006, eighty three (83) days lapsed. Thus, the allegation of delay has no leg to stand on. It is of no moment that complainant had to wait for the resolution of his motion for execution. When faced with an accusation of delay and claim of injustice, this Court shall be guided by the period allowed by law. It cannot be expected that every time a pleading is filed, courts will be able to take notice and act on it at once. Reglementary periods are fixed by law and the various issuances of this Court are designed not only to protect the rights of all the parties to due process but also to achieve efficiency and order in the conduct of judicial business. Unless these periods have been arbitrarily disregarded by judges, there is no reason to hold them liable for undue delay.

Furthermore, the allegations in the complaint do not evince any malice, bad faith, or corrupt motives on the part of respondent. In fact, she should be lauded for exerting best efforts to afford due process to all parties by setting the motion for execution for hearing and giving defendant the opportunity to comment on the motion. This, to our mind, justifies the dismissal[7] of the charges of gross ignorance of the law, gross inefficiency, and neglect of duty filed against her.

To constitute gross ignorance of the law, the acts complained of must not only be contrary to existing law and jurisprudence, but also motivated by bad faith, fraud, dishonesty, and corruption. Gross ignorance of the law is a serious accusation, and a person who accuses a judge of this very serious offense must be sure of the grounds for the accusation.[8] 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.[9]

We scrutinized closely respondent's record and found no trace of wrongdoing on her part. This is the first time that she has been administratively charged.

While indeed a second motion for reconsideration is a prohibited pleading under the 1997 Rules of Civil Procedure, we have allowed it in certain cases. Besides, in administrative cases involving the discipline of judges and court personnel, we have allowed second or even third motions for reconsideration whenever justified by the

circumstances.[10] In the case at bar, and considering the foregoing observations, we have resolved to give due course to the second motion for reconsideration and grant the same.

WHEREFORE, in view of the foregoing, the Second Motion for Reconsideration is hereby GRANTED. The penalty of censure is hereby SET ASIDE and the complaint DISMISSED.

SO ORDERED.

Ynares-Santiago, and Austria-Martinez, JJ., concur.

Callejo, Sr., J., on leave.

Nachura, J., no part.

[1] Rollo, p. 40.

[2] Id. at 39-40.

[3] Id. at 40.

[4] Id. at 93.

[5] Id. at 96-97.

[6] LTS Philippines Corporation v. Maliwat, G.R. No. 159024, 14 January 2005, 448 SCRA 254, 258.

[7] Salvador v. Limsiaco, Jr., A.M. No. MTJ-06-1626, 17 March 2006, 485 SCRA 1, 6; Roxas v. Eugenio, Jr., A.M. No. RTJ-06-2008, 17 July 2006, 495 SCRA 188, 191.

[8] Suarez-De leon v. Judge Estrella, A.M. No. RTJ-05-1935, 29 July 2005, 465 SCRA 37, 44.

[9] Sps. Chan v. Judge Lantion, A.M. No. RTJ-05-1945, 25 August 2005, 468 SCRA 37, 44.

[10] Soria v. Judge Villegas, A.M. No. RTJ-03-1812, 18 November 2004, 443 SCRA 13, 20.

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