

JUDGE WENIE D. ESPINOSA, COMPLAINANT, VS. RODOLFO RICHARD P. BALISNOMO, CLERK OF COURT IV, MUNICIPAL TRIAL COURT IN CITIES, SIPALAY, NEGROS OCCIDENTAL, RESPONDENT.

A.M. No. P-20-4039 (Formerly OCA I.P.I. No. 18-4840-P). February 26, 2020

Ponente: LAZARO-JAVIER, J.

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LAZARO-JAVIER, J.:

The Charge

By Complaint-Affidavit[1] dated June 19, 2018, complainant Judge Wenie D. Espinosa charged respondent Rodolfo Richard P. Balisnomo, Clerk of Court IV, Municipal Trial Court in Cities, Sipalay, Negros Occidental with insubordination. Judge Espinosa essentially averred:

He is the Presiding Judge of the Municipal Trial Court in Cities, Sipalay, Negros Occidental. One (1) of the cases raffled to his sala was an action for forcible entry with prayer for issuance of temporary restraining order entitled "G Holdings, Inc. v. Leonora Hernandez, et al." and docketed Civil Case No. 383.[2]

By Order dated June 30, 2016, Judge Espinosa granted the prayer of G Holdings, Inc. for a writ of preliminary prohibitory and mandatory injunction against defendants. He also denied Hernandez et al.'s motion for reconsideration under his subsequent Order dated July 21, 2016. Consequently, he directed his Clerk of Court, respondent Rodolfo Richard P. Balisnomo to issue the corresponding writ, albeit the latter deliberately refused to comply.[3]

In his Comment[4] dated September 1, 2018, Balisnomo riposted in the main:

His refusal to issue the writ was justified. Pursuant to the Revised Manual of the Clerks of Court, the authority given to first level clerks of court is limited to the signing of writs of execution only and does not include writs of preliminary injunction. Had it been the intention of the framers of the Manual to include therein the issuance of preliminary and mandatory injunction, then, they should have explicitly done so. Too, by Decision dated January 27, 2017, the Regional Trial Court (RTC) - Branch 61, Kabankalan City, Negros Occidental declared as void Judge Espinosa's Orders dated June 30, 2016 and July 21, 2016 for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction.[5]

In his Reply[6] dated September 10, 2018, Judge Espinosa posited that Balisnomo's reliance on the aforesaid RTC decision is misplaced since his twin Orders dated June 30 and July 21, 2016 were deemed to be valid until nullified by a competent court. Thus, Balisnomo's obstinate refusal to issue the writ is willful insubordination which ought to be sanctioned.

Report and Recommendation of the Office of the Court Administrator (OCA)

In its Report[7] dated September 25, 2019, the OCA found Balisnomo guilty of willful insubordination. His refusal to issue subject writ due to his own understanding of the Revised Manual for Clerks of Court is untenable.

Under Chapter 7 (D) thereof, a clerk of court is specifically tasked to "perform duties as may be assigned to him", viz:

Chapter 7

First Level Courts

xxx xxx xxx

D. General Functions and Duties of Clerks of Court and Other Court Personnel

1.

CLERKS OF COURT

1.1

Office of the Clerk of Court

1.1.1

Clerk of Court

xxx xxx xxx

1.1.1.2.

Non-adjudicative Functions:

xxx xxx xxx

c.

Performs other duties that may be assigned to him.

The OCA held that Balisnomo unjustifiably refused to obey a direct and lawful order of his presiding judge. Hence, he must be held liable for insubordination. The OCA, thus, made the following recommendation:

- The complaint against respondent Rodolfo Richard P. Balisnomo, Clerk of Court IV, Municipal Trial Court in Cities, Sipalay City, Negros Occidental, be RE-DOCKETED as a regular administrative matter; and
- Respondent Balisnomo be found GUILTY of insubordination and be meted the penalty of SUSPENSION for two (2) months without pay effective immediately from notice, with a STERN WARNING that a repetition of the same act in the future shall merit a more severe penalty.

Issue

Is respondent guilty of insubordination?

Ruling

Insubordination is defined as a refusal to obey some order, which a superior officer is entitled to give and have obeyed.[8] The term imports an unwillingness to submit to authority and refusal to perform official duty.[9]

Here, Clerk of Court Balisnomo was ordered by his superior Judge Espinosa to issue a writ of preliminary injunction in a case pending in their sala. Balisnomo, however, refused to follow the directive, insisting that pursuant to the 2002 Revised Manual for Clerks of Court, he is only allowed to issue writs of execution and no other, thus:

Chapter 7

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D. General Functions and Duties of Clerks of Court and Other Court Personnel

1.

CLERKS OF COURT

1.1

Office of the Clerk of Court

1.1.1

Clerk of Court

1.1.1.1.

Adjudicative Support Functions:

a.

Prepares and signs summonses, subpoenas and notices, writs of execution, remittances of prisoners, and releases of prisoners;

On this score, Balisnomo overlooked the command under Chapter 7 that clerks of court should also "perform duties as may be assigned to him", viz:[10]

Chapter 7

First Level Courts

xxx xxx xxx

D. General Functions and Duties of Clerks of Court and Other Court Personnel

1.

CLERKS OF COURT

1.1

Office of the Clerk of Court

1.1.1

Clerk of Court

xxx xxx xxx

1.1.1.2.

Non-adjudicative Functions:

xxx xxx xxx

c.

Performs other duties that may be assigned to him.

Indeed, when Judge Espinosa ordered his Clerk of Court in the person of Balisnomo to issue a writ other than a writ of execution, Judge Espinosa was assigning an additional duty which Balisnomo ought to have obeyed.

Balisnomo cannot justify his disobedience on the basis of the subsequent ruling of the RTC nullifying Judge Espinosa's twin Orders dated June 30 and July 21, 2016. Judge Espinosa was correct when he said that his orders were deemed to be valid until they were eventually annulled by the RTC. Prior thereto, it was Balisnomo's ministerial duty to obey Judge Espinosa's official directive. Consequently, when Balisnomo deliberately disobeyed Judge Espinosa's orders, he committed an act of insubordination.

Section 50 (D) of the Revised Rules on Administrative Cases in the Civil Service classifies insubordination as a less grave offense punishable by suspension for one (1) month and one (1) day to six (6) months for the first offense; and dismissal from service for the second offense.

Under Sections 48[11] and 49[12] of the same rules, in the determination of the penalties to be imposed, mitigating and/or aggravating circumstances attendant to the commission of the offense shall be considered.

In *Contreras v. De Leon*,^[13] the Court considered respondent Clerk of Court's previous administrative infraction as an aggravating circumstance and accordingly imposed on her the maximum penalty, thus:

x x x It is relevant to note that this is not the first time that De Leon and Surtida have been held administratively liable. In *Villasenor v. De Leon*, the Court reprimanded De Leon for conduct unbecoming of an employee of the court after she had willfully failed to pay the amount of P20,000.00 she had loaned from the complainant therein, Monica Villasenor. Moreover, considering that De Leon had already been dropped from the rolls, the Court can only impose a fine or forfeiture of benefits to her.

Taking into account the number and gravity of De Leon's offenses in this matter and her previous administrative liability, the Court finds the fine of P40,000.00, as recommended by the OCA, too lenient. Therefore, the Court hereby forfeits all of her benefits, excluding her accrued leave credits, and perpetually disqualifies her from being re-employed in any government agency or instrumentality, including government-owned and controlled corporations or government financial institutions, without prejudice to the filing of appropriate civil and criminal cases against her.

Here, the penalty for insubordination is suspension for one (1) month and one (1) day to six (6) months. There being an aggravating circumstance of previous administrative liability i.e. found guilty of simple misconduct in A.M. No. P-16-3607, sans any offsetting mitigating circumstance, the Court deems it proper to impose on Balisnomo the maximum penalty of suspension for six (6) months without pay, with stern warning.

ACCORDINGLY, the complaint against respondent Rodolfo Richard P. Balisnomo is re-docketed as a regular administrative matter. Respondent is found GUILTY of insubordination for which he is SUSPENDED for six (6) months without pay. He is STERNLY WARNED that a repetition of the same or any similar infraction shall be dealt with more severely.

This Decision takes effect immediately. Within five (5) days from notice hereof, respondent shall notify the Office of the Court Administrator of the date when he shall have received this Decision.

SO ORDERED.

Peralta (C.J.), Caguioa, and Lopez, JJ., concur.
J. Reyes, Jr., J., on official leave.

[1] Rollo, pp. 2-7.

[2] Id. at 2.

[3] Id. at 7-8.

[4] Id. at 101-103.

[5] Id. at 7-8.

[6] Id. at 127-135.

[7] Id. at 136-141.

[8] Dalmacio-Joaquin v. Dela Cruz, 604 Phil. 256, 261 (2009).

[9] Office of the Court Administrator v. Licay, A.M. No. P-11-2959 & P-14-3230, February 6, 2018.

[10] Chapter 7 (D), 1.1.1.2. (c), 2002 Revised Manual for Clerks of Court, A.M. No. 02-5-07-SC, May 21, 2002.

[11] Section 48. Mitigating and Aggravating Circumstances. - In the determination of the penalties to be imposed, mitigating and/ or aggravating circumstances attendant to the commission of the offense shall be considered.

The following circumstances shall be appreciated:

- Physical illness;
- Good faith;
- Malice;
- Time and place of offense;
- Taking undue advantage of official position;
- Taking undue advantage of subordinate;
- Undue disclosure of confidential information;

- Use of government property in the commission of the offense;
- Habituality;
- Offense is committed during office hours and within the premises of the office or building;
- Employment of fraudulent means to commit or conceal the offense;
- First offense;
- Education;
- Length of service; or
- Other analogous circumstances.

In the appreciation thereof, the same must be invoked or pleaded by the proper party, otherwise, said circumstances will not be considered in the imposition of the proper penalty. The disciplining authority, however, in the interest of substantial justice may take and consider these circumstances *motu proprio*.

[12] Section 49. Manner of Imposition. - When applicable, the imposition of the penalty may be made in accordance with the manner provided herein below:

- a. The minimum of the penalty shall be imposed where only mitigating and no aggravating circumstances are present.
- b. The medium of the penalty shall be imposed where no mitigating and aggravating circumstances are present.
- c. The maximum of the penalty shall be imposed where only aggravating and no mitigating circumstances are present.
- d. Where aggravating and mitigating circumstances are present, paragraph [a] shall be applied where there are more mitigating circumstances present; paragraph [b] shall be applied when the circumstances equally offset each other; and paragraph [c] shall be applied when there are more aggravating circumstances.

[13] A.M. No. P-15-3400, November 6, 2018.

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