

RURAL BANK OF MALALAG, INC., COMPLAINANT, VS. JUDGE SEGUNDINO D. MANIWANG, RESPONDENT.

A.M. No. MTJ-93-799. May 18, 1994

Ponente: QUIASON, J.

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QUIASON, J.:

In a letter-complaint dated March 11, 1993, the Rural Bank of Malalag Inc., through its manager, Antonio P. Dulanas, charged Judge Segundino D. Maniwang of the Municipal Circuit Trial Court (MCTC) of Malalag-Sulop, Davao del Sur, with undue delay in the disposition of six collection cases, namely Civil Cases Nos. 226, 227, 228, 229, 230 and 231.

I

Civil Cases Nos. 226, 227 and 228 were filed on September 10, 1991. Complainant alleged that no action was taken by respondent with respect to these civil actions except for the pre-trial conference on March 12, 1992. Respondent admitted that he did not take any action on the cases but he claimed that two of the cases were not triable under the Revised Rule on Summary Procedure.

Civil Cases Nos. 229, 230 and 231 were filed on November 15, 1991. The defendants were served with summons on November 27, 1991; hence, the answers were due on December 12, 1991. As no answers were filed as of May 6, 1992, complainant filed a motion for the resolution of said cases on May 7, 1992.

On June 2, 1992, the defendants filed a motion to admit their answers. On June 10, 1992, respondent admitted the answers and denied the motion for resolution on the grounds that the answers raised "factual matters which need to be clarified in a formal hearing."

On June 26, 1992, complainant filed a second motion for resolution of the cases.

In his Order dated July 10, 1992, respondent denied complainant's motion to declare defendants in default, stating: (a) that the said motion was a prohibited pleading under Section 15 of the Revised Rule on Summary Procedure; (b) that he could not just disregard the answers filed by defendants for they raise a meritorious defense; and (c) that there were factual matters which should be clarified in a formal hearing.

After the preliminary conference on August 20, 1992, respondent issued pre-trial orders stating, in common, that the following factual issues had yet to be resolved:

1. Whether or not defendants have fully paid their indebtedness to plaintiff.
2. Whether or not defendants signed a Special Power of Attorney authorizing Mrs. Dulanas (complainant's representative) to withdraw all the checks due them as public school teachers (Rollo, p. 25).

As required by respondent, complainant filed its position paper. The defendants, however, did not file their position paper.

On September 15, 1992, complainant again filed a motion to resolve the cases, arguing that the defendants had waived their right to present evidence after having failed to submit their position papers.

In his Order dated October 27, 1992, respondent denied complainant's motion to resolve, stating that there was a need to conduct a hearing in order to resolve the factual issues. Furthermore, he claimed that the records pertinent to the said factual issues were in the hands of the officials of the Department of Education, Culture and Sports (DECS), necessitating the issuance of a subpoena duces tecum. He also noted that the hearing "would also give the defendants the opportunity to establish the merits of their defense and prevent a denial of substantial justice" (Rollo, pp. 37-38).

Complainant alleged that respondent failed to resolve the civil cases pursuant to Section 6 of the Revised Rule on Summary Procedure after the defendants therein failed to file their answers to the complaints, and pursuant to Section 10 thereof, after the defendants failed to submit their position papers. It also alleged that respondent deviated from the Revised Rule of Summary Procedure by conducting regular trials, under the guise of "clarificatory hearings."

In his comment, respondent averred that when Civil Cases Nos. 229, 230 and 231 were filed on November 15, 1991 in the MCTC of Malalag-Sulop, where he was the acting presiding judge, he had other duties as acting judge of Sta. Cruz, Davao del Sur and as permanent circuit judge in Padada-Kiblawan, Davao del Sur. In May 1991, he was designated to try a case in the MCTC of Bansalan-Magsaysay. He could only conduct the hearing of cases in the MCTC of Malalag-Sulop once a week, giving preference to criminal cases involving detained prisoners. Thus, not all the cases in the MCTC of Malalag-Sulop could be heard and tried by him, including the civil cases filed by complainant.

Respondent denied the charge of deviation from the Revised Rule on Summary Procedure in the handling of Civil Cases Nos. 229, 230 and 231. According to him, his denial of the motions to resolve the cases filed by complainant was, in fact, consistent with due process in order to give the defendants a chance to establish their claim of payment. He argued that there would have been a failure of justice if he resolved the cases of complainant on the basis of the complaints and its evidence alone, in disregard of the meritorious defense in the answers.

He also denied the charge that he held full-blown trials in contravention of the Revised Rule on Summary Procedure, asserting that what he conducted were only "clarificatory hearings" for the purpose of allowing the DECS representatives to bring to court the payrolls of the defendants. The first "clarificatory hearing" was continued on another date because the payrolls submitted to the court were voluminous and one of the DECS representative failed to attend the hearing.

II

We find respondent's explanations unsatisfactory.

Respondent's explanation for his inaction in Civil Cases Nos. 226, 227 and 228 was that two of the cases cannot be tried in accordance with the summary procedure because of the amount involved. He was referring to Civil Case No. 226, which involved the collection of the amount of P19,890.91 and attorney's fees of P5,000.00 and Civil Case No. 227, which involved the amount of P19,666.07 and attorney's fees of P5,000.00.

It is true that the Revised Rule on Summary Procedure does not apply where the total amount of the plaintiff's claim exceeds P10,000.00, exclusive of interests and costs. But if Civil Cases Nos. 226 and 227 cannot be heard summarily, respondent has not explained why he failed to set these cases for trial in accordance with the regular procedure. From March 12, 1992, the date of the pre-trial, up to March 22, 1993, the date of the filing of the

administrative complaint, there was no action taken by respondent on these cases. While these cases were filed on September 10, 1991, respondent set them for pre-trial only on March 13, 1992.

Respondent has not explained either why Civil Case No. 228, which involved only the amount of P7,390.95, was not heard under the summary procedure.

He has not shown his case load in the MCTC of Malalag-Sulop, MCTC of Padada-Kiblawan, and MCTC of Sta. Cruz, Davao del Sur. However, taking into account his multifarious duties, respondent's culpability is slightly diminished.

As to Civil Cases Nos. 229, 230 and 231, respondent has not explained why after the defendants failed to file their answer, he did not follow Section 6 of the Revised Rule on Summary Procedure, which provides:

"Effect of failure to answer. - Should the defendants fail to answer the complaint within the period above provided, the court, motu proprio, or on motion of the plaintiff, shall render judgment as may be warranted by the facts alleged in the complaint and limited to what is prayed for therein: Provided, however, that the court may in its discretion reduce the amount of damages and attorney's fees claimed for being excessive or otherwise unconscionable x x x."

He has not explained the justification for allowing the admission of the answers, which were filed more than five months after their due date.

He has not explained why he did not decide the cases after the defendants failed to submit the affidavits of their witnesses on the factual issues defined in the orders, together with their position papers setting forth the law and the facts relied upon by them.

Section 9 of the Revised Rule on Summary Procedure is very explicit that:

"Within ten (10) days from receipt of the order mentioned in the next preceding section, the parties shall submit the affidavits of their witnesses and other evidence on the factual issues defined in the order, together with their position papers setting forth the law and the facts relied upon by them."

Said Section 9 should be read together with Section 10 of the Revised Rule on Summary Procedure, the first paragraph of which provides:

"Within thirty (30) days after receipt of the last affidavits and position papers, or the expiration of the period for filing the same, the court shall render judgment."

x x x x x x x x

While the third paragraph of Section 10 of the Revised Rule on Summary Procedure allows the court, should it find it necessary to clarify certain material facts, to issue "an order specifying the matters to be clarified, and require the parties to submit affidavits or other evidence on the said matters within ten (10) days from receipt of said order," it has to render judgment "within fifteen (15) days after the receipt of the last clarificatory affidavits or the expiration of the period for filing the same."

It is clear from said provisions, that a court cannot resort to "clarificatory procedure," when the parties fail to submit their affidavits and position paper as required by Section 9 of the Rule. The courts cannot issue subpoena duces tecum in cases triable summarily merely on the basis of the answers. It is only after evaluating the affidavits and position papers submitted by the parties that the court can determine whether he should resort to the "clarificatory procedure" provided in Section 10 of the Rule. If any of the parties fail to submit their evidence and position paper within the reglementary period, the court cannot thereby set the "clarificatory procedure" into motion. Otherwise, a party can derail the proceedings and defeat the purpose of the summary procedure by not

filing the affidavits of his witnesses and his position paper, thus forcing the court to resort to said procedure.

WHEREFORE, the Court Resolved to IMPOSE on respondent a FINE of P5,000.00, with a warning that a repetition of the same or similar offense will be dealt with more severely.

SO ORDERED.

Cruz, (Chairman), Davide, Jr., Bellosillo, and Kapunan, JJ., concur.

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