

EMELITA A. DORAN, PETITIONER, VS. EXECUTIVE JUDGE JIMMY HENRY F. LUCZON, JR., REGIONAL TRIAL COURT, BRANCH 1, TUGUEGARAO CITY, CAGAYAN, AND JUDGE SALVADOR B. CAMPOS, MUNICIPAL C...

G.R. NO. 151344. September 26, 2006

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Before us for resolution is the Petition for Certiorari[1] (with prayer for a writ of preliminary prohibitory injunction) assailing the Resolutions dated December 10, 2001 and January 7, 2002 issued by Executive Judge Jimmy Henry F. Luczon, Jr. of the Regional Trial Court, Branch 1, Tuguegarao City, in OCA IPI No. 99-766-MTJ, entitled "Emelita A. Doran v. Judge Salvador B. Campos, MCTC, Amulung-Iguig, Cagayan."

The facts are:

Emelita A. Doran, petitioner, is a court stenographer detailed with the Municipal Circuit Trial Court, Amulung-Iguig, Cagayan presided by Judge Salvador B. Campos, respondent.

On August 17, 1999, petitioner filed with the Office of the Court Administrator (OCA) an affidavit- complaint charging respondent Judge Campos with grave misconduct, docketed as Administrative Matter OCA IPI No. 99-766-MTJ. Petitioner alleged that respondent committed the following acts: (1) scandal- mongering; (2) certifying as correct the June 1999 Daily Time Record of Geraldson F. Trinidad, court aide, despite knowing that the latter was absent during the first three weeks of that month as he was then harvesting palay in respondent's rice land; (3) utilizing Geraldson as overseer of his rice land; (4) causing the preparation of a "facsimile of a logbook" containing false entries and substituting the same in place of the genuine logbook to favor his favorite employees, particularly Geraldson; (5) disregarding a preliminary examination conducted in a case, yet finding that no probable cause exists and, thereafter, conducting another preliminary examination whereby he answered his own questions; (6) accepting bribes from litigants; and (7) habitual absenteeism.[2]

In his counter-affidavit dated October 8, 1999, respondent denied petitioner's allegations. He submitted the logbook of the court employees' attendance, as well as the affidavits of Petronilo Capili, clerk of court, Rizalina Aquino, stenographic reporter, Servando Bangayan, farmer-overseer, Geraldson Trinidad and Raquel Arimas, court stenographer.

Upon recommendation by then Court Administrator Alfredo I. Benipayo, we referred the administrative matter to Executive Judge Jimmy Henry F. Luczon, Jr., Regional Trial Court (RTC), Tuguegarao City, for investigation, report, and recommendation within sixty (60) days from receipt of the records.

After the petitioner had completed the presentation of her evidence, respondent, through counsel, asked the opinion of Investigating Judge Luczon whether it is procedurally permissible for him to file a demurrer to evidence or a motion to dismiss. Judge Luczon answered in the affirmative with the advice that counsel must first

seek leave of court.

Accordingly, respondent filed a Motion and Manifestation[3] praying that he be allowed to file a demurrer to evidence since petitioner failed to substantiate the allegations in her complaint. Petitioner opposed the motion arguing that such pleading is not permitted since the administrative proceeding is investigative in nature. She cited Section 5, Rule 139-B (Disbarment and Discipline of Attorneys) of the Rules of Court which provides:

SEC. 5. Service or dismissal.- If the complaint appears to be meritorious, the Investigator shall direct that a copy thereof be served upon the respondent, requiring him to answer the same within fifteen (15) days from the date of service. If the complaint does not merit action, or if the answer shows to the satisfaction of the Investigator that the complaint is not meritorious, the same may be dismissed by the Board of Governors upon his recommendation. A copy of the resolution of dismissal shall be furnished the complainant and the Supreme Court which may review the case *motu proprio* or upon timely appeal of the complainant filed within 15 days from notice of the dismissal of the complaint.

No investigation shall be interrupted or terminated by reason of the desistance, settlement, compromise, restitution, withdrawal of the charges, or failure of the complainant to prosecute the same.

In his Resolution dated December 10, 2001,[4] Investigating Judge Luczon allowed respondent to file his demurrer to evidence and petitioner to file her opposition thereto.

Forthwith, petitioner filed a Motion for Reconsideration, but it was denied in a Resolution dated January 7, 2002[5] holding that Rule 139-B applies only to disbarment cases or other disciplinary actions against lawyers; and that there is no prohibition against the filing of a demurrer to evidence in an administrative case.

On January 24, 2002, petitioner, in an unusual move, challenged Judge Luczon's ruling before this Court via the instant Petition for Certiorari with prayer for the issuance of a writ of preliminary prohibitory injunction. She alleged that the Investigating Judge, in allowing respondent to file a demurrer to evidence, committed grave abuse of discretion.

In his comment,[6] respondent countered that during the presentation of petitioner's evidence, he "was able to illicit admissions from complainant and her witness which readily refute the charges against him"; that the purpose of allowing the filing of a demurrer to evidence or motion to dismiss is to hasten the proceedings; that it is a waste of time and effort for him to still adduce evidence since the same will have no bearing at all in the outcome of a baseless complaint; and that it is a well-settled principle of law that complainant must rely on the strength of her own evidence.

Going back to Administrative Matter OCA IPI No. 99-766-MTJ, in view of the filing of the instant petition, we issued a Resolution on June 18, 2003 re-assigning this case to Judge Vilma T. Pauig, same RTC, for the continuation of the investigation and for her to submit her report and recommendation.

In the course of the investigation, respondent did not present any testimonial evidence. He just submitted his counter-affidavit and the supporting affidavits of Petronilo Capili, Rizalina Aquino, Geraldson Trinidad, Raquel Arimas and Servando Bangayan. Thereafter, Judge Pauig submitted to the OCA her report and recommendation.

On July 11, 2005, on the basis of the recommendation of then Court Administrator Presbitero J. Velasco, Jr.[7] in his Memorandum dated June 8, 2005, we issued a Resolution dismissing petitioner's complaint against respondent judge for insufficiency of evidence.

In light of these events, the instant petition for certiorari has become moot and academic. A case becomes moot when there is no more actual controversy between the parties or no useful purpose can be served in passing upon the merits of the case.[8] Here, the issue of whether grave abuse of discretion attended the issuance of the assailed

Resolutions issued by Executive Judge Luczon has ceased.[9]

However, there is a need to emphasize the inappropriateness of petitioner's present recourse assailing the acts of an Investigating Judge mandated by this Court to conduct an investigation of an administrative complaint and submit his report and recommendation thereon.

In order that a special civil action of certiorari may be invoked, the petition must be directed against any tribunal, board or officer "exercising judicial or quasi-judicial functions," which "acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law." [10]

It is thus important to determine what are considered judicial or quasi-judicial acts. It is the nature of the act to be performed, rather than of the office, board or body which performs it, that determines whether or not it is exercising a judicial or quasi-judicial function.[11] Judicial or quasi-judicial function involves the determination of what the law is, and what the legal rights of the contending parties are, with respect to the matter in controversy and, on the basis thereof and the facts obtaining, the adjudication of their respective rights.[12] In other words, the tribunal, board or officer exercising judicial or quasi-judicial function must be clothed with power and authority to pass judgment or render a decision on the controversy construing and applying the laws to that end.[13] Where an administrative body or officer does not exercise judicial or quasi-judicial power, certiorari does not lie.[14]

What is assailed here is the ruling made by Investigating Judge Luczon allowing respondent to file a demurrer to evidence or motion to dismiss after the petitioner had completed the presentation of her evidence in support of her affidavit-complaint. Judge Luczon was designated by this Court merely to investigate and, thereafter, submit a report and the appropriate recommendation relative to the said complaint. Simply stated, his function is merely investigative and recommendatory in nature.[15] He has no power to pronounce judgment on the controversy as such function belongs only to this Court pursuant to its power of supervision and control over court personnel and officers. His designation as investigator, therefore, does not involve the exercise of judicial or quasi-judicial power. Hence, his act/s may not be challenged in a petition for certiorari under Rule 65.

An Investigating Judge who allows the filing of a motion to dismiss does not commit any irregularity provided he does not make a determination of its merits but merely notes the motion and considers it in his report and recommendation. In *Office of the Court Administrator v. Matas*, [16] we stressed the limited authority of an Investigating Justice or Judge in disciplinary proceedings against judges, thus:

"x x x, the investigating Justice or Judge designated by the Court to conduct an investigation, submit a report, and make the appropriate recommendation does not have an authority to grant or deny a motion to dismiss the case. His authority is not co-extensive with the power or authority of his office. In this case, the investigating Justice should not have denied respondent Torres' motion to dismiss. Even if the reason for the denial were correct, he should have merely noted the motion and considered it in his report and recommendation, which the Court had suggested in the referral to him of the motion.

WHEREFORE, we DISMISS the instant petition. Costs against petitioner.

SO ORDERED.

Puno, (Chairperson), Corona, Azcuna and Garcia, JJ., concur.

[1] Filed under Rule 65 of the 1997 Rules of Civil Procedure, as amended.

[2] See *Administrative Matter for Agenda* dated June 15, 2000, Rollo, pp. 56-57.

[3] Id., pp. 58-59.

[4] Id., p. 71.

[5] Id., p. 76.

[6] Id., pp. 103-104.

[7] Now a member of this Court.

[8] Tantoy v. Abrogar, et al., G.R. No. 156128, May 9, 2005, 458 SCRA 301, citing Ocampo v. HRET, 432 SCRA 144, 150 (2004); Enrile v. Senate Electoral Tribunal, G.R. No. 132986, May 19, 2004, 428 SCRA 472, 477.

[9] King, et al. v. Court of Appeals, et al., G.R. No. 158195, December 16, 2005, 478 SCRA 275, citing Banco Filipino Savings and Mortgage Bank v. Tuazon, Jr., 425 SCRA 129, 134 (2004); Philippine Airlines, Inc. v. Pascua, G.R. No. 143258, August 15, 2003, 409 SCRA 195, 202.

[10] Section 1, Rule 65 of the 1997 Rules of Civil Procedure, as amended.

[11] Santiago v. Bautista, No. L-25024, March 30, 1970, 32 SCRA 188, 196-198.

[12] Id.

[13] Id., citing Municipal Council of Lemery v. Provincial Board of Batangas, 56 Phil. 260, 268.

[14] Id.

[15] See Ruperto v. Torres, L-8785, February 25, 1957 (unreported), cited in 32 SCRA 203.

[16] Adm. Matter No. RTJ-92-836, August 2, 1995, 247 SCRA 9, 22.

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