

[A.M. No. MTJ-97-1136, August 30, 2000]

HERMOGENES T. GOZUN, COMPLAINANT, VS. HON. DANIEL B. LIANGCO, MUNICIPAL TRIAL JUDGE, MUNICIPAL TRIAL COURT, SAN FERNANDO, PAMPANGA, AND ACTING JUDGE, MUNICIPAL CIRCUIT TRIAL COURT, MEXICO- SAN LUIS, PAMPANGA, RESPONDENT.

R E S O L U T I O N

PER CURIAM:

The case is an administrative complaint^[1] for the dismissal of Judge Daniel B. Liangco, Municipal Trial Judge, Municipal Trial Court, San Fernando, Pampanga, and Acting Judge, Municipal Circuit Trial Court, Mexico-San Luis, Pampanga for serious misconduct, gross inefficiency and incompetence. This is in relation to his handling of a petition for declaratory relief filed by the Sangguniang Bayan of San Luis, Pampanga,^[2] which sought his legal opinion on the validity of Resolution No. 34-96 which provided that Lot No. 114, belonging to the municipality of San Luis, but occupied by the family of Hermogenes T. Gozun, be used for the construction of the Rural Health Center of San Luis, Pampanga.

We state the antecedent facts.

Complainant Hermogenes T. Gozun (hereinafter referred to as "Gozun") was in open and adverse possession of subject land for a period of more than thirty years.^[3] His family's house was erected on the land. The house was made of old vintage lumber, cement, hollow blocks, G.I. sheet roofing and other strong materials. Gozun inherited the house and lot from his parents.

The municipality of San Luis, Pampanga claimed to own the same lot.^[4]

On January 12, 1996, the Sangguniang Bayan of San Luis, Pampanga issued Resolution No. 26-96,^[5] stating:^[6]

"RESOLVED AS IT IS HEREBY
RESOLVED that the
Sangguniang Bayan of San
Luis, Pampanga do hereby
consider (sic) the lot under
Tax Dec. No. 114 owned by
the Municipal Government of
San Luis, Pampanga,
specifically the lot where Mr.
Hermogenes Gozun and
family were squatting (sic) as
the new site of the Rural
Health Center will rise (sic)."

On May 17, 1996, the Sangguniang Bayan issued Resolution No. 34-96 to amend and correct Resolution No. 26-96.^[7]

On May 24, 1996, Romulo M. Batu, Vice Mayor, on behalf of the Sangguniang Bayan, filed with the MTC, San Luis, Pampanga, a petition for declaratory relief. We quote the petition:^[8]

"PETITION FOR DECLARATORY RELIEF

"THE HONORABLE JUDGE DANIEL LIANGCO

"In behalf of the Sangguniang Bayan of San Luis, Pampanga, We would like to petition your good office to render legal opinion on the following matters, to wit:

"1. The validity of the attached Resolution.

"2. The powers of the Municipal Mayor to enforce said Resolution.

"3. To issue an order to the PNP to assist the Municipal Mayor in implementing said Resolution.

"These request are (sic) in connection with our plan to construct a new site for the Rural Health Center of San Luis, Pampanga. However, the designated place thereof is presently being squatted (sic) by a certain Mr. Hermogenes Gozun and in spite of the official notice of Atty. Benalfre S. Galang, our Provincial Legal Officer, and personal request of our Municipal Mayor Jovito C. Bondoc to Mr. Gozun to vacate his (sic) premises, he continues to defy such notices and request to the detriment of the proposed project.

"WHEREFORE, it is respectfully prayed that this petition will merit your favorable consideration and appropriate action for the sake of public interest."

On the very same day, May 24, 1996, respondent judge issued a resolution, reasoning: First, the municipality of San Luis, Pampanga through its Sangguniang Bayan may enact resolutions and ordinances to regulate the use of property within its jurisdiction. Second, Resolution No. 34-96 is not contrary to law, morals and public policy. Third, the municipal mayor through an executive order may order the Philippine National Police or any government law enforcement agency to enforce or implement the resolution, using reasonable force if necessary and justified. Fourth, squatting in government property is considered a "nuisance per se". Respondent judge ruled:^[9]

"With the issuance by the Municipal Mayor of an executive order, the municipality of San Luis may order the Philippine National Police (PNP) stationed in San Luis, Pampanga to effect the eviction of Hermogenes Gozun and all other persons who may be claiming any right under him from Lot No. 114 covered by Tax Declaration No. 6030 (underscoring ours)."

Again, on the same day, March 24, 1996, the municipal mayor, Jovito C. Bondoc, pursuant to the aforementioned resolution, issued Executive Order No. 1, series of 1996, ordering the PNP to implement Resolution No. 34-96.^[10]

Note that complainant Gozun was not served with summons or given notice of the petition for declaratory relief.^[11]

On June 2, 1996, complainant Gozun learned about the resolution.^[12]

On June 3, 1996, complainant Gozun's wife^[13] together with other public school teachers^[14] went to the office of respondent judge. When asked about the resolution, respondent judge answered, "*Ing Apung Guinu yu y Mayor Bondoc at kaya ko makisabi*" ("Your God is Mayor Bondoc and you should talk to him").^[15]

On August 8, 1996, agents of the municipal government demolished complainant Gozun's house, using respondent judge's resolution and the mayor's executive order as basis.^[16]

On December 18, 1996, complainant Gozun filed this administrative complaint with the Office of the Court Administrator.^[17] He averred that respondent judge's issuance of the resolution amounts to "gross misconduct, gross inefficiency and incompetence."^[18] Complainant Gozun further accused the municipal mayor of having bribed respondent judge. Mayor Bondoc told complainant Gozun that "the respondent judge is in his pocket ...because he (Mayor Bondoc) has given him (respondent judge) a lot of things ("*dacal naku a regalo kaya*").^[19]

On January 20, 1997, the Office of the Court Administrator^[20] submitted the petition to this Court for its consideration, recommending that the complaint be given due course.^[21]

On March 21, 1997, the Court resolved to require respondent judge to comment thereon, within ten (10) days from notice.^[22]

On May 15, 1997, respondent judge submitted his comment, denying the charges and urging that the case be dismissed.^[23]

On June 23, 1997, we referred the case back to the Office of the Court Administrator for evaluation, report and recommendation.^[24]

On April 13, 2000, after investigation, Court Administrator Alfredo L. Benipayo submitted a memorandum, recommending the dismissal from office of respondent judge.^[25]

We agree with the recommendation of the Court Administrator.

Under the 1964 Revised Rules of Court, a petition for declaratory relief may be filed by any person interested under a deed, will, contract or other written instrument, or whose rights are affected by a statute, executive order or regulation, or ordinance.^[26] The purpose of the petition is to determine the construction or validity of a statute or ordinance and to seek a judicial declaration of the parties' rights or duties thereunder. Such "action for declaratory relief must be brought in the proper Court of First Instance (now the Regional Trial Court)."^[27]

In this case, respondent judge not only acted without jurisdiction, but in so acting ignored blatantly the basic rules of fair play. Complainant was not notified of nor made party to the petition.^[28] The purpose of notice is to afford the parties a chance to be heard.^[29] This chance was not given to complainant Gozun, and consequently, because of an arbitrary act of respondent judge, complainant's house was demolished and he and his family were rendered homeless.

To escape our disciplining wrath, respondent judge argues that the "resolution" he issued was a mere expression of his legal opinion and not a judgment or order "which adjudicates and settles rights and obligations of the parties."^[30] He said that the petition for declaratory relief, earlier quoted, is not a pleading, but a mere letter-request for a legal opinion. Hence, complainant Gozun was not entitled to notice and hearing.^[31]

Respondent's argument betrays either gross ignorance of or contempt for the law, neither of which is acceptable, for it is given that a member of the bench must keep himself constantly abreast of legal and jurisprudential developments, bearing in mind that this learning process never ceases even as it is so indispensable in the correct dispensation of justice.^[32] When the law violated is elementary, the failure to know or observe it constitutes gross ignorance of the law.^[33]

The resolution, suffice it to say, is legally flawed, bore all earmarks and characteristics of an order or judgment disposing of the case. Sans reception of evidence, respondent judge made conclusions of fact, labeling complainant as a "squatter", stating that his house was a nuisance per se. Without citing any law or jurisprudence, respondent judge gave the municipality a "go signal" to demolish complainant's house even using force.

Undeniably, respondent judge had an inkling of the nature of the petition. The petition was docketed as Special Proceeding No. 96-001. A special proceeding is a litigated action. Respondent judge must know this. In fact, he named complainant as respondent therein, yet never gave him notice.

His excuse that the resolution was a mere expression of his own legal opinion is an afterthought.

Besides, even assuming *arguendo* that the resolution was a mere legal opinion, still respondent must know that rendering of "legal opinions" is not the function of a judge. The function of the court is limited to adjudication of actual controversies involving rights which are legally demandable or enforceable.^[34] Unlike lawyers, judges cannot render legal advice. Judges^[35] are expressly prohibited from engaging in the private practice of law or from giving professional advice to clients.^[36]

Unfamiliarity with the Rules of Court is a sign of incompetence, which goes against Canon 3, specifically Rule 3.01,^[37] of the Code of Judicial Conduct.^[38]

Judges are required to be objective. Judges cannot innovate at pleasure and justify such innovations by their own perception of what is ideal or good. Their authority is limited by substantive and procedural rules and by Constitutional precepts.^[39]