

SECOND DIVISION

[A.M. No. MTJ-96-1105, January 14, 1997]

**DEVELOPMENT BANK OF THE PHILIPPINES, COMPLAINANT, VS.
JUDGE FEDERICO A. LLANES, JR., RESPONDENT.**

D E C I S I O N

REGALADO, J.:

In a sworn complaint filed on May 31, 1995 with this Court by herein complainant, Development Bank of the Philippines (DBP), respondent Judge Federico A. Llanes, Jr. was administratively charged with gross ignorance of the law, gross neglect of duty and acts prejudicial to the interest of the Government based on his official actuations in Civil Case No. 2551 assigned to Branch I, Municipal Trial Court in Cities (MTCC) Laoag, City.

The case involved a complaint for unlawful detainer filed in that court on April 14, 1992 by complainant, as plaintiff, against one Julio Agcaoili. It is claimed that judgment was rendered therein in favor of DBP on October 14, 1993, which judgment became final and executory since no appeal was seasonably taken therefrom. On motion of herein complainant, a writ of execution was issued on January 21, 1994, but despite the lapse of more than six months, the writ was never enforced despite several motions of complainant for its implementation.

According to the findings of the Office of the Court Administrator, an administrative complaint was consequently filed by DBP against Leticia M. Aguto, Clerk of Court and Antonio Espejo, Deputy Sheriff, both of the same court, for the unreasonable delay in the enforcement of the writ. However, Judge Wenceslao Agnir, as investigating judge, dismissed the same due to the admission of herein respondent judge in the latter's First Indorsement, dated October 17, 1994, that it was he who directed Mrs. Aguto to hold in abeyance the enforcement of the aforestated writ because he had ordered an inventory of all cases pending in his court as of January 22, 1994. How and why the mere taking of the inventory should suspend regular court operations and judicial processes is not explained.

Required to comment because of the foregoing report and the present complaint of the DBP against him, respondent complied on March 8, 1996. This drew a reply from DBP which was filed on May 3, 1996 and to which respondent judge, this time through counsel, filed a rejoinder on August 26, 1996.

The Office of the Court Administrator correctly summarized the antecedents of this case, as culled from the records and the comment of respondent judge, these pertinent parts of which we adopt:

1. On April 14, 1992, DBP filed a complaint for unlawful detainer against Julio Agcaoili which was docketed as Civil Case No. 2551 pending before MTCC, Branch I, Laoag City where respondent was the permanently

appointed Presiding Judge thereat;

2. On August 26, 1992, respondent issued an Order setting Civil Case No. 2551 for Preliminary Conference on September 10, 1992. On said date, however, while plaintiff and counsel were present, defendant and counsel were absent. Thus, respondent Judge granted complainant's manifestation that the case be reset to October 7, 1992;

3. After the Order dated September 10, 1992 was issued, respondent was detailed by the Honorable Supreme Court to preside over MTC of Manila on October 2, 1992;

4. Judge Manuelito A. Cid of MTC of Bacarra, Ilocos Norte, became the Acting Presiding Judge of MTCC, Branch I, Laoag City;

5. On March 29, 1993, plaintiff DBP filed a MANIFESTATION/MOTION submitted to the Court for consideration praying that the case be resolved;

6. On May 11, 1993, both parties filed a Joint Motion to Suspend Proceedings based on the allegations therein. However, respondent alleged that the record does not reflect whether or not Judge Manuelito Cid did act on the MANIFESTATION/MOTION, Joint Motion to Suspend Proceedings submitted for resolution;

7. On October 14, 1993, Acting Presiding Judge Cid unilaterally and arbitrarily rendered Judgment in Civil Case No. 2551, finding for the plaintiff and ordering defendant to vacate the subject premises;

8. On November 23, 1993 DBP filed a Motion for Execution of the Judgment dated October 14, 1993 on the alleged ground that the decision had become final and executory. However, on November 25, 1993 the MTCC-I received by registered mail a Notice of Appeal dated November 4, 1993 filed by defendant's counsel Atty. Pablo P. Magno which was registered on November 5, 1993, within the reglementary period to appeal. However, the clerk of Atty. Magno erred in addressing the envelope as follows:

The Clerk of Court

Regional Trial Court

Branch I

Laoag City

Hence, the mail was returned to Atty. Magno and finding the mistake, the Notice of Appeal was re-registered on November 18, 1993 with the following address:

The Clerk of Court

Municipal Trial Court

Branch I

Laoag City

(a)nd said Notice of Appeal was received by MTCC-I on November 25, 1993.

9. Likewise, Atty. Magno, counsel for the defendant Agcaoili filed in the same mail(ing) envelope of the Notice of Appeal, his pleading entitled "Motion to Amend Decision" dated November 3, 1993. Hence, it suffered the same fate as the Notice of Appeal and same was also received by the MTCC-I on November 25, 1993. This Motion was however ruled upon on December 1, 1993 by Judge Cid as follows:

"Under consideration is a Motion to Amend Decision.

It being a Motion amounting to no less than a Motion for Reconsideration of a Judgment (Section 19 [c], Revised Rules on Summary Procedure) the same is hereby denied for being prohibited under said Rules.

SO ORDERED."

10. On December 1, 1993, however, Judge Cid issued an Order, considering the Notice of Appeal as filed within the reglementary period;

11. On December 8, 1993, the MTCC-I received a Motion for Reconsideration (of) Order of December 1993 and to Dismiss Appeal filed by plaintiff. However, MTCC-I received a Telegram addressed to Judge Cid from Atty. Pablo Magno, requesting that incidents in subject case be set for hearing on September 20, 1993;

12. On December 21, 1993, Judge Cid issued the following Order:

"The reglementary period therefor allowed has already lapsed for reasons which defendant has failed to amplify, the appeal was not perfected there being no docket fee and appeal bond submitted as other requisites for its perfection as required by the Rules. Other matters such as the hearing of incidents of the case as alleged in the telegraphic transmittal of counsel for the defendant are rendered moot and academic.

Wherefore, the Notice of Appeal is hereby denied and Judgment has become final and executory."

13. On January 19, 1994, DBP filed a Motion for Execution by virtue of which a Writ of Execution dated January 21, 1994 was issued by Acting Executive Judge Cid. But the records as alleged by respondent do not show that an order was promulgated by Judge Cid granting the Motion for Execution furnishing a copy thereof to the defendant or Atty. Pablo Magno;

14. On January 24, 1994 respondent Judge returned to his permanent station;

15. On February 21, 1994 defendant Julio Agcaoili filed an Affidavit with

MTC-I and the MTC-I received a telegram from Atty. Magno addressed to Judge Cid which reads:

"CIVIL CASE NO. 2551, DBP VS. JULIO AGCAOILI DEFENDANT JULIO AGCAOILI'S COUNSEL FILED THROUGH MAILS MOTION RECONSIDERATION ORDER DATED DECEMBER 21, 1993 ENCLOSING DOCUMENTS SHOWING APPEAL ON TIME, OFFICIAL RECEIPT OF PAYNET (PAYMENT) OF DOCKET FEE AND APPEAL.

AND STOP PLEASE AWAIT MOTION BEFORE RESOLVING OTHER INTEREST

THANK YOU

ATTY. PABLO P. MAGNO

COUNSEL FOR AGCAOILI"

16. On March 7, 1994 DBP filed an Ex-Parte Motion to Designate DBP Special Sheriff and since the issue of whether or not a proper appeal was perfected by defendant Agcaoili, respondent issued an Order dated March 10, 1994 which reads:

"In the interest of justice, the Clerk of Court is hereby directed to verify immediately as to the truthfulness of the allegations contained in the telegram of Atty. Pablo P. Magno, counsel for the defendant to this Court dated February 22, 1994 regarding the Motion for Reconsideration dated December 21, 1993 which he allegedly filed through the mail and where documents showing that appeal was filed on time, the official receipt of payment of docket fee and appeal bond were enclosed therein. A report on the matter should be submitted to the Court within 10 days from today.

SO ORDERED."

After investigation and based on the records, the docketing fees were actually paid on November 10, 1993 as per Official Receipts Nos. 3344127 and 3344036 (pp. 128-129, 132, rec.);

17. Hence, on April 18, 1994, respondent Judge issued an ORDER which set for hearing pending incidents in Civil Case No. 2551 on May 20, 1994 at 8:30 A.M. but said hearing was reset to July 14, 1994 with notice properly served to both parties;

18. On July 14, 1994, a new collaborating counsel for defendant Julio Agcaoili, Atty. German Coloma, appeared; but because of the absence of DBP's counsel despite notice and the manifestations of Atty. Coloma, thereafter respondent issued an ORDER explaining the available facts and the situation existing, and rescheduled the hearing of all incidents on August 11, 1994 at 8:30 A.M.;

19. On August 11, 1994, both parties appeared in Court. After manifestations were made, Atty. Bacolor of DBP asked that the hearing on his Ex-Parte Motion to Designate DBP Sheriff be reset after 15 days and the case was reset to August 18, 1994;

20. On August 18, 1994, both parties appeared thru their respective