

EN BANC

[A.M. No. RTJ 20-2596 (Formerly OCA IPI No. 16-4590-RTJ), January 19, 2021]

LIZA DE LEON-PROFETA, PETITIONER, VS. JUDGE FRANCISCO G. MENDIOLA, PRESIDING JUDGE OF REGIONAL TRIAL COURT, BRANCH 115, PASAY CITY, RESPONDENT.

DECISION

PER CURIAM:

This is an administrative Complaint^[1] dated 28 June 2016, filed by petitioner Liza De Leon-Profeta (petitioner) against Judge Francisco Mendiola (respondent Judge), former Presiding Judge of Branch 115, Regional Trial Court (RTC) of Pasay City. The complaint accuses respondent Judge of gross ignorance of the law, as well as manifest bias and partiality, relative to his issuances in the Petition for Issuance of Letters of Administration, Partition, Settlement and Distribution of Estate of Agustina Maglaqui-De Leon^[2] (subject petition), against the petitioner and her brother, Nestor De Leon (Nestor), who were among the oppositors in said proceeding.^[3]

Antecedents

Agustina Maglaqui-De Leon (Agustina) died intestate on 11 August 2007. She was survived by her husband, former Judge Nestorio De Leon (Judge De Leon), their legally adopted children, petitioner and Nestor de Leon (Nestor), as well as her sister, Elisa Maglaqui-Caparas (Elisa).

On 14 February 2008, Elisa filed the subject Petition, where she prayed, *inter alia*, to become the administratrix of Agustina's estate. She claimed to be suing in her capacity as Agustina's surviving heir. While she acknowledged Judge De Leon as Agustina's widower, Elisa nevertheless asserted that he had suffered from multiple strokes. She likewise omitted any mention of petitioner and Nestor.^[4]

On the day Elisa was to present jurisdictional requirements before the court, petitioner, Nestor, and Judge De Leon (collectively, oppositors), along with their counsel, opposed the subject petition in open court. Respondent Judge issued an Order^[5] dated 26 March 2008, holding Elisa's application for the issuance of Letters of Administration submitted for resolution. He also directed the oppositors' lawyer to file their opposition to the subject petition within five (5) days, or until 31 March 2008.

However, only two (2) days later, or on 28 March 2008, respondent Judge issued an Order (Order dated 28 March 2008),^[6] granting Elisa's prayer for the issuance of Letters of Administration. Nevertheless, the oppositors still filed their Opposition^[7] on 31 March 2008, asserting that they were the compulsory heirs of Agustina. To support their claim, they submitted a certified xerox copy of a Decision,^[8] dated 15

October 1982, purportedly in SP Proc. No. 434 and issued by Branch 01, City Court of Pasay, granting the petition of Judge De Leon and Agustina for the adoption of minors Liza Cabacang and Nestor Cabacang.

Despite said opposition, respondent Judge issued Letters of Administration^[9] in favor of Elisa on 01 April 2008. The oppositors sought reconsideration of the Order^[10] dated 28 March 2008, but the respondent Judge denied the same in his Order^[11] dated 02 May 2008.

Subsequently, Elisa filed a motion to withdraw sum of money from Agustina's Citibank account, which respondent Judge granted on 12 May 2008.^[12] As a result, Elisa was able to obtain a total of Php5,595,078.01 from Agustina's estate.^[13] Respondent judge likewise granted Elisa's motion for the oppositors to submit/turn-over to her pertinent documents to enable her to render a complete inventory of Agustina's estate.^[14]

Aggrieved by the flurry of respondent Judge's unfavorable rulings, the oppositors filed a Petition for *Certiorari* with Prayer for Issuance of Temporary Restraining Order and/or Writ of Preliminary Injunction^[15] before the Court of Appeals (CA), docketed as CA-G.R. SP No. 103471, to annul the Orders dated 28 March 2008 and 02 May 2008, as well as the Letters of Administration^[16] granted to Elisa.

In a Decision^[17] dated 22 August 2008, the CA granted the petition, having found that respondent Judge acted with grave abuse of discretion in appointing Elisa as administratrix of Agustina's estate, without conducting a full-dress hearing, and without giving cogent reason for disregarding the order of preference set forth in Section 6, Rule 78 of the Rules of Court. It consequently nullified the Letters of Administration issued to Elisa, and ordered respondent Judge to conduct a full-dress hearing for the purpose of determining who was more competent, qualified, and fit to act as the administrator or administratrix of the estate of Agustina. The CA decision became final and executory on 18 September 2009.^[18]

Pursuant to the ruling, the oppositors filed a motion before the RTC to set a hearing on their opposition. During the scheduled hearing on 17 June 2009, Elisa manifested that both parties have no more witnesses to present, and she had no documentary exhibits to submit. Meanwhile, the oppositors filed their formal offer of evidence on 21 November 2011. However, respondent Judge did not act immediately on the formal offer. Instead, he allowed Elisa to present a lengthy rebuttal to the oppositor's evidence.^[19]

About a month after the filing of the formal offer, Judge De Leon passed away, leaving petitioner and Nestor to contest the subject petition.^[20]

On 15 August 2012, the oppositors filed a Motion for Voluntary Inhibition^[21] of respondent Judge. In an Order^[22] dated 09 January 2013, however, respondent Judge denied the motion for utter lack of merit. In said Order, respondent Judge refuted in detail all the allegations of bias proffered by the oppositors against him. He likewise averred that the motion showed the oppositors and their counsel's lack of knowledge of the case, "and their crass ignorance of basic court procedure."^[23] Addressing the oppositors' allegation that he started proceedings for the subject Petition with uncommon haste, respondent Judge had this to say:

Are the oppositors each an ignoramus with no knowledge that cases are raffled to Court Branches and the Branch to which the case is filed has the duty to set the case for hearing?

Are the oppositors each an ignoramus with no knowledge that if the court finds the petition sufficient in forma and substance, does not mean that it has already granted the petition?^[24]

When respondent Judge denied oppositors' motion for reconsideration,^[25] they filed before the CA a Petition for *Certiorari* and Prohibition (With Application for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction),^[26] docketed as CA-G.R. SP No. 132653, to nullify respondent Judge's ruling on the motion for inhibition.

In the meantime, respondent Judge issued, *inter alia*, the Order^[27] dated 04 March 2014 denying admission of all the oppositors' documentary exhibits.^[28] He also issued the Order^[29] dated 09 May 2014, which granted Elisa's Motion to Deny the Oppositors' Opposition,^[30] ratiocinating that the oppositors miserably failed to prove the existence of their adoption, there being no certificate of finality of the supposed decree of adoption,^[31] and considering that the copy of the supposed adoption decree presented in court was a mere photocopy.^[32]

On 29 August 2014, the CA issued a Decision^[33] directing respondent Judge to inhibit himself from the proceedings. Hence, oppositors filed a manifestation dated 02 September 2014 before the RTC, apprising respondent Judge of the said CA ruling.^[34] The same notwithstanding, respondent Judge released the following Orders, which he caused to be personally served on the oppositors' counsel two (2) days later:^[35]

1. The Order^[36] dated 19 August 2014, denying oppositors' motion for reconsideration of the Order^[37] dated 04 March 2014;
2. The Order^[38] dated 20 August 2014, which denied the motion for reconsideration of the Order^[39] dated 21 March 2014, which, in turn, denied the motion to dismiss filed by the oppositors;
3. The Order^[40] dated 29 August 2014, denying the oppositors' motion for reconsideration of the Order^[41] dated 09 May 2014.

Oppositors, claiming that respondent Judge antedated the foregoing orders to make it appear that they were issued prior to the issuance of the CA ruling,^[42] filed a third petition for *certiorari* before the CA, docketed as CA-G.R. SP No. 137827,^[43] to assail the Orders dated 04 March 2014,^[44] 19 August 2014,^[45] and 20 August 2014.^[46] They also filed their fourth petition for *certiorari*, docketed as CA-G.R. SP No. 137999, to assail the Order dated 29 August 2014.^[47]

Meanwhile, Elisa filed before the Court a petition for review on *certiorari*, docketed as G.R. No. 219840, to assail the CA's ruling on the second petition for *certiorari* of the oppositors.^[48] The petition was denied in a Resolution^[49] dated 23 November 2015. However, when petitioner filed the present complaint on 19 June 2016, Elisa's motion for reconsideration was still pending resolution by the Court.^[50] It was only a month later, on 20 July 2016, that the Court issued the Resolution^[51] denying Elisa's motion with finality.

In the interim, respondent Judge still heard on 22 June 2016 Elisa's very urgent motion for appointment of special administrator and issuance of writ of possession,^[52] despite the standing directive of the CA for him to inhibit.

In his Comment^[53] filed on 01 September 2016, respondent Judge, citing Section 6, subsections (b) and (c), Rule 78 of the Rules of Court,^[54] argued that he cannot be held administratively liable for choosing Elisa over Judge De Leon as administrator of Agustina's estate because the latter neglected to apply for Letters of Administration within 30 days from his wife's death on 11 August 2007.^[55]

Furthermore, respondent Judge explained that he issued the order dated 19 February 2008, notifying Judge De Leon and the heirs of Agustina of the subject Petition, directing them to appear on 26 March 2008 and show cause why the subject Petition should not be granted.^[56] On the date of hearing, however, the oppositors still failed to file a written opposition or comment on the subject Petition.^[57] Petitioner and Nestor also failed to present concrete proof of an official adoption decree, as what they had was a mere photocopy. Hence, respondent Judge did not lend credence to their claim of adoption.^[58]

In addition, respondent Judge cited the supposed urgency of the matter for issuing the Order^[59] dated 26 March 2008, ruling the subject petition as submitted for resolution, without prejudice to the issue of whether petitioner and Nestor were indeed the children, whether adopted or otherwise, of Agustina and Judge De Leon.^[60]

Anent his refusal to recuse despite the directive of the CA, respondent Judge maintained that, at the time he issued the assailed orders, the ruling of the CA in the second petition for *certiorari* was still not final and executory at that time, there being a pending motion for reconsideration filed by Elisa. Since there was no preliminary injunction or temporary restraining order issued by the CA against him, he proceeded to further hear the case, pursuant to Section 7, Rule 65^[61] of the Rules of Court.^[62] Nevertheless, he complied with the directive of the CA in its ruling on the first petition for *certiorari* to conduct full-dress hearings by setting the case for regular hearings starting November 2009.^[63]

Respondent Judge further argued that petitioner's complaint against him was premature in view of the pendency of Elisa's motion for reconsideration before the Court.^[64]

Additionally, respondent Judge pointed out that oppositors had already asked for his inhibition in their first petition for *certiorari*, but the same was not passed upon by the CA. Since the CA did not thresh out this issue, the appellate court, by

implication, denied the same. Hence, the oppositors' motion for inhibition in their second petition for *certiorari* was already barred by *res judicata*.^[65]

Respondent Judge also underscored that his finding on the physical unfitness of Judge De Leon was never refuted by the oppositors. He also noted that as stated in his Orders dated 04 March 2014^[66] and 09 May 2014,^[67] petitioner and Nestor failed to establish by competent evidence the fact of their adoption by Judge De Leon and Agustina. Since they did not appeal the Order dated 09 May 2014, the same had become final and executory pursuant to Section 1 (e) and (f), Rule 109 of the Rules of Court.^[68]

He also explained that the word "ignoramus" he used in his Order ^[69] dated 09 January 2013 only referred to oppositors' lack of knowledge about court procedures, such as raffle and admission of a complaint when in due form and substance. And given its ordinary meaning, "ignoramus" was not a strong and intemperate word that would amount to a ground for voluntary inhibition.^[70]

By way of an Additional/Supplemental Comment,^[71] respondent Judge further argued that since the oppositors' failed to appeal his Order^[72] dated 09 May 2014, it is now final and executory. Accordingly, the oppositors no longer had a legal right to oppose the subject Petition, much less to file the instant complaint. Hence, not only is the complaint premature, it also failed to state a cause of action, because petitioner is not a real party-in-interest to file the same.^[73]

Further, respondent Judge claimed that petitioner did not come to court with clean hands. Allegedly, petitioner and Nestor surreptitiously entered into a Contract to Sell as sellers, with a certain Rogelio Martin De Leon as buyer, involving a parcel of land forming part of Agustina's estate^[74] without the knowledge and approval of the court.^[75] The court learned about this through Elisa's Very Urgent Motion for Appointment of Special Administrator and Issuance of Writ of Possession, which she set for hearing on 22 June 2016.^[76]

In his Rejoinder (With Leave of this Honorable Office),^[77] respondent Judge reiterated that he did not consider petitioner and Nestor among the choices for the issuance of the Letters of Administration because they failed to prove that they are Agustina's legally adopted children. He disclosed that petitioner and Nestor admitted that the original of the alleged decree of adoption was destroyed by a fire that gutted the Pasay City Hall.^[78] As secondary evidence, they relied on a photocopy thereof, along with the alleged undated certification photocopy issued by Demetrio M. Sobremonte (Mr. Sobremonte), Clerk II of City Court, Branch 1 of Pasay City.^[79] However, in view of the passage of the Judiciary Organization Act of 1980, all City Courts, including the City Court of Pasay, were abolished. Hence, at the time said evidence was formally offered on 11 November 2011, Mr. Sobremonte no longer had authority to certify and attest to the authenticity and veracity thereof.^[80]

With respect to the denial of the presentation of petitioner and Nestor's respective birth certificates^[81] issued by the National Statistics Office (NSO), respondent Judge argued that these documents, which were registered more than 10 years from the issuance of the alleged adoption decree, did not prove the fact of adoption.^[82]