

FIRST DIVISION

[A.M. No. P-20-4039 (Formerly OCA I.P.I. No. 18-4840-P), February 26, 2020]

JUDGE WENIE D. ESPINOSA, COMPLAINANT, VS. RODOLFO RICHARD P. BALISNOMO, CLERK OF COURT IV, MUNICIPAL TRIAL COURT IN CITIES, SIPALAY, NEGROS OCCIDENTAL, RESPONDENT.

DECISION

LAZARO-JAVIER, J.:

The Charge

By Complaint-Affidavit^[1] dated June 19, 2018, complainant Judge Wenie D. Espinosa charged respondent Rodolfo Richard P. Balisnomo, Clerk of Court IV, Municipal Trial Court in Cities, Sipalay, Negros Occidental with insubordination. Judge Espinosa essentially averred:

He is the Presiding Judge of the Municipal Trial Court in Cities, Sipalay, Negros Occidental. One (1) of the cases raffled to his *sala* was an action for forcible entry with prayer for issuance of temporary restraining order entitled "*G Holdings, Inc. v. Leonora Hernandez, et al.*" and docketed Civil Case No. 383.^[2]

By Order dated June 30, 2016, Judge Espinosa granted the prayer of G Holdings, Inc. for a writ of preliminary prohibitory and mandatory injunction against defendants. He also denied Hernandez *et al.*'s motion for reconsideration under his subsequent Order dated July 21, 2016. Consequently, he directed his Clerk of Court, respondent Rodolfo Richard P. Balisnomo to issue the corresponding writ, albeit the latter deliberately refused to comply.^[3]

In his Comment^[4] dated September 1, 2018, Balisnomo riposted in the main:

His refusal to issue the writ was justified. Pursuant to the Revised Manual of the Clerks of Court, the authority given to first level clerks of court is limited to the signing of writs of execution only and does not include writs of preliminary injunction. Had it been the intention of the framers of the Manual to include therein the issuance of preliminary and mandatory injunction, then, they should have explicitly done so. Too, by Decision dated January 27, 2017, the Regional Trial Court (RTC) - Branch 61, Kabankalan City, Negros Occidental declared as void Judge Espinosa's Orders dated June 30, 2016 and July 21, 2016 for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction.^[5]

In his Reply^[6] dated September 10, 2018, Judge Espinosa posited that Balisnomo's reliance on the aforesaid RTC decision is misplaced since his twin Orders dated June 30 and July 21, 2016 were deemed to be valid until nullified by a competent court.

Thus, Balisnomo's obstinate refusal to issue the writ is willful insubordination which ought to be sanctioned.

Report and Recommendation of the Office of the Court Administrator (OCA)

In its Report^[7] dated September 25, 2019, the OCA found Balisnomo guilty of willful insubordination. His refusal to issue subject writ due to his own understanding of the Revised Manual for Clerks of Court is untenable. Under Chapter 7 (D) thereof, a clerk of court is specifically tasked to "perform duties as may be assigned to him", viz:

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1.1.1 Clerk of Court

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1.1.1.2. Non-adjudicative Functions:

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c. Performs other duties that may be assigned to him.

The OCA held that Balisnomo unjustifiably refused to obey a direct and lawful order of his presiding judge. Hence, he must be held liable for insubordination. The OCA, thus, made the following recommendation:

1. The complaint against respondent Rodolfo Richard P. Balisnomo, Clerk of Court IV, Municipal Trial Court in Cities, Sipalay City, Negros Occidental, be **RE-DOCKETED** as a regular administrative matter; and
2. Respondent Balisnomo be found **GUILTY** of insubordination and be meted the penalty of **SUSPENSION** for two (2) months without pay effective immediately from notice, with a **STERN WARNING** that a repetition of the same act in the future shall merit a more severe penalty.

Issue

Is respondent guilty of insubordination?

Ruling

Insubordination is defined as a refusal to obey some order, which a superior officer is entitled to give and have obeyed.^[8] The term imports an unwillingness to submit to authority and refusal to perform official duty.^[9]

Here, Clerk of Court Balisnomo was ordered by his superior Judge Espinosa to issue a writ of preliminary injunction in a case pending in their *sala*. Balisnomo, however, refused to follow the directive, insisting that pursuant to the 2002 Revised Manual for Clerks of Court, he is only allowed to issue writs of execution and no other, thus:

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1.1.1 Clerk of Court

1.1.1.1. Adjudicative Support Functions:

- a. Prepares and signs summonses, subpoenas and notices, **writs of execution**, remittances of prisoners, and releases of prisoners;

On this score, Balisnomo overlooked the command under Chapter 7 that clerks of court should also "*perform duties as may be assigned to him*", viz:^[10]

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1. CLERKS OF COURT

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