

EN BANC

[A.M. No. MTJ-16-1880 [formerly OCA IPI No. 13-2565-MTJ], February 04, 2020]

SUSAN R. ELGAR, COMPLAINANT, VS. JUDGE SOLIMAN M. SANTOS, JR., MUNICIPAL CIRCUIT TRIAL COURT, NABUA-BATO, CAMARINES SUR., RESPONDENT.

DECISION

INTING, J.:

This administrative matter stemmed from the Complaint-Affidavit^[1] filed by Susan R. Elgar (complainant) against Judge Soliman M. Santos, Jr. (Judge Santos), in his capacity as the Presiding Judge of Municipal Circuit Trial Court (MCTC), Nabua-Bato, Camarines Sur. Complainant charged him with gross ignorance of the law and violations of the Code of Judicial Conduct and Canons of Judicial Ethics relative to Special Proceedings No. 1870, entitled "In Re: Petition for the Allowance of the Deed of Donation *Mortis Causa* by the Late Wenceslao Elgar."^[2]

The Antecedents

Complainant's Version

In her verified Complaint-Affidavit^[3] filed on January 17, 2013, complainant alleged that her deceased husband, Wenceslao F. Elgar, executed on August 18, 1999 a Deed of Donation *Mortis Causa* giving her two parcels of agricultural land located in San Jose, Nabua, Camarines Sur.^[4]

Thus, on January 7, 2010, she filed a petition for the allowance of the Deed of Donation *Mortis Causa* before the MCTC, Nabua-Bato, Camarines Sur docketed as Special Proceedings No. 1870.^[5]

Then Acting Presiding Judge Bernhard B. Beltran declared the petition to be sufficient in form and in substance, and assumed jurisdiction over the petition, which was a case for probate. However, before the date of the initial hearing, Judge Santos assumed his post as the regular presiding judge of the MCTC.^[6]

On August 19, 2010, Wenceslao V. Elgar, Jr. (oppositor), the deceased's son by his first marriage, appeared and opposed the petition. Thus, Judge Santos issued an Order^[7] of even date resetting the proceedings to October 28, 2010 for preliminary conference, and directing the parties to submit position papers; and to propose specific terms and conditions for possible amicable settlement.^[8]

Complainant alleged that she came to realize that Judge Santos had an ardent advocacy to amicably settle and terminate cases considering the notices/writings

posted on the walls, both inside and outside of the courtroom, and even in the staff room, all promoting amicable settlement. Furthermore, Judge Santos issued papers to lawyers and litigants advocating amicable settlement.^[9]

Complainant also alleged that Judge Santos continuously besieged her counsel with text messages urging the latter to work out a settlement with oppositor. At times, Judge Santos asked her and her counsel if they could meet him for a conference in the morning on the day of the hearing itself.^[10]

On October 15, 2010, Judge Santos issued an Order^[11] advising the oppositor to bring before the court his siblings, who were all residents of the United States of America (USA) and outside the court's jurisdiction-so that all the rightful heirs may have their respective shares in the estate. Judge Santos again urged the parties to amicably settle the case.

After complainant submitted her Pre-Trial Brief, Judge Santos issued an Order^[12] dated October 28, 2010 resetting the preliminary conference to January 18, 2011 because he wanted the parties to amicably settle the case and all the heirs to have their respective shares.^[13] Judge Santos opined that the proceedings should not be confined to the determination of the validity of the Deed of Donation *Mortis Causa* since this could result in a bloody and prolonged litigation. He also instructed the parties' counsel to comply with the court's "Prescribed Pre-Trial Brief Contents and Outline."^[14]

Subsequently, Judge Santos issued various Orders^[15] directing the oppositor to submit his pre-trial brief telling the parties to amicably settle, and calling the attention of the parties to submit their compliances.^[16]

On January 18, 2011, the preliminary conference did not push through due to the absence of the oppositor's counsel. However, Judge Santos talked to complainant and her counsel inside his chambers. He proposed several options for a settlement when in fact none had been offered by the parties. Thus, on even date, Judge Santos issued an Order ^[17] resetting the preliminary conference and/or pre-trial.^[18] He stated therein that the trial court took the opportunity on two separate occasions to discuss to the parties that he was trying to explore the possibility of an amicable settlement between them, ideally including the other heirs concerned.^[19]

On February 23, 2011, Judge Santos directed the parties to submit information and documents clarifying the status of the seven parcels of land which were earlier adverted to by complainant in her previous submissions to the court, apparently in preparation for an amicable settlement. Complainant averred that Judge Santos overstepped his authority since the petition did not include the seven parcels of land and the combined assessed values of the properties were already outside the jurisdiction of the MCTC.^[20]

On March 9, 2011, Judge Santos again reset the preliminary conference to May 17, 2011.^[21] Judge Santos then directed the parties and their counsel to confer with him inside his chambers. During the meeting, the oppositor made a general proposal for the swapping of properties which complainant did not accept.^[22]

Thus, complainant was surprised when Judge Santos issued an Order^[23] dated April 26, 2011 identifying the properties for swapping and prescribing the requirements for the written agreement as if the parties already agreed.^[24]

Complainant further alleged that the preliminary conference scheduled on May 17, 2011 did not materialize due to the absence of oppositor and his counsel. The preliminary conference scheduled on June 29, 2011 was also postponed on account of the filing of a motion for postponement by complainant's counsel. It was then reset to August 4, 2011.^[25]

Subsequently, the oppositor filed a Motion for Recusal^[26] followed by a Manifestation^[27] accusing Judge Santos of impropriety when on August 4, 2011, they accidentally met in Naga City and Judge Santos insisted that the case be settled. However, in his Resolution^[28] dated August 15, 2011, Judge Santos did not recuse himself.^[29]

Thus, on November 8, 2011, the preliminary conference proceeded and Judge Santos again discussed an amicable settlement of the case. Complainant informed Judge Santos that her counsel was not available and insisted that she should not participate. She also made it clear that she would not sign anything and that she was not amenable to any proposal. At this point, Judge Santos banged his arm on the table. Judge Santos only stopped badgering complainant when she started to cry. The preliminary conference was then moved to December 14, 2011.^[30]

After several more resettings, there was still no agreement on Judge Santos' proposal to swap properties. Hence, the final mediation conference was scheduled on March 21, 2012.^[31] At the hearing, the oppositor manifested that he was not amenable to any settlement. The counsel agreed not to have any pre-trial since the petition was a special proceedings case.^[32]

Thus, after almost two years, the preliminary conference, which started on October 28, 2010 was finally terminated when in his Order^[33] dated June 21, 2012, Judge Santos set the presentation of evidence for the petitioner on August 28, September 11 and 25, October 16, and November 6, 2012.^[34]

However, on August 7, 2012, Judge Santos issued an Order^[35] reversing his Order dated June 21, 2012, and mandating the parties to undergo pre-trial hearing.^[36] He enumerated and listed the matters for stipulations and admission, documents to be submitted, and issues to be taken up by the parties during the pre-trial hearing.^[37]

On August 28, 2012, Judge Santos insisted that the pre-trial hearing be conducted first. He said that he already prepared what should be taken up during the hearing as stated in his Order dated August 7, 2012 and the parties may choose what is acceptable to them and to reject those which are not. Complainant's counsel opposed and argued that the pre-trial should not be dictated by what is embodied in the Order dated August 7, 2012. To this, Judge Santos disagreed and claimed that he was being proactive. Further, while complainant's counsel told Judge Santos that oppositor should first file a pre-trial brief, Judge Santos countered that it was no

longer necessary. He explained that the oppositor had the option to file his pre-trial brief. and the expected contents of the oppositor's pre-trial brief could be inferred from the pleadings previously filed.

Subsequently, complainant filed a motion for inhibition, but it was denied by Judge Santos. He reasoned that since he denied the oppositor's motion for recusal, he should likewise deny complainant's motion for inhibition.^[38]

Feeling hopeless with her case, complainant decided to move for the withdrawal of her petition.^[39] Subsequently, on December 11, 2012, Judge Santos issued an Order^[40] granting complainant's motion withdrawing the petition. However, eight days after withdrawing the petition, Judge Santos issued an Extended Order^[41] dated December 19, 2012 castigating complainant's counsel and casting aspersions against her character.^[42] Complainant averred that there was no reason for the issuance of the Extended Order as there was no pending incident.

Complainant averred that the series of acts done by Judge Santos in pressuring her to agree to an amicable settlement against her will, and willfully disobeying and ignoring both substantial and remedial law in the guise of equity, reflected badly on the judiciary.^[43]

Respondent's Version

In his Comment^[44] dated March 1, 2013, Judge Santos argued that he was not ignorant of the rules and that his persistence to arrive at an amicable settlement was directed at both parties. He explained that his act of applying some pressure was normal in any amicable settlement as long as it was not undue or improper. In fact, under Administrative Matter (A.M.) No. 03-1-09-SC,^[45] "[t]he court shall endeavor to make the parties agree to an equitable compromise or settlement at any stage of the proceedings before rendition of judgment."^[46]

Judge Santos justified his alleged actions which complainant described as constituting gross ignorance of the law: (1) directing the oppositor to bring before the court his co-heirs who were residing at the USA; (2) not limiting his actions to determining the validity of the Deed of Donation *Mortis Causa*; and (3) requiring information and documents to clarify the status of the seven parcels of land under the name of the decedent which were not subject of the petition.^[47] He explained that he committed these acts because the oppositor claimed that complainant's action was not a simple case for allowance of the Deed of Donation *Mortis Causa*, but was a case that concerned all of the compulsory heirs of the decedent and their rightful share in the estate.^[48] Furthermore, one of the two lots donated by the decedent to complainant, whom oppositor admitted was a compulsory heir, was already in the name of oppositor.^[49]

Judge Santos admitted that he constantly texted complainant's counsel. However, he argued that there was nothing unethical in his actions as he was merely trying to bring the parties to a fair and just amicable settlement.^[50]

As to the allegations of conducting *ex parte* meetings or conferences before the

scheduled hearings, Judge Santos alleged that the meetings were done sometimes with one or the other party separately and sometimes with both parties present. He argued that these were proper and ethical since his acts were mediation techniques sanctioned under A.M. No. 03-1-09-SC.^[51]

Judge Santos, likewise, defended his Order^[52] dated April 26, 2011. He alleged that contrary to complainant's allegation, oppositor made an oral proposal for the swap of at least the Sta. Elena Baras property with the two lots which were donated by the decedent to the complainant. It was understood that the proposal for swapping which may include another lot would be formalized in writing so that complainant could intelligently respond thereto. Thus, in his Order dated April 26, 2011, Judge Santos reminded the parties about the draft of the proposal in the form of an extrajudicial settlement of estate. Notably, complainant's silence for a considerable time on this matter amounted to acquiescence or estoppel.^[53]

Judge Santos also admitted to accidentally meeting the oppositor in Naga City. He claimed that he seized the rare opportunity to personally convey his consistent message that the parties enter into an amicable settlement.^[54]

Judge Santos further averred that he did not compel, but merely encouraged complainant to participate during the November 8, 2011 preliminary conference in the absence of her counsel. Further, records showed that complainant did not join the conference as she refused to do so. Judge Santos also denied banging his arm on the table and badgering the complainant.^[55]

As to the delay in terminating the preliminary conference, Judge Santos argued that the delay should not be attributed to him as he must be given a certain amount of discretion and wisdom in determining whether a settlement between the parties is still possible. Judge Santos blamed the delay on the insincerity of some of the parties and their counsel in their professed willingness to enter into an amicable settlement.^[56] He even proactively drafted an agreement reflecting the proposal of the parties, but in the end the parties failed to arrive at an agreement during the final mediation conference held on June 21, 2012.^[57] Further, there were unusual postponements or resetting by one or both counsel due to various non-appearances, non-submissions and unreadiness of both parties, and changes in the handling counsels.^[58]

As to his Decision to conduct a pre-trial, Judge Santos argued that such was already explained in his Order^[59] dated August 7, 2012. He explained therein that such was in accordance with the Rules of Court since under Section 2, Rule 18, which governs ordinary actions, pre-trial is mandatory. On the other hand, Section 2, Rule 72 of the Rules of Court provides that "[i]n the absence of special provisions, the rules provided for the ordinary actions shall be, as far as practicable, applicable in special proceedings." Further, since complainant submitted her pre-trial brief, she was estopped from questioning the holding of a pre-trial.^[60]

Judge Santos also averred that complainant failed to mention that after the pre-trial hearing, he issued a Pre-Trial Order dated August 28, 2012 which complainant did not assail.^[61] Instead, complainant filed a motion for inhibition against him.^[62]