

EN BANC

[A.M. No. RTJ-18-2537 [Formerly OCA I.P.I No. 13-4027-RTJ], August 14, 2019]

ABDULSAMAD P. BOGABONG, COMPLAINANT, VS. HON. RASAD G. BALINDONG, PRESIDING JUDGE, BRANCH 12, REGIONAL TRIAL COURT, MALABANG, LANAOS DEL SUR, RESPONDENT.

DECISION

PER CURIAM:

This administrative matter is rooted from a Letter-Complaint^[1] filed by Abdulsamad P. Bogabong (complainant), charging Judge Rasad G. Balindong (respondent-judge) in his capacity as Acting Presiding Judge of the Regional Trial Court (RTC) of Marawi City, Lanao del Sur, Branch 8, with gross ignorance of the law, grave abuse of authority, and partiality, relative to a *Quo Warranto* case with prayer for issuance of temporary restraining order (TRO), docketed as Special Civil Action No. 1879-09 (*quo warranto* case).

Factual Antecedents

As the elected First *Kagawad* of Barangay Bubonga Marawi, Marawi City, Lanao del Sur in the July 2002 Barangay Elections, complainant assumed office as Barangay Chairman in hold-over capacity by operation of law due to the death of Dianisia P. Bacarat, incumbent Chairman in hold-over capacity due to failure of elections on December 15, 2007. On April 9 and 10, 2008, Department of Interior and Local Government (DILG), Province of Lanao del Sur, Provincial Director Haroun Alrashid A. Lucman, Jr. (Director Lucman) issued Certifications^[2] to attest to complainant's assumption as Barangay Chairman.^[3]

On April 10, 2008, however, Marawi City Mayor Fahad U. Salic appointed a certain civilian, Omera Hadji Isa-Ali (Omera) as Barangay Chairman. In a Certification dated May 7, 2008, Director Lucman recognized Omera as the legitimate Barangay Chairman.^[4]

Complainant filed a letter-complaint before the DILG, Autonomous Region of Muslim Mindanao (ARMM), to question Omera's appointment. In a DILG-ARMM Resolution dated May 5, 2009, complainant was again acknowledged as the legitimate Barangay Chairman in hold-over capacity. By virtue thereof, complainant again took over chairmanship in hold-over capacity of Barangay Bubonga Marawi. As Chairman, complainant was able to withdraw the May 2009 Internal Revenue Allotment (IRA) of the barangay.^[5]

This prompted Omera to file the *quo warranto* case against complainant.^[6]

In an Order dated July 2, 2009, respondent-judge granted Omera's application for TRO. Subsequently, in an Order dated July 22, 2009, respondent-judge issued a Writ of Preliminary Injunction (WPI), directing complainant and the Land Bank of the Philippines (LBP) of Marawi City to cease and desist from disbursing and releasing the IRA of the barangay pending litigation.^[7]

Thereafter, in his Decision dated August 24, 2009, respondent-judge granted Omera's Petition for *Quo Warranto* and held that complainant's right to the position was deemed waived as he failed to assume office within one year and two months after Bacarat's death.^[8]

Complainant appealed the decision to the Court of Appeals (CA), Cagayan de Oro City docketed as CA-G.R. SP No. 03135-MIN.^[9]

Meanwhile, Omera filed an Urgent Motion for Execution Pending Appeal, citing impairment of the delivery of basic public services and the continuation of barangay projects as good reasons therefor. In his Order dated August 28, 2009, respondent-judge granted the motion on the ground cited by Omera and that complainant's appeal "seemed dilatory" and that "the lapse of time would make the ultimate judgment ineffective." On even date, respondent-judge issued the corresponding writ of execution, directing the LBP to release the IRA to Omera.^[10]

Complainant then filed a Petition for *Certiorari* and Prohibition under Rule 65 of the Rules of Court before the CA-Cagayan de Oro City, docketed as CA-G.R. SP No. 03152-MIN, seeking to annul respondent-judge's Order which granted the issuance of the writ of execution pending appeal.^[11]

The CA consolidated CA-G.R. SP No. 03135-MIN and CA-G.R. SP No. 03152-MIN. In its Decision^[12] dated September 13, 2012, the CA reversed and set aside respondent-judge's August 24, 2009 Decision and declared complainant the rightful Barangay Chairman of Barangay Bubonga Marawi for the 2007-2010 term of office. The CA explained that both under the Local Government Code and the Muslim Mindanao Autonomy Act No. 25, permanent vacancies in elective positions for reasons such as death or permanent incapacity are filled through automatic succession. Specifically for permanent vacancy in the office of the Barangay Chairman, the highest ranking *sangguniang* barangay member becomes the Barangay Chairman. The CA further held that respondent-judge gravely erred in ruling that complainant had waived his right to public office, explaining that complainant's obedience to the authority which recognized Omera as the legitimate holder of the contested position cannot be deemed a waiver of his right and interest thereto.

Further, the CA nullified respondent-judge's August 28, 2009 Order which granted the motion for execution pending appeal. The CA found no evidence to prove Omera's alleged "good reasons" as ground to grant the said motion.^[13]

The CA also found respondent-judge to have committed grave abuse of discretion and gross violation of the rules, amounting to gross ignorance of the law when he ordered the issuance of the TRO and WPI without requiring the posting of bonds.^[14]

The CA's September 13, 2012 Decision became complainant's basis to file the instant administrative matter against respondent-judge.

For his part, respondent-judge denied the charges against him. He averred that in resolving the subject *quo warranto* case, as in all the other *quo warranto* cases that he resolved, he acted reasonably, prudently, and appropriately. He even added that he gave both parties their day in court, acting impartially when he could have decided in favor of herein complainant who was then represented by counsel who is respondent-judge's fraternity brother. Finally, respondent-judge concluded that any error that he incurred was a mere error of judgment, which does not warrant administrative sanctions. Respondent-judge also faulted complainant for not filing a supersedeas bond under Section 3, Rule 39 of the Rules of Court to prevent the enforcement of the writ of execution pending appeal.^[15]

After review and evaluation of this administrative case, the Office of the Court Administrator (OCA) recommended that respondent-judge be found guilty of gross ignorance of the law and grave abuse of authority.^[16]

The OCA was one with the CA's findings that respondent-judge plainly defied established rules and jurisprudence when he ordered the execution pending appeal of his August 24, 2009 Decision without evidence on record to support the ground alleged by the applicant therefor. The OCA explained that the execution of judgment pending appeal is a mere exception to the general rule that only a final and executory judgment may be executed. As such, while the presiding judge is given the discretion to decide on the propriety of the execution pending appeal, the grant thereof must be strictly construed and firmly grounded on the existence of "good reasons" pursuant Section 2(a), Rule 39 of the Rules of Court.

In this case, the OCA noted that as found by the CA, the issuance of the writ of execution pending appeal was plainly grounded on Omera's allegation that "impairment of public services will occur" if respondent-judge's August 24, 2009 Decision, recognizing Omera as the rightful Barangay Chairman and directing the release to her of the Barangay's IRA, will not be implemented. However, no evidence was found on record to support such claim.

The OCA also found respondent-judge to have decided on the basis of pure speculation when he ordered the execution pending appeal by reasoning that complainant's appeal was merely a dilatory tactic and that the execution of the appealed Decision is necessary to avoid the possibility of rendering it ineffective. The OCA noted that it is basic that it is not within the province of the trial court to decide whether an appeal is or appears to be dilatory.

Lastly, the OCA ruled that respondent-judge gravely disregarded settled rules when he granted the TRO and WPI without requiring Omera, the applicant thereof, to file bonds as required by Section 4(b),^[17] Rule 58 of the Rules of Court. The OCA explained that while said provision gives the judge the discretion to decide whether or not to exempt the TRO/WPI applicant from the posting of the bond, it does not intend to give the judge the license to arbitrarily exercise such discretion. As found by the CA, such disregard of established rules constitutes gross ignorance of the law.

Such gross ignorance of the law, according to the OCA, was further demonstrated by the fact that this is the third time that respondent-judge was similarly charged for the improper issuance of a TRO/WPI.

The Court *En Banc*, in a Resolution dated February 23, 2009 in *Benito v. Balindong*, [18] found respondent-judge guilty of gross ignorance of the law for taking cognizance of a petition and actually issuing a TRO and WPI therein without jurisdiction. The said petition sought to annul a DILG-ARMM department order, issued to implement the Ombudsman's Decision finding certain local government officials guilty of conduct prejudicial to the best interest of the service and thereby ordering their suspension from office without pay for a period of nine months. The Court ruled that respondent-judge's act was a "patent disregard of simple, elementary and well-known rules" considering that the petition actually questions the Ombudsman's decision and the implementation thereof. Republic Act (R.A.) No. 6770 is basic and clear that trial courts have no jurisdiction to review Ombudsman rulings and orders. Respondent-judge was fined P30,000.00 for gross ignorance of the law, P10,000.00 for violation of the Lawyer's Oath and the Code of Professional Responsibility (CPR), and sternly warned that the commission of the same or similar acts shall be dealt with more severely.

In *Cabili v. Balindong*, [19] the Court *En Banc* again found respondent-judge guilty of gross ignorance of the law for issuing a TRO against a sheriff who was implementing a final and executory judgment of another RTC in a civil case. In finding respondent-judge guilty of gross ignorance of the law, the Court explained that he clearly ignored the principle of judicial stability by issuing a TRO against an order issued by a co-equal court, and that he knowingly acted on matters pertaining to the execution phase of a final decision of a co-equal and coordinate court. In the said administrative case, the Court acted with leniency in not imposing the maximum penalty provided under Administrative Matter (A.M.) No. 01-8-10-SC. Hence, respondent-judge was merely fined in the amount of P30,000.00 with another stern warning that a repetition of the same or similar offense will be dealt with more severely.

Incidentally, respondent-judge's application for optional retirement was approved effective March 31, 2018 but the release of his retirement benefits was held in abeyance. [20]

Considering the foregoing, the OCA recommended that:

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2. respondent Judge Balindong be found **GUILTY** of gross ignorance of the law, incompetence and grave abuse of authority and, accordingly, be **FINED** in the amount of P200,000.00 to be deducted from whatever retirement benefits he may be entitled to receive, except his accrued leave credits; and

3. the Financial Management Office, Office of the Court Administrator be **DIRECTED** to release the remainder of the retirement pay and other benefits due Judge Balindong, unless he is charged in some other

administrative complaint of the same is otherwise withheld for some other lawful cause.^[21]

The Court's Ruling

We adopt the OCA's findings with modification as to the penalty recommended.

Respondent-judge's gross ignorance of the law is unquestionably evident as can be gleaned from the foregoing factual backdrop. While it may be true that his infraction arose from his erroneous rulings and orders, we cannot subscribe to his contention that they were mere error of judgments and as such, do not warrant administrative sanctions.

True, a judge's failure to interpret the law or to properly appreciate the evidence presented does not necessarily render him administratively liable. Only judicial errors tainted with fraud, dishonesty, gross ignorance, bad faith, or deliberate intent to do an injustice will be administratively sanctioned.^[22] However, it is also settled that when a law or rule is basic, judges owe it to their office to simply apply the law. Anything less is ignorance of the law,^[23] warranting administrative sanction. In several cases, this Court had the occasion to explain:

Though not every judicial error bespeaks ignorance of the law or of the rules, and that, when committed in good faith, does not warrant administrative sanction, the rule applies only in cases within the parameters of tolerable misjudgement. When the law or the rule is so elementary, not to be aware of it or to act as if one does not know it constitutes gross ignorance of the law. One who accepts the exalted position of a judge owes the public and the court proficiency in the law, and the duty to maintain professional competence at all times. When a judge displays an utter lack of familiarity with the rules, he erodes the confidence of the public in the courts. A judge is expected to keep abreast of the developments and amendments thereto, as well as of prevailing jurisprudence. Ignorance of the law by a judge can easily be the mainspring of injustice.

In the absence of fraud, dishonesty, or corruption, the acts of a judge in his judicial capacity are not subject to disciplinary action. However, the assailed judicial acts must not be in gross violation of clearly established law or procedure, which every judge must be familiar with. Every magistrate presiding over a court of law must have the basic rules at the palm of his hands and maintain professional competence at all times.^[24]
(Citations omitted)

In this case, as found by the CA and the OCA, respondent-judge's actions are more than mere errors of judgment that can be excused and left to the judicial remedy of review by the appellate court for correction.

Respondent-judge patently erred in recognizing Omera as the legitimate Barangay Chairman merely by virtue of the mayor's appointment. As held by the CA, basic is the rule under existing and established laws that permanent vacancies in elective positions are filled through automatic succession, not by appointment.