

## SECOND DIVISION

**[ A.M. No. RTJ-17-2491 (Formerly OCA IPI No. 10-3448-RTJ), July 04, 2018 ]**

**LUCIO L. YU, JR., COMPLAINANT, VS. PRESIDING JUDGE JESUS B. MUPAS, REGIONAL TRIAL COURT, BRANCH 112, PASAY CITY, RESPONDENT.**

### DECISION

#### **CAGUIOA, J:**

For resolution is the Complaint-Affidavit<sup>[1]</sup> (Complaint) dated June 17, 2010 and Supplemental Complaint<sup>[2]</sup> dated November 4, 2010, both filed by Lucio L. Yu, Jr., (Yu, Jr.), in his capacity as Vice President/Assistant Chief Legal Counsel of the Government Service Insurance System (GSIS), charging Presiding Judge Jesus B. Mupas (Judge Mupas), Regional Trial Court (RTC), Branch 112, Pasay City, of grave misconduct, ignorance of the law, violation of the Code of Judicial Ethics, and knowingly rendering an unjust order relative to Civil Case No. 07-1139-CFM (subject case), entitled "*Government Service Insurance System v. Felix D. Mendoza*"<sup>[3]</sup>

In the subject case, which was raffled to RTC Pasay City, Branch 112, presided by Judge Mupas, GSIS filed a Complaint for Collection of Sum of Money and Damages with Prayer for Preliminary Attachment,<sup>[4]</sup> against Felix D. Mendoza (Mendoza) in connection with the latter's loan obligation which became due and demandable upon his separation from service.<sup>[5]</sup>

On August 3, 2007, Judge Mupas issued an Order granting GSIS' prayer for the issuance of a Writ of Preliminary Attachment.<sup>[6]</sup> Consequently, the Ford Explorer Pick-up owned by Mendoza was seized by Sheriff IV Rodelio R. Buenviaje on April 28, 2008, for safekeeping and as security to answer for whatever monetary award may be adjudged in favor of GSIS.<sup>[7]</sup>

Subsequently, GSIS filed a motion to declare Mendoza in default in view of his failure to file an Answer within fifteen (15) days from the service of summons.<sup>[8]</sup>

On September 5, 2008, Judge Mupas issued an Order declaring Mendoza in default and allowing GSIS to present evidence *ex parte* before the Branch Clerk of Court, which was set on October 20, 2008. In compliance with the trial court's directive, GSIS presented its evidence *ex parte* before the Branch Clerk of Court Joel T. Pelicano at around 9:00 a.m. of October 20, 2008. However, Mendoza also appeared in court at 2:00 p.m. of even date, manifesting that he would file the appropriate responsive pleading within fifteen (15) days thereafter.<sup>[9]</sup>

Consequently, Mendoza filed an Omnibus Motion, with the belated Answer attached thereto, asking for the following reliefs:

- a. that the Order declaring him in default and allowing GSIS to present evidence *ex parte* be set aside;
- b. that the Writ of Attachment be quashed;
- c. that the reception of evidence be set aside;
- d. that the Answer to the Complaint be admitted; and
- e. that the Complaint be dismissed on the ground that the loan obligation has already been settled due to involuntary surrender of the subject vehicle.<sup>[10]</sup>

On February 4, 2009, Judge Mupas issued an Order granting Mendoza's Omnibus Motion and dismissing the subject case, in contradiction to his September 5, 2008 Order. The pertinent portion of the February 4, 2009 Order reads as follows:

It appearing further, upon reading the records, that the Motor Vehicle subject subject (sic) in this case was surrendered voluntarily by herein defendant and already in possession of the plaintiff, this rendering full satisfaction of the loan obligation of the defendant in accordance with the terms and conditions being made by both parties. Considering thereof, Motion to [D]eclare Defendant in Default is hereby **Denied for lack of merit.**

Consequently, having been fully satisfied with the loan obligation of the defendant, thus, the main cause of action is already moot and academic and pursuant to Rule 16, Sec. 1(h) and Rule 17, Sec. 3 of the Rules of Court[, ] let this case be, as it is hereby DISMISSED.

**SO ORDERED.**<sup>[11]</sup>

GSIS sought reconsideration of said Order but this was denied by Judge Mupas in his Order dated May 29, 2009.<sup>[12]</sup>

Aggrieved, GSIS, through complainant Yu, Jr., commenced the instant administrative proceeding alleging that Judge Mupas grossly ignored the rules when he suddenly disregarded his September 5, 2008 Order.<sup>[13]</sup> Complainant claims that the appropriate action Judge Mupas should have taken was to issue an order setting aside the order in default, pursuant to Section 3(b), Rule 9 of the Rules of Court; that Judge Mupas' unfamiliarity with the Rules of Court is a sign of incompetence; and that to not be aware of basic and elementary law constitutes gross ignorance thereof.<sup>[14]</sup>

Complainant further contends that Judge Mupas violated Canon 3, Rule 3.02 of the Code of Judicial Conduct, which mandates that "in every case, a judge shall endeavor diligently to ascertain the facts and the applicable law," when he dismissed the subject case based on allegedly "twisted and erroneous" interpretation of the GSIS Policy and Procedural Guidelines, which provides, in part:

2. The System shall have the right to take possession of the motor vehicle as full payment of the loan obligation should the monies payable

to the Borrower not be enough to settle his loan obligation.

3. Failure or refusal of the Borrower to settle his full obligation constitutes a cause for the System to exercise its right to take possession of the vehicle and/or take legal action against the borrower.<sup>[15]</sup>

Complainant asserts that the attachment of the Ford Explorer owned by Mendoza was not intended to satisfy the latter's obligation to GSIS, but merely to serve as a lien to satisfy Mendoza's liability to be determined in the civil proceeding then pending before Judge Mupas; thus, it was premature to dismiss the case based on the erroneous conclusion that the alleged surrender of the vehicle is considered a full satisfaction of Mendoza's indebtedness to GSIS.<sup>[16]</sup>

Complainant further claims that Judge Mupas' conclusion that GSIS was not remiss in its duty to prosecute the action had no factual and legal bases because had Judge Mupas diligently reviewed the case instead of arbitrarily dismissing it, he would have been apprised that GSIS was earnest in prosecuting its cause of action against Mendoza.<sup>[17]</sup>

In the Supplemental Complaint,<sup>[18]</sup> Yu, Jr. manifested that in the Decision dated August 11, 2010, the Court of Appeals already resolved the petition, docketed as CA-G.R. SP No. 110402, filed by GSIS to assail the two (2) Orders dated February 4, 2009 and May 29, 2009 issued by Judge Mupas in the subject case. The CA ruled that Judge Mupas committed grave abuse of discretion in issuing the assailed orders on the following ratiocination:

It must be noted that at the time of the issuance of the February 4, 2009 order, the trial court already issued the September 5, 2008 order, granting the motion file by petitioner to declare private respondent in default. Certainly, the trial court cannot rule on the same motion twice. More fittingly, the trial court should have granted the omnibus motion to set aside the order of default or denied the same and specified the ground relied upon in arriving at its conclusion.<sup>[19]</sup>

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Finally, we find that the trial court erroneously dismissed the complaint on the ground that the same was rendered moot and academic by the eventual surrender of the loaned motor vehicle to petitioner. Apparently, the trial court anchored its conclusion on an improper interpretation of Policy and Procedural Guidelines No. 154-00 and Board Resolution No. 67 which provide:<sup>[20]</sup>

x x x x

In this case, private respondent was separated from service but had to initiate steps to secure a clearance. Thus, his accountabilities and remaining entitlements, if any, cannot be determined with certainty. There being no definite determination on whether private respondent had any remaining entitlements from GSIS, the fact of insufficiency of the same to cover his outstanding loan cannot be established. Consequently,

the surrender of the motor vehicle cannot be considered as full satisfaction of his loan. Hence, the trial court erred in dismissing the case on the ground that the loan obligation had already been fully satisfied.  
[21]

The CA Decision became final and executory on March 12, 2011.[22]

In his Comment,[23] Judge Mupas alleges that the filing of the instant Complaint while the petition before the CA was still pending constitutes blatant and malicious forum shopping meriting summary dismissal.[24] Judge Mupas explains that an administrative complaint against a judge cannot be pursued simultaneously with the judicial remedies accorded to parties aggrieved by his erroneous order or judgment; for until there is a final declaration by the appellate court that the challenged order or judgment is manifestly erroneous, there will be no basis to conclude whether he is administratively liable.[25]

Judge Mupas also contends that the GSIS failed to overcome the burden of proving by substantial evidence the accusations of gross ignorance of the law and/or knowingly rendering an unjust judgment, particularly the allegations of bias, bad faith, malice or corrupt motive.[26]

In his Reply, complainant counters that the issue of prematurity cannot prevail over the more essential and substantive accusations of gross ignorance of the law and incompetence in the discharge of Judge Mupas' duties. According to complainant, Judge Mupas should have refuted the allegations of bad faith by discussing the merits of his assailed orders, instead of hiding behind the cloak of prematurity.[27] Complainant further argues that the issue of prematurity becomes immaterial in view of the finality of the CA Decision and that contrary to the insistence of Judge Mupas, the filing of the instant Complaint does not constitute deliberate forum shopping as the Certification and Verification appended thereto disclosed that there is a pending case before the CA.[28]

In his Rejoinder, Judge Mupas insists that judicial remedies must first be exhausted before complainant may seek redress in the form of an administrative complaint.[29] He further claims that the two (2) questioned Orders are supported by law.[30] Judge Mupas likewise justifies the dismissal of the subject case for being moot and academic and adds that the presumption of regularity in the performance of his duty should prevail over baseless allegation of bad faith.[31]

### **Report and Recommendation of the Office of the Court Administrator**

In its Report[32] dated January 30, 2017, the Office of the Court Administrator (OCA) recommended that:

respondent Judge Jesus B. Mupas, Branch 112, Regional Trial Court, Pasay City, be found GUILTY of Gross Ignorance of the Law and Violation of the New Code of Conduct for the Philippine Judiciary and be meted the penalty of FINE in the amount of Twenty-Five Thousand Pesos (P25,000.00), with a WARNING that a repetition of the same or any similar act in the future be dealt with more severely.[33]

The OCA found that Judge Mupas ignored the elementary rules of procedure on setting aside an order of default under Section 3(b), Rule 9 and the procedure when affirmative defenses are pleaded in the Answer pursuant to Section 6, Rule 16 of the Rules of Court. The OCA opined that instead of hastily dismissing the case, Judge Mupas, following the aforesaid provisions, should have issued an order lifting the order of default, admitting the Answer, and setting the case for trial or preliminary hearing to thresh out the litigious issue of whether or not the alleged surrender of the subject vehicle would be deemed sufficient payment of Mendoza's loan obligation.<sup>[34]</sup>

The OCA also noted that the assailed February 4, 2009 Order dismissed the subject case pursuant to Section 3, Rule 17 of the Rules of Court, which allows the dismissal of the case due to the fault of the plaintiff; but records of the case show that GSIS earnestly availed of all the legal remedies to protect its interest and to expedite the proceedings by availing of the writ of attachment, filing a motion to declare Mendoza in default and seeking to present its evidence *ex parte*. The OCA further opined that Judge Mupas' indifference to these established facts betrays not only his ignorance of the law, but also his defiance to his judicial duty to comport himself with competence and diligence which are prerequisites to due performance of judicial office.<sup>[35]</sup>

The OCA, however, found no substantial evidence to hold Judge Mupas liable for Grave Misconduct and Knowingly Rendering an Unjust Judgment. Complainant Yu, Jr. presented no proof that Judge Mupas acted with corrupt motive, with malice or in willful disregard of the right of GSIS as a litigant.<sup>[36]</sup>

Considering that this is the first time that Judge Mupas was found guilty of gross ignorance of the law, the OCA recommended that a fine in the amount of P25,000.00 be imposed on him as an alternative sanction to dismissal from service or suspension.<sup>[37]</sup>

### **The Court's Ruling**

The Court hereby adopts the above well-reasoned OCA recommendation finding Judge Mupas guilty of gross ignorance of the law. However, the penalty should be modified.

In *Re: Anonymous Letter Dated August 12, 2010, complaining against Judge Ofelia T. Pinto, Regional Trial Court, Branch 60, Angeles City, Pampanga*,<sup>[38]</sup> the Court ruled that:

"To be able to render substantial justice and maintain public confidence in the legal system, judges should be embodiments of competence, integrity and independence." **Judges are also "expected to exhibit more than just a cursory acquaintance with statutes and procedural rules and to apply them properly in all good faith."** Judges are "likewise expected to demonstrate mastery of the principles of law, keep abreast of prevailing jurisprudence, and discharge their duties in accordance therewith."

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