

SECOND DIVISION

[A.M. No. RTJ-16-2482 (Formerly OCA EPI No. 15-4441- RTJ), August 15, 2018]

ATTY. CARLOS D. CINCO, COMPLAINANT, VS. PRESIDING JUDGE ALFONSO C. RUIZ II, REGIONAL TRIAL COURT, BRANCH 216, QUEZON CITY, RESPONDENT.

DECISION

CAGUIOA, J:

Before the Court is the Complaint-Affidavit^[1] (Complaint) dated July 23, 2015 filed before the Office of the Court Administrator (OCA) by complainant Atty. Carlos D. Cinco (complainant) against herein respondent Presiding Judge Alfonso C. Ruiz II (respondent), Regional Trial Court (RTC), Branch 216, Quezon City. The complainant is the counsel of the plaintiff in *Intestate Estate of the late Flora V. Rodriguez vs. Welcome Supermart, Inc. and Cua Chi Lam, Steven Cua and East Asia Realty Corporation, Intervenor*, Civil Case No. Q-02-46291.^[2]

In the said Complaint, the charges against respondent are as follows:

1. Respondent acted with gross ignorance of the law, gross inefficiency and in violation of the Code of Judicial Conduct for taking more than nine (9) months to resolve Plaintiffs Additional Formal Offer of Evidence (Rebuttal)^[3] (Formal Offer) dated August 7, 2014; and
2. Respondent committed gross misconduct, violated the Code of Judicial Conduct, and acted with gross ignorance of the law and gross inefficiency for denying the admission of Exhibits "E" and "H" to "W", which were attached to complainant's Amended Judicial Affidavit for Rebuttal^[4] (Amended Judicial Affidavit).^[5]

The complainant alleged that his Amended Judicial Affidavit stated that the said exhibits be marked and included in evidence.^[6] Thus, the complainant asserted that respondent should not have denied the admission of said exhibits.^[7]

Antecedents

The facts as culled from the records follow.

In his Complaint, complainant alleged that he was allowed by the trial court to file

his Amended Judicial Affidavit in lieu of direct examination in the presentation of rebuttal evidence for the plaintiff (deceased).^[8] The complainant also alleged that the defendants and intervenor waived their right to cross-examine him on his Amended Judicial Affidavit in open court on July 28, 2014.^[9] According to the complainant, such waiver meant that the defendants and the intervenor accepted and admitted the contents of the Amended Judicial Affidavit for Rebuttal, including its attached exhibits.^[10] The complainant also alleged that his Amended Judicial Affidavit included several motions to mark the attached exhibits.^[11] The complainant further alleged that he filed the Formal Offer on August 8, 2014.^[12]

On September 9, 2014, the defendants in the abovenamed civil case filed their Comment/Opposition to the Formal Offer on the grounds that the exhibits were not duly identified and authenticated, and were not marked during the presentation of rebuttal evidence.^[13] To resolve the Formal Offer, and in view of the defendants' Comment/Opposition to the same, the respondent issued an Order^[14] dated October 29, 2014, setting a clarificatory hearing on November 21, 2014. However, the complainant failed to attend the said clarificatory hearing.^[15] Thus, the respondent issued an Order^[16] dated November 21, 2014, giving the plaintiff five (5) days to file a rejoinder to the defendants' Comment/Opposition. In compliance thereto, the complainant filed his "Plaintiff Rejoinder"^[17] dated February 5, 2015, explaining that he could not attend the clarificatory hearing on November 21, 2014 since he only received the Notice of such hearing on November 26, 2014 and even if he had received the Notice on time, he still could not attend as he "was down in bed at the time".^[18] Moreover, the complainant alleged therein that his Amended Judicial Affidavit included a prayer for the marking of the exhibits attached thereto.^[19] The complainant also alleged that the defendants erred in saying that the said exhibits were not identified nor marked since his Amended Judicial Affidavit provided for their marking.^[20]

Thereafter, the complainant filed an Ex-Parte Motion to Resolve^[21] (Ex-Parte Motion) dated May 12, 2015, regarding the Formal Offer. The respondent issued an Order^[22] dated May 19, 2015, resolving the Formal Offer and denying the admission of Exhibits "E" and "H" to "W," "considering that these were not duly marked during the presentation of rebuttal evidence."^[23] The court also stated therein that, while the court approved the complainant's Amended Judicial Affidavit in lieu of his direct testimony, it does not mean that the exhibits attached thereto will be considered as duly and officially marked documents.^[24] Upon receiving respondent's Order dated May 19, 2015, the complainant filed the present Complaint dated July 23, 2015 before the OCA.

In an Indorsement^[25] dated August 24, 2015, the OCA referred the present Complaint to the respondent for his comment to be submitted within ten (10) days from receipt thereof.

The respondent filed his Comment^[26] dated October 22, 2015, alleging that it was never the intention of the court to delay the resolution of the complainant's Formal Offer.^[27] The respondent alleged that, instead of denying outright the said Formal Offer, the court wanted to give the complainant sufficient time and opportunity to

rectify the defect of not marking the documents being offered.^[28] Moreover, the respondent alleged that, after reviewing the said Formal Offer and the defendants' opposition thereto, the court found merit in the latter's objections but decided to set the case for clarificatory hearing to give the complainant the opportunity to request for the marking of the subject exhibits to cure the defect of his Formal Offer.^[29] Furthermore, the respondent alleged that when the complainant failed to appear during the clarificatory hearing, instead of submitting the Formal Offer for resolution and denying the admission of the unmarked exhibits, the court opted to allow the complainant to file a rejoinder and move for the marking thereof.^[30]

The respondent also noted that, instead of moving for the marking of the said exhibits, the complainant filed a rejoinder, asserting that the said exhibits should have been considered marked already.^[31] The respondent also alleged that, up until the complainant filed his Ex-Parte Motion dated May 12, 2015, the court was hoping that the complainant "would realize the need for filing of a motion for marking of exhibits".^[32] However, upon receipt of the complainant's Ex-Parte Motion, the court "had no choice but to resolve the formal offer and deny the admission of the exhibits".^[33]

The respondent further alleged that the court cannot sustain complainant's insistence that the court should have ordered the marking of exhibits since this was categorically requested in his Amended Judicial Affidavit.^[34] The respondent alleged that it was complainant's duty to have the exhibits marked at the time he was called to testify and before he offered them in evidence.^[35] The respondent noted that when the complainant was called to testify, he only requested for the marking of his Amended Judicial Affidavit, but did not move for the marking of the exhibits attached thereto.^[36] The respondent also alleged that, contrary to complainant's insistence, the court had no authority to order the marking of the exhibits without the presence of the defendants or other parties.^[37]

The respondent noted that "[i]t is unfortunate that the complainant failed to realize earlier that the court was giving him the opportunity to rectify the defect in the formal offer".^[38] The respondent also noted that he "is saddened that the complainant failed to see through the court's good intentions, and surprised that complainant has decided to file this case against respondent".^[39] The respondent alleged that he has always accorded respect to the complainant and he has adopted the liberal application of procedural rules^[40] in order to be able to decide the case based on the merits.^[41] The respondent also alleged that the delay in the resolution of the case cannot be attributed solely to the court.^[42]

As a reply to respondent's Comment, the complainant filed a Rejoinder^[43] dated December 30, 2015, reiterating his allegations in his Complaint and disputing the defenses posited by the former in his Comment. The complainant reiterated that it took the court more than nine (9) months to resolve his formal offer of evidence.^[44] The complainant also alleged that the delay would have been longer had he not filed his Ex-Parte Motion.^[45]

OCA Report and Recommendation

In a Report^[46] dated August 18, 2016, the OCA recommended that the administrative complaint against the respondent be re-docketed as a regular administrative matter, and that he be found guilty of Undue Delay in Rendering a Decision/Order, and be admonished with a stern warning that a repetition of the same or any similar act shall be dealt with severely.^[47] After considering the allegations in the Complaint, the respondent's Comment, and the complainant's Rejoinder, the OCA ratiocinated as follows:

x x x The issue in this case is whether respondent Judge Ruiz can be held administratively liable for delaying the resolution of complainant's formal offer of evidence and for not admitting the exhibits attached to the amended judicial affidavit for rebuttal of complainant.

Complainant alleged that it took respondent Judge nine (9) months to resolve their formal offer. He also blatantly denied the admission of their exhibits despite the fact that their amended judicial affidavit specifically stated that it be marked and be included in evidence.

For his part, respondent Judge explained that it was never his intention to delay the resolution of complainant's formal offer. In fact, he only wanted to give plaintiff ample time to properly mark the exhibits attached to their amended judicial affidavits (*sic*) for rebuttal. However, complainant still failed to mark their exhibits, giving him no choice but to deny their admission.

Settled is the rule that in administrative proceedings, the burden of proof rests on the complainant. The complainant must be able to show this by substantial evidence, or such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, otherwise, the complaint must be dismissed.^[48]

In the case at hand, while the matter denying the admission of the exhibits in the formal offer is judicial in nature, it cannot be denied that respondent Judge incurred delay in resolving complainant's formal offer. In fact, he categorically admitted the delay and explained that he only wanted to give the plaintiff ample time to properly mark the exhibits attached to its amended judicial affidavit for rebuttal.

It must be noted that respondent Judge acted immediately when a motion to resolve the pending matter was filed by complainant. Still, his claim of good faith and absence of malice do not abate his consequent liability in light of the allegations of incompetence and ineptitude against him. Good faith and lack of malicious intent cannot completely free respondent Judge from liability.^[49] However, these exacting standards may be relaxed in order to extend support and compassion to a seemingly well-meaning member of the Judiciary.

Bearing in mind the circumstances which contributed to the delay and on