

EN BANC

[A.M. No. RTJ-18-2520 (Formerly OCA IPI No. 14-4296-RTJ), October 09, 2018]

**BOSTON FINANCE AND INVESTMENT CORPORATION,
COMPLAINANT, V. CANDELARIO V. GONZALEZ, PRESIDING
JUDGE OF REGIONAL TRIAL COURT OF BAIS CITY, NEGROS
ORIENTAL, RESPONDENT.**

D E C I S I O N

PERLAS-BERNABE, J.:

This administrative case arose from a verified complaint^[1] for undue delay in rendering an order amounting to gross dereliction of duty and violation of Administrative Matter (A.M.) No. 99-10-05-0^[2] relative to Civil Case No. 10-27-MY, entitled "*Estate of Danilo Y. Uy (deceased) and Thelma D. Uy and Heirs v. Boston Finance and Investment Corporation*," filed by Boston Finance and Investment Corporation (complainant) against Presiding Judge Candelario V. Gonzalez (respondent) of the Regional Trial Court of Bais City, Negros Occidental, Branch 45 (RTC).

The Facts

Complainant alleged that on November 19, 2010, the plaintiffs in Civil Case No. 10-27-MY, the Estate of Danilo Y. Uy and Thelma D. Uy, *et al.* (plaintiffs), filed a Petition with Application for Preliminary Injunction and/or Temporary Restraining Order (TRO)^[3] before the RTC, praying for the issuance of a writ of preliminary injunction/TRO to enjoin the sale at public auction of the properties that served as collateral for the loans they obtained from complainant. Respondent issued an Order^[4] of even date directing complainant to show cause why an injunctive writ should not be issued. In the same order, however, respondent also directed the Clerk of Court, as *Ex-Officio* Sheriff, and her Deputy Sheriff "*to cease and desist from conducting the scheduled public auction on November 19, 2010 pending the resolution of the instant petition*"^[5] without, however, specifying the duration of its effectivity.

On December 2, 2010, complainant filed its Compliance,^[6] maintaining that no injunctive writ should issue in favor of the plaintiffs, and that the petition should be dismissed on the grounds of forum shopping and *litis pendentia*. It appears that the plaintiffs had instituted a similar case before the Municipal Trial Court in Cities (MTCC) of Bacolod City seeking the enjoinder of the foreclosure sale.^[7] Subsequently, complainant also filed its Answer,^[8] praying for the dismissal of the petition and reiterating the affirmative defenses in its Compliance. Furthermore, in a Manifestation with Motion^[9] dated June 14, 2011, complainant alleged that there were other pending incidents in the case that respondent needed to resolve.

Unfortunately, respondent failed to resolve all pending incidents in connection with the case for a relatively long time. The scheduled hearings were also postponed several times for various reasons, one of which was the information given to the court by plaintiffs' counsel that the parties were in the process of negotiations for a final settlement.^[10]

Thereafter, or on March 18, 2013, complainant again moved^[11] for the prompt resolution of all pending incidents in the case. Although it denied that the parties were currently undergoing amicable settlement,^[12] complainant nonetheless expressed its willingness to enter into a compromise agreement with plaintiffs.^[13] However, no compromise agreement was reached for failure of the plaintiffs to cooperate with complainant. Finally, in an Order^[14] dated July 24, 2013, respondent suspended the proceedings in and archived Civil Case No. 10-27-MY "pending resolution of the other related case in Bacolod City."^[15]

In his defense,^[16] respondent claimed that he issued the July 24, 2013 Order in the honest belief that the parties were in the process of finalizing an amicable settlement, especially since complainant's counsel did not object thereto.^[17] He explained that the suspension of the proceedings was not intended to delay the resolution of the case, but to facilitate the parties' negotiations preparatory to a compromise agreement.^[18]

In rebuttal,^[19] complainant maintained that respondent's failure to promptly resolve all pending incidents in the case, *i.e.*, the motion to lift the cease and desist order and the motion to dismiss Civil Case No. 10-27-MY, despite repeated pleas for their immediate resolution, constituted gross dereliction of duty and violation of A.M. No. 99-10-05-0.^[20] Likewise, complainant pointed out that its several manifestations and motions praying for the early resolution of the pending incidents should have been sufficient to apprise respondent that it was no longer willing to enter into a compromise agreement with plaintiffs. As such, respondent had no basis to assume that the parties were close to having an amicable settlement.^[21]

Finally, although respondent admitted^[22] that there were several incidents which remained unacted upon, he insisted that it was because the preliminary hearing on complainant's affirmative defenses has not yet been terminated due to the latter's failure to appear. He claimed that complainant actively participated in the similar case pending before the MTCC in Bacolod City, where the parties were allegedly negotiating for an amicable settlement.^[23]

The OCA's Report and Recommendation

In a Memorandum^[24] dated June 28, 2017, the Office of the Court Administrator (OCA) recommended, *inter alia*, that respondent be found guilty of: (a) gross ignorance of the law and be fined in the amount of P30,000.00; and (b) undue delay in resolving pending incidents in Civil Case No. 10-27-MY and violation of Sections 3 and 5, Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary,^[25] and additionally be fined in the amount of P11,000.00.^[26]

Citing the provisions of Section 5,^[27] Rule 58 of the Rules of Court on the issuance of a preliminary injunction, the OCA found that since respondent issued the "cease

and desist" Order dated November 19, 2010 – which was in the nature of a TRO – without any justification or any indication of its effectivity, and that he also failed to conduct a summary hearing within seventy-two (72) hours from its issuance to determine whether the same should be extended, he should therefore be found guilty of gross ignorance of the law and procedure.^[28] The OCA held that while there was no finding of malice or bad faith against respondent, the rules that the latter violated were so basic that all magistrates are presumed to know.^[29]

Gross ignorance of the law is a serious charge punishable by either dismissal from service, suspension from office without salary and other benefits for more than three (3) months but not exceeding six (6) months, or a fine of more than P20,000.00, but not exceeding P40,000.00. Considering that this is respondent's first offense, the OCA recommended that he be meted the penalty of a fine in the amount of P30,000.00.^[30]

Similarly, the OCA observed that respondent's failure to expeditiously resolve the pending incidents in the case resulted in the undue and inordinate delay in the resolution thereof. Moreover, although a judge may order that a civil case be archived under several circumstances,^[31] the prescribed period should not exceed ninety (90) days after which, the case should immediately be included in the trial calendar. In this case, a period of two (2) years had already lapsed, displaying respondent's lackadaisical treatment of the case.^[32]

Under Item No. 1, Section 9,^[33] Rule 140 of the Rules of Court, undue delay in rendering an order is a less serious charge punishable by suspension from office without salary and other benefits for not less than one (1) month nor more than three (3) months, or a fine of more than P10,000.00, but not exceeding P20,000.00. Citing jurisprudence, the OCA recommended that respondent be fined in the amount of P11,000.00 for this particular offense.^[34]

The Issue Before the Court

The sole issue for the Court's determination is whether or not respondent should be held administratively liable.

The Court's Ruling

After a punctilious review of this case, the Court finds respondent guilty of gross ignorance of the law and undue delay in rendering an order.

"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."^[35]

In this case, respondent's "cease and desist" Order issued on November 19, 2010 was, as the OCA had correctly pointed out, in the nature of a TRO. However, the aforesaid order failed to justify the necessity for its issuance, as it merely issued the directive to the Clerk of Court, acting as *Ex-Officio* Sheriff, and the Deputy Sheriff without stating the reasons therefor. Likewise, it did not specify any period for its

effectivity, in essence making the same indefinite. These omissions on respondent's part are contrary to the provisions of Section 5, Rule 58 of the Rules of Court, which provides:

Section 5. *Preliminary injunction not granted without notice; exception.*
— No preliminary injunction shall be granted without hearing and prior notice to the party or person sought to be enjoined. If it shall appear from facts shown by affidavits or by the verified application that **great or irreparable injury would result to the applicant before the matter can be heard on notice**, the court to which the application for preliminary injunction was made, **may issue a temporary restraining order to be effective only for a period of twenty (20) days from service** on the party or person sought to be enjoined, except as herein provided. Within the said twenty-day period, the court must order said party or person to show cause, at a specified time and place, why the injunction should not be granted, determine within the same period whether or not the preliminary injunction shall be granted, and accordingly issue the corresponding order. (See Resolution dated February 17, 1998 in Bar Matter No. 803 entitled "RE: CORRECTION OF CLERICAL ERRORS IN THE 1997 RULES OF CIVIL PROCEDURE WHICH WERE APPROVED ON APRIL 8, 1997, EFFECTIVE JULY 1, 1997.)

However, and subject to the provisions of the preceding sections, if the matter is of extreme urgency and the applicant will suffer grave injustice and irreparable injury, the executive judge of a multiple-*sala* court or the presiding judge of a single *sala* court may issue *ex parte* a temporary restraining order effective for only seventy-two (72) hours from issuance but he shall immediately comply with the provisions of the next preceding section as to service of summons and the documents to be served therewith. Thereafter, within the aforesaid seventy-two (72) hours, the judge before whom the case is pending shall conduct a summary hearing to determine whether the temporary restraining order shall be extended until the application for preliminary injunction can be heard. **In no case shall the total period of effectivity of the temporary restraining order exceed twenty (20) days, including the original seventy-two hours provided herein.**

In the event that the application for preliminary injunction is denied or not resolved within the said period, the temporary restraining order is deemed, automatically vacated. The effectivity of a temporary restraining order is not extendible without need of any judicial declaration to that effect and no court shall have authority to extend or renew the same on the same ground for which it was issued.

However, if issued by the Court of Appeals or a member thereof, the temporary restraining order shall be effective for sixty (60) days from service on the party or person sought to be enjoined. A restraining, order issued by the Supreme Court or a member thereof shall be effective until further orders. (Emphases supplied)

In issuing an indefinite cease and desist order, respondent clearly failed to observe the rules and restrictions regarding the issuance of a TRO, which are basic tenets of procedure, and hence, renders him administratively liable for gross ignorance of the

law. Case law states that "when a law or a rule is basic, judges owe it to their office to simply apply the law."^[36] It is of no moment that he was motivated by good faith or acted without malice, as these affect his competency and conduct as a judge in the discharge of his official functions. According to jurisprudence, gross ignorance of the law or incompetence cannot be excused by a claim of good faith.^[37]

Similarly, the Court finds respondent guilty of undue delay in rendering an order for his failure to expeditiously resolve the pending incidents in Civil Case No. 10-27-MY despite complainant's repeated motions for early resolution. In fact, it was only when the case was transferred to another judge that it was finally acted upon.^[38] Likewise, his explanation for archiving the case on the ground that the parties were in the process of entering into an amicable settlement does not justify the prolonged inaction thereon, in light of the provisions of Administrative Circular No. 7-A-92 or the "Guidelines in the Archiving of Cases," which provides that a case may be archived only for a period not exceeding ninety (90) days, after which, it shall be immediately included in the trial calendar after the lapse thereof. Respondent's failure to perform his judicial duty with reasonable promptness in this respect clearly contravenes the provisions of Sections 3 and 5, Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary, to wit:

Section 3. Judges shall take reasonable steps to maintain and enhance their knowledge, skills and personal qualities necessary for the proper performance of judicial duties, taking advantage for this purpose of the training and other facilities which should be made available, under judicial control, to judges.

Section 5. Judges shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness.

Under Rule 140 of the Revised Rules of Court, as amended, *gross ignorance of the law or procedure* is a serious charge^[39] punishable by either: (a) dismissal from service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned and controlled corporation; or (b) suspension from office without salary and other benefits for more than three (3) months, but not exceeding six (6) months; or (c) a fine of more than P20,000.00 but not exceeding P40,000.00.^[40] On the other hand, *undue delay in rendering a decision or order* is a less serious charge^[41] punishable by either: (a) suspension from office without salary and other benefits for not less than one (1) month nor more than three (3) months; or (b) a fine of more than P10,000.00, but not exceeding P20,000.00.^[42]

Considering that this is the first time that respondent has been found administratively liable for both offenses, and in light of relevant jurisprudence^[43] where separate penalties had been imposed on a respondent judge who is found guilty of two (2) or more offenses, the Court metes upon respondent in this case the penalty of a fine in the amount of P30,000.00 for gross ignorance of the law, as well as a fine of P11,000.00 for undue delay in resolving pending incidents in Civil Case No. 10-27-MY. Further, respondent is sternly warned that a repetition of the same or similar acts shall be dealt with more severely.

At this juncture, it may be ruminated: *is not Section 50, Rule 10 of the Revised Rules on Administrative Cases in the Civil Service (RRACCS)*^[44] — which provides