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SECOND DIVISION

[A.M. No. RTJ-15-2423, January 11, 2017]

SANTIAGO D. ORTEGA, JR., COMPLAINANT, VS. JUDGE ROGELIO LL. DACARA, PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 37, IRIGA CITY, CAMARINES SUR, RESPONDENT.

D E C I S I O N

CARPIO, J.:

The Case

This is an administrative case for gross ignorance of the law and gross inexcusable negligence filed by Santiago D. Ortega, Jr. (complainant) against Judge Rogelio Ll. Dacara (respondent judge), Presiding Judge of the Regional Trial Court (RTC), Branch 37, Iriga City, Camarines Sur.

The Facts

In a verified complaint dated 18 December 2013, complainant charged respondent judge with gross ignorance of the law and gross inexcusable negligence.

The complaint alleged that complainant is the president of the Siramag Fishing Corporation (SFC). On 18 January 2013, SFC and complainant filed a case for Damages with Application for the Issuance of a Writ of Preliminary Mandatory Injunction against the Regional Director of the Bureau of Fisheries and Aquatic Resources, Regional Office V (BFAR RO-V) and the Chief of Fisheries Resource Management Division, BFAR RO-V. The case was raffled to RTC-Branch 37, Iriga City, Camarines Sur, presided by respondent judge.

After the hearing on the injunction issue, respondent judge issued an Order dated 22 April 2013, denying the application for the issuance of a writ of preliminary mandatory injunction. The denial of the writ of preliminary mandatory injunction was based on the following reasons: (1) plaintiffs have not shown a clear and inestimable right to be protected; (2) the trial court is prohibited from issuing the preliminary injunction under Presidential Decree No. 605[1] (PD 605) and Section 10, Rule 2 of A.M. No. 09-6-8-SC;[2] and (3) the trial court has no jurisdiction over the defendants, who are within the territorial jurisdiction of RTC, Pili, Camarines Sur.

Complainant alleged that the Order shows respondent judge's incompetence and ignorance of the law by his failure to distinguish between a writ of preliminary injunction and a writ of preliminary mandatory injunction. Complainant asserted that the prohibition under Section 10, Rule 2 of A.M. No. 09-6-8-SC and PD 605 applies only to the issuance of a writ of preliminary injunction but not to a writ of preliminary mandatory injunction. Furthermore, RTC-Branch 37 has jurisdiction to issue a writ of injunction which may be enforced within the Fifth Judicial Region,

which includes Pili, Camarines Sur, where the office of the defendants is located. Complainant maintained that respondent judge, whose sala is not designated as an environmental court, should not have taken cognizance of the case which involved environmental issues. It was only upon complainant's motion that the case was eventually transferred to RTC-Branch 35, a designated environmental court.

In his Comment dated 26 March 2014, respondent judge maintained that a writ of preliminary mandatory injunction is included in the term preliminary injunction under Section 3(a) of Rule 58.[3] Citing Section 10, Rule 2 of A.M. No. 09-6-8-SC and Section 1[4] of PD 605, respondent judge stated that he is expressly prohibited from issuing a writ of preliminary mandatory injunction.

As regards lack of jurisdiction over the defendants, respondent judge explained that under Section 18 of Batas Pambansa Blg. 129 (BP 129), the territorial jurisdiction of RTC-Branch 37 does not include the Municipality of Pili where the office of the defendants is located. Respondent judge claimed good faith in believing that the territorial jurisdiction of RTC Branch 37 includes only the City of Iriga and the municipalities of Nabua, Bato, Buhi, and Balatan in Camarines Sur. Respondent judge submitted that if he misinterpreted the law, it was merely an error of judgment. Besides, respondent judge insisted that he denied the prayer for the issuance of a writ of preliminary mandatory injunction because the plaintiffs failed to show that there is a clear and inescapable right to be protected.

On the allegation that he should not have taken cognizance of the case since his sala is not an environmental court, respondent judge clarified that the case was assigned to him and that it was not apparent from the title of the case that it involved an environmental issue. The case was eventually transferred to RTC-Branch 35 after respondent judge told the presiding judge of RTC-Branch 35 that the case involved environmental law and thus, cognizable by RTC-Branch 35, which is designated as an environmental court.

Respondent judge compulsorily retired from service on 16 September 2014.

The OCA's Report and Recommendation

In its Report dated 27 February 2015, the Office of the Court Administrator (OCA) found respondent judge liable for gross ignorance of the law.

The OCA stated that although respondent judge may have loosely used the term "writ of preliminary injunction" interchangeably with "writ of preliminary mandatory injunction," he was not remiss in appreciating the requisites of Rule 58 on Preliminary Injunction. In his Order, respondent judge discussed the requirements for the issuance of a writ of preliminary mandatory injunction and found that complainant failed to show a clear and inestimable right to be protected.

On the issue that respondent judge should not have taken cognizance of the case because it is not designated as an environmental court, the OCA noted that the case was raffled to respondent judge's sala. Respondent judge cannot be faulted for taking cognizance of the case since the complaint failed to indicate that it is an environmental case. Besides, the case was eventually transferred to Branch 35, a designated environmental court.

However, the OCA found that respondent judge erred in stating that RTC-Branch 37 of Iriga City has no jurisdiction over the defendants whose office address is in Pili, Camarines Sur. Section 21 of BP 129 states that the RTCs have original jurisdiction to issue writs of injunction which may be enforced in any part of their respective regions. Under Section 13 of BP 129, the RTC of Iriga City, Camarines Sur is within the Fifth Judicial Region and the Municipality of Pili, which is the capital of the Province of Camarines Sur, is also part of the Fifth Judicial Region.

The OCA recommended (a) that the administrative complaint against respondent judge be re-docketed as a regular administrative matter; and (b) that respondent judge be fined in the amount of P20,000 for gross ignorance of the law, to be deducted from his retirement benefits and/or from the monetary value of leave credits due him.

The Ruling of the Court

In the case for damages filed by SFC and complainant in the trial court, they prayed for the issuance of a writ of preliminary mandatory injunction to compel the defendants to renew the Commercial Fishing Vessel/Gear License of the plaintiffs fishing vessel F/V "Mercy Cecilia-I." Respondent judge denied the prayer for the issuance of a writ of preliminary mandatory injunction, which led to the filing of the administrative complaint against respondent judge.

Complainant asserts that the prohibition under A.M. No. 09-6-8-SC and PO 605 applies only to the issuance of a writ of preliminary injunction but not to a writ of preliminary mandatory injunction.

Contrary to complainant's allegation, respondent judge is correct in stating that he is prohibited from issuing a writ of preliminary mandatory injunction in the case filed by SFC and complainant. Although the prohibition against the issuance of a writ of preliminary mandatory injunction was not expressly stated under A.M. No. 09-6-8-SC, such prohibition is very clear under Section I of PD 605[5] which reads:

> SECTION 1. No court of the Philippines shall have jurisdiction to issue any restraining order, preliminary injunction or **preliminary mandatory injunction** in any case involving or growing out of the issuance, approval or disapproval, revocation or suspension of, or any action whatsoever by proper administrative official or body on concessions, licenses, permits, patents, or public grants of any kind in connection with the disposition, exploitation, utilization, exploration, and/ or development of the natural resources of the Philippines. (Emphasis supplied)

The case filed by SFC and complainant to compel the renewal of the license of their fishing vessel is clearly covered under Section 1 of PD 605, prohibiting the issuance of a writ of preliminary mandatory injunction in any case involving the disapproval, revocation or suspension of a license in connection with the exploitation of natural resources. It was therefore proper for respondent judge to deny their prayer for the issuance of a writ of preliminary mandatory injunction. Besides, respondent judge found that complainant failed to show that there is a clear and inescapable right to be protected which would justify the issuance of a writ of preliminary mandatory injunction.