

## FIRST DIVISION

**[ A.M. No. RTJ-12-2332 (Formerly OCA IPI No. 10-3393-RTJ), June 25, 2014 ]**

**EFREN T. UY, NELIA B. LEE, RODOLFO L. MENES AND QUINCIANO H. LUI, COMPLAINANTS, VS. JUDGE ALAN L. FLORES, PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 7, TUBOD, LANA DEL NORTE, RESPONDENT.**

### DECISION

**VILLARAMA, JR., J.:**

Before us is an administrative complaint<sup>[1]</sup> for gross ignorance of the law, manifest partiality, denial of due process and conduct prejudicial to the best interest of the service against respondent Judge Alan L. Flores.

The facts are not disputed.

In a Revenue Travel Assignment Order,<sup>[2]</sup> Commissioner of Internal Revenue Lilian B. Hefti relieved Mustapha M. Gandarosa as Regional Director of Revenue Region No. 16, Bureau of Internal Revenue, Cagayan de Oro City. Hefti reassigned Gandarosa as Chief of Staff of the Special Concerns Group at the Bureau's Head Office in Quezon City. Secretary of Finance Margarito B. Teves approved Hefti's order.

Gandarosa filed a Rule 65 petition<sup>[3]</sup> for certiorari and/or prohibition with prayer for a temporary restraining order before the Regional Trial Court, Branch 7, Tubod, Lanao del Norte, presided by Judge Flores. Gandarosa prayed that Hefti's order be declared void and that a writ of injunction be issued prohibiting the Secretary of Finance and the new Commissioner of Internal Revenue from enforcing Hefti's order and from replacing or reassigning him. Judge Flores granted a temporary restraining order and writ of preliminary injunction in favor of Gandarosa.

Meanwhile, the new Commissioner of Internal Revenue, Sixto S. Esquivias IV, issued a new Revenue Travel Assignment Order<sup>[4]</sup> reiterating Hefti's order. Secretary Teves also approved Esquivias's order. Gandarosa thus filed a petition<sup>[5]</sup> for indirect contempt against Secretary Teves and Commissioner Esquivias.

Judge Flores issued the following orders: (1) Order<sup>[6]</sup> dated November 3, 2008 granting a 72-hour temporary restraining order; (2) Order<sup>[7]</sup> dated November 7, 2008 extending the temporary restraining order; (3) Order<sup>[8]</sup> dated November 21, 2008 admitting Gandarosa's documentary exhibits; (4) Order<sup>[9]</sup> dated November 21, 2008 granting a writ of preliminary injunction; (5) Omnibus Order<sup>[10]</sup> dated November 25, 2008 treating the comment to the Rule 65 petition, filed through LBC, as a mere scrap of paper; (6) Order<sup>[11]</sup> dated December 15, 2008 requiring

Secretary Teves and Commissioner Esquivias to file their comment to the contempt petition; and (7) Omnibus and Interim Order<sup>[12]</sup> dated December 22, 2008, which, among others, (a) impleaded Deputy Commissioner Nelson Aspe and Alberto Olasiman, Officer-in-Charge, Revenue Region No. 16, as respondents in the contempt petition, and (b) ordered Secretary Teves, Commissioner Esquivias and their subordinate officials to maintain the status quo and retain Gandarosa as Regional Director of Revenue Region No. 16.

The Court of Appeals (CA) in its Decision<sup>[13]</sup> dated August 3, 2009 in CA-G.R. SP No. 02753-MIN annulled all seven orders and ordered Judge Flores to dismiss Gandarosa's Rule 65 and contempt petitions. The CA ruled that the trial court lacks jurisdiction over the Rule 65 petition. Said CA Decision attained finality and entry of judgment was made.

Complainants Efren T. Uy, Nelia B. Lee, Rodolfo L. Menes and Quinciano H. Lui now allege that Judge Flores exhibited gross ignorance of the law when he assumed jurisdiction over the Rule 65 petition as it is the Civil Service Commission which has jurisdiction over the issue of Gandarosa's reassignment. They add that the Regional Trial Court, Branch 7, Tubod, Lanao del Norte, which is within the 12th Judicial Region, also lacks jurisdiction to issue a temporary restraining order and writ of preliminary injunction effective in Metro Manila, National Capital Judicial Region, where the Secretary of Finance and the Commissioner of Internal Revenue hold office, and in Cagayan de Oro City, 10th Judicial Region, where the Regional Office of Revenue Region No. 16 is based. Moreover, Judge Flores treated the comment to the Rule 65 petition as a mere scrap of paper contrary to the basic rule that if a private carrier, LBC in this case, is used by a party, the date of actual receipt by the court of such pleading is deemed to be the date of filing of that pleading.

Complainants also allege that Judge Flores violated the right to due process of the Secretary of Finance and Commissioner of Internal Revenue when he treated their comment to the Rule 65 petition as a mere scrap of paper. And in impleading Aspe and Olasiman as respondents to the contempt petition, Judge Flores sentenced them even if they had no opportunity to speak a single word in their defense.

Moreover, complainants assail Judge Flores's alleged bias when he enjoined the implementation of Hefti and Esquivias's orders.

In his comment,<sup>[14]</sup> Judge Flores cites an earlier complaint filed against him by the Coalition of Chambers of Commerce and Industry Associations, Northern Mindanao which was docketed as A.M. No. 09-1-46-RTC. He cites that upon recommendation of the Office of the Court Administrator in its Report dated January 28, 2009, we dismissed said complaint in a minute Resolution<sup>[15]</sup> dated March 11, 2009 on the ground that (1) there was no sufficient evidence to show any anomaly or irregularity in the trial court's proceedings and (2) the propriety of the temporary restraining order, writ of preliminary injunction and Omnibus and Interim Order dated December 22, 2008 was a judicial matter which should be properly resolved in a judicial proceeding. Judge Flores also claims that while he may have erred in taking cognizance of Gandarosa's cases, he did so in good faith and without malice.

Upon evaluation of the present complaint and Judge Flores's comment, the Office of the Court Administrator issued a Report<sup>[16]</sup> dated January 19, 2012 finding Judge

Flores guilty of gross ignorance of the law. The Office of the Court Administrator adopted the ruling of the CA in CA-G.R. SP No. 02753-MIN that Judge Flores's seven orders were void since the trial court lacked jurisdiction over Gandarosa's case which was a personnel action within the jurisdiction of the Civil Service Commission; that Judge Flores's orders could only be enforced within the 12th Judicial Region; that Judge Flores gravely erred in restraining the implementation of Hefti's order; and that Judge Flores failed to show cold neutrality in granting the writ of preliminary injunction based on documents identified by Gandarosa's counsel.

The recommendations of the Office of the Court Administrator are well taken.

But first, we address Judge Flores's statement that he had been exonerated in an earlier complaint filed by the Coalition of Chambers of Commerce and Industry Associations, Northern Mindanao. We examined the record of the earlier complaint against Judge Flores and we find that it is not identical to the present complaint. The Coalition of Chambers of Commerce and Industry Associations, Northern Mindanao, had asked the Office of the Court Administrator to review the temporary restraining order issued by Judge Flores. The Coalition said that the venue of the Rule 65 petition gives the impression that Gandarosa hand-picked the Regional Trial Court, Branch 7, Tubod, Lanao del Norte. The Coalition also said that the Rule 65 petition is a wrong remedy as Gandarosa could have availed of administrative remedies within the Bureau of Internal Revenue all the way up to the Office of the President. The Coalition also claimed that Judge Flores prejudged the case and showed his bias and overreaching accommodation of Gandarosa by issuing the Omnibus and Interim Order dated December 22, 2008.

On the other hand, in the present case, we are called upon to determine whether Judge Flores committed gross ignorance of the law, manifest partiality, violation of due process, and conduct prejudicial to the best interest of the service. Contrary to Judge Flores's contention, there is no reason to treat the former complaint as having a substantial bearing on the present charges.

Now on the merits of the complaint.

We agree with the Office of the Court Administrator that Judge Flores committed gross ignorance of the law but we dismiss the other charges.

When a law or a rule is basic, judges owe it to their office to simply apply the law. Anything less is gross ignorance of the law. There is gross ignorance of the law when an error committed by the judge was gross or patent, deliberate or malicious. It may also be committed when a judge ignores, contradicts or fails to apply settled law and jurisprudence because of bad faith, fraud, dishonesty or corruption. Gross ignorance of the law or incompetence cannot be excused by a claim of good faith. [17] When an error is so gross and patent, such error produces an inference of bad faith, making the judge liable for gross ignorance of the law. [18]

In *Republic v. Judge Caguioa*, [19] we said that the rules on jurisdiction are basic and judges should know them by heart.

Here, Judge Flores assumed jurisdiction over the Rule 65 petition assailing Hefti's order when he should have dismissed the petition for Gandarosa's failure to exhaust

administrative remedies. An employee who questions the validity of his transfer should appeal to the Civil Service Commission per Section 26(3), Chapter 5, Subtitle A, Book V of the Administrative Code of 1987, which reads:

SEC. 26. *Personnel Actions.* – x x x

x x x x

(3) *Transfer.* x x x

x x x. If the employee believes that there is no justification for the transfer, he may appeal his case to the [Civil Service] Commission.

Citing said provision of the Administrative Code of 1987, we ruled in Hon. Vinzons-Chato v. Hon. Natividad<sup>[20]</sup> that:

Moreover, under the law, any employee who questions the validity of his transfer should appeal to the Civil Service Commission. Respondent judge should have dismissed the action below for failure of private respondent to exhaust administrative remedies.

We reiterated the above rule in Rualo v. Pitargue,<sup>[21]</sup> to wit:

Being [Bureau of Internal Revenue] employees, Perez and Vasquez focused their objections on security of tenure. In the case of Perez, respondents object to the specter of a transfer. In the case of Vasquez, respondents object to the place of transfer. Under the law, any employee who questions the validity of his transfer should appeal to the Civil Service Commission. The trial court should have dismissed the case as to Perez and Vasquez, who both failed to exhaust administrative remedies x x x.

The law is basic and jurisprudence is clear but Judge Flores failed to apply them. Judge Flores committed a gross and patent error which makes him liable for gross ignorance of the law notwithstanding his claim of good faith. Judge Flores even mentioned in the Order dated November 21, 2008 the contention of the Office of the Solicitor General that the trial court lacks jurisdiction over the case. Judge Flores's gross and patent error produces an inference of bad faith on his part, considering that the issue of jurisdiction was raised.

And even if we assume that the trial court has jurisdiction over Gandarosa's Rule 65 petition, Section 4, Rule 65 of the Rules of Court requires that the petition must be filed in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. But the trial court presided by Judge Flores is within the 12<sup>th</sup> Judicial Region while the Head Office and Regional Office, Revenue Region No. 16, of the Bureau of Internal Revenue are respectively located in Metro Manila, National Capital Judicial Region, and Cagayan de Oro City, 10<sup>th</sup> Judicial Region.