

EN BANC

[A.M. No. RTJ-11-2259 (Formerly OCA IPI No. 10-3441-RTJ), October 22, 2013]

MA. REGINA S. PERALTA, COMPLAINANT, VS. JUDGE GEORGE E. OMELIO, RESPONDENT.

[A.M. NO. RTJ-11-2264 (FORMERLY OCA IPI NO. 10-3368-RTJ)]

ROMUALDO G. MENDOZA, COMPLAINANT, VS. JUDGE GEORGE E. OMELIO, RESPONDENT.

[A.M. NO. RTJ-11-2273 (FORMERLY OCA IPI NO. 10-3381-RTJ)]

ATTY. ASTERIA E. CRUZABRA, COMPLAINANT, VS. JUDGE GEORGE E. OMELIO, RESPONDENT.

D E C I S I O N

PER CURIAM:

Before the Court are three consolidated administrative complaints against respondent George E. Omelio, presiding Judge of the Regional Trial Court (RTC) of Davao City, Branch 14, for gross ignorance of the law, grave misconduct, oppression, bias and partiality.

The Facts

A.M. No. RTJ-11-2259

Complainant Ma. Regina S. Peralta is one of the plaintiffs in Civil Case No. 32,302-08 entitled "Bentley House Furniture Company, et al. vs. Jonathon Bentley Stevens, et al." for Declaration of Nullity of Deed of Assignment, pending before the RTC of Davao City, Branch 11.^[1]

On March 19, 2010, Jonathon Bentley Stevens, on behalf of the same company, and "Bentley House International Corp." represented by its Attorney-in-Fact Atty. Michael Castaños, instituted Civil Case No. 33,291-10 against Land Bank of the Philippines (LBP) for Easement of Right of Way with application for temporary restraining order (TRO), writ of preliminary injunction, damages and attorney's fees. The case was raffled off to respondent who immediately issued a TRO effective for 20 days enjoining LBP from blocking the road leading to the company-owned factory. On the strength of this TRO, Stevens accompanied by his counsels and Sheriff Hipolito Belangal of RTC Branch 13, allegedly went to the said premises taking corporate properties along with those of Peralta and her family's belongings.^[2]

Contending that the TRO was in direct contravention of orders issued by RTC Branch

11 in Civil Case No. 32,302-08, Peralta filed an administrative complaint against respondent. She argued that respondent's *ex parte* issuance of the TRO violates the basic procedure laid down in Section 4 (b), (c) and (d), Rule 58 of the Rules of Court. Had respondent conducted the requisite hearing, he would have been apprised of the following: (a) The complaint filed by Stevens and Atty. Castañeros was previously the subject of an "Urgent Motion to Issue Order for Road Right of Way and/or Status Quo Pending Final Resolution" dated January 27, 2010, asking for the same relief, filed with the Court of Appeals (CA) in CA-G.R. CV No. 0115-MIN; (b) "Bentley House International Inc." mentioned in the TRO does not exist and has no premises in the area where the right of way was sought; (c) LBP has in its favor a writ of possession on the property as early as March 2, 2000, which was reaffirmed by Judge Emmanuel C. Carpio in his Order dated December 3, 2004 in Civil Case No. 28,630-2001; and (d) LBP has not prevented Stevens or his agents from gaining access to the property, but sees them daily as they walk past the LBP guardhouse to the factory.^[3]

Peralta averred that the undue haste in the *ex parte* issuance of the TRO caused her great emotional and mental anguish as she had to deal with Stevens' attempt to dispose and remove from company premises personal and corporate properties, thus preventing her from spending time with her family during the Holy Week. She further alleged incurring additional expenses in employing 24-hour security personnel to watch over the factory.^[4]

A.M. No. RTJ-11-2264

Complainant Romualdo G. Mendoza is one of the defendants in Civil Case No. 32,245-08 entitled "Neighborhood Assn. of Sto. Rosario Old Airport Sasa, Inc. vs. Hon. Jose Emmanuel M. Castillo, MTCC Branch 1, 11th Judicial Region, Davao City, Romualdo G. Mendoza and Elaine Matas," for Annulment of Judgment with prayer for preliminary injunction, TRO and attorney's fees, initially assigned to the RTC of Davao City, Branch 11 presided by Judge Virginia Hofileña-Europa. On November 7, 2008, Judge Europa denied the plaintiff's association's application for a writ of preliminary injunction to restrain the execution of the decision rendered by Judge Castillo in Civil Case No. 20,001-A-07 of the Municipal Trial Court in Cities (MTCC), Branch 1 for unlawful detainer filed by Mendoza against the association. The latter's motion for reconsideration was likewise denied under Judge Europa's Order dated June 22, 2009 and the case was set for pre-trial conference on July 16, 2009. However, on July 16, 2009, the association filed a motion for voluntary inhibition of Judge Europa who thereupon issued an Order dated July 16, 2009 cancelling the scheduled pre-trial conference and setting the motion for hearing on July 24, 2009. After Judge Europa inhibited herself, the case was re-raffled off and later assigned to RTC Branch 14 presided by respondent.^[5]

Seven months later, the association filed another motion to reconsider and set aside the July 16, 2009 Order of Judge Europa. After due hearing, respondent issued an Order dated February 2, 2010 setting aside the July 16, 2009 Order of Judge Europa and granting the association's application for a writ of preliminary injunction. The writ of preliminary injunction was accordingly issued in favor of the association.^[6]

Mendoza filed an administrative complaint against respondent charging him with gross ignorance of the law and procedure, gross inefficiency and negligence, and

violations of the New Code of Judicial Conduct, considering that: (1) The Motion for Reconsideration dated January 29, 2010 filed by the association was a second motion for reconsideration prohibited under Section 2, Rule 52 of the Rules of Court, and was filed seven months and five days after the denial of the association's motion for reconsideration by Judge Europa on June 22, 2009; (2) The application for preliminary injunction was not accompanied by an affidavit of merit; (3) Respondent had not even read the records of the case when he issued the writ of preliminary injunction as he fondly called the association's counsel, Atty. Mahipus (Davao City Councilor who was running for Congress) as "Congressman Mahipus" thus allowing his friendship with opposing counsel to inflict an injustice by being ignorant of what he was setting aside, at one time even arguing in said counsel's behalf as if respondent was actually lawyering for plaintiff association; and (4) Respondent did not even indicate in his order granting the writ the reasons for setting aside the previous denial of Judge Europa.^[7]

A.M. No. RTJ-11-2273

Complainant Atty. Asteria E. Cruzabra is the Acting Registrar of Deeds of Davao City who had testified during the proceedings in Sp. Proc. No. 7527-2004 entitled "In Re: Petition for Judicial Reconstitution of Original and Owner's Duplicate of Original Certificate of Title of the Registry of Deeds for Davao City and the Inscription of the Technical Descriptions Thereto" of the RTC of Davao City, Branch 14.^[8]

Helen P. Denila, petitioner in Sp. Proc. No. 7527-2004, sought the reconstitution of Original Certificate of Title (OCT) Nos. 67, 164, 219, 220, 301, 337 and 514 registered in the names of deceased spouses Constancio S. Guzman and Isabel Luna. Denila claimed to have authority, under a special power of attorney (SPA), from Bellie S. Artigas, the alleged "Administrator of Emilio Alvarez Guzman Estate, sole Heir of Constancio Guzman and Isabel Luna" who was granted 40% share in the estate of Don Constancio Guzman by virtue of an Agreement with Emilio Alvarez Guzman, which interest she had already sold to Denila.^[9]

The Republic of the Philippines through the Office of the Solicitor General (OSG) filed its Opposition^[10] arguing that the documents attached to the amended petition are not sufficient sources for reconstitution of original certificates of title under Republic Act (R.A.) No. 26. At the trial, Cruzabra was called to testify on the certification she issued stating that the original titles in their custody are "mutilated and/or destroyed," and was also presented as a witness for the State on the latter's exhibits showing that the OCTs sought to be reconstituted contained markings/typewritten words indicating that said titles were already cancelled.^[11]

On March 4, 2008, respondent rendered his Decision^[12] in favor of Denila, the dispositive portion of which reads:

WHEREFORE, finding the instant petition well founded, the same is hereby granted.

The Registrar Register of Deeds of Davao City is hereby ordered to reconstitute the owners Original Duplicate copy of Original Certificate of Titles No. OCT No. 164, **OCT No. 219, OCT No. 220, OCT No. 301,**

OCT No. 337, OCT No. 514 and OCT No. 67 with the approved Technical Description of said parcels of land attached with this petition be respectively inscribed thereto and that the titles to the said mentioned parcels of land be duly registered in the name of the original owner Constancio Guzman, and considering that the latter through his attorney-in-fact Bellie S. Artigas sold the same to herein petitioner (Exhs. "G" to "M"), the Register of Deeds, Davao City is further ordered to correspondingly issue Transfer Certificate of Titles over the subject parcels of land in the name of herein petitioner.

Cost against the petitioner.

SO ORDERED.^[13]

Cruzabra elevated the matter to the Land Registration Authority (LRA) by way of *consulta* pursuant to Section 117 of Presidential Decree No. 1529. Meanwhile, on May 26, 2008, the OSG filed a petition for relief from judgment with prayer for injunction assailing the validity of the March 4, 2008 Decision on the ground that reconstitution of OCT Nos. 219, 337, 67 and 164 was previously denied by this Court while OCT Nos. 514, 220 and 301 were cancelled on account of various conveyances and hence could not likewise be reconstituted. The OSG thus prayed that the March 4, 2008 Decision be set aside, the case be reopened and the Republic be allowed to present its evidence, and thereafter another decision be rendered by the court dismissing Denila's petition for reconstitution.^[14]

On September 3, 2008, respondent voluntarily inhibited himself from the reconstitution case (Sp. Proc. No. 7527-2004), apparently in reaction to insinuations that he was impelled by improper considerations in rendering the March 4, 2008 Decision with "lightning speed" despite having just assumed office at Branch 14 after the former presiding judge returned to her permanent station. In his Order,^[15] respondent admitted he just copied the draft already written by the former presiding judge and signed the same, and thereupon stated:

As there is already a doubt cast by these concerned sectors against the sense of impartiality and independence of the undersigned Presiding Judge he is therefore, voluntarily INHIBITING himself from further sitting in this case.

Let the record of this case be transmitted to the Office of the Executive Judge of this Court for re-raffling with the exception of Branch 14. SO ORDERED.

The case was re-raffled off to Branch 15, but the presiding judge thereof, after setting the OSG's petition for relief from judgment for hearing and directing Denila to file her answer, eventually inhibited himself upon motion filed by Denila. The case was thus sent back to Branch 14.

On June 10, 2008, Denila filed a verified petition to declare Cruzabra in contempt of court (Civil Case No. 32,387-08 for Indirect Contempt) which was raffled off to

Branch 14. Cruzabra had refused to comply with the writ of execution served upon her to implement the March 4, 2008 Decision in the reconstitution case. Cruzabra moved to suspend the indirect contempt proceedings, citing the pendency of the OSG's petition for relief from judgment.^[16]

Meanwhile, on June 29, 2009, LRA Administrator Benedicto B. Ulep issued a Resolution in *Consulta* No. 4581 holding that based on the records, the certificates of title sought to be reconstituted in Sp. Proc. No. 7527-2004 are previously cancelled titles. The LRA thus opined that the March 4, 2008 decision is not registrable and hence the Registrar of Deeds may not be compelled to register the same despite its finality.^[17]

On September 3, 2009, respondent issued an order denying the petition for relief stating that: (1) Neither the OSG nor the City Prosecutor who received a copy of the decision on March 10, 2008 filed an appeal or a motion for reconsideration; (2) Cruzabra made a wrong interpretation of the Rules by filing a *consulta* with the LRA; (3) Such gross negligence on their part resulted in the expiration of the period to appeal and the consequent issuance of a writ of execution. Prosecutor Samuel T. Atencia filed a motion for reconsideration on behalf of the Republic but respondent denied it in his Order dated October 1, 2009, on the ground that the notice of hearing was addressed to the Clerk of Court and not to the parties. In the Order dated December 8, 2009, Cruzabra was declared in contempt of court and ordered imprisoned until she complies with the March 4, 2008 Decision. On October 22, 2009, the OSG filed in the CA a petition for certiorari with urgent prayer for TRO and writ of preliminary injunction. On December 9, 2009, respondent issued a warrant of arrest against Cruzabra.^[18]

Cruzabra filed a motion for reconsideration of the December 8, 2009 Order but on December 17, 2009, respondent inhibited himself from further sitting on Civil Case No. 32,387-08 (Indirect Contempt) stating in his order that he was shown a pleading he had signed almost 30 years ago involving a big tract of land, a portion of which was involved in the reconstitution case.^[19]

Civil Case No. 32,387-08 (Indirect Contempt) was eventually re-raffled off to Branch 16 presided by Judge Emmanuel C. Carpio. After due hearing, Judge Carpio issued an Order^[20] dated February 11, 2010 holding that Cruzabra's refusal to comply with the March 4, 2008 decision was not contumacious, thus:

GIVEN THE REASONS, the Court finds merit on the Motion For Reconsideration filed by respondent Cruzabra. **CONSEQUENTLY**:

1. THE Motion For Reconsideration is **GRANTED**;
2. Court Order dated December 8, 2009 is **SET ASIDE**;
3. The warrant for her arrest is **RECALLED**;
4. The instant petition is **DISMISSED**.

SO ORDERED.^[21]

On February 17, 2010, the LRA denied the motion for reconsideration of the Resolution dated June 29, 2009 filed by Denila. Subsequently, she filed in Sp. Proc.