

SECOND DIVISION

[A.M. No. RTJ-11-2298, February 22, 2012]

**ATTY. RENE O. MEDINA AND ATTY. CLARITO SERVILLAS,
COMPLAINANTS, VS. JUDGE VICTOR A. CANOY, REGIONAL TRIAL
COURT, BRANCH 29, SURIGAO CITY, RESPONDENT.**

D E C I S I O N

CARPIO, J.:

The Case

This is an administrative complaint filed by Atty. Rene O. Medina and Atty. Clarito Servillas (complainants) against Judge Victor A. Canoy (respondent judge), Presiding Judge of the Regional Trial Court (RTC) of Surigao City, Branch 29, for Gross Ignorance of the Law and Procedure, Undue Interference and Gross Inefficiency, relative to Civil Case No. 7077 entitled "*Zenia A. Pagels v. Spouses Reynaldo dela Cruz*"; Spec. Proc. No. 7101 entitled "*Noel P.E.M. Schellekens v. P/S, Supt. David Y. Ombao, et al.*"; and Civil Case No. 7065 entitled "*Heirs of Matilde Chato Alcaraz v. Philex-Lascogon Mining Corporation, et al.*"

The Facts

The undisputed facts, as culled from the records, are as follows:

In Civil Case No. 7077

On 30 June 2009, petitioner Zenia Pagels (Pagels) filed a Petition for Injunction with prayer for issuance of Preliminary Injunction, Temporary Restraining Order (TRO), Accounting, Damages and Attorney's Fees against respondents Spouses Reynaldo and Racquel dela Cruz (respondent spouses). The case was raffled to Branch 30, where respondent judge was the acting presiding judge. After serving respondent spouses with the Summons, copy of the Petition and Notice of hearing, respondent judge conducted the hearing and granted the TRO on 2 July 2009. On 3 July 2009, the TRO was implemented resulting in the transfer of possession of the duly-licensed primary and elementary school and church from respondent spouses to Pagels. On 13 July 2009, respondent spouses filed their Answer with Affirmative Defenses and Counterclaim. During the 14 July 2009 hearing for preliminary injunction, the parties agreed to submit position papers. Pagels filed her position paper but respondent spouses filed a Motion to Hear their Affirmative Defenses instead.

On 11 August 2009, respondent judge granted the preliminary injunction without need of a bond pending the hearing of respondent spouses' Motion to Hear Affirmative Defenses. On 1 September 2009, respondent spouses filed a Motion for Reconsideration, which respondent judge set for hearing on 5 October 2009. Subsequently, respondent judge reset the hearing to 16 November 2009 and then to

12 March 2010. Upon assumption as the new presiding judge of Branch 30 sometime in February 2010, Judge Evangeline Yuipco-Bayana issued an Order revoking the preliminary injunction earlier issued by respondent judge.

In their Complaint dated 13 September 2010, complainants contend that respondent judge should be charged with gross ignorance of the law and procedure: (1) for disregarding the basic and elementary principle that TRO and preliminary injunction are improper remedies to transfer possession of one property to another whose title has not been clearly established; and (2) for failure to decide the Motion for Reconsideration within a period of 30 days as required by the rules and jurisprudence.

In Spec. Proc. No. 7101

Petitioner Noel P.E.M. Schellekens (petitioner Noel) filed a Petition for Writ of Habeas Corpus on 19 August 2009. The next day, respondents Aris Caesar B. Servillas, P/S, Supt. David Y. Ombao, Denelito G. Glico, Alexis E. Espojona, and Rosemarie Catelo testified during the hearing. On 21 August 2009, which was a holiday, respondent judge issued an Order for the release of petitioner Noel upon finding that the latter was unlawfully arrested. The Order was implemented on the same day.

Relative to this case, complainants charge respondent judge of: (1) gross ignorance of procedure and undue interference in the administrative functions of the Bureau of Immigration by ordering the release of the expired passport of petitioner Noel, and by preparing the said Order outside of the court's premises because it was not single-spaced and did not have a stamp by the Clerk of Court as received; and (2) violating Canon 1 of the Code of Judicial Conduct due to his friendly greeting to petitioner Noel and for acting as counsel for the latter by propounding questions on the respondents during their testimonies.

In Civil Case No. 7065

On 3 August 2009, defendant Philex-Lascogon Mining Corporation filed a Motion to Dismiss the Amended Complaint filed by plaintiffs Heirs of Alcaraz on the ground of lack of jurisdiction. The plaintiffs Heirs of Alcaraz submitted their Opposition dated 17 August 2009 and their 2nd Amended Complaint dated 26 August 2009. However, it was only on 20 September 2010 that respondent Judge issued an Order denying the Motion to Dismiss. Accordingly, complainants claim that respondent judge should be held guilty of gross inefficiency and of violating the Code of Judicial Conduct for his undue delay in resolving a simple Motion to Dismiss.

As their final charge, complainants aver that respondent judge is guilty of tardiness and inefficiency in trying cases before his branch. Complainants state that respondent judge usually starts the hearing between 9:45 a.m. and 10:00 a.m. in violation of the Supreme Court Circular.

In his Comment with Counter-Charge dated 5 November 2010, respondent judge preliminarily states that complainant Atty. Medina is neither a counsel nor a party litigant in Spec. Proc. No. 7101 and Civil Case No. 7065; thus, he has no interest to question perceived irregularities relative to these cases. With respect to Atty. Servillas, he is neither a counsel nor a party-in-interest in any of the cases mentioned in the complaint.

Relative to Civil Case No. 7077, respondent judge claims that he issued the TRO and preliminary injunction judiciously and without bad faith or irregularity. He argues that he resolved cases based on the merits of the case and if there was indeed error, it merely constitutes an error of judgment. Respondent judge further states that the alleged error was already aptly corrected by Judge Bayana's reversal. Regarding the alleged delay in the resolution of the Motion for Reconsideration, respondent judge defends himself by explaining that the Motion was not submitted for resolution. Respondent judge argues that respondent spouses' lawyer (complainant Atty. Medina) failed to file a responsive pleading to the Opposition to Motion for Reconsideration and that the hearing of the Motion was further reset to 12 March 2010.

As for Spec. Proc. No. 7101, respondent judge argues that it is already subject of an earlier complaint filed by Cristita C. Vda. de Tolibas against him. With respect to Civil Case No. 7065, respondent judge states that the Motion to Dismiss was already resolved.

On the charge of tardiness and inefficiency, respondent judge attached the: (1) 21 October 2010 Joint Affidavit of Prosecutor Maureen Chua and Atty. Jose Begil, Jr.; and (2) 21 October 2010 affidavit of Court Legal Researcher Peter John Tremedal explaining the reasons for the delay of the hearing. In Tremedal's Affidavit, he states that respondent judge instructed him to convene the counsels first, and to ensure their attendance before respondent judge starts the hearing. In conclusion, respondent judge asserts that the malicious filing of the baseless complaint was conduct unbecoming officers of the court for which complainants must be held accountable.

In their Rejoinder and Answer to Counter-Charge dated 1 December 2010, complainants reiterate their arguments in the Complaint. In the first case, they emphasize that respondent judge deliberately failed to resolve the Motion for Reconsideration. On the second, complainants argue that the pendency of the Tolibas administrative complaint cannot divest the Supreme Court of its jurisdiction to review the actions of respondent judge, more so in the light of new allegations supported by judicial records. As for respondent Judge's alleged tardiness and inefficiency, complainants point out that the joint affidavit of Prosecutor Chua and Atty. Bejil, Jr. merely pertained to one particular day. As answer to respondent judge's Counter-Charge, complainants denied the allegation for lack of factual and legal basis.

The OCA's Report and Recommendation

In its Report dated 18 July 2011, the Office of the Court Administrator (OCA) found respondent judge guilty of undue delay in rendering an order but dismissed the charges of gross ignorance of the law and gross misconduct for being judicial in nature and for lack of merit.

In its evaluation, the OCA preliminarily states that in administrative proceedings it is immaterial whether or not the complainant himself or herself has a cause of action against the respondent.

On the charge of gross ignorance of the law, the OCA held that respondent judge

committed an error of judgment for which he may not be administratively held liable in the absence of bad faith, malice or corrupt purpose. As to the issue of undue delay in resolving the Motion for Reconsideration, the OCA likewise held it unmeritorious because the motion was not submitted for resolution in view of the resetting of its hearing.

As for the charges relating to Spec. Proc. No. 7101, the OCA found that the issues raised by complainant may be best resolved in another pending case against respondent judge (OCA IPI No. 09-3254-TRJ) except the alleged violation of the Code of Judicial Conduct for acting as counsel for the petitioner. The OCA also found the charges of tardiness and inefficiency bereft of merit because Tremedal's Affidavit explained the reason for the late hearing.

On the other hand, the OCA held that respondent judge is guilty of undue delay in resolving the Motion to Dismiss in violation of the 1987 Constitution. Since it was respondent judge's first administrative offense, the OCA considered it as a mitigating circumstance. The OCA recommended a fine of P5,000 with a stern warning that a repetition of the same or similar act shall be dealt with more severely.

This Court, in a Resolution dated 5 October 2011, re-docketed administrative complaint OCA-IPI No. 10-3514-RTJ as regular administrative matter A.M. No. RTJ-11-2298.

The Court's Ruling

We are partially in accord with the OCA's findings and recommendation.

To settle the issue on complainant's cause of action, the OCA correctly observed that complainants may file the present administrative complaint against respondent judge. As the Court held in *LBC Bank Vigan Branch v. Guzman*,^[1] the objective in administrative cases is the preservation of the integrity and competence of the Judiciary by policing its ranks and enforcing discipline among its erring employees.

However, on the charge of gross ignorance of the law, we find respondent judge guilty of the charge.

Well-settled is the rule that an injunction cannot be issued to transfer possession or control of a property to another when the legal title is in dispute between the parties and the legal title has not been clearly established.^[2] In this case, respondent judge evidently disregarded this established doctrine applied in numerous cases when it granted the preliminary injunction in favor of Pagels whose legal title is disputed. When the law involved is simple and elementary, lack of conversance with it constitutes gross ignorance of the law.^[3] Gross ignorance of the law is the disregard of basic rules and settled jurisprudence.^[4]

Respondent judge should have been more cautious in issuing writs of preliminary injunctions because as consistently held these writs are strong arms of equity which must be issued with great deliberation."^[5] In *Fortune Life Insurance Co., Inc. v. Luczon*,^[6] the Court held the judge guilty of gross ignorance of the law when he failed to conduct a hearing prior to issuance of an injunction in violation of the Rules