

FIRST DIVISION

[A.M. No. MTJ-11-1781 (Formerly OCA I.P.I. No. 09-2161-MTJ), April 25, 2012]

DR. RAMIE G. HIPE, COMPLAINANT, VS. JUDGE ROLANDO T. LITERATO, MUNICIPAL TRIAL COURT, MAINIT, SURIGAO DEL NORTE, RESPONDENT.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

Before the Court is an administrative case^[1] for gross ignorance of the law, gross incompetence, and gross dereliction of duty filed by Dr. Ramie G. Hipe against Judge Rolando T. Literato, acting judge of the Municipal Trial Court (MTC), Mainit, Surigao del Norte, in relation to Civil Case No. 632.

Civil Case No. 632 was an action for unlawful detainer, damages, and attorney's fees instituted by the Municipality of Mainit, Surigao del Norte, represented by Municipal Mayor Ramon Beltran Mondano, against spouses Dr. Hector and Dr. Ramie Hipe (spouses Hipe), before the MTC on December 27, 2007.^[2] Counsel for the Municipality of Mainit was Atty. Elmer T. Paniamogan, a vice-mayorality candidate in the said municipality during the May 2007 elections who belongs to the same party as Mayor Mondano.

According to the complaint, Dr. Hector Hipe served as the Municipal Health Officer of Mainit until he resigned in April 2007 when he ran for Mayor in his hometown in Samar. As the Municipal Health Officer, Dr. Hector Hipe, together with his spouse, Dr. Ramie Hipe,^[3] had the privilege of using as doctor's quarters a two-storey residential building at the back of the Rural Health Center, owned by the Municipality of Mainit (subject property). The spouses Hipe continued to stay at the subject property, notwithstanding Dr. Hector Hipe's resignation as Municipal Health Officer, at the mere tolerance of the Municipality of Mainit, which was then still searching for a new Municipal Health Officer. Despite several demands made by the Municipality of Mainit on July 17, 2007, October 8, 2007, and October 23, 2007, the spouses Hipe failed and refused to vacate the subject property, insisting that they had the right to stay thereat since Dr. Ramie Hipe was also serving the Municipality of Mainit. The spouses Hipe were unmindful of the fact that Dr. Ramie Hipe was not at all an employee of the Municipality of Mainit. Thus, the Municipality of Mainit prayed that the MTC render judgment ordering the spouses Hipe:

- a. To vacate the doctor's quarter[s] located at the back of the Municipal Health Center, Mupas Street, Mainit, Surigao del Norte;
- b. To pay to [the Municipality of Mainit] the P2,000.00 monthly rentals for the use of said premises from May 1, 2007 until the [spouses Hipe]

finally vacate the same;

c. To pay to [the Municipality of Mainit] the sum of P20,000.00 as and by way of attorney's fees plus P2,000.00 per court appearance; and

To pay the costs of the suit.

[The Municipality of Mainit] prays for such other remedy as this Court may deem just and equitable in the premises.^[4]

Summons was served upon the spouses Hipe on January 11, 2008.

Dr. Ramie Hipe, through counsel, filed her Answer on January 21, 2008, seeking the dismissal of Civil Case No. 632 "for being illegal, devoid of legal and factual bases and for utter lack of merit[;]"^[5] and the grant of her counterclaims for P50,000.00 attorney's fees, P200,000.00 moral damages, and P50,000.00 exemplary damages.

Judge Literato set the preliminary conference of Civil Case No. 632 on February 29, 2008.^[6]

On February 25, 2008, Dr. Ramie Hipe filed a motion^[7] to transfer the date of the preliminary hearing from February 29, 2008 to March 14, 2008 or April 4, 2008, for the reason that her counsel of record would be attending the Mandatory Continuing Legal Education (MCLE) from February 27, 2008 to March 1, 2008. Judge Literato subsequently reset the preliminary conference for Civil Case No. 632 to April 25, 2008.

On March 31, 2009, Dr. Ramie Hipe filed a motion to resolve her affirmative defenses,^[8] to wit:

2. In her Answer, [Dr. Ramie Hipe] invokes the following affirmative defenses:

2-a. That she has the right to stay in the Doctor's Quarter[s] as part of the housing privilege granted to her as a Public Health Worker pursuant to Republic Act 7305, known as the Magna Carta for Public Health Workers. This is purely a question of law which can be resolved by this Honorable Court in the exercise of its inherent power to interpret a given provision of law.

2-b. That there is no necessity for her Ejectment as the Doctor's Quarter[s] is capable of accommodating even four (4) persons. This line of defense may be resolved by making reference to the physical structure of the edifice in question, which, in turn, may be substantiated thru the conduct of an actual ocular inspection.

2-c. That the filing of the instant case is illegal from the

beginning since the Ejectment of [Dr. Ramie Hipe] interferes with, coerces or restrains her, as a public health worker, in the exercise of her functions as such, as well as her right to free housing granted by law, the resolution of which may be made by reference to Sections 32 and 39 of RA 7305.

3. In addition to the foregoing, [Dr. Ramie Hipe] beseeches this Honorable Court to take judicial notice of COA Circular No. 98-002 prohibiting employment by local government units of private lawyers to handle their legal cases and the decided cases of the Supreme Court x x x.^[9]

Per the agreement of the parties, the preliminary conference was again reset by Judge Literato from April 25, 2008 to May 20, 2008. Apparently, however, the preliminary conference still did not take place on May 20, 2008.

Meanwhile, Judge Literato set for hearing on June 10, 2008 Dr. Ramie Hipe's motion to resolve her affirmative defenses. At the end of said hearing, Judge Literato issued an Order submitting the motion for resolution.

On April 28, 2009, Judge Literato rendered a Decision^[10] in Civil Case No. 632 in favor of the Municipality of Mainit. The dispositive portion of the decision reads:

WHEREFORE, in view of the foregoing, the [spouses Hipe] are hereby adjudged:

1. TO IMMEDIATELY VACATE the two (2)[-]story Building utilized as doctor's quarter[s] and residence of the Municipal Health Officer;
2. And that the [spouses Hipe] are hereby adjudged TO PAY the amount of Two Thousand Pesos (P2,000.00) as filing fee;
3. The [Municipality of Mainit] is not entitled to attorney's fees for it is the Provincial Prosecutor who will represent the [Municipality of Mainit] in any Court if no Municipal Attorney having been appointed.

In the case at bar, the payment for attorney's fee shall [be] chargeable to the Municipal Mayor and its Councilors in private capacity.

They cannot claim reimbursement from the Municipal Government of Mainit, Surigao del Norte for being not authorized to do so unless by law. The Municipal Government of Mainit is authorized to engage the services of the private lawyer to protect and de[f]end his case.^[11]

As a result of the aforementioned events, Dr. Ramie Hipe filed on June 17, 2009 the present administrative complaint against Judge Literato, based on the following grounds: (1) from June 10, 2008 until April 28, 2009, a period of 322 days, Judge

Literato took no further action in Civil Case No. 632, in violation of the Revised Rule on Summary Procedure; (2) since June 10, 2008 up to the filing of the present administrative complaint, Judge Literato failed to resolve Dr. Ramie Hipe's affirmative defenses; (3) since June 10, 2008 until the filing of the present administrative complaint, Judge Literato failed to conduct a preliminary conference in Civil Case No. 632; (4) Judge Literato already rendered on April 28, 2009 a judgment in favor of the Municipality of Mainit even though the parties had not been ordered to submit their positions papers, thus, violating Dr. Ramie Hipe's right to due process of law; and (5) Judge Literato's Decision dated April 28, 2009 in Civil Case No. 632 was grammatically flawed and displayed his gross incompetence.

In his defense, Judge Literato averred that the parties failed to appear at the preliminary conference set on February 29, 2008. Hence, the preliminary conference was reset to May 20, 2008, on which date, the parties were also required to file their respective position papers. While motions to reset the preliminary conference and resolve affirmative defenses are indeed prohibited pleadings, Judge Literato pointed out that Dr. Ramie Hipe herself filed said motions and that the Municipality of Mainit failed to object to the submission of the same.

In addition, Judge Literato argued that Dr. Ramie Hipe was not the real party-in-interest in Civil Case No. 632, but her husband, Dr. Hector Hipe. In any case, the issues and defenses raised by Dr. Ramie Hipe in her Answer in Civil Case No. 632 were already squarely passed upon in the Decision dated April 28, 2009. The proper recourse for Dr. Ramie Hipe should have been the timely filing of an appeal before the Regional Trial Court (RTC) of Judge Literato's Decision dated April 28, 2009 in Civil Case No. 632, not the institution of the present administrative complaint. Judge Literato also alleged that the parties in Civil Case No. 632 had reached an out-of-court settlement in which they agreed to divide the doctor's quarters between Dr. Ramie Hipe and the newly appointed municipal health officer.

Lastly, Judge Literato asserted that the periods provided under the Rules of Court should be leniently applied to his case as he presides over other salas throughout the Province of Surigao del Norte. Judge Literato further explained that he was able to conduct only five hearings in the MTC of Mainit from July 2008 to March 2009 owing to other official business (*i.e.*, attending seminars in Boracay and Manila) and personal constraints (*i.e.*, his hospitalization at Mernada Hospital, Surigao City).

On November 10, 2010, the Office of the Court Administrator (OCA) submitted its report^[12] with the following recommendations:

RECOMMENDATION: It is respectfully recommended for the consideration of the Honorable Court:

1. That the instant case be RE-DOCKETED as a regular administrative matter;
2. That Judge Rolando T. Literato be FINED Twenty Thousand Pesos (P20,000.00) per Section 11 [B(2)], Rule 140, Rules of Court. However, he is ADMONISHED anew to be more circumspect in observing the reglementary periods for disposing of motions and