

## **FIRST DIVISION**

**[ A.M. No. RTJ-08-2149 (Formerly OCA IPI No. 08-2787-RTJ), March 09, 2011 ]**

**LYDIA A. BENANCILLO, COMPLAINANT, VS. JUDGE VENANCIO J. AMILA, REGIONAL TRIAL COURT, BRANCH 3, TAGBILARAN CITY, RESPONDENT.**

### **R E S O L U T I O N**

**DEL CASTILLO, J.:**

Before us is a Verified-Complaint<sup>[1]</sup> dated November 29, 2007 filed by complainant Lydia A. Benancillo (Lydia) charging respondent Judge Venancio J. Amila (Judge Amila) of the Regional Trial Court (RTC), Branch 3, Tagbilaran City with Grave Abuse of Discretion, Gross Ignorance of the Law and Procedure, Knowingly Rendering an Unjust Judgment or Order, Partiality and Impropriety relative to Civil Case No. 7268 entitled "Lydia A. Benancillo v. Paul John Belot," a Petition for Temporary Protection Order and Permanent Protection Order under Republic Act No. 9262.

The facts as culled from the Report<sup>[2]</sup> of the Office of the Court Administrator (OCA) are as follow:

#### **1. VERIFIED COMPLAINT**

x x x x

The complainant, the petitioner in Sp. Civil Case No. 7268, avers that Branch 1 of RTC Tagbilaran City, acting as then Family Court in Tagbilaran City, issued a Temporary Protection Order (TPO) against her live-in partner, Paul John Belot (Belot). The TPO included a directive to Belot to turn over to her personal effects, including properties in their diving business called the Underworld Diver's Panglao, Inc. (Underworld). Belot sought the reconsideration of the issuance of the TPO. Meanwhile, their business partners, Paz Mandin Trotin and Christopher Mandin, filed a motion for intervention with respect to the properties of Underworld. The complainant filed an opposition to the motion for intervention with prayer for preliminary injunction.

The complainant alleges that when Branch 2 of RTC Tagbilaran City, presided by the respondent judge, was designated as the new Family Court in Tagbilaran City, Sp. Civil Case No. 7268 was transferred to the said court. Acting on the pending incidents, the respondent judge denied both Belot's motion for reconsideration and the intervenors' motion for intervention in an Order dated July 16, 2007. The respondent judge incorporated in the resolution a cease-and-desist order prohibiting the

intervenors from taking possession of the properties of Underworld.

The complainant further alleges that the respondent judge reiterated his Order of July 16, 2007 in an Order dated August 14, 2007. Subsequently, the respondent judge denied the intervenors' motion for reconsideration in an Order dated October 2, 2007.

The complainant states that the respondent judge constantly ruled in her favor as he consistently held that the intervenors had no legal personality in the case. However, the respondent judge refused to enforce the TPO.

The complainant claims that on October 8, 2007, the respondent judge called her and her counsel to a meeting in his chambers on October 9, 2007. They agreed to the meeting but they did not proceed when they learned that the intervenors were joining them. Subsequent to the respondent judge's meeting with the intervenors, he issued an Order dated October 18, 2007 which rescinded his Order of October 2, 2007. Then, in an Order dated October 25, 2007, he denied the complainant's motion for reconsideration.

According to the complainant, the respondent judge's conduct smacks of impropriety and partiality. She further charges the respondent judge with grave abuse of discretion, gross ignorance of the law and procedure and knowingly rendering an unjust judgment/order for issuing the questioned Orders of October 18, 2007 and October 25, 2007.

The complainant further observed that the respondent judge revoked his Order of October 2, 2007, without any motion being filed by any of the parties. Moreover, the Order of October 18, 2007 was based on an inexistent ground as the respondent judge mentioned in this Order a petition for certiorari supposedly filed by Belot which had not yet been x x x filed with the Court of Appeals.

The complainant alleged that the respondent judge's Order of October 25, 2007 ruling on the complainant's motion for reconsideration of the Order of October 18, 2007 introduced a new issue on the jurisdiction of the court over the person of Belot. The respondent judge also ruled on maintaining the status quo, a position inconsistent with the preliminary injunction he had previously issued.

2. **COMMENT** of Judge Venancio J. Amila dated February 8, 2008 wherein he denies the charges against him.

The respondent judge claimed that the complainant was motivated by her *"insatiable greed to have exclusive control and possession pending trial of the case [of] all the properties of the Underworld Divers Panglao, Inc. of respondent Paul John Belot."* x x x [H]e added that the *"complainant . . . is only a live-in partner of respondent with no specific address who was branded repeatedly by Belot as a 'prostitute' and one 'only after his money'."*

According to the respondent judge, he rescinded his Order of October 2,

2007 because the complainant had no right to her alleged shares in the corporation being merely a dummy owner of Belot's shares. He was *"fearful of the consequence in the event that complainant would stealthily dispose of or abscond [with] the properties. . . because of the illegitimate status of their relationship, more so, with their present feud caused by the arrival of Belot's son and the alleged coming of the legitimate wife."*

The respondent judge averred that the complainant *"masterminded all [the] legal manipulations [and] moved heaven and earth x x x to get possession of all the properties of Belot to the extent of filing the instant administrative charge and a petition for certiorari lately with the Court of Appeals, dated December 21, 2007 using the same offensive and disrespectful language in her arguments."*

The respondent asserted he had the authority to *motu proprio* rectify an error to restore things to their *status quo* during the pendency of the case in order to avoid damage or loss. x x x [T]he complainant refused to attend the meeting he called with the intervenor in chambers to explain the Order.

Respondent Judge Amila incorporated in his submission his comment to a similar administrative complaint filed earlier by the complainant. x x x [H]e alleged that he set aside his Order of October 2, 2007 because the Petition for Certiorari filed by Belot before the Court of Appeals had placed the jurisdiction of the court under question.

### 3. **REPLY-AFFIDAVIT** dated February 29, 2008 of the complainant.

The complainant claimed that she suffered psychological and emotional violence as the respondent judge echoed Belot's verbal and psychological abuse against her that she was *"only a live-in partner" "in an illegitimate relation" and a "prostitute."* The respondent judge's remarks revealed his prejudice and lack of gender sensitivity and this was unbecoming of a family court judge. His remarks also manifested his lack of knowledge and/or utter disregard of the law on the equal protection to women-victims in intimate relationships under the anti- VAWC law which he was mandated to uphold as a family court judge.

The complainant averred that the respondent judge refused to enforce the TPO under the Anti-VAWC law because of his prejudiced view that she would abscond with the contested properties due to the "illegitimate status" of their "relationship." His personal bias against the complainant reflects his utter lack of the cold neutrality of an impartial judge.

The complainant denied the respondent judge's accusation that she and her counsel "masterminded all these legal manipulations." She added that the accusation implies that the respondent judge was not in control of the proceedings and that he could be manipulated by the parties.

The complainant alleged that as the respondent judge still refused to implement the TPO despite the dismissal of Belot's petition for certiorari with the Court of Appeals, she filed a Petition for Certiorari before the