

FIRST DIVISION

[A.M. No. RTJ-07-2044 (FORMERLY OCA I.P.I. NO. 07-2553-RTJ), June 22, 2011]

ATTY. FACUNDO T. BAUTISTA, COMPLAINANT, VS. JUDGE BLAS O. CAUSAPIN, JR., PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 32, GUIMBA, NUEVA ECIJA, RESPONDENT.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

Before the Court is an administrative Complaint ^[1] filed by Atty. Facundo T. Bautista (Atty. Bautista) against Judge Blas O. Causapin, Jr. (Judge Causapin), Presiding Judge of the Regional Trial Court (RTC), Branch 32 of Guimba, Nueva Ecija, for gross ignorance of the law and gross misconduct.

The facts of the case, as culled from the records, are as follows:

On December 15, 2005, the heirs of Baudelio T. Bautista, represented by Delia R. Bautista; the heirs of Aurora T. Bautista, represented by Reynaldo B. Mesina; Elmer B. Polangco; Nancy B. Polangco; and Gabriel Bautista (plaintiffs), through counsel, Atty. Bautista, filed a Complaint for Partition before the RTC against Jose Bautista and Domingo T. Bautista (defendants), docketed as Civil Case No. 1387-G. Civil Case No. 1387-G was raffled to Judge Causapin's branch.

Defendants had until January 26, 2006 to file their answer, but on January 24, 2006, they filed a motion for an extension of 15 days within which to file the said pleading. Judge Causapin granted defendants' motion in an Order dated January 25, 2006.

Defendants filed on February 6, 2006 a second motion for extension to file answer. In an Order of even date, Judge Causapin granted defendants an "inextendible" extension of 15 days.

Defendants filed on February 20, 2006 a final motion for extension of 10 days within which to file their answer, which was again granted by Judge Causapin in an Order issued on the same day.

On February 25, 2006, Atty. Bautista filed a comment ^[2] on defendants' motions for extension of time to file answer. He pointed out that all three motions did not contain a notice of the time and place of hearing, thus, these should be considered mere scraps of paper.

Finally, on March 20, 2006, defendants filed their joint Answer with Counterclaim and Motion to Dismiss.

Plaintiffs countered by filing on March 27, 2006 a motion to declare defendants in default. Judge Causapin set the plaintiffs' motion for hearing on April 28, 2006.

Plaintiffs and Atty. Bautista appeared for the hearing set on April 28, 2006, but defendants failed to appear. Judge Causapin reset the hearing on plaintiffs' motion to May 19, 2006.

Plaintiffs and defendants with their respective counsels appeared during the hearing on May 19, 2006. Defendants' counsel, however, moved for time within which to file pleading, which was granted by Judge Causapin. The hearing was reset to June 20, 2006.

Only plaintiffs and their counsel, Atty. Bautista, appeared for the hearing on June 20, 2006, thus, Judge Causapin again reset the hearing on plaintiffs' motion to July 11, 2006.

Atty. Bautista failed to appear for the hearing on July 11, 2006. Judge Causapin once more reset the hearing on plaintiffs' motion to August 28, 2006.

At the hearing on August 28, 2006, the parties and their counsels were present. Judge Causapin finally submitted for resolution plaintiffs' motion to declare defendants in default.

In the Resolution of Motion to Hold Defendants in Default ^[3] dated September 18, 2006, Judge Causapin dismissed the complaint without prejudice on the ground that plaintiffs Reynaldo Mesina and Nancy Polangco did not sign the verification and certification on non-forum shopping attached to the complaint, in violation of Rule 7, Section 5 of the Rules of Court. He cited the ruling in *Loquias v. Office of the Ombudsman*, ^[4] that "[w]here there are two or more plaintiffs or petitioners, a complaint or petition signed by only one of them is defective, unless he was authorized by his co-parties to represent them and to sign the certification." ^[5] Judge Causapin observed further that compulsory parties - plaintiffs heirs of Baudelio T. Bautista and Aurora T. Bautista, represented by Delia R. Bautista and Reynaldo Mesina, respectively - were not properly named in the complaint, in violation of Rule 3, Sections 2, 3, and 7 of the Rules of Court. Hence, Judge Causapin held in the end that defendants could not be declared in default for not answering a defective complaint, which in law does not exist.

Consequently, Atty. Bautista filed the present administrative Complaint against Judge Causapin for Gross Ignorance of the Law, for issuing (1) the Orders dated January 25, 2006, February 6, 2006, and February 20, 2006, which granted defendants' motions for extension of time to file their answer to the complaint in Civil Case No. 1387-G, without notice of hearing; and (2) the Resolution dated September 18, 2006, which summarily dismissed the complaint in Civil Case No. 1387-G without ruling on the plaintiffs' motion to declare defendants in default.

Atty. Bautista averred that Judge Causapin, in dismissing the complaint in Civil Case No. 1387-G, exhibited gross ignorance of the law and utter lack of professional competence. Atty. Bautista disputed the application of *Loquias* to Civil Case No. 1387-G, and insisted that *Cavile v. Heirs of Clarita Cavile* ^[6] was the more appropriate jurisprudence. In *Cavile*, the Supreme Court recognized the execution

of the certificate of non-forum shopping by only one of the petitioners, on behalf of all other petitioners therein, as substantial compliance with the Rules of Court. In addition, Judge Causapin cannot *motu proprio* dismiss a case without complying with Rule 7, Section 5 of the Rules of Court which provides that the dismissal of a case without prejudice shall be upon motion and hearing. Atty. Bautista denied that there were other compulsory heirs who were not impleaded in the complaint in Civil Case No. 1387-G, and even if there were, the non-inclusion of compulsory parties was not a valid ground for dismissal of the complaint.

Atty. Bautista also questioned Judge Causapin's impartiality considering that (1) Judge Causapin was seen having a drinking spree with Jose T. Bautista, one of the defendants in Civil Case No. 1387-G, as attested to by Delia Ronquillo in an Affidavit dated October 16, 2006; [7] and (2) Judge Causapin and Jose Bautista, the other defendant in Civil Case No. 1387-G, are both active members of the Masonic Organization and drink together regularly. [8]

Lastly, Atty. Bautista charged Judge Causapin with gross misconduct. Atty. Bautista alleged that he was categorically requested by Judge Causapin to withdraw the motion to declare defendants in default since, as assured by said Judge, the plaintiffs' civil case for partition was already strong and there was no chance of plaintiffs losing the case. Likewise constituting gross misconduct was the granting by Judge Causapin of defendants' many motions for extension of time to file answer on the very same day said motions were filed. A written motion without a Notice of Hearing was a mere scrap of paper.

In the 1st Indorsement [9] dated November 9, 2006, the Office of the Court Administrator (OCA), through then Court Administrator Christopher O. Lock, required Judge Causapin to comment on Atty. Bautista's complaint within 10 days from receipt.

On November 22, 2006, while the OCA was still awaiting Judge Causapin's comment to Atty. Bautista's complaint, said judge issued in Civil Case No. 1387-G a Resolution of Plaintiffs' Motion for Reconsideration of Order dated September 18, 2006, [10] wherein he clarified his reasons for dismissing Civil Case No. 1387-G:

The unsigned of the Verification and Certification of Non-Forum Shopping is the reason for the dismissal of the case without prejudice.

The Court considered also the fact that the Court cannot make a decision with finality in this case for partition since the names of the heirs of Baudelio Bautista were not on record as well as the heirs of Aurora T. Bautista represented by Reynaldo Mesina and since the Verification and Certification of Non Forum Shopping was not signed by two of the plaintiffs. The Court further considered the provisions of the Rules of Court in Rule 7, Section 5, paragraph 2 which provides "failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be caused for the dismissal of the case without prejudice unless otherwise provided upon motion and after hearing." x x x

The Court under the circumstances obtaining in the case at bar was of the opinion that dismissing the case without prejudice would make it easier and simpler for the plaintiffs to rectify the errors observed by the Court by refiling a new complaint.

x x x x

The claim of the plaintiffs that there was no hearing held to hear is in violation of Rule 7, Section 5 of the Rules of Court is without merit.

The defendants in their Answer pointed to the fact that the plaintiffs' verification of their complaint was defective.

The case was scheduled for Pre-trial on June 20, 2006 but the parties did not finish the Pre-trial scheduled for several times. Both parties filed on June 20, 2006, separate motions submitting the issues for resolution of the court, hence, the questioned resolution of the court finding the defendants not in default and dismissing plaintiffs' complaint without prejudice.

The order dismissing the complaint without prejudice was made so that the plaintiffs will be afforded time to correct whatever deficiencies very much apparent in their complaint as to parties to the case and as to the Verification and Certification of Non-Forum Shopping which according to Rule 7, Section 5 of the Rules of Court cannot be cured by amendment.

[11]

As regards the question of the appropriate jurisprudence, Judge Causapin held in his Resolution of November 22, 2006:

This Court cannot find any difference in the rule of Non-Forum shopping in the cases of Loquias vs. Office of the Ombudsman earlier cited and the case of Cavile et al. vs. Heirs of Clarita Cavile, et al., also herein before cited.

x x x x

The only difference between the two above-cited cases is that "the Supreme Court in the case of Cavile found an exception to the general rule and allowed an exception to the general rule because it found the signature of one of the petitioners Thomas George Cavile, Sr. as the signature of the other petitioners who were all named as petitioners in the case to be having a common interest as against all the defendants calling the situation as a "special circumstance" to allow substantial compliance with the mandatory requirement of Rule 7, Section 5 of the Rules of Court.

The circumstance of parties to the case present in the case of Cavile do not obtain in this case which by no stretch of imagination and of facts cannot apply to the case at bar because there is no indication that all the

parties-plaintiffs have a common interest against the defendants because not all the plaintiffs were named in the complaint. [12]

In the same Resolution, Judge Causapin defended his Orders granting defendants' motions for extension of time to file answer to the complaint, thus:

While it is true that all defendants['] Motion for Extension of Time to File Answer were furnished the plaintiffs, it is also true that all the motions of the defendants did not contain a setting of the motions for hearing.

The Court considered the motions for extension of time to file answer "motions" which the Court may act upon without prejudicing the rights of the adverse party as provided in Section 4, Rule 15 of the Rules of Court x x x.

The Court therefore Granted all the motions of extension of time filed by the defendants favorably. [13]

On December 6, 2006, Judge Causapin filed his Comment [14] to Atty. Bautista's complaint against him, essentially reiterating the ratiocinations in his Resolution dated November 22, 2006 in Civil Case No. 1387-G.

The OCA submitted on February 20, 2007 its Report [15] with the following recommendations:

Respectfully submitted for the consideration of the Honorable Court our recommendation that (a) the instant case be RE-DOCKETED as an administrative matter; and (b) respondent judge be FINED in the amount of P20,000.00, which shall be deducted from his accrued leave credits; in case such accrued leave credits be found insufficient to answer for the said fine, the respondent Judge shall pay the balance thereof to the Court.[16]

The Court re-docketed Atty. Bautista's Complaint as a regular administrative case and required the parties to manifest within 10 days from notice if they are willing to submit the matter for resolution based on the pleadings filed. [17] Even though both parties duly received notices, only Judge Causapin submitted such a Manifestation [18] on June 11, 2007. The Court finally deemed the case submitted for resolution based on the pleadings filed.

The Court finds that Judge Causapin is administratively liable for gross ignorance of the law and gross misconduct.

Rule 7, Section 5 of the Rules of Court - which already incorporated Supreme Court Circular No. 28-91, [19] as amended by Supreme Court Administrative Circular No. 04-94 [20] - requires the plaintiff or principal party to execute a certification against