

## THIRD DIVISION

**[ A.M. No. RTJ-11-2265 [Formerly A.M. OCA I.P.I. No. 08-2986-RTJ], September 21, 2011 ]**

**ATTY. EMMANUEL R. ANDAMO, COMPLAINANT, VS. JUDGE EDWIN G. LARIDA, JR., CLERK OF COURT STANLEE D. CALMA AND LEGAL RESEARCHER DIANA G. RUIZ, ALL OF REGIONAL TRIAL COURT, BRANCH 18 TAGAYTAY CITY, RESPONDENTS.**

### DECISION

#### MENDOZA, J.:

*Doubtless, the Court will never tolerate or condone any conduct, act or omission that would violate the norm of public accountability or diminish the people's faith in the judiciary. However, it will not hesitate to protect innocent court employees against any baseless accusation or administrative charge that only serve to disrupt rather than promote the orderly administration of justice.*<sup>[1]</sup>

At bench is an administrative case against respondents Judge Edwin G. Larida, Jr. (*Judge Larida, Jr.*), Clerk of Court Stanlee D. Calma (*Atty. Calma*) and Legal Researcher Diana G. Cruz (*LR Ruiz*), all of the Regional Trial Court (*RTC*), Branch 18, Tagaytay City.

#### **The Facts:**

In a Letter-Complaint dated August 26, 2008,<sup>[2]</sup> complainant Atty. Emmanuel R. Andamo (*complainant*), counsel for Cavite Rural Banking Corporation (*CRBC*), charged Judge Larida, Jr., Atty. Calma and LR Ruiz with ignorance of the law.

The Office of the Court Administrator (*OCA*) summarized the letter-complaint and its attachments as follows:

#### **I. Four (4) Petitions for issuance by the Clerk of Court of Certificates of Sale under Act 3135, as amended:**

1. Cavite Rural Banking Corporation, *petitioner*, Freddie P. Magno, *mortgagor*, filed on **28 December 2005** - (Re: application for extra-judicial foreclosure of mortgage, **19 March 2003**);
2. Cavite Rural Banking Corporation, *petitioner*, Sps. Sixto & Norma Tolentino, *mortgagors*, filed on **28 December 2005** - (Re: application for extra-judicial foreclosure of mortgage, **19 March**

**2003);**

3. Cavite Rural Banking Corporation, *petitioner*, Sps. Jonathan & Yolanda Peñaranda, *mortgagors*, filed on 28 December 2005 - (Re: application for extra-judicial foreclosure of mortgage, **01 October 2001**);
4. Cavite Rural Banking Corporation, *petitioner*, Celia Bay, *mortgagor*, filed on **28 December 2005** - (Re: application for extra-judicial foreclosure of mortgage, **19 March 2003**);

**II. Four (4) Ex-parte Joint Petitions for the issuance by the Honorable Trial Court of Writs of Possession under Act 3135, as amended:**

1. **TG-05-1103**, 08 August 2005, Sps. Babestil & Sancha Pendatum, *mortgagors*;
2. **TG-05-1104**, 24 November 2005, Josefina Villanueva, *mortgagor*;
3. **TG-05-1105**, 08 August 2005, Sps. Josefa Desipeda & Roqueno Calderon, *mortgagors*;
4. **TG-05-1141**, 28 December 2005, Norma Malabanan, *mortgagor*;

Complainant Emmanuel R. Andamo avers that the aforementioned Petitions have long been pending before the above-mentioned court saying that the ongoing hearings of said cases may be further extended by the respondent Judge Edwin G. Larida, Jr.

Anent *TG-05-1103 and TG-05-1105*, complainant Emmanuel R. Andamo argues that respondent Judge Edwin G. Larida, Jr. committed an error when he recognized the appearance and participation of Atty. Ireneo Anarna as lawyer for the oppositors to the said petitions in the hearings thereof, and thereafter gave due course to the two oppositions filed, both dated 15 November 2005. Respondent Judge Edwin G. Larida, Jr. committed another error when he failed to require the oppositors and Atty. Anarna the required guaranty bonds as mandated by Section 47 of Republic Act 8791.

Likewise, complainant Emmanuel R. Andamo bewails the issuance by respondent Judge Edwin G. Larida, Jr. of the Order dated 10 July 2008 in TG-05-1141 which denied complainant's Ex Parte Joint Motion for Early Resolution of Ex-Parte Joint Petitions for the Issuance of Writs of Possession (*in TG-05-1103, TG-05-1104, TG-05-1105, and TG-05-1141*) by ruling that the petitioner has yet to present evidence besides marking of exhibits. Complainant Emmanuel R. Andamo considers the said Order as contrary to Sections 7 and 8 of Act 3135 which mandates, among others, that the trial court shall issue the Writ of Possession regardless of opposition thereto.

In addition, complainant Emmanuel B. Andamo accuses respondent Diana Ruiz, as then Officer-in-Charge and Acting Clerk of Court, and Atty. Stanlee Calma, as the incumbent Clerk of Court, for not having "*lifted a finger, say, by placing the docket of those eight (8) long pending cases beside the other dockets already placed on the Hon. Court's working table by way of requesting his Honor for instruction or reminding his Honor of the urgency of action thereon, and notwithstanding Mrs. Ruiz['s] acknowledged receipt of the written instruction of the Hon. Supreme Court Administrator, dated November 17, 2005 as to how to act thereon....*"

Furthermore, complainant Emmanuel R. Andamo implicated Atty. Ireneo Anarna, charging the latter of ignorance on the provisions of Act 3135 and for obstruction of justice for filing misplaced oppositions to non-litigious ex-parte petitions for issuance of Writ of Possession and for not submitting the required oppositor's bond.<sup>[3]</sup>

The Joint Comment of respondents Atty. Calma and LR Ruiz dated October 3, 2007 was also summarized by the OCA, viz:

Respondents Calma and Ruiz aver that complainant Emmanuel R. Andamo mainly charges them for the non-issuance of certificates of sale in the abovementioned extra-judicial foreclosure proceedings which were filed by Pepito Abueg as Acting Manager of petitioner Cavite Rural Banking Corporation. Respondents Calma and Ruiz declare that in all the aforesaid applications for foreclosure, were undated certificates of sale signed by then Deputy Sheriff Victor Hernandez, and Clerk of Court Analiza Luna. However, these certificates do not bear the signature of approval of then Assisting Judge (and eventually Deputy Court Administrator) Reuben P. Dela Cruz.

Likewise, respondents Calma and Ruiz stress that there is an Order in an undocketed case, entitled *Cavite Rural Banking Corporation (then Cavite Development Bank), mortgagee v. Sps. Jonathan Peñaranda, Sps. Simon and Petronila Peji, Celia M. Bay, Sixto and Norma Tolentino and Freddie Magno, mortgagors*. This Order was issued by then Judge Reuben Dela Cruz on 17 March 2004, the dispositive portion of which reads:

*WHEREFORE, premises considered, the applications for extra-judicial foreclosure of mortgage of Spouses Jonathan and Yolanda Peñaranda; Spouses Simon and Petronila Peji; Celia M. Bay; Spouses Sixto and Norma Tolentino; and Freddie Magno are hereby DENIED for failure to comply with the requirements thereto.*

*SO ORDERED.*

Respondents Calma and Ruiz argue that the aforesaid applications for foreclosure, including the petition for issuance of certificates of sale, were properly brought before and deliberated by the court. Hence, taking into

consideration the issuance of the 17 March 2004 Order which they cannot alter or modify, respondents Calma and Ruiz aver that any issuance of certificates of sale on the subject applications for foreclosure cannot be done.

Respondents Calma and Ruiz further explicate that in a copy of the 17 March 2004 Order, there appears a signature over a handwritten name "*Sibano J. Sibero*" dated "*3-17-04*." Thus suggesting that he received a copy of said Order in behalf of Cavite Rural Banking Corporation. Hence, respondents Calma and Ruiz chide complainant Emmanuel R. Andamo for not mentioning in his complaint the 17 March 2004 Order. Furthermore, assuming *ex gratia argumenti* that complainant Emmanuel R. Andamo is not aware of said Order, respondents Calma and Ruiz still blame complainant Emmanuel R. Andamo that it took him almost seven (7) years before he made a follow up on the petitions for issuance of certificates of sale. If only their attention were called, respondents Calma and Ruiz aver that they would have searched for the records and inform complainant Emmanuel R. Andamo about the Order.

In addition, respondents Calma and Ruiz call as an unfair accusation complainant Emmanuel R. Andamo's imputation that they were the reason for the issuance of the 10 July 2008 Order. Respondents Calma and Ruiz argue that said Order is a judicial action and an exercise of discretion by the court to which they, being merely the Clerk of Court and the Legal Researcher, respectively, do not have any control. Moreover, they point out that the said Order was also given in the other petitions of complainant where there is no oppositor, thus, rendering complainants' perception as unfounded.

Lastly, while complainant Emmanuel R. Andamo charges respondents Calma and Ruiz with gross ignorance of Act No. 3135, respondents Calma and Ruiz find it ironic that complainant Emmanuel R. Andamo misses the entire point of the issuance of the 17 March 2004 Order which states complainant's failure to show compliance with the same Act No. 3135.<sup>[4]</sup>

After perusing the records, the OCA found that the allegations in the complaint and the defenses raised by respondents Atty. Calma and LR Ruiz presented conflicting factual issues that could not be categorically resolved merely on the basis of the records submitted. Judge Larida, Jr. even failed to submit his Comment on the matter. The OCA then pointed out the necessity for a formal investigation where the complainant and the respondents would be given the opportunity to adduce their respective evidence. Thus, it recommended that the administrative complaint against respondents be RE-DOCKETED as a regular administrative case, and the same be REFERRED to a Justice of the Court of Appeals (CA) for investigation, report and recommendation within sixty (60) days from receipt of the records.

In the Resolution dated January 19, 2011,<sup>[5]</sup> the Court resolved to: **(1) note** the letter-complaint of Atty. Emmanuel R. Andamo against respondents Judge Larida, Jr., Atty. Calma and LR Ruiz, for gross ignorance of the law relative to LRC Case Nos. 05-1105, 05-1104, 05-1103, and 05-1141 for the issuance of writs of possession under Act 3135, as amended, and the joint comment dated October 3, 2007 of

respondents Clerk of Court and Legal Researcher; **(2) re-docket** the instant administrative complaint; **(3) refer** this case to a Justice of the CA for investigation, report and recommendation within sixty (60) days from receipt of the records, and **direct** the Presiding Justice of the CA to raffle the case among the incumbent Justices of the CA who shall conduct the investigation and submit the required report and recommendation; and **(4) note** the Report dated June 18, 2010 of the OCA.

The case was eventually assigned to CA Associate Justice Amy C. Lazaro-Javier (*Justice Lazaro-Javier*) who, as directed by the Court, conducted the corresponding investigation on the complaint.

Notably, during the initial stage of the proceedings, Judge Larida, Jr. filed his Motion with Leave of Court to Admit Comment<sup>[6]</sup> dated April 14, 2011.<sup>[7]</sup> The same was granted in the interest of substantial justice.<sup>[8]</sup> In his Comment, respondent Judge Larida, Jr. denied that he delayed the resolution of complainant's petitions for issuance of writs of possession in TG-05-1103, TG-05-1104, TG-05-1105, and TG-05-1141. He claimed that he was unaware of unacted foreclosure proceedings pending before the Office of the Clerk of Court of RTC-Br. 18, Tagaytay City; that he never talked to complainant about the cases in his chambers; that it was only out of prudence and propriety that he acknowledged the oppositions to complainant's four (4) petitions as the said oppositions were necessarily part of the proceedings; and that he eventually set the petitions for hearing since there was a need for complainant to present evidence to support his entitlement to the four (4) writs prayed for.

Judge Larida, Jr. also informed the Court that per Supreme Court Resolution dated November 18, 2008,<sup>[9]</sup> he was detailed as Assisting Judge of RTC, Branch 74, Malabon City.

During the hearing on April 14, 2011, the parties agreed to submit their affidavits with attachments to constitute their testimony subject to cross-examination.<sup>[10]</sup>

Complainant did not submit an affidavit and opted to adopt his Letter-Complaint as his direct testimony. He further submitted several documentary evidence.<sup>[11]</sup>

For his part, Judge Larida, Jr. submitted his Judicial Affidavit dated April 18, 2011. He essentially iterated therein his allegations in his Comment. He also offered various documentary evidence<sup>[12]</sup> to refute the charges against him.

Atty. Calma and LR Ruiz likewise submitted their undated Joint Affidavit.

Atty. Calma emphasized that then Assisting Judge Reuben dela Cruz had long denied complainant's undocketed petitions for extrajudicial foreclosure in *CRBC v. Magno*, in his Order of March 17, 2004. The grounds for the said denial were: **(1)** non-payment of entry fees; **(2)** non-assignment of docket numbers; **(3)** absence of proofs of service to the sheriff and the parties; **(4)** non-attachment of photocopies of the official receipts to the cases; and **(5)** non-payment of sufficient amount of docket fees. Atty. Calma also disclosed that he was no longer connected with the judiciary as he had opted to engage in the private practice of law.