

EN BANC

[**A.M. No. RTJ-10-2225 (FORMERLY A.M. OCA I.P.I. NO. 09-3182-RTJ), September 06, 2011**]

ATTY. TOMAS ONG CABILI, COMPLAINANT, VS. JUDGE RASAD G. BALINDONG, ACTING PRESIDING JUDGE, RTC, BRANCH 8, MARAWI CITY, RESPONDENT.

D E C I S I O N

PER CURIAM:

We resolve the administrative complaint against respondent Acting Presiding Judge Rasad G. Balindong of the Regional Trial Court (RTC) of Marawi City, Branch 8, for *Gross Ignorance of the Law, Grave Abuse of Authority, Abuse of Discretion, and/or Grave Misconduct Prejudicial to the Interest of the Judicial Service*.^[1]

The Factual Antecedents

The antecedent facts, gathered from the records, are summarized below.

Civil Case No. 06-2954^[2] is an action for damages in **Branch 6 of the Iligan City RTC** against the Mindanao State University (MSU), *et al.*, arising from a vehicular accident that caused the death of Jesus Ledesma and physical injuries to several others.

On November 29, 1997, the Iligan City RTC rendered a Decision, holding the MSU liable for damages amounting to P2,726,189.90. The Court of Appeals (CA) affirmed the Iligan City RTC decision and the CA decision subsequently lapsed to finality. On January 19, 2009, Entry of Judgment was made.^[3]

On March 10, 2009, the Iligan City RTC issued a writ of execution.^[4] The MSU, however, failed to comply with the writ; thus, on March 24, 2009, Sheriff Gerard Peter Gaje served a Notice of Garnishment on the MSU's depository bank, the Land Bank of the Philippines (LBP), Marawi City Branch.^[5]

The Office of the Solicitor General opposed the motion for execution, albeit belatedly, in behalf of MSU.^[6] The Iligan City RTC denied the opposition in its March 31, 2009 Order. The MSU responded to the denial by filing on April 1, 2009 a petition with the Marawi City RTC, for prohibition and *mandamus* with an application for the issuance of a temporary restraining order (TRO) and/or preliminary injunction against the LBP and Sheriff Gaje.^[7] The petition of MSU was raffled to the RTC, Marawi City, Branch 8, presided by respondent Judge.

The respondent Judge set the hearing for the application for the issuance of a TRO

on April 8, 2009.^[8] After this hearing, the respondent Judge issued a TRO restraining Sheriff Gaje from garnishing P2,726,189.90 from MSU's LBP-Marawi City Branch account.^[9]

On April 17, 2009, the respondent Judge conducted a hearing on the application for the issuance of a writ of preliminary injunction. Thereafter, he required MSU to file a memorandum in support of its application for the issuance of a writ of preliminary injunction.^[10] On April 21, 2009, Sheriff Gaje moved to dismiss the case on the ground of lack of jurisdiction.^[11] The respondent Judge thereafter granted the motion and dismissed the case.^[12]

On May 8, 2009, complainant Atty. Tomas Ong Cabili, counsel of the private plaintiffs in Civil Case No. 06-2954, filed the complaint charging the respondent Judge with *Gross Ignorance of the Law, Grave Abuse of Authority, Abuse of Discretion, and/or Grave Misconduct Prejudicial to the Interest of the Judicial Service* for interfering with the order of a co-equal court, Branch 6 of the Iligan City RTC, by issuing the TRO to enjoin Sheriff Gaje from garnishing P2,726,189.90 from MSU's LBP-Marawi City Branch account.^[13]

The respondent Judge denied that he interfered with the order of Branch 6 of the Iligan City RTC.^[14] He explained that he merely gave the parties the opportunity to be heard and eventually dismissed the petition for lack of jurisdiction.^[15]

In its December 3, 2009 Report, the Office of the Court Administrator (OCA) found the respondent Judge guilty of gross ignorance of the law for violating the elementary rule of non-interference with the proceedings of a court of co-equal jurisdiction.^[16] **It recommended a fine of P40,000.00, noting that this is the respondent Judge's second offense.**^[17]

The Court resolved to re-docket the complaint as a regular administrative matter and to require the parties to manifest whether they were willing to submit the case for resolution on the basis of the pleadings/records on file.^[18]

Atty. Tomas Ong Cabili complied through his manifestation of April 19, 2010,^[19] stating that he learned from reliable sources that the respondent Judge is "basically a good Judge," and "an admonition will probably suffice as reminder to respondent not to repeat the same mistake in the future."^[20] The respondent Judge filed his manifestation on September 28, 2010.^[21]

The Court's Ruling

The Court finds the OCA's recommendation well-taken.

The doctrine of judicial stability or non-interference in the regular orders or judgments of a co-equal court is an elementary principle in the administration of justice:^[22] no court can interfere by injunction with the judgments or orders **of another court of concurrent jurisdiction** having the power to grant the relief sought by the injunction.^[23] The rationale for the rule is founded on the concept of jurisdiction: a court that acquires jurisdiction over the case and renders judgment

therein has jurisdiction over its judgment, **to the exclusion of all other coordinate courts, for its execution and over all its incidents, and to control, in furtherance of justice, the conduct of ministerial officers acting in connection with this judgment.**^[24]

Thus, we have repeatedly held that a case where an execution order has been issued is considered as **still pending**, so that all the proceedings on the execution are still proceedings in the suit.^[25] A court which issued a writ of execution has the inherent power, for the advancement of justice, to correct errors of its ministerial officers and to control its own processes.^[26] To hold otherwise would be to divide the jurisdiction of the appropriate forum in the resolution of incidents arising in execution proceedings. Splitting of jurisdiction is obnoxious to the orderly administration of justice.^[27]

Jurisprudence shows that a violation of this rule warrants the imposition of administrative sanctions.

In *Aquino, Sr. v. Valenciano*,^[28] the judge committed grave abuse of discretion for issuing a TRO that **interfered with or frustrated the implementation** of an order of another court of co-equal jurisdiction. In *Yau v. The Manila Banking Corporation*,^[29] the Court held that **undue interference** by one in the proceedings and processes of another is prohibited by law.

In *Coronado v. Rojas*,^[30] the judge was found liable for gross ignorance of the law when he proceeded to enjoin the final and executory decision of the Housing and Land Use Regulatory Board (HLURB) on the pretext that the temporary injunction and the writ of injunction he issued were not directed against the HLURB's writ of execution, but only against the manner of its execution. The Court noted that the judge **"cannot feign ignorance that the effect of the injunctive writ was to freeze the enforcement of the writ of execution, thus frustrating the lawful order of the HLURB, a co-equal body."**^[31]

In *Heirs of Simeon Piedad v. Estrera*,^[32] the Court penalized two judges for issuing a TRO against the execution of a demolition order issued by another co-equal court. The Court stressed that "when the respondents-judges acted on the application for the issuance of a TRO, **they were aware that they were acting on matters pertaining to a co-equal court**, namely, Branch 9 of the Cebu City RTC, which was already exercising jurisdiction over the subject matter in Civil Case No. 435-T. Nonetheless, respondent-judges **still opted to interfere with the order of a co-equal and coordinate court of concurrent jurisdiction**, in blatant disregard of the doctrine of judicial stability, a well-established axiom in adjective law."^[33]

To be sure, the law and the rules are not unaware that an issuing court may violate the law in issuing a writ of execution and have recognized that there should be a remedy against this violation. The remedy, however, is not the resort to another co-equal body but to a higher court with authority to nullify the action of the issuing court. This is precisely the judicial power that the 1987 Constitution, under Article VIII, Section 1, paragraph 2,^[34] speaks of and which this Court has operationalized through a petition for *certiorari*, under Rule 65 of the Rules of Court.^[35]

In the present case, the respondent Judge clearly ignored the principle of judicial stability by issuing a TRO to temporarily restrain^[36] Sheriff Gaje from enforcing the writ of execution issued by a co-equal court, Branch 6 of the Iligan City RTC, and from pursuing the garnishment of the amount of P2,726,189.90 from MSU's account with the LBP, Marawi City Branch. The respondent Judge was aware that he was acting on matters pertaining to the execution phase of a final decision of a co-equal and coordinate court since he even quoted MSU's allegations in his April 8, 2009 Order.^[37]

The respondent Judge should have refrained from acting on the petition because Branch 6 of the Iligan City RTC retains jurisdiction to rule on any question on the enforcement of the writ of execution. Section 16, Rule 39 of the Rules of Court (*terceria*), cited in the course of the Court's deliberations, finds no application to this case since this provision applies to claims made by a third person, **other than the judgment obligor or his agent**;^[38] a third-party claimant of a property under execution may file a claim with another court^[39] which, in the exercise of its own jurisdiction, may issue a temporary restraining order. **In this case, the petition for injunction before the respondent Judge was filed by MSU itself, the judgment obligor.** If Sheriff Gaje committed any irregularity or exceeded his authority in the enforcement of the writ, the proper recourse for MSU was to file a motion with, or an application for relief from, the same court which issued the decision, not from any other court,^[40] or to elevate the matter to the CA on a petition for *certiorari*.^[41] In this case, MSU filed the proper motion with the Iligan City RTC (the issuing court), but, upon denial, proceeded to seek recourse through another co-equal court presided over by the respondent Judge.

It is not a viable legal position to claim that a TRO against a writ of execution is issued against an erring sheriff, not against the issuing Judge. A TRO enjoining the enforceability of a writ addresses the writ itself, not merely the executing sheriff. The duty of a sheriff in enforcing writs is ministerial and not discretionary.^[42] As already mentioned above, the appropriate action is to assail the implementation of the writ before the issuing court in whose behalf the sheriff acts, and, upon failure, to seek redress through a higher judicial body. Significantly, MSU did file its opposition before the issuing court -- Iligan City RTC -- which denied this opposition.

That the respondent Judge subsequently rectified his error by eventually dismissing the petition before him for lack of jurisdiction is not a defense that the respondent Judge can use.^[43] His lack of familiarity with the rules in interfering with the acts of a co-equal court undermines public confidence in the judiciary through his demonstrated incompetence. In this case, he impressed upon the Iligan public that the kind of interference he exhibited can be done, even if only temporarily, *i.e.*, that an official act of the Iligan City RTC can be thwarted by going to the Marawi City RTC although they are co-equal courts. That the complaining lawyer, Atty. Tomas Ong Cabili, subsequently reversed course and manifested that the respondent Judge is "basically a good Judge,"^[44] and should only be reprimanded, cannot affect the respondent Judge's liability. This liability and the commensurate penalty do not depend on the complainant's *personal opinion* but on the facts he alleged and proved, and on the applicable law and jurisprudence.

When the law is sufficiently basic, a judge owes it to his office to know and to simply apply it. Anything less would be constitutive of gross ignorance of the law.^[45]

Under A.M. No. 01-8-10-SC or the Amendment to Rule 140 of the Rules of Court Re: Discipline of Justices and Judges, gross ignorance of the law is a serious charge, punishable by a fine of more than P20,000.00, but not exceeding P40,000.00, suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months, or dismissal from the service. Considering the attendant circumstances of this case, the Court -- after prolonged deliberations -- holds that a fine of P30,000.00 is the appropriate penalty. This imposition is an act of leniency as we can, if we so hold, rule for the maximum fine of P40,000.00 or for suspension since this is the respondent Judge's second offense.

WHEREFORE, premises considered, respondent Judge Rasad G. Balindong, Acting Presiding Judge, Regional Trial Court, Branch 8, Marawi City, is hereby **FOUND GUILTY** of Gross Ignorance of the Law and **FINED** in the amount of P30,000.00, with a stern **WARNING** that a repetition of the same will be dealt with more severely.

SO ORDERED.

Carpio, Velasco, Jr., Leonardo-De Castro, Brion, Peralta, Del Castillo, Villarama, Jr., and Mendoza, JJ., concur.

Bersamin, J., join the dissenting opinion of J. Abad.

Abad, J., please see dissenting opinion.

Perez, J., no part. Acted on matter as Cadm.

Sereno, J., on Leave.

Reyes, J., on Leave.

^[1] *Rollo*, pp. 2-9.

^[2] Entitled "*City of Iligan, represented by Mayor Alejo A. Yanez, Heirs of Jesus Ledesma, Jr., represented by Dexter Ledesma, Wendell Boque, Rodrigo Dayta, Mae Gayta, Landenila Jabonillo, Trifon Lloren, Alma Polo, Jeselda Maybituin, Leobert Pairat, Orchelita Ronquillo, Estrella Ratunil, Virginia Salinas, Lucia Sinanggote, Erwin Siangco, Cesar Cabatic and Alicia Sumapig v. Percing Gabriel and Mindanao State University, Government Service Insurance System, and Fidelity and Surety Company of the Philippines, Inc.*"

^[3] *Rollo*, pp. 10-11.

^[4] *Id.* at 12-14.

^[5] *Id.* at 15.

^[6] *Id.* at 16.