

THIRD DIVISION

[A.M. No. RTJ-11-2283 (Formerly OCA I.P.I. No. 10-3478-RTJ), November 16, 2011]

ATTY. LETICIA E. ALAL, COMPLAINANT, VS. JUDGE SOLIVER C. PERAS, PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 10, CEBU CITY; JUDGE SIMEON P. DUMDUM, JR., PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 7, CEBU CITY; JUDGE GENEROSA C. LABRA, PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 23, CEBU CITY; JEOFFREY S. JOAQUINO, CLERK OF COURT VII, REGIONAL TRIAL COURT, OFFICE OF THE CLERK OF COURT, CEBU CITY; EL CID R. CABALLES, SHERIFF IV, REGIONAL TRIAL COURT, OFFICE OF THE CLERK OF COURT, CEBU CITY, AND FORTUNATO T. VIOVICENTE, JR., SHERIFF IV, REGIONAL TRIAL COURT, BRANCH 10, CEBU CITY, RESPONDENTS.

DECISION

MENDOZA, J.:

Before this Court is the Verified Complaint^[1] with an Urgent Prayer for Transfer of Venue dated July 27, 2010 filed by Atty. Leticia E. Ala (*complainant*) charging all respondents with various violations relative to Civil Case No. CEB 32893, entitled *VTL Realty Corporation v. Atty. Leticia E. Ala* and docketed with the Regional Trial Court (RTC) of Cebu City.

The Facts

In May 2000, complainant was the counsel of Adelaida Alba-Chua (*Mrs. Chua*) in Civil Case No. Q-00-40681, entitled *Adelaida Alba-Chua v. Benson Go Chua*, for declaration of nullity of marriage at the RTC, Branch 107, Quezon City (QC), presided by then Judge Rosalina L. Luna-Pison (*Judge Pison*). In 2002, complainant was replaced as counsel but recognized as Intervenor in the said case.

On August 12, 2003, Judge Pison issued a Partial Judgment^[2] based on a compromise agreement regarding the property matters of the spouses. It was agreed that Benson Go Chua (*Chua*) would assume the payment of complainant's professional fee as Mrs. Chua's counsel, as follows:

6. The attorney's fees of Atty. Ala although computed on the basis of her 10-percent claim against the 30% share of petitioner shall be paid, assumed and collected from the share exclusively belonging to Mr. Benson Chua, but the manner of payment of which shall be subject to further discussion between Atty. Ala and respondent, Benson Chua.^[3]

Complainant filed her Motion for Execution of the Partial Judgment, which was

granted by the Court in its Resolution^[4] dated March 29, 2004, which ordered the issuance of a writ of execution in favor of complainant for the amount of P3,015,203.67. In the same resolution, the court cashier was also ordered to deliver to complainant the amount of P164,000.00, which had been earlier deposited by Chua. Accordingly, the Writ of Execution was issued and was partially implemented with the delivery of the amount of P164,000.00 to complaints as partial payment of her professional fee.

Meanwhile, upon motion by Chua, Judge Pison inhibited herself front the case. In June 2004, the case was re-raffled to RTC, Branch 94, QC, presided by Judge Romeo F. Zamora (*Judge Zamora*). In his Resolution^[5] dated July 11, 2005, Judge Zamora reiterated the finality of the Partial Judgment and the Resolution granting the Motion for Execution issued by Judge Pison, and directed the issuance of another Writ of Execution for the balance of P2,851,203.67 in favor of complainant. Accordingly, an alias Writ of Execution^[6] was issued on July 14, 2005.

On September 7, 2005, Sheriff Fernando Regino of the RTC, Branch 94, QC made a levy on three motor vehicles owned by Chua in Cebu City. The three vehicles were later left with the CIDG, Cebu City, for safekeeping and were eventually released to the effective possession of Chua.

Earlier, on July 18, 2005, the alias Writ of Execution was implemented by the Office of the Ex-Oficio Sheriff of the RTC of Cebu City. The implementing sheriff, respondent El Cid Caballes (*respondent Sheriff Caballes*), however, failed in his first attempt to make a levy. Subsequent attempts at implementation of the writ also produced negative results. Later, upon a tip that Chua was attempting to sell the conjugal home of the spouses in Cebu City, respondent Sheriff Caballes was able to levy an execution on the conjugal home covered by Transfer Certificate of Title (TCT) No. 110723, registered in the name of Chua. The levy was annotated on the title. The property was then scheduled to be sold by public auction on November 9, 2006.

On November 3, 2006, before the scheduled public auction of the conjugal home, an independent action was instituted, docketed as Civil Case No. CEB-32893, entitled *VTL Realty Corporation v. Atty. Leticia E. Ala, et al.* for Injunction and Damages with an Application for Temporary Restraining Order (TRO). The case was filed to enjoin the public auction set on November 9, 2006 on the ground that the conjugal home was no longer owned by Chua but by VTL Realty Corporation (VTL), as it had been the subject of a foreclosed mortgage sold by Metrobank to VTL on November 26, 2002. The case was first raffled to RTC, Branch 7, Cebu City, presided over by respondent Judge Simeon P. Dumdum, Jr. (*respondent Judge Dumdum*), On November 3, 2006, respondent Judge Dumdum issued a 72-hour TRO enjoining the execution sale by public auction.

On November 9, 2006, after the lapse of the 72-hour TRO and pursuant to the Writ of Execution issued in the nullity case, the subject property was sold and awarded to complainant as the highest bidder. On November 17, 2006, the sale was registered with the Register of Deeds in Cebu City.

In the meantime, Civil Case No. CEB-32893 was re-raffled to RTC, Branch 23, Cebu City, presided by respondent Judge Generosa G. Labra (*respondent Judge Labra*).

Complainant filed her Motion to Dismiss dated November 13, 2006 on the grounds that the Certificate of Sale of the foreclosure was falsified and that the alleged foreclosure was only registered with the Register of Deeds after the levy of execution in favor of complainant. VTL filed its Amended Complaint dated November 18, 2006 for Declaration of Nullity of the Execution Sale. In response, complainant filed her Motion to Dismiss the Amended Complaint for forum-shopping, interference in the processes of a co-equal court, and for lack of cause of action. Respondent Judge Labra denied the complainant's motion in the Order^[7] dated April 12, 2007.

In May 2007, respondent Judge Labra inhibited herself upon motion by complainant. The case was re-raffled to the RTC, Branch 10, Cebu City, presided by respondent Judge Soliver C. Peras (*respondent Judge Peras*). In his Order dated November, 16, 2007, respondent Judge Peras directed the issuance of a writ of preliminary injunction to enjoin the issuance of a new TCT in favor of complainant. It was later issued on December 3, 2007. Complainant filed motions and manifestations questioning whether the injunction bond was paid, which remained pending before the said court.

The marriage nullity case, in the meantime, had been re-raffled from one sala to another since then. After Judge Zamora inhibited himself from the case, Judge Ma. Elisa Sempio-Dy of RTC, Branch 225, QC, took over until she was made to recuse herself upon motion by Chua. Thereafter, the case was re-raffled to RTC, Branch 89, QC presided over by Judge Elsa A. De Guzman, and eventually to RTC, Branch 102, QC, whose presiding judge, Judge Lourdes A. Giron (*Judge Giron*), directed the consolidation of ownership of the property under TCT No. 110723 in favor of complainant.

In an Order^[8] also dated December 3, 2007, the same day the Writ of Preliminary Injunction was issued by respondent Judge Peras, as more than one year had elapsed from the execution sale without redemption, Judge Giron directed the issuance of the Sheriff's Final Certificate of Sale and a Writ of Possession in favor of complainant, and directed the Register of Deeds to cancel TCT No. 110723 and issue a new title in complainant's name. Accordingly, the Sheriff's Final Certificate of Sale^[9] and the Writ of Possession^[10] were issued on December 7 and 10, 2007, respectively.

On December 11, 2007, Chua was served the Notice to Vacate.^[11] On December 27, 2007, Chua was removed from the subject property and a turnover of possession was effected.^[12]

As a result, Chua filed a petition for certiorari with the Court of Appeals (CA) docketed as CA G.R. SP No. 98597, questioning the execution sale conducted on November 9, 2006. The CA dismissed the petition, which impelled Chua to file a petition for review with this Court docketed as G.R. No. 183791. The Court, in its October 6, 2008 Resolution, denied the petition, which became final and executory with an Entry of Judgment^[13] dated April 17, 2009.

On the basis of the said resolution, complainant filed another Motion to Dismiss in the injunction case, which was denied by respondent Judge Peras in his Order^[14]

dated July 7, 2010.

In view of the above factual background, complainant filed the present complaint against the respondents on the following grounds:

1. **Respondent Judge Peras**, Presiding Judge of RTC, Branch 10. Cebu City for:

- a. Insubordination in flagrantly disobeying the "hierarchy of courts" doctrine and trivializing this Court's judicial review powers in failing to recognize its ruling in G.R. No. 183791 , affirming the execution sale in favor of complainant;
- b. Gross Ignorance of the Law in exercising jurisdiction over a case for declaration of nullity of execution sale conducted under the direction of the RTC of Quezon City, which is a court of concurrent jurisdiction;
- c. Grave Abuse of Discretion and Gross Ignorance of the Law in enjoining the RTC QC Order which directed the Register of Deeds of Cebu City to cancel TCT No. 110723 and to issue a new title in the name of complainant;
- d. Dereliction of Duty in not resolving pending incidents within the regulatory period, and in not resolving the many inquiries of complainant in relation to the non-payment of the injunction bond;
- e. Bias and Partiality in insulating respondent Clerk of Court Atty. Jeoffrey S. Joaquino (*respondent Clerk of Court Joaquino*), respondent Sheriff Fortunato S. Viovicente (*respondent Sheriff Viovicente*), and VTL, from inquiries made by complainant as to lack of service of the Writ of Preliminary Injunction, and the nonpayment of the injunction bond and the clerk's commissions in relation to the trumped-up foreclosure sale;
- f. Refusing to dissolve the Writ of Preliminary Injunction despite non-payment of injunction bond, breach of injunctive relief by surreptitiously filing for consolidation of title by VTL, and in recognizing a patently trumped-up foreclosure sale based on three falsified certificates of sale where the clerk's commissions were not paid; and
- g. Pre-judging the, outcome of the injunction case in the Order dated July 7, 2010, which stated:

Although the Court commiserate[s] with defendant Ala's predicament, it cannot likewise totally disregard plaintiffs rights as a purchaser of a property in the extra-judicial foreclosure sale.^[15]

2. **Respondent Judge Dumdum**, Presiding Judge of RTC, Branch 7, Cebu City

for:

- a. Gross Ignorance of the Law in exercising jurisdiction over the case for injunction, and issuing a TRO dated November 6, 2006 enjoining the execution sale directed by the RTC of Quezon City, which is a court of concurrent jurisdiction;
- b. Bias and Partiality in allowing the use of his official stamp pad by Chua and Peter Po on a falsified certificate of sale dated November 26, 2002 to give it a semblance of regularity; and
- c. Dishonesty in approving another version of a falsified certificate of sale dated January 3, 2003 under the rubric "Executive Judge" while he was not yet the executive judge of the RTC of Cebu City.

3. **Respondent Judge Labra**, Presiding Judge of RTC, Branch 23, Cebu City for:

- a. Gross Ignorance of the Law in exercising jurisdiction in the injunction case that was later amended to a case for declaration of nullity of execution sale which was directed by the, RTC of Quezon City, which is a court of concurrent jurisdiction;
- b. Gross Ignorance of the Law and rules on amendment of complaints, formal offer of evidence and crafting of orders, and in failing to rule on the admissibility of complainant's formal offer of evidence on the motion to dismiss; and
- c. Bias and Partiality in flagrantly glossing over the falsified certificates of sale and falsified annotations on TCT No. 110723 that were brought to her attention, and for copying the arguments and authorities of adverse counsel to deny complainant's motion to dismiss.

4. Joeffrey S. Joaquino (**Respondent Clerk of Court Joaquino**), Executive Clerk of Court and Ex-Oficio Sheriff of the RTC of Cebu City for:

- a. Gross Incompetence, Dereliction of Duty, and Dishonesty in recommending the approval of an injunction bond, issuing a Writ of Preliminary Injunction without the payment of the injunction bond, and ignoring all formal inquiries in relation thereto;
- b. Usurpation of the duties of the regular Branch Clerk of Court of RTC, Branch 10 of Cebu City in the processing and issuance of the Writ of Preliminary Injunction;
- c. Gross Dishonesty in recommending for approval a falsified certificate of sale dated January 6, 2003 to "Executive Judge Dumdum" who was not yet an executive judge at the time, without the payment of the clerk's