

FIRST DIVISION

[A.M. No. RTJ-06-2025 (Formerly OCA IPI No. 06-2472-RTJ), April 05, 2010]

**CECILIA GADRINAB SENARLO, COMPLAINANT, VS. JUDGE
MAXIMO G.W. PADERANGA, RTC, BRANCH 38, CAGAYAN DE ORO
CITY, RESPONDENT.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:

Before the Court is an administrative Complaint^[1] filed by complainant Cecilia Gadrinab Senarlo (Senarlo) against Judge Maximo G.W. Paderanga (Judge Paderanga), Presiding Judge of the Regional Trial Court (RTC), Branch 38, Cagayan de Oro City, for gross ignorance of the law, knowingly rendering unjust judgment, and grave abuse of authority, relative to Civil Case No. 2005-160, captioned *Lorna Cabarrubias Bacalzo, represented by Cecilia Gadrinab Senarlo v. The Archbishop of the Roman Catholic Church of Cagayan de Oro City*.

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

Civil Case No. 2005-160, an action for reconveyance and quieting of title, was instituted by Lorna Cabarrubias Bacalzo (Bacalzo) against the Archbishop of the Roman Catholic Church of Cagayan de Oro City (the Archbishop) before the RTC, presided over by Judge Paderanga. Bacalzo was seeking to recover a piece of land, measuring about 350 square meters, which her predecessor-in-interest had previously donated to the Roman Catholic Church, since allegedly the said property was no longer being devoted for the purpose it was donated. Considering that Bacalzo was already residing in the United States of America (U.S.A.), she was represented by her granddaughter, Senarlo, in Civil Case No. 2005-160.

In an Order^[2] dated October 7, 2005, Judge Paderanga referred Civil Case No. 2005-160 for mediation to the Philippine Mediation Center (PMC), in accordance with Rule 16, Section 2(A) of the 1997 Rules of Civil Procedure and the Second Revised Guidelines for the Implementation of Mediation Proceedings.^[3] Judge Paderanga directed the parties in Civil Case No. 2005-160 to proceed and personally appear, with or without their respective counsels, for mediation proceedings, on November 4, 2005 at 2:00 p.m. at the PMC Unit Room 217, 2/F Hall of Justice.

On October 14, 2005, President Gloria Macapagal-Arroyo, through Executive Secretary Eduardo R. Ermita, issued Presidential Proclamation No. 933 declaring November 4, 2005 a regular holiday, *i.e.*, non-working holiday, in celebration of the Feast of Ramadan (*Eid'l Fitr*).

In view of the foregoing development, Bacalzo, who arrived from the U.S.A., went with her counsel to the PMC on November 7, 2005, instead of November 4, 2005.

Bacalzo and her counsel signed on even date a Request for Resetting of Mediation Conference to November 15, 2005. The Request for Resetting was not signed by the Archbishop and his counsel, and written on the lines allotted for their signatures was the phrase "failed to appear." The Request for Resetting was approved by Mediator Atty. Zoilo Antonio G. Velez (Atty. Velez) and noted by Daily Supervisor Ariel V. Lamco.^[4] Bacalzo and her counsel subsequently executed another undated Request^[5] for Resetting of Mediation Conference to November 29, 2005. The second Request for Resetting, again unsigned by the Archbishop and his counsel, who once more failed to appear for mediation, was likewise approved by Atty. Velez.

Regardless of the resetting of the PMC mediation proceedings, Judge Paderanga issued on November 9, 2005 an Order,^[6] which read in part:

The mediator has reported that both parties failed to appear at the Philippine Mediation Center on November 4, 2005, at 2:00 p.m. for the mediation conference.

For failure of the parties to obey the Order of the Court and to appear at the mediation conference on November 4, 2005 at 2:00 p.m., the plaintiff is declared non-suited and this case is hereby ordered DISMISSED.

Consequently, Senarlo filed the present administrative Complaint against Judge Paderanga for (a) Gross Ignorance of the Law and Knowingly Rendering an Unjust Judgment for issuing the Order dated November 9, 2005, without regard to the fact that November 4, 2005, the date when the mediation conference was first scheduled, was declared a holiday; and (b) Grave Abuse of Authority, for issuing the said Order in the absence of the corresponding Mediator's Report.

The Office of the Court Administrator (OCA), through then Court Administrator, now Associate Justice Presbitero J. Velasco, Jr., required Judge Paderanga to comment on Senarlo's complaint within ten days from receipt.^[7]

In his Comment,^[8] Judge Paderanga denied the allegations in Senarlo's Complaint, insisting that he did not dismiss Civil Case No. 2005-160 precipitately and without any basis or out of bias and hostility.

Judge Paderanga maintained that his actions in Civil Case No. 2005-160 were proper. He pointed out that when he issued the Order dated October 7, 2005, setting the mediation conference in Civil Case No. 2005-160 on November 4, 2005, the latter date had not yet been declared a holiday. Being busy with daily court trials, Judge Paderanga explained that he could not keep track of all events, nor monitor in detail the development of cases which he heard, including those he referred to PMC for mediation. Judge Paderanga attached a Manifestation (Mediator's Report)^[9] dated November 7, 2005, signed by Mediator Emmanuel G. Talipan and noted by Daily Supervisor Lamco, stating:

1. THAT a Court Order dated 7 October 2005, required the parties to immediately appear before the Philippine Mediation Center Unit

Room 217, 2/F Hall of Justice, Cagayan de Oro City on 04 November 2005 at 2:00 P.M., however [erasures] failed to appear.

2. THAT in conformity with our mandate to exert effort to reach for a possible settlement, the undersigned would like to seek the courts assistance in securing the appearance of

- 1.) LORNA CABARRUBIAS BACALZO, represented by CECILIA GADRINAB B. SENARLO

- 2.) THE ARCHBISHOP OF CAGAYAN DE ORO CITY

Before the Philippine Mediation Center, Cagayan de Oro City on 21 November 2005 - 3:00 P.M. and to pray for appropriate sanction(s) that this Honorable Court may impose for non-appearance and refusal to obey Court Order and processes.

Said Mediator's Report was received by the RTC on November 8, 2005. Judge Paderanga claimed to have been misled by the above-quoted Mediator's Report into believing that both parties failed to appear during the mediation conference on November 4, 2005. He considered the purported non-appearance of Bacalzo at the mediation proceedings as lack of interest to pursue the case.

Judge Paderanga additionally argued that Senarlo could have availed herself of other judicial remedies, such as the filing of a timely motion for reconsideration, instead of the present administrative case. Because Senarlo failed to file a motion for reconsideration of the November 9, 2005 Order, the dismissal of Civil Case No. 2005-160 already attained finality.

On September 12, 2006, the OCA submitted its Report^[10] with the following recommendations:

1. The instant complaint be RE-DOCKETED as a regular administrative case;
2. Respondent Judge Maximo G.W. Paderangga be found GUILTY of Grave Abuse of Authority and accordingly meted a FINE of Ten Thousand Pesos; [and]
3. The rest of the charges be DISMISSED for lack of merit.

The Court re-docketed Senarlo's Complaint as a regular administrative case and required the parties to manifest within ten days from notice if they are willing to submit the matter for resolution based on the pleadings filed.^[11] Even though both parties duly received notices, it was only Judge Paderanga who submitted his Manifestation^[12] on November 20, 2006 regarding his willingness to submit the case for resolution on the pleadings.^[13] Senarlo filed instead an Urgent Motion for Resolution^[14] and Motion for Resolution^[15] on July 2, 2007 and May 21, 2008,

respectively. The Court finally deemed the case submitted for resolution based on the pleadings filed.

The pivotal issue to be resolved in this case is whether Judge Paderanga is liable for grave abuse of authority and gross ignorance of the law in issuing the Order dated November 9, 2005 which declared Bacalzo non-suited and dismissed Civil Case No. 2005-160.

The Court, although finding that Judge Paderanga is administratively liable for issuing the assailed Order, does not fully agree with the findings and conclusions of the OCA.

To the eyes of this Court, Judge Paderanga is not guilty of gross ignorance of the law and procedure. To be held liable for gross ignorance of the law, the judge must be shown to have committed an error that was "gross or patent, deliberate or malicious." Also administratively liable for gross ignorance of the law is a judge who - shown to have been motivated by bad faith, fraud, dishonesty or corruption - ignored, contradicted or failed to apply settled law and jurisprudence.^[16] Such is not the case presently before this Court.

A.M. No. 01-10-5-SC-PHILJA dated 16 October 2001, otherwise known as the Second Revised Guidelines for the Implementation of Mediation Proceedings and Section 5, Rule 18 of the Rules of Court grant judges the discretion to dismiss an action for failure of the plaintiff to appear at mediation proceedings.

A.M. No. 01-10-5-SC-PHILJA considers mediation a part of pre-trial and provides sanctions for the absent party:

12. Sanctions

Since **mediation is part of Pre-Trial**, the trial court shall impose the appropriate sanction including but not limited to **censure, reprimand, contempt** and such **sanctions as are provided under the Rules of Court for failure to appear for pre-trial**, in case any or both of the parties absent himself/themselves, or for abusive conduct during mediation proceedings. (Emphases ours.)

Under Rule 18, Section 5 of the Rules of Court, failure of the plaintiff to appear at pre-trial shall be cause for dismissal of the action:

SEC. 5. Effect of failure to appear. - The failure of the plaintiff to appear when so required pursuant to the next preceding section shall be cause for dismissal of the action. The dismissal shall be with prejudice, unless otherwise ordered by the court. A similar failure on the part of the defendant shall be cause to allow the plaintiff to present his evidence *ex parte* and the court to render judgment on the basis thereof. (Emphasis ours.)

As may be gleaned from above, there was ostensible legal basis for Judge