THIRD DIVISION

[A.M. No. RTJ-07-2075, April 18, 2008]

ATTY. UBALDINO A. LACUROM, Complainant, vs. JUDGE JUANITA C. TIENZO, Regional Trial Court, Branch 27, Cabanatuan City, Respondent.

D E C I S I O N

NACHURA, J.:

For resolution is an administrative complaint charging Judge Juanita C. Tienzo of the Regional Trial Court (RTC), Branch 27, Cabanatuan City, with Gross Ignorance of the Law or Procedure in connection with two (2) separate cases: one is for Replevin or Sum of Money, while the other is an appealed case of Unlawful Detainer from the Municipal Trial Court in Cities (MTCC), Branch 3, Cabanatuan City.

On the first charge, complainant, Atty. Ubaldino A. Lacurom, assails the issuance by respondent judge of a writ of replevin in Civil Case No. 4971 entitled "*Roy G. Claudio and Michael Allan Parungao v. Carlos Dy and John Doe*," for violation of Sections 2(a),[1] 6,[2] and 7,[3] Rule 60 of the Rules of Court.

According to complainant, respondent judge should have desisted from issuing the writ as plaintiff Claudio in Civil Case No. 4971 failed to prove that he is the owner of the subject vehicle, and consequently entitled to its possession. Complainant points out that Claudio admits the sale of the subject vehicle to defendant, and the same had been the object of several conveyances to third persons.

In addition, complainant avers that respondent judge delayed the release of the property despite a third-party claim thereon. Apparently, respondent judge granted plaintiffs an extension of time within which to post the required indemnity bond. As such, the subject vehicle remained with the sheriff in excess of the five-day period provided in Section 6, Rule 60 of the Rules of Court.

Thereafter, respondent judge, instead of ordering the return of the vehicle to the third-party claimant, issued an order not only granting plaintiffs' motion for delivery of the vehicle, but also setting aside an earlier order which required plaintiffs to post an indemnity bond.

On the second charge relating to Civil Case No. 4884, complainant alleges that respondent judge rendered a Decision[4] in violation of the constitutional mandate to state clearly and distinctly the facts and the law on which it is based, and Section 1, Rule 36 of the Rules of Court echoing the same requisite.[5]

Complainant further charges that respondent judge issued an order written in the English language, and in a fashion that does not befit an RTC Judge which thereby demonstrates her incompetence and lack of diligence. However, complainant

discloses that the inclusion of the foregoing matter in his administrative complaint was merely at the behest of his former colleague, Feliciano Buenaventura, a retired presiding judge of RTC, Branch 27, Cabanatuan City.

In response, respondent judge vehemently opposed, and prayed for the outright dismissal of, the complaint because:

1. (That) the complainant has no legal personality to commence the instant administrative complaint;

2. (That) the complainant has no cause of action against the respondent considering that the complaint is legally and factually baseless, perjurious in nature, malicious and only intends to harass the [respondent];

3. The complainant has no locus standi to raise the second issue considering he is not a person directly affected by the Decision of the Court;

4. (That) the Decision of the Court dated July 21, 2005 is made in accordance with Section 24 of the Interim Rules and Guidelines of BP Blg. 129 and the ruling of the Honorable Supreme Court in the case of *Francisco v. Permskul*, G.R. No. 81006 dated May 12, 1989, thus it is lawful.[6]

Corollary to the proffered grounds for dismissal of the complaint, respondent judge argues that complainant is not the real party in interest in Civil Case No. 4971. She posits that the proper parties are the defendants-litigants whose interests were ostensibly aggrieved and prejudiced by the Order of Release of the vehicle in favor of the plaintiffs-applicants, and not the complainant who has no apparent authority[7] to institute the administrative complaint against her.

Respondent judge next contends that the issuance of the writ of replevin was done in the discharge of her judicial functions which are presumed to have been regularly performed. Accordingly, she claims that the assailed order cannot be used as ground for an administrative case against her in the absence of malice, dishonesty and corrupt motive on her part. Under the circumstances, even if the Order was erroneously issued, complainant's proper remedy is to file a petition for *certiorari* or an appeal, as may be applicable, and not the instant administrative case.

Respondent judge likewise points out that the complaint contained false statements considering complainant's categorical admission that he had strongly opposed the release of the property to plaintiff Claudio.

As regards the diminutive decision in Civil Case No. 4884, respondent judge again questions complainant's *locus standi* to institute the complaint. She emphasizes that Atty. Buenaventura did not, in fact, appeal the decision to the appellate court. At any rate, respondent judge submits that her decision is in accord with the ruling in *Francisco v. Permskul*[8] wherein this Court sustained the validity of memorandum decisions.

In his reply, complainant refuted respondent judge's arguments, contending that the

rule on real party-in-interest is not applicable to administrative cases. Section 1, Rule 140 of the Rules of Court[9] permits a party who has personal knowledge of the facts alleged in the complaint to lodge administrative charges against an erring judge. In all, complainant reiterated the allegations in his complaint.

Evaluating the parties' respective claims, the Office of the Court Administrator (OCA) considered the complaint partly meritorious. Anent the first charge, the OCA found that the error imputed to the respondent judge in her challenged order is of a judicial character. Essentially, complainant assails respondent judge's interpretation of the law and rules of procedure on Replevin. The OCA asserted that complainant's remedy lies with the courts for the appropriate corrective judicial action, and not in this administrative complaint.

On the second issue pertaining to the minute decision in Civil Case No. 4884, the OCA noted that if the decision had already attained finality, then the absence of an appeal evinces the parties' satisfaction with the judgment. Otherwise, a challenge thereto would have been brought before the higher courts. Accordingly, the OCA believed that complainant lacks standing to question the said decision.

Nevertheless, the OCA found respondent judge guilty of gross ignorance of the law or procedure in her blatant disregard of the constitutional mandate that no decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based.

We agree with the OCA.

After a careful scrutiny of the records, we sustain the OCA's finding that the charge respecting the erroneous issuance of the writ of replevin in Civil Case No. 4971 is clearly judicial in nature. The instant administrative complaint is not the proper remedy to assail the legality of respondent judge's order. In this regard, we have previously held that where sufficient judicial remedies exist, the filing of an administrative complaint is not the proper recourse to correct a judge's allegedly erroneous act.[10]

Indeed, as a matter of public policy, not every error or mistake committed by judges in the performance of their official duties renders them administratively liable.[11] In the absence of fraud, dishonesty or deliberate intent to do an injustice, acts done in their official capacity, even though erroneous, do not always constitute misconduct.[12]

Only errors that are tainted with fraud, corruption or malice may be the subject of disciplinary actions. For administrative liability to attach, respondent must be shown to have been moved by bad faith, dishonesty, hatred or some other similar motive. Verily, judges may not be held administratively liable for any of their official acts, no matter how erroneous, as long as they acted in good faith.[13]

However, with respect to the decision in Civil Case No. 4884, we find respondent judge administratively liable therefor.

In that case, respondent judge ruled in this wise, to wit:

D E C I S I O N

> After a cursory study of this appealed case of Unlawful Detainer, this Court finds that the procedural due process [has] been complied with under the Summary Procedure. The Decision of the Lower Court cannot be disturbed by this Court.
>
> WHEREFORE, the Decision of the said Lower Court, MTCC, Branch III, Cabanatuan City, is hereby AFFIRMED en toto.
>
> SO ORDERED.
>
> Cabanatuan City, July 21, 2005.

The quoted decision does not measure up to the clear constitutional command:[14]

> SEC. 14. No decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based.

Section 1, Rule 36 of the Rules of Court likewise reflects the foregoing mandate, thus:

> SECTION 1. *Rendition of judgments and final orders*. – A judgment or final order determining the merits of the case shall be in writing personally and directly prepared by the judge, stating clearly and distinctly the facts and the law on which it is based, signed by him, and filed with the clerk of court.

Notwithstanding this unequivocal rule, respondent judge insists that her decision is in accord with our holding in *Francisco v. Permskul*.[15]

We reject respondent judge's insistence. Although we have sustained the validity of memorandum decisions on several occasions,[16] we laid down specific requirements for the proper utility thereof:

> The memorandum decision, to be valid, cannot incorporate the findings of fact and the conclusions of law of the lower court only by *remote* reference, which is to say that the challenged decision is not easily and immediately available to the person reading the memorandum decision. For the incorporation by reference to be allowed, it must provide for *direct* access to the facts and the law being adopted, which must be contained in a statement *attached* to the said decision. In other words, the memorandum decision authorized under Section 40 of B.P. Blg. 129 should actually embody the findings of fact and conclusions of law of the lower court in an annex attached to and made an indispensable part of the decision.
>
> It is expected that this requirement will allay suspicion that no study was made of the decision of the lower court and that its decision was merely affirmed without a proper examination of the facts and law on which it is based. The *proximity* at least of the annexed statement should suggest that such an examination has been undertaken. It is, of course, also understood that the decision being adopted should, to begin with, comply