

## THIRD DIVISION

**[ A.M. No. RTJ-07-2036 (Formerly OCA IPI No. 07-2543-RTJ), August 20, 2008 ]**

**JESUS G. CRISOLOGO, COMPLAINANT, VS. JUDGE MARIVIC TRABAJO DARAY, REGIONAL TRIAL COURT, DIGOS CITY, DAVAO DEL SUR, RESPONDENT.**

### DECISION

**NACHURA, J.:**

In a Complaint<sup>[1]</sup> dated September 1, 2006, complainant Jesus G. Crisologo charged respondent Judge Marivic Trabajo Daray, in her capacity as Acting Presiding Judge of the Regional Trial Court (RTC) in Digos City, Branch 19, with Gross Misconduct, Undue Delay in Rendering a Decision or Order and Gross Ignorance of the Law of Procedure relative to the denial of the Motion for Intervention filed by complainant in Civil Case Nos. 3220 and 3387 respectively entitled "*Marina Crisologo, Jr. vs. Victor Callao and Rural Bank of Tagum, Inc.*" and "*Salvador Crisologo vs. Marina Crisologo, Jr. and Rural Bank of Tagum, Inc.*"

As found by the Report of the Investigating Justice of the Court of Appeals (CA), the following circumstances prompted the complainant to file this administrative complaint:

On May 23, 1995, Marina Crisologo, Jr. filed a complaint to Declare Documents Null and Void and Set Aside Auction Sale and Attorney's Fees against Victor Callao and the Rural Bank of Tagum, Inc. (RBTI). The case docketed as Civil Case No. 3220 was raffled to RTC-Branch 19 in Digos City.

Afterward, on September 10, 1996, Salvador Crisologo filed an action for Annulment of Real Estate Mortgage, Documents, Reconveyance, Damages and Attorney's Fees against Marina, Jr. and RBTI. The case docketed as Civil Case No. 3387 was raffled to RTC-Branch 19 and consolidated with Civil Case No. 3220.

On January 22, 2004, before trial on the merits can be had in the civil cases, Marina, Jr., Salvador, Victor and RBTI submitted a Compromise Agreement with RTC-Branch 19, which was then presided over in an acting capacity by respondent Judge. In said compromise agreement, Marina, Jr. and Salvador ceded full ownership of the subject land covered by Transfer Certificate of Title (TCT) No. T-22236, including all improvements found thereon, in favor of RBTI.

On February 13, 2004, soon after being informed of the existence of the compromise agreement, complainant Jesus G. Crisologo and his sister

Carolina C. Abrina, represented by Atty. Rodolfo Ta-asan, moved to intervene in the civil cases alleging among others that: [a] the property in litigation involves the Crisologo family's ancestral home; [b] they are co-owners of the subject property together with Marina, Jr. and their other siblings; [c] while the subject property is registered in the name of Marina, Jr., she merely holds said property in trust for them and their other siblings; and [d] they seek to intervene in the civil cases to protect their proprietary right and legal interest over the subject property.

Meanwhile, on April 21, 2004, Atty. Ta-asan withdrew his appearance as counsel for complainant and Carolina, and was substituted by Atty. Jenette Marie Crisologo. Atty. Crisologo's entry of appearance was acknowledged by Respondent Judge in an Order dated May 17, 2004.

In an Order dated August 23, 2004, respondent Judge denied complainant's motion for intervention, thus:

**FOR RESOLUTION** IS THE Motion for Intervention filed by movants-intervenors Jesus G. Crisologo and Carolina C. Abrina through counsel, seeking permission from this Court to intervene in the cases above-mentioned, so as to protect their proprietary rights and legal interest over the subject property.

**AFTER A CAREFUL ASSESSMENT** of the instant motion vis-à-vis the Comment/Opposition thereto, this Court holds and is of the view that the Motion for Intervention could not be entertained anymore considering that the Compromise Agreement had already been entered into and to allow the intervention will unduly delay the adjudication of the rights of the original parties, particularly so that the instant cases began almost a decade ago in 1995. Moreover, whatever claims and rights that Jesus G. Crisologo may have over the subject property may and should be the subject of a separate case between and among his siblings. (Magat, et al. vs. Delizo, et al., G.R. No. 135199, July 5, 2001)

**WHEREFORE, PREMISES CONSIDERED**, the Motion for Intervention is hereby DENIED.

**SO ORDERED.**

On September 15, 2004, complainant moved for the reconsideration of the Order dated August 23, 2004, arguing that he is a co-owner of the properties in litigation, and as such, he is an indispensable party whose participation is essential before a final adjudication can be had in the civil cases.

On October 1, 2004, RBTI manifested that complainant's motion for reconsideration does not contain a notice of hearing, hence, a mere scrap of paper.

In an Order dated October 15, 2004, respondent Judge denied

complainant's motion for reconsideration for lack of the requisite notice of hearing. However, a copy of the Order dated October 15, 2004 was sent to Atty. Ta-asan instead of Atty. Crisologo who is complainant's counsel of record.

Subsequently, on October 27, 2004, Respondent Judge issued a Decision approving the compromise agreement. The dispositive portion of which reads:

**WHEREFORE,** finding the afore-quoted Compromise Agreement to be not contrary to law, public morals, good customs and public policy, this Court hereby APPROVES the same. The parties in this case are hereby ordered to strictly comply with all the terms and conditions set forth in said agreement. By virtue of the approval of the compromise agreement, this case is now deemed **TERMINATED**.

**SO ORDERED.**

Again, a copy of the decision was sent to Atty. Ta-asan instead of complainant's counsel, Atty. Crisologo. Thus, complainant was left unaware that his motion for reconsideration was denied and that a decision approving the compromise agreement has already been rendered by respondent Judge in the civil cases.

On November 3, 2004, RBTI moved for the execution of the decision on compromise agreement and prayed, among other things, for RTC-Branch 19: [a] to order the immediate ejectment of the plaintiffs, including all other persons claiming rights under them, from the subject property; [b] to place RBTI in complete possession, control and enjoyment of the subject property, including all improvements thereon; and [c] to order the cancellation the notice of *lis pendens* in the certificate of title of the subject property.

On November 4, 2004, complainant was informed by his brother Ramon Crisologo, who is one of the occupants of the subject property, about RBTI's motion for execution. Thus, on November 5, 2008, complainant, accompanied by Atty. Crisologo, lost no time and proceeded to RTC-Branch 19 to inquire about the hearing schedule of RBTI's motion for execution, and was surprised to learn that his motion for reconsideration of the denial of his motion for intervention has already been denied and that in fact a decision on compromise agreement has already been rendered by respondent Judge.

Immediately thereafter, on November 8, 2004, complainant filed an Urgent Manifestation and Notice of Appeal decrying the lack of notice to him of the trial court's [October] 15, 2004 Order and appealing the denial of his motion for intervention to the Court of Appeals. On the same date, complainant also filed an Urgent Motion for Voluntary Inhibition of respondent Judge in the civil cases on the ground of lack of impartiality.

On December 7, 2004, when respondent Judge failed to act on his notice