

FIRST DIVISION

[**A.M. No. RTJ-03-1762 [formerly OCA I.P.I. No. 02-1422-RTJ], December 17, 2008**]

SERGIO & GRACELDA N. ANDRES, COMPLAINANTS, VS. JUDGE JOSE S. MAJADUCON, REGIONAL TRIAL COURT, BRANCH 23, ELMER D. LASTIMOSA, CLERK OF COURT AND EX-OFFICIO PROVINCIAL SHERIFF, RTC-OCC, AND NASIL S. PALATI, SHERIFF IV, REGIONAL TRIAL COURT, BRANCH 23, GENERAL SANTOS CITY, RESPONDENTS.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

This administrative case arose from the complaint-affidavit^[1] dated February 21, 2002 of Sergio N. Andres, Jr. and Gracelda N. Andres charging respondents **Judge Jose S. Majaducon**, Executive Judge, Regional Trial Court (RTC), General Santos City, and Presiding Judge, Branch 23, with violation of Supreme Court Circular No. 7, Gross Ignorance of the Law and Grave Misconduct, and both **Elmer D. Lastimosa**, Ex-Officio Provincial Sheriff of South Cotabato, and **Nasil S. Palati**, Sheriff IV, Regional Trial Court, Branch 23, General Santos City, with Abuse of Authority, Ignorance of the Law and Grave Misconduct.

The complaint stemmed from the Special Order of Demolition^[2] issued by Judge Majaducon on August 22, 2001 in connection with the consolidated Civil Case Nos. 1291^[3] and 4647,^[4] an action for declaration of nullity of documents and recovery of possession of real property with writ of preliminary mandatory injunction and damages. The said order directed the provincial sheriff of General Santos City to demolish the improvements erected by the heirs of John Sycip and Yard Urban Homeowners Association on the land belonging to spouses Melencio Yu and Talinanap Matualaga. Pursuant to the Order of Demolition, a Notice to Vacate^[5] dated September 12, 2001 was issued by Sheriff Palati and noted by Provincial Sheriff Lastimosa. The said notice was addressed to the heirs of John Sycip, all members of Yard Urban Homeowners Association, and "*all adverse claimants and actual occupants*" of Lot No. 2, Psu-135740, the land subject of Civil Case Nos. 1291 and 4647.

To forestall the demolition of their houses, complainants, who claimed an interest over Lot No. 2, Psu-135740, filed a Special Appearance with Urgent Ex-Parte Manifestation^[6] informing the court of the pending protest between them and the heirs of Melencio Yu and Talinanap Matualaga before the Department of Environment and Natural Resources (DENR), docketed as RED Claim No. 3735.^[7] In the Ex-Parte Manifestation, complainants alleged that they and their predecessor-in-interest Concepcion Non Andres introduced improvements and authorized the construction of several improvements on Lot No. 2, Psu-135740. They also averred that they are

not bound by the judgment rendered in Civil Case Nos. 1291 and 4647 because neither they nor their predecessor-in-interest were impleaded as parties therein. They prayed that the provincial sheriff or any of his deputies be enjoined from implementing the special order of demolition on the improvements they made. They also wrote a letter^[8] addressed to respondents Lastimosa and Palati enjoining them from executing the order of demolition under pain of administrative sanction.

On February 6, 2002, notwithstanding complainants' manifestation and letter, Lastimosa and Palati proceeded with the demolition of the improvements erected by the complainants and their predecessor-in-interest.

Thus, on February 18, 2002, complainants instituted, with the RTC of General Santos City, *Civil Case No. 7066*, an action for Specific Performance, Reconveyance and Damages against the heirs of Melencio Yu and impleaded Judge Majaducon, Lastimosa and Palati as co-defendants. The complaint alleged that complainants' title over Lot No. 2, Psu-135740 was valid, that they had been occupying the property since 1957 and that the reckless and arbitrary demolition of their improvements had unlawfully disturbed their peaceful occupation of the property.^[9] Complainants also filed an Urgent Motion for Special Raffle of said Civil Case No. 7066.

In an Order^[10] dated February 18, 2002, Judge Majaducon, acting as the Executive Judge of RTC, General Santos City, denied the Urgent Motion for Special Raffle and dismissed outright Civil Case No. 7066. On the same day, respondent judge issued another Order^[11] declaring complainants in direct contempt of court for allegedly filing a complaint based on a quitclaim that had already been pronounced null and void by the Supreme Court. Accordingly, complainants were ordered to pay a fine of P2,000.00 and to suffer the penalty of imprisonment for ten (10) days.

This prompted complainants to file the instant administrative complaint. They averred that the actions of herein respondents constitute bad faith, malicious motive, serious partiality, grave misconduct and gross ignorance of the law. They also alleged that prior to his appointment in the judiciary, Judge Majaducon was the former counsel of Melencio Yu and his mother Dominga Pinagawang.

In his Comment^[12] dated April 16, 2002, respondent judge vehemently denied the accusations hurled against him. He explained that he issued the special order of demolition in the consolidated Civil Case Nos. 1291 and 4647 after a decision^[13] was rendered and a resolution^[14] was issued by the Supreme Court affirming the judgments of the RTC and the Court of Appeals (CA) declaring spouses Melencio Uy and Talinanap Matualaga as the rightful owners of Lot No. 2, Psu-135740 and ordering all occupants to vacate the premises. This was also the reason why he ordered the outright dismissal of Civil Case No. 7066 filed by herein complainants. He believed that complainants had no cause of action because the courts had already decided that the quitclaim upon which complainants based their action was null and void. Thus, to entertain the complaint would be just a waste of time on the part of the court. Anent the contempt order, he maintained that the same was justified because complainants had instituted an unfounded suit based on a falsified document, thereby demonstrating an obvious defiance and disrespect of the authority and dignity of the court.

As to the charge of partiality, respondent judge denied being the former counsel of Melencio Yu's mother, Dominga Pinagawang. He explained that his real client was Cesar Bañas who requested him to write a letter demanding the squatters to vacate the lot owned by Dominga. He asserted that after writing the letter, another counsel took over the case.

Respondents Lastimosa and Palati filed their own Comment^[15] on April 9, 2002 and averred that they faithfully observed the correct procedure in the implementation of the order of demolition, including the twin requirements of notice and hearing. According to them, they were extra careful in implementing the same especially because it was, by far, the biggest demolition undertaken by their office as it involved a 12-hectare property and about 1,500 persons. It also generated interest among the media, thus they made sure that they consulted with respondent judge all issues and questions relative to its implementation.

In the Agenda Report^[16] dated December 12, 2002, the Office of the Court Administrator (OCA) recommended that respondent judge be fined in the amount of P10,000.00 for violation of the rules governing the raffle of cases, and that the administrative case against him be redocketed as a regular administrative matter. The OCA, however, found that respondents Lastimosa and Palati did not abuse their authority in the implementation of the order of demolition and accordingly recommended the dismissal of the complaint against them.

In the Resolution dated March 5, 2003, the Court required the parties to manifest their willingness to submit the case for resolution based on the pleadings filed.^[17] Pursuant to respondents' manifestation,^[18] they filed their memorandum with additional exhibits on April 22, 2003.^[19] Complainants, on the other hand, manifested that they would no longer file a memorandum and that they were submitting the case for resolution.

Complainants assailed the respondent judge's issuance of a special order of dismissal in connection with *Civil Case Nos. 1291 and 4647* despite their pending protest before the DENR. To complainants, the issuance of said order of demolition constituted gross ignorance of the law.

We are not persuaded. The evidence on hand shows that respondent judge issued the special order of demolition only after carefully determining that there was no more hindrance to issue the same. For one, the trial court, in *Civil Case Nos. 1291 and 4647*, had already adjudged that the land in question belonged to spouses Yu and Matualaga and even nullified the quitclaim and all documents of conveyance of sale in favor of complainants' predecessor-in-interest.^[20] In fact, the records of the case disclosed that the decision of the trial court was affirmed by the CA in CA-G.R. No. 69000^[21] and CA-G.R. CV No. 54003^[22] and ultimately by this Court *via* its decision dated November 9, 1990 in G.R. No. 76487^[23] and resolution dated July 19, 1999 in G.R. No. 138132.^[24]

It is thus beyond dispute that the judgment in *Civil Case Nos. 1291 and 4647* had already attained finality. The special order of demolition was issued by respondent judge so that the final judgment could be fully implemented and executed, in

accordance with the principle that the execution of a final judgment is a matter of right on the part of the prevailing party, and mandatory and ministerial on the part of the court or tribunal issuing the judgment.^[25] To be sure, it is essential to the effective administration of justice that, once a judgment has become final, the winning party be not, through a mere subterfuge, deprived of the fruits of the verdict.^[26]

However, respondent judge abused his authority in dealing with Civil Case No. 7066 which cast serious doubt as to his impartiality. Respondent judge's outright dismissal of *Civil Case No. 7066* entitled "*Heirs of Concepcion Non Andres, namely Sergio, Sergio Jr., and Sofronio and Gracelda, all surnamed Andres v. Heirs of Melencio Yu and Talinanap Matualaga, namely Eduardo, Leonora, Virgilio, Vilma, Cynthia, Imelda and Nancy, all surnamed Yu, and represented by Virgilio Yu and Cynthia Yu Abo, Atty. Elmer Lastimosa, in his capacity as Ex-Officio Provincial Sheriff of South Cotabato, Mr. Nasil Palati, in his capacity as Deputy Sheriff, Regional Trial Court, Branch 23, General Santos City, and Hon. Jose S. Majaducon, Presiding Judge of the Regional Trial Court, Branch 23, General Santos City*" was irregular. As correctly found by the OCA, respondent judge completely ignored the procedure for the raffling of cases mandated by Supreme Court Circular No. 7 dated September 23, 1974, which we reproduce hereunder:

I. RAFFLING OF CASES

All cases filed with the Court in stations or groupings where there are two or more branches shall be assigned or distributed to the different branches by raffle. No case may be assigned to any branch without being raffled. The raffle of cases should be regularly conducted at the hour and on the day or days to be fixed by the Executive Judge. Only the maximum number of cases, according to their dates of filing, as can be equally distributed to all branches in the particular station or grouping shall be included in the raffle. x x x

Clearly, respondent judge violated the explicit mandate of the Court when he took cognizance of Civil Case No. 7066 wherein he was named as one of two defendants and instantly dismissed it without first conducting the requisite raffle. The Court, enunciating the importance of the raffling of cases, held in the case of *Ang Kek Chen v. Bello*^[27] :

The procedure for the raffling of cases under Supreme Court Circular No. 7 is of vital importance to the administration of justice because it is intended to ensure the impartial adjudication of cases. By raffling the cases, public suspicion regarding the assignment of cases to predetermined judges is obviated. A violation or disregard of the Court's circular on how the raffle of cases should be conducted is not to be countenanced.

Respondent judge cannot excuse himself from his duty as Executive Judge by dispensing with the raffle of the case and dismissing it outright on the pretext that it would be just a waste of time on his part to raffle and entertain the case. As Executive Judge, he ought to know that raffling of cases is his personal duty and responsibility. He is expected to keep abreast and be conversant with Supreme Court rules and circulars that affect the conduct of cases before him and strictly comply therewith at all times. Failure to abide by these rules undermines the

wisdom behind them and diminishes respect for the rule of law. Judges should therefore administer their office with due regard to the integrity of the system of law itself, remembering that they are not depositories of arbitrary power, but judges under the sanction of law.^[28]

By declaring complainants guilty of direct contempt of court, sentencing them to pay a fine of P2,000.00 and to suffer the penalty of imprisonment for ten (10) days, respondent judge exhibited his bias against herein complainants.

Contempt of court is a defiance of the authority and dignity of the court or a judge acting judicially, or such conduct as tends to bring the authority of the court and the administration of justice into disrepute or disrespect.^[29] Here, respondent judge cited complainants in direct contempt of court for filing a complaint (Civil Case No. 7066) based on a deed of quitclaim that had already been declared null and void, instead of having the said case, wherein he was one of the defendants, raffled to the court which could properly act on the case. While the power to punish in contempt is inherent in all courts so as to preserve order in judicial proceedings and to uphold due administration of justice, still, judges must be slow to punish for direct contempt. This drastic power must be used judiciously and sparingly. A judge should never allow himself to be moved by pride, prejudice, passion, or pettiness in the performance of his duties.^[30]

The salutary rule is that the power to punish for contempt must be exercised on the preservative, not vindictive principle, and on the corrective and not retaliatory idea of punishment. The courts must exercise the power to punish for contempt for purposes that are impersonal, because that power is intended as a safeguard not for the judges as persons but for the functions that they exercise.^[31]

It has time and again been stressed that besides the basic equipment of possessing the requisite learning in the law, a magistrate must exhibit that hallmark judicial temperament of utmost sobriety and self-restraint which are indispensable qualities of every judge. A judge should be the last person to be perceived as a petty tyrant holding imperious sway over his domain.^[32]

Indeed, Section 6 of Canon 6 of the New Code of Judicial Conduct states that:

Judges shall maintain order and decorum in all proceedings before the court and be patient, dignified and courteous in relation to litigants, witnesses, lawyers and others with whom the judge deals in an official capacity.

Respondent judge's act of unceremoniously citing complainants in direct contempt is a clear evidence of his unjustified use of the authority vested upon him by law.

Respondent judge also took cognizance of Civil Case No. 7066 despite the fact that prior to his appointment as judge, respondent served as counsel for Melencio Yu and his mother, Dominga Pinagawang.

Respondent's explanation that it was Cesar Bañas who was his client and not Melencio and Dominga was belied by the demand letter^[33] dated June 20, 1980, which was signed by him.