

EN BANC

[A.M. NO. RTJ-04-1831 (FORMERLY OCA IPI NO. 99-796-RTJ), February 02, 2007]

GOVERNMENT SERVICE INSURANCE SYSTEM, PETITIONER, VS. HON. VICENTE A. PACQUING, PRESIDING JUDGE, BRANCH 28 AND MARIO ANACLETO M. BAÑEZ, JR., CLERK OF COURT, RTC, SAN FERNANDO CITY, LA UNION, RESPONDENTS.

RESOLUTION

CORONA, J.:

In 1971, Bengson Commercial Building, Inc. (Bengson) borrowed P4,250,000 from petitioner Government Service Insurance System (GSIS), secured by real estate and chattel mortgages. When Bengson defaulted in the payment of the amortizations, petitioner extrajudicially foreclosed the mortgaged properties and sold them at public auction where it emerged as the highest bidder.

In 1977, Bengson filed an action in the Regional Trial Court (RTC) of San Fernando, La Union, Branch 26^[1] to annul the extrajudicial foreclosure. The trial court, through Judge Antonio Fineza, declared the foreclosure void and directed petitioner to restore to Bengson the foreclosed properties, pay damages and costs of suit.

Petitioner appealed the decision to the Court of Appeals (CA). The CA affirmed with modification the trial court's decision and remanded the case for reception of evidence on the costs of suit and determination of the replacement value of the properties should petitioner fail to return them. The CA decision became final and executory on February 10, 1988.

When petitioner failed to return the foreclosed properties, the new presiding judge of Branch 26, respondent Judge Vicente A. Pacquing, ordered it to pay Bengson the equivalent value of the foreclosed properties. Thereafter, Bengson moved that it be permitted to present evidence on the costs of suit. On April 6, 1995, the trial court directed petitioner to pay Bengson P31 million as costs of suit. This order became final on April 24, 1995.

Petitioner filed an urgent omnibus motion with the court a quo stating that its counsel, Atty. Rogelio Terrado, went on AWOL and never informed it of respondent judge's order.^[2] This motion, treated as petition for relief from judgment by respondent judge, was dismissed on January 16, 1997.^[3]

Petitioner filed a motion for reconsideration (MR) but respondent judge denied the same on April 23, 1998.

Petitioner then instituted a special civil action for certiorari in the CA docketed as

CA-G.R. SP No. 47669^[4] assailing the court *a quo*'s denial of its petition for relief from judgment. The CA, however, dismissed CA-G.R. SP No. 47669 for having been filed out of time as three years had elapsed since the order awarding Bengson P31 million as costs of suit became final and executory.^[5]

Petitioner filed an MR of the above decision and, while it was pending resolution at the CA, respondent judge, on December 16, 1998, issued an alias writ of execution ordering petitioner to pay Bengson the P31 million.^[6] Pursuant thereto, respondent Atty. Mario Anacleto M. Bañez, acting as sheriff of Branch 26, executed the writ and levied on petitioner's shares of stock in San Miguel Corporation (SMC) worth P6.2 million. The garnished shares were later sold at public auction with Bengson as the only bidder.

Aggrieved, petitioner moved to quash the writ on the ground that its funds and properties were exempt from garnishment, levy and execution under Section 39 of RA 8291.^[7] Respondent judge denied the motion stating that only funds and properties that were necessary to maintain petitioner's actuarial solvency, like contributions of GSIS members, were exempt from garnishment, levy and execution under RA 8291.^[8]

Petitioner filed its MR of the trial court's denial of its motion to quash the writ but this was rejected as well.

Via a special civil action for certiorari with an urgent motion for the issuance of a writ of preliminary injunction and/or restraining order (TRO), petitioner came to us questioning the garnishment and sale on execution of its SMC shares. The petition was docketed as G.R. No. 136874.^[9]

We referred G.R. No. 136874 to the CA for consideration and adjudication on the merits. In the CA, it was re-docketed as CA-G.R. SP. No. 51131 and was consolidated with CA-G.R. SP. No. 47669.^[10]

Later, the CA dismissed both petitions.^[11]

Petitioner questioned the CA's dismissal of CA-G.R. SP. No. 47669 via a petition for review in this Court docketed as G.R. No. 137448,^[12] the ultimate issue of which was the existence of grounds for relief from the P31 million costs of suit judgment by respondent judge.

Later, petitioner filed another case, a special civil action for certiorari in this Court, this time contesting the CA's dismissal of its petition in CA-G.R. No. 51131. Docketed as G.R. No. 141454,^[13] the petition ascribed grave abuse of discretion on the part of the CA for upholding the trial court's issuance of the alias writ of execution and the subsequent garnishment and sale of its shares in SMC.

Petitioner also filed this administrative complaint^[14] against respondents for ignorance of the law, bias and partiality, and for violation of RA 8291. In its complaint, petitioner alleged:

In fine, [respondent judge] refused to take cognizance of [Section 39, RA 8291]. He refused to await an authoritative and definitive resolution of the issues [on the exemption of GSIS's funds and properties] from execution or the issue of whether GSIS is entitled to a relief from judgment of his [P]31 million peso cost[s] of suit. ...[H]e was in a hurry, as Bengson, to execute the P31 million costs of suit...[O]n the other hand, Sheriff Mario Anacleto M. Bañez, seemed to have the same objective when he refused to take heed of [GSIS's request] to hold in abeyance the execution sale on the basis of Section 39 (RA 8291).

The foregoing only shows [respondent judge's] deliberate disregard of the express provisions of [RA 8291], specifically Section 39...and his bias, given his exorbitant award for cost[s] of suit, bereft, as it is, of any legal basis. It evidently reveals a malicious scheme that seriously undermines the very integrity and impartiality of his court.

The same can be said of the acts of Sheriff Bañez in garnishing and selling [GSIS's shares of stock in SMC] to Bengson, characterized by an unusual swiftness and in clear disregard of the express provision of Section 39, RA 8291...^[15]

We referred the complaint to the Office of the Court Administrator (OCA) for investigation, report and recommendation. In its report^[16] to the Court, the OCA found nothing in the records to support petitioner's accusations against both respondents. According to the OCA, even assuming that respondent judge erred in interpreting RA 8291, such error did not constitute gross ignorance of the law. It added that the records also failed to prove malice, fraud, dishonesty or bad faith on the part of respondent judge in issuing the assailed alias writ of execution.

On petitioner's allegations against respondent Atty. Bañez, the OCA likewise found no reason to hold him liable for failing to defer the execution of the writ.

The OCA then recommended the dismissal of petitioner's complaint against respondents.^[17]

On petitioner's motion, we referred the case to the CA for further investigation. It was assigned to Associate Justice Roberto A. Barrios, who acted as investigating officer. Before a hearing on the case could be conducted, respondent judge died.^[18] The hearing proceeded but we withheld his benefits pending the completion of the investigation of his case by Justice Barrios.

Subsequently, Justice Barrios submitted his report^[19] to us agreeing with OCA's findings that petitioner's complaint against respondents was unfounded. According to Justice Barrios:

Assuming for the *nonce* that [respondent judge] erred in issuing the Order of 16 December 1998 without awaiting the resolution of [petitioner's motion for reconsideration], and in holding that [its] properties are not exempt from execution, these would not be errors that are gross and patent, or done maliciously, deliberately or in evident bad faith. [Petitioner] has not presented proof to the contrary, which with

the factual milieu would call for administrative sanctions against [respondent judge]. As a matter of public policy, the acts of the judge in his official capacity are not subject to disciplinary action, even though such acts are erroneous. Good faith and absence of malice, corrupt motives or improper considerations are sufficient defenses in which a judge charged with ignorance of [the] law can find refuge.^[20]

He added that the filing of the administrative charges against respondents was premature because this Court at that time had yet to decide G.R. No. 137448 and G.R. No. 141454. He thus recommended the dismissal of the administrative charges against respondents.

On January 31, 2002,^[21] we handed down our decision in the above cases nullifying the CA's resolutions dismissing G.R. Nos. 51131^[22] and 47669.^[23] In the same decision, we set aside respondent judge's January 16, 1997 order dismissing petitioner's petition for relief from judgment and his April 23, 1998 order denying the MR.^[24]

Notwithstanding the nullification of respondent judge's orders, we are adopting the findings and recommendations of the OCA and Justice Barrios.

For a judge to be administratively liable for ignorance of the law, the acts complained of must be gross or patent.^[25] To constitute gross ignorance of the law, such acts must not only be contrary to existing law and jurisprudence but also motivated by bad faith, fraud, malice or dishonesty.^[26] That certainly does not appear to be the case here as petitioner's complaint was spawned merely by the honest divergence of opinion between petitioner and respondent judge as to the legal issues and applicable laws involved.^[27] Petitioner also proffered no evidence that respondent judge's acts were imbued with malice or bad faith.

In the same vein, we hold that respondent judge was neither biased nor partial against petitioner when he issued the alias writ of execution. Petitioner's assertion that respondent judge precipitately issued the alias writ is not supported by the records. On the contrary, the records indicate that the writ was issued more than three years from the finality of the order directing petitioner to pay Bengson P31 million as costs of suit. Its issuance was not all tainted with undue haste. In the exercise of his judicial discretion, respondent judge believed that the issuance of the alias writ had become forthwith a matter of right following the finality of said order. The rule is that once a judgment becomes final, the winning party is entitled to a writ of execution and the issuance thereof becomes a court's ministerial duty.^[28]

Assuming *ex gratia argumenti* that respondent judge erred in issuing the alias writ, his act would still not merit administrative sanction absent malice or bad faith.^[29] Bad faith does not simply connote poor or flawed judgment; it imports a dishonest purpose, moral obliquity or conscious doing of a wrong.

Furthermore, for allegations of bias and partiality to stand, petitioner should have demonstrated that respondent judge's decisions and orders came from extrajudicial sources or from some bases other than what he had learned from his study of the case.^[30] Decisions formed in the course of judicial proceedings,