

THIRD DIVISION

[A.M. NO. RTJ-07-2047 (FORMERLY OCA I.P.I. NO. 03-1786-RTJ), July 03, 2007]

RUSSEL ESTEVA CORONADO, COMPLAINANT, VS. JUDGE EDDIE R. ROJAS, REGIONAL TRIAL COURT, BRANCH 37, GENERAL SANTOS CITY, RESPONDENT.

[A.M. NO. RTJ-07-2048 (FORMERLY OCA I.P.I. NO. 03-1798-RTJ)]

ALFREDO S. CAPISIN, HERMELO O. LATOJA, JAMES D. CATALAN, ANECITO TAN, JR., ARNEL CALVO, RICARDO PEPITO, AND EVELYN ROSALES, COMPLAINANTS, VS. JUDGE EDDIE R. ROJAS, REGIONAL TRIAL COURT, BRANCH 37, GENERAL SANTOS CITY, RESPONDENT.

D E C I S I O N

NACHURA, J.:

These administrative cases against respondent Judge Eddie R. Rojas of the Regional Trial Court, Branch 37, General Santos City, arose from the complaint filed by the Gensanville Homeowners Association against E.B. Villarosa and Partners Co., Ltd. (E.B. Villarosa) and Engr. Patrick Nicholas Corpus before the Housing and Land Use Regulatory Board (HLURB) in HLURB Case No. LSG-REM-021098-0132 for specific performance and damages. The homeowners association prayed that respondents (1) undertake the construction, repair, and completion of the development of Gensanville Subdivision (Phase I) per the approved plans and specifications; and (2) pay the complainants damages inclusive of attorney's fees and the costs of litigation.^[1]

The complainants prevailed before the HLURB,^[2] which later issued a Writ of Execution^[3] against E.B. Villarosa. Consequently, Atty. Elmer D. Lastimosa and Ramon A. Castillo, Clerk of Court VI and Sheriff IV, respectively, of the Regional Trial Court (RTC) of General Santos City, garnished all money, deposits, and interests, including all monthly payments owed by the residents of Gensanville Subdivision to E.B. Villarosa, in satisfaction of the writ of execution. The Notice of Garnishment^[4] specifically enjoined all concerned parties to pay their water bills to the trial court until full satisfaction of the writ.

E.B. Villarosa later filed a Complaint^[5] for injunction with prayer for a temporary restraining order (TRO) against the Clerk of Court and the Sheriff of the RTC of General Santos City. It averred that the monthly water bills owed by the homeowners of Gensanville Subdivision do not wholly accrue to the benefit of E.B. Villarosa, but part thereof also belongs to the employees of the latter, the suppliers

of electricity necessary to operate the water system, the unpaid sellers of machineries, materials, and supplies for the operations, and to the government in the form of taxes. Allegedly, if the payments were garnished, E.B. Villarosa would be deprived of important resources to operate the water system in the subdivision that would eventually lead to cessation of operations. E.B. Villarosa would then lose its contractual right to operate the water system and supply the homeowners the water they need.

In an Order^[6] dated May 12, 2003, Vice-Executive Judge Antonio C. Lubao noted without action the motion for issuance of a 72-hour TRO since the HLURB is a co-ordinate body of the court and advised E.B. Villarosa to seek the injunctive order from the appellate courts.

Civil Case No. 7234 was eventually raffled to Judge Rojas, who, on May 15, 2003, conducted a hearing and, on the basis thereof, issued a twenty-day TRO and required the parties to simultaneously submit their memoranda.^[7] On June 12, 2003, Judge Rojas issued a Writ of Preliminary Mandatory Injunction.^[8]

These acts of Judge Rojas spawned these two administrative cases.

In A.M. No. RTJ-07-2047, the complainant, Vice-President of the Gensanville Homeowners Association, claims that the association was denied its right to due process by Judge Rojas when it was not impleaded as party defendant in Civil Case No. 7234.^[9]

In A.M. No. RTJ-07-2048, the complainants are members of the same association. They aver that the TRO issued by Judge Rojas interfered with the previous Order of Vice-Executive Judge Lubao and question the authority of the former in issuing the assailed order. They, likewise, question their not being impleaded as defendants in the injunction case.^[10]

In his Comment^[11] on the two complaints, Judge Rojas contends that the TRO and the writ of preliminary injunction were regularly issued after a judicious examination of the complaint. He claims that what was restrained was neither the writ of execution nor the notice of garnishment themselves but merely the manner by which the HLURB decisions were being executed. Agreeing with the arguments raised by E.B. Villarosa, Judge Rojas believes that, without the injunction, E.B. Villarosa will suffer irreparable injury before the claims of the parties can be thoroughly investigated and adjudicated, and thus, he did not interfere with the Order of Vice-Executive Judge Lubao. He further says that granting injunctive relief to E.B. Villarosa neither shows his bias nor his abuse of authority in favor of the latter, absent any proof of bad faith, malice, or corrupt purpose. Lastly, he alleges that the remedy of the complainants is not an administrative complaint but other judicial remedies.

On November 26, 2004, the Office of the Court Administrator (OCA) issued a Report^[12] finding Judge Rojas administratively liable for gross ignorance of the law, grave abuse of authority, misconduct, and conduct prejudicial to the proper administration of justice.

The OCA held that the HLURB retained its jurisdiction over the case, and if irregularities attended the manner in which the writ of execution was implemented, they should be referred to the same agency. It said that Judge Rojas gravely abused his authority when he took cognizance of Civil Case No. 7234 and issued the TRO and the injunctive writ, especially because HLURB exercises quasi-judicial functions and is co-equal with the RTC.

Further, the complainants, being the prevailing party before the HLURB, should have been given their day in court before the TRO and the injunction were issued. The OCA noted that Judge Rojas even advised the counsel of E.B. Villarosa during the hearing of May 15, 2003 to implead the real parties-in-interest. The OCA found this failure on the part of Judge Rojas violative of the Code of Professional Responsibility and of the right of the complainants to due process.

Thus, the OCA recommended that Judge Rojas be fined P10,000.00, with a stern warning of a more severe penalty should he commit a similar offense in the future.

We agree with the findings of the OCA with respect to Judge Rojas' ½ administrative liability, but hold that the recommended fine is too light a penalty in light of his previous infraction as a member of the Judiciary.

In this case, Judge Rojas knew very well that the complainants, being the real parties-in-interest who prevailed in the HLURB decision subject of execution, should have been impleaded as party-defendants in the injunction case before him. This is clear from a reading of Sections 2 and 7, Rule 3 of the Rules of Court.^[13] In fact, he pointed this out in the hearing for the TRO on May 15, 2003, as shown in the transcript of stenographic notes, to wit:

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| COURT: | You did not implead the prevailing party? |
| ATTY. ALCONERA: | We only assail the very account of the Sheriff. |
| COURT: | But you should implead the prevailing party. The court is inclined to give 72 hours TRO but you should implead the prevailing party because usually court personnel acted as ministerial duty only. |
| ATTY. LASTIMOSA: | Your Honor, there was an Order for an application for 72 hours TRO? |
| COURT: | Because Judge Lubao did not take action because according to him, the decision that should not be subject for a TRO. Perhaps not for the court to stop the implementation but only the |

garnishment must be done belonging to the losing party but only mentioned as borne out and alleged in the complaint that the fund is not solely owned by the Villarosa.

ATTY. LASTIMOSA: But these are credits which might belong to the developer and this can be subjected to the garnishment.

COURT: But according to the plaintiff, some of the payment of the employees and payment for the electricity

ATTY. ALCONERA: In fact, the claims of the workers are superior to those of the judgment creditors. The listing of the unpaid sellers, the workers below, they are the judgment creditors.

COURT: I will issue a 72-hours (sic) TRO then I will require the defendants to show cause why the 72 hours will not be extended and perhaps, to enlighten the court by submitting to a simultaneous memorandum.

ATTY. ALCONERA: Since we will still implead

COURT: This is proper I think so that we can avoid duplicity of suit, you implead the prevailing party because it is not a job of the court personnel to be appearing. But in fairness to the plaintiff, I will issue a TRO of 72 hours and then scheduled (sic) hearing on the show cause why the 72 hours TRO will not be extended.
[14]

Despite this, not only did he grant a twenty-day TRO,^[15] instead of the 72-hour TRO prayed for, but also denied the motion to dismiss filed by the named defendants and issued a writ of injunction in favor of E.B. Villarosa.^[16]

The complainants not having been joined as party-defendants, it was error on the part of Judge Rojas to have denied the motion to dismiss. Indeed, complainants were indispensable parties with such interest in the controversy that a final decree