

THIRD DIVISION

[A.M. No. RTJ-07-2054 (FORMERLY A.M. OCA IPI NO. 07-2575-RTJ), August 23, 2007]

**ATTY. ODEL S. JANDA AND ATTY. JERRY O. REMONTE
COMPLAINANTS, VS. JUDGE EDDIE R. ROJAS, REGIONAL TRIAL
COURT, BRANCH 39, POLOMOLOK, SOUTH COTABATO; ATTY.
QUEENIE MARIE L. FULGAR, CLERK OF COURT, REGIONAL TRIAL
COURT, BRANCH 37, GENERAL SANTOS CITY; AND SHERIFFS
MARILYN P. ALANO AND RAMON A. CASTILLO, REGIONAL TRIAL
COURT, BRANCH 22, GENERAL SANTOS CITY AND REGIONAL
TRIAL COURT, OFFICE OF THE CLERK OF COURT, GENERAL
SANTOS CITY, RESPECTIVELY, RESPONDENTS.**

DECISION

NACHURA, J.:

Although a judge has in his favor the presumption of regularity and good faith in the performance of his official functions, a blatant disregard of the clear and unmistakable terms of the law obviates this presumption and renders him susceptible to administrative sanctions.^[1]

The Facts of the Case

This is an administrative complaint^[2] against Judge Eddie R. Rojas (Judge Rojas), Pairing Judge of the Regional Trial Court (RTC), Branch 37, General Santos City, Atty. Queenie Marie L. Fulgar (Atty. Fulgar), Branch Clerk of Court of the same RTC Branch, and Marilyn P. Alano (Alano) and Ramon A. Castillo (Castillo), Sheriffs IV detailed at the Office of the Clerk of Court of the RTC of General Santos City. The complaint was filed by Atty. Odel S. Janda and Atty. Jerry O. Remonte (complainants), as officers and representatives of Planters Development Bank (Planters Bank).

On June 15, 2006, Judge Rojas rendered a Decision^[3] in Civil Case No. 6474 entitled "*George Philip Palileo and Jose Dela Cruz v. Engr. Edgardo Torcende, Planters Development Bank, Benjamin N. Tria, Arturo R. Delos Reyes, Mao Tividad, and Emmanuel Tesalonia*," involving a complaint for specific performance and/or sum of money and damages. The fallo of the said Decision reads:

IN LIGHT OF THE FOREGOING, defendants are hereby ORDERED to jointly and severally PAY plaintiffs as follows:

i) Actual Damages:

a) Plaintiff George Philip Palileo the amount of Two Million Six Hundred Five Thousand Nine [Hundred] Seventy-Two Pesos and Ninety-Two

Centavos (P2,605,972.92) with 12% compounded interest per annum reckoned from the filing of this case until full settlement thereof.

b) Plaintiff Jose R. Dela Cruz the amount of One Million Five Hundred Twenty-Nine Thousand Five Hundred Eight [Pesos] and Eighty Centavos (P1,529,508.80) with 12% compounded interest per annum reckoned from the filing of this case until full settlement thereof;

ii) Moral Damages in the amount of Five Hundred Thousand Pesos (P500,000.00) each;

iii) Exemplary Damages in the amount of Five Hundred Thousand Pesos (P500,000.00) each;

iv) Attorney's Fees in the amount of Five Hundred Thousand [Pesos] (P500,000.00) each and to pay the costs.

SO ORDERED.^[4]

The defendants filed an Omnibus Motion for Reconsideration and New Trial (Omnibus Motion). Meanwhile, the plaintiffs filed a Motion for Execution Pending Appeal. Both parties filed their respective responsive pleadings to the said motions.

On August 30, 2006, Judge Rojas issued an Order^[5] denying the Omnibus Motion on the ground that it violated Rule 15, Section 5 of the 1997 Rules of Civil Procedure requiring that the hearing of a litigated motion be set not later than 10 days from the date of its filing. In the same Order, Judge Rojas declared the Decision dated June 15, 2006 final and executory because the Omnibus Motion, having been found to be technically infirm, did not suspend the reglementary period to appeal. Thus, the Motion for Execution Pending Appeal (which was treated as a motion for execution of a final and executory judgment) was granted. The Order directed the immediate issuance of a Writ of Execution against the defendants.

On August 31, 2006, Atty. Fulgar issued a Writ of Execution.^[6] The next day, or on September 1, 2006, Sheriffs Alano and Castillo enforced the Writ of Execution against Planters Bank.

The herein complainants charge Judge Rojas of gross ignorance of the law and knowingly rendering an unjust order, because in his August 30, 2006 Order, he declared that the June 15, 2006 Decision was already final and executory when he knew that it was not yet so and that it contravened *Neypes v. Court of Appeals*^[7] which provides for a fresh period of fifteen (15) days from receipt of a denial of a motion for reconsideration within which to appeal. They claim that Judge Rojas showed manifest bias in directing the contiguous execution of the Decision against Planters Bank, especially when

he converted the Motion for Execution Pending Appeal into a regular motion for execution in the August 30, 2006 Order. To further show the alleged partisanship of Judge Rojas, they note that he even awarded the plaintiffs more than what they prayed for in the complaint, viz: (a) attorney's fees of P100,000.00 to P500,000.00; (b) moral damages of P300,000.00 to P500,000.00; and (c) exemplary damages of

P300,000.00 to P500,000.00.

Complainants impute to Atty. Fulgar uncanny speed in issuing a Writ of Execution on August 31, 2006, the day after the issuance of the questioned Order, aware that no copy of the Order had been furnished the defendants, and knowing fully well that the Decision was not yet final and executory. They further aver that the Writ of Execution was defective as it did not provide for the full amount of the obligation. According to complainants, Atty. Fulgar was ignorant of the Manual of the Clerks of Courts and of Rule 36, Section 2^[8] of the Rules of Court regarding the procedure in issuing an Entry of Judgment. They allege that Atty. Fulgar does not even keep a Book of Entries of Judgments.

With respect to Sheriffs Alano and Castillo, who were purportedly in cahoots with Judge Rojas and Atty. Fulgar, complainants charge them with oppression, grave misconduct, and conduct prejudicial to the best interest of the service in the hasty and arrogant enforcement of the Writ of Execution against Planters Bank on September 1, 2006.

Complainants allege that at 10:00 a.m. that day, Sheriffs Alano and Castillo, together with twelve (12) policemen proceeded to the General Santos City Branch of Planters Bank and demanded immediate payment from the branch manager, without any prior demand from all the defendants who were held jointly and severally liable for the judgment obligation. Due to the hostile action of Sheriffs Alano and Castillo, word got around that the bank was under siege, resulting in huge withdrawals from its depositors during the day. Complainants bewail the failure of Sheriffs Alano and Castillo to serve copies of the August 30, 2006 Order and of the Writ of Execution to all the defendants.

As the amount of the judgment obligation was allegedly not specified in the Writ of Execution, defendants claim that Sheriffs Alano and Castillo arrogated unto themselves the judicial power to determine the same. Likewise, on September 1, 2006, Sheriffs Alano and Castillo proceeded to the Land Bank of the Philippines, General Santos City Branch and served a Notice of Garnishment^[9] upon the deposits of Planters Bank therein.

Planters Bank, thru counsel, filed an Urgent Motion to Quash Writ of Execution^[10] and a Supplemental Motion to Quash Writ of Execution,^[11] furnishing the sheriffs copies thereof. However, while the court had yet to rule on the said motions, Sheriffs Alano and Castillo still demanded delivery of the garnished amount by way of an Order of Delivery of Money^[12] dated September 25, 2006.

In sum, complainants posit that the indecent haste in the execution of the June 15, 2006 Decision through an erroneous Writ of Execution shows that respondent court officers were bent on exacting from Planters Bank alone the total amount of the judgment obligation, to the damage and prejudice of the latter.

In his Comment^[13] dated December 11, 2006, Judge Rojas claims that the charges against him pertain to the exercise of his judicial functions and should not be the subject of an administrative complaint. He narrates that Planters Bank filed on July 28, 2006 its Omnibus Motion for Reconsideration and New Trial, set for hearing on August 18, 2006, or 16 days after its filing. Finding it contrary to Rule 15, Section

5^[14] of the Rules of Court, he peremptorily denied the motion for being pro forma and a "mere scrap of paper" in his Order of August 30, 2006, the dispositive portion of which reads:

IN LIGHT OF THE FOREGOING, the Omnibus Motion for Reconsideration and New Trial is hereby DENIED, and the Motion for Execution Pending Appeal (which is treated as a motion for execution of a final and executory judgment) is also GRANTED as explained above. Accordingly, let A WRIT OF EXECUTION be issued against herein defendants to enforce the FINAL and EXECUTORY Decision dated 15 June 2006.

SO ORDERED.^[15]

He explained that the motion, being a "mere scrap of paper," did not toll the reglementary period to appeal. Accordingly, he considered the June 15, 2006 Decision final and executory. Thus, he found the Motion for Execution Pending Appeal moot and academic and instead, treated it as a motion for execution of the final and executory Decision.

Judge Rojas dismisses the charge of knowingly rendering an unjust order as based only on suspicion and speculation. He argues that adequate proof is required to show that the order is truly unjust and not merely erroneous. He submits that judges cannot be held liable for acts done in the exercise of judicial functions and in good faith.

Clerk of Court Atty. Fulgar avers in her Comment^[16] dated December 8, 2006, that she issued the questioned Writ of Execution on August 31, 2006 to comply with the August 30, 2006 Order, and that the writ was modified on October 9, 2006 by Judge Panambulan M. Mimbisa, newly appointed regular judge of the same court, in his Order dated October 6, 2006. She denies issuing the writ with "uncanny speed" considering that there was legal basis therefor. She says she was specifically ordered to issue the same and she found no reason to delay compliance. She proffers that she keeps a Book of Entry of Judgments since she assumed her office in 1998 and submitted copies of its pages.

In their Joint-Comment^[17] dated December 18, 2006, Sheriffs Alano and Castillo explain that when they received the Writ of Execution on August 31, 2006, they proceeded with the execution the next day with some unarmed policemen, following standard operating procedure. They allege that the policemen were left in front of a store beside the bank while they talked with the branch manager of Planters Bank. In their demand for payment, they claim that they stayed at the bank from 10:00 a.m. till 12:00 noon waiting for an offer from the bank on how the judgment obligation may be satisfied. As their negotiations proved futile, they then proceeded to the Land Bank of the Philippines, Pioneer Avenue Branch, to serve the Notice of Garnishment upon request of the counsels of Planters Bank, with the conformity of its officials. They argue against the charge of exceeding their authority or of any impropriety in demanding payment from Planters Bank alone, in light of the solidary nature of the judgment obligation.

The OCA Findings and Recommendations