

FIRST DIVISION

**[A.M. RTJ-05-1905 [OCA-IPI NO. 03-1712-RTJ],
February 23, 2005]**

**CHARITO L. PLANAS, COMPLAINANT, VS. JUDGE ERNESTO A.
REYES, REGIONAL TRIAL COURT, BRANCH III, PASAY CITY,
RESPONDENT.**

DECISION

YNARES-SANTIAGO, J.:

On March 20, 2003, a complaint^[1] against Judge Ernesto A. Reyes of the Regional Trial Court of Pasay City, Branch 111, for ignorance of the law, manifest bias and partiality, grave misconduct, and inefficiency, was filed by Charito Planas, in her capacity as the Executive Director of Nayong Pilipino Foundation ("NPF").

In the complaint, Planas alleged that on September 25, 2001, a complaint for unlawful detainer was filed by NPF against Sulo Sa Nayon, Inc. and/or Philippine Village Hotel, Inc., ("PVHI") and/or Jose Marcel Panlilio, (hereinafter collectively referred to as the "Defendants") before the Metropolitan Trial Court (MeTC) of Pasay City, Branch 45.

On February 26, 2002, the MeTC rendered decision^[2] in favor of NPF by ordering PVHI and all persons claiming rights under it, to vacate the subject premises and surrender possession thereof to NPF; and to pay the latter its rental arrearages and the current monthly rentals, attorney's fees and the costs of suit. The complaint against Panlilio was dismissed for lack of cause of action. His counterclaim was likewise dismissed.^[3]

A *Notice of Appeal* by PVHI and a *Notice of Partial Appeal* by Panlilio, were seasonably filed and which were both granted by the MeTC on March 20, 2002 and March 25, 2002,^[4] respectively. However, no supersedeas bond was filed to stay the execution of the judgment during the appeal period.

On April 2, 2002, the appeals were elevated to the Regional Trial Court of Pasay City and were raffled to Branch III presided by respondent judge.^[5]

On April 10, 2002, a *Motion for the Issuance of Writ of Execution*^[6] was filed by NPF but the same was denied by respondent judge in the Order^[7] dated April 29, 2002, disposing thus:

The real issue, however, which is to be resolved is whether or not immediate execution can be had after defendant-appellant has perfected its appeal but failed to post a supersedeas bond before the trial court?

The first paragraph of Sec. 19 of Rule 70 of the Revised Rules of Civil Procedure and which was relied upon by plaintiff-appellee in its motion, speaks of immediate execution which simply means that after rendition of judgment against defendant-appellant at the court below and before the expiration of the time to appeal, execution shall issue immediately upon motion of plaintiff.

In the instant case at bar, plaintiff appears that it tarried and did not immediately file a motion for execution below upon the rendition and before defendant-appellant perfected its appeal. Rather it allowed the latter to perfect its appeal leaving the trial court without option but to elevate the case for review to the Regional Trial Court.

After the perfection of an appeal, the lower court can no longer require the filing of a supersedeas bond and execution based thereon is void. (*Singson v. Babida*, 79 SCRA 111). This is exactly what happened at the court below which plaintiff-appellee did not exploit to its advantage. Hence, defendant had to file a supersedeas bond before this court and not below and which it really did on April 19, 2002.

With the approval by the court, in the exercise of its sound judgment or discretion of the supersedeas bond posted by the defendant-appellant and it appearing that there is no compelling and urgent reason to order immediate execution pending appeal, plaintiff-appellee's motion for immediate execution of the judgment of the lower court is hereby DENIED.^[8]

On June 4, 2002, a *Manifestation/Motion for the Issuance of Writ of Execution*^[9] was filed by NPF for failure of PVHI to deposit the accrued and current monthly rentals. The same was denied by respondent judge in an Order^[10] dated August 20, 2002.

On September 18, 2002, a *Motion for Reconsideration*^[11] was filed by NPF arguing mainly that the cases cited in the August 20, 2002 Order are not applicable to the case at bar and that, the defendants' bondsman subsequently cancelled the supersedeas bond. However, said request for reconsideration was not acted upon by the respondent judge; instead, he ruled on the appeal in a Decision^[12] dated November 29, 2002, disposing thus:

WHEREFORE, and in view of the foregoing, judgment is hereby rendered modifying the decision of MTC, Br. 45 of Pasay City rendered on February 26, 2002 as follows:

1. Ordering plaintiff-appellee to submit within thirty (30) days from receipt of a copy of this decision a written manifestation of the option or choice it selected, i.e., to appropriate the improvements upon payment of proper indemnity or compulsory sale of the land whereon the hotel building of PVHI and related improvements or facilities were erected;
2. Directing plaintiff-appellee to desist and/or refrain from doing acts in the furtherance or exercise of its rights and demolition against

appellants unless and after having selected the option of compulsory sale and appellants failed to pay the purchase the land (sic) within a reasonable time or at such time as this court will direct;

3. Ordering defendants-appellants to pay to plaintiff-appellee its arrears in rent incurred as of July 31, 2001 in the amount of P26,183,225.41;
4. Ordering defendants-appellants to pay to plaintiff-appellee the unpaid monthly rentals for the use and occupation of the premises pending this appeal from July to November 2002 only at P725,780.00 per month;
5. The fourth and fifth directives in the dispositive portion of the trial court's decision including that the last paragraph thereof JME Panlilio's complaint is hereby affirmed;
6. The parties are directed to adjust their respective rights in the interest of justice as they may deem fit and proper if necessary.

SO ORDERED.^[13]

Based on the foregoing incidents, complainant alleged that the respondent judge is guilty of gross ignorance of the law, manifest bias and partiality, grave misconduct, and inefficiency for:

- a) Denying NPF's motion for issuance of writ of execution despite defendants' failure to file sufficient supersedeas bond within the appeal period;^[14]
- b) Granting defendants' *Manifestation/Motion to Approve Supersedeas Bond* despite lack of notice thereof to NPF and notwithstanding lack of Panlilio's signature in the supersedeas bond;^[15]
- c) Denying NPF's second motion for issuance of writ of execution despite failure by the defendants to deposit with the court the accrued and current monthly rentals in accordance with the MeTC decision; and by allowing instead the defendants to deposit, although belatedly, the said rentals;^[16]
- d) Denying NPF's second motion for issuance of writ of execution despite the cancellation by the bondsman of the supersedeas bond;^[17]
- e) Deciding on the appeal without resolving first the motion for reconsideration, in a manner that is contrary to law and prevailing jurisprudence, considering that the option either to appropriate the leased premises or to demand removal of the improvements therefrom rests with NPF as the lessor and not the defendants-lessees;^[18] and for affirming the money judgment of the MeTC despite the fact that it has already become final and executory.^[19]

In his comment,^[20] respondent judge insisted that the filing of the supersedeas bond is not a condition for the perfection of the appeal. After the perfection of the appeal, the trial court could no longer require the filing of the supersedeas bond. What NPF should have done was to move for the execution of the judgment before defendants perfected their appeal. Notwithstanding, upon the denial of the motions for execution, NPF could have moved for its reconsideration, but it failed to do so.

He claimed that the lack of Panlilio's signature in the supersedeas bond did not diminish the validity of the bond. At any rate, NPF could have impugned its validity but it did not.

Anent the denial of the second motion for execution, he maintained that it was done in good faith and in full accord with the law. He argued that prior to the hearing of the motion, defendants tendered the payment of P7,257,300.00, and its acceptance was proper and within the bounds of his authority.

With regard to his failure to act on NPF's motion for reconsideration, he declared that after its filing on September 23, 2002, an ex parte motion for the early resolution of the case was filed by NPF. Thus, believing in good faith that resolving the appeal would be more beneficial to the parties, he opted to "shelve in the meantime the resolution" of the motion for reconsideration and proceeded to the resolution of the appeal itself."^[21]

As to the allegation that the supersedeas bond has been cancelled, respondent judge asserted that the same remains valid and subsisting as the bonding company did not move for its cancellation or withdrawal.

As to the manner by which he disposed of NPF's appeal, respondent judge refrained from making any comment thereon considering that the same is pending review by the Court of Appeals. He averred though that he denied NPF's motion for execution of the money judgment in view of the perfection of the appeal with the Court of Appeals, and thus, the Regional Trial Court no longer has jurisdiction over the case.

Meanwhile, per Resolution dated August 2, 2004, the application for optional retirement of respondent judge effective March 25, 2004, was approved. At that time, respondent judge has three (3) pending administrative cases,^[22] however, based on the initial assessment by the Docket and Clearance Division, Legal Office, OCA, the charges were not serious to warrant the withholding of his entire retirement benefits. Consequently, his retirement benefits were released, but the amount of Twenty Thousand Pesos (P20,000.00) was retained to answer for whatever penalty may be imposed upon him vis-à-vis the pending administrative cases. Incidentally, of the three (3) pending cases, Administrative Matter OCA IPI No. 03-1830-RTJ was dismissed for lack of merit, per our Resolution dated January 10, 2005.

When this case was referred to the OCA for evaluation and recommendation,^[23] it observed that that it is mandatory on the part of respondent judge to order the execution of the judgment in the ejectment case even if an appeal has been perfected, if defendant fails to file supersedeas bond.^[24] To stay the execution, defendant must not only perfect his appeal but must concurrently file the supersedeas bond. Consequently, respondent judge erred in denying NPF's motion

for execution.

In addition, respondent judge should have resolved the motion for reconsideration ahead of the appeal.

The OCA recommended that respondent judge be fined in the amount of P10,000.00.^[25]

Plainly, the errors attributed to respondent judge pertain to the exercise of his adjudicative functions. As a matter of policy, in the absence of fraud, dishonesty and corruption, the acts of a judge in his official capacity are not subject to disciplinary action. He cannot be subjected to liability – civil, criminal or administrative – for any of his official acts, no matter how erroneous as long as he acts in good faith. Only judicial errors tainted with fraud, dishonesty, gross ignorance, bad faith or deliberate intent to do an injustice will be administratively sanctioned.^[26] Settled is the rule that errors committed by a judge in the exercise of his adjudicative functions cannot be corrected through administrative proceedings, but should instead be assailed through judicial remedies.^[27]

We note that, although the OCA found the respondent judge guilty of error of judgment, yet, there is no finding that the same was tainted with manifest bias and partiality, bad faith, fraud or sheer ignorance of the law.

The denial of the motions for execution is an interlocutory order. Interlocutory orders are those that determine incidental matters which do not touch on the merits of the case or put an end to the proceedings. It is well-settled that a petition for certiorari under Rule 65, is the proper remedy to question an improvident order granting execution pending appeal and thereby relieve the adverse party from the immediate effects thereof. *The same principle applies to a stay of such execution.*^[28]

The propriety of the issuance of the contested orders could not be raised as an issue in this administrative case. NPF's recourse would have been a motion for reconsideration, an appeal or a petition for certiorari to the proper courts. To reiterate, an administrative complaint is not an appropriate remedy where judicial recourse is still available, such as a motion for reconsideration, an appeal, or a petition for certiorari, unless the issuance of the assailed order or decision is tainted with fraud, malice or dishonesty.^[29] Complainant could not be allowed to indirectly secure from this Court a ruling thereon in violation of the principle on hierarchy of courts. In *Victory Liner, Inc. v. Judge Bellosillo*,^[30] we held –

... this administrative case is not the right forum to determine the issue of the legality of respondent's order requiring VLI to post a cash bond for the release of its impounded vehicle. VLI should have raised the issue in the proper courts and not directly to us, and much less by way of an administrative case. There is after all a hierarchy of courts...

...

To allow VLI to raise that issue before us and obtain a ruling thereon directly from us through an administrative complaint would be to