

SECOND DIVISION

[A.M. No. RTJ- 04-1861, July 30, 2004]

MARGIE MACIAS CORPUS, COMPLAINANT, VS. JUDGE WILFREDO G. OCHOTORENA, RTC – BR. 11, SINDANGAN, ZAMBOANGA DEL NORTE, RESPONDENT.

D E C I S I O N

TINGA, J.:

On May 22, 2001, the Office of the Court Administrator (OCA) received the verified *Complaint*^[1] of Margie Corpus-Macias (Mrs. Macias) dated May 11, 2001, accusing Judge Wilfredo G. Ochotorena, then Presiding Judge, Regional Trial Court (RTC), Branch 11, Sindangan, Zamboanga Del Norte, of bias, partiality and violation of judicial conduct in connection with his disposition of Civil Case No. S-695 for declaration of nullity of marriage, entitled "*Mariano Joaquin S. Macias v. Margie Corpus-Macias.*"

The antecedents follow.

On February 6, 2001, a verified *Complaint* for declaration of nullity of marriage was filed against Mrs. Macias by Mariano Joaquin S. Macias ("Mr. Macias"), her husband and incumbent presiding judge of RTC, Branch 11, Liloy, Zamboanga Del Norte. The case was raffled to the respondent's court.^[2] On the same day the *Complaint* was filed, the respondent immediately issued *Summons* to Mrs. Macias.^[3] However, the *Summons* was not served on Mrs. Macias for the reason that her whereabouts were allegedly unknown.^[4] Consequently, Mr. Macias filed a motion to serve summons by publication. The respondent granted the motion in his *Order*^[5] dated March 7, 2001, with the directive that Mrs. Macias should file her answer within 30 days after notice. Thereafter, Mr. Macias caused the publication of the *Summons* in the local weekly newspaper, "*Tingog Peninsula,*" based in Dipolog City in its March 11-17, 2001 issue.^[6]

Mrs. Macias claims she learned of the aforesaid publication of *Summons* during the first week of April 2001. Without delay, on April 10, 2001 or within the 30-day period to file an answer, she filed a *Motion to Dismiss*, which she set for hearing on April 20, 2001.^[7] However, instead of first acting upon the motion, the respondent judge set the hearing on the merits of the subject case on April 19, 2001, or one day before.

On April 19, 2001, respondent judge denied the Motion to Dismiss and re-set the hearing on the merits to April 30, May 2 and 3, 2001.^[8] After the scheduled hearings, the respondent judge terminated the proceedings and declared the case submitted for decision.^[9]

In the interim, from April 10, 2001 up to April 30, 2001, various motions and manifestations, one after the other but interrelated, were filed by the counsel of Mrs. Macias opposing the hearing on the merits of the case before the respondent judge.^[10] One was denied while the rest were ignored. As previously stated, the respondent proceeded with the hearing on April 30, 2001 without resolving the other motions and manifestations.

It is in the light of the foregoing that Mrs. Macias believes that the respondent judge deprived her of the fundamental right to due process with utmost bias and partiality for Mr. Macias; hence, she filed the instant *Complaint* containing the above-cited facts before the Office of the Court Administrator (OCA).^[11] Also in the *Complaint* is her prayer that an order be issued *ex-parte* directing the respondent judge to desist from taking any further action in the subject case and imposing an administrative sanction against him.

Without waiting for the OCA's *Indorsement*, the respondent judge submitted his *Comment/Answer*^[12] on May 25, 2001.^[13]

The respondent judge claims that the instant *Complaint* is fatally defective because it is not supported by the affidavits of persons who have knowledge of the facts and documents needed to substantiate the allegations therein. Also, he asserts that malice, bad faith, and the intention to harass, embarrass and humiliate him had motivated Mrs. Macias to file the said *Complaint*.

The respondent judge disputes violating Mrs. Macias' right to due process. He argues that Mrs. Macias was given the opportunity to be heard but chose not to give her side, as shown by her failure to appear during the trial despite prior notice.

Furthermore, he points out that the records of the case would show that the proceedings was done in good faith and based on law and jurisprudence.

Furthermore, the respondent judge posits that even if he may have committed an error, such should be corrected by availing of judicial remedies and not by resorting to the filing of an administrative action. He argues that it is only after the Supreme Court finds that a judge had committed malice or gross ignorance that he should be administratively sanctioned. Moreover, respondent claims that a *Petition*^[14] dated May 11, 2001, containing similar allegations as the instant complaint, was filed before the Court of Appeals, a copy of which he received on May 21, 2001.

Finally, respondent judge insists that his *Decision*^[15] is valid and prays for the dismissal of the instant *Complaint* for lack of merit.

In her *Reply*^[16] which she filed on July 19, 2001, Mrs. Macias admits having filed a petition for certiorari^[17] under Rule 65 of the 1997 Rules of Civil Procedure with the Court of Appeals, docketed as CA-G.R. SP No. 64733 entitled "*Margie Corpus Macias v. Judge Wilfredo G. Ochotorena*" on May 18, 2001.^[18]

In addition, Mrs. Macias claims that the Court of Appeals decided the *Petition for Certiorari* and Prohibition with Application for Prayer for Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction in her favor on July 13, 2001, finding respondent judge blatantly transgressing her right to due process and

ignorant of the basic rudiments of Civil Procedure. She notes that the Decision^[19] nullified the assailed proceedings and the Decision^[20] rendered by the respondent judge on May 15, 2001 in Civil Case No. S-695.^[21] And finally, Mrs. Macias stresses that the instant charge against respondent judge may simply be verified by checking the records of the case.

On June 4, 2001, the respondent judge retired from the service. However, pursuant to the Resolution of the Court in A.M. No. 10597-Ret. dated 22 October 2001, the Court retained the amount of Forty Thousand Pesos (P40,000.00) from his retirement benefits, to answer for whatever administrative sanction the Court may impose in relation to the instant case.^[22]

In summary, Mrs. Macias now asserts before the Court that the respondent judge's actuations constitute bias, partiality and conduct unbecoming a judge. Moreover, according to her, what is more glaring and conclusive from the records is that the respondent is grossly ignorant of the law and procedure. For these administrative lapses, Mrs. Macias concludes that the Court should sanction him.

The conclusion is amply supported by the Court of Appeals' Decision which states that the respondent judge totally disregarded Mrs. Macias' right to due process when he proceeded with the trial on the merits of the case completely ignoring the fact that her Motion to Dismiss, which was filed within the 30-day reglementary period, was still pending resolution.

The respondent judge disregarded the provisions of Section 1, Rule 18 of the 1997 Rules on Civil Procedure, which states that: "After the last pleading has been served and filed, it shall be the duty of the plaintiff to promptly move ex-parte that the case be set for pre-trial." Considering that the last pleading was Mrs. Macias' Motion to Dismiss, the respondent judge should have first resolved the motion and then waited for Mr. Macias' motion to set the case for pre-trial.

What happened in the case is a classic example of "railroading" or "procedural short-cut." Instead of resolving the *Motion to Dismiss*, the respondent judge completely ignored it and proceeded with the trial on the merits of the case by receiving Mr. Macias' evidence *ex-parte*.

The respondent judge compounded his blunder when, after denying Mrs. Macias' *Motion to Dismiss*, he continued with the reception of Mr. Macias' evidence *ex-parte*, ordered the termination of the trial and thereafter, considered the case submitted for decision despite Mrs. Macias' filing of a *Motion for Reconsideration* of the order denying her *Motion to Dismiss*. In holding the trial of the case up to its completion, the respondent judge had acted utterly oblivious to the pending *Motion for Reconsideration*.

It is also worth mentioning that, as correctly found by the appellate court, even if Mrs. Macias failed to file her answer to the complaint after the period therefor had elapsed, the respondent judge was not authorized to conduct a hearing of the case on its merits. The Rules of Court prohibits default proceedings in cases involving declaration of nullity of marriage.^[23]

In that regard, Mrs. Macias had already filed her *Motion to Dismiss* where she