

## THIRD DIVISION

[ A.M. No. RTJ-03-1791, July 08, 2004 ]

**DOMINGO B. PANTIG, COMPLAINANT, VS. JUDGE LAMBERTO A. DAING, JR., REGIONAL TRIAL COURT, BRANCH 46, JUDGE CARMELITA GUTIERREZ-FRUELDA, REGIONAL TRIAL COURT, BRANCH 43, JUDGE PEDRO M. SUNGA, JR., REGIONAL TRIAL COURT, BRANCH 42, ALL IN SAN FERNANDO CITY, PAMPANGA AND JUDGE PAMELA ANN A. MAXINO, MUNICIPAL TRIAL COURT, GUAGUA, PAMPANGA, BRANCH 1. RESPONDENTS.**

### RESOLUTION

#### **CORONA, J.:**

This is an administrative matter stemming from the affidavit-complaint<sup>[1]</sup> filed by complainant Dominador Pantig charging the following judges with conduct unbecoming of officers of the court: Judge Lamberto Daing, Jr., Regional Trial Court of San Fernando, Pampanga, Branch 46; Judge Pamela Ann Maxino, Municipal Trial Court of Guagua, Pampanga, Branch 1; Judge Pedro Sunga, Regional Trial Court of San Fernando, Pampanga, Branch 42 and Judge Carmelita Gutierrez-Fruelda, Regional Trial Court of San Fernando Pampanga, Branch 43.

In his affidavit-complaint, Pantig alleged that he and his siblings (Baltazar, Pedro and Ursula Pantig-Sahagun) were co-owners of Lot 1471, a 13.99 hectare fishpond. In 1969, ownership of Lot 1471 (together with Lots 1747 and 1801) was awarded, pursuant to original registration, to Venancio Baltazar. However, Baltazar's ownership over Lot 1471 was challenged by complainant Pantig and his siblings in an action for reconveyance. The Regional Trial Court of San Fernando, Pampanga, Branch 41 ruled in favor of the Pantigs and ordered Baltazar to surrender the possession of Lot 1471. The dispositive portion of the decision rendered by Judge Felipe B. Kalalo read:

Wherefore, and in view of the foregoing a new judgment is hereby rendered as follows:

1. That portion of the Decision rendered on August 24, 1969 confirming applicant-respondent's title to Lot 1471, is hereby set aside;
2. Petitioner's title to Lot 1471, described in plan AP-19164 (Exhibit D) and in its technical description (Exhibit H), is hereby confirmed and orders that the same be decreed in an undivided equal shares in favor of petitioners Baltazar Pantig, Domingo Pantig, Pedro Pantig, Filipinos, of legal ages, all married, the first two being residents of Sexmoan, Pampanga, and the last two being residents of Guagua, Pampanga; and

3. Upon the finality of this decision, respondent Venancio Baltazar is hereby ordered to surrender possession of Lot 1471 to the petitioners and to render within sixty (60) days thereof an accounting of the produce thereof from 1969.

Once this decision becomes final, let the corresponding decree issue.

With costs against applicants, respondent Venancio Baltazar.<sup>[2]</sup>

The April 5, 1984 decision of Judge Kalalo was affirmed by both the Court of Appeals and the Supreme Court.<sup>[3]</sup> It became final and executory on February 7, 1997. However, in spite of the issuance of a writ of execution and an Original Certificate of Title (OCT) in the name of complainant Pantig, the Baltazars continued to be in possession of the property without any accounting of the produce rendered.

Complainant Pantig alleges that the final and executory decision has not been implemented because of the maneuverings of the Baltazars through their counsel, Atty. Ernesto Pangalangan, and the acts of the respondent judges which amount to conduct unbecoming of officers of the court.

As summarized by the Office of the Court Administrator (OCA), the acts complained of are:

a) **JUDGE LAMBERTO A. DAING, JR.**

Complainant alleges that he filed an indirect contempt charge against the Baltazars' counsel, Atty. Ernesto Pangalangan, docketed as SP Civil Case No. 12056 before the RTC, Branch 45, San Fernando City presided by respondent Judge Lamberto A. Daing, Jr. A motion to dismiss the complaint was filed by Atty. Pangalangan after which the court ordered him to file his position paper. Complainant received a copy of Atty. Pangalangan's position paper on 28 June 2000 and filed his comment thereon on 03 August 2000. However, despite lapse of almost two (2) years, respondent Judge has not resolved the motion to dismiss in violation of the rules.

b) **JUDGE CARMELITA GUTIERREZ-FRUELDA**

Complainant avers that, relative to the above-mentioned *Land Registration Case No. N-850 LRC Rec. No. N-35668 entitled "Baltazar Pantig, et al. vs. Venancio Baltazar,"* RTC, Branch 41, San Fernando, Pampanga issued an order on 01 September 1999 finding defendant Baltazars guilty of indirect contempt and ordering them to pay P25,000.00 each for their refusal to render an accounting on the produce of the subject fishpond from 1969 up to the present. Upon the motion of plaintiff Pantigs, the court issued another Order dated 07 June 2000 further ordering the imprisonment of defendant Baltazars until they comply with the Order of 01 September 1999.

Complainant maintains that on 27 June 2000 the Baltazars

filed their first Urgent Motion to Reconsider Order of 07 June 2000 etc. On 20 December 2001, Judge Simbulan issued an order denying the motion; rejecting the accounting submitted by the Baltazars; and ordering the issuance of the warrants of arrest. A second Urgent Motion to Reconsider Order dated 20 December 2001 was filed by the Baltazars which was likewise denied on 17 January 2002. Later, upon the motion of the Baltazars, Judge Simbulan inhibited himself from hearing the case. The case was then re-assigned to RTC, Branch 43 presided by respondent Judge Carmelita Gutierrez-Fruelda.

Complainant contends that for the third time the Baltazars filed an urgent Motion to Reconsider Order dated 17 January 2002. During the hearing on the motion, complainant's counsel emphasized that the motion ought to be denied for being pro-forma and actually the third motion filed by the Baltazars seeking the reconsideration of the Order dated 07 June 2000 which cited them in contempt of court. The Pantigs observed that during said trial Atty. Pangalangan, counsel for the Baltazars, was unusually silent and it was respondent Judge who was actively arguing with their counsel. Sensing bias on the part of the judge they requested their counsel to file a motion for her inhibition. Their suspicion was confirmed when on 19 February 2002 respondent Judge issued an order granting the motion and setting aside the Order of 01 September 1999 which cited the Baltazars in contempt of court. The same order accepted the accounting previously rejected by Judge Simbulan and considered the same as their substantial compliance with the accounting mandated by the dispositive portion of the Decision dated 05 April 1984 even in the absence of any receipt or voucher showing how the expenses were incurred.

**c) *JUDGE PEDRO M. SUNGA, JR.***

Complainant alleges that respondent Judge Pedro M. Sunga, Jr., issued an Order dated 07 June 2000 in LRC No. N-850 N-35668 ordering the imprisonment of the Baltazars until they comply with the Order dated 10 February 1998. However, upon the Baltazars' filing of an "Urgent Motion to Reconsider Order of 07 June 2000" dated 27 June 2000, respondent Judge immediately recalled the Warrants of Arrest issued against respondent Baltazars without first giving the plaintiffs the opportunity to comment on the said motion.

**d) *JUDGE PAMELA ANN A. MAXINO***

Complainant avers that he is one of the plaintiffs in a forcible entry case against the Baltazars docketed as Civil Case No. 732. On 13 August 2001, respondent Judge Maxino ordered expunged the Position Paper and the supporting affidavits of the Baltazars for having been filed out of time and considered the case submitted for decision. On 31 August 2001, Atty.

Pangalangan filed a Motion for Reconsideration which did not contain a notice of hearing. Instead of disregarding the motion for being defective, respondent Judge, on 06 September 22001, set the said motion for hearing on 28 September 2001. Complainant's counsel objected thereto saying that the court had no obligation to set the motion for hearing and that such hearing would unnecessarily delay the case. Yet the hearing proceeded. On 03 October 22001, respondent judge instead of deciding the case, merely inhibited herself as a consequence of which the case remained pending and the Baltazars were given the undue advantage of staying on the fishpond for some more years to the prejudice of the Pantigs.

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Respondent judges submitted their respective comments denying that their acts constituted conduct unbecoming of officers of the Court. As summarized by the OCA, the comments of respondent judges follow:

1. COMMENT dated 02 May 2002 of respondent Judge Lamberto A. Daing, Jr.

Respondent Judge Daing avers that although the pending incident in the subject case was the motion to dismiss and the opposition thereto, he claims that both parties already presented their respective evidence on the merits. Several documents were allegedly submitted by them revering to some records of no less than three separate cases aside from the pleadings and decisions of the Court of Appeals and the Supreme Court. Due to these voluminous records, he admits that through sheer inadvertence and oversight, he was able to resolve the pending incident only on 10 May 2002. He asserts though that his inaction was not attended or brought about by malice or ill-motive to unjustifiably favor one party over another.

2. COMMENT dated 06 May 2002 of respondent Judge Carmelita S. Gutierrez-Fruelda denying the charge against her.

Respondent Judge Fruelda states that the charge against her hinges on the Order dated 19 February 2002 which she issued as the Presiding Judge of RTC, Branch 43, San Fernando City, Pampanga, in *LRC No. N850 N-35668 entitled "Baltazar Pantig, et al vs. Venancio Baltazar,"* the dispositive portion of which, inter alia, states:

"Considering all the foregoing, this Court believes and so holds that, in view of the compliance by the Baltazars (thru counsel) with the Decision and the Orders aforesated, by rendering an accounting of the produce of the fishpond from 1969 up to the present, notwithstanding that some entries in the

accounting may not be acceptable to the opposing party, there is still compliance made by the respondents. Since there was compliance the fine of ₱25,000.00 for each of the respondents must be reconsidered and the Warrant of Arrest issued against all the respondents must necessarily be recalled.”

Respondent Judge Fruelda in justifying her aforementioned Order states, inter alia, thus:

- A. Specifically, the April 5, 1984 Decision, required the person of VENANCIO BALTAZAR, and none other to render an accounting of the income and expenses of the fishpond from 1969 to the present;
  - B. The person of Venancio Baltazar failed to render the ordered accounting until he died on February 5, 1979;
  - C. The record does not show that the respondents, who were cited for contempt and ordered imprisoned, were duly named substitutes to the principal respondent, the deceased Venancio Baltazar. Neither were they appointed executors or administrators of the estate of the deceased respondent.
  - D. In fact, there is no showing in the record that the respondents, who were ordered arrested, had a hand in the management and administration of the subject fishpond for them to get involved in the matter of rendering an accounting which is personal in nature;
  - E. The order for these respondents to render an accounting, otherwise face incarceration, compelled them to hire a public accountant who prepared one for them, and hence, upon submission of the same would be treated as full compliance of the order, the non-acceptance of the same by petitioner notwithstanding. As such, the re-issuance of the warrants of arrest against them would be iniquitous and unjust;
- xxxxxx
- I. If the herein complainant found error in the questioned order of the undersigned respondent Judge, the proper remedy, if she may suggest, is to attach the same in a petition for certiorari, as the