

## SECOND DIVISION

**[ A.M. No. RTJ-04-1860, September 08, 2004 ]**

**SPOUSES FLORENCIO & ESTHER CAUSIN, COMPLAINANTS, VS.  
JUDGE LEONARDO N. DEMECILLO, REGIONAL TRIAL COURT,  
BRANCH 24, CAGAYAN DE ORO CITY, RESPONDENT.**

### RESOLUTION

**PUNO, J.:**

Before this Court is an administrative complaint filed on August 24, 2001 by spouses Florencio and Esther Causin, charging respondent Regional Trial Court (RTC) Judge Leonardo N. Demecillo, Branch 24 of Cagayan de Oro City, with bias and partiality, violation of the Code of Judicial Conduct for allowing another RTC judge to participate in a case pending before his *sala* as counsel for the plaintiff without authority from this Court, and for knowingly rendering an unjust decision.

The complaint stemmed from a 1994 case for quieting of title<sup>[1]</sup> filed by Raul F. Lim, represented by his attorney-in fact Rita Lim, and Pryce Properties Corporation against complainant-spouses and one Omero T. Dampal. The case which involved the overlapping of boundaries of the adjacent lots of the parties was raffled off to the RTC, Branch 24 of Cagayan de Oro City, presided by respondent judge.

Complainant-spouses alleged that Judge Rodrigo Lim, Jr., then RTC Acting Judge of Branch 21, Cagayan de Oro City and a brother of plaintiff Raul Lim, acted as the latter's counsel in the civil case for quieting of title. They claim that Judge Lim attended the hearings in the case, cross-examined the witnesses, interposed objections at the trials, chose the hearing dates, and delivered oral arguments in court --- all without special authority from this Court; that when confronted by them, Judge Lim refused to confirm whether he was hired by the plaintiffs to represent them in said case; and, that respondent judge allowed Judge Lim to actively participate and intervene in the proceedings although he knew that the latter was not authorized by this Court to do so.

As to the charge of bias and partiality in favor of the plaintiffs and Judge Lim, complainant-spouses alleged that during the trial, respondent judge extended unwarranted consideration to the plaintiffs as follows: he would wait for the arrival of Judge Lim in court whenever the latter would be late for a hearing in said case; a scheduled hearing in the morning would be transferred by respondent judge in the afternoon when he would learn that Judge Lim could not make it in the morning session; respondent judge would reset the hearings based solely on the convenience of Judge Lim; all the unreasonable objections interposed by Judge Lim during the trial were sustained by respondent judge; and, when complainants moved for an ocular inspection of the subject lots to show to the court the actual location of the disputed boundary, respondent judge denied their request and sustained the objection of Judge Lim.

Finally, complainant-spouses charged that respondent judge knowingly rendered an unjust decision in the case when he awarded the disputed portion of the land to plaintiff Lim without considering the merits of their evidence.<sup>[2]</sup>

In answer to the complaint,<sup>[3]</sup> respondent judge denied the charges. He explained that he allowed Judge Lim to appear as counsel for the plaintiffs as he presumed that the latter had sought prior authority to do so from this Court. He pointed out that under Section 21, Rule 138 of the Rules of Court, an attorney is presumed to be properly authorized to represent any cause in which he appears. Respondent judge also argued that the complainants failed to file a motion questioning the authority of Judge Lim to appear as counsel for the plaintiffs in said case.

On the charge of bias and partiality, respondent judge explained that: firstly, it has been his practice to move to the afternoon a hearing that is scheduled in the morning upon the request of either party rather than postpone or reset it to another day; secondly, he did not consider solely the convenience of Judge Lim in scheduling the hearing dates as he asked the parties to find a trial date convenient to them, as borne out by the transcripts of said case; finally, he did not grant complainants' request for an ocular inspection of the subject lots as he believed that the relocation survey of a licensed inspector would better determine if the two (2)-hectare disputed land belonged to the land of the plaintiffs or the defendants.

On the charge of knowingly rendering an unjust judgment, respondent judge stressed that he decided the case against the complainants based on the evidence and the law, guided by his deep sense of justice. He explained that he did not consider complainants' defense of prescription and laches for the following reasons: these were not put in issue in the pre-trial order; acquisitive prescription could not defeat the title of the registered owner of the land; and, the complainants failed to prove that plaintiffs incurred in delay in asserting their rights despite knowledge of the complainants' encroachment on their land.

Finally, respondent judge argued that if complainant-spouses doubted his impartiality, they should have filed a motion to inhibit him and he would have readily granted it. Likewise, he pointed out that if they had objected to the participation of Judge Lim in the proceedings, it would have given him reason to inquire from Judge Lim whether he was authorized to appear in said case. Respondent judge stressed that complainant-spouses did neither and put the blame on him after losing their case.

In their Reply,<sup>[4]</sup> complainant-spouses reiterated their charge that respondent judge was guilty of bias and partiality when he allowed RTC Judge Lim to actively participate in the trial of said case without entering his appearance as plaintiffs' counsel. They stressed that there was no special purpose for Judge Lim to appear as counsel for his brother, plaintiff Raul Lim, as the latter had already sold his land, subject of the case, to co-plaintiff Pryce Properties Corporation. Thus, they charged that the participation of Judge Lim in the proceedings served no other purpose than to influence respondent judge in deciding the case in plaintiffs' favor. They insisted that respondent judge should not have allowed Judge Lim to be involved in the proceedings as he was not a party to the case, he was not hired by the plaintiffs to represent them and he was not authorized by this Court to do so. It was not

incumbent upon them to inquire into Judge Lim's authority as, being laymen, they did not know that a member of the bench is not allowed to practice his profession.

For his part, Executive Judge Rodrigo Lim, Jr. admitted that he did not secure from this Court an authority to appear in the proceedings of the case. He explained that his appearance at the trial of September 20, 1995 was only for the purpose of cross-examining the complainants' witness, Pedro Tellafer, who was a tenant of his father, the original owner of plaintiffs' lot. He allegedly participated in the hearings of said case in good faith as he had personal knowledge of the witness' background. Moreover, it was a family case --- his brother was one of the plaintiffs and his wife acted as his brother's attorney-in-fact. He argued that he did not engage in the illegal practice of law as the phrase connotes payment of a fee and he did not receive remuneration for his participation in the case. Finally, he claimed that the complaint was ill-motivated and was filed by disgruntled litigants to get even with the Lim family after losing the case, as evidenced by the fact that it was only filed six (6) years later.<sup>[5]</sup>

After the issues were joined, the Court referred the case to the Court of Appeals for investigation, report and recommendation. At the hearings conducted, complainant-spouses and respondent judge testified. The case was then submitted for decision.<sup>[6]</sup>

After evaluating the case, the investigating Justice made the following observations:

(1) On the charge of bias and partiality, there is no basis to warrant disciplinary action against respondent judge as complainants failed to prove their charge by convincing evidence.

(2) On the charge of knowingly rendering an unjust decision, the respondent judge cannot be held liable as the impugned decision was affirmed on appeal by the Court of Appeals and this Court.

(3) On the charge of violation of the Code of Judicial Conduct, respondent judge is liable as he allowed a fellow RTC judge to appear as counsel for one of the parties in a case pending before his *sala* without authority from this Court. He rejected respondent judge's explanation that he was busy with the case that it escaped his attention that Judge Lim was an incumbent RTC judge, prohibited from appearing as counsel in the case.

Thus, the investigating Justice recommended: (1) that the charges of bias and partiality, and knowingly rendering an unjust judgment be dismissed for lack of merit; and, (2) that a fine of **P5,000.00** be imposed against respondent judge for violation of Canon 2, Rule 2.01 and Rule 2.03 of the Code of Judicial Conduct for allowing the unauthorized appearance of Judge Lim in the trial of the case, with a **stern warning** that a repetition of similar act of impropriety or any misconduct shall be dealt with more severely.<sup>[7]</sup>

We uphold the findings of the investigating Justice of the Court of Appeals.

On the charge of bias and partiality, we rule that there is a dearth of evidence on record to prove complainant-spouses' charge. The transcript of records attached by

complainant-spouses to their complaint clearly shows that in ruling on the objections during the trial, respondent judge would at times sustain or overrule the objection of the lawyer of either party. Thus, from the records, we cannot discern any pattern of partiality committed by respondent judge in favor of the plaintiff or Judge Lim. The questions sparingly propounded by respondent judge to the witnesses were mostly clarificatory in nature. We quote the pertinent portions of the September 20, 1995 TSN of said case, thus:

ATTY. JARDIN

We offer the testimony of our witness, Mr. Tellaper, Your Honor, to prove that he is the brother of Salvacion Tellaper Relano, and her husband Miguel Relano, as the caretaker of the land owned by the late Rodrigo Lim, Sr., and he will also testify that Miguel Relano told him to plant monuments at the boundary per instruction of Rodrigo Lim, Sr. to Miguel Relano.

COURT

Any comment, Pañero?

ATTY. ACHAS: [*plaintiffs' counsel of record*]

**We object [to] the offer of the testimony of witness, on the aspect that he was told by the late Rodrigo Lim, Sr. to plant the monuments is a hearsay.**

ATTY. JARDIN

He was the one [who] told to plant the monuments.

ATTY. ACHAS

The person who allegedly told him is already dead.

ATTY. JARDIN

He was instructed and he planted the Ipil-Ipil trees.

COURT

What are you trying to prove, Pañero?

ATTY. JARDIN

The Ipil-Ipil trees were planted among the monuments at the boundary of the land.

JUDGE LIM

**Why not present the sister?**

ATTY. JARDIN

He was the one who planted, and in fact there was no dispute prior to this case.

COURT

**Alright, we will hear from the witness.**

x    x    x

Q      Mr. Witness, you said earlier that in the land owned by Sr. Lim, there is an adjoining land owned by the defendants Causin, did you not know the boundary of Causin and Lim?

JUDGE LIM

**No basis, Your Honor.**

COURT

**Lay the basis, Pañero.**

ATTY. JARDIN

Q      You said earlier, that you resided in the land of Sr. Lim for 30 years, do you confirm that Mr. Witness?

A      Yes, sir.

Q      Mr. Witness, did you know the owners of the land adjoining the land of Sr. Lim?

ATTY. ACHAS

**We object, no basis.**

ATTY. JARDIN

He is a resident of that place.

JUDGE LIM

**He has to lay the basis.**

ATTY. JARDIN

If the witness knows, Your Honor.

JUDGE LIM

**He do[es] not know the boundary.**

COURT

**If witness knows**