

SECOND DIVISION

[A.M. No. RTJ-04-1857 (formerly OCA IPI No. 02-1477-RTJ), November 23, 2004]

GABRIEL DELA PAZ, COMPLAINANT, VS. JUDGE SANTOS B. ADIONG, RTC, BRANCH 8, MARAWI CITY, RESPONDENT.

RESOLUTION

AUSTRIA-MARTINEZ, J.:

In a verified letter complaint dated May 15, 2002,^[1] Gabriel dela Paz, Officer-in-Charge of Fund for Assistance to Private Education (FAPE),^[2] charged Judge Santos B. Adiong of the Regional Trial Court (RTC) of Marawi City, Branch 8 of gross ignorance of the law and/or abuse of authority.

Pacasum College, Inc., represented by Saripada Ali Pacasum, filed with the RTC, a petition for *mandamus* with application for a preliminary mandatory injunction, docketed as Special Civil Action No. 813-02, against FAPE, represented by Roberto T. Borromeo, Secretary Raul S. Roco, Ramon C. Bacani and Carolina C. Porio.

On March 4, 2002, respondent judge issued an Order, to wit:

WRIT OF PRELIMINARY MANDATORY INJUNCTION

Considering that the petition herein is sufficient in form and substance, a Writ of Preliminary Mandatory Injunction is hereby issued requiring the respondents, specifically FAPE and its officials, including its Chairman respondent RAUL S. ROCO, to prepare and issue a check in the amount of P4,000,000.00 representing the entitlement of the petitioner for School Year 2001-2002, payable to its President/Chairman DATU SARIPADA ALI PACASUM, under pain of arrest and contempt.^[3]

The following day, March 5, 2002, respondent issued another Order, thus:

Finding the ex-parte motion of the petitioner to be impressed with merit, it is hereby approved.

WHEREFORE, the appropriate Sheriffs of Makati and Mandaluyong, Metro Manila, are hereby ordered to serve the attached Writ of Preliminary Mandatory Injunction upon the respondents, and make a return on their actions taken thereon. ^[4]

On March 12, 2002, FAPE, through counsel, filed an omnibus motion set aside orders of March 4 and 5, 2002 and to dismiss the case.^[5] In its motion, FAPE claimed that it was not served with summons but received copies of the questioned orders on March 8, 2002; that the writ of preliminary mandatory injunction which

was intended to be enforced in Makati is outside the jurisdiction of the Twelfth Judicial Region of RTC Marawi City; that Section 21 of *Batas Pambansa* (B.P.) *Blg.* 129, as amended, provides that the RTC has jurisdiction to issue writ of injunction which may be enforced in any part of its respective regions; that the writ was granted without hearing and notice; neither was there a showing of an affidavit that would establish that great or irreparable injury would result to the applicant before the matter can be heard nor was there a showing that a bond had been filed.

On May 6, 2002, another Order was issued by the respondent, thus:

It appears on record that despite service to the respondents copies of the Writ of Preliminary Mandatory Injunction issued by this Court on March 4, 2002 and until date respondents failed to obey or comply (sic) the Writ as directed and considering that funds due to the petitioner has been deposited in the bank, the assigned Sheriff of Makati City is ordered to take custody of the said funds/check in the name of PACASUM COLLEGE INC., in the amount of 4 million pesos. Collectible for the school year 2001-2002 and release the same to SARIPADA ALI PACASUM, President/Chairman of the said school thru garnishment proceedings at the (BPI), Bank of Philippine Islands, Benavidez St., Legaspi Village, Makati City or BPI main at Ayala Ave., Makati City and/or any other banks including LANDBANK of the Philippines, Ortigas Center Branch which is the official depository bank of the DECS out of the deposit of Funds for Assistance for (sic) Private Education (FAPE) in order not to defeat the purpose of the said Writ.^[6]

On May 8, 2002, Makati Sheriff Melchor C. Gaspar issued notices of garnishment to Land Bank Head Office in Ortigas Center Branch and BPI-Far East Bank in Pasay Road Branch, Makati.^[7] Subsequently, FAPE, through counsel, wrote Sheriff Gaspar a letter asking the latter to rectify his act of issuing notices of garnishment considering that the same was made pursuant to a patently illegal and void order of the respondent.^[8]

In his letter-complaint, dela Paz claims as follows: Respondent's issuance of the writ of preliminary mandatory injunction dated March 4, 2002 was in glaring disregard and defiance of Section 21 of B.P. *Blg.* 129 which limits the authority of RTCs to issue writs of *mandamus* within their respective regions. The issuance of the writ was in disregard of the notice and hearing requirements under Rule 58 of the Rules of Court. Respondent continues to issue orders directing FAPE to release the amount of P4,000,000.00 to Datu Saripada Ali Pacasum even in a case where it was not a party thereto as in Corporate Case No. 010 filed by Sultan Sabdullah Ali Pacasum against Datu Saripada Ali Pacasum,^[9] et al., respondent issued an Order dated April 22, 2002, wherein he stated the following:

In view of this order there exists no legal impediment to the enforcement of the previous orders of this Court particularly a Writ of Preliminary Mandatory Injunction issued in Special Civil Action No. 813-02 dated March 4, 2002 directing the respondent FAPE to release to the petitioner the sum of P4,000,000.00 representing the petitioner's entitlement for the School Year 2001-2002 and the order of the Court in Special Civil Case No. 878 dated March 4, 2002 directing the defendant DR. CARMEN

DOMMITORIO to immediately release to the plaintiff SARIPADA PACASUM the sum of P1,000,000.00 under pain of arrest and contempt.^[10]

Respondent explains in his second indorsement dated July 29, 2002 that he had ordered the dismissal of Special Civil Action No. 813-02 per his resolution dated June 21, 2002 and that he had recalled and set aside his questioned orders dated March 4 and 5, 2002. He submits that with the dismissal of the said case, the herein complaint has become moot and academic and should no longer be given due course.^[11]

Complainant, in a letter dated August 23, 2002,^[12] informed us that FAPE's counsel was not furnished with a copy of the respondent's resolution dismissing the case; and that there is still a pending motion for reconsideration filed by petitioner in the said case and FAPE's manifestation with comment and opposition thereto. Complainant claims that aside from the Orders dated March 4 and 5, 2002 ignorantly issued by respondent judge, his order dated May 6, 2002 which directed the garnishment of the funds of their office and followed by a writ of garnishment issued by a Makati sheriff really paralyzed FAPE's operations until a temporary restraining order was issued by the Court of Appeals.^[13] Complainant prays that their complaint be treated better than just being dismissed for being moot and academic as respondent would want it to be.

Both parties manifested that they are submitting the case for resolution based on the pleadings filed.^[14]

The Court Administrator submitted his Report finding respondent judge guilty of gross ignorance of law and grave abuse of authority and recommending that he be meted with the penalty of suspension from office for a period of six (6) months without pay with a warning that the commission of a similar act in the future will warrant his dismissal from the service. In arriving at his findings and recommendations, the Court Administrator stated:

As correctly claimed by the complainant, respondent judge had indeed issued the two (2) orders of March 4 & 5, 2002 without complying with the mandatory requirement of notice and hearing under Section 5, Rule 58 of the 1997 Rules of Civil Procedure, which provides that: "No preliminary injunction shall be granted without hearing and prior notice to the party or person sought to be enjoined x x x." Because of his total disregard of the rules, respondent judge is clearly ignorant of the rules. The subsequent dismissal of Special Proceeding No. 813-02 per order dated 21 June 2002, which also recalled and set aside the orders of March 4 and 5, 2002, does not render the instant administrative complaint moot and academic considering that the issue involved in the instant case is administrative and not judicial in character. Specifically, the issue is with regard to respondent judge's violation of the law or procedure which is tantamount to ignorance of the law or procedure. Undoubtedly, respondent judge violated the above-cited rules because the records are bare that prior to the issuance of the subject writ, he notified the respondent FAPE and conducted a hearing. For this reason, there is no doubt that respondent judge is guilty of ignorance of the rules.

Concerning respondent judge's issuance of an order dated 22 April 2002 in Corporate Case No. 010 directing FAPE to issue a check in the sum of P4 million pesos pursuant to the order dated 04 March 2002 in Special Civil Action No. 813-02, such an act is tantamount to an abuse of his authority. Records revealed that FAPE was not a party to Corporate Case No. 010. Nonetheless, respondent judge still directed FAPE to comply with an order in a case, which they have nothing to do.

Aside from the fact that respondent judge issued an order against a non-party to Corporate Case No. 010, he also had no authority to issue said order because he already inhibited himself from trying the case. Records revealed that on 21 November 2001 respondent judge inhibited himself from trying and hearing Corporate Case No. 010 (SEC Case No. 10-99-6437). Respondent judge even caused the forwarding of the records of the said case to the Office of the Court Administrator so that the court in Iligan City, which was designated as special court to try and decide corporate cases (SEC-related cases) would be designated in lieu of respondent judge. Acting on the said request, the Court, per Resolution of 10 June 2002 in A.M. No. 02-4-207-RTC, designated Judge Amer R. Ibrahim, Pairing Judge, RTC, Marawi City to try and decide Corporate Case No. 010.

Despite said inhibition and the subsequent designation of another judge, respondent judge still issued the order of 22 April 2002. Respondent judge's justification for the issuance of the said order was because the Office of the Court Administrator returned the records of Corporate Case No. 010 to his sala for further proceedings. While it is true that the records were indeed returned to his sala, there is no showing that respondent judge was given the authority to handle the case. The Court's directive was for Judge Ibrahim, the pairing judge of Branch 8, to continue the trial and hearing of Corporate Case No. 010. Thus, respondent judge was fully aware of his lack of authority to handle the case. For lack of authority to do so, respondent judge is guilty of grave abuse of authority.

Worse, respondent judge issued the subject extraordinary writ to be enforced outside his judicial region, in gross violation of Section 21 of *B.P. Blg. 129* which provides that Regional Trial Courts exercise original jurisdiction in the issuance of writs of *certiorari*, prohibition, *mandamus*, *quo warranto*, *habeas corpus* and injunction which may be enforced in any part of their respective judicial regions.

The Honorable Court in the case of *PNB versus Pineda*, 197 SCRA 1 (1991), held that: "Regional Trial Courts can only enforce their writs of injunction within their respective designated territories." Likewise, in the case of *Embassy Farms, Inc. vs. Court of Appeals* (1990), it was held that: "Generally, an injunction under Section 21 of the *Batas Pambansa Bilang 129* is enforceable within the region. The reason is that the trial court has no jurisdiction to issue a writ of preliminary injunction to enjoin acts being performed or about to be performed outside its territorial boundaries."

Similarly, the Court, in the case of Martin vs. Guerrero, 317 SCRA 166 (1999), penalized then Assisting Judge Eleuterio F. Guerrero, RTC, Branch 18, Tagaytay City with a fine of P1,000 pesos and admonition with warning for issuing a writ against a party who is a resident of Parañaque City, an area which is outside of his judicial jurisdiction. Specifically, the Court held that: *"Under the foregoing clear provisions of B.P. 129 and the Rules of Court, regional trial courts have jurisdiction to issue writs of habeas corpus only when such writs can be enforced within their respective judicial districts, as extraordinary writs issued by them are limited to and operative only within such areas. Clearly then, respondent judge had no authority to issue writ of habeas corpus against herein complainant, who was a resident of Parañaque, an area outside his judicial jurisdiction"*.

Thus, consistent with the aforesaid rulings of the court, it follows then that respondent judge, being a presiding judge of RTC, Marawi City, has no authority to enforce the subject preliminary mandatory injunction in Makati City. The subject writ of preliminary mandatory injunction just like the subject writ of *habeas corpus* in the aforesaid case of Judge Guerrero cannot be enforced by respondent judge against a party who is in Makati City, an area outside of his judicial jurisdiction. Clearly, respondent judge had grossly violated the provisions of Section 21 of B.P. Blg. 129.

From all the foregoing, we find respondent judge guilty of gross ignorance of the law and grave abuse of authority.

Under Rule 140, as amended by A.M. No. 01-8-10-SC dated 11 September 2001, gross ignorance of the law or procedure is considered a serious charge with the following sanctions: (a) dismissal from the service; or (b) suspension from office without pay for more than 3 months but not exceeding six months; or (c) a fine of more than P20,000.00 pesos but not exceeding P40,000.00 pesos.

Record in the Docket and Clearance Division, OCA shows that respondent judge had been previously penalized in the following cases:

1. FINED in the sum of P20,000.00 pesos (sic) for Ignorance of the Law in A.M. No. RTJ-98-1407 per Resolution of 20 July 1998;
2. FINED in the sum of P5,000.00 pesos (sic) for Gross Ignorance of the Law and Grave Abuse of Discretion in A.M. No. RTJ-00-1581 per Resolution of 02 July 2002.

In determining the penalty to be imposed, it is important to note that this is respondent judge's 3rd offense involving the same act, which is gross ignorance of the law, hence he may be meted with a severe penalty of either DISMISSAL from the service or SUSPENSION from office without pay for more than 3 months but not exceeding 6 months, at the discretion of the Court.^[15]