

SECOND DIVISION

[A.M. No. RTJ-04-1889 (Formerly OCA-IPI No. 02-1525-RTJ), December 22, 2004]

MA. CECILIA L. PESAYCO, COMPLAINANT, VS. JUDGE WILLIAM M. LAYAGUE, RTC, BRANCH 14, DAVAO CITY, RESPONDENT.

D E C I S I O N

TINGA, J.:

This administrative case arose from an *Affidavit-Complaint* dated July 3, 2002, filed before the Office of the Court Administrator (OCA) by Atty. Ma. Cecilia L. Pesayco (Pesayco) against Judge William M. Layague (Judge Layague) of the Regional Trial Court (RTC), Branch 14 of Davao City, charging the latter of gross ignorance of the law and knowingly rendering an unjust interlocutory order, manifest partiality, unreasonable delay in the resolution of pending incident and serious misconduct and inefficiency in the performance of his duty.^[1]

The factual antecedents are as follows:

Pesayco filed the administrative case in her capacity as the Chief Legal Counsel of the Philippine National Bank (PNB), which earlier had extrajudicially foreclosed the properties mortgaged by the spouses Robert Alan and Nancy Limso (spouses Limso).

On March 25, 2002, the spouses Limso filed Civil Case No. 29,036-2002^[2] before the RTC presided by Judge Layague for declaratory relief, with prayer for the issuance of a preliminary injunction. In the complaint, the spouses Limso claimed that the period to redeem should be governed by Act 3135 which provides for a one (1) year redemption period from registration of the sale, not by Republic Act No. 8791 or the General Banking Law of 2000.^[3] They also asked the court that R.A. No. 8791 be declared unconstitutional.^[4]

Pesayco contends that PNB was not notified of the raffle of this civil case.^[5] Before the bank was served with summons and a copy of the complaint, the spouses Limso amended their complaint into a petition, with an application for a temporary restraining order (TRO)^[6]. On April 10, 2002, Judge Layague issued a TRO without conducting a hearing. However, after realizing his mistake, Judge Layague issued an *Order* dated April 16, 2002 reversing his earlier order.^[7]

On April 25, 2002, PNB filed a *Motion to Dismiss, with Opposition to Petitioner's Prayer for Issuance of Preliminary Injunction and Application for Temporary Restraining Order*^[8] on the ground that the spouses Limso were guilty of forum-shopping after the writ of preliminary injunction granted by Branch 17 of RTC of Davao City in Civil Case No. 28,170-2000 was dissolved by the Court of Appeals;

that there was a pending case involving the spouses Limso and PNB involving the same issues and the same reliefs; that the petition stated no cause of action; and that the spouses Limso had no *locus standi* to file the petition for not being the real parties-in-interest. A hearing on the application for a writ of preliminary injunction was conducted.

On May 3, 2002, Judge Layague issued an *Order* granting the writ of preliminary injunction applied for by the spouses Limso. On May 13, 2002, PNB filed a Motion for Reconsideration of the May 3, 2002 *Order*^[9]. According to Pesayco, Judge Layague had, after issuing the *Order* filed a leave of absence up to May 31, 2002^[10]. However, by reason of his absence, the *Motion for Reconsideration* was resolved by the pairing judge who ruled in favor of PNB by dissolving the writ of preliminary injunction per the *Order* dated May 23, 2002.^[11]

Aggrieved by the order of the pairing judge, the spouses Limso immediately filed a *Motion for Reconsideration* on May 24, 2002. Judge Layague, Pesayco alleges cut short his leave and returned to work on May 28 or 29, 2002, so that he could hear the *Motion for Reconsideration* of the spouses Limso.^[12]

On May 30, 2002, the lawyers and the vice-president of PNB filed a counter bond in the amount of P100 million. On that occasion, they were able to talk to Judge Layague, who allegedly expressed his misgivings about the order of the pairing judge, saying that it was full of loopholes and dealt with "alien matters." Sensing bias and partiality from the statements of Judge Layague, PNB filed a *Motion to Inhibit* Judge Layague^[13]. On June 24, 2002, Judge Layague reversed the order of the pairing judge despite the *Motion to Inhibit* and reinstated his previous order granting the writ of preliminary injunction.^[14]

Pesayco is of the opinion that by granting the prayer for injunction, Judge Layague disposed of the main case^[15]. She insists that the spouses Limso are guilty of forum-shopping since the reliefs they prayed for in Civil Case No. 29,036-2002 are the same as those sought in Civil Case No. 28,170-2000 entitled *Davao Sunrise Investment Development Corporation v. PNB*; Robert Alan Limso is the president of the plaintiff corporation in the other case.^[16] Pesayco points out that the spouses Limso had sought the preliminary injunction after a similar writ of preliminary injunction issued by a different Branch of the Davao RTC (Branch 17) had been dissolved by the Court of Appeals. She also believes that Judge Layague was biased when he denied the *Motion to Dismiss* in the same order granting the prayer for a writ of preliminary injunction without any hearing. Further, Pesayco assails the grant of preliminary injunction by Judge Layague because the remedy is not available in a petition for declaratory relief.^[17]

Pesayco avers that she is aware of the rule that no notice of hearing is required when the initiatory pleading does not pray for a temporary restraining order (TRO).^[18] She adds, however, that when the spouses Limso amended their complaint into a petition which included an injunctive relief, Judge Layague should have sent the records back to the Clerk of Court for raffle pursuant to Section 4(c), Rule 58 of the 1997 Revised Rules of Civil Procedure which mandates that the case shall be raffled only after notice to and in the presence of the party to be enjoined.^[19]

Pesayco also alleges in her *Affidavit-Complaint* that in another case before the same judge and also involving PNB,^[20] a *Motion for Reconsideration* filed nearly a year earlier on June 6, 2001 by PNB had yet to be resolved, despite having been deemed submitted for resolution when PNB filed its reply on August 1, 2001. Pesayco points out that Judge Layague has failed to resolve the motion within the reglementary period.^[21]

In his comment to Pesayco's *Affidavit-Complaint*, Judge Layague argues that PNB was not entitled to a notice of raffle because what was initially filed was a complaint without a prayer for a TRO.^[22] Even when the complaint was amended into a petition, Judge Layague avers that he did not serve summons on PNB as it was not necessary adding that he had nothing to do with the raffle of cases. What he did instead was to direct the latter to file a comment.^[23] As regards the issuance of the TRO, Judge Layague admits erring in granting the TRO without a hearing, yet points out that he had rescinded such order upon realizing his mistake.

As to his issuance of the *Order* dated May 3, 2002, Judge Layague contends that he granted the prayer for a writ of preliminary injunction based on jurisprudence and after a careful consideration of the evidence of both parties.^[24] He avers that he was of the honest belief that the spouses Limso did not commit forum-shopping since the two (2) purportedly related cases,^[25] did not involve the same issues. He denies that his order granting the prayer for a writ of preliminary injunction disposed of the main case because notwithstanding the order, the parties would still have to present their respective evidence on the proper redemption period.^[26]

Moreover, Judge Layague refutes the claimed that he denied the *Motion to Dismiss* of PNB in the same order wherein he granted the prayer for a writ of preliminary injunction. He cites his *Order* of May 3, 2002, noting that nowhere in the order did he rule on the motion. He adds that the filing of the *Motion to Dismiss* by PNB was not sanctioned by the rules, since the order giving due course to the petition clearly directed PNB to file a comment, and not a motion to dismiss. Judge Layague alleges that he stated in open court that the motion would be treated as affirmative defenses.^[27]

Judge Layague avers that he went on leave on May 9 up to May 28, 2002 to undergo a physical examination and possibly prostatectomy. He denies having purposely cut short his leave so he could hear and resolve the *Motion for Reconsideration* of the spouses Limso. He claims that his absence depended on the outcome of the medical examination.^[28]

Judge Layague confirms having met with the lawyers of PNB and its vice-president but denied saying that the order of the pairing judge were full of loopholes and included alien matters. Further, he avers that the denial of PNB's *Motion for Reconsideration* on January 10, 2003 was done not out of vengeance but merely for the purpose of correcting the errors committed by the pairing judge. In fact, Judge Layague notes that he subsequently granted PNB's Motion to Inhibit, albeit only on January 10, 2003, or some months after Pesayco filed the instant complaint.

Judge Layague admits the delay in resolving PNB's *Motion for Reconsideration* in Civil Case No. 28, 469-2001, as he resolved it only on January 10, 2003. He

attributes the delay to his failing health and the condition of his court docket. However, he partly blames the counsel for PNB for not reminding him of the pendency of the motion.^[29]

In its report dated September 17, 2003, the OCA recommends that Judge Layague be fined in the amount of P10,000.00 for failure to apply Section 4(c), Rule 58 of the 1997 Revised Rules of Civil Procedure when he omitted to have the case raffled with due notice to PNB after the complaint was amended to include a prayer for a TRO.^[30] The OCA also cites Judge Layague for inefficiency with a warning that a similar offense shall be dealt with more severely. The OCA, however, recommends the dismissal of the other charges for being judicial in nature.^[31]

Noting that most of the issues raised in the complaint are *sub judice*,^[32] the OCA stresses that a study of the petition in CA-G.R. SP No. 71527^[33] reveals that the issues raised therein by PNB are essentially the same as those raised in the instant complaint. The records of the Court of Appeals show that a decision favorable to PNB was rendered in the case on December 11, 2002 but on December 20, 2002 the spouses Limso filed a *Motion for Reconsideration* which is still to be resolved. Thus, the OCA concludes, on those matters the complaint is still premature, and any action this Court may come out thereon may injudiciously pre-empt whatever action the Court of Appeals may take on the *Motion for Reconsideration* filed by the spouses Limso.^[34]

The OCA finds Judge Layague accountable on two counts: for failing to apply Section 4(c), Rule 58 of the 1997 Rules of Civil Procedure, and for inefficiency in taking all of seventeen (17) months to resolve PNB's *Motion for Reconsideration* in Civil Case No. 28, 469-2001.

No less than the Code of Judicial conduct mandates that a judge shall be faithful to the laws and maintain professional competence.^[35] Indeed, competence is a mark of a good judge. A judge must be acquainted with legal norms and precepts as well as with procedural rules.^[36] When a judge displays an utter lack of familiarity with the rules, he erodes the public's confidence in the competence of our courts. Such is gross ignorance of the law. One who accepts the exalted position of a judge owes the public and the court the duty to be proficient in the law. Unfamiliarity with the Rules of Court is a sign of incompetence. Basic rules of procedure must be at the palm of a judge's hands.

Thus, this Court has consistently held that a judge is presumed to know the law and when the law is so elementary, not to be aware of it constitutes gross ignorance of the law.^[37] Verily, failure to follow basic legal commands embodied in the law and the Rules constitutes gross ignorance of the law, from which no one is excused, and surely not a judge.^[38]

However, not every mistake by a judge in the application of the law is vulnerable to an attack for gross ignorance of the law. A caveat was laid down by this Court that for liability to attach for ignorance of the law, the assailed order, decision or actuation of the judge in the performance of official duties must not only be found to be erroneous but, most importantly, it must be established that he was moved by bad faith, dishonesty, hatred or some other like motive.^[39] Similarly, a judge will be