

THIRD DIVISION

[A.M. RTJ No. 03-1775, April 30, 2003]

DR. ISAGANI A. CRUZ, COMPLAINANT, VS. JUDGE PHILBERT I. ITURRALDE, REGIONAL TRIAL COURT, ANTIPOLLO CITY, BRANCH 72, RESPONDENT.

DECISION

PANGANIBAN, J.:

Not every erroneous act will subject a judge to disciplinary sanctions. Only judicial errors tainted with bad faith, fraud, dishonesty, gross ignorance or deliberate intent to do an injustice will be administratively sanctioned.

The Case

In a verified Complaint^[1] filed before the Office of Court Administrator (OCA), Dr. Isagani C. Cruz charges Judge Philbert I. Iturralde of the Regional Trial Court (RTC) of Antipolo City (Branch 72) with gross misconduct, dishonesty, gross ignorance of the law, bias and partiality.

The Facts

On April 18, 2001, Dr. Isagani C. Cruz filed against his Swiss wife, Yolande L. Cruz, a Complaint for Injunction under Article 72 of the Family Code. The case, docketed as Civil Case No. 01-6139, was assigned to Branch 72 of the Regional Trial Court of Antipolo City, the designated Family Court in that area. As Branch 72 had no presiding judge at the time, the hearings were conducted by Executive Judge Mauricio M. Rivera. After several negotiations, the parties filed a Joint Motion to Suspend Proceedings with Prayer for a Hold-Departure Order on Mrs. Cruz. Judge Rivera granted the Motion for the suspension of the proceedings, but denied the request for the issuance of a hold-departure order.

On September 21, 2001, Mrs. Cruz filed a Motion asking the court to allow her and her two children to take a vacation to Switzerland and to compel complainant to return her travel documents. Shortly thereafter, on October 19, 2001, respondent assumed office as the new presiding judge of Branch 72.

At a hearing on November 26, 2001, complainant filed his Opposition to the Motion filed by his wife. He also asked the court to issue a hold-departure order and/or a writ of preliminary injunction to prevent her from leaving the country. During the same hearing, respondent expressed his predisposition to grant her Motion. His declaration supposedly constituted partiality, which showed that he had already prejudged the incidents of the case.

Consequently, complainant filed a Motion to inhibit respondent from further hearing

the case. The latter denied this Motion in an Order dated February 28, 2002.^[2]

Earlier, on January 9, 2002, complainant's counsel received, simultaneously by mail, respondent's Orders dated November 26, December 7 and December 18, 2001.

The December 18, 2001 Order denied the application of complainant for the issuance of a hold-departure order and/or a writ of preliminary injunction and compelled him to surrender all the travel documents of his wife and children.

He claims that the simultaneous mailing of the three Orders "had a very insidious effect." He argues that he could have moved for the amendment or correction of the two earlier ones, had these been served on him ahead of the December 18, 2001 Order. He insinuates that the last Order was either antedated or properly dated but mailed very late.

According to him, either of these acts renders respondent liable for gross negligence of duty. Furthermore, in ordering him to return the travel documents of his wife and denying his application for a hold-departure order/injunction respondent allegedly committed either gross ignorance or deliberate misapplication of the law.

Complainant also submitted a verified Supplemental Complaint^[3] dated February 26, 2002, accusing respondent of plagiarism. In his February 28, 2002 Order, the latter purportedly copied several paragraphs from an article written by Atty. Raul J. Palabrica in the January 27, 2002 issue of the *Philippine Daily Inquirer*. The word-for-word reproduction of portions of the article supposedly constituted an act of dishonesty that should be dealt with administratively.

In an Indorsement^[4] dated March 4, 2002, the OCA required Judge Iturralde to comment on the foregoing Complaints. In his Comment,^[5] he stated that, contrary to what had been alleged in the verified Complaint, he could not find any specific act of dishonesty, gross misconduct, or gross ignorance of the law and procedure on his part. If at all, he might have been perceived as biased because of his Orders that were unfavorable to complainant. Allegedly, in denying the Motion to issue hold-departure order/writ of preliminary injunction and ordering complainant to surrender his wife's passport and other travel documents, respondent might have irked the former. In his defense, the latter maintains that he merely upheld Executive Judge Rivera's earlier Order.

On the Motion to Inhibit, respondent avers that he first met the parties and their respective counsels only during the November 26, 2001 hearing, and that none of them had been known to him personally or otherwise prior to that date. Moreover, he believed he could decide the case on the merits -- without bias, prejudice, fear or favor. Thus, he found no justifiable reason to inhibit himself from hearing it. He claims that he even advised the parties to appeal his Orders by way of a petition for certiorari, if they believe his rulings were erroneous.

As to the allegation of plagiarism, he argues that there is nothing wrong in adopting or citing a newspaper article containing the legal views of Atty. Palabrica, who is a seasoned and respected member of the bar. He adds that, even granting without admitting that his acts amounted to plagiarism, complainant is not the proper party to assert such cause of action.

Respondent maintains that while there is a constitutional guarantee for the litigants' right to air their legitimate grievance through legal action, they should be enjoined to do so only after thorough circumspection and exhaustion of all other available remedies. He claims that the instant administrative case was resorted to, only to intimidate, harass and pressure him to inhibit himself from hearing the civil case.

Report and Recommendation of the OCA

After a thorough study of the verified Complaint and respondent's Comment, the OCA submitted to this Court its evaluation and recommendation as follows:

"EVALUATION: There is nothing in the records of this case which shows that respondent Judge should be held administratively liable for the charges lodged against him as the issues are clearly judicial in character. Complainant's proper recourse is to avail himself of the remedies set forth under the Rules of Court. It is well-entrenched that when the matter complained of is judicial in nature, complainant should not seek redress in the form of [an] administrative complaint.

"The established doctrine and policy is that disciplinary proceedings and criminal actions against Judges are not complementary or suppletory [to], nor a substitute for, judicial remedies. Resort to and exhaustion of these judicial remedies, as well as the entry of judgment in the corresponding action or proceeding, are pre-requisites for the taking of other measures against the persons of the judges concerned, whether civil, administrative [or] criminal [in] nature. It is only after the available judicial remedies have been exhausted and the appellate tribunals have spoken with finality, that the door to an inquiry into [the] criminal, civil or administrative liability [of judges] may be said to have opened or closed.

"We deem it best not to discuss the allegation that respondent prejudged the pending incidents as the same is unsubstantiated. Bare allegations do not constitute substantial evidence.

"RECOMMENDATION: Respectfully submitted for the consideration of the Honorable Court is our recommendation that the instant case be **DISMISSED**[,] the issues raised being judicial in character."^[6]

The Court's Ruling

We agree with the OCA.

Administrative Liability of Respondent

Settled is the rule in administrative cases that complainants bear the onus of establishing their averments by substantial evidence.^[7] After a careful scrutiny of the evidence and the arguments of the parties, we find no sufficient basis to hold respondent administratively liable. The accusations of dishonesty, neglect of duty and gross ignorance of the law are bereft of factual bases. Furthermore, they pertain to alleged errors he committed in the exercise of his adjudicative functions. Such errors cannot be corrected through administrative proceedings, but should