

THIRD DIVISION

[A.M. No. RTJ-02-1736, June 26, 2003]

**SPOUSES ARTURO AND JOSEFINA DE GUZMAN, COMPLAINANTS,
VS. JUDGE FERNANDO VIL PAMINTUAN, REGIONAL TRIAL
COURT, BRANCH 3, BAGUIO CITY, RESPONDENT.**

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

A judge may not always be subjected to disciplinary action for every erroneous order or decision he renders. An administrative complaint is not an appropriate remedy where judicial recourse is still available, such as a motion for reconsideration, an appeal, or a petition for certiorari, unless the assailed order or decision is tainted with bad faith, fraud, malice or dishonesty. This is the standing policy of this Court.^[1]

This administrative case stemmed from a sworn letter-complaint of spouses Arturo and Josefina de Guzman, charging Judge Fernando Vil Pamintuan of the Regional Trial Court (RTC), Branch 3, Baguio City, with gross ignorance of the law, gross incompetence, manifest favoritism and/or misconduct.

Records show that Arturo de Guzman filed with the Office of the City Mayor of Baguio an application for a writ of demolition of the house of Wilson Gomez built without permission on complainants' residential lot. On March 26, 2001, the Office of the City Mayor issued Demolition Order No. 22.

After the service of the Demolition Order upon Gomez, he filed with respondent's court Civil Case No. 4918-R for specific performance with prayer for a temporary restraining order and preliminary injunction against complainants and the City Mayor of Baguio.

Gomez alleged, among others, in his complaint that spouses De Guzman promised to give him a portion of their residential lot in exchange for the services he rendered as "caretaker *gratis*" of the property; and that they allowed him to build concrete wall and galvanized roof on his shanty.

On April 26, 2001, respondent judge issued a temporary restraining order and on May 10, 2001, a writ of preliminary injunction. On May 18, 2001, Gomez posted an injunctive bond in the sum of P 100,000.00 through the Pacific Union Insurance Company (Pacific Union). Considering that the Assistant Clerk of Court found the bond to be in order, respondent judge approved the same.

On May 24, 2001, the Clerk of Court issued a Certification that the bond is defective because the clearance attached thereto pertains to Mega Pacific Insurance Company, the sister company of Pacific Union. Upon being apprised of the mistake, Pacific

Union filed with respondent's court a letter of apology explaining that the bond was inadvertently "typed" on the forms of Mega Pacific.

Meanwhile, on May 25, 2001, the Assistant Officer-in-Charge in the Legal Office of the Court Administrator issued a Certification quoted as follows:

"This is to certify that the latest certification issued by this Office to MEGA PACIFIC INSURANCE CORPORATION certifying that it has no pending obligation with respect to criminal and civil cases in the Regional Trial Court of Baguio City was dated April 6, 2001 and valid up to May 2, 2001 only. Thereafter this Office has not issued a similar certification."

Thus, on June 8, 2001, complainants filed a motion to dissolve the writ of preliminary injunction previously issued by respondent judge on the ground that the bond is defective. In view of the continuing objection of the complainants, Pacific Union decided to withdraw the bond.

Gomez posted another bond, this time, through BF General Insurance Company. However, defendant City Mayor of Baguio filed an opposition on the ground that the person who signed the bond was not authorized by the company.

On June 14, 2001, the Clerk of Court submitted to respondent judge a manifestation that the said bonding company has a pending liability before Branch 6 "in connection with confiscated bonds issued by it in Criminal Cases Nos. 18146-R and 18147-R." Hence, respondent judge ordered its cancellation.

On June 21, 2001, complainants filed a supplemental motion to dissolve the writ of preliminary injunction. In an Order dated July 25, 2001, respondent judge denied the motion.

Thereafter, Gomez secured another bonding company, the Capital Insurance & Surety Co., Inc. (Capital Insurance). Again, the bond posted was found to be defective. The OCA certified that Capital Insurance has a pending liability and therefore can not transact business.

On August 8, 2001, complainants instituted the instant administrative complaint. On August 16, 2001, they filed with respondent's court a motion for inhibition. On September 18, 2001, respondent judge issued an order denying the same.

In his Report and Recommendation dated September 6, 2002, Deputy Court Administrator Jose P. Perez found that respondent judge, by failing to dissolve the writ of preliminary injunction, is liable for gross ignorance of the law and grave abuse of authority and recommended that a fine of P5,000.00 be imposed upon him with a stern warning that a repetition of the same or similar acts will be dealt with more severely.

In a Resolution dated November 11, 2002, this Court ordered that this case be docketed as an administrative matter and required the parties to manifest, within 20 days from notice, whether they are submitting the case for decision on the basis of the pleadings already filed.

Both parties filed their respective manifestations that they are willing to have the