

THIRD DIVISION

[A.M. No. RTJ-02-1712 (Formerly IPI No.01-1110-RTJ), December 08, 2003]

ARMANDO M. MENDOZA, COMPLAINANT, VS. JUDGE ELIODORO G. UBIADAS, REGIONAL TRIAL COURT, BRANCH 72, OLONGAPO CITY, RESPONDENT.

DECISION

VITUG, J.:

An administrative complaint for gross ignorance of the law, bias and partiality was filed against Judge Eliodoro G. Ubiadas of the Regional Trial Court (RTC), Branch 72, Olongapo City, in connection with his issuance in Civil Case No. 427-0-99, entitled "*Alexander Panganiban, et al. v. Angelito Sacro, et al.*," of a temporary restraining order and a writ of preliminary injunction. It would appear that on 21 October 1999, therein plaintiff Alexander Panganiban and his co-plaintiffs filed a complaint^[1] with the RTC for "Declaration of Nullity of the Election of the Board of Directors and Committee Officers of the Olongapo Subic Castillejos San Marcelino Transport Service and Multi-Purpose Cooperative, Inc.," with a prayer for the issuance of a temporary restraining order and/or a writ of preliminary injunction, against the incumbent members of the Board of Directors, including its Chairman Armando M. Mendoza (herein complainant), and other officers of the cooperative. Also impleaded co-defendants were the officers of the Cooperative Development Authority of the San Fernando extension office in Pampanga.

In their complaint before the RTC, the plaintiffs claimed that the defendants "were elected members of the Board of Directors of the Cooperative, through the unlawful interference by [the co-defendants] and other officials of the Cooperative Development Authority (CDA), Pampanga Extension Office, in the internal affairs of the cooperative"; that "the conduct of the elections by and under the direct control and supervision of the CDA-Pampanga Extension Office violated the provisions of the Cooperative Code of the Philippines, the order (of) 25 November 1998 of the CDA Central Office, and other laws which guarantee the autonomy and organizational integrity of the cooperative"; and that the defendants had performed acts prejudicial to the interest of the general membership of the cooperative.^[2]

On 28 October 1999, respondent judge issued a temporary restraining order enjoining the members of the Board of Directors and officers of the cooperative, including persons acting in their behalf, from performing any act for and in behalf of the cooperative for a period of twenty (20) days from receipt of the order. Respondent judge likewise scheduled a hearing on the petition for the issuance of a writ of preliminary injunction, requiring the defendants to appear and show cause why the petition should not be granted. Respondent judge directed the sheriff to immediately serve a copy of the order, together with a copy of the complaint and its annexes, to the defendants. On 29 October 1999, the defendants filed an "Urgent

Motion to Dissolve Temporary Restraining Order" on the ground that, unless the TRO were lifted, "chaos, confusion and disruption of peace and order [could] ensue among the members of the cooperative."

On 03 November 1999, the plaintiffs filed a "Motion for Clarificatory Order" seeking to prevent the officials of the cooperative appointed by the defendants from discharging their functions pursuant to the restraining order and asked that, "in order to maintain the *status quo*, the cooperative officials next-in-line, namely, Administrative Officer Mrs. Lorna Gayatin and/or Cashier/Treasurer Elsa Amante, be designated officers-in-charge duly authorized to perform the functions necessary to ensure the smooth day- to-day operations of the cooperative."

The scheduled hearing on 10 November 1999 was later reset to 12 November 1999. No hearing, however, evidently took place, and all that the records would indicate was that respondent judge resolved to consider "all the pending incidents, *i.e.*, the plaintiffs' Application for the Issuance of a Writ of Preliminary Injunction and the defendants' Manifestation and Motion to Dismiss," submitted for resolution. When the documentary evidence for the plaintiffs was admitted, respondent judge denied the defendants' "Motion to Dismiss;" it held that the court had jurisdiction over the case under Article 124 of the Cooperative Code of the Philippines.

On 17 November 1999, respondent judge issued an order granting the issuance of a writ of preliminary injunction in favor of the plaintiffs, thereby enjoining the defendants, including herein complainant, from discharging their duties and functions either as members of the Board of Directors or as officers of the cooperative. It also appointed Lorna Gayatin, the treasurer of the cooperative, to be the officer-in-charge of the cooperative under the supervision of Atty. John V. Aquino, Branch Clerk of Court, of the Olongapo City RTC. The pertinent portions of the order read:

"From the evidence and arguments presented by the parties, this Court hold[s] that petitioners have shown a clear legal right to the injunctive relief prayed for, which includes continuing to enjoin the private respondents and other individuals appointed by them or acting in their behalf from discharging their duties and functions as cooperative directors and/or officials. Without prejudging the main issue of the validity of the election of private respondents as directors of the cooperative, this Court holds that they must be restrained in the meantime from sitting as members of the Board of Directors, if only to maintain the status quo, prevent any irreparable injury on the part of the petitioners and the cooperative itself and not render ineffectual whatever judgment may be rendered by this Court on the merits.

"At the outset, it must be emphasized that respondents failed to present evidence, testimonial or documentary, other than the bare allegations contained in their pleadings, to rebut petitioners' claim that it is the very participation of private respondents as cooperative directors in the management of the affairs of the cooperative that brings about the irreparable injury sought to be avoided by this application for injunctive relief. In other words, petitioners have provided the required 'sampling' of their evidence to buttress their allegations of mismanagement whereas on the other hand, respondents failed to prove otherwise but instead

relied on the lame excuse that such matters should be referred instead to the CDA. This Court cannot ignore the pleas of the petitioners because respondents have not given it any reason to believe otherwise.

"This Court holds that petitioners [who] represent the members of the cooperative in this class suit is concerned, their legal rights as members will be injured if the private respondents are allowed to resume discharging their duties and functions as Directors or officials thereof. The undisputed acts of mismanagement which they have undertaken present a real danger of jeopardizing the continued viability of the cooperative. As part owners of the cooperative, petitioners and its other members have every right to ensure that their hard-earned savings are not dissipated and its assets not squandered unnecessarily. To hold otherwise may bring about a situation where there is no longer any cooperative to speak of after the main issue regarding the election of its Board of Directors is finally resolved. The equitable remedy of injunction is available to prevent the violation of a legally-guaranteed right.

"Petitioners having established the requisites necessary for the issuance of [a writ of] preliminary injunction, namely: the existence of the rights to be protected and the facts against which the injunction are to be directed are violative of said right (*Ortigas and Co. Limited Partnership vs. Ruiz*, 148 SCRA 226), they are therefore entitled to the issuance of the writ of preliminary injunction.

"The issuance of the injunctive relief is intended to ensure that the cooperative remains operational and viable while the leadership issue has not yet been resolved. It is for this reason that this Court hereby designates Mrs. Lorna Gayatin (being the officer of the cooperative next-in-line to those who were appointed by the private respondents), as officer-in-charge duly authorized to transact as signatory of the cooperative with its depository banks and perform all other related functions necessary to ensure the smooth day-to-day operations of the cooperative. Atty. John V. Aquino in his capacity as Clerk of Court of the Regional Trial Court, Olongapo City is designated as Court representative to oversee and otherwise assist Mrs. Gayatin to ensure that she regularly informs this Court regarding all the official acts she may have entered into as officer-in-charge and bring to its attention any urgent problems that may be encountered.

"WHEREFORE, upon filing of a bond of P500,000.00 by the petitioners in favor of the respondents to answer for any damages should it turn out that petitioners are not entitled thereto, let a writ of preliminary injunction issue enjoining private respondents or any individuals appointed by them or acting in their behalf from performing or discharging any duties and functions either as members of the Board of Directors or officers of the cooperative, until otherwise directed by this Court."^[3]

The defendants forthwith moved to have the order of 17 November 1999 reconsidered and additionally sought the inhibition of respondent judge.

On 25 November 1999, complainant Mendoza addressed a letter-complaint against respondent judge to the Presidential Action Center, Office of the President (of former President Joseph Ejercito Estrada), in Malacañang, Manila. On 16 December 1999, the Office of the Court Administrator (OCA) received the letter-complaint through an indorsement from Atty. Jonathan F. Baligod of the Presidential Action Center. The complaint charged respondent judge (a) with having violated Section 3, Rule 58, of the New Rules on Cooperative Procedure and Administrative Circular No. 20-95 of the Court for the issuance of a temporary restraining order without prior notice and hearing; (b) with having appointed one Lorna M. Gayatin Officer-in-Charge of the cooperative despite the latter's pending estafa cases in other courts,^[4] allegedly prompting a number of cooperative members not to pay their respective dues and obligations; and (c) with having exhibited bias in favor of the plaintiffs and gross ignorance of the law for his cognizance of Civil Case No. 427-0-99, an intra-cooperative dispute, which was a matter beyond the court's jurisdiction.

On 20 December 1999, respondent judge inhibited himself from proceeding with Civil Case No. 427-0-99. The case was then re-raffled to Branch 74, of Olongapo City RTC, presided over by Judge Fatima Gonzales-Asdala. On 31 May 2000, Judge Asdala granted the defendants' motion for reconsideration and nullified the writ of preliminary injunction earlier issued by respondent judge. The defendants were thereupon directed to submit their comment on the plaintiffs' application for the issuance of a writ of preliminary injunction. On 14 June 2000, the defendants filed their comment contending that the plaintiffs were not entitled to the issuance of a writ of preliminary injunction on the following theses; *viz*:

- "1) Petitioners' action [is] not in behalf of the majority members of the cooperative as they have no authority from the said majority to file the petition, in short, they are not the real parties in interest;
- "2) Petitioners are in bad faith because the petition was filed pending the resolution of a similar complaint involving the same parties and cause of action, before the Cooperative Development Authority, docketed as CDA-DO No. 99-003;
- "3) Petitioners' remedy should be [one for] *quo warranto* and not [for] injunction;
- "4) Petitioners' claim that the private respondents have dissipated, squandered and wasted cooperative funds by allocating loans and honorarium to themselves are not sufficient grounds for the issuance of a writ of injunction. Assuming that they are, the Cooperative Act and the By Law[s] of the cooperative provide for the procedure and remedies against erring members of the Board of Director or officers of the cooperative;
- "5) Under the same law, the general membership of the cooperative and not the 13 petitioners [have] the right to question the perceived improper acts of the officers of the cooperative;
- "6) Even assuming that private respondents' acts are improper,

the acts will not cause irreparable damage and injury to the petitioners, as they can be adequately compensated by way of damages, if so found. Moreover, petitioners have not stated in their application any specific injury to themselves which are irreparable and having been caused by the acts of the private respondents;

- "7) Intra-cooperative disputes, as well as questions about the election of the Board of Directors are within the exclusive jurisdiction of the Cooperative Development Authority as provided for under Sec. 3, Rule 2, Rules of Procedure of the Cooperative Act;
- "8) The majority members of the cooperative are not even impleaded as co-petitioners, hence, petitioners cannot ask injunctive relief in behalf of the majority;
- "9) Petitioners are in estoppel, having previously recognized by their prior acts and representations, the election of the Board of Directors on June 26, 1999;
- "10) Issuance of preliminary injunction is a virtual removal of the private respondents from the office to which they have been duly elected by the majority of the general membership;
- "11) The validity and legality of the election of the private respondents has been previously upheld by the Office of the Ombudsman in its Resolution dated December 8, 1999 in OMB-ADM-1-99-0526 and by the Cooperative Development Authority;
- "12) The issuance of a preliminary injunction in effect would dispose of the main case and is equivalent to their virtual removal from office."^[5]

Resolving the issues, Judge Asdala, in her order, dated 26 June 2000, rejected the plea for injunction and held:

"x x x After a closer look at the allegations in the herein petition, however, it appears that injunction is not reasonably necessary under the given circumstances, as petitioners failed to establish any existing legal right on their part, which must be protected, pending the determination of the main case.

"There is also no doubt that the 13 applicants herein do not represent the interest of the cooperative. The phrase in the caption of the petition '*and other members of the OSCSMTSMPC, Inc.*' as petitioners, does not make the unnamed members of the cooperative parties-in-interest in the herein application. The general membership of the cooperative consists of, on the basis of Estelita Trapsi's testimony, one thousand seven hundred eight (1,708) members. The thirteen (13) petitioners herein, barely make up even a quorum, if not the majority, to represent the interest of the cooperative. Even if such number constitutes a majority