439 Phil. 413

FIRST DIVISION

[MTJ-02-1458 (formerly OCA I.P.I. No. 00-951-MTJ), October 10, 2002]

SOCORRO R. HOEHNE, COMPLAINANT, VS. JUDGE RUBEN R. PLATA, RESPONDENT.

R E S O L U T I O N

DAVIDE, JR., C.J.:

On 4 August 1999, the Office of the Court Administrator received the letter-complaint of complainant Socorro Hoehne charging respondent Judge Ruben R. Plata, Presiding Judge of Branch 1, Municipal Trial Court in Cities of Santiago City, with delay in resolving the motion for execution she filed in Civil Case No. I-261. The case is for a sum of money and damages.

The procedural and factual antecedents in this matter are as follows:

On 13 February 1995, respondent Judge Plata rendered in Civil Case No. I-261 a decision ordering the defendants Dr. Filipinas Abundo and Atty. Marino A. Abundo, Sr., to pay jointly and severally plaintiff JVE Lending Investor, represented by complainant Hoehne, (1) the sum of P6,000 plus the stipulated interest at the rate of 5% per month until fully paid; (2) the sum equivalent to 15% of the total amount due as and for attorney's fees; and (3) the cost of the suit.[1]

On 17 April 1998, the plaintiff, through counsel Atty. Arturo Catacutan, filed a motion for the execution of the above judgment.[2] However, on 20 April 1998, defendant Atty. Abundo, on his own behalf and on behalf of defendant Dr. Abundo, his wife, filed an opposition to the motion.[3] The opposition was based on the following grounds: (1) the motion was not dated and did not contain a notice of hearing in violation of Sections 4 and 5 of Rule 15 of the Rules of Court; (2) the issue of the exorbitant rate of interest raised in defendants' answer was not resolved in the decision; and (3) the issue of the unconstitutionality of P.D. No. 116 should also be resolved.

In his comment dated 3 September 1999, Judge Plata claimed that the writ of execution prayed for by complainant Hoehne on behalf of plaintiff JVE Lending Investor was already issued on 14 June 1999. Its last lawyer, Atty. Cirilo Bravo, was furnished with a copy of the writ. Judge Plata further asserted that the lack of communication between complainant Hoehne and plaintiff's counsel was the cause of her failure to be updated with the status of the case.

In her reply of 27 September 1999, complainant insisted that she was diligent in following up the motion for execution; but she was always told by the clerk of court to wait, as the writ was not yet issued. She was not furnished with a copy of the writ; although she received on 6 September 1999 copies of the alias writ of execution and sheriff's return.

The Office of the Court Administrator recommended that the instant case be redocketed as an administrative matter and that Judge Ruben R. Plata be ordered to pay a fine of P1,000 (per Section 11[b] of Rule 140, Rules of Court) with stern warning that a repetition of the same or similar act shall be dealt with more severely.

On 16 January 2002, we required the parties to manifest whether they would submit this case for resolution on the basis of the pleadings filed by them. In her manifestation of 11 February 2002, complainant Hoehne answered in the affirmative.

On 5 March 2002, respondent filed a Motion to Admit Supplementary Pleading/Answer. He claims that he knows well that Atty. Marino Abundo

> belongs to a different breed of law practitioners. He has the penchant of filing cases against judges whenever he got disgruntled by their orders or decisions. This is the spectre that constantly looms over the mind of the respondent whenever he tackles a case wherein Atty. Abundo has entered his appearance. One has to be cautious, less [sic] he will be included in the "ABUNDO's LIST."

He then elaborated on the procedural vicissitudes of the case relative to the motion for execution of judgment. He alleged that an opposition thereto was filed by Atty. Abundo. The motion for execution was set for hearing on 28 May 1998. The branch clerk of court sent through registered mail notices of hearing[4] to Atty. German Balot, the plaintiff's original lawyer, and to the defendants.[5] On that date only Atty. Abundo appeared. Another hearing was set on 23 and 25 of June 1998. This time the notice of hearing[6] was sent to Atty. Arturo Catacutan by registered mail; Atty. Abundo, on the other hand, received the notice of hearing personally.[7] Yet, none of the parties appeared on both dates. The hearing of the motion was further reset to 15 July 1998, notices of which were served personally on Atty. Abundo, and by registered mail to Atty. Catacutan. On that date only Atty. Abundo appeared. The hearing of the motion was again reset to 23 September 1998. Only Atty. Catacutan appeared; he asked for ten days within which to file his comment to the opposition filed by Atty. Abundo. Another hearing was set on 29 October 1998, but despite prior notice none of the parties appeared.

Respondent Judge further explained that he waited for the comment of Atty. Catacutan which the latter promised and undertook to submit. However, Atty. Catacutan did not submit any.

The motion for execution was again set for hearing on 3 December 1998, 13 January 1999, 10 February 1999 and 23 March 1999. The notice of hearing sent to Atty. Catacutan for the January hearing was returned with a notation on the face of the envelope "MOVED."[8] Since then the clerk of court sent the notices to Atty. Catacutan at his last known address. In all these settings Atty. Abundo and Atty. Catacutan did not appear.

The court further set anew for hearing the motion for execution on 7 April 1999 and 12 May 1999. Atty. Cirilo Bravo entered his appearance for the plaintiff and asked for the resetting[9] of the hearing to 24 May 1999. The court set the hearing on 26

May 1999. A notice of that hearing[10] was, however, mistakenly sent to Atty. Catacutan; hence no hearing was conducted on said date.

Finally, a hearing of the motion was calendared on 14 June 1999. On that date Atty. Bravo appeared, but Atty. Abundo did not. This time the motion was heard, and Atty. Bravo submitted it for the resolution of the court. On that same date the respondent Judge issued a writ of execution.[11]

A Return of Writ of Execution with a Request for the Issuance of an Alias Writ of Execution[12] was submitted on 3 September 1999. Separate motions for the issuance of an alias writ were filed by complainant Hoehne[13] and Atty. Bravo,[14] which were opposed by Atty. Abundo.[15] An alias writ of execution[16] was issued on 16 September 1999.

Respondent Judge further asserted that the various settings for the hearing of the motion for execution were made to give the parties the opportunity to ventilate their cause and to comply with the requirements of due process. The delay in the resolution of the motion was attributable to the parties themselves. The plaintiff's "constant change of lawyers" which resulted in confusion in the mailing of the court's orders, notices of hearing, and the writ also contributed to the delay.

From the foregoing antecedents, the culpability of respondent Judge for undue delay in resolving the motion for execution, which amounted to gross inefficiency and neglect of duty, is beyond dispute.

Defendants did not appeal from the respondent's decision of 13 February 1995 in Civil Case No. I-261. It had thus become final and executory. A motion for execution was filed on 17 April 1998, to which an opposition was filed by the defendants on 20 April 1998. Respondent Judge should have heard the motion at the first instance it was set for hearing, i.e., on 28 May 1998, the date fixed by the defendants in their opposition. The resolution of the motion was a matter of duty on the part of the respondent. It was not a complicated matter; he could not revise or modify the judgment. The defendants could not ask for the reconsideration of the judgment, as their time to do so or to move for relief from judgment or to appeal had already lapsed. Despite all these, respondent Judge simply reset the hearing of the patently uncontroversial motion for execution, thereby unduly prolonging the long journey of a very simple case for recovery of a sum of money or payment of an indebtedness.

Section 1, Rule 39 of the 1997 Rules of Civil Procedure clearly states that execution shall issue as a matter of right, on motion, upon judgment or order that disposes of the action or proceeding upon the expiration of the period to appeal therefrom if no appeal has been perfected. After a decision has become final and executory, vested rights are acquired by the prevailing party.[17]

Respondent's attempt to take refuge behind both parties' failure to appear during the scheduled hearings of the motion deserves no merit. Judges should, at all times, remain in full control of the proceedings and adopt a firm policy against improvident postponements; more important, they should follow the time limit for deciding cases.[18] They should act with dispatch in resolving pending incidents so as not to frustrate and delay the satisfaction of a judgment.[19]