

THIRD DIVISION

[**A.M. No. RTJ-01-1664 (A.M. OCA I.P.I. No. 97-336-RTJ), November 22, 2001**]

ALFREDO CAÑADA, JR., COMPLAINANT, VS. JUDGE VICTORINO MONTECILLO, RTC, BRANCH 57, CEBU CITY, RESPONDENT.

D E C I S I O N

VITUG, J.:

Respondent Judge Victorino V. Montecillo, Presiding Judge of Branch 57, of the Regional Trial Court of Cebu City, was charged by Alfredo Cañada, Jr., through a sworn letter-complaint, dated 18 February 1997, with violation of Section 1.1 of Administrative Circular No. 1, Series of 1988, in relation to Article VIII, Section 15(1), of the 1987 Constitution relative to Civil Case No. CEB-14427, entitled, "Gavino Jabutay, et al. vs. Felix Gochan and Sons, et al."

The case stemmed out of a land dispute. Vicente Cañada (Vicente), predecessor of complainant Alfredo Cañada (Alfredo) and Olympia Jabutay (Olympia), filed during his lifetime Civil Case No. R-1630 with the Court of First Instance of the City of Cebu, involving a parcel of land denominated Lot 6733. The case was resolved in favor of Vicente. The adverse party, who assailed the decision before the Court of Appeals in CA-G.R. No. 22909-R, later sold, during the pendency of the appeal, the property to Felix Gochan & Sons Realty Corporation (FGSRC). In an attempt to recover the land, Vicente filed a case, docketed Civil Case No. R-6130, against FGSRC. The Court of Appeals ultimately upheld the decision of the trial court in Civil Case No. R-1630. After the demise of Vicente, Mona Lisa Ma. Reyes (Reyes), his counsel's daughter, supposedly acquired the parcel by *dacion en pago*. On 14 January 1969, Reyes filed a motion to dismiss Civil Case No. R-6130 asseverating that she, instead of Vicente, was the real party-in-interest. The case was thereupon dismissed on that ground.

On 13 November 1993, the heirs of Juan Jabutay and the heirs of Angela Pacana filed Civil Case No. CEB-14427 against FGSRC. The heirs of Olympia were impleaded party defendants or unwilling plaintiffs. FGSRC filed a motion to dismiss the case moored on grounds of prescription and *res judicata*. On 16 February 1994, the trial court denied their plea. During the presentation of plaintiff's evidence, respondent judge ordered the proceedings discontinued since, as he so indicated, the parties had agreed on almost all major points of contention. Respondent judge thus enjoined the parties to submit their "Proposed Stipulation of Facts;" his order read:

"During the testimony of the second witness for the plaintiffs, the Court observed that instead of proceeding further presentation of evidence by the parties, the parties are agreed substantially on almost all major points. In the light of said development, the parties could present their stipulations of facts. After the submission of their proposed stipulations of facts, a final stipulation of facts will be drafted on the basis of which the

parties will submit the case for decision. Parties are given thirty (30) days from today within which to submit their proposed stipulations of facts. Parties are notified in open court."^[1]

FGSRC, in ostensible compliance, merely reiterated its defense of *res judicata* and prescription. Complainant, on 05 June 1995, filed a motion for summary judgment which was not resolved until 09 January 1996, or after the lapse of seven (7) months, when respondent judge, finally denied said motion; thus -

"This is to resolve plaintiffs' Motion for Summary Judgment and Resolution of the Affirmative Defenses of the Corporation dated: June 5, 1995, July 17, 1995, August 7, 1995, October 11, 1995, November 10, 1995, December 4, 1995 and December 29, 1995.

"The affirmative defenses of the corporation which plaintiffs pray to be resolved are:

"1. prescription

"2. *res judicata* and

"3. that the corporation is an innocent purchaser for value.

"Records show that all these defenses have been resolved by denial in the order dated February 10, 1994. Hence, plaintiffs' motion for resolution is already moot and academic.

"On the motion for summary judgment, plaintiffs contend that the corporation judicially admitted the absence of a Board Resolution and Special Power of Attorney, and therefore it is not 'an innocent purchaser for value.' Based on this admission plaintiffs claim that summary judgment is proper. The court disagrees with plaintiffs. Whether there was the absence of a Board Resolution or Special Power of Attorney, the issue of who has a better right over the parcel of land subject matter of this case can not be resolved. Hence, summary judgment is not proper and the same is hereby denied.

"Although at the hearing last February 13, 1995, the court observed that the parties are agreed substantially on almost all major points and directed the parties to submit their proposed stipulations of facts, the proposals for stipulation submitted by the parties do not meet. There is therefore the necessity of hearing this case. The marking of the parties' exhibits shall be done at the continuation of the hearing of this case.

"Set this case for hearing on February 1, 1996 at 9:00 o'clock in the morning.

"Notify parties and counsel."^[2]

On 28 January 1996, complainant filed a motion for reconsideration from the denial of his plea for summary judgment. The incident remained unresolved.