

THIRD DIVISION

[A.M. No. RTJ-96-1354, November 21, 1996]

**PDCP DEVELOPMENT BANK, PETITIONER, VS. JUDGE AUGUSTINE
A. VESTIL, RESPONDENT.**

R E S O L U T I O N

FRANCISCO, J.:

Complainant PDCP Development Bank was the mortgagee in a real estate mortgage constituted by the spouses Suico over their properties situated in Mandaue City. When the Suicos failed to pay their loan obligation, complainant filed a "Petition for Extrajudicial Foreclosure" before Branch 28 of the Regional Trial Court (RTC) of Mandaue City. In due time, the mortgaged properties were sold in an auction sale where the complainant was the highest bidder. When the one (1) year redemption period expired without the Suicos redeeming the properties, complainant caused the consolidation of its ownership over the said properties. Thereafter, complainant filed an "Ex-Parte Motion for Issuance of Writ of Possession" which was granted by the same court.

In the meantime, the Suicos filed a case for "Specific Performance, Injunction and Damages," docketed as Civil Case No. 2321, before Branch 56 of the RTC of Mandaue presided over by respondent Judge Augustine Vestil. Civil Case No. 2321 was premised on an alleged agreement between complainant and the Suicos whereby the latter would deliberately default in the payment of their loan obligation allowing the complainant to foreclose on the mortgage and consolidate ownership of the subject properties in exchange for the right of the Suicos to later on redeem the properties at an agreed price. As an ancillary remedy, the Suicos prayed for the issuance of a writ of preliminary injunction to enjoin the enforcement of the writ of possession issued by Branch 28 in favor of complainant. Respondent judge issued the writ of preliminary injunction despite the motion to dismiss and the opposition filed by complainant. Hence, this administrative complaint against respondent judge on the following grounds: (1) Gross ignorance of the law and open defiance to established jurisprudence for issuing a writ of injunction to be enforced beyond its territorial jurisdiction; (2) Interference with the proceeding of a co-equal and coordinate court for issuing a writ of preliminary injunction which obstructs the implementation of the writ of possession issued by Branch 28; (3) Gross dereliction of duty for failing to dismiss Civil Case No. 2321 on the grounds of lis pendens, multiplicity of suits, and forum shopping; (4) Bias for allowing one of the Suicos to adduce testimonial evidence to prove an unenforceable contract; and (5) Grave abuse of discretion for issuing a writ of preliminary injunction even when it was apparent that the Suicos did not seek to exercise the right of redemption themselves but proposed a third party to do so.

After respondent judge filed his comment to the abovementioned complaint, this Court, in a resolution dated June 26, 1996, referred the case to the Office of the

Court Administrator (OCA) for evaluation, report and recommendation. In the memorandum submitted by the OCA, it found respondent judge "liable only for grave abuse of discretion for interfering in the proceedings of a co-equal and coordinate court."^[1] For such act, the OCA recommended that respondent judge be "CENSURED and ADMONISHED to be more circumspect in issuing injunctive writs."^[2]

We have time and again reiterated the doctrine that no court has the power to interfere by injunction with the judgments or orders of another court of concurrent jurisdiction having the power to grant the relief sought by injunction.^[3] The issuance by respondent judge of the writ of preliminary injunction is a clear act of interference with the judgment and order of Branch 28 of the RTC of Mandaue which is a co-equal court. That Branch 28 has the power and authority to issue the writ of possession is beyond cavil. In cases in which extrajudicial sale is made pursuant to an extrajudicial foreclosure of mortgage, redemption is governed by Sections 29 to 31 and Section 35, Rule 39 of the Rules of Court. And Section 35 provides, among others, that if no redemption is made within twelve (12) months after the sale, the purchaser, or his assignee is entitled to a conveyance and possession of property.^[4] "The rule, therefore, is that after the redemption period has expired, the purchaser of the property has the right to be placed in possession thereof."^[5] But the inevitable consequence of the issuance by respondent judge of the writ of preliminary injunction is to effectively restrain the enforcement of the writ of possession in favor of complainant. Thus, as so aptly put by the OCA, "with an unenforceable writ of possession in its favor, complainant is holding an empty bag and there is no realization of the relief prayed for."^[6]

Respondent judge is also charged with gross ignorance of the law for having issued a writ of preliminary injunction to be enforced outside the territorial jurisdiction of Branch 56 of the RTC of Mandaue City. It is complainant's contention that as its principal office is located in Makati, Metro Manila, the writ of injunction issued in Mandaue proposed to enjoin acts that would be performed in Makati. The contention is without merit. Trial courts have jurisdiction to issue writs of injunction to control or restrain acts which are being committed or about to be committed within the territorial boundaries of their respective provinces and districts.^[7] The act that was sought to be restrained by the writ of injunction issued by respondent judge was the enforcement of the writ of possession by the sheriff of the RTC of Mandaue City against the mortgaged properties also situated in Mandaue City.

Anent the other charges against respondent judge and the issues arising therefrom, suffice it to say that as correctly held by the OCA, they are subjudice and judicial matters not subject to administrative scrutiny. Thus, this Court agrees with the findings of the OCA that respondent judge is liable only for grave abuse of discretion for issuing the writ of preliminary injunction which interfered with the proceedings of a court of co-equal and concurrent jurisdiction. However, this Court deems it proper that a penalty more severe than a mere admonition and censure be imposed upon respondent judge for acting in contravention of a very basic principle of law and judicial ethics.

For having violated the elementary rule of non-interference with proceedings of a court of co-equal jurisdiction, this Court has, in at least two administrative cases,