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REPORT OF CASES

DETERMINED IN THE

SUPREME COURT OF THE PHILIPPINES

FIRST DIVISION

[A.M. No. MTJ-97-1116. September 24, 1998]

ALEJANDRO PUNIO, *complainant, vs.* **JUDGE FRANCISCO J. GO and RUEL T. MAGCALAS, ACTING JUDGE and SHERIFF, respectively, MTC, PILA, LAGUNA,** *respondents.*

SYNOPSIS

In Civil Case No. 869, Presiding Judge Augusto Sumilang of the MTC of Pila, Laguna, ordered the defendant to vacate the subject property. A notice of appeal was filed by the defendant. The plaintiff moved for the execution of the decision. The respondent Judge (Acting Judge) ordered the Clerk of Court to elevate the records of Civil Case No. 869 to the RTC of Sta. Cruz, Laguna. Plaintiff moved for the issuance of a writ of execution. Respondent Judge issued the corresponding Writ of Execution, which the Sheriff failed to enforce because of the defendants' refusal to vacate the premises.

The plaintiff filed a Motion for Demolition, but the respondent Judge issued an Order deferring action on the Motion for Demolition until the termination of Civil Case No. SC-2953 pending before the RTC of Sta. Cruz, Laguna which involved an action for annulment of plaintiff's title over the subject property.

Respondent Judge's act of deferring the issuance of the order of demolition due to the pendency of Civil Case No. SC-2953

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before the RTC of Sta. Cruz, Laguna, was erroneous. Section 8 of Rule 70 of the Rules of Court which governs ejectment cases explicitly states that "if judgment is rendered against the defendant, execution shall issue immediately x x x." The court's duty to order such execution is ministerial.

SYLLABUS

1. **REMEDIAL LAW; SPECIAL CIVIL ACTIONS; FORCIBLE ENTRY AND UNLAWFUL DETAINER; IN EJECTMENT CASES, IF JUDGMENT IS RENDERED AGAINST DEFENDANT, EXECUTION SHALL ISSUE IMMEDIATELY.**— Section 8 of Rule 70 of the Rules of Court which governs ejectment cases explicitly states that "if judgment is rendered against the defendant, execution shall issue immediately, x x x." In this regard, it has been held that in order to avoid further injustice to a lawful possessor, an immediate execution of a judgment is mandated and the court's duty to order such execution is practically ministerial.

2. **ID.; ID.; ID.; PENDENCY OF AN ACTION QUESTIONING OWNERSHIP OF PROPERTY WILL NOT ABATE AN EJECTMENT SUIT NOR BAR EXECUTION OF JUDGMENT THEREIN.**— It must be stressed that the rule is also well-settled, that the pendency of an action questioning the ownership of property will not abate an ejectment suit nor bar the execution of the judgment therein. The rationale of the rule is that an ejectment suit involves only the issue of material possession or possession *de facto* while an action for annulment of title involves the question of ownership. There may be identity of parties and subject matter but not the cause of action or the relief prayed for.

3. **JUDICIAL ETHICS; JUDGES; RESPONDENT JUDGE'S ERROR IN JUDGMENT MERITS A REPRIMAND.**— Despite respondent judge's lapse in judgment, the same constitutes merely an error in judgment for which he could not be held administratively liable absent any showing of malice, fraud, dishonesty, corruption or bad faith. However, we deem it necessary to remind respondent that as a member of the bench he is duty-bound to keep abreast with the rules, the laws, and precedents, affecting his court duties and functions as well as jurisdiction,

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in order to avoid the issuance of erroneous orders and decisions. Moreover, in the instant case, we agree that respondent judge's error in judgment merits a reprimand.

RESOLUTION

QUISUMBING, *J.*:

Before us is an administrative complaint[1] filed against Judge Francisco J Go, Acting Judge of the Municipal Trial Court (MTC) of Pila, Laguna and Sheriff Ruel T. Magcalas. Complainant Alejandro Y. Punio filed the undated, though sworn to, complaint allegedly as a result of respondent judge's refusal to issue a Writ of Demolition and respondent sheriff's failure to implement the Writ of Execution relative to an ejectment suit, Civil Case No. 869, entitled *"Bernardina Fernandez Vda. de Punio, plaintiff vs. Norberto Kolimlim and all persons claiming under him, defendants."* Herein complainant is the son and attorney-in-fact of said plaintiff

In the Resolution dated April 28, 1997,[2] this Court resolved to dismiss the complaint against Sheriff Magcalas for lack of merit. On the other hand, the case against Judge Go was referred to Judge Hilario F. Corcuera, Acting Executive Judge of the Regional Trial Court of Sta. Cruz, Laguna, for investigation, report and recommendation.

The factual antecedents to this case are as follows:

On November 15, 1994, judgment[3] was rendered in Civil Case No. 869 by Judge Augusto O. Sumilang, then presiding judge of the MTC of Pila, Laguna, as follows:

"WHEREFORE, decision is hereby rendered in favor of plaintiff and against the defendant and all other occupants under him ordering the latter:

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[1] *Rollo*, p. 1.

[2] *Rollo*, p. 53.

[3] *Rollo*, pp. 2-7.

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1. to vacate the subject property covered by Transfer Certificate of Title No. T-127686 of the Register of Deeds of Laguna;
2. to pay reasonable compensation for the use of the property at the rate of ₱100.00 a month beginning November, 1991 until he finally and actually vacate the premises;
3. to pay attorney's fees of ₱5,000.00 and costs of suit.

SO ORDERED."[4]

A notice of appeal was filed by the defendant on December 1, 1994. In turn, plaintiff moved for the execution of the decision on December 14, 1994. In his Order dated December 15, 1994, the respondent Judge ordered the Clerk of Court to elevate the entire records of Civil Case No. 869 to the Regional Trial Court (RTC) of Sta. Cruz, Laguna. Subsequently, however, upon motion of the plaintiff, the RTC ordered the return of the entire records of Civil Case No. 869 back to the MTC of Pila, Laguna.

Thereafter, plaintiff filed a Manifestation reiterating her previous motion for the issuance of a writ of execution. In his order dated May 30, 1995, respondent Judge granted the motion and issued the corresponding Writ of Execution. A Motion to Quash the Writ of Execution[5] was filed by the defendant to which plaintiff filed an Opposition.[6]

In the Sheriff's Report dated July 14, 1995,[7] it was reported that the Writ of Execution was not enforced due to defendants' refusal to vacate the premises. As a result, plaintiff filed a Motion to Cite Defendants in Contempt,[8] but defendants filed their Opposition[9] to the same. In his Order dated November 8,

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[4] *Rollo*, p. 7.

[5] *Rollo*, pp. 30-31.

[6] *Rollo*, pp. 35-36.

[7] *Rollo*, p. 10.

[8] *Rollo*, p. 11.

[9] *Rollo*, p. 39.

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1995,[10] respondent judge denied plaintiff's Motion to Cite Defendants in Contempt.

On November 27, 1995, plaintiff filed a Motion for Demolition[11] to which defendants, again, filed an Opposition. On March 1, 1996, respondent judge issued his Order[12] deferring action on plaintiff's Motion for Demolition until the termination of Civil Case No. SC 2953 pending before the RTC of Sta. Cruz, Laguna which involved an action for annulment of plaintiff's title over the disputed premises.

Herein complainant maintains that respondent Judge Go's refusal to issue an Order of Demolition in Civil Case No. 869 has rendered nugatory the decision of then Presiding Judge Augusto Sumilang dated November 15, 1994 which ruled in plaintiff's favor.

Responding to the complaint, respondent judge claims that he has performed his duty to the best of his ability and denies having committed any wrongdoing when he denied plaintiff's Motion for Demolition which could serve as a basis for the filing of this administrative complaint.

In the report[13] submitted by investigating Judge Hilario F. Corcuera, respondent judge's act of deferring the issuance of the order of demolition in Civil Case No. 869 due to the pendency of Civil Case No. SC-2953 before the RTC of Sta. Cruz, Laguna was found to be devoid of merit. The investigating judge reiterated that it is the trial court's ministerial duty to issue a writ of execution for the enforcement of a final and executory decision even if the Presiding Judge entertained doubts as to its validity.[14] Nevertheless, in the interest of justice and fairness, it was recommended that the administrative complaint against

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[10] *Rollo*, pp. 13-14.

[11] *Rollo*, p. 17.

[12] *Rollo*, pp. 21-22.

[13] Report dated September 30, 1997.

[14] *Ibid.*, citing *Republic vs. Angeles*, 20 SCRA 608.

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respondent judge be dismissed but the latter must be admonished and warned that a repetition of the same act without justification will be dealt with more severely.[15] The said recommendation was reiterated by the Deputy Court Administrator and recommended for our approval by the Court Administrator.

For without sufficient justification, respondent judge indeed erred when he deferred the issuance of the Order of Demolition due to the pendency of Civil Case No. SC-2953 before the RTC of Sta. Cruz, Laguna. Section 8 of Rule 70 of the Rules of Court which governs ejectment cases explicitly states that "if judgment is rendered against the defendant, execution shall issue immediately, x x x." In this regard, it has been held that in order to avoid further injustice to a lawful possessor, an immediate execution of a judgment is mandated and the court's duty to order such execution is practically ministerial.[16]

Further, it must be stressed that the rule is also well-settled, that the pendency of an action questioning the ownership of property will not abate an ejectment suit nor bar the execution of the judgment therein. The rationale of the rule is that an ejectment suit involves only the issue of material possession or possession *de facto* while an action for annulment of title involves the question of ownership. There may be identity of parties and subject matter but not the cause of action or the relief prayed for.[17]

Nonetheless, despite respondent judge's lapse in judgment, the same constitutes merely an error in judgment for which he could not be held administratively liable absent any showing of malice, fraud, dishonesty, corruption or bad faith.[18] However, we deem it necessary to remind respondent that as a member

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[15] *Ibid.*, p. 5.

[16] *Puncia vs. Gerona,* 252 SCRA 425, 430.

[17] *Soco vs. Court of Appeals,* 263 SCRA 449, 458 citing *San Pedro vs. Court of Appeals,* 235 SCRA 145, *and Dante vs. Sison,* 174 SCRA 517.

[18] *Manlavi vs. Gacott, Jr.*, 244 SCRA 50; *Boquiren vs. Del Rosario-Cruz,* 244 SCRA 702; *Alvarado vs. Laquindanum,* 245 SCRA 501.

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of the bench he is duty-bound to keep abreast with the rules, the laws, and precedents,[19] affecting his court duties and functions as well as jurisdiction, in order to avoid the issuance of erroneous orders and decisions. Moreover, in the instant case, we agree that respondent judge's error in judgment merits a reprimand.

WHEREFORE, respondent Judge Francisco J. Go is hereby *REPRIMANDED*, with a warning that a repetition of the same or similar action in the future will be dealt with more severely.

SO ORDERED.

Davide, Jr. (Chairman), Bellosillo, Vitug, and *Panganiban, JJ.*, concur.

SECOND DIVISION

[G.R. No. 120457. September 24, 1998]

SALOME PABON and VICENTE CAMONAYAN, *petitioners, vs.* **NATIONAL LABOR RELATIONS COMMISSION and SENIOR MARKETING CORPORATION,** *respondents.*

SYNOPSIS

Complaints for illegal dismissal and non-payment of benefits were filed by petitioners against respondent corporation. Summons and notices of hearings were sent to respondent corporation's provincial office, which were received by its bookkeeper. The Labor Arbiter rendered judgment by default after finding that respondent corporation tried to evade all summons and orders of hearing by refusing to claim all the registered mail addressed to it. Respondent corporation appealed to the NLRC contending that it was not validly served with

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[19] *Chin vs. Gustilo,* 247 SCRA 175,182.