Supreme Court E-Library

perpetua. And the award of exemplary damages is reduced to ₱25,000. In all other respects, the Decision is affirmed.

SO ORDERED.

Puno, C.J. (Chairperson), Nachura,[*] *Bersamin,* and *Villarama, Jr., JJ.,* concur.

EN BANC

[A.M. No. CA-08-45-J. February 22, 2010]
(Formerly OCA IPI No. 08-130-CA-J)

ATTY. DENNIS V. NIÑO, *complainant, vs.* **JUSTICE NORMANDIE B. PIZARRO,** *respondent.*

SYLLABUS

1. LEGAL ETHICS; JUDGES; GROSS IGNORANCE OF THE LAW; MUST BE ATTENDED BY BAD FAITH, FRAUD, DISHONESTY OR CORRUPTION IN ORDER TO PROSPER AS AN ADMINISTRATIVE OFFENSE; NOT A CASE OF.— There is no merit in the charge against respondent for gross ignorance of the law. In order for this administrative offense to prosper, the subject order or actuation of the judge in the performance of his official duties must not only be contrary to existing law and jurisprudence but, more importantly, must be attended by bad faith, fraud, dishonesty or corruption. Complainant wrongfully construed the contents of the August Resolution as an implied grant of a TRO. On the contrary, it was very clear that respondent held in abeyance the resolution of the prayer for TRO pending issuance of summons. In addition, the fact that complainant subsequently filed several petitions to ask the court to expedite the resolution of the motion for issuance of TRO negates his very theory that a TRO was actually issued. Similarly, the inclusion in the footnote of the May Resolution that Gentle Supreme had already been enjoying

[*] Additional member per Special Order No. 821.

Supreme Court E-Library

possession of the property is not tantamount to gross ignorance of the law. As explained by respondent, it was an honest mistake too trivial to prejudice the resolution of the merits of the case.

2. ID.; ID.; INHIBITION OF JUDGES; NOT TO BE TREATED AS AN ADMINISTRATIVE MATTER.— There was no evasion of duty when respondent inhibited from the case. As correctly put by the OCA, a judge's inhibition is a judicial matter. It should not be treated as an administrative matter.

3. ID.; ID.; DELAY IN THE DISPOSITION OF CASES; NOT A CASE OF; EXPLAINED.— It is a settled principle that judges have the sworn duty to administer justice without undue delay. A judge who fails to do so has to suffer the consequences of his omission as any delay in the disposition of the cases undermines the people's faith in the judiciary. Respondent practiced the principle. There was no delay on the part of respondent that would warrant an administrative sanction. It is undisputed that respondent did not issue a resolution on the motion for a TRO. However, We cannot simply close our eyes to the legal maneuverings of complainant, and more importantly, to the peculiar circumstances obtaining in this case which should serve to exonerate respondent. We are faced with a situation where the party against whom a TRO is sought to be issued is himself insisting that the matter be resolved at once, and now complaining that there was undue delay in resolving the prayer for TRO. Indeed, We see reason in the observation of respondent in his May Resolution that in the ordinary course of things, it is unusual for the party to be enjoined to persist in having the TRO application resolved. Be that as it may, We cannot speculate on complainant's ulterior motives. But this much we can deduce from the records: Complainant is the counsel for the winning party in the collection case before the RTC; and it was the losing party who filed for annulment of judgment accompanied by a prayer for TRO before the Court of Appeals. While complainant was praying for the resolution on the TRO, he was also acknowledging that the pending TRO application had become moot and academic. The public auction sale sought to be enjoined had in fact been already implemented. Seemingly, complainant was seeking a formal denial of the application for a TRO, but no denial in such form was issued by respondent. Obviously, complainant did not appreciate the fact that absence

Supreme Court E-Library

of action on the prayer for TRO amounts to a denial of the same. As a matter of fact, respondent was not prevented from executing the decision, which was sought to be annulled, as he was able to proceed with the auction sale. Indeed, even the "judicial courtesy" portion of the August Resolution did not prevent the auction sale of Consulta's property. Complainant stood to benefit, as he did benefit, from the inaction on the TRO application. Assuming *arguendo* that a formal resolution of the TRO was necessary, respondent did not actually incur delay. Subsequent to the issuance of the August 2006 Resolution and before respondent could decide on the TRO, complainant filed a motion for summary judgment on 18 September 2006, a motion for early resolution, and a reiteration of the motion for early resolution. All these motions were tackled in the April Resolution, where the appellate court directed that Consulta file his comment, and that a special process even be effected personally. The motion for summary judgment, the resolution of which would have included the ancillary issue of the TRO, effectively extended the time within which to issue, assuming it to be needed, the formal resolution of the TRO. Respondent had to wait for the expiration of the period to comment before he could issue a resolution. There was yet, at that time, no delay on the part of respondent. x x x [The Court is] mindful of the Court's ruling in *Gonzales v. Bantolo,* that "regardless of whether the grounds or relief prayed for have become moot, a judge has the duty to resolve motion in the interest of orderly administration of justice and to properly inform the parties of the outcome of the motion." But taking into account all the circumstances of this case, We find that there is sufficient justification for respondent's "inaction." The dismissal of the charge for undue delay is warranted by the facts of this case.

4. ID.; ID.; COURT OF APPEALS IS A COLLEGIATE COURT WHOSE MEMBERS REACH THEIR CONCLUSIONS IN CONSULTATION AND ACCORDINGLY RENDER THEIR COLLECTIVE JUDGMENT AFTER DUE DELIBERATION.— x x x [I]t is evident that the filing of the instant administrative complaint was meant to harass respondent. Furthermore, it is notable that only respondent was singled out in the complaint despite the fact that the challenged Resolutions were a collective decision of the Court of Appeals Seventeenth Division. In

Supreme Court E-Library

Bautista v. Associate Justice Abdulwahid, this Court held that the Court of Appeals is a collegiate court whose members reach their conclusions in consultation and accordingly render their collective judgment after due deliberation. The filing of charges against a single member of a division of the appellate court is inappropriate.

D E C I S I O N

PEREZ, *J.*:

For resolution is the administrative complaint charging respondent Court of Appeals Associate Justice Normandie B. Pizarro with gross ignorance of the law, rendering an unjust judgment, partiality and undue delay in the resolution of an application for a temporary restraining order (TRO).

Complainant Atty. Dennis V. Niño is the lawyer representing Gentle Supreme, the respondent in CA-G.R. SP No. 94817, entitled *"Ricardo F. Consulta v. Gentle Supreme Philippines, Inc.,"* which is a petition for annulment of a judgment rendered by the Regional Trial Court (RTC) of Pasig City.

The case below was an action for collection of a sum of money docketed as Civil Case No. 70544, entitled *"Gentle Supreme Philippines, Inc. v. Consar Trading Corp., Norberto Sarayba and Ricardo Consulta,"* before the RTC, Branch 68 of Pasig City. Ricardo Consulta (Consulta) was impleaded as a defendant in his capacity as a corporate officer of Consar Trading Corporation. Judgment was rendered in favor of Gentle Supreme, thus:

WHEREFORE, in view of the foregoing, the Court finds the defendants to have fraudulently and maliciously defrauded plaintiff to the latter's damage and prejudice for which the defendants are hereby jointly and severally held liable and ordered to pay the plaintiff the following amounts:

a. SIX MILLION SIX HUNDRED THREE THOUSAND SIX HUNDRED FORTY-FOUR PESOS and 33 Centavos (Php6,603,644.33) plus twelve percent (12%) legal interest from July 2005 as actual damages;

Supreme Court E-Library

b. THREE HUNDRED THOUSAND (Php300,000.00) as attorney's fee; and

c. Cost of suit.[1]

To satisfy the judgment, a Notice of Sale on Execution of Real Property was issued to Consulta notifying him that his house and lot will be sold at public auction on 15 June 2006.

Consulta filed a petition for Annulment of Judgment[2] with the Court of Appeals on the ground of lack of jurisdiction, as he was not served copies of the summons and complaint relative to the case. He likewise prayed for the issuance of a TRO to enjoin the public sale of his property.[3]

On 9 August 2006, a Resolution[4] (August Resolution) penned by respondent was issued giving due course to the petition and directing the issuance of summons upon Gentle Supreme. Respondent deferred the resolution of the TRO.

Complainant filed his Answer with Counterclaim arguing that the prayer for issuance of TRO should be denied on the ground that the acts sought to be enjoined, specifically the public auction sale scheduled on 15 June 2006, had already been accomplished.[5]

On 18 September 2006, complainant filed a Motion for Summary Judgment.[6] Thereafter, he successively filed a motion for early resolution of the motion for issuance of TRO[7] on 2 February 2007 and a reiteration of the Motion for Early Resolution[8] on 26 March 2007.

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[1] *Rollo*, p. 39.

[2] *Id.* at 36-49.

[3] *Id.* at 48.

[4] *Id.* at 53-54.

[5] *Id.* at 56-74.

[6] *Id.* at 75-83.

[7] *Id.* at 86-89.

[8] *Id.* at 90-92.

Supreme Court E-Library

In a Resolution dated 3 April 2007 (April Resolution), respondent directed Consulta to file a Comment on the Motion for Summary Judgment.[9] Instead of submitting his Comment, Consulta filed a Motion for Inhibition of the entire division where respondent belongs. In a Resolution[10] dated 3 May 2007 (May Resolution), respondent granted the motion to inhibit and directed an immediate re-raffling of the case to another division.[11] In the same Resolution, respondent stressed that no TRO or *status quo* order was issued, because the act sought to be enjoined had already been performed, and the application had been rendered moot by the sale of the property to complainant.[12]

On 14 June 2007, the instant Complaint was filed. Complainant zeroes in on two (2) Resolutions—the 9 August 2006 and the 3 May 2007 Resolutions—to demonstrate the alleged gross ignorance of the law on the part of respondent. The assailed portion of the August Resolution reads:

> The prayer for the issuance of the Temporary Restraining Order and/or Preliminary Injunction is held in abeyance pending issuance of the summons.
>
> Meantime, considering the allegations in the instant Petition, in order not to render moot and academic the issues presented before this Court, Respondent is hereby urged to observe the principle of judicial courtesy, as enunciated in the cases of *Eternal Gardens Memorial Park, Corp. v. Court of Appeals, Joy Mart Consolidated Corp. v. Court of Appeals, and Jimmy T. Go v. Judge Abrogar*, and defer the implementation of the assailed Decision dated December 14, 2005, pending Our resolution of the petitioner's application for Temporary Restraining Order and/or Writ of Preliminary Injunction.[13] (Emphasis supplied)

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[9] *Id.* at 96-97.

[10] *Id.* at 121-123.

[11] In its Decision dated 17 March 2008 and penned by Associate Justice Vicente Q. Roxas, the Court of Appeals Eleventh Division, reversed and set aside the trial court's ruling in Civil Case No. 70544, remanded the case to the trial court, and ordered it to ensure the proper service of summons to each of the defendants. *Rollo,* pp. 183-191.

[12] *Id.* at 122.

[13] *Id.* at 54.

Supreme Court E-Library

Complainant contends that by deferring the resolution on the issuance of the TRO, respondent virtually restrained the trial court from further taking any action relative to the case. Hence, said resolution had the effect of granting the TRO without the benefit of a hearing and filing of a bond.

With respect to the May Resolution, wherein respondent noted that complainant was in possession of the subject property, complainant imputes gross ignorance of the law to respondent for failure to consider the express provisions of the law which grant possession to the auction sale buyer only after one year from registration of the certificate of sale, if no redemption is made. Complainant claims that, in this case, the one-year period had not yet lapsed, so the property remained with Consulta.

Moreover, complainant doubts the impartiality of respondent when the latter further observed in the same resolution that Consulta should be the one insisting on the court's ruling on the TRO and not respondent. Also, complainant equates inhibition of respondent from the case, without sufficient justification, to evasion of duty.

Finally, complainant accuses respondent of undue delay in the resolution of the motion for issuance of TRO, since the summons have long been issued and, until the filing of the complaint on 14 June 2007, respondent had not yet acted on the motions.

The Office of the Court Administrator (OCA), through its 1st Indorsement dated 18 June 2007, directed respondent to comment on the Complaint.[14]

In his Comment, respondent denies all the charges hurled against him. On the allegations of gross ignorance, respondent maintains that no TRO was issued, so hearing and filing of bond are not necessary. And he admits that a mistake was committed in the inclusion of the phrase "and is now in possession thereof," pertaining to Gentle Supreme in the footnote of his resolution.

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[14] *Id.* at 124.

Supreme Court E-Library

Respondent insists that he is not partial to any party, and that he inhibited from the case only to dispel any doubt about his position.

In explaining that there was no undue delay, respondent points out that, in the first place, there was nothing to enjoin, since the auction sale sought to be enjoined had already been conducted on 15 June 2006 or two days after the case was raffled to him. Respondent reiterates that the resolution of Consulta's prayer for injunctive relief has already become moot and academic.

Complainant filed his Reply, to which respondent submitted a Rejoinder.

In its Resolution of 22 July 2008, this Court resolved to re-docket the administrative matter as a regular administrative case and to require the parties to manifest whether they would submit the instant case for resolution on the basis of the pleadings filed.[15]

Complainant and respondent submitted their manifestations on 13[16] and 15 August 2008,[17] respectively, expressing their willingness to have the administrative matter resolved on the basis of the extant pleadings.

On 8 July 2008, the OCA recommended the dismissal of the charges of gross ignorance of law, rendering an unjust judgment, and partiality against respondent. However, it found respondent liable for delay in resolving Consulta's prayer for issuance of a TRO.

The OCA held that respondent should have resolved the motion by issuing a resolution informing the parties of the fact that the prayer for TRO had already been mooted. The OCA perceived the failure on the part of respondent to resolve a motion as inefficiency, which warrants an imposition of an administrative sanction. Thus, the OCA recommended that a fine of ₱10,000.00 be meted out to respondent.

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[15] *Id.* at 173.

[16] *Id.* at 198.

[17] *Id.* at 174-181.

Supreme Court E-Library

We are partially in accord with the OCA's findings.

There is no merit in the charge against respondent for gross ignorance of the law. In order for this administrative offense to prosper, the subject order or actuation of the judge in the performance of his official duties must not only be contrary to existing law and jurisprudence but, more importantly, must be attended by bad faith, fraud, dishonesty or corruption.[18]

Complainant wrongfully construed the contents of the August Resolution as an implied grant of a TRO. On the contrary, it was very clear that respondent held in abeyance the resolution of the prayer for TRO pending issuance of summons. In addition, the fact that complainant subsequently filed several petitions to ask the court to expedite the resolution of the motion for issuance of TRO negates his very theory that a TRO was actually issued.

Similarly, the inclusion in the footnote of the May Resolution that Gentle Supreme had already been enjoying possession of the property is not tantamount to gross ignorance of the law. As explained by respondent, it was an honest mistake too trivial to prejudice the resolution of the merits of the case.

The charge of partiality should likewise not prosper. We do not find any impropriety on the part of respondent when he observed that, instead of Consulta, it was complainant who was interested in the resolution of the TRO.

There was no evasion of duty when respondent inhibited from the case. As correctly put by the OCA, a judge's inhibition is a judicial matter. It should not be treated as an administrative matter.[19]

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[18] *Office of the Solicitor General v. Judge De Castro*, A.M. NO. RTJ-06-2018, 3 August 2007, 529 SCRA 157, 174; *Santos v. Judge How*, A.M. No. RTJ-05-1946, 26 January 2007, 513 SCRA 25, 36; *Go v. Judge Abrogar,* 446 Phil. 227, 242 (2003), citing *Heirs of the late Nasser D. Yasin v. Felix*, A.M. No. RTJ-94-1167, 4 December 1995, 250 SCRA 545, 554.

[19] *Burias v. Valencia*, A.M. No. MTJ-07-1689, 13 March 2009.

Supreme Court E-Library

What needs review is the finding of the OCA of undue delay by respondent in the resolution of the application of Consulta for a TRO. We find otherwise.

It is a settled principle that judges have the sworn duty to administer justice without undue delay. A judge who fails to do so has to suffer the consequences of his omission as any delay in the disposition of the cases undermines the people's faith in the judiciary.[20]

Respondent practiced the principle. There was no delay on the part of respondent that would warrant an administrative sanction.

It is undisputed that respondent did not issue a resolution on the motion for a TRO. However, We cannot simply close our eyes to the legal maneuverings of complainant, and more importantly, to the peculiar circumstances obtaining in this case which should serve to exonerate respondent.

We are faced with a situation where the party against whom a TRO is sought to be issued is himself insisting that the matter be resolved at once, and now complaining that there was undue delay in resolving the prayer for TRO. Indeed, We see reason in the observation of respondent in his May Resolution that in the ordinary course of things, it is unusual for the party to be enjoined to persist in having the TRO application resolved.

Be that as it may, We cannot speculate on complainant's ulterior motives. But this much we can deduce from the records: Complainant is the counsel for the winning party in the collection case before the RTC; and it was the losing party who filed for annulment of judgment accompanied by a prayer for TRO before the Court of Appeals. While complainant was praying for the resolution on the TRO, he was also acknowledging that the pending TRO application had become moot and academic. The public auction sale sought to be enjoined had in fact been already

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[20] *Torrevillas v. Judge Natividad*, A.M. No. RTJ-06-1976, 29 April 2009, citing *Galanza v. Trocino*, A.M. No. RTJ-07-2057, 7 August 2007, 529 SCRA 200, 212.

Supreme Court E-Library

implemented. Seemingly, complainant was seeking a formal denial of the application for a TRO, but no denial in such form was issued by respondent. Obviously, complainant did not appreciate the fact that absence of action on the prayer for TRO amounts to a denial of the same. As a matter of fact, respondent was not prevented from executing the decision, which was sought to be annulled, as he was able to proceed with the auction sale. Indeed, even the "judicial courtesy" portion of the August Resolution did not prevent the auction sale of Consulta's property. Complainant stood to benefit, as he did benefit, from the inaction on the TRO application.

Assuming *arguendo* that a formal resolution of the TRO was necessary, respondent did not actually incur delay. Subsequent to the issuance of the August 2006 Resolution and before respondent could decide on the TRO, complainant filed a motion for summary judgment on 18 September 2006, a motion for early resolution, and a reiteration of the motion for early resolution. All these motions were tackled in the April Resolution, where the appellate court directed that Consulta file his comment, and that a special process even be effected personally. The motion for summary judgment, the resolution of which would have included the ancillary issue of the TRO, effectively extended the time within which to issue, assuming it to be needed, the formal resolution of the TRO. Respondent had to wait for the expiration of the period to comment before he could issue a resolution. There was yet, at that time, no delay on the part of respondent.

Based on the foregoing, it is evident that the filing of the instant administrative complaint was meant to harass respondent. Furthermore, it is notable that only respondent was singled out in the complaint despite the fact that the challenged Resolutions were a collective decision of the Court of Appeals Seventeenth Division. In *Bautista v. Associate Justice Abdulwahid,*[21] this Court held that the Court of Appeals is a collegiate court whose members reach their conclusions in consultation and accordingly

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[21] A.M. OCA IPI No. 06-97-CA-J, 2 May 2006, 488 SCRA 428.

Supreme Court E-Library

render their collective judgment after due deliberation. The filing of charges against a single member of a division of the appellate court is inappropriate.[22]

We are mindful of the Court's ruling in *Gonzales v. Bantolo,*[23] that "regardless of whether the grounds or relief prayed for have become moot, a judge has the duty to resolve motion in the interest of orderly administration of justice and to properly inform the parties of the outcome of the motion."[24] But taking into account all the circumstances of this case, We find that there is sufficient justification for respondent's "inaction." The dismissal of the charge for undue delay is warranted by the facts of this case.

WHEREFORE, premises considered, the administrative complaint against Justice Normandie B. Pizarro is *DISMISSED* for lack of merit.

SO ORDERED.

Puno, C.J., Carpio, Corona, Carpio Morales, Velasco, Jr., Nachura, Leonardo-de Castro, Brion, Peralta, Del Castillo, Abad, Villarama, Jr., and *Mendoza, JJ.,* concur.

Bersamin, J., no part.

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[22] *Id.* at 435-436.

[23] A.M. No. RTJ-06-1993, 26 April 2006, 488 SCRA 300.

[24] *Id.* at 304.