Supreme Court E-Library

THIRD DIVISION

[A.M. No. RTJ-11-2265. September 21, 2011]
(Formerly A.M. OCA I.P.I. No. 08-2986-RTJ)

ATTY. EMMANUEL R. ANDAMO, *complainant, vs.* **JUDGE EDWIN G. LARIDA, JR., CLERK OF COURT, STANLEE D. CALMA and LEGAL RESEARCHER DIANA G. RUIZ, all of Regional Trial Court, Branch 18 Tagaytay City,** *respondents.*

SYLLABUS

1. JUDICIAL ETHICS; JUDGES; GROSS IGNORANCE OF THE LAW, NOT A CASE OF.— It is settled that a judge can be held liable for gross ignorance of the law if it can be shown that he committed an error so gross and patent as to produce an inference of bad faith. In addition to this, the acts complained of must not only be contrary to existing law and jurisprudence, but should also be motivated by bad faith, fraud, dishonesty, and corruption. The reasons cited by complainant, far from constituting gross ignorance of the law, actually reflect respondent Judge Larida Jr.'s faithful adherence to his judicial duty to review the cases, serve due process to all parties concerned, and to eventually decide the petitions based solely on law and evidence.

2. LEGAL ETHICS; ATTORNEYS; FILING OF A FRIVOLOUS AND BASELESS ADMINISTRATIVE COMPLAINT AGAINST A JUDGE CONSTITUTES A FLAGRANT VIOLATION OF THE LAWYER'S RESPONSIBILITY TO PRESERVE AND MAINTAIN THE RESPECT DUE TO COURTS OF JUSTICE.— The respondents cannot be held liable for judiciously performing their sworn duty to observe and follow court proceedings as provided by the Rules. Complainant apparently filed this complaint primarily to divert the attention of his client from his shortcomings as its counsel, if not to simply harass the respondents. x x x This administrative charge seeks to cast doubt on the integrity of respondent judge, the judicial personnel and the court which they represent, in flagrant abdication of the bounden responsibility of a lawyer to

Supreme Court E-Library

observe and maintain the respect due to courts of justice. "As an officer of the court, a lawyer has the sworn duty to assist in, not to impede or pervert, the administration of justice." "Lawyers must always keep in perspective the thought that since lawyers are administrators of justice, oath-bound servants of society, their first duty is not to their clients, as many suppose, but to the administration of justice; to this, their clients' success is wholly subordinate; and their conduct ought to and must be scrupulously observant of law and ethics." x x x "A lawyer who files an unfounded complaint must be sanctioned because, as an officer of the court, he does not discharge his duty by filing frivolous petitions that only add to the work load of the judiciary. Such filing of baseless complaints is contemptuous of the courts."

D E C I S I O N

MENDOZA, *J.*:

Doubtless, the Court will never tolerate or condone any conduct, act or omission that would violate the norm of public accountability or diminish the people's faith in the judiciary. However, it will not hesitate to protect innocent court employees against any baseless accusation or administrative charge that only serve to disrupt rather than promote the orderly administration of justice.[1]

At bench is an administrative case against respondents Judge Edwin G. Larida, Jr. *(Judge Larida, Jr.),* Clerk of Court Stanlee D. Calma *(Atty. Calma)* and Legal Researcher Diana G. Ruiz *(LR Ruiz),* all of the Regional Trial Court *(RTC),* Branch 18, Tagaytay City.

The Facts:

In a Letter-Complaint dated August 26, 2008,[2] complainant Atty. Emmanuel R. Andamo *(complainant),* counsel for Cavite

---

[1] *Monticalbo v. Judge Maraya,* A.M. No. RTJ-09-2197, April 13, 2011.

[2] *Rollo,* pp. 1-8.

Supreme Court E-Library

Rural Banking Corporation *(CRBC)*, charged Judge Larida, Jr., Atty. Calma and LR Ruiz with ignorance of the law.

The Office of the Court Administrator *(OCA)* summarized the letter-complaint and its attachments as follows:

I. Four (4) Petitions for issuance by the Clerk of Court of Certificates of Sale under Act 3135, as amended:

1. Cavite Rural Banking Corporation, *petitioner*, Freddie P. Magno, *mortgagor*, filed on **28 December 2005** – (Re: application for extra-judicial foreclosure of mortgage, **19 March 2003**);
2. Cavite Rural Banking Corporation, *petitioner*, Sps. Sixto & Norma Tolentino, *mortgagors*, filed on **28 December 2005** – (Re: application for extra-judicial foreclosure of mortgage, **19 March 2003**);
3. Cavite Rural Banking Corporation, *petitioner*, Sps. Jonathan & Yolanda Peñaranda, *mortgagors*, filed on 28 December 2005 – (Re: application for extra-judicial foreclosure of mortgage, **01 October 2001**);
4. Cavite Rural Banking Corporation, *petitioner*, Celia Bay, *mortgagor*, filed on **28 December 2005** – (Re: application for extra-judicial foreclosure of mortgage, **19 March 2003**);

II. Four (4) *Ex-parte* Joint Petitions for the issuance by the Honorable Trial Court of Writs of Possession under Act 3135, as amended:

1. **TG-05-1103**, 08 August 2005, Sps. Babestil & Sancha Pendatum, *mortgagors*;
2. **TG-05-1104**, 24 November 2005, Josefina Villanueva, *mortgagor*;
3. **TG-05-1105**, 08 August 2005, Sps. Josefa Desipeda & Roqueno Calderon, *mortgagors;*
4. **TG-05-1141**, 28 December 2005, Norma Malabanan, *mortgagor*;

Complainant Emmanuel R. Andamo avers that the aforementioned Petitions have long been pending before the above-mentioned court

Supreme Court E-Library

saying that the ongoing hearings of said cases may be further extended by the respondent Judge Edwin G. Larida, Jr.

Anent *TG-05-1103 and TG-05-1105*, complainant Emmanuel R. Andamo argues that respondent Judge Edwin G. Larida, Jr. committed an error when he recognized the appearance and participation of Atty. Ireneo Anarna as lawyer for the oppositors to the said petitions in the hearings thereof, and thereafter gave due course to the two oppositions filed, both dated 15 November 2005. Respondent Judge Edwin G. Larida, Jr. committed another error when he failed to require the oppositors and Atty. Anarna the required guaranty bonds as mandated by Section 47 of Republic Act 8791.

Likewise, complainant Emmanuel R. Andamo bewails the issuance by respondent Judge Edwin G. Larida, Jr. of the Order dated 10 July 2008 in TG-05-1141 which denied complainant's *Ex Parte* Joint Motion for Early Resolution of *Ex-Parte* Joint Petitions for the Issuance of Writs of Possession (*in TG-05-1103, TG-05-1104, TG-05-1105, and TG-05-1141*) by ruling that the petitioner has yet to present evidence besides marking of exhibits. Complainant Emmanuel R. Andamo considers the said Order as contrary to Sections 7 and 8 of Act 3135 which mandates, among others, that the trial court shall issue the Writ of Possession regardless of opposition thereto.

In addition, complainant Emmanuel B. Andamo accuses respondent Diana Ruiz, as then Officer-in-Charge and Acting Clerk of Court, and Atty. Stanlee Calma, as the incumbent Clerk of Court, for not having "*lifted a finger, say, by placing the docket of those eight (8) long pending cases beside the other dockets already placed on the Hon. Court's working table by way of requesting his Honor for instruction or reminding his Honor of the urgency of action thereon, and notwithstanding Mrs. Ruiz['s] acknowledged receipt of the written instruction of the Hon. Supreme Court Administrator, dated November 17, 2005 as to how to act thereon.…*"

Furthermore, complainant Emmanuel R. Andamo implicated Atty. Ireneo Anarna, charging the latter of ignorance on the provisions of Act 3135 and for obstruction of justice for filing misplaced oppositions to non-litigious *ex-parte* petitions for issuance of Writ of Possession and for not submitting the required oppositor's bond.[3]

---

[3] *Id.* at 114-116.

Supreme Court E-Library

The Joint Comment of respondents Atty. Calma and LR Ruiz dated October 3, 2007 was also summarized by the OCA, *viz*:

Respondents Calma and Ruiz aver that complainant Emmanuel R. Andamo mainly charges them for the non-issuance of certificates of sale in the abovementioned extra-judicial foreclosure proceedings which were filed by Pepito Abueg as Acting Manager of petitioner Cavite Rural Banking Corporation. Respondents Calma and Ruiz declare that in all the aforesaid applications for foreclosure, were undated certificates of sale signed by then Deputy Sheriff Victor Hernandez, and Clerk of Court Analiza Luna. However, these certificates do not bear the signature of approval of then Assisting Judge (and eventually Deputy Court Administrator) Reuben P. Dela Cruz.

Likewise, respondents Calma and Ruiz stress that there is an Order in an undocketed case, entitled *Cavite Rural Banking Corporation (then Cavite Development Bank), mortgagee v. Sps. Jonathan Peñaranda, Sps. Simon and Petronila Peji, Celia M. Bay, Sixto and Norma Tolentino and Freddie Magno, mortgagors*. This Order was issued by then Judge Reuben Dela Cruz on 17 March 2004, the dispositive portion of which reads:

> *WHEREFORE, premises considered, the applications for extra-judicial foreclosure of mortgage of Spouses Jonathan and Yolanda Peñaranda; Spouses Simon and Petronila Peji; Celia M. Bay; Spouses Sixto and Norma Tolentino; and Freddie Magno are hereby DENIED for failure to comply with the requirements thereto.*
>
> *SO ORDERED.*

Respondents Calma and Ruiz argue that the aforesaid applications for foreclosure, including the petition for issuance of certificates of sale, were properly brought before and deliberated by the court. Hence, taking into consideration the issuance of the 17 March 2004 Order which they cannot alter or modify, respondents Calma and Ruiz aver that any issuance of certificates of sale on the subject applications for foreclosure cannot be done.

Respondents Calma and Ruiz further explicate that in a copy of the 17 March 2004 Order, there appears a signature over a handwritten name "*Sibano J. Sibero"* dated *"3-17-04."* Thus suggesting that he received a copy of said Order in behalf of Cavite Rural Banking

Supreme Court E-Library

Corporation. Hence, respondents Calma and Ruiz chide complainant Emmanuel R. Andamo for not mentioning in his complaint the 17 March 2004 Order. Furthermore, assuming *ex gratia argumenti* that complainant Emmanuel R. Andamo is not aware of said Order, respondents Calma and Ruiz still blame complainant Emmanuel R. Andamo that it took him almost seven (7) years before he made a follow up on the petitions for issuance of certificates of sale. If only their attention were called, respondents Calma and Ruiz aver that they would have searched for the records and inform complainant Emmanuel R. Andamo about the Order.

In addition, respondents Calma and Ruiz call as an unfair accusation complainant Emmanuel R. Andamo's imputation that they were the reason for the issuance of the 10 July 2008 Order. Respondents Calma and Ruiz argue that said Order is a judicial action and an exercise of discretion by the court to which they, being merely the Clerk of Court and the Legal Researcher, respectively, do not have any control. Moreover, they point out that the said Order was also given in the other petitions of complainant where there is no oppositor, thus, rendering complainants' perception as unfounded.

Lastly, while complainant Emmanuel R. Andamo charges respondents Calma and Ruiz with gross ignorance of Act No. 3135, respondents Calma and Ruiz find it ironic that complainant Emmanuel R. Andamo misses the entire point of the issuance of the 17 March 2004 Order which states complainant's failure to show compliance with the same Act No. 3135.[4]

After perusing the records, the OCA found that the allegations in the complaint and the defenses raised by respondents Atty. Calma and LR Ruiz presented conflicting factual issues that could not be categorically resolved merely on the basis of the records submitted. Judge Larida, Jr. even failed to submit his Comment on the matter. The OCA then pointed out the necessity for a formal investigation where the complainant and the respondents would be given the opportunity to adduce their respective evidence. Thus, it recommended that the administrative complaint against respondents be RE-DOCKETED as a regular administrative case, and the same be REFERRED to a Justice

[4] *Id.* at 116-117.

Supreme Court E-Library

of the Court of Appeals *(CA)* for investigation, report and recommendation within sixty (60) days from receipt of the records.

In the Resolution dated January 19, 2011,[5] the Court resolved to: ***(1)*** **note** the letter-complaint of Atty. Emmanuel R. Andamo against respondents Judge Larida, Jr., Atty. Calma and LR Ruiz, for gross ignorance of the law relative to LRC Case Nos. 05-1105, 05-1104, 05-1103, and 05-1141 for the issuance of writs of possession under Act 3135, as amended, and the joint comment dated October 3, 2007 of respondents Clerk of Court and Legal Researcher; ***(2)*** **re-docket** the instant administrative complaint; ***(3)*** **refer** this case to a Justice of the CA for investigation, report and recommendation within sixty (60) days from receipt of the records, and **direct** the Presiding Justice of the CA to raffle the case among the incumbent Justices of the CA who shall conduct the investigation and submit the required report and recommendation; and ***(4)*** **note** the Report dated June 18, 2010 of the OCA.

The case was eventually assigned to CA Associate Justice Amy C. Lazaro-Javier *(Justice Lazaro-Javier)* who, as directed by the Court, conducted the corresponding investigation on the complaint.

Notably, during the initial stage of the proceedings, Judge Larida, Jr. filed his Motion with Leave of Court to Admit Comment[6] dated April 14, 2011.[7] The same was granted in the interest of substantial justice.[8] In his Comment, respondent Judge Larida, Jr. denied that he delayed the resolution of complainant's petitions for issuance of writs of possession in TG-05-1103, TG-05-1104, TG-05-1105, and TG-05-1141. He claimed that he was unaware of unacted foreclosure proceedings pending before the Office of the Clerk of Court of RTC-Br. 18, Tagaytay

---

[5] *Id.* at 124-125.

[6] *Id.* at 128-129.

[7] *Id.* at 130-132.

[8] *Id.* at 142.

Supreme Court E-Library

City; that he never talked to complainant about the cases in his chambers; that it was only out of prudence and propriety that he acknowledged the oppositions to complainant's four (4) petitions as the said oppositions were necessarily part of the proceedings; and that he eventually set the petitions for hearing since there was a need for complainant to present evidence to support his entitlement to the four (4) writs prayed for.

Judge Larida, Jr. also informed the Court that per Supreme Court Resolution dated November 18, 2008,[9] he was detailed as Assisting Judge of RTC, Branch 74, Malabon City.

During the hearing on April 14, 2011, the parties agreed to submit their affidavits with attachments to constitute their testimony subject to cross-examination.[10]

Complainant did not submit an affidavit and opted to adopt his Letter-Complaint as his direct testimony. He further submitted several documentary evidence.[11]

For his part, Judge Larida, Jr. submitted his Judicial Affidavit dated April 18, 2011. He essentially iterated therein his allegations in his Comment. He also offered various documentary evidence[12] to refute the charges against him.

Atty. Calma and LR Ruiz likewise submitted their undated Joint Affidavit.

Atty. Calma emphasized that then Assisting Judge Reuben dela Cruz had long denied complainant's undocketed petitions for extrajudicial foreclosure in *CRBC v. Magno*, in his Order of March 17, 2004. The grounds for the said denial were: ***(1)*** non-

---

[9] *Id.* at 119-120.

[10] *Id.* at 140.

[11] Exhs. "A" to "A-6", "B", "B-1", and "B-1-a", "C" to "C-3", "D" to "D-4", "E", "F" to "F-6-a", "G" to "G-3-a", "H" to "H-4-a", "I" to "I-7-a", "J" to "J-2", "K" to "K-2", "L", "M", "N", "O", "P", "Q", to "X".

[12] Exhs. "1" (with submarkings), "2" (with submarkings), "3" (with submarkings), "4", "4-a", "5" (with submarkings), "6" (with submarkings), "7" (with submarkings), unmarked status report.

Supreme Court E-Library

payment of entry fees; ***(2)*** non-assignment of docket numbers; ***(3)*** absence of proofs of service to the sheriff and the parties; ***(4)*** non-attachment of photocopies of the official receipts to the cases; and ***(5)*** non-payment of sufficient amount of docket fees. Atty. Calma also disclosed that he was no longer connected with the judiciary as he had opted to engage in the private practice of law.

Aside from those previously submitted exhibits, Atty. Calma and LR Ruiz presented the following: ***(1)*** Application for Extra-Judicial Foreclosure filed in *CRBC v. Magno*;[13] ***(2)*** Application for Extra-Judicial Foreclosure filed in *CRBC v. Spouses Tolentino*;[14] ***(3)*** Application for Extra-Judicial Foreclosure filed in *CRBC v. Jonathan and Yolanda Peñaranda*;[15] ***(4)*** Application for Extra-Judicial Foreclosure filed in *Celia M. Bay*;[16] ***(5)*** Certificate of Sale for the auctioned property of Freddie P. Magno;[17] ***(6)*** Unsigned printed name of Assisting Judge Reuben dela Cruz;[18] ***(7)*** Certificate of Sale for the auctioned property of Sps. Tolentino;[19] ***(8)*** Unsigned printed name of Assisting Judge Reuben dela Cruz;[20] ***(9)*** Certificate of Sale for the auctioned property of Jonathan and Yolanda Peñaranda;[21] ***(10)*** Unsigned printed name of Assisting Judge Reuben dela Cruz;[22] ***(11)*** Certificate of Sale for the auctioned property of Celia Bay;[23] ***(12)*** Unsigned printed name of Assisting Judge Reuben dela

---

[13] Exh. "8".

[14] Exh. "9".

[15] Exh. "10".

[16] Exh. "11".

[17] Exh. "12".

[18] Exh. "12-a".

[19] Exh. "13".

[20] Exh. "13-a".

[21] Exh. "14".

[22] Exh. "14-a".

[23] Exh. "15".

Supreme Court E-Library

Cruz;[24] ***(13)*** Order of Judge Reuben dela Cruz dated March 17, 2004;[25] ***(14)*** Certification dated June 7, 2004 by Judge Reuben dela Cruz;[26] ***(15)*** Comment dated October 3, 2007 filed before the OCA;[27] and ***(16)*** Joint Affidavit of respondent Atty. Calma and LR Ruiz.[28]

The Acting Presiding Judge of RTC, Branch 18, Tagaytay City, submitted a status report and certified copies of the pertinent documents in LRC Case Nos. TG-05-1103, TG-05-1104, TG-05-1105, and TG-05-1141.[29]

After the formal offer of evidence and the admission of the exhibits, the parties were required to file their respective memoranda. Only respondent Judge Larida, Jr. complied.

Accordingly, in her Report and Recommendation dated July 25, 2011, Justice Lazaro-Javier recommended that Judge Larida, Jr., Atty. Calma and LR Ruiz be **EXONERATED** of the charges against them for ignorance of the law. In sum, Justice Lazaro-Javier found that:

> Complainant's charge of gross ignorance of the law against respondents remains unfounded and unsubstantiated. The evidence which complainant submitted, instead of helping his cause, showed that it was he who was stubbornly remiss in his duties to his client and to the court, as well. The evidence likewise showed that **contrary to complainant's accusation, respondents in fact strictly complied with applicable laws, rules, and jurisprudence pertaining to issuance of writs of possession or allowance of extrajudicial foreclosure.** Verily, complainant has, among others, unjustly inconvenienced and mentally tortured respondents by dragging them into this unnecessary battle. Precious time, energy and expense

---

[24] Exh. "15-a".

[25] Exh. "16".

[26] Exh. "17".

[27] Exh. "18".

[28] Exh. "19".

[29] *Rollo*, pp. 154-202.

Supreme Court E-Library

were wasted when the same could have been beneficially used for some other lawful purpose beneficial to the interest of public service. [Emphasis supplied]

Now, the Court resolves.

After a thorough study of the case, the Court agrees with the evaluation and recommendation of Justice Lazaro-Javier.

Notably, respondents are all charged with gross ignorance of the law for their alleged acts or omissions, as follows:

Name	**Cases**	**Acts or Omission Charged**
Judge Edwin Larida, Jr.	LRC No. TG-05-1103	Issuing Order dated August 9, 2005 which set the petition for hearing October 21, 2005
	LRC No. TG-05-1105	Issuing Order dated August 11, 2005 which set the petition for hearing on October 21, 2005
	LRC Nos. TG-05-1103 and TG-05-1105	a) Recognizing the appearance of Atty. Ireneo Anarna as oppositors' counsel;
		b) Not requiring the oppositors therein to file guaranty bonds pursuant to Section 47 of RA 8791.
	LRC No. TG-05-1141	For issuing Order dated 10 July 2008 denying the *Ex Parte* Joint Motion for Early Resolution of *Ex-Parte* Joint Petitions for the Issuance of Writs of Possession in LRC Nos.

Supreme Court E-Library

		TG-05-1103, TG-05-1104, TG-05-1105, and TG-05-1141 on the ground that CRBC had yet to present evidence besides marking of exhibits.
Atty. Stanlee Calma and Legal Researcher Diana Ruiz		For not having "*lifted a finger, say, by placing the docket of those eight (8) long pending cases beside the other dockets already placed on the Hon. Court's working table by way of requesting his Honor for instruction or reminding his Honor of the urgency of action thereon, and notwithstanding Mrs. Ruiz['s] acknowledged receipt of the written instruction of the Hon. Supreme Court Administrator, dated November 17, 2005 as to how to act thereon.*"

As to respondent
Judge Edwin Larida, Jr.

According to complainant, it was Judge Larida Jr.'s ministerial duty under Act 3135, specifically Sections 7[30] and

[30] Section 7. *Possession during redemption period.*—In any sale made under the provisions of this Act, the purchaser may petition the Court of First Instance of the province or place where the property or any part thereof is situated, to give him possession thereof during the redemption period, furnishing bond in an amount equivalent to the use of the property for a period of twelve months, to indemnify the debtor in case it be shown that the sale was made without violating the mortgage or without complying with the requirements of

Supreme Court E-Library

8[31] thereof, to issue the writs of possession in TG-05-1103, TG-05-1104, TG-05-1105, and TG-05-1141. This being so, there was no need for him to still require applicant to present evidence as condition for granting them. The fact that he did, nonetheless, was a clear defiance of his ministerial duty and rendered him guilty of gross ignorance of the law.

Complainant is mistaken.

The ministerial character of judicial duty to issue writs of possession in extrajudicial foreclosure proceedings is explained in the case of *Saguan v. Philippine Bank of Communications*.[32] Thus:

---

this Act. Such petition shall be made under oath and filed in [the] form of an *ex-parte* motion in the registration or cadastral proceedings if the property is registered, or in special proceedings in the case of property registered under the Mortgage Law or under section one hundred and ninety-four of the Administrative Code, or of any other real property encumbered with a mortgage duly registered in the office of any register of deeds in accordance with any existing law, and in each case the clerk of court shall, upon the filing of such petition, collect the fees specified in paragraph eleven of section one hundred and fourteen of Act Numbered Four hundred and ninety-six, as amended by Act Numbered Twenty-eight hundred and sixty-six and the court shall, upon approval of the bond, order that a writ of possession issue, addressed to the sheriff of the province in which the property is situated, who shall execute said order immediately.

[31] Section 8. The debtor may, in the proceedings in which possession was requested, but not later than thirty days after the purchaser was given possession, petition that the sale be set aside and the writ of possession cancelled, specifying the damages suffered by him, because the mortgage was not violated or the sale was not made in accordance with the provisions hereof, and the court shall take cognizance of this petition in accordance with the summary procedure provided for in section one hundred and twelve of Act Numbered Four hundred and ninety-six; and if it finds the complaint of the debtor justified, it shall dispose in his favor of all or part of the bond furnished by the person who obtained possession. Either of the parties may appeal from the order of the judge in accordance with section fourteen of Act Numbered Four hundred and ninety-six; but the order of possession shall continue in effect during the pendency of the appeal.

[32] G.R. No. 159882, November 23, 2007, 538 SCRA 390, 394-397.

Supreme Court E-Library

A writ of possession is an order enforcing a judgment to allow a person's recovery of possession of real or personal property. An instance when a writ of possession may issue is under Act No. 3135, as amended by act No. 4118, on extrajudicial foreclosure of real estate mortgage. Sections 6 and 7 provide, to wit:

> Section 6. *Redemption*.—In all cases in which an extrajudicial sale is made under the special power herein before referred to, the debtor, his successors-in-interest or any judicial creditor or judgment creditor of said debtor or any person having a lien on the property subsequent to the mortgage or deed of trust under which the property is sold, may redeem the same at anytime within the term of one year from and after the date of the sale; and such redemption shall be governed by the provisions of section four hundred and sixty-four hundred and sixty-six, inclusive, of the Code of Civil Procedure, in so far as these are not inconsistent with the provisions of this Act.
>
> Section 7. *Possession during redemption period*.—In any sale made under the provisions of this Act, the purchaser may petition the Court of First Instance of the province or place where the property or any part thereof is situated, to give him possession thereof during the redemption period, furnishing bond in an amount equivalent to the use of the property for a period of twelve months, to indemnify the debtor in case it be shown that the same was made without violating the mortgage or without complying with the requirements of this Act. Such petition shall be made under oath and filed in [the] form of the *ex-parte* motion in the registration or cadastral proceedings if the property is registered, or in special proceedings in case of property registered under the Mortgage Law or under section one hundred and ninety-four of the Administrative Code, or of any other real property encumbered with a mortgage duly registered in the office of any register of deeds in accordance with any existing law, and in each case the clerk of court shall, upon the filing of such petition, collect the fees specified in paragraph eleven of section one hundred and fourteen of Act Number Four hundred and ninety-six, and the court shall , upon approval of the bond, order that a writ of possession issue, addressed to the sheriff of the province in which the property is situated, who shall execute said order immediately.

Supreme Court E-Library

From the foregoing provisions, a writ of possession may be issued either (1) within the one-year redemption period, upon the filing of a bond, or (2) after the lapse of the redemption period, without need of a bond.

Within the redemption period the purchaser in a foreclosure sale may apply for a writ of possession by filing for that purpose an *ex-parte* motion under oath, in the corresponding registration or cadastral proceeding in the case of property covered by a Torrens title. Upon the filing of an *ex-parte* motion and the approval of the corresponding bond, the court is expressly directed to issue the order for a writ of possession.

On the other hand, after the lapse of the redemption period, a writ of possession may be issued in favor of the purchaser in a foreclosure sale as the mortgagor is now considered to have lost interest over the foreclosed property. Consequently, the purchaser, who has a right to possession after the expiration of the redemption period, becomes the absolute owner of the property when no redemption is made. In this regard, the bond is no longer needed. The purchaser can demand possession at any time following the consolidation of ownership in his name and the issuance to him of a new TCT. After consolidation of title in the purchaser's name for failure of the mortgagor to redeem the property, the purchaser's right to possession ripens into the absolute right of a confirmed owner. At that point, the issuance of a writ of possession, upon proper application and proof of title, to a purchaser in an extrajudicial foreclosure sale becomes merely a ministerial function. Effectively, the court cannot exercise its discretion.

Therefore, the issuance by the RTC of a writ of possession in favor of the respondent in this case is proper. We have consistently held that the duty of the trial court to grant a writ of possession in such instances is ministerial, and the court may not exercise discretion or judgment. The propriety of the issuance of the writ was heightened in this case where the respondent's right to possession of the properties extended after the expiration of the redemption period, and became absolute upon the petitioners' failure to redeem the mortgaged properties. [Underscoring supplied]

Simply put, after all the requisite elements for issuance of a writ of possession, which are: ***(1)*** consolidation of ownership in the mortgagor's name; and ***(2)*** issuance to mortgagor of a

Supreme Court E-Library

new TCT, shall have been duly established, the trial court has no choice but to issue the writ prayed for. It cannot withhold, suspend, or otherwise deny this relief from petitioner.

In this case, Judge Larida Jr. denied complainant's "Urgent *Ex-Parte* Joint Motion for Early Resolution of *Ex-Parte* Joint Petition for the Issuance of Writs of Possession" in TG-05-1103, TG-05-1104, TG-05-1105, and TG-05-1141 precisely because CRBC had *yet* to present evidence to establish its entitlement to the writs prayed for.[33] As it was, complainant negatively reacted to Judge Larida Jr.'s directive and accused him of gross ignorance of the law for not instantly resolving the petitions, for ruling that his client had *yet* to present evidence and for recognizing Atty. Anarna's appearance as oppositor's counsel.

It is settled that a judge can be held liable for gross ignorance of the law if it can be shown that he committed an error so gross and patent as to produce an inference of bad faith. In addition to this, the acts complained of must not only be contrary to existing law and jurisprudence, but should also be motivated by bad faith, fraud, dishonesty, and corruption.[34]

The reasons cited by complainant, far from constituting gross ignorance of the law, actually reflect respondent Judge Larida Jr.'s faithful adherence to his judicial duty to review the cases, serve due process to all parties concerned, and to eventually decide the petitions based solely on law and evidence. Be that as it may, respondent Judge Larida, Jr. has nothing more to do with these cases since his detail to RTC, Branch 74, Malabon City.

At any rate, the filing of this administrative complaint is not the proper remedy for complainant. Complainant should have sought relief from higher courts. The filing of an administrative case against the judge is not an alternative to the other judicial remedies provided by law; neither is it

---

[33] *Rollo*, p. 17

[34] *Monticalbo v. Judge Maraya, supra* note 1.

Supreme Court E-Library

complementary or supplementary to such actions. As regards this matter, the case of *Atty. Flores v. Hon. Abesamis*[35] is enlightening:

> As everyone knows, the law provides ample judicial remedies against errors or irregularities being committed by a Trial Court in the exercise of its jurisdiction. The ordinary remedies against errors or irregularities which may be regarded as normal in nature (*i.e.*, error in appreciation or admission of evidence, or in construction or application of procedural or substantive law or legal principle) include a motion for reconsideration (or after rendition of a judgment or final order, a motion for new trial), and appeal. The extraordinary remedies against error or irregularities which may be deemed extraordinary in character (*i.e.*, whimsical, capricious, despotic exercise of power or neglect of duty, *etc.*) are *inter alia* the special civil actions of *certiorari*, prohibition or *mandamus*, or a motion for inhibition, a petition for change of venue, as the case may be.
>
> Now, the established doctrine and policy is that disciplinary proceedings and criminal actions against Judges are not complementary or suppletory of, nor a substitute for, these judicial remedies, whether ordinary or extraordinary. Resort to and exhaustion of these judicial remedies, as well as the entry of judgment in the corresponding action or proceeding, are pre-requisites for the taking of other measures against the persons of the judges concerned, whether of civil, administrative, or criminal nature. It is only after the available judicial remedies have been exhausted and the appellate tribunals have spoken with finality, that the door to an inquiry into his criminal, civil or administrative liability may be said to have opened, or closed.

Complainant also held against Judge Larida, Jr. his alleged failure to require oppositors to post guaranty bonds in TG-05-1103, TG-05-1104, TG-05-1105, and TG-05-1141. Complainant invokes Section 47 of Republic Act *(R.A)* No. 8791.[36]

---

[35] 341 Phil. 299, 312-313 (1997).

[36] Section 47. *Foreclosure of Real Estate Mortgage*.—In the event of foreclosure, whether judicially or extra-judicially, of any mortgage on real estate which is security for any loan or other credit accommodation granted, the mortgagor or debtor whose real property has been sold for the full or partial payment of his obligation shall have the right within one year after the

Supreme Court E-Library

Clearly, the provision cited by complainant refers to restraint of foreclosure proceedings which requires posting of bond by one who seeks it. It does not apply to the present case wherein the subject properties had already been foreclosed and sold at public auction. Thus, petitioner's insistence for imposition of guaranty bonds on the oppositors in TG-05-1103, TG-05-1104, TG-05-1105, and TG-05-1141 is misplaced. On this score too, Judge Larida, Jr. cannot be accused of gross ignorance of the law for not imposing these bonds in the cases mentioned.

As to respondents Atty. Calma and LR Ruiz

Records bear out that as early as March 17, 2004, then Assisting Judge Reuben dela Cruz of RTC Branch 18, Tagaytay City, under Order[37] of even date, had already denied CRBC's petitions in *CRBC v. Spouses Peñaranda,* thus:

---

sale of the real estate, to redeem the property by paying the amount due under the mortgage deed, with interest thereon at rate specified in the mortgage, and all the costs and expenses incurred by the bank of institution from the sale and custody of said property less the income derived therefrom. However, the purchaser of the auction sale concerned whether in a judicial or extra-judicial foreclosure shall have the right to enter upon and take possession of such property immediately after the date of the confirmation of the auction sale and administer the same in accordance with law. Any petition in court to enjoin or restrain the conduct of foreclosure proceedings instituted pursuant to this provision shall be given due course only upon the filing by the petitioner of a bond in an amount fixed by the court conditioned that he will pay all the damages which the bank may suffer by the enjoining or the restraint of the foreclosure proceeding. Notwithstanding Act 3135, juridical persons whose property is being sold pursuant to an extrajudicial foreclosure, shall have the right to redeem the property in accordance with this provision until, but not after, the registration of the certificate of foreclosure sale with the applicable Register of Deeds which in no case shall be more than three (3) months after foreclosure, whichever is earlier. Owners of property that has been sold in a foreclosure sale prior to the effectivity of this Act shall retain their redemption rights until their expiration.

[37] *Rollo*, pp. 105-108.

Supreme Court E-Library

Hence, it is very evident, therefore, that there is no payment of the entry fees; there are no docket numbers assigned and stamped on the cases; there are no proofs of service of the notices of the Sheriff to the parties, particularly the mortgagors; there are no xerox copies of the official receipts attached to the cases, except Spouses Peñaranda; and that official receipts issued do not cover the correct amounts and entries for each pertinent book of accounts, in violation of RA 3135, as amended and the issuances of the Supreme Court.

WHEREFORE, premises considered, the application for extra-judicial foreclosure of mortgage of Spouses Jonathan and Yolanda Peñaranda, Spouses Simon and Petronila Peji; Celia M. Bay; Spouses Sixto and Norma Tolentino and Freddie Magno are hereby DENIED for failure to comply with the requirements thereto.

SO ORDERED. [Italics supplied]

It is worth noting, too, that there were no pending motions for reconsideration filed or other incidents initiated by complainant in the subject cases to warrant their entry in the court calendar. As a matter of fact, complainant does not deny that the assailed Order dated March 17, 2004 had long attained ***finality.*** For Atty. Calma and LR Ruiz to put them back in the court calendar, for no cogent reason at all, is obviously improper.

Finally, the trial court, through then Assisting Judge Reuben dela Cruz, had already spoken when it denied the petitions in *CRBC v. Spouses Peñaranda.* As stated, it was beyond Atty. Calma and LR Ruiz to order the trial court what to do next with these cases. At that time, complainant had plain, speedy, and adequate remedies available to him under the rules. He could have filed a motion for reconsideration or a petition for *certiorari* from the Order of denial dated March 17, 2004 but he did not. What complainant failed to do as a judicial remedy, he cannot revive through an administrative complaint against these court employees. It bears pointing out that it was only on August 26, 2008 or more than four years since the Order of March 17, 2004 was issued when the complainant unfairly turned his ire on these innocent and helpless respondents by wrongly accusing them in this administrative case.

Supreme Court E-Library

Clearly, this is a frivolous and baseless complaint. The respondents cannot be held liable for judiciously performing their sworn duty to observe and follow court proceedings as provided by the Rules. Complainant apparently filed this complaint primarily to divert the attention of his client from his shortcomings as its counsel, if not to simply harass the respondents. At this juncture, the Court finds it worth quoting again the conclusion of the Investigating Justice Lazaro-Javier, to wit:

> Complainant's charge of gross ignorance of the law against respondents remains **unfounded** and **unsubstantiated**. The evidence which **complainant** submitted, instead of helping his cause, showed that it was he who was **stubbornly remiss in his duties to his client and to the court,** as well. The evidence likewise showed that contrary to complainant's accusation, respondents in fact strictly complied with applicable laws, rules, and jurisprudence pertaining to issuance of writs of possession or allowance of extrajudicial foreclosure. Verily, complainant has, among others, **unjustly inconvenienced and mentally tortured respondents** by dragging them into this unnecessary battle. **Precious time, energy and expense were wasted** when the same could have been beneficially used for some other lawful purpose beneficial to the interest of public service. [Emphases supplied]

A repeat of this cannot be tolerated.

This administrative charge seeks to cast doubt on the integrity of respondent judge, the judicial personnel and the court which they represent, in flagrant abdication of the bounden responsibility of a lawyer to observe and maintain the respect due to courts of justice. "As an officer of the court, a lawyer has the sworn duty to assist in, not to impede or pervert, the administration of justice."[38] "Lawyers must always keep in perspective the thought that since lawyers are administrators of justice, oath-bound servants of society, their first duty is not to their clients, as many suppose, but to the administration of justice; to this, their

---

[38] *Cordova v. Hon. Labayen*, 319 Phil. 273, 287 (1995).

Supreme Court E-Library

clients' success is wholly subordinate; and their conduct ought to and must be scrupulously observant of law and ethics."[39]

A lawyer is an officer of the courts; he is, "like the court itself, an instrument or agency to advance the ends of justice." His duty is to uphold the dignity and authority of the courts to which he owes fidelity, "not to promote distrust in the administration of justice." Faith in the courts a lawyer should seek to preserve. For, to undermine the judicial edifice "is disastrous to the continuity of government and to the attainment of the liberties of the people."[40]

"A lawyer who files an unfounded complaint must be sanctioned because, as an officer of the court, he does not discharge his duty by filing frivolous petitions that only add to the workload of the judiciary. Such filing of baseless complaints is contemptuous of the courts.[41]

WHEREFORE, as recommended by Court of Appeals Associate Justice Amy C. Lazaro-Javier, the complaint against respondents Judge Edwin G. Larida, Jr., Clerk of Court Stanlee D. Calma and Legal Researcher Diana G. Ruiz, all of Regional Trial Court, Branch 18, Tagaytay City, for gross ignorance of the law is *DISMISSED* for utter lack of merit.

Complainant Atty. Emmanuel R. Andamo is hereby ordered to *SHOW CAUSE* why he should not be subjected to disciplinary action for filing a frivolous and baseless complaint against the respondent judiciary personnel, within ten (10) days from receipt hereof.

SO ORDERED.

Velasco, Jr. (Chairperson), Peralta, Abad, and *Perlas-Bernabe, JJ.,* concur.

---

[39] *Cruz v. Aliño-Hormachuelos,* A.M. No. CA-04-38, March 31, 2004, 426 SCRA 573, 581.

[40] *Id.* at 580.

[41] *Dela Victoria v. Orig-Maloloy-On,* A.M. No. P-07-2343, August 14, 2007, 530 SCRA 1, 11.