Supreme Court E-Library

WHEREFORE, the petition is hereby *DISMISSED*, and the assailed Order dated June 29, 1998 of the Commission on Elections is *UPHELD*. No pronouncement as to costs.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Kapunan, Panganiban, Purisima, Gonzaga-Reyes, Melo, Mendoza, Quisumbing, and *Ynares-Santiago, JJ.*, concur.

Vitug, J., official business.

Pardo, J., took no part, was Comelec Chairman at the time.

SECOND DIVISION

[A.M. No. RTJ-99-1519. June 27, 2000]

GREGORIO LIMPOT LUMAPAS, *complainant, vs.* **JUDGE CAMILO E. TAMIN, REGIONAL TRIAL COURT, MOLAVE, ZAMBOANGA DEL SUR, BRANCH 23,** *respondent.*

SYNOPSIS

Complainant filed an administrative case against the respondent Judge for knowingly rendering an unjust judgment in SPL Case No. 96-50,022; and for refusing to issue a writ of execution of the Court of Appeals' decision in CA G.R. CV No. 31820 which awarded the complainant the conditional right to possess the land in litigation, and which had become final and executory.

On appeal, the Supreme Court held that complainant failed to substantiate the charge of knowingly rendering an unjust judgment in SPL Case No. 96-50,022, because he failed to prove that the judgment in said case is patently contrary to law or is not supported by the evidence; that after a judgment becomes final and executory, it is respondent's ministerial duty to issue a writ of execution; that a writ of mandamus lies to compel the issuance of a writ of execution; and that respondent's disregard of the writ of *mandamus*

Supreme Court E-Library

issued by the Court of Appeals is clearly a violation of the order of, and a manifest disrespect towards, a court of superior jurisdiction.

SYLLABUS

1. **JUDICIAL ETHICS; JUDGES; ADMINISTRATIVE ACTIONS AGAINST JUDGES; KNOWINGLY RENDERING AN UNJUST JUDGMENT; ELEMENTS NECESSARY TO PROVE SUCH A CHARGE; CASE AT BAR.**— We agree with the OCA that complainant failed to present substantial evidence that respondent knowingly rendered an unjust judgment in SPL Case No. 96-50,022. For such a charge to prosper, complainant must prove that the judgment is patently contrary to law or is not supported by the evidence and made with deliberate intent to perpetrate an injustice. None of these elements is present in this case.

2. **REMEDIAL LAW; CIVIL PROCEDURE; JUDGMENT; WRIT OF EXECUTION; WHEN ISSUANCE THEREOF IS A MINISTERIAL DUTY; CASE AT BAR.**— We also agree with the OCA that it was error for respondent to refuse to issue the writ of execution of the decision of the Court of Appeals in CA G.R. No. CV No. 31820 which awarded conditional right of possession to complainant. His refusal to issue said writ is without sufficient justification. The issuance of a writ of execution is a ministerial duty on the part of the court, after a judgment becomes final and executory, and leaves no room for the exercise of discretion. In this case, the decision of the Court of Appeals concerning complainant's right of possession over the property subject of the litigation in the RTC became final and executory on March 13, 1995. Respondent was duty bound to grant complainant's petition filed on December 6, 1995, for the issuance of the writ.

3. **ID.; SPECIAL CIVIL ACTIONS; WRIT OF *MANDAMUS*, DEFINED; LIES TO COMPEL ISSUANCE OF A WRIT OF EXECUTION; CASE AT BAR.**— A writ of *mandamus* lies to compel the issuance of a writ of execution. The writ of *mandamus* is one commanding a tribunal, corporation, board, officer or person that or who unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station, or unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled, and

Supreme Court E-Library

there is no other plain, speedy and adequate remedy in the ordinary course of law. *Mandamus* literally means "we command." Again, respondent had no option but to obey the writ. Refusal to obey it is clearly a violation of the order of, and a manifest disrespect towards, a court of superior jurisdiction.

RESOLUTION

QUISUMBING, *J.*:

Before us is an administrative complaint, for knowingly rendering an unjust judgment, filed against the Honorable Camilo E. Tamin, presiding judge of Branch 23 of the Regional Trial Court, Molave, Zamboanga del Sur. In said complaint, it was also alleged *inter alia* that respondent "displayed an unusual interest, despite of the censure or reproof by the Court of Appeals," such that the decision of the Court of Appeals dated July 7, 1997, in CA-G.R. SP No. 41099 granting the Writ of *Mandamus* prayed for by petitioner and ordering respondent court [presided by Judge Tamin] to issue the writ of execution in petitioner's favor, was not executed by respondent.

The antecedent facts, as summarized by the Office of the Court Administrator, are as follows:

"A certain Guillermo Lumapas died single and intestate on April 8, 1965. He left a parcel of land covered by OCT No. P-157 registered in the Office of the Register of Deeds of Zamboanga del Sur on April 21, 1953. The complainant [Gregorio Limpot Lumapas], claiming to be the only son and heir of the deceased Guillermo Lumapas, succeeded in obtaining OCT No. 06-151 over the same parcel of land on August 20, 1985 by virtue of Cadastral Decree No. 190636, Cad. Case No. N-3, Cad. Record No. N-10 dated October 31, 1984 by substituting his name in the stead of Guillermo Lumapas in the cadastral proceedings.

Complainant filed a complaint for Recovery of Possession/Ownership over the said parcel of land against Alan U. Lumapas, *et al.*, nephews and nieces of the deceased Guillermo, in RTC, Branch 25, Molave, Zamboanga del Sur presided over by the respondent docketed as Civil Case No. 90-20.015(2631). On the other hand, Alan Lumapas and his co-defendants also filed a complaint for Recovery of the same parcel of

Supreme Court E-Library

land against Gregorio Limpot Lumapas, et al., in the same court, docketed as Civil Case No. 90-20,025(2993). These two (2) cases were consolidated, and on February 12, 1991, the respondent rendered a judgment declaring that the complainant is the son of the deceased Guillermo Lumapas and his sole heir, and ordered the Register of Deeds of Zamboanga del Sur to cancel OCT-RP-157 in the name of Guillermo Lumapas and deal with said land as registered only under OCT-0-6-151 in the name of Gregorio Limpot Lumapas.

Alan Lumapas and his co-heirs appealed the decision to the Court of Appeals, and on February 28, 1994, the Court of Appeals promulgated a judgment declaring that Gregorio Lumapas has not sufficiently proved that he is the son of Gregorio Lumapas but he has the right of possession over lot 4329 (subject of Civil Cases Nos. 90-20,015 and 90-20,025) . . ."[1]

In its decision promulgated February 28, 1994, in CA G.R. CV No. 31820, the Court of Appeals awarded complainant the conditional right of possession to the land in litigation, dependent upon the validity of his title to be determined in an appropriate proceeding.[2]

On March 13, 1995, the decision of the Court of Appeals in CA G.R. SP No. 31820 became final and executory.[3] Consequently, complainant filed a motion for execution but respondent judge denied the motion in an order dated December 6, 1995, explaining in this wise:

"Gregorio Limpot has been declared by the Honorable Court of Appeals to be not the legal heir of Guillermo Lumapas.

x x x x x x x x x

x x x Gregorio Limpot has no legal right to use the surname "Lumapas" without the consent of the putative father. "Gregorio Limpot-Lumapas" is therefore, a non-entity in so far as the law is concerned for there is in fact no such person existing.

Inasmuch as Gregorio Limpot, the movant is not a legal heir of Guillermo Lumapas, therefore, he has no legal authority or

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[1] Report of the Office of the Court Administrator, pp. 1-2.

[2] CA Decision, p. 8.

[3] CA Amended Decision in CA-G.R. SP No. 41099, p. 3.

Supreme Court E-Library

personality to act for and in behalf of Gregorio Limpot-Lumapas, the non-existing person to whom the Honorable Court of Appeals has awarded the possession of the land in litigation. He is a mere pretender who should not be allowed to benefit from his illegal manuevers (*sic*). He is a complete stranger in so far as the estate of Guillermo Lumapas is concerned."[4]

Because of respondent judge's denial to issue a writ of execution on a final and executory judgment, complainant filed a Petition for Mandamus docketed as CA G.R. SP No. 41099 with the Court of Appeals, which issued the writ on July 7, 1997. Respondent judge, instead of obeying or implementing the writ, filed a motion for reconsideration before the Court of Appeals. The motion was denied.

Meanwhile, in view of the judgment of the Court of Appeals reversing the decision of the Regional Trial Court, the Lumapas heirs, defendants in the civil cases cited above, filed another case on June 18, 1996, this time, a petition for the cancellation of complainant's OCT. The case was also filed before RTC, Branch 23, presided over by respondent judge. This case was docketed as SPL Case No. 96-50,022. On July 9, 1996, complainant moved for the inhibition of respondent judge, believing him to have already prejudged the case in favor of his opponents. Respondent judge denied the motion.

Complainant then filed a petition for prohibition and/or disqualification before this Court, which remanded the same to the Court of Appeals, therein docketed as CA. G.R. SP No. 43507.

However, before the Court of Appeals resolved the petition for prohibition, respondent judge set for pre-trial the petition for cancellation of the OCT. Complainant moved for its postponement but respondent judge denied it. Complainant was subsequently declared in default on March 11, 1997. His motion to set aside the order of default was likewise denied.

On July 23, 1997, respondent rendered his judgment in SPL Case No. 96-50,022, in which he reversed his decision in the

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[4] Order of December 6, 1995, pp. 1-2.

Supreme Court E-Library

consolidated Civil Cases No. 90-20, 015 (2631) and No. 90-20, 025 (2993).

On September 4, 1997, the Court of Appeals denied on technical grounds, complainant's petition for prohibition. The motion for reconsideration was also denied on January 19, 1998, for being moot and academic. By that time, respondent judge had already rendered his decision in SPL Case No. 96-50,022 in favor of the Lumapas heirs.

Complainant filed the present complaint on September 11, 1997, alleging that respondent judge knowingly rendered an unjust judgment in SPL Case No. 96-50,022 since, in the earlier consolidated cases concerning the same subject matter, respondent judge had already ruled in favor of complainant.

In his reply, respondent judge justified his refusal to issue a writ of execution for Civil Cases No. 90-20,015 (2631) and No. 90-20,025 (2993) on the ground that the Court of Appeals reversed his decision in those cases, thus making it of no force and effect. He further averred that his decision in SPL Case No. 96-50,022 is in accordance with law and supported by the evidence.

In its report dated November 8, 1999, the OCA stated that complainant failed to sufficiently establish that respondent knowingly rendered an unjust judgment in SPL Case No. 96-50,022. It recommended that the charge of knowingly rendering an unjust judgment be dismissed. However, the OCA pointed out that respondent judge, indeed, erred when he refused to issue a writ of execution even after the CA decision became final and executory. The OCA observed that respondent judge had the temerity to disregard the writ of *mandamus* issued by the CA. For this, the OCA recommended that respondent judge be fined in the amount of ₱10,000.00.

We agree with the OCA that complainant failed to present substantial evidence that respondent knowingly rendered an unjust judgment in SPL Case No. 96-50,022. For such a charge to prosper, complainant must prove that the judgment is patently contrary to law or is not supported by the evidence and made with deliberate

Supreme Court E-Library

intent to perpetrate an injustice.[5] None of these elements is present in this case.

We also agree with the OCA that it was error for respondent to refuse to issue the writ of execution of the decision of the Court of Appeals in CA G.R. CV No. 31820 which awarded conditional right of possession to complainant. His refusal to issue said writ is without sufficient justification. The issuance of a writ of execution is a ministerial duty on the part of the court, after a judgment becomes final and executory, and leaves no room for the exercise of discretion.[6] In this case, the decision of the Court of Appeals concerning complainant's right of possession over the property subject of the litigation in the RTC became final and executory on March 13, 1995. Respondent was duty bound to grant complainant's petition filed on December 6, 1995, for the issuance of the writ.

A writ of *mandamus* lies to compel the issuance of a writ of execution.[7] The writ of mandamus is one commanding a tribunal, corporation, board, officer or person that or who unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station, or unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled, and there is no other plain, speedy and adequate remedy in the ordinary course of law.[8] Mandamus literally means "we command."[9] Again, respondent had no option but to obey the writ. Refusal to obey it is clearly a violation of the order of, and a manifest disrespect towards, a court of superior jurisdiction.

The OCA recommended that respondent judge be fined in the amount of ₱10,000.00. However, we find this amount inappropriate

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[5] *De la Cruz v. Concepcion*, 235 SCRA 597, 603 (1994).

[6] *Toledo-Banaga v. Court of Appeals*, 302 SCRA 331, 343 (1999).

[7] *Toledo-Banaga v. Court of Appeals, supra.*

[8] RULES OF COURT, Rule 65, Sec. 3; *Angchangco, Jr. v. Ombudsman*, 268 SCRA 301, 304 (1997).

[9] Black's Law Dictionary 866 (5th ed., 1979).

Supreme Court E-Library

under the circumstances, there being previous administrative cases[10] decided against respondent judge, with a stern warning that a repetition thereof or similar act or offense shall be dealt with more severely. Thus, we increase the fine to twenty thousand (₱20,000.00) pesos.

WHEREFORE, for refusing to fulfill a ministerial duty and to obey an order issued by a superior court, respondent Judge Camilo E. Tamin, presiding judge of Branch 23, Regional Trial Court, Molave, Zamboanga Del Sur, is ordered to pay a fine of ₱20,000.00. He is further warned that a commission of the same or similar offense in the future will be dealt with even more severely.

SO ORDERED.

Bellosillo (Chairman), Mendoza, Buena, and *De Leon, Jr., JJ.*, concur.

SECOND DIVISION

[G.R. No. 123539. June 27, 2000]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **MARIANO AUSTRIA *alias* "ANOY",** *accused-appellant.*

SYNOPSIS

An information dated 15 January 1995 charged an octogenarian (82 years old) Mariano Austria, of raping a minor Prescila de Vera and to suffer the penalty of *reclusion perpetua*. During the trial, it was established that Prescila was only 12 years old at the time of the incident. Prescila testified that on 22 November 1994, while she was passing on a ricefield on her way home for a lunch, accused

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[10] *Alcantara vs. Judge Camilo E. Tamin,* 243 SCRA 549 (1995) *Re: Rufino Aloot; Ariosa vs. Judge Tamin*, A.M. No. RTJ-92-798; *Barinaga vs. Judge Tamin,* 226 SCRA 206 (1993).