Supreme Court E-Library

SECOND DIVISION

[A.M. No. MTJ-00-1246. January 28, 2000]

HEIRS OF JUAN and NATIVIDAD GERMINANDA by: PROCESO GERMINANDA, Heir, *complainants, vs.* **Judge RICARDO SALVANERA, MCTC-Mahayag-Dumingag-Josefina, Zamboanga del Sur,** *respondent.*

SYNOPSIS

This is an administrative case filed against respondent judge Ricardo Salvanera filed by the heirs of Juan and Natividad Germinanda charging respondent of malfeasance/misfeasance and rendering patently unjust judgment, gross ignorance of law, serious misconduct and for maliciously and intentionally delaying the resolution of ejectment cases in violation of the rules on summary procedure. Specifically, respondent suspended the resolution in Civil Case No. 163 and terminated Civil Case No. 166, an ejectment case filed by the complainant, on the ground that outcome of Civil Case No. 1314 entitled "*Municipality of Dumingag vs. Natividad Vda. de Germinanda, et al.*," will directly affect the right to a complaint for unlawful detainer. After the respondent submitted his comment, Office of the Court Administrator rendered a decision finding merit to the complaint and recommended that respondent be fined ₱2,000.00 and warned that a repetition of the same or similar acts will be dealt with more severely.

Except for the suggested penalty, the Court found the OCA's recommendation well taken. The Court ruled that respondent's resolution in the two ejectment cases revealed ignorance of basic principles. It is settled that pendency of an action questioning the ownership of the property does not bar the filing or consideration of an ejectment suit nor the execution of the judgment therein. The reason for this rule is that an ejectment suit involves only the issue of material possession or possession *de facto*, and does not decide the question of ownership. Considering this difference in causes of action, it was wrong for respondent to rule that complainants were guilty of forum shopping in filing their complaints for unlawful detainer despite the pendency of Civil Case No. 1314 in the RTC and that the

Supreme Court E-Library

outcome of the ejectment suit depends on the resolution of Civil Case No. 1314. Accordingly, respondent judge was reprimanded with a warning that a repetition of the same or similar acts will be dealt with more severely.

SYLLABUS

1. **REMEDIAL LAW; RULES ON SUMMARY PROCEDURE; PENDENCY OF AN ACTION QUESTIONING THE OWNERSHIP OF PROPERTY DOES NOT BAR THE FILING OR CONSIDERATION OF AN EJECTMENT SUIT NOR THE EXECUTION OF THE JUDGMENT THEREIN.**— It is settled that the pendency of an action questioning the ownership of the property does not bar the filing or consideration of an ejectment suit nor the execution of the judgment therein. The reason for this rule is that an ejectment suit involves only the issue of material possession or possession *de facto*, and does not decide the question of ownership. Considering this difference in causes of action, it was wrong for respondent to rule that complainants were guilty of forum shopping in filing their complaints for unlawful detainer despite the pendency of Civil Case No. 1314 in the RTC and that the outcome of the ejectment suits depends on the resolution of Civil Case No. 1314.

2. **LEGAL AND JUDICIAL ETHICS; JUDGES; RESPONDENT JUDGE IS REPRIMANDED IN CASE AT BAR.**— In *Punio v. Go*, a judge was also of the same mistaken belief as respondent in this case and deferred action on the plaintiff's motion for demolition in an ejectment suit (the decision of which has already become final and executory) until the termination in the RTC of the action for the annulment of plaintiff's title over the disputed premises. The Court, while holding that the mistake constituted a mere error in judgment, reprimanded the said judge and reminded him of his duty to keep abreast with the rules, laws, and precedents affecting his court duties and jurisdiction so as to avoid the issuance of erroneous orders and decisions. The same penalty is also proper in this case.

APPEARANCES OF COUNSEL

Dulcesimo P. Tampus for complainants.

Supreme Court E-Library

DECISION

MENDOZA, *J.*:

This is a complaint, dated March 12, 1997, filed by the heirs of Juan and Natividad Germinanda, charging Judge Ricardo Salvanera of the Ninth Municipal Circuit Trial Court, Mahayag-Dumingag-Josefina, Zamboanga del Sur with "malfeasance/misfeasance and rendering of patently unjust judgment"; "gross ignorance of law and established jurisprudence and/or incompetence"; and "serious misconduct for maliciously and intentionally delaying the resolution of ejectment cases in violation of the rules on summary procedure."

Complainants were the plaintiffs in two cases for unlawful detainer assigned to respondent's sala, to wit: Civil Case No. 163, entitled "*Heirs of Juan Germinanda v. Warlito Montealto, et al.*" and Civil Case No.166, entitled "*Heirs of Juan Germinanda v. Dr. Emiliano Futalan, et al.*" The complaints in the two cases uniformly alleged that the defendants occupied various portions of complainants' lot covered by OCT No. 0-4616, intially by mere tolerance and later, by virtue of lease agreements which defendants therein violated by refusing to pay the agreed rentals. In their respective answers, the defendants in the two cases alleged that the ownership of the lot subject matter of the complaints was under litigation in the Regional Trial Court, Branch 22, Pagadian City in Civil Case No. 1314 entitled "*Municipality of Dumingag v. Natividad Vda. de Germinanda, et al.*"

In Civil Case No. 163, respondent suspended the resolution of the case until the decision of Civil Case No.1314, while in Civil Case No. 166, he considered the matter "closed and terminated until such time the higher court of Pagadian City shall rule otherwise in Civil Case No. 1314."

In this case, complainants allege that the decisions in both cases contained no findings of fact and law as required by the Constitution, respondent merely reproducing the allegations of the parties in their pleadings; that the decision in Civil Case

Supreme Court E-Library

No.166 was premature as the parties had not yet had their preliminary conference nor filed their pre-trial briefs; that the decisions in the two cases reveal respondent's ignorance of the provision of the Rules of Court as to when a case is ripe for decision, the Rules of Summary Procedure mandating that judgment shall be rendered only after preliminary conference/ pre-trial and after the parties have submitted their respective position papers, and established jurisprudence that the pendency of an action involving title is not a bar to the hearing of an ejectment suit; that respondent committed serious misconduct because he had unnecessarily delayed the disposition of the two ejectment cases to the prejudice of complainants who continue to be illegally deprived of their property; that respondent's incompetence is shown by the inconsistent disposition of the two cases, *i.e.*, he suspended the proceedings in Civil Case No. 163 pending the resolution of Civil Case No.1314 in the RTC of Pagadian City while ordering the termination of Civil Case No. 166 until the RTC shall have decided Civil Case No.1314. Complainants further allege that while "appeal is still available," appropriate sanctions should be imposed on respondent judge.

In his comment, respondent alleges that there is no question that Civil Case No. 1314 "directly affects [complainants'] right to file a complaint for unlawful detainer" and that the principle of *litis pendentia* applies to Civil Case No. 1314 in relation to the two ejectment cases filed by complainants. He also alleges that contrary to complainants' assertion, the parties in the three cases were the same for the reason that the plaintiff municipality in Civil Case No. 1314 included the taxpayers who are the defendants in Civil Case Nos. 163 and 166. Further, he alleges that complainants violated Circular No. 28-91 because they failed to disclose in their ejectment suits the pendency of Civil Case No. 1314 and that his decisions were affirmed on appeal by the RTC. Respondent reiterates his arguments in a supplemental comment, dated August 18, 1997.

In its memorandum, dated December 2, 1999, the Office of the Court Administrator finds merit in the complaint and recommends that respondent be fined ₱2,000.00 and warned

Supreme Court E-Library

that a repetition of the same or similar acts will be dealt with more severely.

Except for the suggested penalty, the Court finds the OCA's recommendation well taken. Respondent's resolution in the two ejectment cases reveals ignorance of basic principles. At the time the complaints for unlawful detainer were filed,[1] the governing law, B.P. Blg. 129, provided in pertinent parts:

> SEC. 33. *Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in Civil Cases.* — Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise:
>
> . . . .
>
> (2) Exclusive original jurisdiction over cases of forcible entry and unlawful detainer: *Provided*, That when, in such cases, the defendant raises the question of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of possession.

On the other hand, its Implementing Rules provided:

> *Jurisdiction in ejectment cases.* — Metropolitan trial courts, municipal trial courts, and municipal circuit trial courts, without distinction, may try cases of forcible entry and detainer even if the question of ownership is raised in the pleadings and the question of possession could not be resolved without deciding the issue of ownership, but the question of ownership shall be resolved only to determine the issue of possession.

It is settled that the pendency of an action questioning the ownership of the property does not bar the filing or consideration of an ejectment suit nor the execution of the judgment therein. The reason for this rule is that an ejectment suit involves only the issue of material possession or possession *de facto*, and does not decide the question of ownership. Considering this difference in causes of action, it was wrong for respondent to

---

[1] Civil Case No. 163 was filed on September 18, 1996 while Civil Case No. 166 was filed on January 14, 1997.

Supreme Court E-Library

rule that complainants were guilty of forum shopping in filing their complaints for unlawful detainer despite the pendency of Civil Case No.1314 in the RTC and that the outcome of the ejectment suits depends on the resolution of Civil Case No.1314.

In *Punio v. Go*,[2] a judge was also of the same mistaken belief as respondent in this case and deferred action on the plaintiff's motion for demolition in an ejectment suit (the decision of which has already become final and executory) until the termination in the RTC of the action for the annulment of plaintiff's title over the disputed premises. The Court, while holding that the mistake constituted a mere error in judgment, reprimanded the said judge and reminded him of his duty to keep abreast with the rules, laws, and precedents affecting his court duties and jurisdiction so as to avoid the issuance of erroneous orders and decisions.

The same penalty is also proper in this case.

WHEREFORE, respondent Judge Ricardo Salvanera, Acting Presiding Judge of the Ninth Municipal Circuit Trial Court of Mahayag-Dumingag-Josefina, Zamboanga del Sur is *REPRIMANDED* with a warning that a repetition of the same or similar acts will be dealt with more severely.

SO ORDERED.

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

---

[2] 296 SCRA 1 (1998).