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EN BANC

[A.M. No. RTJ-98-1405. April 12, 2000]

MARIA IMELDA MARCOS-MANOTOC and MARIA IRENE VICTORIA MARCOS-ARANETA, *complainants, vs.* **JUDGE EMERITO M. AGCAOILI,** *respondent.*

SYNOPSIS

This is an administrative complaint against Judge Emerito M. Agcaoili, assisting judge of the Regional Trial Court, Branch 15, Naic, Cavite, in connection with the issuance by him of a temporary restraining order in Civil Case No. NC-96-738, entitled "*Puerto Azul Land, Inc. (PALI) v. Atty. Art Caña*, in his capacity as the Register of Deeds for the province of Cavite; Ma. Imelda Marcos-Manotoc, Ferdinand R. Marcos, Jr., and Ma. Victoria Irene Marcos-Araneta." The complaint alleged that in issuing the temporary restraining order, respondent judge acted with gross ignorance of the law and with manifest bias and partiality. Particularly, the complainant alleged that respondent judge did not schedule a summary hearing within 24 hours after the records were transmitted to him as required by the aforesaid circular; that the TRO was extended twice without any prior hearing; and that the extensions of the effectivity of the TRO were tantamount to the issuance of a writ of preliminary injunction without notice to complainants and without payment of the requisite bond. The Office of the Court Administrator (OCA), to which this case had been referred for investigation, found respondent judge guilty of violating the rules on the issuance of TROs and recommended that he be fined ₱10,000.00 with a warning that repetition of similar acts shall be dealt with more severely.

The Court ruled that the respondent judge disregarded the rules laid down in Circular 20-95 in issuing the questioned TRO. Failure to abide by Administrative Circular No. 20-95 constitutes an offense of grave abuse of authority, misconduct, and conduct prejudicial to the proper administration of justice. Indeed, a judge is presumed to know this Circular. His failure to comply with its clear provisions constitutes gross ignorance and gross inefficiency. The OCA also correctly found that respondent judge failed to observe the Code of Judicial Conduct, particularly Rule 3.01 and Rule 3.05 thereof,

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enjoining judges to be faithful to the law and to maintain professional competence and to dispose of the business of their courts promptly and within the applicable periods. Respondent judge's act of further extending the effectivity of the TRO twice, knowing fully well that he had not conducted a summary hearing therefor and that he would not be able to conduct one in the succeeding days because of his other commitments, suggests partiality to a party in the case. He thus disregarded the time-honored injunction on judges to be impartial both in fact and in appearance. Indeed, this is not the first time Judge Agcaoili was found guilty of gross ignorance of the law and violation of the Code of Judicial Conduct. Respondent judge had proven himself to be unfazed by the previous penalties and warnings he had received. Several times he has been charged and twice he has been found guilty, yet he seemed undeterred in disregarding the law which he has pledged to uphold and the Code which he promised to live by. Thus, the Court deemed it proper to impose on him the penalty of a fine in the amount of ₱20,000.00. Accordingly, the Court found respondent Judge Emerito M. Agcaoili guilty of gross ignorance of the law, gross inefficiency and manifest bias and partiality and imposed on him a fine of Twenty Thousand Pesos (₱20,000.00) with warning that repetition of similar acts will be dealt with more severely.

SYLLABUS

1. **LEGAL AND JUDICIAL ETHICS; SUPREME COURT ADMINISTRATIVE CIRCULAR NO. 20-95; RESPONDENT JUDGE COMMITTED FLAGRANT VIOLATION WHEN HE EXTENDED THE TRO TWICE WITHOUT CONDUCTING SUMMARY HEARING.—** Respondent judge committed a flagrant violation of the rules when he extended the said TRO twice without conducting a summary hearing therefor. He himself stated in his June 24, 1996 order that "the Court has to extend the [TRO] considering that under the circumstances, no summary hearing could be held earlier than today."

2. **ID.; ID.; IN COMPUTING THE EFFECTIVITY OF A TRO, SATURDAYS, SUNDAYS, AND HOLIDAYS ARE NOT EXCLUDED.—** In computing the effectivity of a TRO, Saturdays, Sundays, and holidays are not excluded. The maximum period of 20 days includes Saturdays, Sundays, and holidays. Respondent judge, therefore, erroneously excluded weekends in his

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computation. He claimed that the TRO issued by him on June 18, 1996 and received by the parties on June 19, 1996 took effect on June 20, 1996 until July 12, 1996, excluding Saturdays and Sundays. In truth, the TRO was made effective for a total of 23 days, in clear violation of the 20-day rule.

3. **ID.; ID.; ID.; FAILURE TO COMPLY WITH ADMINISTRATIVE CIRCULAR NO. 20-95 CONSTITUTES GROSS IGNORANCE AND GROSS INEFFICIENCY.—** We have already ruled that failure to abide by Administrative Circular No. 20-95 constitutes an offense of grave abuse of authority, misconduct, and conduct prejudicial to the proper administration of justice. Indeed, a judge is presumed to know this Circular. His failure to comply with its clear provisions constitutes gross ignorance and gross inefficiency.

4. **ID.; CODE OF JUDICIAL CONDUCT; RESPONDENT JUDGE VIOLATED RULE 3.01 AND RULE 3.05 OF THE CODE OF JUDICIAL CONDUCT IN FURTHER EXTENDING THE EFFECTIVITY OF TRO TWICE WITHOUT HEARING.—** The OCA also correctly found that respondent judge failed to observe the Code of Judicial Conduct, particularly Rule 3.01 and Rule 3.05 thereof, enjoining judges to be faithful to the law and to maintain professional competence and to dispose of the business of their courts promptly and within the applicable periods. Respondent judge's act of further extending the effectivity of the TRO twice, knowing fully well that he had not conducted a summary hearing therefor and that he would not be able to conduct one in the succeeding days because of his other commitments, suggests partiality to a party in the case. He thus disregarded the time honored injunction on judges to be impartial both in fact and in appearance.

APPEARANCES OF COUNSEL

Conrad S. Gozos, Jr. and *Dario & Yu Law Offices* for complainants.

DECISION

MENDOZA, *J.*:

This is a complaint against Judge Emerito M. Agcaoili, assisting judge of the Regional Trial Court, Branch 15, Naic, Cavite, in

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connection with the issuance by him of a temporary restraining order in Civil Case No. NC-96-738, entitled *"Puerto Azul Land, Inc. (PALI) v. Atty. Art Caña, in his capacity as the Register of Deeds for the province of Cavite; Ma. Imelda Marcos-Manotoc, Ferdinand R. Marcos, Jr., and Ma. Victoria Irene Marcos-Araneta."* The complaint alleges that, in issuing the temporary restraining order, respondent judge acted with gross ignorance of the law and with manifest bias and partiality.

The facts are as follows:

Complainants herein, as heirs of the late President Ferdinand E. Marcos, are substitute defendants in Civil Case No. 0014, entitled *"Republic v. Modesto Enriquez, Trinidad Diaz Enriquez, Rebecco Panlilio, Erlinda Enriquez-Panlilio, Leandro Enriquez, Ferdinand E. Marcos, Imelda R. Marcos, Don M. Ferry, Roman A. Cruz, and Gregorio R. Castillo, et al."* for damages, reconveyance, reversion, or accounting of funds, assets, and other properties allegedly acquired through abuse of power by the defendants.[1]

On April 30, 1996, they filed a third-party complaint against Puerto Azul Land, Inc. (PALI), seeking the cancellation of the latter's titles to several pieces of real property involved in that case. Complainants alleged that the transfer of titles of said parcels of land in favor of PALI was void and that the cancellation of PALI's titles was necessary to protect their rights should the properties be adjudged lawfully owned by them.[2]

Based on their third-party complaint, the Marcoses sought to compel the Register of Deeds of Cavite to annotate notices of *lis pendens* on TCT Nos. 404201-404204, 404432-404435, 496600, 496573, 496596, 496598, 496590, 496578, 496579, 496586, 496593, 496594, 496582, 496583, 515075, 515076, and 546239, all issued in the name of PALI.[3]

On June 18, 1996, PALI filed a civil case for injunction and for the issuance of a writ of preliminary injunction and temporary

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[1] *Rollo*, p. 34.

[2] *Id.*, p. 52.

[3] *Id.*, p. 26.

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restraining order against complainants and the Register of Deeds of Cavite, Atty. Art Caña. The case was filed with Branch 15 of the Regional Trial Court, Naic, Cavite, a single-sala court of which respondent is the assisting judge. PALI sought to enjoin the annotation of the notices of *lis pendens* on its titles.[4]

On the same date, respondent judge issued a temporary restraining order and scheduled the hearing on the application for a preliminary injunction on June 24, 1996. The order stated that the TRO "is good until such time that the writ of preliminary injunction shall have been resolved."[5]

However, on June 24, 1996, respondent judge did not conduct any hearing on the application for a writ of preliminary injunction. Instead, he issued an order extending the effectivity of the TRO for five more days, stating that —

> In the meanwhile, the Court has to extend the temporary restraining order considering that under the circumstances, no summary hearing could be held earlier than today and considering further the allegations of great damages and irreparable injury by the petitioner unless the same is issued, the same is hereby extended for 5 days.[6]

On June 28, 1996, respondent judge again extended the period for 12 more days. His order reads:

> Considering the pleadings on file, the Temporary Restraining Order earlier issued and extended, is further extended by another twelve (12) days at which time by then, the matter of the prayer for the Writ of Preliminary Injunction shall have been resolved.[7]

This order, however, was amended by respondent judge, which in effect further extended the effectivity of the TRO, *viz.*:

> Considering the pleadings on file, the Temporary Restraining Order earlier issued and extended, is further extended by another twelve (12) days effective upon actual receipt of the parties. It is understood that the

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[4] *Id.*, p. 17.

[5] *Id.*, p. 79.

[6] *Id.*, p. 96.

[7] *Id.*, p. 85.

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hearing set by the defendants Marcoses on 05 July 1996 in their Omnibus Motion is cancelled.

Hearing on the prayer for the Writ of Preliminary Injunction is hereby set on 16 July 1996, at 9:00 a.m.[8]

Complainants allege that the issuance of the TRO and its subsequent extensions constitute a blatant violation of Administrative Circular 20-95 of this Court; that they were not immediately notified of the issuance of the TRO; that respondent judge did not schedule a summary hearing within 24 hours after the records were transmitted to him as required by the aforesaid circular; that the TRO was extended twice without any prior hearing; and that the extensions of the effectivity of the TRO were tantamount to the issuance of a writ of preliminary injunction without notice to complainants and without payment of the requisite bond.[9]

In his answer, respondent judge claims that the TRO was in effect for a total of 19 days only and, thus, did not exceed the 20-day limit provided by law. He explains:

In the case subject of the instant complaint, it should be noted that the first order was issued on 18 June 1996. This was served the following day, 19 June 1996. Effectively, it had only a lifetime of three (3) working days, that is on 20, 21 and 24 when it was extended for five (5) days, June 22 and 23 being Saturday and Sunday, when no hearing could be held. So that, on June 28 when it was further extended, it had actually been in effect for only seven (7) days. The Order of 28 June 1996 was received only on 01 July 1996. This was further extended by 12 days. During that period from 01 July to 12 July, your respondent could not hear the petition for preliminary injunction because he was then at Aparri, Cagayan serving as the regular Presiding Judge of the Regional Trial Court, Branch 09 sitting at Aparri. His assignment at Naic, Cavite as Assisting Judge of Branch 15 of the Regional Trial Court of Cavite covers the last fifteen days of each month only, that was from October 1993 to October 1996.

Even counting the actual effectivity of the temporary restraining orders from 20, 21, 24, 25, 26, 27 and 28 June, and 1, 2, 3, 4, 5, 8, 9, 10, 11 and

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[8] *Id.*, p. 86.

[9] *Id.*, p. 7.

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12 July 1996, we have only 19 days, certainly not in excess of the maximum 20 day-period provided by law.[10]

The Office of the Court Administrator, to which this case had been referred for investigation, found respondent judge guilty of violating the rules on the issuance of TROs and recommends that he be fined P10,000.00 with a warning that repetition of similar acts shall be dealt with more severely.[11]

We find the recommendation of the OCA to be well taken.

As the TRO in this case was issued in 1996, the applicable rule was Supreme Court Administrative Circular No. 20-95 which states:

1. Where an application for temporary restraining order (TRO) or writ of preliminary injunction is included in a complaint or any initiatory pleading filed with the trial court, such complaint or initiatory pleading shall be raffled only after notice to the adverse party and in the presence of such party or counsel.

2. The application for a TRO shall be acted upon only after all parties are heard in a summary hearing conducted within twenty-four (24) hours after the records are transmitted to the branch selected by raffle. The records shall be transmitted immediately after raffle.

3. If the matter is of extreme urgency, such that unless a TRO is issued, grave injustice and irreparable injury will arise, the Executive Judge shall issue the TRO effective only for seventy-two (72) hours from issuance but shall immediately summon the parties for conference and immediately raffle the case in their presence. Thereafter, before the expiry of the seventy-two hours, the Presiding Judge to whom the case is assigned shall conduct a summary hearing to determine whether the TRO can be extended for another period until a hearing in the pending application for preliminary injunction can be conducted. In no case shall the total period of the TRO exceed twenty (20) days, including the original seventy-two (72) hours, for the TRO issued by the Executive Judge.

4. With the exception of the provisions which necessarily involve multiple-sala stations, these rules shall apply to single-sala stations especially with regard to immediate notice to all parties of all applications for TRO.

[10] Answer dated March 25, 1998, pp. 3-4.

[11] *Rollo*, p. 1.

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Respondent judge disregarded these rules. First, he did not notify herein complainants that an application for the issuance of a TRO has been filed. Complainants only received a copy of PALI's complaint together with respondent judge's order granting the TRO. Second, respondent judge did not conduct a summary hearing before granting the TRO. It is noteworthy that the TRO was issued on the same day that the complaint was filed.

Respondent judge cannot plausibly claim that he issued a 72-hour TRO under par. 3 of Administrative Circular No. 20-95. His order did not state that the TRO was effective for 72 hours only. To the contrary, it stated that it "is good until such time that the writ of preliminary injunction shall have been resolved."[12] Nor was it stated that the order was being issued because of extreme urgency to justify the issuance of a 72-hour TRO. Respondent judge only stated in his order that "the petition appears to be sufficient in form and substance."[13]

Respondent judge committed a flagrant violation of the rules when he extended the said TRO twice without conducting a summary hearing therefor. He himself stated in his June 24, 1996 order that "the Court has to extend the [TRO] considering that under the circumstances, no summary hearing could be held earlier than today."[14]

Finally, respondent judge erroneously computed the number of days the TRO issued by him was effective. It is settled that the TRO takes effect upon its issuance and not upon receipt of the parties.[15] Hence, in amending his June 28, 1996 order, respondent judge erred in stating that the effectivity of the TRO was being extended by another 12 days effective upon actual receipt of the parties.

Moreover, in computing the effectivity of a TRO, Saturdays, Sundays, and holidays are not excluded. The maximum period of

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[12] Respondent's Order dated June 18, 1996, p. 2.

[13] *Id.*, p. 1.

[14] Respondent's Order dated June 24, 1996, p. 2.

[15] SC Administrative Circular 20-95, par. 3.

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20 days includes Saturdays, Sundays, and holidays. Respondent judge, therefore, erroneously excluded weekends in his computation. He claimed that the TRO issued by him on June 18, 1996 and received by the parties on June 19, 1996 took effect on June 20, 1996 until July 12, 1996, excluding Saturdays and Sundays. In truth, the TRO was made effective for a total of 23 days, in clear violation of the 20-day rule.

Respondent judge tries to justify his failure to observe the rules on the ground that his assignment at the RTC, Branch 15, of Naic, Cavite only covers the last 15 days of each month, because his regular station is at Branch 9 of the RTC of Aparri, Cagayan. Hence, he claims that he could not have conducted the summary hearing within July 1-12, 1996.

This contention is without merit. As correctly observed by the OCA:

> Respondent's argument that he presides over two stations does not exculpate him from his responsibilities as magistrate. The civil case was filed before his Cavite court on 18 June 1996. Since he is supposed to devote his time at the RTC, Branch 15 of Naic, Cavite for the last fifteen days of each month, he had ample time to manage his schedule in this station, and to attend to the cases before him, this one included.[16]

We have already ruled that failure to abide by Administrative Circular No. 20-95 constitutes an offense of grave abuse of authority, misconduct, and conduct prejudicial to the proper administration of justice.[17] Indeed, a judge is presumed to know this Circular. His failure to comply with its clear provisions constitutes gross ignorance and gross inefficiency.

The OCA also correctly found that respondent judge failed to observe the Code of Judicial Conduct, particularly Rule 3.01 and Rule 3.05 thereof, enjoining judges to be faithful to the law and to maintain professional competence and to dispose of the business of their courts promptly and within the applicable periods. Respondent judge's act of further extending the effectivity of the

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[16] *Rollo*, pp. 3-4.

[17] *Adao v. Judge Lorenzo,* AM No. RTJ-99-1496, Oct. 13, 1999.

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TRO twice, knowing fully well that he had not conducted a summary hearing therefor and that he would not be able to conduct one in the succeeding days because of his other commitments, suggests partiality to a party in the case. He thus disregarded the time honored injunction on judges to be impartial both in fact and in appearance.[18]

Indeed, this is not the first time Judge Agcaoili was found guilty of gross ignorance of the law and violation of the Code of Judicial Conduct. In *Cortes v. Agcaoili*,[19] he was found guilty of violation of the provisions of the Revised Forestry Code and the rules on the grant of bail, and acts of impropriety. He was fined ₱40,000.00 and suspended for ten days and given a reprimand and a warning. Earlier, he had been reprimanded and warned in another case[20] after being found guilty of negligence in reducing the amount of accused's bail bond and failing to promptly issue a warrant of arrest.

Respondent judge has proven himself to be unfazed by the previous penalties and warnings he has received. Several times he has been charged and twice he has been found guilty, yet he seems undeterred in disregarding the law which he has pledged to uphold and the Code which he promised to live by. Because of this, we deem it proper to impose on him the penalty of a fine in the amount of ₱20,000.00.

WHEREFORE, the Court finds respondent Judge Emerito M. Agcaoili GUILTY of gross ignorance of the law, gross inefficiency and manifest bias and partiality and imposes on him a FINE of Twenty Thousand Pesos (₱20,000.00) with WARNING that repetition of similar acts will be dealt with more severely.

SO ORDERED.

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

Vitug, J., on official business.

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[18] See *Abundo v. Judge Manio,* AM No. RTJ-98-1416, Aug. 6, 1999.

[19] 294 SCRA 423 (1998).

[20] *Chan v. Agcaoili,* 233 SCRA 331 (1994).