Supreme Court E-Library

SO ORDERED.

Makalintal, C.J., Teehankee, Makasiar, and *Esguerra, JJ.*, concur.

Castro, J., on leave.

FIRST DIVISION

[Adm. Matter No. P-44. November 26, 1974]

MOISES M. MASPIL and YOLANDA LAGMAN, *complainants, vs.* **FERNANDO R. ROMERO, Clerk of Court, Court of First Instance, Baguio City,** *respondent.*

SYLLABUS

REMEDIAL LAW; CIVIL PROCEDURE; APPROPRIATE ACTIONS FOR ENFORCEMENT OF DEFENSE OF RIGHTS MUST BE TAKEN IN ACCORDANCE WITH PROCEDURAL RULES AND CANNOT BE LEFT TO CAPRICES OF LITIGANTS; CASE AT BAR.— In ordering the dismissal of the administrative complaint, We predicated Our action on the premise that the controversy as to who has a better right to own the lot in question is not of itself alone a proper subject matter for administrative action against a public official as it has nothing to do with his competence, integrity or performance of his duties. It should have been brought as a civil action before the courts of justice to settle and adjudicate the conflicting claims of the parties over the land involved. We see no compelling reason to modify or change that stand. The proper procedure to protect their alleged rights to the controverted lot has been markedly pointed to complainants in the decision and by it they must abide if they are sincerely after the vindication of their alleged legitimate claims. But it must be made clear that their choice

Supreme Court E-Library

of procedure cannot be imposed upon Us in their apparently misguided quest for the enforcement of what they believe to be their rightful claim. Appropriate actions for the enforcement or defense of rights must be taken in accordance with procedural rules and cannot be left to the whims or caprices of litigants. It cannot even be left to the untrammeled discretion of the courts of justice without sacrificing uniformity and equality in the application and effectivity thereof.

RESOLUTION

ESGUERRA, *J.:*

A perusal of the "Urgent Motion, Manifestation and Reconsideration," filed by complainant Moises M. Maspil clearly shows that it is a reiteration of the issue of complainants' alleged better rights to the controverted Lot No. 27 (Holy Ghost Subdivision of Residential Section "B", Baguio City) which gave rise to the administrative complaints against respondent then Clerk of Court Fernando R. Romero of the Court of First Instance, Baguio City, now retired. It presents no new pertinent and relevant matter or issue that had not been considered or passed upon in the decision of September 30, 1974.

In ordering the dismissal of the administrative complaint, We predicated Our action on the premise that the controversy as to who has a better right to own the lot in question is not of itself alone a proper subject matter for administrative action against a public official as it has nothing to do with his competence, integrity or performance of his duties. It should have been brought as a civil action before the courts of justice to settle and adjudicate the conflicting claims of the parties over the land involved. We see no compelling reason to modify or change that stand.

Complainant Maspil's move to reconsider Our decision by harping on the complainants' alleged better right to the controverted lot, supported as it is by his own admission "that this appeal/complaint was not known by anybody else, as all the plans, words, and idea of the complaint are my very own,

Supreme Court E-Library

who is a non-lawyer, and never assisted by any lawyer as to the making, wording and the filing of the appeal/complaint dated March 17, 1973. x x x," (No. 21, page 18 of Urgent Motion dated October 22, 1974), only the more convinces Us that this administrative case has no merit and that respondent was undeservedly and mercilessly maligned and harassed.

The proper procedure to protect their alleged rights to the controverted lot has been markedly pointed to complainants in the decision and by it they must abide if they are sincerely after the vindication of their alleged legitimate claims. But it must be made clear that their choice of procedure cannot be imposed upon Us in their apparently misguided quest for the enforcement of what they believe to be their rightful claim. Appropriate actions for the enforcement or defense of rights must be taken in accordance with procedural rules and cannot be left to the whims or caprices of litigants. It cannot even be left to the untrammeled discretion of the courts of justice without sacrificing uniformity and equality in the application and effectivity thereof.

WHEREFORE, the motion for reconsideration is hereby denied for being completely devoid of merit.

Motion denied.

Castro (Chairman), Teehankee, Makasiar, and *Muñoz Palma, JJ.,* concur.

SECOND DIVISION

[Adm. Case No. 153/Adm. Matter No. P-205. November 27, 1974]

GAUDENCIO CONSUNJI, *complainant, vs.* **JOSE VILLANUEVA, Deputy Sheriff, CFI, Davao City,** *respondent.*