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EN BANC

[Adm. Case No. 2756. June 5, 1986]

PRUDENTIAL BANK, *complainant, vs.* **JUDGE JOSE P. CASTRO and ATTY. BENJAMIN M. GRECIA,** *respondents.*

SYLLABUS

1. LEGAL AND JUDICIAL ETHICS; JUDGES; PARTIALITY; FAILURE TO CORRECT AMOUNT OF FILING FEES; CASE AT BAR.— In both original and amended Complaints in the RTC CASE, it was apparent that MACHO was suing for an amount of at least P50 million. On the very date of August 6, 1984, when the Amended Complaint was filed, which was only four days after the original Complaint was instituted, Respondent Judge was already aware, per his Order of attachment, that MACRO " in its verified complaint and affidavit", was asking defendants "to pay the sum of P50,000,000.00 as actual and compensatory damages in this case." In the original and amended Complaint, the prayers did not ask for damages specifically in the sum of more than P50 million, clearly in order to avoid payment of filing fees of more than P100,000.00. The filing actually paid was only P210.00. Ordinarily, a Trial Judge may be excused from immediately noting a mistake made by the Clerk of Court in assessing filing fees. However, considering Respondent Judge's realization of the mistake on August 6, 1984, the date he issued his Order for preliminary attachment, and his actuation thereafter in the RTC CASE, his failure to require payment of the correct mount of filing fees indicated his partiality towards, not to say confabulation with, MACRO and/or its lawyers.

2. ID.; ID.; ID.; ERRORS DELIBERATELY COMMITTED.— The summary judgment was ill-conceived. For one thing, the Amended Complaint had charged Complainant Bank with fraud and deceit. Under the law, good faith is to be presumed, and the fraud and deceit imputed to Complainant Bank cannot be other than a question of fact, which should have been resolved after due reception of evidence pro and contra. There was nothing in the Answer, and in its pleadings in connection with MACRO'S

Supreme Court E-Library

Motion for summary judgment, which should indubitably be deemed an admission, or proof, of Complainant Bank's alleged fraud and deceit. Respondent Judge's statement to the contrary are bereft of veracity. Worse errors have been committed by Trial Judge but, in the RTC CASE , the erroneous promulgation of the summary judgment indicates, in the light of the entire scenario, that the error was deliberate in order to favor plaintiff, or that it was actual confabulation with plaintiff and its lawyers.

3. **ID.; ID.; ID.; SHOWN IN THE AMOUNT OF DAMAGES AND ATTORNEY'S FEES AWARDED.**— The issuance of the summary judgment was bad enough. The grant therein of damages in the amount of more than P33 million plus 20% attorney's fees, when the property involved in the litigation was alleged in the amended Complaint as P20 million (sold to FALCONI for P6 million immediately raises the thought that Respondent Judge had really taken a stand of partiality in favor of MACRO and its lawyers.

4. **ID.; ID.; ID.; SHOWN BY THE AMENDMENT OF A FINAL AND EXECUTORY DECISION.**— The Order of January 7, 1985 of Respondent Judge also shows his partiality to, or his confabulation with MACRO and the latter's lawyers. The summary judgment was rendered on November 16, 1984, and notice thereof was served on Complainant Bank on November 26, 1984. The latter filed a Motion for Reconsideration on December 6, 1984. If, as Respondent Judge has ruled, the Motion for Reconsideration was pro forma, the summary judgment became final on December 11, 1984. Respondent Judge, therefore, would no longer have no authority to amend his Decision on January 7, 1985 amending the summary judgment. It can now become clear that deferment of action on Complainant Bank's Motion for Reconsideration was precisely for the purpose of allowing amendment of the Decision on January 7, 1985. The Order of January 7, 1985 was set aside in G.R. No. 69907. It is now for us to state herein that Respondent Judge in issuing such Order, clearly intended to favor MACRO by allowing it to sell, as it did sell, the MACRO property to FALCONI on January 14, 1985.

5. **ID.; ID.; BELATED ORDER GIVING DUE COURSE TO APPEAL TO RENDER G.R. NO. 69907 MOOT AND ACADEMIC CONSTITUTES DISRESPECT OF COURT.**— Respondent Judge, in his Order of March 13, 1985, gave course

Supreme Court E-Library

to the appeal of Complainant Bank although he had already ruled that the latter had lost the right of appeal. That Order of March 13, 1985 was issued after Complainant Bank had instituted G.R. No. 69907 on February 19, 1985, asking that Respondent Judge be ordered to allow its appeal from the summary judgment. The Order of March 15, 1985 was clearly intended to render G.R. No. 69907 moot and academic. Said Order was disrespectful of this Court. If at all, Respondent Judge should have come to this Court in said G.R. No. 69907, to ask for leave to allow the appeal of Complainant Bank with admission that he had realized that his previous denial of the appeal was erroneous. And it may be recalled that, in De Leon vs. Castro, 104 SCRA 241 (1981), this Court had occasion to state that Respondent Judge's "submission of false certificates of service under Section 5 of the Judiciary Law is not excusable."

DECISION

PER CURIAM,:

Prudential Bank (Complainant Bank) instituted this administrative case on April 11, 1985, praying this Court to investigate Respondent Judge Jose P. Castro, presiding over Regional Trial Court, National Capital Judicial Region, Branch LXXXV, Quezon City, (Respondent Judge, and Atty. Benjamin M. Grecia (Respondent Grecia), in connection with their actuations in a civil case (the RTC CASE), tried and decided by Respondent Grecia.

The RTC CASE was entitled "*Marco Textile Mills Corporation, Plaintiff, vs. Prudential Bank & Trust Co., Aka The Prudential Bank and Benjamin Baens del Rosario, Notary Public for Quezon City, Defendants.*" Plaintiff in the RTC Case shall hereinafter be referred to simply as MACRO. It was the registered owner of a 19,493 sq. m. lot in Quezon City, covered by TCT No. 261842 (the "MACRO PROPERTY"), alleged to have a value of about P20 million.

What has been prayed for by Complainant Bank is the exercise by this Court of its power to discipline Respondent Judge, and

Supreme Court E-Library

the initiation of proceedings for the disbarment or suspension of Respondent Grecia.

Based on documents submitted to this Court, the relevant facts upon which this Resolution is based may be stated as follows:

1. The President and General Manager of MACRO is named Go Cun Uy. He is also a partner of, or a signatory for, a partnership named Galaxy Tricot Manufacturing Co. (GALAXY, for short).

2. As of January 24, 1983, MACRO and GALAXY, together, were indebted to Complainant Bank in the principal sum of P9,510.000.00.

3. On the said date of January 24, 1983, MACRO, through Go Cun Uy, executed a mortgage over the MACRO PROPERTY ("notarized" on January 26, 1983) in favor of Complainant Bank to guarantee the then, as well as future, obligations of MACRO and/or GALAXY in favor of the mortgagee.

4. More than a year after, or on April 11, 1984, Complainant Bank sent a letter of demand to MACRO/GALAXY demanding payment of their pending obligations in the total sum of P11,629,503.92, exclusive of interest.

5. On July 12, 1984, Benjamin Baens del Rosario, as a Notary Public for Quezon City, issued a "Notice of Sale By Notary", scheduled for August 6, 1984, for the extrajudicial foreclosure sale of the MACRO PROPERTY.

6. On August 2, 1984, MACRO filed the Complainant in the RTC CASE through Atty. Mario E. Valderama, alleging principally that Go Cun Uy had no authority to mortgage the MACRO PROPERTY and that his execution of the mortgage was due to fraudulent manipulations of Complainant Bank. The Complainant further stated that Macro was entitled "to actual damages amounting to at least P50,000,000.00 as well as to compensatory damages". Preliminary attachment was prayed for on "so much of the properties of defendant Bank and defendant Notary as may be sufficient to satisfy any judgment that may be rendered against them."

Supreme Court E-Library

7. Four days thereafter, or on August 6, 1984, the Complaint was amended over the signature of Respondent Grecia. The amendments are of no substantial relevance to this Resolution. The same prayer for preliminary attachment was reiterated.

8. On the same date of August 6, 1984, Respondent Judge, stating that the sale had not taken place on that date, issued an Order temporarily restraining the Register of Deeds of Quezon City from registering any Deed of Sale of the MACRO PROPERTY.

9. Respondent Judge then resolved the RTC CASE through a summary judgment rendered on November 16, 1984. In the Decision, the mortgage of the MACRO PROPERTY was declared null and void, and Complainant Bank and Notary Public Del Rosario were ordered to pay MACRO more than P33 million in damages plus 20% attorney's fees.

10. Further, *paragraph 2* of the dispositive part of the Decision provided as follows:

"2. The Register of Deeds of Quezon City to cancel immediately the registration and annotation of the Deed of Real Estate Mortgage dated January 26, 1983, as well as its foreclosure, notice of sale and certificate of sale on the Original Transfer Certificate of Title No. 261842;"

The foregoing *paragraph 2* is of primary relevance to this Resolution. What will be noted therein is that the owner's duplicate of TCT No. 261842, still in the possession of Complainant Bank, was not declared cancelled. The continued existence of that owner's duplicate could prevent the registration of a sale of the MACRO PROPERTY without it being surrendered to the Register of Deeds as the law requires the production of the owner's duplicate certificate whenever any voluntary instrument is presented for registration (Sec. 53, P.D. No. 1529, the Property Registration Decree).

11. On December 7, 1984, Complainant Bank filed a Motion for Reconsideration of the summary judgment.

Supreme Court E-Library

12. Without ruling on Complainant Bank's Motion for Reconsideration, Respondent Judge, in an Order dated January 7, 1985, amended *paragraph 2* of his Decision, by directing the Register of Deeds of Quezon City —

"x x x to cancel immediately the registration of the Deed of real estate mortgage dated January 24, 1983 on the back of TCT No. 261842 pursuant to the aforesaid decision, and to *issue* in favor of the plaintiff *another owner's* copy of said transfer certificate of *title after said cancellation, in lieu of the copy in the possession of the defendant-bank which is hereby deemed cancelled.*"

The amendment of *paragraph 2* ordered the cancellation of the owner's duplicate of TCT No. 261842, in the possession of Complainant Bank, and the issuance of a new owner's duplicate of said TCT to MACRO. *Thus, MACRO was placed in a position to dispose of the MACRO PROPERTY.*

13. (a) Seven days thereafter, or on January 14, 1985, MACRO sold the MACRO PROPERTY to Falconi Marketing and Manufacturing, Inc. (FALCONI, for short) *for P6 million.*

(b) On January 15, 1985, TCT No. 261842 was cancelled and TCT No. 326740 was issued in the name of FALCONI.

14. On February 7, 1985, Respondent Judge denied Complainant Bank's Motion for Reconsideration "not only for being *pro forma* but also for lack of merit." Upon receipt of the corresponding Order on February 13, 1985, Complainant Bank filed a notice of appeal to the Intermediate Appellate Court.

15. Consequent to the denial of the Motion for Reconsideration filed by Complainant Bank, Respondent Judge, in his Order of February 13, 1985, considered his Decision in the RTC CASE to be final and ordered the issuance of a Writ of Execution, which also constituted a denial of Complainant Bank's appeal.

16. (a) On February 18, 1985, Complainant came to this Court on Mandamus/Certiorari (G.R. No. 69907), asking that Respondent Judge be ordered to allow its appeal from the

Supreme Court E-Library

Decision rendered in the RTC CASE to the Intermediate Appellate Court and to annul the Order and Writ of Execution he had previously issued.

(b) Probably because of the Order of this Court restraining execution of the Decision in the RTC CASE, Respondent Judge, on March 13, 1985, gave course to the appeal of Complainant Bank to the Intermediate Appellate Court.

17. (a) On April 1, 1985, Complainant Bank caused a Notice of Lis Pendens to be annotated on FALCONI's title.

(b) In G.R. No. 69907, this Court, on May 31, 1985, set aside the Resolution of January 7, 1985 of Respondent Judge.

(c) On June 26, 1985, the Acting Register of Deeds of Quezon City denied the request of Complainant Bank, invoking this Court's resolution in G.R. No. 69907, for the cancellation of TCT No. 326740 in the name of FALCONI.

(d) Sometime in June, 1985, FALCONI instituted a Complaint against Complainant Bank and the Register of Deeds of Quezon City for the cancellation of the Notice of Lis Pendens on its TCT No. 326740, which case is pending before the Regional Trial Court of Quezon City, Branch LXXXVI.

(e) On September 23, 1985, this Court in G.R. No. 69907, ordered the Registered of Deeds (i) to cancel the *new owner's DUPLICATE OF TCT No. 261842*, (ii) to restore the old TCT No. 261842), with the annotated mortgage lien in favor of Complainant Bank; and (iii) to cancel TCT No. 326740 in the name of FALCONI.

Nothing in this Resolution should be construed as a determination of a factual issue in the controversy between Complainant Bank and MACRO in the RTC CASE, which is now pending before the Intermediate Appellate Court. This Resolution deals only with the steps taken by Respondent Judge in regards to the RTC CASE when he was still acting on it. Considered in the light of the facts related above, we find he had committed serious and grave misfeasance in connection with his actuations in the said RTC CASE in that:

Supreme Court E-Library

(a) In both original and amended Complaints in the RTC CASE, it was apparent that MACRO was suing for an amount of at least P50 million. On the very date of August 6, 1984, when the Amended Complaint was filed, which was only four days after the original Complaint was instituted, Respondent Judge was already aware, per his Order of attachment, that MACRO "in its verified complaint and affidavit", was asking defendants "to pay the sum of P50,000,000.00 as actual and compensatory damages which plaintiff seeks to recover from defendant in this case."

In the original and amended Complaints, the prayers did not ask for damages *specifically in the sum of more than P50 million*, clearly in order to avoid payment of filing fees of more than P100,000.00. The filing fee actually paid was only P210.00.

Ordinarily, a Trial Judge may be excused from immediately noting a mistake made by the Clerk of Court in assessing filing fees. However, considering Respondent Judge's realization of the mistake, on August 6, 1984, the date he issued his Order for preliminary attachment, and his actuations thereafter in the RTC CASE, his failure to require payment of the correct amount of filing fees indicated his partiality towards, not to say confabulation with, MACRO and/or its lawyers.

(b) The summary judgment was ill-conceived. For one thing, the Amended Complaint had charged Complainant Bank with fraud and deceit. Under the law, good faith is to be presumed, and the fraud and deceit imputed to Complainant Bank cannot be other than a question of fact, which should have been resolved after due reception of evidence *pro* and *contra*. There was nothing in the Answer, and in its pleadings in connection with MACRO's Motion for summary judgment, which could indubitably be deemed an admission, or proof, of Complainant Bank's alleged fraud and deceit. Respondent Judge's statements to the contrary are bereft of veracity.

Worse errors have been committed by Trial Judges but, in the RTC CASE, the erroneous promulgation of the summary judgment indicates, in the light of the entire scenario, that the error was deliberate in order to favor plaintiff, or that it was

Supreme Court E-Library

in actual confabulation with plaintiff and its lawyers.

(c) The issuance of the summary judgment was bad enough. The grant therein of damages in the amount of more than P33 million, plus 20% attorney's fees, when the property involved in the litigation was alleged in the amended complaint (Annex "F") as P20 million (sold to FALCONI for P6 million) immediately raises the thought that Respondent Judge had really taken a stand of partially in favor of MACRO and its lawyers.

(d) The Order of January 7, 1985 of Respondent Judge also shows his partiality to, or his confabulation with MACRO and the latter's lawyers.

The summary judgment was rendered on November 16, 1984, and notice thereof was served on Complainant Bank on November 26, 1984. The latter filed a Motion for Reconsideration on December 6, 1984, If, as Respondent Judge has ruled, the Motion for Reconsideration was *pro forma*, the summary judgment became final on December 11, 1984. Respondent Judge, therefore, would no longer have authority to amend his Decision on January 7, 1985. When the Motion for Reconsideration was denied on February 7, 1985, Respondent Judge should also have set aside his Order of January 7, 1985 amending the summary judgment. It can now become clear that deferment of action on Complainant Bank's Motion for Reconsideration was precisely for the purpose of allowing amendment of the Decision on January 7, 1985.

The Order of January 7, 1985 was set aside in G.R. No. 69907. It is now for us to state herein that Respondent Judge, in issuing such Order, clearly intended to favor MACRO by allowing it to sell, as it did sell, the MACRO property to FALCONI on January 14, 1985.

(e) Respondent Judge, in his Order of March 13, 1985, gave course to the appeal of Complainant Bank although he had already ruled that the latter had lost the right of appeal. That Order of March 13, 1985 was issued after Complainant Bank had instituted G.R. No. 69907 on February 19, 1985, asking that Respondent Judge be ordered to allow its appeal

Supreme Court E-Library

from the summary judgment. The Order of March 13, 1985 was clearly intended to render G.R. No. 69907 moot and academic. Said Order was disrespectful of this Court. If at all, Respondent Judge should have come to this Court in said G.R. No. 69907, to ask for leave to allow the appeal of Complainant Bank with admission that he had realized that his previous denial of the appeal was erroneous. And it may be recalled that, in *De Leon vs. Castro*, 104 SCRA 241 (1981), this Court had occasion to state that Respondent's Judge's submission of false certificates of service under Section 5 of the Judiciary Law is not excusable."

WHEREFORE, the Court RESOLVES:

1. Respondent Judge is hereby ordered dismissed from the service, with forfeiture of all retirement benefits and pay and with prejudice to reinstatement in any branch of the government or any of its agencies or instrumentalities. This decision is immediately executory.

2. The Complaint for disbarment and suspension of respondent Atty. Benjamin M. Grecia is hereby referred to the Solicitor General for investigation, report and recommendation. Let the relevant pleadings as well as the Decision in G.R. No. 69907 be furnished the Solicitor General for the purpose.

SO ORDERED.

Teehankee, C.J., Abad Santos, Feria, Yap, Fernan, Narvasa, Melencio-Herrera, Alampay, Gutierrez, Jr., Cruz, and *Paras, JJ.*, concur.