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FIRST DIVISION

[A.M. No. RTJ-99-1470. August 16, 1999]

VILLA MACASASA and GERTRUDES LANUTAN, *petitioner, vs.* **JUDGE FAUSTO H. IMBING,** *respondent.*

SYNOPSIS

Petitioners here alleged that they are parties in two civil cases presided by Judge Imbing, Said cases are for reconveyance with damages and preliminary injunction and, recovery of possession with writ of preliminary injunction, respectively. Later, a decision was rendered dismissing the case and petitioners were ordered to vacate the premises of the subject parcel of land. Further, they were ordered to pay the other party attorney's fees of ₱5,000.00 and incidental expenses in the total amount of ₱1,200,000.00. For this, petitioners charged respondent judge with grave abuse of authority, serious misconduct, and gross ignorance of the law.

The Order issued by Judge Imbing which included the astronomical amount of P1,200,000.00 as incidental expenses and which was not in anyway prayed for or mentioned in the judgment which had become final, without benefit of a hearing, is clear evidence of respondent's failure to understand the limitations of his powers and betrays his ignorance of the cardinal principles of due process. There was, therefore, basis for the complaint in the instant case. And when a mistake is committed as to constitute ignorance of the law, respondent must necessarily be answerable despite his compulsory retirement from the service. Hence, respondent judge was fined P10,000.00 to be deducted from his retirement benefits.

SYLLABUS

1. **ADMINISTRATIVE LAW; JUDGES; CHARGE OF GRAVE ABUSE OF AUTHORITY, SERIOUS MISCONDUCT AND GROSS IGNORANCE OF THE LAW; APPRECIATED IN CASE AT BAR.**— Judge Imbing was charged with "grave abuse of authority, serious misconduct, and gross ignorance of the law." These acts are not condoned by the Court considering that judges

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are expected to be competent and qualified for the position to which they were appointed. The Order issued by Judge Imbing which included the astronomical amount of ₱1,200,000.00 as incidental expenses and which was not in anyway prayed for or mentioned in the judgment which had become final, without benefit of a hearing is clear evidence of respondent's failure to understand the limitations of his powers and betrays his ignorance of the cardinal principles of due process. It is highly imperative that judges should be conversant with basic legal principles as in the instant case. They are called upon to exhibit more than just a cursory acquaintance with procedural rules.

2. **ID.; ID.; ID.; FINDINGS OF LIABILITY THEREIN, NOT PRECLUDED BY RETIREMENT.**— The retirement of a judge or any judicial officer from the service does not preclude the findings of any administrative liability to which he shall still be answerable. When a mistake was committed as to constitute ignorance of the law, respondent must necessarily be answerable despite his compulsory retirement from the service.

RESOLUTION

KAPUNAN, *J.*:

On February 25, 1997, a verified complaint was filed by Spouses Villa Macasasa and Gertrudes Lanutan, of Canunan, Guipos, Zamboanga del Sur charging Hon. Fausto H. Imbing, Presiding Judge of Branch 18, Regional Trial Court of Pagadian City for GRAVE ABUSE OF AUTHORITY, SERIOUS MISCONDUCT, AND GROSS IGNORANCE OF THE LAW. The complainants alleged in substance that:

(1) they are parties in Civil Case No. 1942 for Reconveyance with Damages and Preliminary Injunction entitled "*Villa Macasasa vs. Juanita Sicad and Ernesto Macasasa*" and Civil Case No. 1950, for Recovery of Possession with Writ of Preliminary Injunction entitled "*Juanita Sicad vs. Villa Macasasa and Gertrudes Lanutan*" both filed in 1980 before the RTC, Branch 18, Pagadian City presided by Judge Imbing.

(2) On February 10, 1994, a decision was rendered with the following dispositive portion:

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> WHEREFORE, judgment is hereby rendered dismissing Civil Case No. 1942 and ordering defendant and his agents and privies in Civil Case No. 1950 to vacate the premises of the subject parcel of land and to pay plaintiff the sum of ₱5,000.00 for attorney's fees and all incidental expenses incurred.
>
> SO ORDERED.[1]

On Aug. 14, 1996, the spouses received an Order dated August 6, 1996 providing the following in its dispositive portion:

> WHEREFORE, an Order is hereby issued denying the Motion to Quash Execution; giving due course to the Motion to Levy and to Attach Villa Macasasa properties; Declaring Transfer Certificate of Title No. 13,842 with Tax Declaration No. 798 use by defendant Villa Macasasa as *supersedeas* bond forfeited in favor of Juanita Sicad; and ordering defendant to pay plaintiff the sum of five thousand pesos (₱5,000.00) as Attorney's fees and to pay the money judgment included in the judgment under 'and all incidental expenses incurred in the total amount of one million two hundred thousand (₱1,200,000.00) pesos).
>
> SO ORDERED.[2]

(3) Respondent judge committed gross ignorance of the law because the Order dated August 6, 1996 was in violation of Rule 142, Secs. 8 and 10, referring to the Bill of Costs; that no hearing was conducted in taxing and determining the aforesaid costs, no opportunity was given to them to present their side, and that the aforesaid amount was not even mentioned in the decisions of Civil Case Nos. 1942 and 1950, nor was it prayed for by the adverse parties either in their complaint or counterclaim;

(4) Respondent judge committed grave abuse of authority and serious misconduct for issuing the Order dated August 6, 1996 granting a writ of execution when the decision has not yet become final;

(5) On September 5, 1996, respondent judge issued another order the dispositive portion of which states:

> WHEREFORE, let a warrant of arrest be issued against the defendants Villa Macasasa, Gertrudes Lanutan and his children who are continuing to defy the court order pending the hearing of

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[1] *Rollo*, p. 1.

[2] *Ibid.*

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the indirect contempt. The bond for their provisional liberty is fixed at ₱5,000.00 each. The Chief of Police of Dumalinao is hereby directed to cause the arrest of the defendants herein cited.

SO ORDERED.[3]

(6) Said order was issued only upon motion by the counsel of the adverse party and thereby issued on the same day when said motion was filed, without the benefit of a hearing. The order to arrest even included Elmer Macasasa and Juana Pilarca, who were not parties in the civil cases.

(7) Complainants were forced to sell their only land at public auction because of respondent judge's order awarding the ₱1.2 million as bill of costs.

On July 8, 1997, respondent judge filed his Answer, alleging that the complaint filed was without basis, motivated only by anger and in a last ditch effort to prevent the execution of a final and executory judgment. He explained that contrary to complainant's allegations, the appeal instituted by the complainants with the Court of Appeals had been dismissed on November 29, 1995 for their failure to file the required number of briefs pursuant to Rule 50, Sec. 1(e).[4] The dismissal of the appeal had already become final and executory in a Resolution of the Court of Appeals dated March 29, 1996.

He denied being ignorant of the law when he issued the August 6, 1996 Order and did not abuse his authority when he issued the warrants of arrest of the complainants and the others.

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[3] *Id.*, at 3.

[4] Section 1. *Grounds for dismissal of appeal:*. — An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds:

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(e) Failure of the appellant to serve and file the required number of copies of his brief or memorandum within the time provided by these Rules;

(f) Absence of specific assignment of errors in the appellant's brief, or of page references to the record as required in section 13, paragraphs (a), (c), (d) and (f) of Rule 44;

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The "Bill of Costs" contained in the Order dated August 6, 1996 was not really treated as the Costs referred in Sections 8 and 10 of Rule 142[5] of the Rules of Court. He considered this as a reasonable claim for unrealized income over the period that the Sicads were deprived of the possession of the property which was for more than 18 years. He referred this as "incidental expenses incurred." The complainants were not denied due process as they were furnished a copy of said "Bill of Costs." The complainants did not file an opposition to said motion but only showed their

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[5] SEC. 8. *Costs, how taxed.* — In inferior courts, the costs shall be taxed by the municipal or city judge and included in the judgment. In superior courts, costs shall be taxed by the clerk of the corresponding court on five days' written notice given by the prevailing party to the adverse party. With this notice shall be served a statement of the items of costs claimed by the prevailing party, verified by his oath or that of his attorney. Objections to the taxation shall be made in writing, specifying the items objected to. Either party may appeal to the court from the clerk's taxation. The costs shall be inserted in the judgment if taxed before its entry, and payment thereof shall be enforced by execution.

SEC. 9. *Costs in municipal or city courts* — In an action or proceeding pending before a municipal or city judge, the prevailing party may recover the following costs, and no other.

(a) For the complaint or answer, two pesos;

(b) For the attendance of himself, or his counsel, or both, on the day of trial, five pesos;

(c) For each additional day's attendance required in the actual trial of the case, one peso;

(d) for each witness produced by him, for each day's necessary attendance at the trial, one peso, and his lawful travelling fees;

(e) For each deposi lawfully taken by him and produced in evidence, five pesos;

(f) For original documents, deeds, or papers of any kind produced by him, nothing;

(g) For official copies of such documents, deeds or papers, the lawful fees necessarily paid for obtaining such copies;

(h) The lawful fees paid by him for service of the summons and other process in the action;

(i) The lawful fees charged against him by the judge of the court in entering and docketing and trying the action or proceeding.

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awareness of such pleading when they moved for the quashal of the writ of execution.

Respondent judge further averred that the Order dated September 5, 1996 directing the issuance of a warrant of arrest was in pursuance to Section 3 of Rule 71.[6] Complainants allegedly continued to defy the order of the court pending the hearing of indirect contempt so the issuance of the warrant of arrest was proper. He included Elmer Macasasa and Juana Pelarca, being the children of Villa Macasasa who refused to give up possession of the premises. Pending the hearing of indirect contempt, the respondent judge fixed the bail of the complainants at five thousand pesos (₱5,000) each. A motion for reconsideration was filed but

[6] SEC. 3. *Indirect contempt to be punished after charge and hearing.*— After a charge in writing has been filed, and an opportunity given to the respondent to comment thereon within such period as may be fixed by the court and to be heard by himself or counsel, a person guilty of any of the following acts may be punished for indirect contempt:

(a) Misbehavior of an officer of a court in the performance of his official duties or in his official transactions;

(b) Disobedience of or resistance to a lawful writ, process, order, or judgment of a court, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto;

(c) Any abuse of or any unlawful interference with the processes or proceedings of a court not constituting direct contempt under Section 1 of this Rule;

(d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice;

(e) Assuming to be an attorney or an officer of a court, and acting as such without authority;

(f) Failure to obey a subpoena duly served;

(g) To rescue, or attempted rescue, of a person or property in the custody of an officer by virtue of an order or process of a court held by him.

But nothing in this section shall be so construed as to prevent the court from issuing process to bring the respondent into court, or from holding him in custody pending such proceedings (3a).

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was denied by the trial court. A notice of appeal was filed but this was also disapproved on November 8, 1998, for being merely interlocutory.

On February 27, 1997, respondent judge dismissed complainants' "Petition for Relief from Judgment, Orders and Other Proceedings with Preliminary Injunction, TRO and Damages" which order is still on appeal with the Court of Appeals.

On September 11, 1997, respondent judge filed a Motion and Manifestation with this Court stating the he was due for compulsory retirement on August 27, 1997. He further requested that he be allowed to receive his retirement benefits notwithstanding the administrative case filed against him. He was willing to leave an amount of ₱40,000.00 to answer for any liabilities he may have incurred upon resolution of this case.

This was followed by a letter of appeal dated July 1, 1998 from the daughters of respondent judge requesting that at least a partial amount of the retirement benefits due their father be released which is badly needed to answer for the medical expense incurred by him.

On February 15, 1999, the Court granted respondent judge's request and ordered the amount of ₱40,000.00 to be withheld from his terminal leave pay pending the resolution of this case. At the same time, the Court referred the case to Justice Romulo S. Quimbo, Consultant of the Office of the Court Administrator for investigation within thirty (30) days to determine the extent of liability of respondent, if any.

In compliance with the Court's resolution, Justice Quimbo sent a letter to the respondent judge on March 16, 1999 informing the latter that he found no necessity for a hearing of the case since no facts in the case are really in dispute. Respondent judge may, however, submit additional evidence, documents, or a reply if he wished to, which shall be considered in the resolution of the case.

With no response from the respondent judge, Justice Quimbo submitted his report on June 1, 1999 with the following evaluation and recommendation:

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Respondent did not deny having issued the Orders complained of, particularly the Order of September 5, 1996 which directed the issuance of a Warrant for the arrest of the complainants for indirect contempt. Neither did he deny that he issued the Order of August 6, 1996, requiring complainants to pay ₱1,200,000.00 as part of what respondent termed as 'incidental expenses incurred.' He, however, justified his actions as being in accordance with law and jurisprudence. He insisted that he was authorized by the Rules to issue a warrant for arrest of the complainants who were alleged to have contumaciously refused to abide by the orders of the court. He cited Section 3 of Rule 71 as authority for the issuance of said warrant in order to bring the allegedly contumacious party to the court. Respondent further justified his award of ₱1,200,000.00 in favor of the Sicads as being part of the 'incidental expenses incurred' which is mentioned in the judgment.

The question, therefore, that confronts us is whether the respondent was ignorant of law and had acted with grave abuse of authority in issuing the Orders of June 26, 1996 granting the Sicads the sum of ₱1,200,000.00 which they claimed in the 'Bill of Costs' which they filed on June 25, 1996, and of August 6, 1996, where respondent granted the prayer to levy on the property of complainants.

In filing the "Bill of Costs" on June 25, 1996, the Sicads did not pray that it be approved. Although a copy of the same was furnished the complainants as the losing parties, it did not contain any notification as to when it would be submitted for approval of the respondent's court. As a matter of fact, there apparently was no hearing to approve or disprove it as the Order granting the same was issued the very next day.

It is noteworthy that the judgment rendered by respondent in Civil Cases Nos. 1942 and 1950 did not provide for any damages suffered by plaintiffs. All that the said judgment required was for the defendants (complainants herein) 'to vacate the premises of the subject parcel of land and to pay the plaintiff the sum of ₱5,000.00 for attorney's fees and all incidental expenses incurred.'

Evidently, what could only be collected under this judgment was the sum of P5,000.00 as attorney's fees and nominal amounts for incidental expenses. It did not provide for rentals for the use of the property nor damages for the deprivation of its enjoyment. Under no circumstance could we consider the astronomical sum of ₱1,200,000.00 as incidental expenses.

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Respondent, however, reasons that he did not really treat the Bill of Costs as such as he was aware of the things which could be included as costs. Rather, he granted the amount as recompense for the deprivation of the enjoyment of the property for a number of years. Apparently, he did not consider the fact that this was not included in his judgment which had already become final. For him to amend the judgment as to include such substantial amount, without it being established by evidence at an adversarial proceeding where the defendants were given the opportunity to contest the same, is clear evidence of respondent's failure to understand the limitations of his powers and betrays his ignorance of the cardinal principles of due process.

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It appears that the respondent is no longer in the judicial service having reached the age of compulsory retirement. He has been allowed to receive his retirement benefits except for the amount of ₱40,000.00 which had been withheld pending the determination of this case. There being no evidence that he was moved by any improper motives other than his ignorance, it is hereby recommended that this case be re-docketed as a regular Administrative Matter and that a fine of ₱10,000.00 is hereby recommended, the same be deducted from the amount withheld and the balance to be delivered to him.[7]

We adopt the findings of Justice Quimbo, Hearing officer Designate of the Office of the Court Administrator.

It must, however, first be noted that the retirement of a judge or any judicial officer from the service does not preclude the finding of any administrative liability to which he shall still be answerable. As pointed out by the Court in *Gallo v. Cordero*:[8]

This jurisdiction that was ours at the time of the filing of the administrative complaint was not lost by the mere fact that the respondent public official had ceased in office during the pendency of his case. The Court retains its jurisdiction either to pronounce the respondent official innocent of the charges or declare him guilty thereof. A contrary rule would be fraught with injustice and pregnant with dreadful and dangerous implications. . . If innocent, respondent official merits vindication of his name and integrity as he leaves the government which he has served

[7] Report, OCA I.P.I. No. 97-314-RTJ.

[8] 245 SCRA 219 (1995).

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well and faithfully; if guilty, he deserves to receive the corresponding censure and a penalty proper and imposable under the situation.

Judge Imbing was charged with "grave abuse of authority, serious misconduct, and gross ignorance of the law." These acts are not condoned by the Court considering that judges are expected to be competent and qualified for the position to which they were appointed. As found by Justice Quimbo, the Order issued by Judge Imbing which included the astronomical amount of ₱1,200,000.00 as incidental expenses and which was not in anyway prayed for or mentioned in the judgment which had become final, without benefit of a hearing *is clear evidence of respondent's failure to understand the limitations of his powers and betrays his ignorance of the cardinal principles of due process.*

It is highly imperative that judges should be conversant with basic legal principles as in the instant case.[9] They are called upon to exhibit more than just a cursory acquaintance with procedural rules.[10] Since the judgment was merely to vacate the premises and to pay the amount of ₱5,000.00, respondent judge, apparently made the mistake of going overboard by approving and awarding the horrendous amount of ₱1.2 million, without giving the adverse party the opportunity to contest the same. There is, therefore, basis for the complaint in the instant case. And when a mistake was committed as to constitute ignorance of the law, respondent must necessarily be answerable despite his compulsory retirement from the service.

PREMISES CONSIDERED, respondent Judge Fausto H. Imbing is hereby *FINED* in the amount of ₱10,000.00 to be deducted from the amount withheld from his retirement benefits.

SO ORDERED.

Davide, Jr., C.J., Puno, Pardo, and *Ynares-Santiago, JJ.*, concur.

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[9] *Veluz v. Barbarin*, 278 SCRA 471 (1977).

[10] *Bayog v. Natino*, 271 SCRA 268 (1977).