



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated February 13, 2023 which reads as follows:

“OCA IPI No. 19-3076-MTJ (*David Chetrit v. Presiding Judge Jenelyn V. Forrosuelo, Municipal Trial Court in Cities, Br. 4. Cebu City, Cebu*).—This resolves the Complaint¹ filed by David Chetrit (complainant) against Judge Jenelyn V. Forrosuelo of the Municipal Trial Court in Cities (MTCC), Branch 4, Cebu City.

Complainant was the plaintiff in Civil Case No. M-CEB-16-01391-SMC, a Small Claims action for money which was filed pursuant to Administrative Matter No. 08-8-7-SC or the 2016 Revised Rules of Procedure for Small Claims Cases. The case was raffled to MTCC, Cebu City, Branch 4 where respondent is the Presiding Judge.

In the Statement of Claim dated April 6, 2016, complainant alleged that he lent Ana Loreta Andrada (defendant Andrada) money in the amount of \$1,500.00 or PHP 70,500.00² and the latter executed an Affidavit acknowledging the debt on May 16, 2013. To support his claim, complainant presented the following: (i) Copy of Affidavit of defendant Andrada dated May 16, 2013; (ii) Affidavit of defendant Andrada dated May 1, 2013 (iii) Demand Letter dated July 8, 2015; and (iv) Certification to File Action.³ In response to the foregoing allegations, defendant Andrada denied having borrowed money from complainant and that the signature appearing on the Affidavit dated May 16, 2013 presented by the complainant is not her signature. She also denied appearing before the notary, Atty. Pepito Suello (Atty. Suello), to have the said Affidavit subscribed.⁴ Complainant claimed that the original Affidavit dated May 16, 2013 was lost. Hence, complainant presented a copy of the Affidavit dated May 16, 2013 instead as well as an

¹ *Rollo*, pp. 2-15.

² *Id.* at 18, 42-49.

³ *Id.* at 18.

⁴ *Id.* at 52-55.

Affidavit dated May 1, 2013 allegedly signed by defendant Andrada wherein she also acknowledged the same indebtedness to complainant.

In a Decision dated August 5, 2016, respondent declared that complainant failed to convince the court that he is entitled to his claim because the evidence presented by complainant, particularly the alleged Affidavits signed by defendant Andrada, are dubious and do not deserve credence.⁵

Complainant claimed that respondent violated her oath as a lawyer and the Code of Professional Responsibility on the following grounds: (i) respondent dismissed the Small Claims case filed by complainant finding that he failed to convince the court that he is entitled to his claim; (ii) respondent allegedly accused complainant of committing forgery and humiliating him in open court; (iii) respondent appeared to show bias towards the defendant and guided the defendant in presenting evidence during the hearing; and (iv) respondent pronounced in open court that small claims cases are not appealable, an act which complainant claims constitutes gross ignorance of the law.

In her Comment dated November 21, 2019,⁶ respondent vehemently denied the charges against her and declared that such allegations are baseless, frivolous and malicious. Respondent asserted that despite giving complainant sufficient opportunity to submit to the court the original copy of defendant Andrada's Affidavit dated May 16, 2013 acknowledging defendant Andrada's loan from him, complainant claimed that such Affidavit was lost and instead presented a photocopy of an Affidavit dated May 1, 2013 allegedly signed by defendant Andrada. However, respondent maintained that complainant failed to show convincing proof that the original copy of the Affidavit dated May 16, 2013 was lost.

In contrast to the evidence presented by complainant, defendant Andrada submitted to the court a Certification dated May 26, 2016 executed by Atty. Jeoffrey S. Joaquin, Clerk of Court of the Regional Trial Court, Cebu City, stating that defendant Andrada's Affidavit dated May 16, 2013 admitting her indebtedness to complainant and allegedly notarized by Atty. Suello, does not appear in the latter's notarial book. Moreover, upon close scrutiny of the May 1, 2013 Affidavit, respondent found that the "Doc. No.; Page No.; Book No.; and Series" appear to be altered and ineligible. Respondent also verified with the Office of the Clerk of Court that the Affidavit dated May 1, 2013 presented by complainant was also not in Atty. Suello's notarial book. Thus, in view of the foregoing, respondent ordered the dismissal of the case.

⁵ Id. at 21.

⁶ Id. at 33-40.

Respondent concluded that she is not remiss in handling her cases and that she performs her duties with honesty, impartiality, and diligence. Respondent further emphasized that she rendered her Decision in Civil Case No. M-Ceb-16-01391-SMC based on the evidence presented by both parties.

Report and Recommendation of the Office of the Court Administrator (OCA)

In its Report and Recommendation dated November 9, 2021, the OCA found that complainant failed to prove his charge of violation of the New Code of Judicial Conduct, specifically its mandate on independence, impartiality, and propriety. The OCA thus recommended that the Affidavit-Complaint against respondent be dismissed for lack of merit.

Our Ruling

The Court accepts and adopts the findings and recommendation of the OCA.

It is a fundamental rule in administrative proceedings that complainants bear the *onus* of establishing the averments of their complaint.⁷ The complainant in an administrative proceeding must present substantial evidence or the amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion.⁸ If complainant fails to discharge this burden, respondent cannot be held liable for the charge.⁹ *Notatu dignum* is the presumption of regularity in the performance of a judge's functions, hence bias, prejudice and even undue interest cannot be presumed, specially if weighed against a judge's sacred oath of office to administer justice with due respect to any person and do equal right to the poor and to the rich.¹⁰

In order to support the contention that respondent violated the New Code of Judicial Conduct, complainant first assails the dismissal of Civil Case No. M-CEB-16-01391-SMC based on the conclusion of the respondent that complainant failed to convince the court that he is entitled to his claim. As correctly held by the OCA, respondent rendered the assailed decision in the exercise of her adjudicative functions and the acts of judges in their judicial capacity are not subject to disciplinary action provided such acts were performed in good faith.

As held in the case of *Re: Verified Complaint of AMA Land, Inc. against Hon. Danton Q. Bueser, Hon. Sesinando E. Villon and Hon. Ricardo R.*

⁷ *Dagani-Hugo v. Castilla*, OCA IPI No. 20-3093-MTJ, October 14, 2020, citing *Macias v. Macias*, 617 Phil. 18, 28 (2009); *Rizaldo v. Presiding Judge Bollozos*, 811 Phil. 20, 33 (2017).

⁸ *In Re: Roland B. Jurado*, 808 Phil. 353, 375 (2017), citing *Navarro v. Office of the Ombudsman*, 793 Phil. 453, 462-463 (2016).

⁹ *Macias v. Macias*, *supra*.

¹⁰ *Mamerto Maniquiz Foundation, Inc. v. Pizarro*, 489 Phil. 127, 142 (2005).

Rosario, Associate Justices of the Court of Appeals,¹¹ the appropriate course of action to correct judicial errors, if any, is assailing such errors through available judicial remedies, not administrative proceedings:

Jurisprudence is replete with cases holding that errors, if any, committed by a judge in the exercise of his adjudicative functions cannot be corrected through administrative proceedings, but should instead be assailed through available judicial remedies. Disciplinary proceedings against judges do not complement, supplement or substitute judicial remedies and, thus, cannot be pursued simultaneously with the judicial remedies accorded to parties aggrieved by their erroneous orders or judgments.¹²

Moreover, in the case of *Salvador v. Judge Limsiaco, Jr.*,¹³ this Court held that only judicial errors tainted with fraud, dishonesty, gross ignorance, bad faith, or deliberate intent to do an injustice will be administratively sanctioned, not the mere failure of a judge to interpret the law or to properly appreciate the evidence presented:

It is settled that a judge's failure to interpret the law or to properly appreciate the evidence presented does not necessarily render him [or her] administratively liable. Only judicial errors tainted with fraud, dishonesty, gross ignorance, bad faith, or deliberate intent to do an injustice will be administratively sanctioned. To hold otherwise would be to render judicial office untenable, for no one called upon to try the facts or interpret the law in the process of administering justice can be infallible in his [or her] judgment. As [W]e held in *Balsamo v. Suan*:

It should be emphasized, however, that as a matter of policy, in the absence of fraud, dishonesty or corruption, the acts of a judge in his [or her] judicial capacity are not subject to disciplinary action even though such acts are erroneous. He [or she] cannot be subjected to liability - civil, criminal or administrative - for any of his [or her] official acts, no matter how erroneous, as long as he [or she] acts in good faith. In such a case, the remedy of the aggrieved party is not to file an administrative complaint against the judge but to elevate the error to the higher court for review and correction. The Court has to be shown acts or conduct of the judge clearly indicative of arbitrariness or prejudice before the latter can be branded the stigma of being biased and partial. Thus, not every error or mistake that a judge commits in the performance of his [or her] duties renders him [or her] liable, unless he [or she] is shown to have acted in bad faith or with deliberate intent to do an injustice. Good faith and absence of malice, corrupt motives or improper considerations are sufficient defenses in which a judge charged with ignorance of the law can find refuge.¹⁴

¹¹ *Re: Verified Complaint of AMA Land, Inc. against Hon. Danton Q. Bueser, Hon. Seseinando E. Villon and Hon. Ricardo R. Rosario, Associate Justices of the Court of Appeals*, 701 Phil. 462 (2013). Citations Omitted.

¹² *Id.* at 468.

¹³ *Salvador v. Judge Limsiaco, Jr.*, 519 Phil. 683, 687 (2006) cited in *Philippine Deposit Insurance Corp. v. Dumayas*, A.M. No. RTJ-21-015 & OCA IPI No. 15-4381-RTJ, November 17, 2020. Citations Omitted.

¹⁴ *Id.*

In the present case, there is no showing that the respondent judge acted in bad faith or with deliberate intent to do an injustice. In Small Claims cases, after the hearing, the court must render its decision based on the facts established by the evidence.¹⁵ Hence, the acts performed by the respondent judge in her judicial capacity, such as rendering the assailed decision based on her appreciation of the evidence presented by the parties, absent any showing of bad faith, cannot be subjected to administrative liability.

Complainant also claimed that respondent accused complainant of committing forgery and humiliated him in open court. Based on the investigation of the OCA, the records are bereft of any indication that the complainant indeed accused him of forgery other than the self-serving affidavits presented by complainant.

Complainant further asserted that respondent appeared to be biased towards defendant Andrada and even guided defendant in presenting evidence during the hearing. As observed by the OCA, granting that such allegation is true, respondent merely directed defendant and even possibly complainant during the hearing for the purpose of achieving an orderly proceeding and such act is not clearly indicative of any bias in favor of any litigant absent any substantial evidence to the contrary. In fact, in the interest of substantial justice, respondent gave the complainant ample opportunity to present the original copy of the affidavit when complainant requested continuation of the hearing to do so¹⁶ despite the requirement that hearings in Small Claims cases must be terminated within the same day.¹⁷

In the case of *Sinnott v. Barte*,¹⁸ this Court held that any allegation of bias and partiality must be proven with clear and convincing evidence and extrinsic evidence is required in addition to the palpable error that may be inferred from the decision or order itself, to wit:

Mere suspicion that a judge is partial is not enough. There should be clear and convincing evidence to prove the charge of bias and partiality. Extrinsic evidence is required to establish bias, bad faith, malice or corrupt purpose, in addition to the palpable error that may be inferred from the decision or order itself. Although the decision may seem so erroneous as to raise doubts concerning a judge's integrity, absent extrinsic evidence, the decision itself would be insufficient to establish a case against the judge. The only exception to the rule is when the error is so gross and patent as to produce an ineluctable inference of bad faith or malice.¹⁹

¹⁵ THE 2016 REVISED RULES OF PROCEDURE FOR SMALL CLAIMS CASES, Sec. 24.

¹⁶ *Rollo*, p. 58.

¹⁷ THE 2016 REVISED RULES OF PROCEDURE FOR SMALL CLAIMS CASES, Sec. 23.

¹⁸ *Sinnott v. Barte*, 423 Phil. 522 (2001).

¹⁹ *Id.* at 539. Citations omitted.

Hence, in the absence of contrary evidence, the presumption that respondent regularly performed her official duties will prevail. Bias, prejudice, and undue interest cannot be presumed.

Complainant claimed that the act of the respondent pronouncing in open court that Small Claims cases are not appealable constitutes gross ignorance of the law. Contrary to complainant's position, it is clear from the provisions of the 2016 Revised Rules Of Procedure for Small Claims Cases and its Implementing Rules and Regulations that decisions in Small Claims cases are indeed final, executory and unappealable.²⁰ If the respondent declared that the decision in Civil Case No. M-CEB-16-01391-SMC is final, executory, and unappealable in open court, the respondent is correct and complainant's allegation that such declaration constitutes gross ignorance of the law is misplaced.

Finally, if complainant truly believes that respondent judge acted without or in excess its or her jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, complainant may file no later than 60 days from notice of the assailed decision a verified petition for *certiorari* in the proper court alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings granting such incidental reliefs as law and justice may require.²¹

There is no indication in the records that complainant indeed filed a petition for *certiorari* under Rule 65 of the Revised Rules of Court within the allotted period. The records, however, show that the Small Claims case was dismissed on August 5, 2016 but instead of filing a verified petition for *certiorari* under Rule 65 of the Revised Rules of Court within 60 days from notice of the assailed decision, complainant filed the instant Complaint-Affidavit against respondent for violation of the New Code of Judicial Conduct on September 6, 2019 or almost three years from the notice of the assailed decision. Even the complainant recognizes that he could have filed a petition for *certiorari* under Rule 65 of the Revised Rules of Court but he did not provide any explanation as to why he did not pursue this course of action instead of filing the instant administrative case against the respondent.

We reiterate that administrative action is not the appropriate remedy for every irregular or erroneous order or decision issued by a judge where a judicial remedy is available, such as a motion for reconsideration, an appeal, or a petition for *certiorari* unless the assailed order or decision is tainted with bad faith, fraud, malice or dishonesty.²² Disciplinary proceedings against a judge are not complementary or suppletory of, nor a substitute for, these

²⁰ THE 2016 REVISED RULES OF PROCEDURE FOR SMALL CLAIMS CASES, Sec. 24.

²¹ THE REVISED RULES OF CIVIL PROCEDURE, AS AMENDED, Rule 65, Sec. 1.

²² *Tablizo v. Golangco*, A.C. No. 10636, October 12, 2020, citing *Spouses De Guzman v. Vil Pamintuan*, 452 Phil. 963, 966-969 (2003).

judicial remedies, whether ordinary or extraordinary.²³ For, obviously, if subsequent developments prove the judge's challenged act to be correct, there would be no occasion to proceed against him or her at all.²⁴


In summary, the complainant did not present substantial evidence to prove his contention that respondent is indeed guilty of the alleged violations of the New Code of Judicial Conduct. Thus, the presumption that respondent judge has regularly performed her duties prevails.

As a final note, We stress that this Court will not shirk from its responsibility of imposing discipline upon erring employees and members of the bench. At the same time, however, the Court should not hesitate to shield them from unfounded suits that only serve to disrupt rather than promote the orderly administration of justice. This Court will not be the instrument to destroy the reputation of any member of the bench or any of its employees by pronouncing guilt on mere speculation.²⁵

WHEREFORE, the administrative complaint against respondent Hon. Jenelyn V. Forrosuelo, Presiding Judge, Municipal Trial Court in Cities Br. 4, Cebu City, Cebu is hereby **DISMISSED** for lack of merit.

SO ORDERED.” *Inting, J., designated additional Member per Raffle dated March 30, 2022 vice Marquez, J., who recused due to prior action as Court Administrator; Rosario, J., on official leave.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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²³ Id.

²⁴ Id.

²⁵ *Umali, Jr. v. Hernandez*, 781 Phil. 375, 393-394 (2016), citing *Rivera v. Judge Mendoza*, 529 Phil. 600, 607 (2006).

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