



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated August 30, 2023, which reads as follows:

“JIB FPI No. 21-103-RTJ (Atty. Brian Edward M. Tagle v. Hon. Brigido Artemon M. Luna II, Presiding Judge, Branch 196, Regional Trial Court, Parañaque City). — Before this Court is an administrative complaint¹ filed by Atty. Brian Edward M. Tagle (complainant) against the Honorable Brigido Artemon M. Luna II, in his capacity as Presiding Judge of Branch 196, Regional Trial Court (RTC) of Parañaque City (respondent judge) with the Judicial Integrity Board (JIB) for gross ignorance of the law or procedure.

Antecedents

On 6 March 2017, the City Prosecutor of Parañaque City filed an Information² with the Metropolitan Trial Court (MeTC) of the same city charging a certain Bernalyn Yangco (Yangco) for violation of Section 301 of P.D. No. 1096, viz:

That on or about the 16th day of May 2016 or prior thereto, in the City of Parañaque, Philippines and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and feloniously construct a Two (2) Storey Pigeon House at 7988 Calinisan Street, Villa Mendoza Subdivision, Barangay San Isidro, Parañaque City, without first obtaining a building permit from the Building Official of the City of Parañaque pursuant to the aforementioned law.

¹ *Rollo*, pp. 2-11.

² *Id.* at 13-14.

CONTRARY TO LAW.³

The Information, docketed as Criminal Case No. 17-0431 was raffled to Branch 77, MeTC. When arraigned, Yangco entered a plea of “not guilty.”

For her defense, Yangco argued that P.D. No. 1096 is not a penal statute because it does not impose any penalty.⁴

After trial, the MeTC rendered a Decision⁵ dated 24 October 2019, finding Yangco guilty of the offense charged, viz:

WHEREFORE, premises considered, judgment is hereby rendered, finding accused, Bernalyn V. Yangco, guilty of violating Section 301 of the National Building Code, however, since there is no penal provision under Section 213 of PD 1096, she is hereby ordered to dismantle or remove the birdcage constructed on her property.

No costs.

SO ORDERED.⁶

The court found that Yangco failed to obtain the necessary permit before constructing the birdcage, which was beyond the required area of only four square meters, pursuant to City Ordinance No. 07-017 (027) series of 2007, otherwise known as Amended Parañaque Comprehensive Land Use Plan and Zoning Ordinance. The court also noted that instead of complying with the city ordinance, Yangco merely appealed the notice of violation, which was however denied.⁷

Further, the court opined that the penalty under Section 213 of PD 1096, which is “fine of not more than two years or by both such fine and imprisonment” is not one of the penalties enumerated under the Revised Penal Code. Hence, the court merely ordered Yangco to remove the birdcage on the property.⁸

Complainant, as the counsel of Yangco, filed a notice of appeal⁹ dated 4 November 2019. The appeal was docketed as Criminal Case No. 2019-2481 and assigned to Branch 196, RTC of Parañaque City, presided over by the respondent judge.

³ Id. at 13.

⁴ Id. at 2.

⁵ Id. at 15-20, penned by Presiding Judge Donato H. De Castro.

⁶ Id. at 20.

⁷ Id. at 19.

⁸ Id. at 19-20.

⁹ Id. at 21-22.

On 11 November 2019, respondent Judge issued an Order¹⁰ directing the accused to file an appeal memorandum within 15 days from notice. The said Judge issued another Order on 22 January 2020, this time granting the motion for extension to file appeal memorandum filed by Yangco, which requested that she be allowed until 5 February 2020 to file the pleading.

In an Order¹¹ dated 12 August 2020, respondent Judge dismissed the appeal for failure of Yangco to file the appeal memorandum, viz:

ORDER

Perusing the records of this case, despite the Order dated January 22, 2020 granting accused motion for extension to file Appeal Memorandum, no appeal memorandum was filed by accused-appellant, the instant appeal is hereby DISMISSED for failure to comply with the provision of Section 7, Rule 40 of the Rules of Court, and for failure to prosecute the case.

xxx

SO ORDERED.¹²

Yangco, through complainant, filed a Motion for Reconsideration and to Admit Appeal Memorandum¹³ dated 16 September 2020, alleging that the failure to timely file the appeal was due to the inadvertent error of complainant's law office messenger who filed the memorandum with Branch 195, and not Branch 196 of RTC Parañaque City. Yangco also argued that the appeal is highly meritorious and that the issues raised therein are of paramount importance to the public interest.¹⁴

In an Order¹⁵ dated 28 September 2020, respondent Judge denied the motion for lack of merit, noting the lack of an affidavit of merit. This prompted Yangco to file a petition for review under Rule 42 with the Court of Appeals (CA), assailing respondent judge's orders dated 12 August 2020 and 28 September 2020, which dismissed her appeal and denied her motion for reconsideration, respectively. The petition was docketed as CA-GR SP No. 166581 entitled, *Bernalyn Yangco v. People of the Philippines*.

During the pendency of the petition for review, complainant filed the instant administrative complaint against respondent Judge with the JIB for

¹⁰ Id. at 24.

¹¹ Id. at 45.

¹² Id.

¹³ Id. at 46-53.

¹⁴ Id. at 46-47.

¹⁵ Id. at 88.

gross ignorance of law or procedure. According to complainant, respondent Judge should not have applied Section 7,¹⁶ Rule 40 of the Rules of Court, as it governs appeals from decisions of the municipal trial courts to the RTC in civil cases. He contended that the subject case is criminal in nature, hence, Section 9(c)¹⁷ Rule 122 of the Revised Rules on Criminal Procedure applies instead. He further averred that the dismissal of the appeal resulted in the denial of his client's right to due process.

In his Comment,¹⁸ respondent Judge prayed that the administrative complaint against him be dismissed. He explained that he correctly applied Section 7, Rule 40 of the Rules of Court because the appeal pertains to the civil aspect of the criminal case. He emphasized that the appealed MeTC Decision did not impose any penal sanction but merely ordered Yangco to remove the pigeon house. He also alleged that the civil nature of the appeal is made obvious by the fact that the prosecutor did not appeal the criminal aspect of the case. Finally, he asserted that the assailed orders were issued in good faith and in the exercise of his judicial functions.

Report and Recommendation of the JIB

On 26 April 2023, the JIB issued a Report and Recommendation¹⁹ proposing that the instant administrative complaint be dismissed for being judicial in nature and for lack of merit.

Issue

¹⁶ SECTION 7. *Procedure in the Regional Trial Court.* —(a) Upon receipt of the complete record or the record on appeal, the clerk of court of the Regional Trial Court shall notify the parties of such fact.

(b) Within fifteen (15) days from such notice, it shall be the duty of the appellant to submit a memorandum which shall briefly discuss the errors imputed to the lower court, a copy of which shall be furnished by him to the adverse party. Within fifteen (15) days from receipt of the appellant's memorandum, the appellee may file his memorandum. Failure of the appellant to file a memorandum shall be a ground for dismissal of the appeal.

(c) Upon the filing of the memorandum of the appellee or the expiration of the period to do so, the case shall be considered submitted for decision. The Regional Trial Court shall decide the case on the basis of the entire record of the proceedings had in the court of origin and such memoranda as are filed. (n)

¹⁷ SECTION 9. *Appeal to the Regional Trial Courts.*—xxx

(c) Within fifteen (15) days from receipt of said notice, the parties may submit memoranda or briefs, or may be required by the Regional Trial Court to do so. After the submission of such memoranda or briefs, or upon the expiration of the period to file the same, the Regional Trial Court shall decide the case on the basis of the entire record of the case and of such memoranda or briefs as may have been filed.

¹⁸ Id. at 96-103.

¹⁹ Id. at pp. 106-122. Penned by Ret. Justice Angelina Sandoval-Gutierrez, with Chairperson Retired Justice Romeo J. Callejo, and regular members, retired Justices Sesinando E. Villon, Rodolfo A. Ponferrada, and Cielito N. Mindaro-Grulla, concurring.

The sole issue here is whether the respondent judge should be held administratively liable based on the allegations in the complaint.

Ruling of the Court

This Court agrees with the JIB's recommendation.

Not all grievances against a judge's actions are proper subjects of administrative proceedings. Jurisprudence is settled that disciplinary proceedings and criminal actions against judges are not complementary or suppletory to, nor a substitute for, these judicial remedies, whether ordinary or extraordinary.²⁰ *Flores v. Abesamis*²¹ puts it aptly:

As everyone knows, the law provides ample judicial remedies against errors or irregularities being committed by a Trial Court in the exercise of its jurisdiction. The ordinary remedies against errors or irregularities which may be regarded as normal in nature (i.e., error in appreciation or admission of evidence, or in construction or application of procedural or substantive law or legal principle) include a motion for reconsideration (or after rendition of a judgment or final order, a motion for new trial), and appeal. The extraordinary remedies against error or irregularities which may be deemed extraordinary in character (i.e., whimsical, capricious, despotic exercise of power or neglect of duty, etc.) are inter alia the special civil actions of certiorari, prohibition or mandamus, or a motion for inhibition, a petition for change of venue, as the case may be.

Now, the established doctrine and policy is that disciplinary proceedings and criminal actions against Judges are not complementary or suppletory of, nor a substitute for, these judicial remedies, whether ordinary or extraordinary. Resort to and exhaustion of these judicial remedies, as well as the entry of judgment in the corresponding action or proceeding, are pre-requisites for the taking of other measures against the persons of the judges concerned, whether of civil, administrative, or criminal nature. It is only after the available judicial remedies have been exhausted and the appellate tribunals have spoken with finality, that the door to an inquiry into his criminal, civil or administrative liability may be said to have opened, or closed.

Flores (complainant) resorted to administrative prosecution (or institution of criminal actions) as a substitute for or supplement to the specific modes of appeals or review provided by law from court judgments or orders, on the theory that the Judges' orders had caused him "undue injury." This is impermissible, as this Court has already more than once ruled. Law and logic decree that "administrative or criminal remedies are neither alternative nor cumulative to judicial review where such review is available, and must wait on the result thereof." x x x Indeed, since judges must be free to judge, without pressure or influence from external forces or factors, they should not be subject to intimidation, the fear of civil, criminal or administrative sanctions for acts they may do and dispositions they may make in the performance of their duties and functions; and it is sound rule, which must be recognized independently of statute, that judges are not generally liable for acts done within the scope of their

²⁰ *Tallado v. Rucoma*, A.M. No. RTJ-22-022, 23 August 2022.

²¹ A.M. No. SC-96-1, 341 Phil. 299 (1997).

jurisdiction and in good faith; and that exceptionally, prosecution of a judge can be had only if [there] be a final declaration by a competent court in some appropriate proceeding of the manifestly unjust character of the challenged judgment or order, and x x x also evidence of malice or bad faith, "ignorance or inexcusable negligence, on the part of the judge in rendering said judgment or order" or under the stringent circumstances set out in Article 32 of the Civil Code."

In this case, it is clear that the administrative complaint assails the acts of respondent Judge in the exercise of his adjudicative functions. The correctness of such acts should not be resolved in the instant administrative case but is a matter for proper resolution in the petition for review which complainant filed before the Court of Appeals. This Court notes that the CA had already rendered a decision on 29 July 2022 declaring that respondent Judge committed an error in applying Section 7, Rule 40 of the Rules on Civil Procedure to the appeal filed by Yangco from the MeTC's judgment.

Nonetheless, respondent Judge's errors do not automatically translate to administrative liability. It is still incumbent upon the complainant to establish that the error has been attended with bad faith. For liability to attach for ignorance of the law, the assailed order, decision or actuation of the judge in the performance of official duties must not only be found erroneous but, most importantly, it must also be established that he was moved by bad faith, dishonesty, hatred, or some other like motive.²² Mere imputation of bias and partiality against a judge is insufficient because bias and partiality can never be presumed. Also, bad faith or malice cannot be inferred simply because the judgment is adverse to a party.²³

In this case, the records reveal that respondent Judge entertained complainant's motion for reconsideration and to admit the appeal memorandum, thus affording Yangco the opportunity to be heard, albeit, ultimately ruling against her.²⁴ Incidentally, this Court also notes that the appeal memorandum dated 5 January 2020, stamped received by Branch 195 of the RTC of Parañaque City, was found on top of the table of the duty clerk of Branch 196 of the same court. In an Order²⁵ dated 6 October 2020, respondent Judge ordered the employees of Branch 195 to explain why the pleading was brought to his court without official transmittal. Surely, the Order dated 6 October 2020 was issued at the time when complainant's petition for review was already pending with the CA. Nonetheless, this Court finds that respondent Judge's efforts to investigate the erroneous transmission of court documents are sufficient indication of the absence of ill-will or bad faith in denying the appeal filed by Yangco.

²² *Department of Justice v. Mislang*, 791 Phil. 219 (2016).

²³ *Tamondong v. Pasal*, 820 Phil. 220 (2017).

²⁴ *Baysa v. Santos*, G.R. No. 254328, 2 December 2021.

²⁵ *Rollo*, p. 89.

WHEREFORE, finding the recommendation of the Judicial Integrity Board to be fully supported by the evidence on record and by applicable laws and jurisprudence, the Court **RESOLVES** to **ADOPT and APPROVE** the same. The Affidavit-Complaint against the Hon. Brigido Artemon M. Luna III, Presiding Judge of Branch 196, Regional Trial Court, Parañaque City is **DISMISSED** for being judicial in nature and for lack of merit.

SO ORDERED.”

By authority of the Court:



MARIA TERESA B. SIBULO
Division Clerk of Court *SALUY*

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OCT 05 2023

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