

## **FIRST DIVISION**

**[ A.M. No. RTJ-18-2535 (formerly OCA IPI No. 16-4583-RTJ), October 08, 2018 ]**

**CARLOS GAUDENCIO M. MAÑALAC, COMPLAINANT, VS. HON. EPITO B. GELLADA, PRESIDING JUDGE, BRANCH 53, REGIONAL TRIAL COURT, BACOLOD, CITY, NEGROS OCCIDENTAL, RESPONDENT.**

### **D E C I S I O N**

#### **DEL CASTILLO, J.:**

Complainant Carlos Gaudencio M. Mañalac, for and on behalf of Philippine Investment One (SPY-AMC), Inc. (PI One), filed this complaint<sup>[1]</sup> against respondent Judge Pepito B. Gellada (Judge Gellada), former Presiding Judge of Branch 53, Regional Trial Court of Bacolod City (RTC Bacolod City Branch 53), Negros Occidental for "(a) gross ignorance of the law and interference with the proceedings of a co-equal and coordinate court in issuing the nullification of the foreclosure [of] and the subsequent proceeding[s] taken thereafter; (b) gross ignorance of the law and grave abuse of discretion in granting relief which has not specifically been sought in the pleadings by the parties; and (c) gross ignorance of the law when he acted upon the Ex-Parte Motion for Issuance of Writ of Execution filed by [Medical Associates Diagnostic Center Inc.] MADCI on 13 May 2016 and issued an Order on that very day granting the issuance of the corresponding writ o execution without the required hearing and without prior notice to PI One."<sup>[2]</sup>

PI One is a corporation existing under and by virtue of the laws of the Philippines. In particular, it was organized as a Special Purpose Vehicle by virtue of Republic Act No. 9182 and is thus "empowered to acquire or purchase assets from banking and financial institutions".<sup>[3]</sup>

Previously, MADCI obtained a loan from the Development Bank of the Philippines (DBP) secured by a mortgage over a property covered by Transfer Certificate of Title (TCT) No. T-200764. MADCI defaulted in its obligations and its loan eventually became past due. Subsequently, DBP transferred to PI One all its rights, title, and interest on the non-performing loan of MADCI.

Meanwhile, MADCI filed an action for corporate rehabilitation which was raffled to RTC Bacolod City Branch 53 presided by Judge Gellada. After due proceedings, the RTC Bacolod City Branch 53 issued on March 19, 2015 an Order<sup>[4]</sup> terminating the rehabilitation proceedings for failure of MADCI to comply with its obligations under the rehabilitation plan.

With the termination of the rehabilitation proceedings, PI One proceeded to foreclose on the mortgage. When MADCI failed to redeem, the ownership of the

property was eventually consolidated to PI One under TCT No. 166-2015000786.<sup>[5]</sup> PI One thereafter succeeded in obtaining a writ of possession from RTC Kabankalan City Branch 61 and effectively acquired lawful possession of the property covered by the new TCT.

Meanwhile, on June 10, 2015, the RTC Bacolod City Branch 53 issued an Order<sup>[6]</sup> denying with finality MADCI's motion for reconsideration of the March 19, 2015 Order. On October 7, 2015,<sup>[7]</sup> MADCI filed a Complaint<sup>[8]</sup> for Declaration of Nullity of Foreclosure Proceedings which was docketed as Civil Case No. 15-14609 and raffled to RTC Bacolod City Branch 54.

Complainant alleged that, notwithstanding the termination of the rehabilitation proceedings, MADCI filed a *Motion to Allow Petitioner to Avail of the Provisions of Rule 2 Sec. 73 of the Financial Rehabilitation Rules of Procedure*<sup>[9]</sup> dated October 5, 2015. MADCI prayed that it "be given a final opportunity to remedy the breach in the rehabilitation plan in lieu of the direct termination of the rehabilitation proceedings."<sup>[10]</sup> In other words, MADCI prayed that it be allowed to revive or reopen the rehabilitation proceedings.

In an Order<sup>[11]</sup> dated May 5, 2016, Judge Gellada granted MADCI's motion and ordered MADCI to comply with the provisions of the rehabilitation plan within 15 days; declared null and void the foreclosure and the proceedings taken after such foreclosure; and ordered PI One to restore MADCI in possession of the subject property. The dispositive portion of the assailed May 5, 2016 Order reads as follows:

WHEREFORE, premises considered, the Motion to Allow Petitioner to Avail of the Provisions of Rule 2, Section 73 of the Financial Rehabilitation Rules of Procedure is GRANTED. Petitioner is given a period of fifteen (15) days to comply with the provisions of the Rehabilitation Plan and the provisions of Rule 2, Section 73 FRIA Rules of Procedure.

x x x x

Furthermore, the court hereby declares the FORECLOSURE of the property of petitioner MADCI INC. including the hospital, and subsequent proceedings taken thereafter as NULL AND VOID. PI ONE is ORDERED to RESTORE IMMEDIATELY petitioner to the possession of the property and the hospital and its facilities. Pending compliance with the ORDERS above-stated, petitioner is hereby RESTORED to its ACTIVE STATUS in the above-entitled case.

SO ORDERED.<sup>[12]</sup>

MADCI thus filed on May 13, 2016 an *Ex-Parte Motion for Execution*<sup>[13]</sup> to enforce the May 5, 2016 Order. This ex-parte motion was granted and a Writ of Execution was issued on even date.<sup>[14]</sup>

Against this backdrop, PI One charged Judge Gellada with gross ignorance of the law (a) when he issued the May 5, 2016 Order reviving or reopening the rehabilitation proceedings notwithstanding the final and executory nature of the March 19, 2015

Order<sup>[15]</sup> terminating the rehabilitation proceedings; (b) when he issued the May 5, 2016 Order annulling the foreclosure and subsequent proceedings taken thereafter despite the pendency of a *Complaint for Declaration of Nullity of Foreclosure Proceedings* before RTC Bacolod City Branch 54; and in immediately restoring MADCI in possession of the subject property despite the RTC Kabankalan City Branch 61 having already previously issued a writ of possession in favor of PI ONE, thereby unduly interfering with the judgments and decrees of co-equal courts; moreover, Judge Gellada granted said reliefs despite their not being prayed for in MADCI's pleadings; and, (c) when he issued the May 13, 2016 Order granting MADCI's motion for execution without hearing or notice to PI ONE.

Judge Gellada denied the charges against him. In his Comment,<sup>[16]</sup> he asserted that the Order lifting the termination of the rehabilitation proceedings was not without support.<sup>[17]</sup> He claimed that PI ONE's motion to terminate the rehabilitation proceedings was anchored on Section 27, Rule 4 of the old Rules on Corporate Rehabilitation of 2000 (2000 Rules) which rule later became the Interim Rules on Corporate Rehabilitation of 2008 (2008 Rules); that MADCI's motion to revive the proceedings was grounded on the Financial Rehabilitation and Insolvency Act of 2010 (FRIA), Section 75 of which repealed Section 27 of the 2000 Rules and Section 23 of the 2008 Rules. Judge Gellada averred that he granted MADCI's aforesaid motion to avail of provisions of the FRIA because the rehabilitation case had not been properly terminated in accordance with Section 74<sup>[18]</sup> thereof. According to Judge Gellada, the FRIA provides that, in the event the rehabilitation proceedings fail, the same may be converted into liquidation proceedings<sup>[19]</sup> which disallows foreclosure for a period of 180 days.<sup>[20]</sup> Judge Gellada noted that when MADCI did not comply with the provisions of the Rehabilitation Plan, PI ONE immediately moved for the termination of the rehabilitation proceedings instead of asking for its conversion to liquidation proceedings; moreover, it immediately foreclosed on the mortgage and consolidated its ownership over the subject property. According to Judge Gellada, the aforesaid acts of PI ONE did not comply with the express and mandatory terms of FRIA and in violation of due process; consequently, the March 19, 2015 Order terminating the rehabilitation proceedings did not attain finality and "[n]ot having attained finality, Branch 53 as a commercial court, effectively retained jurisdiction of the rehabilitation proceedings."<sup>[21]</sup>

Judge Gellada maintained that the FRIA allows the issuance of a Stay Order<sup>[22]</sup> which "suspends all actions or proceedings in court or otherwise,"<sup>[23]</sup> including the "filing [of] a petition for foreclosure, actually conducting the foreclosure sale, and subsequently the consolidation of the title to the property of the debtor."<sup>[24]</sup> Thus, PI ONE's foreclosure on the mortgage and the consolidation of title over the subject property were all done in violation of FRIA.<sup>[25]</sup>

In conclusion, Judge Gellada stated that the "present administrative complaint filed against respondent [was] a bitter pill to swallow. It came just more than a week after he [had] officially retired after 23 years of faithful and loyal service to the government, the Supreme Court, and the country, a stint that has not been tainted by any whiff of irregularity."<sup>[26]</sup>

### ***Report and Recommendation of the Office of the Court Administrator***

In a Report<sup>[27]</sup> dated April 18, 2017, the Office of the Court Administrator (OCA) found respondent judge guilty of gross ignorance of the law, *viz.*:

This legal reality, known as immutability of judgment, is an elementary principle of law and procedure. The petition for corporate rehabilitation and the Termination Order dated 19 March 2015 ending the rehabilitation proceedings is in itself a judgment. Once a judgment becomes final, it may no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law, and regardless of whether it is attempted to be made by the court rendering it or by the Highest Court of the land. The only recognized exceptions are the correction of clerical errors, or the making of the so-called *nunc pro tunc* ("now for then") entries which cause no prejudice to any party, and where the judgment is void, *and whenever circumstances transpire after the finality of the decision rendering its execution unjust and inequitable*. Judge Gellada's ground for modifying the order is not among these recognized exceptions. In fact, after 2015 (the 10<sup>th</sup> year), MADCI still failed to comply with the rehabilitation plan. Moreover, respondent Judge did not answer squarely the issue on whether his Order dated 13 May 2016 granting the writ of execution was set for hearing.

True it is that jurisprudence is replete with doctrines stating that a *judge is not liable for an erroneous decision in the absence of malice or wrongful conduct in rendering it. 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 be established that he was moved by bad faith dishonesty, hatred, or some other like motive*. But the doctrine of immutability of judgment should be at every judge's fingertips and the procedural requirement of setting for hearing every motion for execution. Hence, by ignoring this basic doctrine, one can be presumed to have acted in bad faith.

x x x x

Respondent Judge also violated Rule 3.01, Canon 3 of the Code of Judicial Conduct which mandates professional competence on the part of the judge. A judge owes the public and the court the duty to be proficient in the law and is expected to keep abreast of laws and prevailing jurisprudence, otherwise, he erodes the confidence of the public in the courts. x x x<sup>[28]</sup>

Taking into account Judge Gellada's compulsory retirement on July 28, 2016, his length of service spanning 23 years, 6 months, and 13 days in the judiciary, and the fact that his two previous offenses merited only an admonition (for failing to take immediate steps to locate a missing record) and a reprimand (for delay in resolving Special Proceeding No. 7245), the OCA recommended that he be meted out a fine of P20,000.00.

### **Our Ruling**

We agree with the OCA's finding that respondent judge exhibited gross ignorance of the law and procedure in issuing the Order dated May 5, 2016 as it violated the principle of immutability of judgment and the policy of non-interference over the judgments or processes of a co-equal court.

In *Recto v. Hon. Trocino*,<sup>[29]</sup> we defined gross ignorance of the law in the following manner:

Gross ignorance of the law is the disregard of the basic rules and settled jurisprudence. A judge owes it to his office to simply apply the law when the law or rule is basic and the facts are evident. Not to know it or to act as if one does not know it constitutes gross ignorance of the law. (citations omitted)

In *Mercado v. Judge Salcedo (Ret.)*,<sup>[30]</sup> this Court found therein respondent judge guilty of gross ignorance of the law when he effectively modified a decision that had attained finality.

x x x [W]hen a final judgment becomes executory, it thereby becomes immutable and unalterable. The judgment may no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law, and regardless of whether the modification is attempted to be made by the Court rendering it or by the highest Court of the land. x x x<sup>[31]</sup>

Of course, there are exceptions to this rule, such as "the correction of clerical errors, or the making of so-called *nunc pro tunc* entries, which cause no prejudice to any party, and [the nullification of a] judgment [that] is void."<sup>[32]</sup> None of the exceptions obtain in this case, however.

The March 19, 2015 Order terminating the rehabilitation proceedings became final and executory after Judge Gellada denied MADCI's motion for reconsideration to reverse the same. It, thus, became imperative for Judge Gellada to respect his own final and executory decision in keeping with the basic principle of finality or immutability of judgments. "The doctrine of finality of judgment, which is grounded on fundamental considerations of public policy and sound practice, elates that at the risk of occasional error, the judgments of the courts must become final and executory at some definite date set by law."<sup>[33]</sup> To do otherwise, as what Judge Gellada did by issuing the May 5, 2016 Order, rendered him administratively liable for gross ignorance of the law.

Neither will Judge Gellada's explanation, that the motion to revive the proceedings was wrongfully granted for being based on the outdated 2000 Rules and 2008 Rules, merit an exoneration from administrative liability. Even if this Court were to consider such mistaken interpretation of the amendments to the Rules on Corporate Rehabilitation, his explanation in itself highlighted his gross ignorance of the law in failing to apply the latest law on the matter, *i.e.*, FRIA. Considering that RTC Bacolod City Branch 53 is a commercial court, it all the more makes Judge Gellada's ignorance of the applicable law glaring. "This Court has ruled that when a judge displays an utter lack of familiarity with the rules, he erodes the public's confidence in the competence of our courts. Such is gross ignorance of the law."<sup>[34]</sup>