

## FIRST DIVISION

**[ A.M. No. RTJ-13-2356 [Formerly OCA No. IPI-11-3701-RTJ], June 09, 2014 ]**

**ARGEL D. HERNANDEZ, COMPLAINANT, VS. JUDGE VICTOR C. GELLA, PRESIDING JUDGE, CLARINCE B. JINTALAN, LEGAL RESEARCHER, AND ROWENA B. JINTALAN, SHERIFF IV, ALL FROM THE REGIONAL TRIAL COURT, BRANCH 52, SORSOGON CITY, RESPONDENTS.**

### DECISION

**BERSAMIN, J.:**

We reiterate that an administrative complaint against a judge is not a substitute for a proper remedy taken in due course to review and undo his acts or omissions done in the performance of his judicial duties and functions. For any litigant to insist otherwise is censurable because the complaint adversely affects the administration of justice and harms the reputation of a judicial officer.

#### Antecedents

In his verified complaint dated July 8, 2011,<sup>[1]</sup> complainant Argel D. Hernandez charged Judge Victor C. Gella, as the Presiding Judge of Branch 52 of the Regional Trial Court in Sorsogon City (RTC), with gross ignorance of the law; and Sheriff IV Rowena B. Jintalan, also of Branch 52, and Legal Researcher Clarince B. Jintalan with abuse of authority in connection with the implementation of the writ of execution issued in Case No. 2005-7473, a proceeding for consolidation of ownership entitled *Maria Purisima Borlasa v. Spouses Jesus Hernandez and Margarita De Vera*.

It appears that the property involved in Case No. 2005-7473 was sold at a public auction in which Maria Purisima Borlasa was declared the winning bidder; that a final bill of sale was issued to Borlasa on May 30, 2007; that in 2009, Borlasa's motion for the issuance of the writ of execution was granted; that in 2010, Sheriff Jintalan started implementing the writ but was unsuccessful in doing so because Hernandez consistently found ways to resist her implementation, including the filing of a petition for certiorari in the Court of Appeals.

Ultimately, on May 31, 2011, Sheriff Jintalan successfully implemented the writ of execution and entered the house of Hernandez.

According to Hernandez, the implementation of the writ of execution was tainted with abuse. He claimed that Sheriff Jintalan and Legal Researcher Jintalan, together with policemen and goons carrying bolos and mallets, had arrived at his house; that she ordered the goons to destroy his house despite being made aware of the pendency of the petition for *certiorari* in the CA; that the goons entered his house,

and took his family's belongings and valuables outside the house and loaded them in a truck; that his family's belongings and valuables were brought to a warehouse of Vicente Bonaobra, who was the brother and attorney-in- fact of the plaintiff; that his children, who witnessed the proceedings, were traumatized; and that he had a verbal argument with Legal Researcher Jintalan, who had owed him some money.<sup>[2]</sup>

Hernandez added that such acts of Sheriff Jintalan and Legal Researcher Jintalan of destroying his house and taking his family's belongings and valuables were in excess of their authority; and that such excess of authority would not have happened had Judge Gella not authorized the execution of the writ of execution notwithstanding the pendency of the petition for *certiorari* in the CA.<sup>[3]</sup>

The respondents denied the charges.

Judge Gella narrated the background of Case No. 2005-7473 and set forth the events leading to the filing of the petition for *certiorari* by Hernandez in the CA and the enforcement of the writ of execution on May 31, 2011. He insisted that the RTC had afforded due process to Hernandez; that prior to the implementation of the writ of execution Sheriff Jintalan had already accommodated Hernandez by granting him concessions; and that Hernandez was only a disgruntled litigant who refused to accept and to bow to the lawful orders and processes of the RTC.<sup>[4]</sup>

Legal Researcher Jintalan explained that he had been tasked to assist in the implementation of the writ by Sheriff Jintalan, who was his wife; that police assistance became necessary because Hernandez and his uncle had been resisting the writ of execution, which was a lawful court order, by threatening Sheriff Jintalan with administrative and criminal cases, and even physical harm; that although admitting having instructed the hired men to destroy the chain of the fence and the door lock of the main door of Hernandez's house, he had done so only to gain entry into and to exit from the property; that Hernandez and the other occupants of the house had earlier padlocked the gate and parked a ten-wheeler truck behind the fence to block the entry of the sheriff; that Hernandez had also used his children as a shield by having them barricade the door to prevent entry of the sheriff's team; that Hernandez had taunted the implementing officers into firing at his children; that no jewelry and money were taken because the members of the sheriff's team did not go inside Hernandez's bedroom; and that he did not owe any money to Hernandez.<sup>[5]</sup>

On her part, Sheriff Jintalan asserted that she had only performed her ministerial duty to implement the writ of execution; that cutting the chain of the fence and breaking the door knob had been necessary to gain entry into the house; that her team could pull out only a few pieces of furniture and several sacks of *palay* because Hernandez had used his children to barricade the entrance and had dared them to shoot at him and the children; that at one point Hernandez had poked a gun at her; that they had loaded the inventoried items in the truck owned by Vicente Bonaobra to be brought to the latter's warehouse only for safekeeping; and that only the assisting policemen had carried guns during the execution proceedings.<sup>[6]</sup>

In its Report dated March 28, 2012,<sup>[7]</sup> the Office of the Court Administrator (OCA)

recommended that:

1. The administrative complaint against Judge Victor C. Gella, Presiding Judge, Regional Trial Court, Branch 52, Sorsogon City be **DISMISSED** for being premature and judicial in nature;
2. The administrative complaint against Rowena B. Jintalan, Sheriff IV, Regional Trial Court, Branch 52, Sorsogon City be **RE-DOCKETED** as a regular administrative matter;
3. Respondent Rowena B. Jintalan be found Guilty of Simple Neglect of Duty and be **SUSPENDED** from office for one (1) month and one (1) day without pay; and
4. The administrative complaint against Clarince B. Jintalan, Legal Researcher, Regional Trial Court Branch 52, Sorsogon City be **DISMISSED** for being unsubstantiated.<sup>[8]</sup>

### **Ruling**

We **ACCEPT** the findings of the OCA because they were supported by the records, and, accordingly, **ADOPT** its aforequoted recommendations.

### **Re: Judge Gella**

Hernandez's complaint against Judge Gella, being rooted in the denial of Hernandez's motion for reconsideration (vis-à-vis the denial of Hernandez's motion to quash the writ of execution), unquestionably related to Judge Gella's performance of his judicial office, and is for that reason outrightly dismissible. We reiterate that an administrative remedy is neither alternative nor cumulative to any proper judicial review. A litigant like Hernandez who is aggrieved by an order or judgment of the judge must pursue his proper available judicial remedies because only a higher court exercising appellate authority can review and correct any error of judgment committed in the discharge of the judicial office. As to an order or judgment tainted by grave abuse of discretion or a jurisdictional defect, only a higher court invested with supervisory authority can revise the order or judgment. It is always worth stressing that an administrative remedy cannot be a proper means to undo or rectify the order or judgment.

The filing of administrative complaints or just the threats of the filing of such complaints do subvert and undermine the independence of the Judiciary and its Judges. Thus, the Court does not tolerate unwarranted administrative charges brought against sitting magistrates in respect of their judicial actions. Moreover, as the Court pointedly observed in *Re: Verified Complaint of Engr. Oscar L. Ongjoco, Chairman of the Board/CEO of FH-GYMN Multi-Purpose and Transport Service Cooperative, against Hon. Juan Q. Enriquez, Jr., Hon. Ramon M. Bato, Jr. and Hon. Florito S. Macalino, Associate Justices, Court of Appeals*,<sup>[9]</sup> to wit: