

## EN BANC

[ **A.M. OCA IPI No. 12-202-CA-J, January 15, 2013**  
]

**RE: VERIFIED COMPLAINT OF AMA LAND, INC. AGAINST HON. DANTON Q. BUESER, HON. SESINANDO E. VILLON and HON. RICARDO R. ROSARIO, ASSOCIATE JUSTICES OF THE COURT OF APPEALS.**

### DECISION

**PERLAS-BERNABE, J.:**

On October 2, 2012, AMA Land, Inc. (AMALI) tiled an administrative complaint before the Office of the Court Administrator (OCA), charging respondent Honorable Court of Appeals (CA) Associate Justices Danton Q. Bueser, Sesinando E. Villon, and Ricardo R. Rosario (respondent CA Justices) with the following violations: (a) Section 8, Rule 140 of the Rules of Court, specifically for dishonesty and violation of the Anti-Graft and Corrupt Practices Law (Republic Act No. 3019), gross misconduct constituting violations of the Code of Judicial Conduct, and knowingly rendering an unjust judgment or order; and (b) pertinent provisions of the Code of Judicial Conduct<sup>[1]</sup> and Canons of Judicial Ethics, for issuing the Decision<sup>[2]</sup> dated June 14, 2012 in CA-G.R. SP No. 118994 filed by Wack Wack Residents Association, Inc. (WWRAI) enjoining AMALI from continuing with its project construction pending the determination of its petition for declaration of right of way against WWRAI before the Regional Trial Court of Pasig City, Branch 264 (RTC-Pasig).

### The Facts

The controversy started in the mid-1990s when AMALI commenced the construction of a 37-floor commercial/residential building located at Epifanio Delos Santos Avenue (EDSA) corner Fordham Street, Wack Wack Village, Mandaluyong City. After securing the required licenses and permits, AMALI notified WWRAI, the owner of Fordham Street, of its intention to use the said street as an access road and staging area of the project. Not having received any response, AMALI proceeded to temporarily enclose the job site and set up a field office along Fordham Street. However, WWRAI fenced off the said street which prompted AMALI to file before the RTC-Pasig a petition<sup>[3]</sup> to enforce an easement of right of way pursuant to Article 649 in relation to Article 656 of the Civil Code. AMALI also prayed for a temporary restraining order (TRO) and a writ of preliminary mandatory injunction to enjoin WWRAI from demolishing and removing its temporary field office, fencing off Fordham Street, and preventing its access to the construction site.

In its Answer<sup>[4]</sup> WWRAI averred that AMALI's project violated applicable zoning ordinances; the licenses and permits secured therefor were irregular and unlawful; the project is a nuisance; and EDSA should instead be utilized as the staging area of the project. Apart from praying for the dismissal of the complaint, WWRAI

interposed a *counterclaim* for actual and exemplary damages, attorney's fees and costs of suit, and prayed for a TRO and writ of preliminary mandatory injunction for AMALI to immediately cease and desist with its project construction.

After hearing AMALI's application for injunctive relief, the RTC-Pasig, in its Order<sup>[5]</sup> dated July 24, 1997, granted AMALI's prayer and directed WWRAI to allow the use of Fordham Street as a temporary easement of right of way. Apparently, WWRAI's application for TRO and/or writ of preliminary injunction in its *counterclaim* was not heard.

In 1998, however, AMALI suffered financial setbacks, forcing the suspension of its project construction. In 2002, it filed before the RTC of Muntinlupa, Branch 256 (RTC-Muntinlupa) a petition for corporate rehabilitation, which was later approved. Among the recommendations contained in the approved rehabilitation plan was the conversion of the use of the 37-floor commercial/residential tower (AMA Tower) to a 34-floor residential condominium. AMALI thus, prayed that the City of Mandaluyong be ordered to issue an amended building permit.<sup>[6]</sup>

In a bid to stop AMALI from continuing with its project construction, WWRAI sought from the RTC-Pasig in January 2010, the hearing of its application for TRO and/or writ of preliminary mandatory injunction prayed for in its *counterclaim*. After due proceedings, the court denied the application in the Order<sup>[7]</sup> dated October 28, 2010, and directed the building officials of Mandaluyong City to act on AMALI's application for permit to construct. The concerned officials, however, denied AMALI's application for an amended building permit on November 5, 2010 due to the expiration of the previously issued building permit, non-compliance with the prescribed height and open space limitations, and failure to submit the required new locational and barangay clearance. Notwithstanding, the RTC-Pasig refused to reconsider<sup>[8]</sup> the denial of WWRAI's application for injunction.

On the other hand, the RTC-Muntinlupa, where AMALI's petition for corporate rehabilitation was pending, directed the Office of the Building Official and/or Office of the City Engineer of Mandaluyong City, in the Orders dated September 9, 2010 and November 12, 2010,<sup>[9]</sup> to issue an amended building permit. Thus, Building Permit No. 08-2011-0048<sup>[10]</sup> was issued on February 4, 2011. But even with such issuance, the Building Official and/or Mandaluyong City Engineer filed a petition for *certiorari* before the CA (docketed as CA-G.R. SP No. 117037) assailing the above Orders which, however, was denied in the Decision<sup>[11]</sup> dated June 28, 2012.

Meanwhile, WWRAI assailed the Orders of the RTC-Pasig denying its application for injunction through a petition for *certiorari*<sup>[12]</sup> before the CA. The case (docketed as CA-G.R. SP No. 118994) was raffled to the Special Former Tenth Division composed of the respondent CA Justices. WWRAI also filed a separate complaint (docketed as NBCDO Case No. 12-11-93 MAND CITY) before the Department of Public Works and Highways seeking the revocation of the amended building permit as well as the imposition of administrative sanctions against the issuing officials which, however, was denied.<sup>[13]</sup>

On June 10, 2011, the CA granted WWRAI's application for TRO<sup>[14]</sup> and subsequently, its application for writ of preliminary injunction<sup>[15]</sup> pending resolution

of the petition. On the other hand, AMALI, in its Comment,<sup>[16]</sup> prayed for the dismissal of the complaint for lack of merit and on the ground of forum shopping.

On June 14, 2012, the CA rendered a Decision<sup>[17]</sup> granting WWRAI's petition and directing the RTC-Pasig to issue the injunctive writ in favor of WWRAI pending determination of the petition for the declaration of permanent easement of right of way filed by AMALI.

### **The Issue**

In the instant administrative complaint, AMALI questions, among others, the jurisdiction of the respondent CA Justices to act on WWRAI's petition assailing the denial of its application for injunctive relief to stop AMALI from proceeding with its project construction, claiming this issue as irrelevant to the principal action to enforce an easement of right of way pending before the RTC- Pasig. It also raises the non-payment by WWRAI of the docket fees on its *counterclaim* and the forum shopping the latter committed in filing various suits before different fora on the same issue involving the legality of the project. In any event, AMALI asserts that the respondent CA Justices acted in bad faith and knowingly rendered an unjust judgment in granting WWRAI's petition, which effectively declared the project construction illegal and granted the latter's *counterclaim* before the RTC-Pasig could have finally disposed of the case.

In their Comment,<sup>[18]</sup> the respondent CA Justices pray for the outright dismissal of the instant administrative complaint in view of the pendency of AMALI's petition for review on *certiorari* before the Court based on substantially the same grounds raised herein. They likewise averred that the purported lack of jurisdiction was never raised in the proceedings before the RTC, the CA or in their petition for review on *certiorari* before the Court, but only in this administrative complaint. Finally, they denied having rendered an unjust decision citing the failure of AMALI to show that the assailed judgment is contrary to law or unsupported by evidence or that it was rendered with bad faith, malice, greed, ill-will or corruption.

### **The Court's Ruling**

The Court finds no merit in the complaint.

A perusal of the records of the case as well as the parties' respective allegations disclosed that the acts complained of relate to the validity of the proceedings before the respondent CA Justices and the propriety of their orders in CA-G.R. SP No. 118994 which were done in the exercise of their judicial functions. 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.<sup>[19]</sup> 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.<sup>[20]</sup>

In *Equitable PCI Bank, Inc. v. Laviña*,<sup>[21]</sup> we ruled that resort to and exhaustion of judicial remedies and a final ruling on the matter, are prerequisites for the taking of