

SECOND DIVISION

[**A.M. OCA I.P.I. No. 10-3492-RTJ, December 04, 2013**]

NARCISO G. DULALIA COMPLAINANT, VS. JUDGE AFABLE E. CAJIGAL, REGIONAL TRIAL COURT, BRANCH 96, QUEZON CITY RESPONDENT.

RESOLUTION

PEREZ, J.:

For resolution is the administrative complaint filed by Narciso G. Dulalia (complainant) charging Judge Afable E. Cajigal (respondent judge), Regional Trial Court (RTC), Branch 96, Quezon City with gross ignorance of the law and gross inefficiency.

ANTECEDENT FACTS

The complaint stemmed from Special Proceedings (SP) No. Q-01-45101, entitled *In the Matter of the Joint Settlement of the Intestate Estate of Sps. Emilio Z. Dulalia and Leonarda G. Dulalia and for Issuance of Letters of Administration*; SP No. Q-01-45814, entitled *In the Matter of the Testate Estate of the Deceased Leonarda Garcia Dulalia*; and SP No. Q-02-46327, entitled *In the Matter of the Testate Estate of the Deceased Emilio Zuniga Dulalia*.

Complainant is one of the petitioners in the aforecited special proceeding cases pertaining to the joint settlement of the testate and intestate estates of his parents wherein he and his sister, Gilda Dulalia-Figueroa, vied for appointment as special and regular administrator.

Complainant claimed that since respondent judge's appointment as presiding judge of RTC, Branch 96, Quezon City, the latter has displayed gross inefficiency by failing to resolve within the prescribed period the following incidents:^[1] (1) Manifestation and Motion dated 18 July 2005; (2) Urgent Ex-Parte Motion to Resolve dated 29 May 2006; (3) Urgent Motion to Resolve Pending Incident (to appoint Narciso G. Dulalia as special administrator pending litigation) dated 25 April 2002; (4) Omnibus Motion dated 4 June 2007; (5) Comment/Opposition with Application for Appointment as Special Administrator dated 22 June 2007; (6) Reply to Comment/Opposition with Application for Appointment as Special Administrator dated 10 July 2007; (7) Urgent Motion to Resolve the Application of Narciso G. Dulalia as Special Administrator dated 3 April 2008; and (8) Urgent Motion for the Appointment of Narciso G. Dulalia as Interim Administrator dated 8 September 2009.

On 12 January 2010, respondent judge issued an Order^[2] appointing Gilda Dulalia-Figueroa as special administratrix of the estate.

Aggrieved, complainant filed on 18 February 2010 a Motion for Reconsideration. The motion was set for hearing on 25 February 2010. Complainant averred that from the filing of the motion until the filing of the instant complaint, respondent judge has yet to resolve the motion.

Complainant alleged that respondent judge is liable for gross inefficiency for his failure to resolve the pending incident within the required period. According to complainant, respondent judge not only failed to resolve the subject motion on time, he likewise ignored the basic rules and jurisprudence in the appointment of special administrators in accordance with the Supreme Court's ruling in *Co v. Rosario*.^[3] Thus, he maintained that respondent judge should also be held liable for gross ignorance of the law.

On 27 August 2010, respondent judge was required by the Office of the Court Administrator (OCA) to comment on the verified complaint.

In his comment,^[4] respondent judge vehemently denied the allegations in the complaint. He averred that the complaint, which was filed by a disgruntled party who did not get a favorable action in his court, is purely personal and meant only to harass him. It has no basis in law and in fact, he claims.

Respondent judge maintained that he is not liable for gross ignorance of the law. He insisted that when he issues an order in a case, he sees to it that it is rendered within the mantle of the law and within the bounds of the rules. He alleged that he never incurred bad faith or abuse of authority in resolving legal issues filed before his sala.

He submitted that he is also not liable for gross inefficiency considering that the matter submitted before him cannot be resolved outright in view of the conflicting claims of the complainant and his siblings. The matter regarding the appointment of special administrator cannot be issued on a silver platter by the court without any hearing being conducted. He reiterated that the several motions filed by the complainant praying for his appointment as special administrator can be acted upon only after hearing the side of the other petitioners and after assessment of the fitness and qualifications of the applicants for appointment as regular administrator.

Respondent judge noted that on 12 January 2010, he issued an order appointing complainant's sister, Gilda Dulalia-Figueroa, as special administratrix in order to preserve the estate in the meantime until a regular administrator is appointed. In view of the order issued, complainant filed a motion for reconsideration.

Earlier or on 28 January 2008, complainant filed a petition for indirect contempt against his sister Gilda Dulalia-Figueroa, allegedly for the latter's violation of several orders of the court.

Respondent judge claimed that in the hearing of the petition for indirect contempt, he considered as incorporated the motion for reconsideration filed by complainant. But since the hearing was focused mainly on the petition for indirect contempt, the motion for reconsideration was left unresolved. He alleged that such omission was neither deliberate nor done with malice. It was only due to inadvertence that the motion was not specifically resolved. He honestly believed that preferential