

SECOND DIVISION

[A.M. No. P-08-2418, January 31, 2008]

FERDINAND S. BASCOS, Complainant, vs. ATTY. RAYMUNDO A. RAMIREZ, Clerk of Court, Regional Trial Court of Ilagan, Isabela, Respondent.

D E C I S I O N

CARPIO MORALES, J.:

By a sworn letter-complaint dated November 25, 2004^[1] filed with the Office of the Court Administrator (OCA), Ferdinand S. Bascos (complainant) charges Atty. Raymundo A. Ramirez (respondent), Clerk of Court and Ex-officio Provincial Sheriff, Regional Trial Court (RTC), Ilagan, Isabela, with neglect of duty, arrogance and willful and deliberate violation of circulars of this Court in relation to Presidential Decree (P.D.) No. 1079,^[2] and for several attempts at extortion.

Complainant, manager of the local community newspaper *The Valley Times*, reported, by letter of January 31, 2003,^[3] to the then Executive Judge Juan A. Bigornia, Jr. of the RTC of Ilagan, Isabela that respondent failed to follow the judge's verbal order to designate a day of the week for the raffling of judicial and extra-judicial notices and other court processes requiring publication; and respondent was partial to another newspaper, the *Isabela Profile*, when he awarded to it 13 of the 14 notices of extra-judicial foreclosure filed by the Home Development Mutual Fund (Pag-ibig Fund) without the benefit of raffle and the requisite notices to the public.

Judge Bigornia thereupon ordered respondent, by 1st Indorsement of February 3, 2003,^[4] to submit in five days his comments on complainant's letter within five days from receipt. Respondent failed to comply, however, drawing the judge to send him a letter dated February 27, 2003 directing him to submit the following:

1. Copies of the application for Extra-Judicial Foreclosures [*sic*] together with the docket number from December, 2002 to date;
2. To whom among the Deputy Sheriffs of this Court were these applications for extra-judicial foreclosure raffled respectively; and
3. The name of the newspaper to whom these notices were sent for publication.

notifying him that:

From hereon, application for judicial foreclosure either by Notary Public or by the Sheriff shall be raffled to the different Deputy Sheriffs under my direction. The Deputy Sheriffs of this Court, in turn, shall raffle the notices for publication to the accredited newspaper under my direction.

and warning him that

Any violation of this directive shall be dealt with severely.^[5] Respondent never complied with the judge's directives, however.^[6]

On June 24, 2003 complainant filed a petition in the RTC of Ilagan^[7] for the disqualification of the *Isabela Profile* from participating in the raffle of notices requiring publication on the main ground that it had no editorial and business offices in Santiago City or in the province of Isabela, its principal address being in Cabanatuan City. On complainant's manifestation and motion made in open court, however, the petition was dismissed.^[8]

In the complaint at bar,^[9] complainant explains that he had to withdraw his petition for the disqualification of the *Isabela Profile* because said newspaper's application for accreditation was approved *ex-parte*. He alleges that the approval of the application was facilitated by respondent by not setting it for hearing nor furnishing complainant with a copy of the application, thereby denying him the opportunity to oppose and prove that *Isabela Profile* had no editorial and business offices in the province.

Complainant further alleges that respondent concealed from Judge Bigornia several judicial and extra-judicial foreclosure cases requiring publication and that, as shown by the attachments to his letter-complaint, respondent did not include in the raffle more than twenty (20) foreclosure cases filed by the Pag-big Fund, the publication of notices of which respondent subsequently awarded to the *Isabela Profile*.

Complainant goes on to allege that respondent demanded from him exorbitant commissions in exchange for the right to publish extra-judicial foreclosure cases, and when he refused, respondent awarded the right to publish to the *Isabela Profile*, again without a raffle.^[10]

Complainant thus prayed that respondent be directed to forward to the OCA for examination the records of the application for accreditation filed by the *Isabela Profile* and that he be meted the appropriate sanctions and penalties for his questioned acts.

By Comment dated April 25, 2005,^[11] respondent, in compliance with the OCA's 1st Indorsement dated March 30, 2005,^[12] denied the allegations of complainant, claiming that he was merely a victim of the business rivalry between complainant and the *Isabela Profile*. Specifically, he claimed that complainant's charge of partiality towards the *Isabela Profile* is a product of "wild imagination"; the allegation that he concealed from Judge Bigornia several extra-judicial foreclosure cases is "too malicious and sweeping a statement" and the Judge is not naïve as not to notice the same if it were true and there would have been complaints of undue delay or late publication of foreclosure cases; with respect to the charge that he failed to conduct a raffle of the more than 20 foreclosure cases which were all awarded and published by *Isabela Profile*, he merely complied with the Judge's order excluding him from participating "in the publication of foreclosure" cases; and that the charge of extortion is "a blatant lie" and was unsubstantiated.

In fine, respondent claimed that "[i]f all the foregoing allegations were true, why is this case not filed against the Executive Judge of the Regional Trial Courts of Ilagan

instead of against the Clerk of Court, since the facts of this case fits squarely with that case filed by the same complainant against Honorable Fe Albano-Madrid, Executive Judge of the Regional Trial Courts of Santiago City?"^[13] and "if I am really arrogant, then all the lawyers in the Hall of Justice at Ilagan, Isabela are all arrogant, because it is the humble belief of the herein respondent he is the most friendly and approachable lawyer in all his dealings, especially towards the litigating public. If there were cases filed in which the respondent had been a party, he was rather more of a victim than an aggressor."^[14]

After due evaluation, the OCA, by report dated July 18, 2005,^[15] finds respondent's defenses untenable and recommends that he be fined P2,000.00, with warning that similar infractions in the future will be dealt with more severely. Observes the Court Administrator:

x x x [Respondent] could have right away proved that "Valley Times" was actually given publication awards by merely attaching the minutes of the raffle. His contention that he faithfully complied with the Executive Judge's Order limiting his responsibility to the raffling of petitions to the Deputy Sheriffs and that it is for this reason that the notices published in the "Isabela Profile" x x x bear the names of the Deputy Sheriffs is likewise unacceptable. The "Isabela Profile" issue containing the questioned foreclosure cases covers the period January 8-14, 2003. On the other hand, the directive of the Executive Judge laying down the new procedure in raffling of cases requiring publication was issued only on 27 February 2003.

x x x x

The documents which the respondent were to submit pertain to all the applications for Extra-Judicial Foreclosures received from December 2002 to 27 February 2003, the names of the Deputy Sheriffs to whom the applications were forwarded and the name of the newspaper to whom the notices were sent for publication. **This only shows that the acts complained of have not yet been cleared and settled with the Executive Judge.** Otherwise there would be no more reason for the examination of the aforesaid documents.

Moreover, the respondent could have right away disproved the above allegations by simply attaching an affidavit executed by the executive judge to give light on the matter.

For the above reasons, **this Office is convinced that the respondent did not include the more than twenty (20) foreclosure cases in the raffle.**^[16] (Emphasis added)

This Court finds the observations of the OCA well taken. But not its recommendation.

Supreme Court Circular No. 5-98 dated January 12, 1998^[17] directs all executive judges and other court personnel to **strictly comply** with the provisions of P.D. No. 1079, "Revising and Consolidating All Laws and Decrees Regulating Publication of

Judicial Notices, Advertisements for Public Biddings, Notices of Auction Sales and Other Similar Notices,”^[18] in the publication of notices under Act No. 3135, judicial notices, notices in special proceedings, court orders and summonses and all similar announcements required by law to be published.

Executive judges are required under the P.D. to distribute those notices **by raffle** for publication to qualified newspapers or periodicals, such raffle to be conducted **personally** by the executive judge after designating a regular working day and a **definite** time each week for such purpose.^[19] Failure to follow this procedure is punishable by a fine of not less than five thousand pesos (P5,000) nor more than twenty thousand pesos (P20,000) and imprisonment for not less than (6) months nor more than two (2) years. In addition, the offending executive judge or court personnel is perpetually disqualified from holding any public office in the government.^[20]

The stringent provisions of P.D. No. 1079 were intended to prevent unfair competition, meant ultimately for the protection of the press. Thus, the fifth preambular paragraph of the P.D. provides:

WHEREAS, to better implement the philosophy behind the publication of the above- mentioned notices and announcements and **prevent cross commercialism and unfair competition among community newspapers, which conditions prove to be inimical to the development of a truly free and responsible press**, it is necessary to revise and consolidate all laws and decree affecting the publication of judicial notices and other announcements herein referred to x x x. (Emphasis added)

On the other hand, this Court’s *En Banc* Resolution No. A.M. 01-01-07-SC dated October 16, 2001^[21] provides for uniform and comprehensive guidelines in the accreditation of newspapers and other periodicals seeking to publish the notices mentioned in P.D. No. 1079 and Circular 5-98 dated January 12, 1998.

Evidently, the language and tenor of the aforecited authorities show that the distribution of notices for publication by raffle is mandatory and cannot be dispensed with. By failing to include **more than twenty** foreclosure cases in the raffle, respondent showed a blatant disregard for the procedure enjoined by P.D. No. 1079 and by this Court.

Respondent, as a lawyer and an employee of the court, ought to know the requirements in and the importance of distributing notices for publication. And he is expected to keep his own record of the applications for extra-judicial foreclosure and the minutes of the raffle thereof so he can effectively assist the judge in the performance of his functions.^[22] It is incumbent upon him to help the judge devise an efficient recording and filing system in the court so that no disorderliness can affect the flow of cases, particularly foreclosure cases, and their speedy disposition. That all efforts should be addressed towards maintaining public confidence in the courts can never be overemphasized.

Respondent’s failure to heed the mandate of the law and Supreme Court directives constitutes unjustified and neglectful conduct prejudicial to the best interest of the