

THIRD DIVISION

[A.M. NO. RTJ-01-1647, October 13, 2005]

**WONG JAN REALTY, INC., BY ABDULLAH M. JAN, PRESIDENT,
PETITIONER, VS. HON. JUDGE DOLORES L. ESPAÑOL, REGIONAL
TRIAL COURT, DASMARIÑAS, CAVITE, BRANCH 90,
RESPONDENTS.**

R E S O L U T I O N

GARCIA, J.:

In a verified letter-complaint dated June 9, 2000,^[1] complainant Wong Jan Realty, Inc., through its President Abdullah M. Jan, charged **Judge Dolores Español**, Presiding Judge, Regional Trial Court, Branch 90, Dasmariñas, Cavite with gross ignorance of the law or procedure, and manifest bias and partiality.

The complaint alleged that in an unlawful detainer case filed by complainant against the spouses Patricio Gubagaras and Erlinda Gubagaras, the Municipal Trial Court (MTC) of Dasmariñas, Cavite, in a decision dated November 5, 1999, rendered judgment in favor of complainant and ordered the Gubagaras spouses to vacate the premises subject of the suit and pay the sum of P5,000.00 a month from January, 1994 until they shall have vacated the same premises, as reasonable compensation for their use and occupancy thereof. Against that decision, the Gubagaras couple filed a *Notice of Appeal* without any supersedeas bond. Hence, the decision became final and executory and a writ of execution was ordered issued by the court on January 3, 2000. To the order directing issuance of the writ, the spouses Gubagaras filed a motion for reconsideration, attaching thereto a purported supersedeas bond. On January 31, 2000, the court denied the spouses' motion for reconsideration but approved their *Notice of Appeal*. The appeal was docketed in the RTC, Dasmariñas, Cavite as *Civil Case No. 120-00* which was raffled to Branch 90 thereof presided by the herein respondent judge.

During the pendency of the appeal, the spouses Gubagaras filed with the RTC, Dasmariñas, Cavite a Petition for *Certiorari with Prayer for Temporary Restraining Order and Preliminary Injunction*, thereunder questioning the MTC's denial of their motion for reconsideration of its order for a writ of execution. The petition, docketed in the RTC as *Civil Case No. 2049-00*, was likewise raffled to the same branch of that court presided by the respondent judge and received in her sala at 10:10 o'clock in the morning of February 7, 2000.

Controversy sprung when, on that very same day " February 7, 2000 " respondent judge issued in Civil Case No. 2049-00 a *status quo ante* Order,^[2] directing as follows:

In view of the foregoing, let a STATUS QUO ANTE be issued enjoining the above-named respondents (among whom is herein complainant Wong

Jan Realty, Inc.) and the Sheriff of this Court or any Sheriff of the Multiple Sala, Imus, Cavite, from implementing the Writ of Execution and the disputed Decision upon the petitioners. Let the hearing on the Preliminary Injunction be set on February 10, 2000 at 1:30 in the afternoon.

SO ORDERED.

Complainant alleged that the aforequoted February 7, 2000 *status quo ante* Order was issued by the respondent judge without a prior summary hearing, in gross violation of SC Adm. Circular No. 20-95 which mandates that an application for a TRO shall be acted upon only after all the parties are heard in a summary hearing conducted within 24 hours from the time the records are transmitted to the branch of the court to which the main case was raffled. Complainant proceeds to argue that while SC Adm. Circular No. 20-95 authorizes lower courts to issue a TRO for a maximum period of twenty (20) days only, the February 7, 2000 *status quo ante* Order of the respondent judge did not contain any expiration period, thereby indefinitely restraining the implementation of the writ of execution issued by the MTC in favor of complainant in the earlier unlawful detainer suit.

As it were, so complainant submits, the respondent judge displayed bias or partiality in issuing her *status quo ante* Order as she had already prejudged the Gubagaras couple's petition for *certiorari* in *Civil Case No. 2049-00*. Perceiving bias and evident partiality on the part of respondent judge, complainant then filed a motion to Inhibit the respondent.

Via a 1st Indorsement, then Court Administrator Alfredo L. Benipayo referred the subject letter-complaint to the respondent judge for comment. In a return 2nd Indorsement, the respondent judge, by way of *COMMENT*,^[3] denied the accusations against her. She explained that the issues in the *Unlawful Detainer* case and in the *Petition for Certiorari* (Civil Case No. 2049-00) are closely intertwined with another civil case (*Civil Case No. 867-94*) which is an action for *Annulment of Deed of Sale* filed by the Gubagaras couple against the herein complainant. According to respondent, the issue of ownership over the disputed property subject of Civil Case No. 867-94 is a prejudicial question which must first be resolved before the *status quo ante* Order issued in Civil Case No. 2049-00 could be lifted. Otherwise, so respondent contends, complainant's, president, Abdullah M. Jan, who is a foreigner, may be allowed to acquire the property through a simulated suit of unlawful detainer and evict the original owners thereof. According to respondent, the need to minimize the damages which the parties may suffer impelled her to issue the *status quo ante* Order in question. Additionally, so respondent avers, the writ of execution in the unlawful detainer case was issued by the MTC when the appeal (Civil Case 120-00) in that case had already been perfected. Respondent denies the accusations of bias and partiality, claiming that the same do not have any basis in fact and in law.

In its Reply to respondent's comment, complainant additionally charged respondent with Gross Inefficiency on account of respondent's failure to seasonably decide Civil Cases No. 120-00 and 2049-00. Complainant alleged that despite the passage of several months from the time those cases were deemed submitted for decision, the same remained unresolved.