

## **FIRST DIVISION**

**[ A.M. No. RTJ-02-1682, March 23, 2004 ]**

**ELIZA MINA AND RAMIR MINA, COMPLAINANTS, VS. JUDGE  
BENJAMIN T. VIANZON, RESPONDENT.**

### **D E C I S I O N**

**AZCUNA, J.:**

The present administrative case against Regional Trial Court Judge Benjamin T. Vianzon<sup>[1]</sup> of Balanga, Bataan, Branch 1, stemmed from an affidavit-complaint executed by Eliza Mina and her son Ramir Mina,<sup>[2]</sup> charging respondent judge with gross ignorance of the law, gross inexcusable negligence and manifest bias and partiality.

As an antecedent, a case for ejectment was filed by the spouses Reynaldo Paul and Ma. Clara Chico, against the spouses Florencio and Eliza Mina, before the Municipal Trial Court (MTC) of Balanga Bataan, docketed as Civil Case No. 1752.

On July 7, 1998, the MTC, through Presiding Judge Rodolfo S. Gatdula, rendered a Decision in favor of the spouses Chico, thus:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff as against the defendants by ordering the defendants and all persons claiming right under them to surrender peacefully Lot 774 to the plaintiff by demolishing their house thereon and vacating the said land;

To pay the amount of P10,000.00 as actual damage and a reasonable rent of P1,000.00 per month from May 1981 up to the removal of their house in the subject lot;

To pay costs of suit.

No award for moral damages, there being no evidence introduced by the plaintiffs to that effect.

SO ORDERED.

On appeal to the Regional Trial Court (RTC), the case was raffled and assigned to Branch 1 thereof, presided over by Judge Vianzon.

On October 2, 1998, the RTC affirmed the decision of the MTC.

On October 8, 1998, the spouses Chico filed with the RTC a Motion for Execution, pursuant to Section 21, Rule 70 of the Rules of Court allowing execution pending appeal.<sup>[3]</sup> Respondent judge did not act upon the motion for execution right away.

In the meantime, the spouses Mina appealed the RTC decision to the Court of Appeals. The appeal was, however, dismissed in a Resolution dated September 22,

1999. No appeal was taken therefrom. Hence, on October 16, 1999, the judgment against the spouses Mina became final and executory.

On April 6, 2000, months after the judgment against the spouses Mina had become final, counsel for the spouses Chico reiterated their Motion for Execution before the RTC, which motion, up to that time, had not been acted upon by respondent judge.

Instead of remanding the case to the MTC, the latter being the court of origin, Judge Vianzon granted the motion for execution on April 12, 2000 and, thereafter, ordered the issuance of a writ of demolition on July 19, 2000.

On July 25, 2000, complainant Eliza Mina filed a Motion to Quash/Recall Writ of Execution and Writ of Demolition, on the ground that the RTC had no authority to issue the writs. However, Judge Vianzon merely noted the motion to quash.

Consequently, on July 28, 2000, the writs in question were enforced. The personal belongings of the spouses Mina were removed and their house was demolished.

Hence, the present complaint.

Respondent judge in his Comment states:

(1) That the spouses Mina are estopped from questioning the legality of the issuance of the writs of execution and demolition because at the time the motions for this issuance were being heard, their counsel did not manifest any objection to his authority to issue said writs. In fact, complainants actively participated in the hearings thereon and it was only when he had issued orders adverse to them that they questioned his authority;

(2) That if complainants truly believed that he committed an error in issuing the writs of execution and demolition, the complainants should have brought the matter to his attention so that he could have immediately remanded the records of the case to the MTC;

(3) That although he could have readily acted on the Motion for Execution filed as early as October 8, 1998, he in fact deferred ruling upon the same in consideration of the appeal taken by the spouses Mina to the Court of Appeals. He waited until the Court of Appeals' decision had become final and executory, so that said appeal would not be rendered moot if he ordered immediate execution pending appeal; and,

(4) That he denies the allegation that he gave undue benefit, advantage or preference to the spouses Chico. He states that he does not even know them nor has he even met them. He further avers that, if ever there was any bias, partiality or undue advantage and benefit, the same was in favor of the spouses Mina who, "because of pity of the undersigned judge" were able to stay for almost two more years after he had rendered his decision, and it was only after counsel for the prevailing party reiterated their motion for execution, that he finally acted and resolved the same.

Upon evaluation of the parties' pleadings and the evidence on record, the Office of the Court Administrator (OCA) found the petition meritorious, stating that respondent judge's actuation showed a total disregard or ignorance of the elementary provisions of law involved in the case. Thus, the OCA recommended that

Judge Vianzon be fined in the amount of P2,000 and warned that a repetition of the same act would be dealt with more severely.

The findings and recommendations of the OCA are well-taken, except with regard to the penalty.

After a judgment has attained finality, as in this case, Section 1, Rule 39 of the Rules of Court<sup>[4]</sup> applies, viz:

*Sec. 1. Execution upon judgments or final orders.* — Execution shall issue as a matter of right, on motion, upon a judgment or order that disposes of the action or proceeding upon the expiration of the period to appeal therefrom if no appeal has been duly perfected.

If the appeal has been duly perfected and finally resolved, the *execution may forthwith be applied for in the court of origin*, on motion of the judgment obligee, submitting therewith certified true copies of the judgment or judgments or final order or orders sought to be enforced and of the entry thereof, with notice to the adverse party.

*The appellate court may, on motion in the same case, when the interest of justice so requires, direct the court of origin to issue the writ of execution.* (Emphasis ours.)

Section 11, Rule 51 of the Rules of Court also provides:

*Sec. 11. Execution of judgment.* — Except where the judgment or final order or resolution, or a portion thereof, is ordered to be immediately executory, the motion for its execution may only be filed in the proper court after its entry.

It is, therefore, clear that in the execution of the judgment in ejectment cases, the issuance of a demolition order is within the jurisdiction of the Municipal Trial Court which rendered the decision. The Regional Trial Court that affirms the decision of the Municipal Trial Court cannot order execution of its judgment. The exception is when the Regional Trial Court grants execution pending appeal.

In the present case, the execution ordered by the respondent judge was not one in a case pending appeal. For the decision of the Court of Appeals was rendered on September 22, 1999 and the same became final and executory on October 16, 1999. The order granting the motion for execution was issued on April 12, 2000. By the latter date, the judgment of the Court of Appeals had already become final and executory, depriving the RTC of jurisdiction to issue the order. It is of no moment that the motion for execution was filed on October 8, 1998.

Relevant herein is the ruling in *City of Manila v. Court of Appeals*, 204 SCRA 362, 369 (1991):

The rule is that if the judgment of the Metropolitan Trial Court is appealed to the Regional Trial Court and the decision of the latter is itself elevated to the Court of Appeals, whose decision thereafter becomes final, the case should be remanded through the Regional Trial Court to the Metropolitan Trial Court for execution. The only exception is the execution pending appeal, which can be issued by the Regional Trial Court under