

## FIRST DIVISION

[ A.M. No. RTJ-04-1863, October 22, 2004 ]

**ATTY. JOSE ALFONSO M. GOMOS, FUND FOR ASSISTANCE TO PRIVATE EDUCATION (FAPE), COMPLAINANTS, VS. JUDGE SANTOS B. ADIONG, REGIONAL TRIAL COURT, BRANCH 8, MARAWI CITY, RESPONDENT.**

### D E C I S I O N

#### **YNARES-SATIAGO, J.:**

In two verified complaints dated March 12, 2001 and March 22, 2001 filed with the Office the Court Administrator (OCA), Sultan Sabdulah Ali Pacasum, in his capacity as President and Chairman of Pacasum College, Inc., Atty. Alfonso M. Gomos and Dr. Roberto T. Borrromeo, as counsel and President of the Fund for Assistance to Private Education (FAPE) respectively, charged respondent Judge Santos B. Adiong of RTC, Branch 8, Marawi City with gross ignorance of law, abuse of authority and gross misconduct.

The antecedent facts are as follows:

On February 26, 2001, Saripada Ali Pacasum filed Special Civil Action No. 690-01 for mandamus with application for preliminary mandatory injunction against FAPE. He alleged that FAPE was required by law to pay subsidy to Pacasum College, Inc. under the Educational Service Program of the Department of Education, Culture and Sports (DECS); that although the DECS has already released to FAPE the total amount of P746,000,000.00 for payment to different participating schools, FAPE refused to release to Pacasum College, Inc. the sum of P1,845,040.00 which represented the remaining unpaid collectible of the said institution for the school year 2000-2001; that the continued refusal by FAPE to release the said amount has caused the school to fail in its obligation to pay the salaries of its teachers for 3 months.

On the same day the petition was filed, respondent judge granted<sup>[1]</sup> the application for preliminary mandatory injunction upon the posting by the petitioner of a surety or property bond in the amount of P200,000.00.

On February 28, 2001, the respondent judge issued another order directing the president of FAPE, Dr. Roberto T. Borrromeo, "to prepare and issue a check for P1,845,040.00 representing the payment to the Pacasum College, Inc. x x x payable to its president and chairman Saripada Ali Pacasum, the petitioner herein."<sup>[2]</sup> On the same day, Sheriff Acmad Alipanto served upon FAPE, through its president, summons and a copy of the petition.

On March 5, 2001, FAPE filed a Petition for Certiorari and Prohibition docketed as CA-G.R. No. 63533<sup>[3]</sup> before the Court of Appeals, challenging the Orders, both

dated February 26, 2001, issued by the respondent judge. It argued that a pending ownership dispute between Sultan Sabdulah Ali Pacasum and Saripada Ali Pacasum over the shares of the Pacasum College before the Securities and Exchange Commission precludes the release of the remaining balance of the subsidy to Pacasum College under the ESC Program, which requires that any dispute must be settled first before the release could be made. The petition further stated that the RTC of Marawi City has no jurisdiction to enforce the writs of mandamus and preliminary injunction to FAPE, in its principal office in Makati City, since the place is outside the 12th judicial region where it belongs.<sup>[4]</sup> FAPE also prayed for the issuance of a TRO against Saripada Ali Pacasum and his agents who have been harrassing its employees with hourly calls and threats of bodily harm.

On March 9, 2001, Sheriff Acmad Alipanto and Saripada Ali Pacasum served an Order dated March 7, 2001, which was allegedly issued on a mere ex-parte motion by Saripada Ali Pacasum, reiterating the Orders of February 26, 2001 with a warning that "failure to comply would be under pain of contempt of court."<sup>[5]</sup> On March 13, 2001, Saripada Ali Pacasum together with a Makati policeman served warrant of arrest upon Dr. Borromeo.

On March 14, 2001, the Court of Appeals issued a TRO enjoining the respondent judge from enforcing the orders of February 26, 2001. Despite the TRO, respondent judge ordered the arrest of Dr. Borromeo and certain FAPE employees for failure to comply with his directive. Two of FAPE's employees, namely: Evangeline Domondon and Nenita Torres, were subsequently arrested and detained.

On March 12, 2001, Sultan Sabdulah Ali Pacasum filed a letter complaint before the OCA charging the respondent judge with gross ignorance of the law and gross misconduct. On March 22, 2001, a similar letter-complaint was filed by Atty. Jose Gomos on the same ground that the respondent judge violated the hearing, notice and jurisdictional requirements of the Rules of Court in issuing the questioned orders of February 26 and 28, 2001.

In his Comment, respondent judge claimed that he took cognizance of Special Civil Action No. 690-10 after it was raffled to his court. He found that the pleadings were in order; that after a careful examination of the pleadings submitted by the petitioner, he saw an extreme necessity to resolve the case expeditiously; and that all the pending incidents has been rendered moot and academic with the dismissal of Special Civil Action No. 690-10.

After evaluation of the records, the OCA found that the respondent judge was liable for gross ignorance of the law, oppression and abuse of authority; that the respondent, as the Presiding Judge of RTC, Marawi City, has no authority to enforce a preliminary injunction in Makati City where the principal office of FAPE was located; that he violated the rights of FAPE employees when he summarily cited them in contempt without regard to the procedure prescribed by the Rules of Court. He abused his authority when he issued a warrant of arrest on May 25, 2001 despite a TRO issued by the Court of Appeals. Accordingly, the OCA made the following recommendations:

1. This matter be re-docketed as a regular administrative case against the respondent judge;

2. Respondent judge be found guilty of gross ignorance of the law and the rules;
3. Respondent judge be meted with the penalty of FINE in the sum of Forty Thousand Pesos (P40,000.00).<sup>[6]</sup>

Upon being directed by the Court,<sup>[7]</sup> complainants manifested their willingness to submit the case for decision on the basis of the pleadings submitted.<sup>[8]</sup> Respondent judge, on the other hand, failed to file his manifestation hence, the Court was constrained to dispense with the filing thereof.

We agree with the recommendations of the OCA, except as to the penalty.

Respondent judge granted Saripada Ali Pacasum's application for preliminary mandatory injunction on the very same day the Special Civil Action No. 690-01 was filed on February 26, 2001. Sections 4(c) and 5, Rule 58 of the 1997 Rules of Civil Procedure<sup>[9]</sup> is very explicit that the writ of preliminary injunction may issue only after prior notice and hearing upon the adverse party. In issuing the subject writ on the very same day the application was filed and considering that the person against whom the same was to be served was located in Makati, summons could not have been served upon them or a hearing conducted in evident disregard of the due process requirements of the Rules of Court.

Respondent judge's failure to comply with procedural due process is aggravated by his total inattention to the parameters of his jurisdiction. As the presiding judge of RTC, Marawi City, he should have known that Makati City was way beyond the boundaries of his territorial jurisdiction insofar as enforcing a writ of preliminary injunction is concerned. Section 21(1) of B.P. Blg. 129, as amended, provides that the RTC shall exercise original jurisdiction in the issuance of writs of certiorari, prohibition, mandamus, quo warranto, habeas corpus and injunction which may be enforced in any part of their respective regions. The rationale, as explained in *Embassy Farms, Inc. v. Court of Appeals*,<sup>[10]</sup> is "that the trial court has no jurisdiction to issue a writ of preliminary injunction to enjoin acts being performed or about to be performed outside its territorial jurisdiction."

In the case at bar, the issuance of the writ of preliminary injunction is not a mere deficiency in prudence, or lapse of judgment on the part of respondent judge but a blatant disregard of basic rules constitutive of gross ignorance of the law. The responsibility of judges to keep abreast of the law and changes therein, as well as with the latest decisions of the Supreme Court, is a pressing need. One cannot seek refuge in a mere cursory acquaintance with the statute and procedural rules. Ignorance of the law, which everyone is bound to know, excuses no one – not even judges.<sup>[11]</sup>

Respondent judge is likewise guilty of gross ignorance of the law for summarily punishing FAPE's president and employees without any written charge for indirect contempt or giving them any opportunity to explain their refusal to obey the court's order, as mandated by Section 3, Rule 71 of the 1997 Rules of Civil Procedure.<sup>[12]</sup> What makes the act more reprehensible was the four FAPE employees cited for contempt, two of whom were arrested and detained with the exception of Dr. Borromeo, were not even impleaded in Special Civil Action No. 690-10. Worse, the