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THIRD DIVISION

[A.M. No. RTJ-01-1630, April 09, 2003]

HEINZ R. HECK, COMPLAINANT, VS. JUDGE ANTHONY E. SANTOS, RESPONDENT.

D E C I S I O N

CARPIO MORALES, J.:

By a verified complaint[1] dated March 9, 2001, Heinz R. Heck (complainant) prays that disbarment and other disciplinary sanctions be meted against respondent Judge Anthony E. Santos (respondent).

The facts which spawned the filing of the complaint are not disputed.

In Civil Case No. 94-334, "*Vinas Kuranstalten Gesmbh, Bearthold Rindlefleisch and Candido Flor v. Lugait Aqua Marine Industries and Heinz R. Heck*," lodged at the Regional Trial Court, Branch 19, Cagayan de Oro City, the therein defendants of which complainant was one filed a June 21, 1994 Motion to Dismiss the case on the ground that the trial court has no jurisdiction over the case, the dispute being an intra-corporate matter which was at the time within the exclusive jurisdiction of the Securities and Exchange Commission. The motion was denied by respondent.[2]

Counsel for the therein defendants, Atty. Samuel Jardin, subsequently filed a motion to withdraw as counsel which was, by Order of April 1, 1996, granted by respondent who reset the hearing of even date to June 10 and 11, l996.[3] On the scheduled hearing of the case on June 10, 1996, as the defendants never received a copy of the April 1, 1996 Order, neither they nor their counsel showed up. What transpired on June 10, 1996 is reflected in the Order[4] of even date issued by respondent:

> When this case was called for continuation of trial today, only Atty. Manuel Singson [counsel for the plaintiff] appeared. Defendants and counsel did not, despite due notice.
>
> All the exhibits presented and reserved by the plaintiffs are now admitted by the Court for the purposes for which they are offered.
>
> As prayed for by Atty. Manuel Singson, defendants LAMI and Heinz R. Heck are considered as having waived their right to present their evidence.
>
> The case is submitted for decision.
>
> **Atty. Manuel Singson is hereby authorized to draft the decision.**

SO ORDERED.

xxx

The defendants did not also receive a copy of the above-quoted June 10, 1996 Order.

By Compliance[5] dated August 14, 1996, Atty. Singson submitted a draft decision[6] for respondent's approval.

On October 2, 1996, respondent rendered a decision **which was copied *verbatim*** from the draft decision submitted by Atty. Singson.[7]

Hence, arose the present administrative complaint against respondent 1.) for violating Section 1, Rule 36 of the Revised Rules of Court which reads:

> SECTION 1. *Rendition of judgments and final orders*. — **A judgment or final order determining the merits of the case shall be in writing, personally and directly prepared by the judge,** stating clearly the facts and the law on which it is based, signed by him, and filed with the clerk of court. (Italics in the original; emphasis and underscoring supplied);

2.) For violating the Code of Judicial Ethics, respondent having in the course of the hearing of the case stepped down the rostrum and mingled with Atty. Singson;[8] 3.) for gross ignorance of the law, incompetence and violation of the 1987 Constitution when in his decision, he granted to the plaintiffs Vinas Kuranstalten Gesmbh, an Austrian corporation, and Bearthold Rindlefleisch, an Austrian citizen, 40% pro-indiviso share in the parcels of land in Lugait, Misamis Oriental and directed the therein defendant-herein complainant to execute a real estate mortgage on the remaining portion of the parcel of land covered by TCT No. 272.[9]

By Comment[10] dated August 10, 2001, respondent gives his side of the case as follows:

After a careful and thorough study of the motion to dismiss, he was convinced that the RTC, not the SEC, has jurisdiction over the case, and finding that there were genuine issues raised therein, he deemed it best to conduct a trial on the merits rather than dismiss the complaint outright.[11]

With respect to complainant's failure to receive the April 1, 1996 Order, respondent avers that he should not be faulted therefor, for the parties, during the hearing of January 29, 1996, jointly moved that the hearing of the defendants' objection to the plaintiffs' formal offer of exhibits and the presentation of the defendants' evidence be set on April 1 and 2, 1996, despite which none of the parties appeared on April 1, 1996; instead, the trial court received a motion to withdraw as the defendants' counsel filed by Atty. Jardin, prompting him (respondent) to issue the Order of April 1, 1996 resetting the hearing to June 10 and 11, 1996 and directing the defendants to engage the services of a new counsel.[12]

Respondent avers that since the two envelopes, each containing a copy of the April

1, 1996 Order, which were addressed to the defendants were returned to the court ("Return to Sender") "unclaimed," service of said order was deemed complete five days from receipt of the first notice issued by the postmaster.[13] Respondent adds that, at all events, it was incumbent upon the defendants to personally check what transpired on April 1, 1996.

With respect to the June 10, 1996 Order, respondent apologizes for the "inadvertence and plain oversight" of the court personnel in still sending a copy thereof to Atty. Jardin, whom they thought was still the defendants' counsel of record,[14] instead of to the defendants. He nevertheless points out that had defendants been vigilant, they would have known about the hearing scheduled on June 10, 1996 and made sure that they were represented by counsel thereat. Respondent concludes that the defendants' negligence and seeming disinterest in pursuing their defense drew the plaintiffs to move that they be deemed to have waived their right to present evidence, leaving him no choice but to grant the same. [15]

On his order to the counsel for the plaintiffs to draft the decision, respondent explains that he did so on the premise that the defendants were considered to have waived their right to present evidence, thus leaving the plaintiffs' evidence uncontroverted. To him, the order is consistent with his practice of promptly disposing of cases before him.[16]

As for his adoption *verbatim* of the draft decision prepared by the plaintiffs' counsel, respondent submits that he did so after a very careful and thorough study of all the evidence presented, adding that had he been motivated by anything less than good faith, he would have refrained from ordering the plaintiffs' counsel to draft the decision.[17]

As to the allegation that he stepped down the rostrum and mingled with the plaintiffs' counsel, respondent brands it as a figment of complainant's imagination and a desperate attempt to discredit him.[18]

Finally, on the charge of gross ignorance of the law, respondent denies the same and avers that *assuming arguendo* that he committed errors in his judgment, they could be corrected on appeal.[19]

In its Evaluation, Report and Recommendation,[20] the Office of the Court Administrator (OCA) made the following findings with the corresponding recommendation:

x x x

> It is our observation that the filing of the instant complaint against the respondent judge for: (a) denying the motion to dismiss; (b) granting plaintiff Vinas Kuranstalten Gesmbh a 40% pro-indiviso shares of parcels of land in Lugait, Misamis Oriental and (d) [sic] directing the defendant (herein complainant) to execute a real estate mortgage on the rest of the portion of a parcel of land covered by TCT No. 272 (10272) of Misamis Oriental, will not help complainant's cause. <u>These are judicial issues and there are judicial remedies available to him. Assailing the wisdom of the</u>