

THIRD DIVISION

[A.M. No. MTJ-02-1459, October 14, 2003]

IMELDA Y. MADERADA, COMPLAINANT, VS. JUDGE ERNESTO H. MEDIODEA, 12TH MUNICIPAL CIRCUIT TRIAL COURT, CABATUAN AND MAASIN, ILOILO, RESPONDENT.

DECISION

PANGANIBAN, J.:

Under the Rules of Court, parties to a case in a first-level court may -- without having to resign from their posts -- conduct their own litigation in person as well as appear for and on their own behalf as plaintiffs or defendants. However, appearing as counsel on behalf of a co-plaintiff subjects the employee to administrative liability.

The Case and the Facts

A Complaint ^[1] dated January 3, 2002, was filed by Imelda Y. Maderada against Judge Ernesto H. Mediodea of the 12th Municipal Circuit Trial Court (MCTC) of Cabatuan and Maasin, Iloilo. In the Complaint, the judge was charged with "gross ignorance of the law amounting to grave misconduct" for failing "to observe and apply the Revised Rule on Summary Procedure" in Civil Case No. 252. ^[2]

On September 7, 2001, complainant filed before the 12th MCTC of Cabatuan and Maasin, Iloilo -- presided over by Judge Erlinda Tersol -- an action for forcible entry with a prayer for preliminary injunction, temporary restraining order (TRO) and damages ^[3] covered by the Rule on Summary Procedure. Because complainant was the clerk of court in the aforesaid sala, Judge Tersol inhibited herself from the case. Thus, Executive Judge Tito Gustilo designated respondent judge to hear and decide the case.

In an Order ^[4] dated September 13, 2001, respondent required the defendants in the civil case to show cause why the preliminary injunction should not be granted. Respondent judge scheduled the hearing on September 21, 2001, but defendants therein filed a Manifestation ^[5] on September 17, 2001, praying that they be given an additional period of ten days to file an answer. After the September 21 hearing, respondent reset the hearing to September 28, 2001. ^[6] Meanwhile, the defendants filed their Opposition ^[7] to complainant's prayer for preliminary injunction and TRO. The September 28 hearing was held in abeyance after the defendants' lawyer questioned the authority of complainant to appear on behalf of and as counsel for her co-plaintiff. ^[8] Respondent gave the defendants ten days ^[9] to file a motion to disqualify complainant from appearing as counsel and thereafter to complainant to file her opposition thereto.

In his Order [10] dated October 19, 2001, respondent denied the defendants' Motion [11] to disqualify complainant from appearing on behalf of and as counsel for her co-plaintiff.

Complainant filed a total of three Motions [12] praying for judgment to be rendered on the civil case. In an Order [13] dated October 19, 2001, respondent denied complainant's Motions because of the pending hearing for the issuance of a restraining order and an injunction. He likewise denied the defendants' Motion for extension of time to file an answer. [14] Complainant did not ask for a reconsideration of the denial of her Motion for Rendition of Judgment.

In his Comment [15] on the Complaint, respondent contends that complainant filed a Petition for his inhibition after filing two administrative cases against him. He argues that the mere filing of administrative charges against judges is not a ground for disqualifying them from hearing cases. In the exercise of their discretion, however, they may voluntarily disqualify themselves. It is worth noting that respondent later inhibited himself from Civil Case No. 252. The case was then reassigned to Judge Loida Maputol of the 14th MCTC, San Miguel-Alimodian-Leon, Iloilo.

Respondent avers that the delay in the resolution of the case cannot be attributed to him, considering that he was mandated by law and the rules of procedure to pass upon every motion presented before him. [16] Besides, complainant allegedly failed to present evidence necessary for the immediate resolution of her prayer for preliminary injunction. [17] Moreover, she supposedly failed to exhaust the remedies available to her to question the validity of his Orders. Instead, she tried to compel him to render a decision on the case. [18]

Respondent likewise refutes complainant's assertion that she appeared as counsel on her own behalf because she could not afford the services of a lawyer. Such claim was allegedly without basis, since her compensation and other benefits as clerk of court were more than enough to pay for the services of counsel. [19] He further alleges that she did not secure authority from this Court to appear as counsel, and that she failed to file her leave of absence every time she appeared in court. [20]

Evaluation and Recommendation of the Court Administrator

The OCA agreed with respondent that the issuance of the preliminary injunction prayed for in the Complaint should first be resolved before judgment should be rendered in the principal action. However, it opined that the prayer for preliminary injunction should have been decided within 30 days from the filing thereof. It noted that both the motion for preliminary injunction and the principal action for forcible entry remained unresolved even after four months had already lapsed since the filing of Civil Case No. 252.

Accordingly, the OCA recommended that respondent judge be fined in the amount of P1,000 with a stern warning that a similar infraction in the future would be dealt with more severely. [21]

It did not, however, find complainant completely faultless. It therefore undertook another round of investigation, the subject of which was complainant's appearance in court as counsel for herself and on behalf of her co-plaintiff without court authority.

According to the OCA, officials and employees of the judiciary must devote their full time to government service to ensure the efficient and speedy administration of justice. Although they are not absolutely prohibited from engaging in a vocation or a profession, they should do so only with prior approval of this Court. The OCA added that "[e]ngaging in any private business, vocation or profession without prior approval of the Court is tantamount to moonlighting, which amounts to malfeasance in office." [22]

Thus, it recommended that Complainant Maderada be fined in the amount of P1,000 for appearing as counsel without authority from this Court, with a stern warning that any similar infraction in the future would be dealt with more severely. The OCA also recommended that she be directed to file her application for leaves of absence on the days she had appeared in court to litigate her case.

The Court's Ruling

We agree with the findings and recommendations of the OCA, but modify the penalty to conform to the rules.

Administrative Liability

The Rules of Court clearly provide that actions for forcible entry and unlawful detainer, regardless of the amount of damages or unpaid rentals sought to be recovered, shall be governed by the Rule on Summary Procedure. [23] These actions are summary in nature, because they involve the disturbance of the social order, which should be restored as promptly as possible. [24] Designed as special civil actions, they are governed by the Rules on Summary Procedure to disencumber the courts from the usual formalities of ordinary actions. [25] Accordingly, technicalities or details of procedure that may cause unnecessary delays should be carefully avoided. [26] The actions for forcible entry and unlawful detainer are designed to provide expeditious means of protecting actual possession or the right to possession of the property involved. Both are "time procedures" designed to bring immediate relief. [27]

Moreover, as correctly observed by the OCA, in an action for forcible entry, parties are entitled to the provisional remedy of preliminary injunction.

A preliminary injunction is an order granted at any stage of court actions or proceedings prior to the judgment or final order, requiring a party or a court, an agency or a person to refrain from doing a particular act or acts. [28] It may also require the performance of a particular act or acts, in which case it is known as a preliminary mandatory injunction. [29] Since this remedy is granted prior to the judgment or final order, we agree with both the OCA and respondent that the prayer for preliminary injunction should first be resolved before the main case of forcible

entry is decided.

However, respondent should have resolved the Motion for Preliminary Injunction within 30 days from its filing. There can be no mistaking the clear command of Section 15 of Rule 70 of the Rules of Court, which reads:

"Sec. 15. Preliminary injunction -- The court may grant preliminary injunction, in accordance with the provisions of Rule 58 hereof, to prevent the defendant from committing further acts of dispossession against the plaintiff.

"A possessor deprived of his possession through forcible entry or unlawful detainer may, within five (5) days from the filing of the complaint, present a motion in the action for forcible entry or unlawful detainer for the issuance of a writ of preliminary mandatory injunction to restore him in his possession. *The court shall decide the motion within thirty (30) days from the filing thereof.*" (Italics ours)

Judges have no other option but to obey. In fact, the provision uses the word "shall" to evince its mandatory character. We cannot subscribe to the belief of respondent that since there was a prayer for the issuance of a preliminary injunction, the main case for forcible entry would have to wait until after he shall have decided the injunction plea, no matter how long it took. If that were so, then the main case would lose its summary nature.

Respondent should have known that since a prayer for preliminary injunction is merely a provisional remedy in an action for forcible entry, it should lend itself to the summary nature of the main case. This is the very reason why the Rules of Court mandate that a preliminary injunction in a forcible entry case be decided within 30 days from its filing. Preliminary injunctions and TROs are extraordinary remedies provided by law for the speedy adjudication of an ejectment case in order to save the dispossessed party from further damage during the pendency of the original action.

Time and time again, this Court has impressed upon judges the need to decide, promptly and judiciously, cases and other matters pending before their courts. [30] To a large extent, the public's faith and confidence in the judicial system is boosted by the judicious and prompt disposition of cases and undermined by any delay thereof. [31] Judges are thus enjoined to decide cases with dispatch.

Their failure to do so constitutes gross inefficiency and warrants the imposition of administrative sanction on them. Rule 3.05 of the Code of Judicial Conduct specifically obliges judges to dispose of the court's business promptly and decide cases within the required periods. Often have we ruled that their inability to decide a case within the required period is not excusable and constitutes gross inefficiency. [32] To avoid sanction, they should ask this Court for an extension and give their reasons for the delay.

Although respondent is correct in asserting that he is mandated to rule on every motion, he cannot use this excuse to evade the clear command of the rule that cases should be decided within the prescribed period. This Court notes with concern the plethora of motions and pleadings filed in this case, which should have been

tried under the Rules of Summary Procedure. Yet, even after four months had lapsed since the filing of the original Complaint for forcible entry, the prayer for preliminary injunction and the main case remained unresolved.

Respondent is reminded that in order to meet the deadlines set for deciding cases, judges should at all times remain in full control of the proceedings in their sala. [33] They should not be at the mercy of the whims of lawyers and parties, for it is not the latter's convenience that should be the primordial consideration, but the administration of justice. [34]

To reiterate, judges are bound to dispose of the court's business promptly and to decide cases within the required period. They are called upon to observe utmost diligence and dedication in the performance of their judicial functions and duties. As held by this Court in *Gallego v. Acting Judge Doronila*: [35]

"We cannot countenance such undue delay by a judge especially at a time when the clogging of court dockets is still the bane of the judiciary whose present leadership has launched an all-out program to minimize, if not totally eradicate, docket congestion and undue delay in the disposition of cases. Judges are called upon to observe utmost diligence and dedication in the performance of their judicial functions and duties." [36]

The prompt disposition of cases becomes even more pronounced when a municipal trial court is called upon to decide a case governed by the Rules of Summary Procedure. As eloquently put by Justice Jose C. Vitug, speaking for the Court in *Cruz Jr. v. Judge Joven*: [37]

"x x x. Being the paradigm of justice in the first instance, a municipal trial court judge, more than any other colleague on the bench, is the immediate embodiment of how that trust is carried out. In the evolvment of the public perception on the judiciary, there can likely be no greater empirical data that influences it than the prompt and proper disposition of cases before the courts." [38]

We have often held that failure to decide cases and other matters within the reglementary period constitutes gross inefficiency and warrants the imposition of administrative sanctions against erring judges. Given the facts of this case, a fine of P10,000 is appropriate pursuant to current jurisprudence [39] and Rule 140. [40]

As to Complainant Maderada, the OCA recommended that she be fined in the amount of P1,000 for supposedly engaging in a private vocation or profession without prior approval of the Court. The Office of the Court Administrator held that her appearance as counsel for herself and on behalf of her co-plaintiff was tantamount to moonlighting, a species of malfeasance in office.

Since complainant was charged with engaging in a private vocation or profession when she appeared on her own behalf in court, the necessary implication was that she was in the practice of law. We clarify. A party's right to conduct litigation personally is recognized by law. Section 34 of Rule 138 of the Rules of Court provides: