

SECOND DIVISION

[AM-MTJ-00-1311 [Formerly AM-OCA-IPI-97-400-MTJ], October 03, 2003]

SILVESTRE H. BELLO III, PETITIONER, VS. JUDGE AUGUSTUS C. DIAZ AND DEPUTY SHERIFF EFREN P. LUNA, METC, BRANCH 37, QUEZON CITY, RESPONDENTS.

RESOLUTION

AUSTRIA-MARTINEZ, J.:

Disciplinary proceedings against judges do not complement, supplement or substitute judicial remedies, whether ordinary or extraordinary. An inquiry into their administrative liability arising from judicial acts may be made only after other available remedies have been settled.^[1]

We are called upon to reiterate this dictum in the administrative matter before us.

In a letter-complaint dated November 21, 1997 filed before the Office of the Court Administrator (OCA), then Solicitor General Silvestre H. Bello III charged Judge Augustus C. Diaz of the Metropolitan Trial Court of Quezon City (Branch 37) with Rendering an Unjust Decision in Civil Case No. 37-17388, entitled "Spouses Jose B. Luriz and Amelia M. Luriz vs. Victor S. Clavel". He likewise charged Deputy Sheriff Efren P. Luna of the same court with Grave Abuse of Authority for implementing the writ of execution issued in said decision.

In Civil Case No. 37-17388, respondent Judge rendered a Decision dated September 15, 1997 ordering Clavel and "all persons claiming rights under him, or whoever is found in possession of subject properties" to immediately vacate Lots 8 and 10 of Block 260 located at No. 68-A Maria Clara Street, Quezon City and restore peaceful possession thereof to plaintiffs spouses Luriz.

Upon motion of plaintiffs for immediate execution, respondent Judge issued an Order dated October 20, 1997 granting the issuance of a writ of execution. Subsequently, respondent Deputy Sheriff implemented the writ of execution against "those found in possession of subject properties" - the Philippine Orthopedic Center (POC) and its personnel.

Complainant claims:

Respondent Judge rendered an unjust decision because the ejectment case is a personal action against Clavel, the Administrator of POC, and POC was not impleaded as a party defendant. The POC is the owner of the disputed property and has been in continuous and peaceful possession of the same since 1953 by virtue of Proclamation Nos. 438 (Series of 1953) and 732 (Series of 1961). As such, the ejectment

decision could only be enforced against Clavel and not against "whosoever is found in possession of subject properties." Respondent Judge ensured the unjust ejectment of the POC and its personnel by issuing: (a) the Order dated October 20, 1997 which granted plaintiff's motion for immediate execution without the required 3-day notice of hearing; (b) the Order dated October 27, 1997 which denied defendant Clavel's motion for reconsideration and motion to suspend implementation of the writ of execution that was issued without the benefit of a hearing; and, (c) the Order dated October 28, 1997 which denied defendant Clavel's appeal on the false premise and flimsy ground that the appellate court docket fee was not paid on time. The writ of execution issued on a wrongful decision was wrongfully implemented by respondent Deputy Sheriff resulting in prejudice and irreparable damage to the Government, POC and its other concerned personnel who were all ejected from the properties in question.

In his Answer, dated February 25, 1998, respondent Judge counters:

The decision was rendered based on the evidence presented and the applicable law. The term or phrase used in the decision is in accordance with Section 1 of Rule 70 of the Rules of Court, which provides, "may . . . bring an action in the proper Municipal Court against the person or persons unlawfully withholding or depriving of possession, or any person or persons claiming under them, for the restitution of such possession". Considering that POC is claiming a right to use the property because of Presidential Proclamation No. 732 dated February 28, 1961 giving it the right to use the property subject to private rights, if there be any, and considering further that the named defendant, Clavel, as Administrator of POC, is using the premises along with the personnel and employees of the POC because of his sanction, it is but proper to consider the employees and personnel, and other people using the premises, as claiming rights under Clavel. The Solicitor General has no basis for questioning the jurisdiction of respondent Judge. The lawyers of the Office of the Solicitor General (OSG) handled the case for the defendant in the trial court until it was decided. The OSG manifested that it considers the case as a government case and not a personal case against Clavel alone as a private person. Thus, they are estopped from claiming that this case is solely against Clavel. Besides, when a government corporation or agency is sued, it is the officers or administrators who are named as the defendants or respondents. Clavel being the Administrator of POC should be the one and is in fact the one named as the defendant. There is no truth that respondent Judge issued the two assailed orders without the required 3-day notice of hearing since the record belies the same. The letter-complaint should have been the proper subject of an appeal instead of using the OCA as an alternative recourse for complainant's failure to perfect the appeal in accordance with Section 19 of Rule 70 of the Rules of Court. Besides, the administrative complaint is premature because the assailed decision of respondent Judge was elevated to the Regional Trial Court (RTC) of Quezon City (Branch 80) via a petition for certiorari, prohibition and mandamus, docketed as Civil Case No. Q-97-32730, entitled "Victor S. Clavel vs. Honorable Judge Augustus C. Diaz, et al."

In a Letter dated August 17, 1998, Assistant Solicitor General Cecilio O. Estoesta submitted to the OCA, copies of additional evidence, which were also filed before the RTC of Quezon City (Branch 80) allegedly showing that the subject lots are properties of the Government.

For his part, respondent Deputy Sheriff, in his Answer dated February 2, 2000, explains that his enforcement of the writ of execution issued by respondent Judge was simply in accordance with the functions of his office and he exercises no discretion on whether or not to enforce the same.

In its Evaluation Report dated July 18, 2000, the OCA recommends to the Court that the administrative complaint be dismissed for lack of merit since any action that it may take is premature as the questioned decision was elevated to the RTC of Quezon City (Branch 80) via a petition for *certiorari*, prohibition and *mandamus*, docketed as Civil Case No. Q-97-32730; that administrative liability for rendering an unjust decision does not immediately arise from the sole fact of a judge issuing a decision, resolution or order later adjudged to be erroneous; and that it must be shown beyond doubt that the judgment is contrary to law or is not supported by the evidence, and was made with conscious and deliberate intent to do an injustice.

With respect to respondent Deputy Sheriff, the OCA opines that the sheriff cannot be blamed for implementing the writ of execution because when a writ is placed in the hands of a sheriff, it is his ministerial duty to proceed with reasonable celerity and promptness to execute it in accordance with its mandate.

In a Resolution dated August 30, 2000, we resolved to: (a) docket the case as a regular administrative matter; (b) require respondent Judge to comment on the status of Civil Case No. Q-97-32730 pending before the RTC of Quezon City (Branch 80); and, (c) hold action on the administrative case until said RTC case is resolved.

In a letter dated September 29, 2000, respondent Judge informed the Court that the parties in Civil Case No. Q-97-32730 were directed to file their respective memoranda within 30 days from September 30, 2000, after which, the RTC case will be deemed submitted for decision.

Thereafter, in a letter dated September 26, 2002, respondent Judge informed the Court that the RTC of Quezon City rendered a Decision dated December 7, 2000 in Civil Case No. Q-97-32730 dismissing the petition for *certiorari*, prohibition and *mandamus* and upholding his decision. He thus prays that the administrative matter be submitted for resolution and accordingly dismissed.

In view of the foregoing, we referred this administrative matter back to the OCA for re-evaluation, report and recommendation.

In a Memorandum dated March 7, 2003, the OCA reiterated its recommendation for the dismissal of herein administrative complaint considering that the RTC of Quezon City upheld the decision of respondent Judge in Civil Case No. 37-17388.

In a Resolution dated April 21, 2003, we directed the OCA to verify and report to the Court if the decision in Civil Case No. Q-97-32730 had already become final and executory.