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[A.M. No. RTJ-01-1620, March 18, 2002]

SPOUSES ADRIANO AND HILDA MONTEROLA, COMPLAINANTS, VS. JUDGE JOSE F. CAOIBES, JR., RESPONDENT.

R E S O L U T I O N

DAVIDE JR., C.J.:

On 15 March 1999, the Regional Trial Court of Las Piñas City, Branch 253, through respondent Judge Jose F. Caoibes, Jr., promulgated a decision in favor of herein complainants Spouses Adriano and Hilda Monterola in Civil Case No. LP-98-0141. The dispositive portion of said decision reads:

> IN VIEW OF THE FOREGOING, judgment is rendered as follows:
>
> 1. Defendants are ordered to pay the plaintiffs the amount of Two Hundred Seven Thousand Seven Hundred Eight Pesos (P207,708.00); less the amount for capital gains and documentary taxes, with interest at the rate of 6% per annum from the time of the filing of the complaint until the same has been fully paid.
>
> 2. Defendants are likewise enjoined from effecting further construction/renovation works over the subject property until after possession and ownership of the same are formally delivered to them by full payment of the agreed purchase price.
>
> Costs against defendants.

On 3 September 1999, the complainants filed with the Office of the Court Administrator a verified complaint against the respondent for unreasonable refusal to grant their motions for execution, and dereliction of duty. They alleged therein as follows:

1. They filed a Motion for Execution on 28 April 1999, since the defendants Spouses Mario and Mavis Delgado did not appeal the decision and the period of appeal had already lapsed;

2. Judge Caoibes refused to grant the motion;

3. Thereafter or on 13 May 1999, the Delgados filed a Motion to Accept Deposit of Chinabank Check in the amount of P81,000 and set the motion for hearing on 21 May 1999;

4. On said date, complainants appeared in court and rejected the offer, as it did not conform with the amount stated in the decision; they then formally filed an opposition to the Delgados' motion and prayed anew for the issuance of a writ

of execution;

5. But, to their consternation and in spite of the non-appearance of the Delgados or their counsel on this date, Judge Caoibes refused to grant the motion for issuance of a writ of execution; instead he ordered the parties to meet before his Clerk of Court to discuss about the deposited check on 30 May 1999 at 8:30 a.m., which was reset to 10 June 1999.

6. On 10 June 1999, the Delgados arrived late only to move for the resetting of the meeting, as their counsel was allegedly indisposed; and

7. On 24 June 1999, complainants filed an Ex-Parte Motion for Execution stating that they needed the monetary award because, as earlier manifested by complainant Adriano, he was leaving for the United States for a second operation, but Judge Caoibes still refused to issue an order for a writ of execution.

The complaint was initially docketed as OCA IPI No. 99-814-RTJ. In his 1st Indorsement of 30 September 1999, then Court Administrator Alfredo Benipayo referred the verified complaint to Respondent.

In his Comment dated 2 December 1999, respondent Judge denied the allegations in the complaint. He made it clear that he would issue the order for the issuance of the writ of execution but that there was a necessity to determine first the exact amount due the complainants. According to him, this delay could not be considered as dereliction of duty because it was basically due to the sudden resignation of his personnel which gave rise to confusion that affected the disposition of pending matters. Additionally, the motion for execution filed by complainants was a *pro forma* motion for failing to comply with the requirements of Section 5, Rule 15 of the 1997 Rules of Civil Procedure, as it lacked notice of hearing, date of the motion, and proof of service.

Respondent also asserted that it was the complainants who failed to appear on the date of the hearing of the Delgados' Motion to Accept Deposit for the parties to consider his directive to discuss before the Clerk of Court the apparent conflict in the computation of the amount due. The hearing was later reset.

Upon the recommendation of the Court Administrator, we directed the re-docketing of the case as a regular administrative matter and required the parties to manifest whether they were willing to submit the case for resolution based on the pleadings already filed.

In our Resolution of 18 June 2001 we noted the respective Manifestations of the parties, with the complainants stating their willingness to submit the case for resolution on the basis of the pleadings and with the respondent asking for leave to file additional pleadings.

In the Addendum to his Comment dated 21 May 2001, respondent reiterated his argument in his Comment to emphasize that the motion for execution was a mere scrap of paper, and stressed that there is a need to determine the exact amount due the complainants in accordance with his decision before he could issue an order for the issuance of the writ of execution. He prayed for the dismissal of the

complaint.

There is no dispute that the decision of 15 March 1999 of respondent had already become final and executory Execution of the said decision should have issued as a matter of right, in accordance with Section 1, Rule 39 of the 1997 Rules on Civil Procedure, which reads:

> Section 1. *Execution upon judgment 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.

In other words, it becomes a ministerial duty on the part of the court to order execution of its final and executory judgment. This is a basic legal principle which every trial judge ought to know.

In failing to issue the writ of execution in compliance with the clear mandate of the above rule, respondent either deliberately disregarded the rule or demonstrated ignorance thereof. His justifications for his admitted delay in the issuance of the writ, namely, *pro forma* character of the motion for execution, necessity to determine the exact amount and confusion of court records due to the resignation of his key staff, are very flimsy. In attempting to hide his ignorance by anchoring his "inaction" on other provisions of the Rules of Court, respondent all the more manifests a lack of familiarity on the harmonious interplay of the provisions of procedural law.

The alleged *pro forma* character of the motion of execution does not excuse respondent from not issuing, or delaying issuance of, a writ because his judgment is already final and executory. Besides, he had in fact recognized the existence of the motion but simply delayed resolution thereof because of the attempt of the Delgados to delay execution by filing a clearly unnecessary motion. His second justification is nonsensical. He clearly specified in the dispositive portion of his decision the exact amount due the complainants, which is P207,708. The capital gains and documentary taxes, which are deductions therefrom, and the interest rate and cost, which are add-on amounts, are themselves capable of exact determination without need of resorting to complex mathematical computation. The sheriff who will implement the writ of execution will know how to do that. Moreover, the Delgados had not seasonably filed a motion for clarification of the judgment on this point.

There was, therefore, absolutely no need for respondent to direct or compel the parties to meet with the Clerk of Court for the computation of the amount due the complainants. The amount is beyond debate just as the final and executory decision is beyond amendment, change or correction. Basic is the rule that a judge cannot amend a final decision. There is nothing more to be done, in such a case, except to execute the judgment.

Observance of the law, which respondent ought to know, is required of every judge. When the law is sufficiently basic, a judge owes it to his office to simply apply it; anything less than that is either deliberate disregard thereof or gross ignorance of the law. It is a continuing pressing responsibility of judges to keep abreast with the law and changes therein. Ignorance of the law, which everyone is bound to know,