

## **FIRST DIVISION**

**[ A.M. No. RTJ-98-1423, March 10, 1999 ]**

**ROMAN CAGATIN, EMMIE HURBODA, FRANCISCO OLAER  
LEONCIO BUSTAMANTE FRANCISCO RANARIO, JOSE OSIN,  
JORGE PEDIDA, JOSE BATISTING, LUCIO BATISTING,  
SEGUNDINO BOLOTAOLO, DEMOCRITO RANARIO HEIRS OF LOPE  
NAKILA (REPRESENTED BY SURVIVING SPOUSE YOLING  
DAKILA), BONIFACIO BUSCAGAN, MARIANO CAPA, JUAN  
MORALES, GODOFREDO RACHO, ELIZABETH AMARILLO,  
BENIGNO ACAMPADO PEDRO AREGLO, SERVITO BATAO,  
ELEODORO BATISTING, ROGELIO DE CLARO, SILFORO LIBANDO,  
HILARIO MARINAS, ALEJANDRO NOJA, HEIRS OF PEDRITA  
OLAER (REPRESENTED BY THE SURVIVING HUSBAND  
FRANCISCO OLAER), SILFORO MORALES, ANTONIO RETUERTO,  
STELLA FILIPINAS, TEODOLO FILIPINAS, MANSUETO NATAD,  
NATIVIDAD NATAD, AMADO MAGSIGAY, TIMOTEO GOLORAN,  
GREGORIO COQUILLA, ANTONIO CANOY, APOLINARIO PLAZA,  
JESUS GODELOSAO, APOLONIO ANTIPASADO, TERESO  
CAGADAS, LUCIO BERONG, LEONARDO LAPIZ, FRANCISCO  
PAIGAN, FELIX UY, ARTURO ESCOBIDO, JAMES ENGUITO,  
BONIFACIO BUNOL FRANCISCO PATAYAN, SALVADOR CENA,  
BASILIO PAJE, DOMINADOR DAGONDON, FAUSTINO LASTIMADO  
EMPERATREZ MORAN, EUGENIO MIRA, NAGELO PLAZA,  
DEMETRIA ABAY-ABAY ROLANDO GASCON, DORETEO GASCON,  
RIZALINO CUBILLAS, FAUSTINO NAGLAHUS, JOEL PLAZA AND  
ADOLFO LLAGAS, COMPLAINANTS, VS. JUDGE LEONARDO N.  
DEMECILLO, RESPONDENT.**

## **D E C I S I O N**

**MELO, J.:**

In a letter-complaint addressed to the Court through the Court Administrator dated September 25, 1996, herein complainants charged Presiding Judge Leonardo N. Demecillo of Branch 24 of Regional Trial Court of the 10th Judicial Region stationed in Cagayan De Oro City, with grave abuse of authority and inefficiency in relation to orders issued in Civil Case No. 96-213 entitled, "Dominador Calonia v. Roman Cagatin, et al." for attorney's fees, preliminary injunction, and damages, with a prayer for temporary restraining order.

In a decision dated January 29, 1993, the Civil Service Commission ordered the reinstatement of complainants who had been previously dismissed from the Provincial Engineer's Office of Agusan del Sur. In their fight for reinstatement, it appears that complainants had engaged the legal services of Atty. Dominador Calonia, plaintiff in Civil Case No. 96-213 which was raffled to the sala of respondent judge, wherein the plaintiff sought to collect his attorney's fees.

Despite the finality of the decision of the CSC, respondent judge issued an order dated April 11, 1996 granting the prayer for a temporary restraining order and subsequently issued on April 26, 1996 a writ of preliminary injunction directing Atty. Dominador Calonia to put up a P50,000.00 bond and enjoining complainants from collecting or withdrawing their back salaries from the Provincial Treasurer of Agusan del Sur and for the Provincial Treasurer not to release the back salaries pending further orders from the court.

Accordingly, complainants filed a manifestation/motion for the dissolution of the writ of injunction which respondent judge granted, thus:

Wherefore, the manifestation/motion filed by defendants on September 2, 1996 is hereby granted. Consequently, the Writ of Injunction is dissolved but to take effect only after defendants shall have put up a bond conditioned for the payment of all damages which plaintiff may suffer by the dissolution of the injunction, in the sum of P50,000.00

After defendants shall have put up a bond in the aforestated amount, the Provincial Treasurer of Agusan del Sur should release to defendants their backwages if allowed by auditing rules considering that originally, in case of illegally dismissed employees, it is not the local government unit that will be liable but the official who illegally dismissed them.

The Supreme Court in the case of *Corres vs. CFI of Bulacan*, G.R. No. L-46096, July 30, 1979, said:

The public officer who commits a tort as other wrongful act, done in excess or beyond the scope of his duty, is not protected by his office and is personally liable therefore like any private individual. This principle of personal liability has been applied to cases where a public officer removes another officer or discharge an employee wrongfully.

The complaint asserted that Judge Demecillo committed grave abuse of authority when he issued the orders dated April 11 and 26, 1996, thereby preventing complainants from collecting or withdrawing their back salaries; and that while it is true that the writ of preliminary injunction dated April 26, 1996 was dissolved on November 18, 1996, respondent nevertheless imposed upon complainants a condition to put up a bond of P50,000.00 and went on to declare that the local government unit is not liable for the payment of their back salaries, but the official who illegally dismissed them.

As regards the charge of inefficiency, complainants alleged that respondent judge failed to decide the aforementioned Civil Case No. 96-213 despite the lapse of the 90-day period from the time the case was filed on March 28, 1996 or from the time of the submission of their respective pre-trial briefs on May 26 and 28, 1996.

In his comment respondent judge averred that he issued a temporary restraining order after a summary hearing was conducted. On the hearing for the application for preliminary injunction, counsel for complainants had manifested that he would not present evidence to show cause why no writ should be issued, thus, respondent said, he had no recourse but to grant the writ of preliminary injunction, as prayed