

SECOND DIVISION

[**A.M. No. MTJ-98-1150, April 15, 1998**]

OSCAR C. FERNANDEZ, COMPLAINANT, VS. JUDGE LILIA C. ESPAÑOL, MTCC, BRANCH 2, DAGUPAN CITY, RESPONDENT.

DECISION

MENDOZA, J.:

This is a complaint charging respondent judge of the Municipal Trial Court in Cities of Dagupan City with gross ignorance of law, knowingly rendering an unjust interlocutory order (Revised Penal Code, Art. 206) and violation of §3(e) of R.A. No. 3019 by causing undue injury to a party litigant.

Complainant is the plaintiff in a complaint for unlawful detainer filed in the Municipal Trial Court in Cities of Dagupan City (Branch 2). A decision was rendered in his favor on January 3, 1996 by Judge Jules A. Mejia. The defendant was ordered to vacate the property and pay rentals, damages, and attorney's fees. Defendant subsequently filed a notice of appeal.

In view of the failure of the defendant to post a supersedeas bond and to pay the monthly rentals, however, complainant filed a motion for execution. On March 21, 1996, respondent judge, as acting presiding judge of Branch 2 vice Judge Mejia (who had retired), issued an order setting the motion for hearing on April 15, 1996. At the hearing, over the objection of complainant, respondent judge gave the defendant ten (10) days within which to submit a memorandum in lieu of oral arguments, and complainant five (5) days within which to file a reply memorandum from receipt of the said memorandum. No memorandum was, however, filed by the defendant within the 10-day period. Complainant, on the other hand, filed a reply memorandum for the purpose of answering some arguments made by the defendant at the hearing.

On May 15, 1996, the respondent judge granted the motion of complainant and ordered the issuance of a writ of execution. But the defendant filed a motion for reconsideration, alleging that complainant's brothers, who are co-owners of the property, had renewed the lease contract of the defendant. The defendant attached an unsworn "Affidavit" where the alleged co-owners stated that they did not authorize the filing of the complaint and expressed their consent to the continued stay of defendant on the property. Complainant filed a motion to expunge the motion for reconsideration from the record of the case on the ground that the pleading was not authorized under the Rules on Summary Procedure and that it contained misleading statements.

On June 27, 1996, respondent judge granted the defendant's motion for reconsideration and gave the defendant's appeal due course, at the same time deferring the issuance of the writ of execution "until the opportune time." Respondent judge then ordered the records of the case to be forwarded to the Regional Trial Court for the "assessment of the fees to be paid by her and the appropriateness thereof."^[1]

Complainant avers that the appellate docket fee was paid in July, 1996, six (6) months after the 15-day period within which to appeal had expired.

In her comment, respondent judge explained that she granted the defendant's motion for reconsideration in view of a supervening event, *i.e.*, the renewal of the lease contract by the co-owners of the complainant, which justified a stay of execution. She accuses complainant of pressuring her into resolving the matter in his favor, threatening to file an administrative complaint against her if she did not do so. She claims that the complaint in this case is one by a disgruntled litigant. Respondent judge claims further that complainant would appear in her chambers unannounced and engage her in lengthy conversation which sometimes strayed into the merits of the case. Out of courtesy to him, since complainant was a former RTC judge, she had to entertain him. According to respondent judge, in order to discredit and embarrass her, complainant has been spreading the news in the court that he has filed the instant complaint against her.

The Office of the Court Administrator, to which this complaint was referred for evaluation, report and recommendation, found the facts alleged in the complaint to be true. In his report dated November 13, 1997, Deputy Court Administrator Reynaldo Suarez recommends that respondent judge be found administratively liable and fined ₱10,000 with a warning that the commission of the crime or similar acts in the future will be dealt with more severely.

The recommendation is well-taken.

Complainant cites the following provision of the 1991 Rules on Summary Procedure as having been violated by respondent judge in resolving his motion for execution:

Section 19. *Prohibited pleadings and motions* - The following pleadings, motions or petitions shall not be allowed in the cases covered by this Rule:

- (a) Motion to dismiss the complaint or to quash the complaint or information except on the ground of lack of jurisdiction over the subject matter, or failure to comply with the preceding section;
- (b) Motion for a bill of particulars;
- (c) Motion for new trial, or for reconsideration of a judgment, or for reopening of trial;
- (d) Petition for relief from judgment;
- (e) Motion for extension of time to file pleadings, affidavits or any other paper;
- (f) Memoranda;
- (g) Petition for *certiorari*, *mandamus*, or prohibition against any interlocutory order issued by the court;
- (h) Motion to declare the defendant in default;
- (i) Dilatory motions for postponement;
- (j) Reply;
- (k) Third party complaints;
- (l) Interventions.