

## FIRST DIVISION

[ A.M. MTJ-96-1085, October 08, 1998 ]

**SALVACION P. ONQUIT, COMPLAINANT, VS. JUDGE AURORA  
BINAMIRA-PARCIA, AND SHERIFF IV DANILO O. MATIAS,  
RESPONDENTS.**

### R E S O L U T I O N

#### **QUISUMBING, J.:**

This is an administrative complaint charging respondents, namely: Judge Aurora Binamira-Parcia, Municipal Circuit Trial Court (5th Judicial Region), Ligao-Oas, Albay, with grave abuse of authority, bias and grave misconduct; and, Sheriff IV Danilo O. Matias, with grave misconduct, misbehavior in the performance of his official duties, and collusion.<sup>[1]</sup>

The charge against respondent Judge stems from a forcible entry case<sup>[2]</sup> with prayer for temporary restraining order and preliminary injunction with damages. Said case was assigned to her sala. The complainant and her two brothers were therein co-defendants. Complainant raised the issue of jurisdiction stating that said case falls within the original and exclusive jurisdiction of the Department of Agrarian Reform (DAR) because it involves tenancy over an agricultural land. Thereafter, complainant and her co-defendants filed with respondent Judge, an Ex-Parte Motion for Disqualification, Request for Disqualification and Request for Resolution. Basically, these motions were founded on the trial court's alleged lack of jurisdiction. In a single Order,<sup>[3]</sup> respondent Judge denied all three motions ruling that jurisdiction is determined by the allegations in the complaint and not those raised by defendants. Moreover, according to respondent Judge, the claim regarding the nature of the case at bar would not automatically divest the court of its jurisdiction.

Subsequently, plaintiff in the lower court filed an injunction bond which was approved by respondent Judge and a writ of preliminary injunction was issued against the defendants, including herein complainant. A seizure order followed which directed respondent Sheriff to seize the palay from the land in question.<sup>[4]</sup>

In the complaint now before this Court, complainant details several allegations as follows:

- (1) That the land subject of the forcible entry case is an agricultural riceland, thus, it is the Department of Agrarian Reform which has original and exclusive jurisdiction, and not the respondent Judge's court;
- (2) That the plaintiff's injunction bond was approved by respondent Judge without first serving a copy to the complainant resulting in a violation of due process. Complainant avers that it left her no opportunity to object to the sufficiency of the bond. Further, a copy of the writ of

injunction was not served on complainant's counsel;

(3) That a notice regarding the Motion for Issuance of Seizure Order was not served on the complainant thereby depriving her of a chance to oppose it;

(4) That respondent Judge has been heard saying that complainant and his co-defendants ought to leave the land because it is certain that they will lose their case;

(5) And that, with regard to respondent Sheriff, upon the issuance of the seizure order, he seized all the palay harvested without issuing a receipt, despite demand therefor, and delivered the palay to the plaintiff.<sup>[5]</sup>

In her Comment, respondent Judge asserts principally that the complaint was maliciously filed to harass her. She recounts that ejectment cases were earlier filed before her sala against some of complainant's family members involving different areas of the disputed lot. In these separate cases, respondent Judge ordered their ejectment,<sup>[6]</sup> which she claims is the reason for complainant's vindictiveness. She claims moreover, that in a Special Civil Case (No. 1852) filed against her before the Albay Regional Trial Court, to restrain her from taking cognizance of Civil Case No. 1048-L, she nevertheless proceeded Civil Case No. 1048-L, after the special civil case was dismissed. She then ordered the issuance of a writ of preliminary injunction, and required an injunction bond from complainant's opponents.<sup>[7]</sup> All these were resented, according to the respondent Judge, by the complainant.

With regard to the averment by complainant that she and her co-defendants were not furnished a copy of the bond before its approval, respondent Judge replies that the records of the case would show that complainant's counsel was furnished with a copy of the Motion to Admit Bond. Furthermore, even granting that the complainant and co-defendants were not furnished with a copy of the bond, the failure to serve a copy would be merely a formal defect. She states that complainant should have asked the court to furnish the parties with a copy, but complainant failed to do so.<sup>[8]</sup>

In response to the accusation regarding her order denying the Motion to Fix Defendant's Bond and to Dissolve the Writ of Preliminary Injunction, she states that the injunction bond posted by plaintiff was sufficient to cover damages to which complainant and her co-defendants might be entitled, in case a judgment would be rendered in their favor.<sup>[9]</sup>

As for the questioned seizure order, respondent Judge maintains that the reason for this order was that even after the issuance of an injunction, complainant and co-defendants re-entered the land in question and harvested the palay thereon. It was an ex-parte motion which she had to grant considering the urgency of the matter, keeping in mind that there was an injunction bond for the benefit of complainant and co-defendants.<sup>[10]</sup>

Respondent Judge denies ever talking to complainant in her chambers. According to her, it was Merle Porte, a sister of complainant and not a party to the case, who approached respondent Judge in the afternoon of April 10, 1996. Porte pleaded that her brothers and sisters be allowed to harvest the palay and that they would settle

the matter with the plaintiff in said case. Respondent Judge states that her reply was for Porte to discuss the matter with their lawyer instead of personally speaking with her. Further, respondent Judge denies for being totally untrue the incident alleged by complainant wherein she was allegedly confronted concerning a purported payment to her of P20,000 by plaintiff. According to respondent Judge, it was actually complainant's counsel, a former professor of respondent Judge, who went inside her chambers to ask that she should deny the plaintiff's request for an injunction.<sup>[11]</sup> For the satisfaction of complainant and her co-defendants, respondent Judge inhibited herself from rendering judgment in Civil Case No. 1048-L and from further hearing the Petition for Contempt filed by plaintiff against complainant.<sup>[12]</sup>

In sum, respondent Judge avers to this Court that from the outset complainant and her co-defendants were already doing all that they could do to disqualify her from taking cognizance of Civil Case No. 1048-L. As a matter of fact, when the Presiding Judge of the Regional Trial Court of Ligao, Albay, denied the plaintiff's petition seeking respondent Judge to be disqualified from hearing said case, complainant filed a similar administrative case against the Presiding Judge.<sup>[13]</sup>

Concerning the charges of Grave Misconduct, Misbehavior in the Performance of Official Duties and Collusion against respondent Sheriff, he states in his Comment that when the Clerk of Court received the Seizure Order, he was ordered to implement it immediately. Police assistance was requested from the station commander to accompany respondent Sheriff in entering the ricefield. He stated that despite the heavy rain in the area he found complainant and her co-defendants harvesting the palay. Said palay was seized as ordered and placed inside sacks, and then brought by him to the Hall of Justice. Early the following morning, he went to the Hall of Justice, and had the palay, although wet, threshed and cleaned. He decided that it was best to turn over the palay to the wife of the plaintiff due to the fact that the grains were dripping wet from the previous day's rains and if not dried immediately would deteriorate as, in fact, there were already grains showing signs of germination. A copy of the receipt of the Sheriff's Return of Service was signed by the wife of plaintiff. He admits though that the vehicle used in transporting the seized palay was provided for by plaintiff, which he concluded was the reason behind the alleged collusion between him and plaintiff.

On the charge by complainant that he refused to issue a receipt upon seizure, respondent Sheriff replied that he could not do so immediately upon seizure as the palay was not yet threshed and he would only know the number of cavans seized after such was threshed and cleaned. He claims that he did this the next day after the palay was threshed and cleaned. Only then was it quantifiable as to the number of cans in which they were stored. Respondent Sheriff then furnished the receipt to complainant's counsel of record, together with the Sheriff's Return of Service.<sup>[14]</sup>

Complainant subsequently filed a Reply to each of the Comments submitted by respondent Judge and respondent Sheriff. The Reply to the Comment of respondent Judge centered on the fact that there was personal bias involved, which accounted for the way respondent Judge conducted herself towards the hearing of complainant's case.<sup>[15]</sup> As to her Reply to the respondent Sheriff's Comment, complainant denied the allegation that they reacted defiantly to the writ of preliminary injunction. According to complainant, the land was owned by another