

EN BANC

[A.M. No. MTJ-91-562, October 16, 1997]

**EQUATORIAL REALTY DEVELOPMENT INC., COMPLAINANT, VS.
JUDGE CASIANO P. ANUNCIACION, JR., PRESIDING JUDGE OF
BRANCH II OF THE METROPOLITAN TRIAL COURT OF MANILA,
RESPONDENT.
D E C I S I O N**

ROMERO, J.:

Under consideration is a complaint filed by Equatorial Realty Development, Inc. charging Judge Casiano P. Anunciacion with gross ignorance of the law and partiality relative to Civil Case No. 119892, entitled Equatorial Realty Development, Inc. v. Albert Ng, doing business under the name and style of "Mr. Manly Department Store."

Complainant Equatorial is the plaintiff in an ejectment case against Albert Ng filed before the Metropolitan Trial Court presided by respondent Judge Casiano. Equatorial alleged that respondent Judge exhibited bad faith and favored Albert Ng in the adjudication of the above-entitled case as manifested by a series of errors. Aside from dismissing the case against Ng's wife, Tessie Lee, allegedly in disregard of the facts on record, complainant also alleged that the errors being imputed were serious enough to show that they were not mere errors of judgment but manifestations of bad faith and partiality resulting in unduly prolonging the disposition of a simple ejectment case for about four years. The errors were allegedly committed by issuing the following:

1. an order^[1] dated January 20, 1988 granting the motion for intervention of Mayfair Theater, Inc.;
2. an order^[2] dated September 20, 1988, granting the motion of Albert Ng for the designation of a commissioner to determine the prevailing rental rates in the vicinity of the leased premises and appointing his Branch Clerk of Court for this purpose;
3. a decision^[3] dated December 26, 1990 dismissing the amended complaint.

In the first assailed order, respondent granted Mayfair Theater's motion to intervene in Civil Case No. 119892 on the ground that it had an option to buy the subject property which option was given by its former owner, Carmelo & Bauermann, Inc. Complainant opposed Mayfair Theater's motion to intervene contending that the

latter had no legal interest in the case aside from the fact that Mayfair's option did not refer to the leased premises subject of the ejectment case.

In the second assailed order, respondent granted Albert Ng's motion to appoint a commissioner to determine the prevailing rental rates in the vicinity of the leased premises. Complainant opposed said motion alleging that aside from the fact that the lease contract had expired and had not been renewed, said motion would only delay the disposition of the case. Moreover, respondent had no authority to fix the rent and the fact that a commissioner was designated to determine the prevailing rental rate was tantamount to gross ignorance of the law.

In the decision rendered, respondent dismissed complainant's amended complaint which sought to include Tessie Lee, the wife of Albert Ng, as an additional defendant. Complainant alleged that an investigation revealed that the registered owner and proprietor of "Mr. Manly Department Store" as well as the actual occupant was Tessie Lee and not Albert Ng. Respondent allegedly capitalized on this error to dismiss the case against Tessie Lee on the ground that the case was not brought within the one year jurisdictional period against the latter, the real party in interest while ignoring Ng's admission that he was the occupant of the subject property.

On account of these alleged errors, complainant moved for respondent's voluntary inhibition which the latter denied.

The complaint was referred to the Office of the Court Administrator.

In his comment, respondent averred that his order granting the motion for intervention was valid as it was in accordance with justice and did not delay the case as the hearings continued with or without the intervenor. As to the order granting the motion to designate a commissioner to determine the prevailing rental rates in the premises, it was issued in good faith allegedly to give Albert Ng an opportunity to dispute the reasonableness of the new rental rates imposed. He also averred that it was complainant who caused the delay in the case's disposition when the latter: (1) opted to present evidence instead of pursuing its motion for judgment on the pleadings previously filed; (2) tediously presented evidence justifying the increased rental while claiming expiration of contract as a ground for its complaint; (3) allegedly introduced newly discovered evidence; (4) moved for additional cross-examination of Albert Ng and presented additional evidence thereafter; and (5) instituted certiorari proceedings against his order designating a commissioner which caused a delay of at least one year.

In his reply, complainant alleged that the grant of the intervention delayed the proceedings for four months, and when the intervention was withdrawn, respondent did not censure the intervenor for making a mockery of the administration of justice. It further alleged that respondent cannot claim good faith in granting the motion to designate commissioner to determine prevailing rental rates as his order was a patent nullity, citing the decision of the Regional Trial Court that was affirmed by the Court of Appeals which stated that respondent had no authority to grant the same and that the appeal was merely "a clever scheme to prolong the occupancy of the premises."

The Office of the Court Administrator recommended the dismissal of the complaint