



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

EN BANC

DIOSDADO M. PEREZ,
Complainant,

A.M. No. P-22-066
(Formerly OCA IPI No. 19-4965-P)

Present:

GESMUNDO, C.J.,
LEONEN,
CAGUIOA,
HERNANDO,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M. V.,
GAERLAN,
ROSARIO,*
LOPEZ, J. Y.,
DIMAAMPAO,
MARQUEZ,**
KHO, JR., and
SINGH, JJ.

- versus -

ATTY. JILLIAN T. DECILOS,
Clerk of Court VI, Branch 14,
Regional Trial Court, Nasugbu,
Batangas

Respondent.

Promulgated:

February 14, 2023

X-----X

DECISION

HERNANDO, J.:

This case stemmed from the Affidavit Complaint¹ dated September 9, 2019 of Osato Agro-Industrial and Development Corporation (Osato

* On official leave.

** No part.

¹ Rollo, pp. 2-11.

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Corporation), through its representative, Diosdado M. Perez (Perez), charging respondent Atty. Jillian T. Decilos (Atty. Decilos), Clerk of Court VI, Branch 14, Regional Trial Court (RTC), Nasugbu, Batangas, with abuse of authority, manifest partiality, malfeasance, and gross ignorance of the law or procedure due to Atty. Decilos' act of preventing Edwin P. Vasquez (Vasquez), sheriff of the same court, from implementing the writ of execution and notice to vacate issued by the said RTC in favor of Osato Corporation in Civil Case No. 1198.

Factual Antecedents

Osato Corporation, through Perez, filed a Complaint with the RTC, docketed as Civil Case No. 1198, against Ma. Candida P. Llausas (Llausas) and any person claiming rights under her, for Annulment of the Deed of Absolute Sale, Cancellation of Transfer Certificate of Title No. (TCT) T-117284, and Reconveyance of property situated at *Barangay* Balaytigue, Nasugbu, Batangas.²

After trial, the RTC, which was presided by Judge Mercedes Dagdag-Lindog, rendered a Decision³ dated March 2, 2016 in favor of Osato Corporation. In the said Decision, the RTC nullified the Deed of Absolute Sale involving the subject property and the corresponding TCT T-117284 issued in the name of Llausas; directed the Register of Deeds of Nasugbu, Batangas to cancel TCT T-117284 and reinstate or reconstitute the same in the name of Osato Corporation; and ordered Llausas to reconvey the subject property to Osato Corporation.⁴ The appeal filed by Llausas was dismissed by the Court of Appeals in a Resolution dated September 29, 2017.⁵

Upon finality of the March 2, 2016 Decision of the RTC, Osato Corporation filed a Motion for Execution of Judgment. The RTC granted the motion on October 12, 2018⁶ and subsequently issued a writ of execution on November 13, 2018.⁷

Meanwhile, on March 5, 2019, spouses Edgardo A. Trinidad and Julie Trinidad (spouses Trinidad) filed before the RTC an Urgent Motion to Stay Execution alleging that on February 20, 2019, they filed a Notice of Filing of Third Party Claim where they alleged that they are currently the registered owners and actual possessors of the property subject of the execution proceedings; that they have a better right and title over the subject property; and that they stand to be prejudiced should the writ of execution be enforced.⁸ Osato

² Id. at 12.

³ Id. at 12-19.

⁴ Id. at 19.

⁵ Id. at 20 and 24.

⁶ Id. at 21.

⁷ Id. at 22-24.

⁸ Id. at 26.

Corporation opposed the motion filed by the spouses Trinidad.⁹ Thereafter, in an Order¹⁰ dated June 17, 2019, the RTC, through Designated Judge Carolina F. de Jesus, denied the spouses Trinidad's Urgent Motion to Stay Execution for lack of merit.¹¹

The spouses Trinidad thus filed a Motion Reconsideration of the June 17, 2019 Order on July 16, 2019.¹²

In the meantime, by reason of the writ of execution issued by the RTC, Sheriff Vasquez served upon the spouses Trinidad on August 2, 2019 the notice to vacate¹³ dated July 31, 2019, and gave them a period of five days from receipt of the said notice within which to voluntarily leave the subject property. The spouses Trinidad requested Sheriff Vasquez to give them additional time to vacate the property, or until August 12, 2019, to which Sheriff Vasquez acceded. However, on August 13, 2019, when Sheriff Vasquez was about to execute the notice to vacate against the spouses Trinidad, Atty. Decilos told Sheriff Vasquez to hold the implementation of the writ of execution and notice to vacate since the spouses Trinidad's Motion for Reconsideration of the June 17, 2019 Order was still pending before the RTC. Atty. Decilos cited Section 4, Rule 52 of the Rules of Court as legal basis in suspending or holding the writ of execution.¹⁴ The aforesaid rule states:

Section 4. *Stay of execution.*—The pendency of a motion for reconsideration filed on time and by the proper party shall stay the execution of the judgment or final resolution sought to be reconsidered unless the court, for good reasons, shall otherwise direct.

In a letter dated August 15, 2019, Osato Corporation, through counsel, demanded Atty. Decilos to allow Sheriff Vasquez to implement and enforce the writ of execution and notice to vacate. Osato Corporation, through its counsel, sent another letter dated August 23, 2019 to Atty. Decilos demanding the implementation and enforcement of the writ of execution within three days from receipt of the said letter. Atty. Decilos did not respond to the August 15, 2019 and August 23, 2019 letters of Osato Corporation, and persisted to hold execution of the writ of execution and implementation of the notice to vacate.¹⁵

In a Comment¹⁶ dated November 13, 2019, Atty. Decilos explained that when the spouses Trinidad filed the aforesaid Motion for Reconsideration on July 16, 2019, the RTC, through Judge de Jesus, issued an Order dated July 19,

⁹ Id. at 27-29.

¹⁰ Id. at 26-37.

¹¹ Id. at 37.

¹² Id. at 5.

¹³ Id. at 25.

¹⁴ Id. at 6-7.

¹⁵ Id. at 7-8.

¹⁶ Id. at 52-64.

2019 setting the said motion for hearing on September 25, 2019 at 8:30 a.m. Thereafter, Judge de Jesus went on official leave and left for the USA.¹⁷ As the motion is yet to be resolved by the RTC, Atty. Decilos argued that the implementation of the writ would be tantamount to pre-empting the motion hearing on September 25, 2019.¹⁸

Atty. Decilos also denied being partial to the spouses Trinidad, and averred good faith and lack of malice in not allowing Sheriff Vasquez to execute the writ of execution and notice to vacate based on Sec. 4, Rule 52 of the Rules of Court;¹⁹ and the supposed agreement between the parties to maintain the status *quo* pending resolution of the spouses Trinidad's Urgent Motion to Stay Execution.²⁰ Atty. Decilos further asserted that the instant administrative complaint is not the appropriate remedy where judicial recourse is still available.²¹ Meanwhile, Atty. Decilos advised Perez to file a motion or a manifestation before the RTC raising therein the issue as to the execution and implementation of the writ of execution and notice to vacate.²²

Report and Recommendation of the Judicial Integrity Board

In a Report²³ dated December 7, 2021, the Judicial Integrity Board (JIB) found Atty. Decilos guilty of the compound offenses of gross ignorance of the law and gross neglect of duty, and recommended the penalty of dismissal from service, with forfeiture of benefits except accrued leave credits, and disqualification from reinstatement or appointment to public office, including government-owned or controlled corporations. The JIB held that Atty. Decilos' act of preventing the court sheriff from implementing the Writ of Execution and Notice to Vacate is bereft of legal support and constitutes a usurpation of the Court's authority to execute its final and executory decisions.

Our Ruling

After a careful review of the records of the case and the evidence submitted by the parties, the Court resolves to modify the findings and recommendation of the JIB.

¹⁷ Id. at 53-55.

¹⁸ Id. at 53.

¹⁹ Id. at 55-56.

²⁰ Id. at 59

²¹ Id. at 58.

²² Id.

²³ Id., unpaginated. Penned by Justice Angelina Sandoval-Gutierrez (Ret.) and concurred in by Justices Romeo J. Callejo, Sr. (Ret.), Sesinando E. Villon (Ret.), and Rodolfo A. Ponferrada (Ret.).

In the Affidavit Complaint, Atty Decilos is charged with manifest partiality in favor of the spouses Trinidad, abuse of authority, and gross ignorance of the rules.

The Court finds no merit in the allegation that Atty. Decilos exhibited manifest partiality in favor of the spouses Trinidad. There is manifest partiality “when there is clear, notorious, or plain inclination or predilection to favor one side or person rather than another.”²⁴ Here, the claim of manifest partiality against Atty. Decilos is speculative and lacks sufficient factual basis. If at all, the favorable circumstances which may have benefited the spouses Trinidad from Atty. Decilos’ actions appear to be merely incidental or consequential.

The foregoing notwithstanding, Atty. Decilos’ reliance on Sec. 4, Rule 52 of the Rules of Court is misplaced for the following reasons: *First*, Sec. 4, Rule 52 relates to a motion for reconsideration of a judgment or final resolution filed by the adverse party in the case within 15 days from notice thereof. It does not pertain to any other motion, such as the Motion for Reconsideration of the June 17, 2019 RTC Order, which denied the spouses Trinidad’s Urgent Motion to Stay Execution. *Second*, the spouses Trinidad are not parties to Civil Case No. 1198.

The Court observes that spouses Trinidad supposedly filed with the RTC on February 20, 2019²⁵ a Notice of Filing of Third Party Claim.²⁶ On this matter, Associate Justice Amy C. Lazaro-Javier (J. Lazaro-Javier) pointed out in her Reflections the applicability of Sec. 16, Rule 39 of the Rules of Court.²⁷

²⁴ *Cabrera v. People*, G.R. Nos. 191611-14, July 29, 2019, citing *Plameras v. People*, 717 Phil. 303, 321 (2013).

²⁵ *Rollo*, p. 26. However, in its Order dated June 18, 2019, the date of filing is February 18, 2018. See *rollo*, p. 36

²⁶ *Id.* at 26.

²⁷ Sec. 16. *Proceedings where property claimed by third person.* - If the property levied on is claimed by any person other than the judgment obligor or his agent, and such person makes an affidavit of his title thereto or right to the possession thereof, stating the grounds of such right or title, and serves the same upon the officer making the levy and a copy thereof upon the judgment obligee, the officer shall not be bound to keep the property, unless such judgment obligee, on demand of the officer, files a bond approved by the court to indemnify the third-party claimant in a sum not less than the value of the property levied on. In case of disagreement as to such value, the same shall be determined by the court issuing the writ of execution. No claim for damages for the taking or keeping of the property may be enforced against the bond unless the action therefor is filed within one hundred twenty (120) days from the date of the filing of the bond.

The officer shall not be liable for damages for the taking or keeping of the property, to any third-party claimant if such bond is filed. Nothing herein contained shall prevent such claimant or any third person from vindicating his claim to the property in a separate action, or prevent the judgment obligee from claiming damages in the same or a separate action against a third-party claimant who filed a frivolous or plainly spurious claim.

When the writ of execution is issued in favor of the Republic of the Philippines, or any officer duly representing it, the filing of such bond shall not be required, and in case the sheriff or levying officer is sued for damages as a result of the levy, he shall be represented by the Solicitor General and if held liable therefor, the actual damages adjudged by the court shall be paid by the National Treasurer out of such funds as may be appropriated for the purpose.

Based on this section, third party claimants, such as spouses Trinidad, have the following cumulative remedies, they may: (a) avail of “terceria” by serving on the levying officer an affidavit of their title, and serving also a copy to the judgment creditor; (b) file a case for damages against the bond issued by the judgment debtor within 120 days from the date of the filing of the bond; and (c) file “any proper action” to vindicate their claim to the property.²⁸ By the “terceria,” Sec. 16, Rule 39 of the Rules of Court states that once a third party files an affidavit of his or her title or right to the possession of the property levied upon, the sheriff is bound to release the property of the third party claimant unless the judgment creditor files a bond approved by the court.

Given the foregoing recitals, J. Lazaro-Javier’s premise suggests that, if the trial court had ruled in favor of spouses Trinidad’s third party claim or “terceria” pursuant to Sec. 16, Rule 39 of the Rules of Court, this effectively suspends the execution proceedings, which justifies Atty. Decilos’ actions, and thus calls for a re-evaluation of respondent’s administrative liability.

Admittedly, while the circumstances surrounding the February 20, 2019 Notice of Filing of Third Party Claim may shed light on the errors committed by Atty. Decilos, and affect the administrative penalty to be imposed, it is unfortunate that the records of the instant case are bereft of any showing that the trial court ruled upon spouses Trinidad’s third party claim pursuant to Sec. 16, Rule 39 of the Rules of Court.

To be clear, the June 17, 2019 Order of the RTC narrated that the Urgent Motion to Stay Execution stated that spouses Trinidad filed their Notice of Filing of Third Party Claim with the RTC on February 20, 2019. However, no copies of the said notice nor the trial court’s order thereto were attached to or included in the said motion. While the RTC’s June 17, 2019 Order noted the Notice of Filing of Third Party Claim, it appears that the same was simply mentioned to emphasize that notwithstanding such fact, what remains undisputed is that the said notice was filed two years after the RTC rendered its March 2, 2016 Decision in favor of Osato Corporation, and after the September 29, 2017 Resolution of the Court of Appeals became final and executory on October 26, 2017.²⁹ A perusal of the said Order also reveals that the RTC solely ruled upon the merits of the Urgent Motion to Stay Execution filed by spouses Trinidad. Interestingly, neither parties presented, by way of allegation or defense, a copy of the said notice.

On this point, it bears to emphasize that the Affidavit Complaint specifically averred that spouses Trinidad only filed an Urgent Motion to Stay Execution with the RTC, and that they failed to avail any of the remedies

²⁸ *Encarnacion v. Johnson*, 836 Phil. 76, 93 (2018).

²⁹ *Rollo*, p. 36.

provided under Sec. 16, Rule 39 of the Rules of Court.³⁰ Notably, Atty. Decilos did not deny this allegation in the Comment to the Affidavit Complaint,³¹ and solely anchored the defense on Sec. 4, Rule 52 of the Rules of Court. Absent any allegation and concrete evidence on the particulars surrounding the Notice of Filing of Third Party Claim, this Court cannot rely on the same in assessing Atty. Decilos' culpability, and must otherwise depend on the allegations, defense, and evidence obtained from the parties in determining the proper administrative penalty.

Given the foregoing, the Court holds that Atty. Decilos' actions do not constitute gross ignorance of the law and gross neglect of duty.

In *Department of Justice v. Judge Mislang (Mislang)*,³² the Court explained the nature of gross ignorance of the law as an administrative offense, to wit:

Gross ignorance of the law is the disregard of basic rules and settled jurisprudence. A judge may also be administratively liable if shown to have been motivated by **bad faith, fraud, dishonesty or corruption in ignoring, contradicting or failing to apply settled law and jurisprudence**. Though not every judicial error bespeaks ignorance of the law and that, if committed in good faith, does not warrant administrative sanction, the same applies only in cases within the parameters of tolerable misjudgment.³³ (Emphasis supplied)

Although *Mislang* relates to a judge's administrative liability for gross ignorance of the law, the principle enunciated by the Court should equally apply to clerks of court. Accordingly, in light of *Mislang*, it cannot be said that the actions of Atty. Decilos constitute gross ignorance of the law considering the lack of evidence proving that he was motivated by bad faith, dishonesty, or hatred against complainant Osato Corporation. If at all, as can be gathered from his defenses, the act complained of could only be described as an erroneous or mistaken understanding or application of the Rules of Court.

Nor can it be said that Atty. Decilos is guilty of gross neglect of duty or gross negligence. Gross neglect of duty or gross negligence "refers to negligence characterized by the want of even slight care, or by acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with a conscious indifference to the consequences, insofar as other persons may be affected."³⁴ Thus, while Atty. Decilos may have misapplied basic rules on court procedure, the Court observes that such actions

³⁰ Id. at 4-5.

³¹ Id. at 53-54.

³² 791 Phil. 219 (2016).

³³ Id. at 227.

³⁴ *Son v. Leyva*, A.M. No. P-11-2968, November 28, 2019, citing *Office of the Ombudsman v. De Leon*, 705 Phil. 26, 37-38 (2013).

were not characterized by glaring want of care on the part of Atty. Decilos, but solely prompted by the cautious, albeit erroneous, approach in the matter of implementing the writ of execution and notice to vacate. The attendant circumstances of the case show that Atty. Decilos' actions may only be characterized as simple neglect of duty, which is defined as "the failure to give proper attention to a task expected of an employee [or official] resulting from either carelessness or indifference."³⁵

Under A.M. No. 21-08-09-SC,³⁶ which further amended Rule 140 of the Rules of Court, simple neglect of duty in the performance or non-performance of official functions is classified as a less serious charge³⁷ punishable either by: (a) suspension from office without salary and other benefits for not less than one (1) month nor more than six (6) months; or (b) a fine of more than ₱35,000.00 but not exceeding ₱100,000.00.³⁸

Thus, a fine of ₱35,001.00 ought to be imposed on Atty. Decilos. However, considering that this is Atty. Decilos' first offense, the Court is inclined to grant respondent a certain leniency without being unmindful of the fact of the breach of the provisions of the Rules of Court, by just imposing a fine in the amount of ₱17,500.50, which is half of ₱35,001.00, the minimum fine prescribed for simple neglect of duty,³⁹ with a stern warning that repetition of the same or similar act shall be dealt with more severely.

On a final note, We reiterate Our pronouncement in *Nadala v. Denila*,⁴⁰ where the Court held that:

x x x while it is its duty to sternly wield a corrective hand to discipline its errant employees and to weed out those who are undesirable, it also has the discretion to temper the harshness of its judgment with mercy. When an officer or employee is disciplined, the object sought is not his/her punishment, but the improvement of the public service, and the preservation of the public's faith and confidence in the government.⁴¹

WHEREFORE, respondent Atty. Jillian T. Decilos, Clerk of Court VI of Branch 14, Regional Trial Court of Nasugbu, Batangas, is found **GUILTY** of Simple Neglect of Duty and is imposed a **FINE** of ₱17,500.50, with a **WARNING** that repetition of the same or any similar act would be dealt with more severely.

³⁵ *Office of the Court Administrator v. Toledo*, A.M. No. P-13-3124, February 4, 2020 citing *Re: Ricky R. Regala*, A.M. No. CA-18-35-P, November 27, 2018.

³⁶ Further Amendments to Rule 140 of the Rules of Court. Promulgated February 22, 2022.

³⁷ See Section 15(b), Rule 140 as amended.

³⁸ See Section 17(2), Rule 140 as amended.

³⁹ See Section 19(1)(a), Rule 140 as amended.

⁴⁰ A.M. No. P-18-3864, June 10, 2019.

⁴¹ *Id.*, citing *Executive Judge Roman v. Fortaleza*, 650 Phil. 1, 8 (2010)


SO ORDERED.


RAMON PAUL L. HERNANDO
Associate Justice


WE CONCUR:

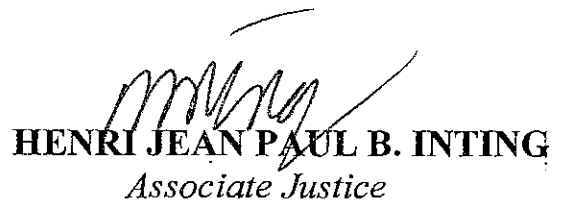

ALEXANDER G. GESMUNDO
Chief Justice

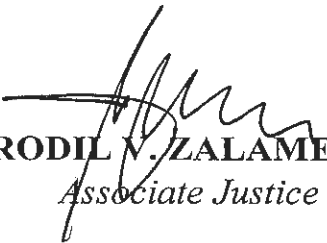

MARVIC M. V. F. LEONEN
Associate Justice

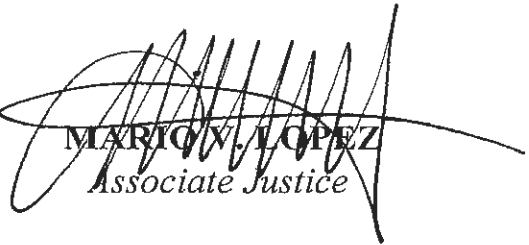

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


*See Concerning
Gons*


AMY C. LAZARO-JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


RODIL N. ZALAMEDA
Associate Justice


MARIO N. LOPEZ
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SAMUEL H. GAERLAN
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RICARDO R. ROSARIO
Associate Justice


JHOSEP Y. LOPEZ
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice

No part
JOSE MIDAS P. MARQUEZ
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice


MARIA FILOMENA D. SINGH
Associate Justice

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