



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

MADELINE TAN-YAP,
Complainant,

A.M. No. MTJ-19-1925
(Formerly OCA IPI No. 17-2937-MTJ)

Present:

- versus -

BERSAMIN, C.J.,
DEL CASTILLO,
JARDELEZA,
GESMUNDO, and
CARANDANG,* JJ.

HON. HANNIBAL R. PATRICIO,
Presiding Judge, Municipal
Circuit Trial Court (MCTC),
President Roxas-Pilar, Capiz,
Respondent.

Promulgated:
JUN 03 2019

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RESOLUTION

DEL CASTILLO, J.:

This administrative complaint stemmed from a Complaint for Recovery of Possession and Damages filed by Nemesio Tan (Tan), father of complainant Madeline Tan-Yap (complainant), against Robenson Benigla (Benigla), father-in-law of respondent Judge Hannibal R. Patricio, docketed as Civil Case No. V-09-11 of the Regional Trial Court (RTC) of Capiz. In the said case, the parties entered into a Compromise Agreement which was approved by the RTC. The pertinent portions thereof read:

x x x x

2) That [Benigla] admits [Tan's ownership of] Lots 703 and 706, both of Pilar Cadastre, the properties subject of the above-entitled case;

* On official leave.

3) That, the parties agreed to cause the relocation of the properties involved to determine the exact location of the cockpit and other structures subject matter of the complaint;

4) That, the (costs or expenses for the) relocation shall be borne by the parties pro[-]rata;

x x x x

6) That, the parties shall peacefully cooperate in the conduct of the relocation survey;

7) That, in case the relocation survey will show that the cockpit and the other structures constructed are inside the properties owned by [Tan], [Benigla] shall voluntarily remove the same immediately and return possession thereof to [Tan], however, if said cockpit and structures are outside of Lots 703 and 706, [Tan] shall seek the dismissal of the above-entitled case;

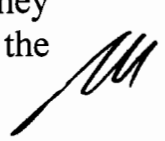
8) That, failure of any of the parties to comply with the terms and conditions of this compromise agreement shall entitle the aggrieved party to file an ex-parte motion for execution;

x x x x¹

Complainant alleged that, pursuant to the said court-approved compromise agreement, the trial court issued an order directing a private surveying company to conduct a relocation survey on Lot Nos. 703 and 706. After the survey was done, it was found that the cockpit lay inside Lot No. 706. Benigla, however, questioned this finding claiming that the private surveyor who conducted the survey was not a licensed geodetic engineer. He, thus, asked the trial court to designate a surveyor from the Department of Environment and Natural Resources. This motion was, however, denied, as well as the motion for reconsideration. Aggrieved, Benigla filed a *certiorari* petition before the Court of Appeals (CA). However, the CA did not grant Benigla's prayer for the issuance of a temporary restraining order; thus, complainant filed a Motion for Execution of the Judgment which was granted by the trial court. Accordingly, a Writ of Execution was issued on February 6, 2015 and, together with a Demand for Compliance/Delivery of Possession, the same was served upon Benigla on February 26, 2015.

In the morning of March 10, 2015, Sheriff IV Romeo C. Alvarez, Jr. (Sheriff Alvarez) and Process Server Edgar Dellava (Process Server Dellava), both of the RTC of Capiz, Branch 19, went to the premises of Lot Nos. 703 and 706 for the final implementation of the writ of execution. However, they were met by respondent judge who told them that he would not allow the

¹ Rollo, p. 39.



fencing of Lot Nos. 703 and 706. Respondent judge claimed that he and his wife, Ruby Benigla Patricio (Ruby), actually own the adjoining Lot No. 707, and not his father-in-law, Benigla. Respondent judge allegedly lamented that he and Ruby were not impleaded as defendants in Civil Case No. V-09-11 notwithstanding the fact that they owned the adjoining Lot No. 707, consequently, they were not notified of the relocation survey that was conducted on Lot Nos. 703 and 706. Respondent judge thus suggested that, if Sheriff Alvarez and his men were to push thru with the implementation of the writ of execution, “something untoward might happen”. Respondent judge then declared that he would file a manifestation before the trial court as regards the situation at hand. Because of these, Sheriff Alvarez and Process Server Dellava, along with the men who were supposed to fence Lot Nos. 703 and 706, left the premises.

In his Report of March 13, 2015,² Sheriff Alvarez mentioned that during the confrontation with respondent judge, a host of motorcycle-riding men started going back and forth in the premises. This fact, coupled by respondent judge’s statement that “*kung padayonon nyo, basi magkinagamo*” (if you continue with the implementation, something untoward might happen), impressed upon Sheriff Alvarez and his companions that their security was at risk; hence, they decided to just leave the place.

After this, respondent judge’s wife, Ruby, filed with the RTC a Motion to Intervene and Opposition to the Implementation of the Writ of Execution and Issuance of Writ of Demolition³ dated March 16, 2015. In the filing of this motion, Ruby was assisted by respondent judge himself, who affixed his signature above the printed name “JUDGE HANNIBAL R. PATRICIO” on page three of the said motion.

Nevertheless, the RTC denied this motion for lack of merit in an Order⁴ dated March 24, 2015.

Given these facts, complainant contended that respondent judge violated the New Code of Judicial Conduct: (1) when he unduly intervened in the implementation of the writ of execution; (2) when he threatened Sheriff Alvarez and the latter’s companions and stopped them from carrying out the writ of execution; (3) when he assisted his wife Ruby in filing a motion to intervene in Civil Case No. V-09-11; and (4) when he abandoned his work station on the day of the supposed implementation of the writ of execution.

² Id. at 57-59.


³ Id. at 60-63.

⁴ Id. at 64.

In his Comment,⁵ respondent judge denied the accusations against him. He claimed that the intended fencing of Lot Nos. 703 and 706 pursuant to the writ of execution would have prejudiced him and his wife insofar as their Lot No. 707 was concerned; that the sketch plan on which the relocation and fencing would be based was incorrect and invalid because on its face, it omitted to show that Lot Nos. 706 and 703 were bounded or surrounded by Lot No. 707; that this was the reason why he believed that the implementation of the writ of execution and the intended relocation and fencing of Lot Nos. 703 and 706 would have resulted in the encroachment on their Lot No. 707; that his action was justified under Article 429 of the Civil Code under which the owner of a thing has the right to exclude any person from the enjoyment and disposal thereof, and under which the owner may use such force as may be reasonably necessary to repel or prevent an actual or threatened unlawful physical invasion or usurpation of his property.

Respondent judge denied that he threatened to stop Sheriff Alvarez from implementing the writ of execution; that all he did was to engage Sheriff Alvarez in a conversation, that is, by *telling, arguing, and asking the sheriff to afford him and his wife the time (until Friday or March 13, 2015) for him and his wife to be able to file the proper manifestation in court with respect to their rights over Lot No. 707, Pilar Cadastre, that would be affected or encroached upon by the relocation and fencing of Lot Nos. 706 and 703 x x x*.⁶ Respondent judge claimed that Sheriff Alvarez in fact did not mention in his report that he (respondent judge) threatened Sheriff Alvarez or would have inflicted bodily harm upon him; that he even assured Sheriff Alvarez that, should it be confirmed that no encroachment would result from the fencing of Lot Nos. 703 and 706, he himself (respondent judge) would help in putting up said fence; that his statement that *trouble might ensue should Sheriff Alvarez proceed with the implementation* was not synonymous with the use of brute force. In fine, respondent judge insisted that he was only trying to protect his and his wife's proprietary rights, and that he never acted beyond the bounds of the law.

Respondent judge added that he and his wife were entitled to their day in court and it was this fact that prompted him to assist his wife in preparing and filing the motion to intervene; that the assistance he provided his wife was anchored on their interest in Lot No. 707, and not on any intention on his part to engage in the private practice of law. Respondent judge denied that he abandoned his post on the day of the supposed implementation of the writ of execution since he was on sick leave that day.



⁵ Id. at 67-85.

⁶ Id. at 76; italics supplied.

***Report and Recommendation of the Office of the Court Administrator
(OCA)***


In its Report and Recommendation,⁷ the OCA found that respondent judge improperly interfered with the implementation of the writ of execution and that this interference constituted conduct unbecoming of a judicial officer, viz.:

In the instant case, there was a valid writ of execution to be implemented. Respondent Judge Patricio committed an unlawful act when he interfered with the final implementation of the writ. Such act was improper for the esteemed office of a magistrate of the law and is tantamount to x x x conduct unbecoming a judicial officer. He practically took the law into his own hands when he stopped the implementation of the writ invoking his proprietary rights. As a judge, respondent Judge Patricio should be familiar with the laws and the appropriate legal remedies to protect his and his wife's right[s] over Lot No. 707, which was allegedly encroached [upon] by plaintiff Tan. Respondent Judge Patricio's defense that he merely asserted his right to prevent the encroachment, invasion, and usurpation of Lot No. 707 owned by him and his wife cannot justify his assailed action. He should have realized that the public would expect him to act in a manner reflecting the dignity and integrity of a judge. His demeanor as a judge should always be with utmost circumspection.⁸

Even then, the OCA recognized respondent judge's intention to protect his and his wife's property rights, thus:

Still, respondent Judge Patricio cannot be completely faulted for protecting his and his wife's proprietary rights. This is but human nature. Such action cannot be considered grossly repugnant. Thus, while he was previously penalized for another infraction, a fine of ₱20,000.00 is the appropriate penalty after taking into account the attendant circumstances.⁹

Thus, the OCA recommended that:

1. the instant administrative complaint be RE-DOCKETED as a regular administrative matter; and
 2. Presiding Judge Hannibal R. Patricio, Municipal Circuit Trial Court, President Roxas-Pilar, Capiz, be FINED in the amount of ₱20,000.00 for violation of Canon 4, Section 1 of the New Code of Judicial Conduct
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⁷ Id. at 152-159.

⁸ Id. at 158.

⁹ Id.

for the Philippine Judiciary, with a WARNING that a repetition of the same or any similar act would be dealt with more severely.¹⁰

The Court's Ruling

The Court agrees with the findings and recommendation of the OCA but modifies its recommended penalty.

To recall, respondent judge was charged with the following: (1) that he unduly intervened in or interfered with the implementation of the writ of execution; (2) that he resorted to threats and intimidation to stop the implementation of the writ of execution; (3) that he assisted his wife in filing a motion to intervene in Civil Case No. V-09-11; and (4) that he abandoned his work station on the day of the supposed implementation of the writ of execution.

At the outset, the Court finds no merit to the charge that respondent judge abandoned his work station on March 10, 2015 since a Certification¹¹ from the Office of Administrative Services of the OCA shows that he was on sick leave that day.

Nevertheless, the Court holds that the other charges have been substantiated. Respondent judge did not deny his presence at the premises of the properties subject of Civil Case No. V-09-11 on March 10, 2015. Respondent judge also admitted that he prevented the fencing of Lot Nos. 703 and 706 because he believed that the sketch plan on which the fencing of these said properties would be based was erroneous for failing to indicate on its face that Lot Nos. 703 and 706 were bounded by Lot No. 707 which he says was owned by him and his wife Ruby, on account of which a possible encroachment on their property might have resulted if the fencing would have pushed through.

The Court finds respondent judge's rationalization of his actions unacceptable.

One thing is clear – the implementation was pursuant to the lawful order of the RTC in Civil Case No. V-09-11. While respondent judge might have some misgivings on the accuracy of the sketch plan, he of all people should


¹⁰ Id. at 158-159.

¹¹ Id. at 146.

have known that, under the circumstances, he could not insist on his opinion about the sketch plan as the same had already been submitted to, evaluated, and passed upon by the court. As a judge, he should know that it was incumbent upon him to resort to suitable judicial remedies that he could avail of, and not to interfere with the implementation of a lawful order of the court through recourse to an unwarranted shortcut.

Respondent judge's reliance on Article 429¹² of the Civil Code is misplaced. The doctrine of "self-help" enunciated in this article applies only when the person against whom the owner has the right to use force (in order to exclude the former from the latter's property) is really an "aggressor."¹³ In this case, Sheriff Alvarez was not an aggressor, as indeed he could not have been one, because as an officer or agent of the court, he was simply carrying out his official duty to implement the writ of execution covering Lot Nos. 703 and 706. The OCA was correct in saying that respondent judge effectively took the law into his own hands, when he stopped the implementation of the writ of execution using threats and intimidation. Needless to say, he also clearly failed to accord due respect to legal processes.

While it may be true that respondent judge did not employ actual force in its literal sense when he stopped the implementation of the writ of execution, the threats he uttered (that something untoward might happen if the writ of execution were carried out) effectively prevented or stopped the carrying out of the writ of execution. It has been held that: "Such threat of violence is absolutely unbecoming [of] a judge who is expected to display proper decorum."¹⁴ It bears stressing that a judge "must exhibit the hallmark judicial temperament of utmost sobriety and self-restraint. He should choose his words and exercise more caution and control in expressing himself. In other words, a judge should possess the virtue of gravitas which means that a magistrate should not descend to the level of a sharp-tongued, ill-mannered petty tyrant by uttering harsh words, snide remarks and sarcastic comments. He is required to always be temperate, patient and courteous, both in conduct and in language."¹⁵ Likewise, as a holder of a judicial office that commands respect, respondent judge should accord respect to another officer of the court, a sheriff who is implementing a writ of execution.



¹² Art. 429. The owner or lawful possessor of a thing has the right to exclude any person from the enjoyment and disposal thereof. For this purpose, he may use such force as may be reasonably necessary to repel or prevent an actual or threatened unlawful physical invasion or usurpation of his property.

¹³ Paras, Edgardo, L., *Civil Code of the Philippines, Annotated, Volume II, Sixteenth Edition* (2008), p. 146.

¹⁴ *Jabon v. Judge Usman*, 510 Phil. 513, 543 (2005).

¹⁵ *Tormis v. Judge Paredes*, 753 Phil. 41, 54 (2015).

All told, respondent judge violated Canon 2, Sections 1 and 2, and Canon 4, Sections 1 and 2, of the New Code of Judicial Conduct for the Philippine Judiciary which provide, *viz.*:

CANON 2
Integrity

Integrity is essential not only to the proper discharge of the judicial office but also to the personal demeanor of judges.

SECTION 1. Judges shall ensure that not only is their conduct above reproach, but that it is perceived to be so in the view of a reasonable observer.

SECTION 2. The behavior and conduct of judges must reaffirm the people's faith in the integrity of the judiciary. Justice must not merely be done but must also be seen to be done.

x x x x

CANON 4
Propriety

Propriety and the appearance of propriety are essential to the performance of all the activities of a judge.

SECTION 1. Judges shall avoid impropriety and the appearance of impropriety in all of their activities.

SECTION 2. As a subject of constant public scrutiny, judges must accept personal restrictions that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly. In particular, judges shall conduct themselves in a way that is consistent with the dignity of the judicial office.

Canons 1 and 11 of the Code of Professional Responsibility mandate:

CANON 1 – A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND LEGAL PROCESSES.

CANON 11 – A LAWYER SHALL OBSERVE AND MAINTAIN THE RESPECT DUE TO THE COURTS AND TO JUDICIAL OFFICERS AND SHOULD INSIST ON SIMILAR CONDUCT BY OTHERS.”



“Certainly, a judge who falls short of the ethics of the judicial office tends to diminish the people’s respect for the law and legal processes. He also fails to observe and maintain the esteem due to the courts and to judicial officers.”¹⁶

With respect to respondent judge’s act of assisting his wife in preparing a motion to intervene in Civil Case No. V-09-11 and affixing his signature thereon, the Court agrees with respondent judge that the same does not constitute private practice of law. In *Office of the Court Administrator v. Judge Floro, Jr.*, we held:¹⁷

x x x [W]hat is envisioned by ‘private practice’ is more than an isolated court appearance, for it consists in frequent customary action, a succession of acts of the same nature habitually or customarily holding one’s self to the public as a lawyer. In herein case, save for the ‘Motion for Entry of Judgment,’ it does not appear from the records that Judge Floro filed other pleadings or appeared in any other court proceedings in connection with his personal cases. It is safe to conclude, therefore, that Judge Floro’s act of filing the motion for entry of judgment is but an isolated case and does not in any wise constitute private practice of law. Moreover, we cannot ignore the fact that Judge Floro is obviously not lawyering for any person in this case as he himself is the petitioner.¹⁸

To be sure, it does not escape the Court’s attention that the title “Judge” is appended to respondent judge’s name appearing on the motion to intervene. The Court has already stated that:

While the use of the title [‘Judge’ or ‘Justice’] is an official designation as well as an honor that an incumbent has earned, a line still has to be drawn based on the circumstances of the use of the appellation. While the title can be used for social and other identification purposes, it cannot be used with the intent to use the prestige of his judicial office to gainfully advance his personal, family or other pecuniary interests. Nor can the prestige of a judicial office be used or lent to advance the private interests of others, or to convey or permit others to convey the impression that they are in a special position to influence the judge. To do any of these is to cross into the prohibited field of impropriety.¹⁹

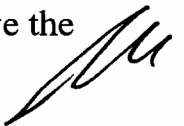
Since respondent judge was asking for relief from the RTC through the subject motion, he should not have used therein his title “Judge”. For even if he did not intend to take undue advantage of his title, it nevertheless gave the

¹⁶ *Dee C. Chuan & Sons, Inc. v. Judge Peralta*, 603 Phil. 94,103 (2009).

¹⁷ 520 Phil. 590 (2006).

¹⁸ *Id.* at 636.

¹⁹ *Ladignon v. Judge Garong*, 584 Phil. 352, 357-358 (2008).




appearance of impropriety considering the circumstances of the case.²⁰ The same may be construed as an attempt “to influence or put pressure on a fellow judge (the Presiding Judge of the RTC handling Civil Case No. V-09-11) by emphasizing that he himself is a judge and is thus is in the right.”²¹

Indeed, the aforementioned inappropriate actions of respondent judge constitute Conduct Unbecoming of a Judicial Officer. Under Sections 10 and 11, Rule 141 of the Rules of Court, unbecoming conduct is a light charge which is sanctioned by any of the following: (1) a fine of not less than ₱1,000.00 but not exceeding ₱10,000.00 and/or; (2) censure; (3) reprimand; and (4) admonition with warning. Considering, however, that respondent judge was herein found guilty of three counts of Conduct Unbecoming of a Judicial Officer, and considering further that he was already previously adjudged guilty of gross ignorance of the law, manifest bias, and partiality in MTJ-13-1834 (*Carbajosa v. Judge Hannibal R. Patricio*)²² wherein he was meted out a fine of ₱21,000.00, the Court believes that respondent judge ought to be meted out a fine in the amount of ₱40,000.00, with stern warning that a repetition of the same or similar act shall be dealt with more severely.

As final note: it may not be amiss to state that a judge should so behave at all times as to promote public confidence in the integrity of the judiciary, and avoid impropriety and appearance of impropriety in all activities.²³ “His personal behavior, not only while in the performance of official duties but also outside the court, must be beyond reproach, for he is the visible personification of law and justice.”²⁴

WHEREFORE, respondent Judge Hannibal R. Patricio of the Municipal Circuit Trial Court, President Roxas-Pilar, Capiz, is hereby found **GUILTY** of three counts of Conduct Unbecoming of a Judicial Officer for which he is imposed a **FINE** of ₱40,000.00, with **WARNING** that a repetition of the same or any similar act would be dealt with more severely.



²⁰ Id. at 358.

²¹ *Office of the Court Administrator v. Judge Floro, Jr.*, supra note 19 at 636-637.

²² See Decision dated October 2, 2013 in said case.

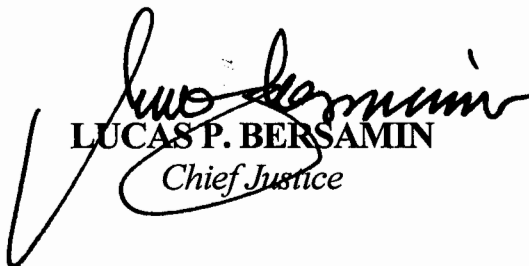
²³ *Atty. Molina v. Judge Paz*, 462 Phil. 620, 629 (2003).

²⁴ Id.


SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


LUCAS P. BERSAMIN
Chief Justice


FRANCIS H. JARDELEZA
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice

(On official leave)
ROSMARI D. CARANDANG
Associate Justice