



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

CARLOS GAUDENCIO M. MAÑALAC,
Complainant,

A.M. No. RTJ-18-2535
(formerly OCA IPI No. 16-4583-RTJ)

Present:

- versus -

LEONARDO-DE CASTRO, C. J.,
BERSAMIN,
DEL CASTILLO,
PERLAS-BERNABE,* and
TIJAM, JJ.

HON. PEPITO B. GELLADA,
Presiding Judge, Branch 53,
Regional Trial Court, Bacolod,
City, Negros Occidental,
Respondent.

Promulgated:
OCT 08 2018

[Signature] X

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DECISION

DEL CASTILLO, J.:

Complainant Carlos Gaudencio M. Mañalac, for and on behalf of Philippine Investment One (SPV-AMC), Inc. (PI One), filed this complaint¹ against respondent Judge Pepito B. Gellada (Judge Gellada), former Presiding Judge of Branch 53, Regional Trial Court of Bacolod City (RTC Bacolod City Branch 53), Negros Occidental for “(a) gross ignorance of the law and interference with the proceedings of a co-equal and coordinate court in issuing the nullification of the foreclosure [of] and the subsequent proceeding[s] taken thereafter; (b) gross ignorance of the law and grave abuse of discretion in granting relief which has not specifically been sought in the pleadings by the parties; and (c) gross ignorance of the law when he acted upon the Ex-Parte Motion for Issuance of Writ of Execution filed by [Medical Associates Diagnostic Center Inc.] MADCI on 13 May 2016 and issued an Order on that very day granting the issuance of the corresponding writ of execution without the required hearing and without prior notice to PI One.”²

[Signature]

* Per raffle dated October 8, 2018.

¹ *Rollo*, pp. 1-12.

² *Id.* at 11.

PI One is a corporation existing under and by virtue of the laws of the Philippines. In particular, it was organized as a Special Purpose Vehicle by virtue of Republic Act No. 9182 and is thus “empowered to acquire or purchase assets from banking and financial institutions”.³

Previously, MADCI obtained a loan from the Development Bank of the Philippines (DBP) secured by a mortgage over a property covered by Transfer Certificate of Title (TCT) No. T-200764. MADCI defaulted in its obligations and its loan eventually became past due. Subsequently, DBP transferred to PI One all its rights, title, and interest on the non-performing loan of MADCI.

Meanwhile, MADCI filed an action for corporate rehabilitation which was raffled to RTC Bacolod City Branch 53 presided by Judge Gellada. After due proceedings, the RTC Bacolod City Branch 53 issued on March 19, 2015 an Order⁴ terminating the rehabilitation proceedings for failure of MADCI to comply with its obligations under the rehabilitation plan.

With the termination of the rehabilitation proceedings, PI One proceeded to foreclose on the mortgage. When MADCI failed to redeem, the ownership of the property was eventually consolidated to PI One under TCT No. 166-2015000786.⁵ PI One thereafter succeeded in obtaining a writ of possession from RTC Kabankalan City Branch 61 and effectively acquired lawful possession of the property covered by the new TCT.

Meanwhile, on June 10, 2015, the RTC Bacolod City Branch 53 issued an Order⁶ denying with finality MADCI’s motion for reconsideration of the March 19, 2015 Order. On October 7, 2015,⁷ MADCI filed a Complaint⁸ for Declaration of Nullity of Foreclosure Proceedings which was docketed as Civil Case No. 15-14609 and raffled to RTC Bacolod City Branch 54.

Complainant alleged that, notwithstanding the termination of the rehabilitation proceedings, MADCI filed a *Motion to Allow Petitioner to Avail of the Provisions of Rule 2 Sec. 73 of the Financial Rehabilitation Rules of Procedure*⁹

³ Id. at 2.

⁴ Id. at 29-31.

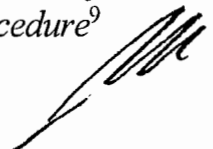
⁵ Id. at 3-4.

⁶ Id. at 119.

⁷ Id. at 153.

⁸ Id. at 153-159.

⁹ Id. at 120-124.



dated October 5, 2015. MADCI prayed that it “be given a final opportunity to remedy the breach in the rehabilitation plan in lieu of the direct termination of the rehabilitation proceedings.”¹⁰ In other words, MADCI prayed that it be allowed to revive or reopen the rehabilitation proceedings.

In an Order¹¹ dated May 5, 2016, Judge Gellada granted MADCI’s motion and ordered MADCI to comply with the provisions of the rehabilitation plan within 15 days; declared null and void the foreclosure and the proceedings taken after such foreclosure; and ordered PI One to restore MADCI in possession of the subject property. The dispositive portion of the assailed May 5, 2016 Order reads as follows:

WHEREFORE, premises considered, the Motion to Allow Petitioner to Avail of the Provisions of Rule 2, Section 73 of the Financial Rehabilitation Rules of Procedure is GRANTED. Petitioner is given a period of fifteen (15) days to comply with the provisions of the Rehabilitation Plan and the provisions of Rule 2, Section 73 FRIA Rules of Procedure.

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Furthermore, the court hereby declares the FORECLOSURE of the property of petitioner MADCI INC. including the hospital, and subsequent proceedings taken thereafter as NULL AND VOID. PI ONE is ORDERED to RESTORE IMMEDIATELY petitioner to the possession of the property and the hospital and its facilities. Pending compliance with the ORDERS above-stated, petitioner is hereby RESTORED to its ACTIVE STATUS in the above-entitled case.

SO ORDERED.¹²

MADCI thus filed on May 13, 2016 an *Ex-Parte Motion for Execution*¹³ to enforce the May 5, 2016 Order. This *ex-parte* motion was granted and a Writ of Execution was issued on even date.¹⁴

Against this backdrop, PI One charged Judge Gellada with gross ignorance of the law (a) when he issued the May 5, 2016 Order reviving or reopening the rehabilitation proceedings notwithstanding the final and executory nature of the March 19, 2015 Order¹⁵ terminating the rehabilitation proceedings; (b) when he

¹⁰ Id. at 123.

¹¹ A copy of which is not attached to the complaint-affidavit or the records of the instant administrative case.

¹² *Rollo*, pp. 5-6.

¹³ Id. at 328.

¹⁴ Id. at 6.

¹⁵ Id. at 29-31.

issued the May 5, 2016 Order annulling the foreclosure and subsequent proceedings taken thereafter despite the pendency of a *Complaint for Declaration of Nullity of Foreclosure Proceedings* before RTC Bacolod City Branch 54; and in immediately restoring MADCI in possession of the subject property despite the RTC Kabankalan City Branch 61 having already previously issued a writ of possession in favor of PI ONE, thereby unduly interfering with the judgments and decrees of co-equal courts; moreover, Judge Gellada granted said reliefs despite their not being prayed for in MADCI's pleadings; and, (c) when he issued the May 13, 2016 Order granting MADCI's motion for execution without hearing or notice to PI ONE.

Judge Gellada denied the charges against him. In his Comment,¹⁶ he asserted that the Order lifting the termination of the rehabilitation proceedings was not without support.¹⁷ He claimed that PI ONE's motion to terminate the rehabilitation proceedings was anchored on Section 27, Rule 4 of the old Rules on Corporate Rehabilitation of 2000 (2000 Rules) which rule later became the Interim Rules on Corporate Rehabilitation of 2008 (2008 Rules); that MADCI's motion to revive the proceedings was grounded on the Financial Rehabilitation and Insolvency Act of 2010 (FRIA), Section 75 of which repealed Section 27 of the 2000 Rules and Section 23 of the 2008 Rules. Judge Gellada averred that he granted MADCI's aforesaid motion to avail of provisions of the FRIA because the rehabilitation case had not been properly terminated in accordance with Section 74¹⁸

¹⁶ Id. at 340-351.

¹⁷ Id. at 349.

¹⁸ Improperly cited by Respondent as Section 75. Section 74 of the Financial Rehabilitation and Insolvency Act of 2010 states:

SECTION 74. *Termination of Proceedings.* — The rehabilitation proceedings under Chapter II shall, upon motion by any stakeholder or the rehabilitation receiver, be terminated by order of the court either declaring a successful implementation of the Rehabilitation Plan or a failure of rehabilitation.

There is failure of rehabilitation in the following cases:

- (a) Dismissal of the petition by the court;
- (b) The debtor fails to submit a Rehabilitation Plan;
- (c) Under the Rehabilitation Plan submitted by the debtor, there is no substantial likelihood that the debtor can be rehabilitated within a reasonable period;
- (d) The Rehabilitation Plan or its amendment is approved by the court but in the implementation thereof, the debtor fails to perform its obligations thereunder, or there is a failure to realize the objectives, targets or goals set forth therein, including the timelines and conditions for the settlement of the obligations due to the creditors and other claimants;
- (e) The commission of fraud in securing the approval of the Rehabilitation Plan or its amendment; and
- (f) Other analogous circumstances as may be defined by the rules of procedure.

Upon a breach of, or upon a failure of the Rehabilitation Plan, the court, upon motion by an affected party, may:

- (1) issue an order directing that the breach be cured within a specified period of time, failing which the proceedings may be converted to a liquidation;
- (2) issue an order converting the proceedings to a liquidation;
- (3) allow the debtor or rehabilitation receiver to submit amendments to the Rehabilitation Plan, the approval of which shall be governed by the same requirements for the approval of a Rehabilitation Plan under this subchapter;
- (4) issue any other order to remedy the breach consistent with the present regulation, other applicable law and the best interests of the creditors; or
- (5) enforce the applicable provisions of the Rehabilitation Plan through a writ of execution.

thereof. According to Judge Gellada, the FRIA provides that, in the event the rehabilitation proceedings fail, the same may be converted into liquidation proceedings¹⁹ which disallows foreclosure for a period of 180 days.²⁰ Judge Gellada noted that when MADCI did not comply with the provisions of the Rehabilitation Plan, PI ONE immediately moved for the termination of the rehabilitation proceedings instead of asking for its conversion to liquidation proceedings; moreover, it immediately foreclosed on the mortgage and consolidated its ownership over the subject property. According to Judge Gellada, the aforesaid acts of PI ONE did not comply with the express and mandatory terms of FRIA and in violation of due process; consequently, the March 19, 2015 Order terminating the rehabilitation proceedings did not attain finality and “[n]ot having attained finality, Branch 53 as a commercial court, effectively retained jurisdiction of the rehabilitation proceedings.”²¹

Judge Gellada maintained that the FRIA allows the issuance of a Stay Order²² which “suspends all actions or proceedings in court or otherwise,”²³ including the “filing [of] a petition for foreclosure, actually conducting the foreclosure sale, and subsequently the consolidation of the title to the property of the debtor.”²⁴ Thus, PI ONE’s foreclosure on the mortgage and the consolidation of title over the subject property were all done in violation of FRIA.²⁵

In conclusion, Judge Gellada stated that the “present administrative complaint filed against respondent [was] a bitter pill to swallow. It came just more than a week after he [had] officially retired after 23 years of faithful and loyal service to the government, the Supreme Court, and the country, a stint that has not been tainted by any whiff of irregularity.”²⁶

Report and Recommendation of the Office of the Court Administrator

In a Report²⁷ dated April 18, 2017, the Office of the Court Administrator (OCA) found respondent judge guilty of gross ignorance of the law, viz.:



¹⁹ *Rollo*, p. 342.

²⁰ *Id.*

²¹ *Id.* at 345.

²² *Id.* at 345.

²³ *Id.* at 346.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.* at 350-351.

²⁷ *Id.* at 426-433.

This legal reality, known as immutability of judgment, is an elementary principle of law and procedure. The petition for corporate rehabilitation and the Termination Order dated 19 March 2015 ending the rehabilitation proceedings is in itself a judgment. Once a judgment becomes final, it may no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law, and regardless of whether it is attempted to be made by the court rendering it or by the Highest Court of the land. The only recognized exceptions are the correction of clerical errors, or the making of the so-called *nunc pro tunc* (“now for then”) entries which cause no prejudice to any party, and where the judgment is void, *and whenever circumstances transpire after the finality of the decision rendering its execution unjust and inequitable*. Judge Gellada’s ground for modifying the order is not among these recognized exceptions. In fact, after 2015 (the 10th year), MADCI still failed to comply with the rehabilitation plan. Moreover, respondent Judge did not answer squarely the issue on whether his Order dated 13 May 2016 granting the writ of execution was set for hearing.

True it is that jurisprudence is replete with doctrines stating that a *judge is not liable for an erroneous decision in the absence of malice or wrongful conduct in rendering it. For liability to attach for ignorance of the law, the assailed order, decision or actuation of the judge in the performance of official duties must not only be found erroneous but, most importantly, it must be established that he was moved by bad faith, dishonesty, hatred, or some other like motive*. But the doctrine of immutability of judgment should be at every judge’s fingertips and the procedural requirement of setting for hearing every motion for execution. Hence, by ignoring this basic doctrine, one can be presumed to have acted in bad faith.

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Respondent Judge also violated Rule 3.01, Canon 3 of the Code of Judicial Conduct which mandates professional competence on the part of the judge. A judge owes the public and the court the duty to be proficient in the law and is expected to keep abreast of laws and prevailing jurisprudence, otherwise, he erodes the confidence of the public in the courts. x x x²⁸

Taking into account Judge Gellada’s compulsory retirement on July 28, 2016, his length of service spanning 23 years, 6 months, and 13 days in the judiciary, and the fact that his two previous offenses merited only an admonition (for failing to take immediate steps to locate a missing record) and a reprimand (for delay in resolving Special Proceeding No. 7245), the OCA recommended that he be meted out a fine of ₱20,000.00.

Our Ruling

We agree with the OCA’s finding that respondent judge exhibited gross

²⁸ Id. at 431-432.



ignorance of the law and procedure in issuing the Order dated May 5, 2016 as it violated the principle of immutability of judgment and the policy of non-interference over the judgments or processes of a co-equal court.

In *Recto v. Hon. Trocino*,²⁹ we defined gross ignorance of the law in the following manner:

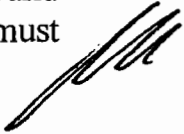
Gross ignorance of the law is the disregard of the basic rules and settled jurisprudence. A judge owes it to his office to simply apply the law when the law or a rule is basic and the facts are evident. Not to know it or to act as if one does not know it constitutes gross ignorance of the law. (citations omitted)

In *Mercado v. Judge Salcedo (Ret.)*,³⁰ this Court found therein respondent judge guilty of gross ignorance of the law when he effectively modified a decision that had attained finality.

x x x [W]hen a final judgment becomes executory, it thereby becomes immutable and unalterable. The judgment may no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law, and regardless of whether the modification is attempted to be made by the Court rendering it or by the highest Court of the land. x x x³¹

Of course, there are exceptions to this rule, such as “the correction of clerical errors, or the making of so-called *nunc pro tunc* entries, which cause no prejudice to any party, and [the nullification of a] judgment [that] is void.”³² None of the exceptions obtain in this case, however.

The March 19, 2015 Order terminating the rehabilitation proceedings became final and executory after Judge Gellada denied MADCI’s motion for reconsideration to reverse the same. It, thus, became imperative for Judge Gellada to respect his own final and executory decision in keeping with the basic principle of finality or immutability of judgments. “The doctrine of finality of judgment, which is grounded on fundamental considerations of public policy and sound practice, dictates that at the risk of occasional error, the judgments of the courts must



²⁹ A.M. No. RTJ-17-2508, November 7, 2017.

³⁰ 619 Phil. 3, 31 (2009).

³¹ *Equitable Banking Corporation (EQUITABLE-PCI BANK) v. Sadac*, 523 Phil. 781, 823-824 (2006).

³² *Id.* at 824.

become final and executory at some definite date set by law.”³³ To do otherwise, as what Judge Gellada did by issuing the May 5, 2016 Order, rendered him administratively liable for gross ignorance of the law.

Neither will Judge Gellada’s explanation, that the motion to revive the proceedings was wrongfully granted for being based on the outdated 2000 Rules and 2008 Rules, merit an exoneration from administrative liability. Even if this Court were to consider such mistaken interpretation of the amendments to the Rules on Corporate Rehabilitation, his explanation in itself highlighted his gross ignorance of the law in failing to apply the latest law on the matter, *i.e.*, FRIA. Considering that RTC Bacolod City Branch 53 is a commercial court, it all the more makes Judge Gellada’s ignorance of the applicable law glaring. “This Court has ruled that when a judge displays an utter lack of familiarity with the rules, he erodes the public’s confidence in the competence of our courts. Such is gross ignorance of the law.”³⁴

Even if this Court were to brush aside the impropriety of Judge Gellada’s May 5, 2016 Order, his act of granting MADCI’s *ex-parte* motion for execution infringes on the time-honored principle that “the notice requirement in a motion is mandatory”³⁵ because a “notice of motion is required where a party has a right to resist the relief sought by the motion and principles of natural justice demand that [a party’s] right be not affected without an opportunity to be heard.”³⁶ What is striking was Judge Gellada’s act of granting MADCI’s *ex-parte* motion despite being aware of PI ONE’s previous writ of possession over the assailed property before RTC Kabankalan City Branch 61; and of his nullifying the foreclosure and subsequent proceedings despite the pendency of a complaint for nullification of foreclosure proceedings before the RTC Bacolod City Branch 54. Not only was this a wanton disregard of PI ONE’s right to due process but it also interfered with the orders and processes of a co-equal court.

Although involving the issuance of a temporary restraining order, our pronouncement in *Atty. Cabili v. Judge Balindong*³⁷ explains the importance of maintaining a policy of non-interference over the judgements or orders of a co-equal court, to wit:

The doctrine of judicial stability or non-interference in the regular orders or judgments of a co-equal court is an elementary principle in the administration

³³ *Engr. Tupaz v. Hon. Apurillo*, 487 Phil. 271, 279 (2004), citing *Mercury Drug Corporation v. Court of Appeals*, 390 Phil. 902, 914 (2000).

³⁴ *Barredo-Fuentes v. Judge Albarracin*, 496 Phil. 31, 38 (2005), citing *Guillen v. Cañon*, 424 Phil. 81, 88-89 (2002).

³⁵ *Sarmiento v. Zaratan*, 543 Phil. 232, 243 (2007).

³⁶ *Id.*

³⁷ 672 Phil. 398 (2011).



of justice: no court can interfere by injunction with the judgments or orders of **another court of concurrent jurisdiction** having the power to grant the relief sought by the injunction. The rationale for the rule is founded on the concept of jurisdiction: a court that acquires jurisdiction over the case and renders judgment therein has jurisdiction over its judgment, **to the exclusion of all other coordinate courts, for its execution and over all its incidents, and to control, in furtherance of justice, the conduct of ministerial officers acting in connection with this judgment.**


Thus, we have repeatedly held that a case where an execution order has been issued is considered as **still pending**, so that all the proceedings on the execution are still proceedings in the suit. A court which issued a writ of execution has the inherent power, for the advancement of justice, to correct errors of its ministerial officers and to control its own processes. To hold otherwise would be to divide the jurisdiction of the appropriate forum in the resolution of incidents arising in execution proceedings. Splitting of jurisdiction is obnoxious to the orderly administration of justice.

Jurisprudence shows that a violation of this rule warrants the imposition of administrative sanctions.³⁸ (Emphasis in the original. Underscoring supplied. Citations omitted.)

Judge Gellada's administrative liability becomes more palpable as MADCI's *Motion to Allow Petitioner to Avail of the Provisions of Rule 2 Sec. 73 of the Financial Rehabilitation Rules of Procedure* did not even pray for the nullification of the foreclosure proceedings or restoration of possession of the subject property.

The confluence of these infractions showed Judge Gellada's gross ignorance of the law, "which is classified as a serious charge, [and] punishable by a fine of more than ₱20,000.00 but not exceeding ₱40,000.00, and suspension from office for more than three (3) but not exceeding six (6) months, without salary and other benefits, or dismissal from service."³⁹ Given the fact that Judge Gellada compulsorily retired on July 28, 2016, and in the absence of a finding of bad faith, dishonesty, or some other ill motive, a fine of ₱21,000.00 would be appropriate under the circumstances.

WHEREFORE, Judge Pepito B. Gellada, former Presiding Judge of Branch 53, Regional Trial Court, Bacolod City, Negros Occidental, is found **GUILTY** of gross ignorance of the law and procedure and is **FINED** the amount of ₱21,000.00, to be deducted from his retirement benefits.



³⁸ Id. at 406-407.

³⁹ *Department of Justice v. Judge Misleng*, 791 Phil. 219, 231 (2016).

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


TERESITA J. LEONARDO-DE CASTRO
Chief Justice

(On official leave)
LUCAS P. BERSAMIN
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice


NOEL GIMENEZ TIJAM
Associate Justice