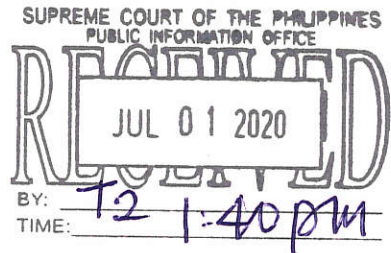




Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **November 25, 2019**, which reads as follows:*

“OCA IPI No. 19-3065-MTJ – (Atty. John Severino G. Bagasao, Complainant, v. Hon. Rosalie D. Galicinao, Presiding Judge, Municipal Circuit Trial Court, Aritao-Sta. Fe, Nueva Vizcaya, Respondent) – Complainant Atty. John Severino G. Bagasao charged Presiding Judge Rosalie D. Galicinao (Judge Galicinao), Presiding Judge of the Municipal Circuit Trial Court (MCTC), Aritao-Sta. Fe, Nueva Vizcaya, with gross ignorance of the law relative to a case for forcible entry docketed as Civil Case No. 2241, wherein complainant served as counsel of therein plaintiff, Rolando Serapon (Serapon).

On 02 July 2019, Civil Case No. 2241 was set for hearing for the issuance of a Temporary Restraining Order although the same was not allegedly prayed for in the complaint. During the hearing, defendants did not file any answer but, instead, presented pieces of documentary evidence in court denominated as: (a) “*Katulagan iti Pinagsubli*” dated 24 June 2019; and (b) an alleged certification issued by the Department of Environment and Natural Resources to the effect that the land subject of the case was verified and projected to be alienable and disposable.¹ Accordingly, Judge Galicinao dismissed Civil Case No. 2241 for lack of cause of action, as defendant had already left the property, which is now possessed by its owner, Fidel Cudiamat.² Serapon, thru complainant, filed a notice of appeal, which was given due course by Judge Galicinao.³

Given the foregoing, complainant asserts Judge Galicinao’s guilt for gross ignorance of the law owing to the latter’s unmistakable disregard of simple and elementary rules of summary procedure. Before a case may be dismissed, the grounds for dismissal should have been raised in an answer or

¹ *Rollo*, pp. 2-3.

² *Id.* at 20.

³ *Id.* at 3.

any responsive pleading. Since defendants did not file an answer or any pleading, Judge Galicinao grossly erred in dismissing Civil Case No. 2241 for lack of cause of action.⁴

**Report and Recommendation
of the Office of the Court Administrator (OCA)⁵**

In its Report dated 12 September 2019, the OCA recommended that the instant administrative case be dismissed for being judicial in nature and for lack of merit. The alleged errors attributed to Judge Galicinao pertain to her exercise of adjudicative functions, which is a judicial matter beyond the realm of an administrative proceeding. Disciplinary proceedings against judges do not complement, supplement or substitute judicial remedies. Moreover, an inquiry into a judge's administrative liability arising from judicial acts may be made only after other available remedies have been settled. Here, complainant's client had successfully lodged an appeal against the assailed order.⁶

Our Ruling

We adopt the findings and recommendation of the OCA.

Unless the acts were committed with fraud, dishonesty, corruption, malice or ill-will, bad faith, or deliberate intent to do an injustice, Judge Galicinao may not be held administratively liable for ignorance of the law in the exercise of judicial functions and duties, particularly in the adjudication of cases.⁷

Settled is the rule that when the subject of the complaint may be questioned by judicial review, the administrative complaint shall be dismissed.⁸ An administrative complaint against a judge is not a substitute for a proper remedy taken in due course to review and undo his or her acts or omissions done in the performance of judicial duties and functions.⁹

In this case, the administrative liability of Judge Galicinao hinges on the resolution of the issue involving the application of procedural rules. The same issue is necessarily included in the appeal filed by Serapon thru herein

⁴ *Id.* at 5-8.

⁵ *Id.* at 27-29; penned by Court Administrator Jose Midas P. Marquez.

⁶ *Id.*, citing *Salcedo v. Caguioa*, 467 Phil. 20-29 (2004); A.M. No. MTJ-00-1328, 11 February 2004, 422 SCRA 426.

⁷ *Lorenzana v. Austria*, A.M. No. RTJ-09-2200, 02 April 2014 (Formerly OCA I.P.I. No. 08-2834-RTJ), 720 SCRA 319.

⁸ *Yoingco v. Gonzaga*, 470 Phil. 447-455 (2004); A.M. No. MTJ-03-1489 (Formerly AM-OCA IPI No. 02-1265-MTJ), 31 March 2004, 426 SCRA 2004.

⁹ *See v. Misleng*, A.M. No. RTJ-16-2454, 06 June 2018 864 SCRA 175.

complainant. As properly held by the OCA, such issue is judicial in nature, which determination is best left to the courts.

Again, an administrative complaint is not the appropriate remedy for every irregular or erroneous order or decision issued by a judge where a judicial remedy is available. For, obviously, if subsequent developments prove the judge's challenged act to be correct, there would be no occasion to proceed against her at all. Besides, to hold a judge administratively accountable for every erroneous ruling or decision rendered, assuming she has erred, would be nothing short of harassment and would make her position doubly unbearable.¹⁰

WHEREFORE, the Court hereby resolves to **ADOPT** and **APPROVE** the findings of fact, conclusion of law and recommendation of the Office of the Court Administrator in the attached Administrative Matter for Agenda in OCA IPI No. 19-3065-MTJ dated 12 September 2019. The administrative complaint against respondent Presiding Judge Rosalie D. Galicinao of the Municipal Circuit Trial Court, Aritao-Sta. Fe, Nueva Vizcaya, is **DISMISSED**.

Accordingly, the case is considered **CLOSED** and **TERMINATED**.

SO ORDERED.”

Very truly yours,

Misael D C Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court

Atty. John Severino G. Bagasao
Complainant
Unit C - Nuestro Building, No. 24
National Road cor. M.M. Nuestro St.
Brgy. Sta. Rosa, Bayombong
3700 Nueva Vizcaya

Hon. Rosalie D. Galicinao
Presiding Judge
MUNICIPAL CIRCUIT TRIAL COURT
3704 Aritao-Sta. Fe, Nueva Vizcaya

Hon. Jose Midas P. Marquez
Court Administrator
OFFICE OF THE COURT ADMINISTRATOR
Supreme Court, Manila

¹⁰ *Id.*

Hon. Raul Bautista Villanueva
Hon. Jenny Lind R. Aldecoa-Delorino
Hon. Leo T. Madrazo
Deputy Court Administrators
OFFICE OF THE COURT ADMINISTRATOR
Supreme Court, Manila

Hon. Lilian C. Barribal-Co
Hon. Maria Regina Adoracion Filomena M. Ignacio
Assistant Court Administrators
OFFICE OF THE COURT ADMINISTRATOR
Supreme Court, Manila

JUDICIAL AND BAR COUNCIL
Supreme Court, Manila

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Accounting Division
Financial Management Office (Atty. Ruby E. Garcia)
Cash Collection & Disbursement
Office of Administrative Services (Atty. Caridad A. Pabello)
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Supreme Court, Manila

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OCA IPI No. 19-3065-MTJ

/jay

***With attached copy of Agenda Report dated September 12, 2019**

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Republic of the Philippines
Supreme Court
Office of the Court Administrator
Manila

ADMINISTRATIVE MATTER FOR AGENDA

SUBJECT MATTER: OCA IPI No. 19-3065-MTJ (*Atty. John Severino G. Bagasao vs. Hon. Rosalie D. Galicinao, Presiding Judge, Municipal Circuit Trial Court, Aritao-Sta. Fe, Nueva Vizcaya*).

REASON FOR AGENDA: In a *Verified Complaint* (with enclosures) dated 22 July 2019, complainant Atty. John Severino G. Bagasao charged respondent Presiding Judge Rosalie D. Galicinao, Municipal Circuit Trial Court (MCTC), Aritao-Sta. Fe, Nueva Vizcaya, with gross ignorance of the law relative to Civil Case No. 2241, entitled "*Rolando Serapon vs. Spouses Samuel Evangelista and Jocelyn Evangelista*", for forcible entry with prayer for a writ of preliminary mandatory injunction.

Complainant Bagasao alleged that on 28 June 2019, plaintiff Rolando Serapon filed a case for forcible entry with prayer for a writ of preliminary mandatory injunction against defendants Spouses Samuel Evangelista and Jocelyn Evangelista before the MCTC, Aritao-Sta. Fe, Nueva Vizcaya, presided by respondent Judge Galicinao. On 2 July 2019, the case was set for hearing for the issuance of a Temporary Restraining Order (TRO), although the same was not prayed for in the complaint. During the hearing, the defendants did not file any answer to the complaint despite proper service of the summons, preferring instead to present in court pieces of documentary evidence denominated as: (a) "*Katulagan iti Panagsubli*" dated 24 June 2019, executed by Samuel Evangelista and Fidel Cudiamat; and (b) an alleged certification issued by the Department of Environment and Natural Resources (DENR) to the effect that the land, subject of Civil Case No. 2241, was verified and projected to be as alienable and disposable.

To make matters worse, respondent Judge Galicinao issued an order on even date dismissing Civil Case No. 2241 on the ground of lack of cause of action. Thus, on 11 July 2019, plaintiff thru counsel (herein complainant) filed a notice of appeal, which was subsequently given due course on the same day by respondent Judge Galicinao.

Given the foregoing, complainant Bagasao asserted that respondent Judge Galicinao should be found guilty of gross ignorance of the law for

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the latter's unmistakable disregard of simple and elementary rules which she ought to properly apply in Civil Case No. 2241, but nevertheless did otherwise.

Complainant Bagasao argued that it is well-settled that before a case may be dismissed on grounds enumerated in Rule 16 of the 1997 Rules of Civil Procedure, the same should be raised in a written motion to that effect or included as an affirmative defense in the answer. In Civil Case No. 2241, however, no written motion to dismiss or answer was ever filed by the defendants. In addition, the issue as regards the correctness of the ground, i.e., lack of cause of action, relied upon by respondent Judge Galicinao could be better resolved after the presentation of the plaintiff's evidence which is lacking in the instant case.

In dismissing Civil Case No. 2241, respondent Judge Galicinao relied on the following external factors: (a) the "*Katulagan iti Panagsubli*" dated 24 June 2019 executed by Samuel Evangelista and Fidel Cudiamat and (b) an alleged certification issued by the DENR, to the effect that the land, subject of Civil Case No. 2241, was verified and projected to be alienable and disposable. Citing several jurisprudential rulings, complainant Bagasao insisted that respondent Judge Galicinao was rather hasty in dismissing his client's case and, in view of her deliberate act of ignoring basic rules of procedure, the same should be administratively dealt with.

EVALUATION: The crux of the instant case is whether or not complainant Bagasao could challenge the Order dated 02 July 2019 of respondent Judge Galicinao, dismissing Civil Case No. 2241, by means of instituting this administrative complaint.

On its face, the complaint cannot be given due course for being judicial in nature. The alleged errors attributed to respondent Judge Galicinao pertain to her exercise of adjudicative functions, hence a judicial matter that is beyond the realm of an administrative proceeding. Section 2, Rule 140 of the Revised Rules of Court is expressive on the matter, *to wit:*

SEC. 2 Action on the complaint. - If the complaint is sufficient in form and substance, a copy thereof shall be served upon the respondent and he shall be required to comment within ten (10) days from the date of service. **Otherwise, the same shall be dismissed.** (Emphasis supplied.)


Apropos, in *Salcedo vs. Caguioa*, A.M. No. MTJ-00-1328, 422 SCRA 426, the Court held that:

It is a horn book rule that errors committed by a judge in the exercise of his adjudicative functions cannot be corrected through administrative proceedings, but should instead be assailed through judicial remedies. Disciplinary proceedings against judges do not complement, supplement or substitute judicial remedies and an inquiry into their administrative liability arising from judicial acts may be made only after other available remedies have been settled.

At any rate, it cannot be overemphasized that the instant complaint cannot be given due consideration since the same was prematurely filed by complainant Bagasao. As borne out by the records at hand, herein complainant filed on 11 July 2019 a notice of appeal anent the challenged Order of Dismissal dated 02 July 2019. Accordingly, it was given due course by respondent Judge in an order she issued on the same day. Verily, the issues addressed on appeal by complainant Bagasao should be dealt with accordingly by giving due deference to the appellate court and not thru this administrative proceeding.

RECOMMENDATION: It is respectfully recommended for the consideration of the Honorable Court that the instant administrative complaint against respondent Presiding Judge Rosalie D. Galicinao, Municipal Circuit Trial Court, Aritao-Sta. Fe, Nueva Vizcaya, be **DISMISSED** for being judicial in nature and for lack of merit.

12 September 2019


JOSE MIDAS P. MARQUEZ
Court Administrator


RAUL BAUTISTA VILLANUEVA
Deputy Court Administrator

