



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

**SPOUSES REYNALDO AND  
HILLY G. SOMBILON,**  
*Petitioners,*

**G.R. No. 179914**

- versus -

**ATTY. REY FERDINAND GARAY  
AND PHILIPPINE NATIONAL BANK,**  
*Respondents.*

X ----- X

**ATTY. REY FERDINAND T. GARAY,**  
*Petitioner,*

**A.M. No. RTJ-06-2000**

Present:

- versus -

BRION,\* *Acting Chairperson,*  
DEL CASTILLO,  
PEREZ,  
MENDOZA,\*\* *and*  
PERLAS-BERNABE, JJ.

**JUDGE ROLANDO S. VENADAS, SR.,**  
*Respondent.*

Promulgated:

JUN 16 2014

X ----- X

DECISION

**DEL CASTILLO, J.:**

A judge owes the public and the court the duty to know the law by heart and to have the basic rules of procedure at the palm of his hands.<sup>1</sup>

Before us are two consolidated cases: (1) a Petition for Review on *Certiorari*<sup>2</sup> under Rule 45 of the Rules of Court assailing the June 13, 2007

\* Per Special Order No. 1699 dated June 13, 2014.

\*\* Per Special Order No. 1696 dated June 13, 2014.

<sup>1</sup> *Fr. Guillen v. Judge Cañon*, 424 Phil. 81, 88-89 (2002).

<sup>2</sup> *Rollo*, G.R. No. 179914, pp. 3-27.

Decision<sup>3</sup> and the August 8, 2007 Resolution<sup>4</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 00477-MIN; and (2) an Administrative Complaint<sup>5</sup> against Judge Rolando S. Venadas, Sr. (Judge Venadas, Sr.) of the Regional Trial Court (RTC) of Malaybalay, Bukidnon, Branch 8, for Grave Abuse of Authority and Grave Misconduct.

### ***Factual Antecedents***

Spouses Reynaldo and Hilly G. Sombilon (spouses Sombilon) were the previous owners of a 601-square meter property, with two buildings constructed on it, in South Poblacion, Maramag, Bukidnon.<sup>6</sup> The said property, which they mortgaged to the Philippine National Bank (PNB) as security for their loan, was foreclosed and sold at public auction on July 15, 1998, where PNB emerged as the winning bidder in the amount of ₱2,355,000.00.<sup>7</sup> Consequently, on August 20, 1998, a Certificate of Sale was issued in PNB's name, which was duly registered with the Registry of Deeds for Bukidnon on August 25, 1999.<sup>8</sup> The one-year redemption period lapsed but spouses Sombilon failed to redeem the property.<sup>9</sup>

In 2005, spouses Sombilon sought the help of Atty. Rey Ferdinand T. Garay (Atty. Garay), a Public Attorney's Office (PAO) lawyer, who was once appointed by the court as counsel *de officio* for Hilly Sombilon in a criminal case and who happens to be the owner of a lot adjacent to the property.<sup>10</sup> Spouses Sombilon told Atty. Garay that they wanted to reacquire<sup>11</sup> the property from PNB, but had no money to repurchase it.<sup>12</sup> Thus, they were hoping that he would agree to advance the money and, in exchange, they promised to sell him the 331-square meter portion of the property, where one of the buildings is located, for ₱5 million.<sup>13</sup>

On February 9, 2005, Atty. Garay together with spouses Sombilon went to PNB to inquire about the status of the property.<sup>14</sup> They were informed by the bank that the property could be purchased at the fair market value of ₱2,938,000.00.<sup>15</sup> The following day, Atty. Garay went to the bank alone and

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<sup>3</sup> CA *rollo*, pp. 427-435; penned by Associate Justice Romulo V. Borja and concurred in by Associate Justices Mario V. Lopez and Michael P. Elbinias.

<sup>4</sup> Id. at 457-458.

<sup>5</sup> *Rollo*, A. M. No. RTJ-06-2000, pp. 2-11.

<sup>6</sup> CA *rollo*, p. 428.

<sup>7</sup> Id.

<sup>8</sup> Id.

<sup>9</sup> Id. at 429.

<sup>10</sup> Id. at 428-429.

<sup>11</sup> Spouses Sombilon entered into a Contract of Lease with PNB in order to have continuous use of the property. Id. at 153-158 and 288.

<sup>12</sup> *Rollo*, G.R. No. 179914, p. 6.

<sup>13</sup> CA *rollo*, pp. 428-429.

<sup>14</sup> Id. at 429.

<sup>15</sup> Id.

offered to buy the property by making a down payment of ₱587,600.00<sup>16</sup> or 20% of the purchase price.<sup>17</sup>

On February 14, 2005, upon learning that Atty. Garay intended to purchase the entire property for himself, spouses Sombilon offered to buy back the property from PNB.<sup>18</sup> The bank advised them to make a 10% down payment of the bank's total claim<sup>19</sup> to formalize their offer.<sup>20</sup>

On February 15, 2005, a Final Deed of Conveyance was issued in favor of PNB.<sup>21</sup>

On April 14, 2005, Transfer Certificate of Title (TCT) No. 94384 was issued in the name of PNB.<sup>22</sup>

On the same date, PNB decided to approve the purchase offer of Atty. Garay<sup>23</sup> since spouses Sombilon failed to make the required down payment.<sup>24</sup>

### **G.R. No. 179914**

On May 9, 2005, PNB filed an Ex-Parte Petition for Issuance of a Writ of Possession<sup>25</sup> before the RTC of Malaybalay City, Bukidnon. The case was docketed as Special Civil Case No. 375-05 and raffled to Branch 8, presided over by Judge Venadas, Sr.

On June 10, 2005, Judge Venadas, Sr. issued an Order<sup>26</sup> granting the Petition and, on June 27, 2005, he issued a Writ of Possession<sup>27</sup> in favor of PNB.<sup>28</sup>

On June 22, 2005, PNB informed spouses Sombilon that Atty. Garay's offer to purchase the property had been approved due to their failure to pay the full down payment.<sup>29</sup>

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<sup>16</sup> *Rollo*, G.R. No. 179914, p. 210. In the CA Decision, the amount stated is ₱587,000.00.

<sup>17</sup> *CA rollo*, p. 429.

<sup>18</sup> *Rollo*, G.R. No. 179914, pp. 7-8.

<sup>19</sup> PNB's total claim of ₱4.9 million was reduced by its Asset Management Group to ₱4.425 million. *Id.* at 210.

<sup>20</sup> *CA rollo*, p. 429.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Rollo*, G.R. No. 179914, p. 210.

<sup>24</sup> Spouses Sombilon only made a down payment of ₱300,000.00, which is less than the 10% down payment required by PNB. *Id.* at 8 and 42.

<sup>25</sup> *Id.* at 44-47.

<sup>26</sup> *Id.* at 115-116.

<sup>27</sup> *Id.* at 117.

<sup>28</sup> *CA rollo*, pp. 429-430.

<sup>29</sup> *Id.* at 430.

On July 10, 2005, spouses Sombilon moved for a reconsideration<sup>30</sup> of the issuance of the Writ of Possession arguing that Atty. Garay,<sup>31</sup> who was the former counsel of Hilly, was barred from purchasing the property pursuant to paragraph 5,<sup>32</sup> Article 1491 of the Civil Code.

### ***Ruling of the Regional Trial Court***

On July 14, 2005, Judge Venadas, Sr. issued an Order<sup>33</sup> holding in abeyance the implementation of the Writ of Possession, a portion of which reads:

Although, ordinarily a writ of possession is issued by the court because it is a mandatory and ministerial duty under Act 3135, x x x there is x x x an exception to this rule that if the implementation and enforcement of the writ of possession would work [great] injustice to the registered owner because the petitioner PNB or in this case Atty. Garay counsel for the Sombilon[s] is not entitled thereto. There is much to be said about the conduct of Atty. Garay in manipulating that the property in question was finally bought by him from the PNB not to mention the possible violation of the [canon] of legal and judicial ethics. However, the court cannot ignore the version of Mrs. Sombilon. The court will give Atty. Garay [the opportunity] to rebut the evidence presented by spouses Sombilon and he is directed to appear on August 2, 2005, at 8:30 in the morning. And if this case cannot be accommodated in the morning[,] it will proceed in the afternoon.

Send proper notice to Atty. Rey Ferdinand Garay for him to appear on said date.

In the meantime, the full implementation x x x of the Writ of Possession is hereby held in abeyance. Sheriff Claudio C. Bugahod is hereby directed to return all items to the house of Spouses Sombilon and to restore them in full possession of the property, if already implemented and enforced.

SO ORDERED.<sup>34</sup>

<sup>30</sup> *Rollo*, G.R. No. 179914, pp. 51-59.

<sup>31</sup> On July 22, 2005, a Deed of Sale was executed by PNB in favor of Atty. Garay. *Id.* at 210.

<sup>32</sup> Article 1491. The following persons cannot acquire by purchase, even at a public or judicial auction, either in person or through the mediation of another:

x x x x

(5) Justices, judges, prosecuting attorneys, clerks of superior and inferior courts, and other officers and employees connected with the administration of justice, the property and rights in litigation or levied upon an execution before the court within whose jurisdiction or territory they exercise their respective functions; this prohibition includes the act of acquiring by assignment and shall apply to lawyers, with respect to the property and rights which may be the object of any litigation in which they may take part by virtue of their profession.

<sup>33</sup> *Rollo*, G.R. No. 179914, pp. 60-61.

<sup>34</sup> *Id.* at 61.

Aggrieved, Atty. Garay and PNB elevated the case to the CA *via* a Petition for *Certiorari* with prayer for issuance of a Temporary Restraining Order (TRO) and/or Injunction<sup>35</sup> under Rule 65 of the Rules of Court.

Initially, on August 2, 2005, the CA dismissed<sup>36</sup> the Petition for *Certiorari* for several procedural defects.<sup>37</sup> However, on reconsideration,<sup>38</sup> the CA reinstated the Petition.<sup>39</sup>

On July 25, 2006, the CA issued a Resolution<sup>40</sup> granting the PNB and Atty. Garay's application for a TRO. Thus:

Accordingly, let a Temporary Restraining Order (TRO) be issued upon the posting of a Five Thousand Peso (₱5,000.00) bond within five (5) days from receipt hereof ordering, [petitioners] to:

1. Cease and desist from doing any act which is destructive of, or involves danger to, or alters the nature and condition of the property;
2. Cease and desist from collecting rent or income [for the use of] the said property;
3. To deposit any rent or income arising from the said property which they may have already received to the Clerk of Court of the Regional Trial Court of the Tenth Judicial Region, Malaybalay City; and

Furthermore, all tenants are hereby ordered to deposit any rentals arising from the disputed property to the said Clerk of Court.

SO ORDERED.<sup>41</sup>

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<sup>35</sup> CA *rollo*, pp. 2-7.

<sup>36</sup> Id. at 30-31; penned by Associate Justice Romulo V. Borja and concurred in by Associate Justices Rodrigo F. Lim, Jr. and Normandie B. Pizarro.

<sup>37</sup> 1. The Secretary's Certificate is a mere photocopy;  
2. The date of issue of the IBP Receipt Number of Atty. Vicente J. Ladlad is not indicated;  
3. Likewise, the Professional Tax Receipt Number of Atty. Vicente J. Ladlad is not indicated;  
4. There is no indication that the Hon. Rolando S. Venadas, Sr., whose Order is being assailed herein, and therefore a nominal party, is impleaded in his official capacity;  
5. The caption of the petition does not contain the docket number of the case in the lower court whose Order is sought to be reviewed (Supreme Court Circular 28-91);  
6. There is no Statement of Material Dates;  
7. Petitioners failed to avail of the plain, speedy and adequate remedy of filing a motion for reconsideration before availing of the extra-ordinary remedy of certiorari.

Even if We were to overlook these formal and substantial errors, We are nonetheless constrained to dismiss the petition for the most elemental of reasons – there is no private respondent named in the present petition. Id. at 31.

<sup>38</sup> Id. at 32-34.

<sup>39</sup> Id. at 63.

<sup>40</sup> Id. at 318-320; penned by Associate Justice Romulo V. Borja and concurred in by Associate Justices Ramon R. Garcia and Antonio L. Villamor.

<sup>41</sup> Id. at 320.

***Ruling of the Court of Appeals***

On June 13, 2007, the CA rendered a Decision<sup>42</sup> granting the Petition for *Certiorari*. The CA found grave abuse of discretion on the part of Judge Venadas, Sr. in holding in abeyance the implementation of the Writ of Possession.<sup>43</sup> The dispositive portion of the Decision reads:

ACCORDINGLY, the petition for certiorari is hereby GRANTED and the assailed July 14, 2005 Order of the court a quo is hereby SET ASIDE.

SO ORDERED.<sup>44</sup>

Spouses Sombilon moved for reconsideration<sup>45</sup> but the CA denied the same in its August 8, 2007 Resolution.<sup>46</sup>

Hence, spouses Sombilon filed the instant Petition for Review on *Certiorari* contending that:

THE [CA] COMMITTED A REVERSIBLE ERROR AND GRAVELY ERRED IN GRANTING THE PETITION FOR CERTIORARI OF [ATTY. GARAY AND PNB] AND IN DECLARING THAT THERE WAS GRAVE ABUSE OF DISCRETION AMOUNT[ING] TO LACK OR EXCESS OF JURISDICTION COMMITTED BY THE [RTC], BRANCH [8], MALAYBALAY CITY, WHICH IS CONTRARY [TO] LAW AND APPLICABLE DECISIONS OF THE HONORABLE SUPREME COURT.<sup>47</sup>

***Spouses Sombilon's Arguments***

Spouses Sombilon insist that the CA should have dismissed the Petition for *Certiorari* due to the failure of PNB and Atty. Garay to file a Motion for Reconsideration of the assailed Order.<sup>48</sup> They also allege that PNB and Atty. Garay engaged in forum-shopping when they filed a Motion to Recall Order with the RTC, in addition to the Petition for *Certiorari* they earlier filed with the CA.<sup>49</sup>

As to the assailed Order, they contend that Judge Venadas, Sr. did not commit grave abuse of discretion in holding in abeyance the implementation of

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<sup>42</sup> Id. at 427-435; penned by Associate Justice Romulo V. Borja and concurred in by Associate Justices Mario V. Lopez and Michael P. Elbinias.

<sup>43</sup> Id. at 431-434.

<sup>44</sup> Id. at 434-435.

<sup>45</sup> Id. at 447-452.

<sup>46</sup> Id. at 457-458.

<sup>47</sup> *Rollo*, G.R. No. 179914, p. 14.

<sup>48</sup> Id. at 243-245.

<sup>49</sup> Id. at 251-253.

the Writ of Possession because PNB no longer has the legal personality to apply for a Writ of Possession considering that the subject property had already been sold to Atty. Garay,<sup>50</sup> who they claim is also not entitled to the Writ of Possession as he is disqualified from purchasing the subject property pursuant to paragraph 5, Article 1491 of the Civil Code.<sup>51</sup>

### ***Atty. Garay's and PNB's Arguments***

Atty. Garay, on the other hand, argues that the CA did not err in granting the Petition for *Certiorari* as Judge Venadas, Sr. acted with grave abuse of discretion when he recalled the Writ of Possession without notice to him and PNB.<sup>52</sup> He also emphasizes that it is a ministerial duty of the court to issue a writ of possession after the redemption period has lapsed.<sup>53</sup>

PNB, for its part, asserts that as the registered owner of the subject property, it is entitled to the Writ of Possession.<sup>54</sup> Thus, it was grave abuse of discretion on the part of Judge Venadas, Sr. in holding in abeyance the implementation of the Writ of Possession, which he had earlier issued.<sup>55</sup>

PNB further avers that it is not privy to the arrangement or relationship between Atty. Garay and spouses Sombilon.<sup>56</sup> In any case, the prohibition in paragraph 5, Article 1491 of the Civil Code does not apply to the instant case as Atty. Garay purchased the subject property from PNB and not from spouses Sombilon.<sup>57</sup>

Anent its failure to file a Motion for Reconsideration prior to filing a Petition for *Certiorari*, PNB explains that in this case the filing of a Motion for Reconsideration may be dispensed with as the issue involved is purely one of law, which is an exception under prevailing jurisprudence.<sup>58</sup> Besides, there was no plain, speedy, and adequate remedy available at the time considering that Judge Venadas, Sr. issued the assailed Order, holding in abeyance the implementation of the Writ of Possession, without affording PNB the opportunity to be heard.<sup>59</sup>

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<sup>50</sup> Id. at 246-250.

<sup>51</sup> Id. at 250.

<sup>52</sup> Id. at 261-263.

<sup>53</sup> Id. at 263.

<sup>54</sup> Id. at 227-229.

<sup>55</sup> Id. at 220-223.

<sup>56</sup> Id. at 216.

<sup>57</sup> Id. at 217-220.

<sup>58</sup> Id. at 213-214.

<sup>59</sup> Id. at 215-216.

Lastly, PNB denies that it committed forum-shopping claiming that it did not institute another action simultaneously with the Petition for *Certiorari* it filed with the CA.<sup>60</sup>

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Meanwhile, on November 15, 2005, Atty. Garay filed a Verified Complaint<sup>61</sup> against Judge Venadas, Sr., charging him with Grave Abuse of Authority and Grave Misconduct when he proceeded with the hearing of spouses Sombilon's motion for reconsideration of the Order granting the issuance of the Writ of Possession despite lack of notice to PNB and for holding in abeyance the Writ of Possession he issued in Special Civil Case No. 375-05.

***Atty. Garay's Arguments***

Atty. Garay claims that Judge Venadas, Sr. should be administratively sanctioned for holding in abeyance the Writ of Possession he earlier issued<sup>62</sup> and for ignoring Sections 4,<sup>63</sup> 5,<sup>64</sup> and 6<sup>65</sup> of Rule 15 of the Rules of Court as he proceeded to hear the motion despite lack of notice to PNB.<sup>66</sup>

***Judge Venadas, Sr.'s Arguments***

In his defense, Judge Venadas, Sr. denies the charges against him arguing that he did not annul the Writ of Possession but merely stayed its execution and implementation to prevent any injustice.<sup>67</sup> He insists there was no violation of due process because he immediately scheduled a hearing for PNB to present its evidence.<sup>68</sup>

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<sup>60</sup> Id. at 224-227.

<sup>61</sup> *Rollo*, A.M. No. RTJ-06-2000, pp. 2-11.

<sup>62</sup> Id. at 3-6 and 8-10.

<sup>63</sup> SEC. 4. Hearing of motion. — Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant. Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice.

<sup>64</sup> SEC. 5. Notice of hearing. — The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion.

<sup>65</sup> SEC. 6. Proof of service necessary. — No written motion set for hearing shall be acted upon by the court without proof of service thereof.

<sup>66</sup> *Rollo*, A.M. No. RTJ-06-2000, pp. 6-10.

<sup>67</sup> Id. at 37-38.

<sup>68</sup> Id.



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

The OCA, in its Report,<sup>69</sup> found Judge Venadas, Sr. administratively liable for grave abuse of authority bordering on gross ignorance of procedure.<sup>70</sup> Although the OCA did not touch on the issue of whether Judge Venadas, Sr. should be administratively sanctioned for holding in abeyance the implementation of the Writ of Possession as it was still pending with the CA at that time, it nevertheless found Judge Venadas, Sr. guilty of blatantly disregarding Sections 4, 5, and 6 of Rule 15 of the Rules of Court when he acted on the defective motion filed by spouses Sombilon.<sup>71</sup> It also pointed out that PNB and Atty. Garay were deprived of their rights to due process as no proper notice was sent to them.<sup>72</sup> Thus, the OCA recommended that:

- a) the instant administrative complaint be DOCKETED as a regular administrative complaint;
- b) respondent Judge Rolando S. Venadas, Sr. be found guilty of gross ignorance of procedure; and
- c) respondent Judge Rolando S. Venadas, Sr. be ordered to pay a FINE of TWENTY THOUSAND PESOS (₱20,000.00) with a WARNING that a similar transgression x x x will be dealt with more severely.<sup>73</sup>

On November 26, 2007, the Court resolved to consolidate A.M. No. RTJ-06-2000 with G.R. No. 179914.<sup>74</sup>

**Issues**

Stripped of the non-essentials, the issues boil down to: (1) whether Judge Venadas, Sr. committed grave abuse of discretion in holding in abeyance the implementation of the Writ of Possession; and (2) whether he should be administratively sanctioned for holding in abeyance the implementation of the Writ of Possession and for disregarding Sections 4, 5, and 6, Rule 15 of the Rules of Court.

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<sup>69</sup> Id. at 130-134.

<sup>70</sup> Id. at 133.

<sup>71</sup> Id. at 133-134.

<sup>72</sup> Id.

<sup>73</sup> Id. at 134.

<sup>74</sup> *Rollo*, G.R. No. 179914, p. 161.

## Our Ruling

### G.R. No. 179914

#### *The issuance of a writ of possession is ministerial upon the court.*

A debtor has one year from the date the Certificate of Sale is registered with the Register of Deeds within which to redeem his property.<sup>75</sup> During the one-year redemption period, the purchaser may possess the property by filing a petition for the issuance of a writ of possession before the court, upon the posting of a bond.<sup>76</sup> But after the one-year period, the purchaser has a right to consolidate the title and to possess the property, without need of a bond.<sup>77</sup> And once title is consolidated under the name of the purchaser, the issuance of the writ of possession becomes ministerial on the part of the court; thus, no discretion is left to the court.<sup>78</sup> Questions regarding the regularity and validity of the mortgage or the foreclosure sale may not be raised as a ground to oppose or hold in abeyance the issuance of the writ of possession as these must be raised in a separate action for the annulment of the mortgage or the foreclosure sale.<sup>79</sup> The pendency of such action is also not a ground to stay the issuance of a writ of possession.<sup>80</sup>

In this case, the redemption period had long lapsed when PNB applied for the issuance of the Writ of Possession. In fact, the title over the subject property had already been consolidated in PNB's name. Thus, it was ministerial upon Judge Venadas, Sr. to issue the Writ of Possession in favor of PNB, the registered owner of the subject property.

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<sup>75</sup> *Sps. Landrito, Jr. v. Court of Appeals*, 503 Phil. 723, 732-733 (2005).

<sup>76</sup> Section 7 of Act No. 3135, as amended by Act No. 4118, provides:

Sec. 7. Possession during redemption period. — In any sale made under the provisions of this Act, the purchaser may petition the Court of First Instance of the province or place where the property or any part thereof is situated, to give him possession thereof during the redemption period, furnishing bond in an amount equivalent to the use of the property for a period of twelve months, to indemnify the debtor in case it be shown that the sale was made without violating the mortgage or without complying with the requirements of this Act. Such petition shall be made under oath and filed in form of an ex parte motion in the registration or cadastral proceedings if the property is registered, or in special proceedings in the case of property registered under the Mortgage Law or under section one hundred and ninety-four of the Administrative Code, or of any other real property encumbered with a mortgage duly registered in the office of any register of deeds in accordance with any existing law, and in each case the clerk of the court shall, upon the filing of such petition, collect the fees specified in paragraph eleven of section one hundred and fourteen of Act Numbered Four hundred and ninety-six, as amended by Act Numbered Twenty-eight hundred and sixty-six, and the court shall, upon approval of the bond, order that a writ of possession issue, addressed to the sheriff of the province in which the property is situated, who shall execute said order immediately.

<sup>77</sup> *Nagtalon v. United Coconut Planters Bank*, G.R. No. 172504, July 31, 2013, 702 SCRA 615, 624.

<sup>78</sup> *Id.*

<sup>79</sup> *Tolosa v. United Coconut Planters Bank*, G.R. No. 183058, April 3, 2013, 695 SCRA 138, 148.

<sup>80</sup> *Id.* at 148-149.

Though there are instances when the issuance of the Writ of Possession may be deferred,<sup>81</sup> we find none of these recognized exceptions present in the instant case. Spouses Sombilon claim that the sale between PNB and Atty. Garay was invalid as it was done in violation of paragraph 5, Article 1491 of the Civil Code. However, the alleged invalidity of the sale is not a ground to oppose or defer the issuance of the Writ of Possession as this does not affect PNB's right to possess the subject property. Thus, there was no reason for Judge Venadas, Sr. to hold in abeyance the implementation of the Writ of Possession. Clearly, he committed grave abuse of discretion in issuing the assailed Order holding in abeyance the implementation of the Writ of Possession because PNB, as the registered owner, is entitled to the possession of the subject property as a matter of right.

Regarding the failure of PNB and Atty. Garay to move for a reconsideration of the assailed Order prior to the availment of a special civil action for *certiorari*, we agree with PNB that the filing of a motion for reconsideration may be dispensed with where the decision is a patent nullity or where there is violation of due process,<sup>82</sup> such as in the instant case.

All told, we find no error on the part of the CA in granting the Petition for *Certiorari*.

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As to the Administrative Complaint filed against Judge Venadas, Sr., we agree with the findings and recommendations of the OCA.

Records show that spouses Sombilon failed to comply with the three-day notice rule and the required proof of service embodied in Sections 4, 5, and 6 of Rule 15 of the Rules of Court, thereby rendering the motion fatally defective. Despite this, Judge Venadas, Sr. still took cognizance of the motion filed by spouses Sombilon, depriving PNB and Atty. Garay of their right to due process.

To exculpate himself from the charges against him, Judge Venadas, Sr. claims that the motion was personally served on PNB and its counsel on July 12, 2005 but they refused to receive the same. However, as aptly pointed out by the OCA, no affidavit was submitted to substantiate such allegation. Thus, we agree with the Court Administrator that Judge Venadas, Sr. is guilty of grave abuse of

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<sup>81</sup> *Cometa v. Intermediate Appellate Court*, 235 Phil. 569 (1987); *Barican v. Intermediate Appellate Court*, 245 Phil. 316 (1988); and *Sulit v. Court of Appeals*, 335 Phil. 914 (1997).

<sup>82</sup> *Philippine National Construction Corporation v. National Labor Relations Commission*, 354 Phil. 274, 281 (1998).

authority bordering on gross ignorance of procedure for blatantly disregarding Sections 4, 5, and 6, Rule 15 of the Rules of Court.

Blatant disregard of basic, elementary, and well-known rules of procedure and law is gross ignorance of the law,<sup>83</sup> which is classified as a serious charge under Rule 140, Section 8 of the Rules of Court, as amended by A.M. No. 01-8-10-SC, punishable by either dismissal from service, suspension for more than three months but not exceeding six months, or a fine of more than ₱20,000.00 but not exceeding ₱40,000.00.<sup>84</sup>

Thus, in view of his blatant disregard of the rules and his grave abuse of discretion in issuing the assailed Order, and considering that this is his first offense, we find Judge Venadas, Sr. guilty of grave abuse of authority bordering on gross ignorance of the law and is hereby fined the amount of ₱20,000.00. Incidentally, in the April 18, 2007 Resolution in A.M. No. 12600-Ret.,<sup>85</sup> the Court approved the application of Judge Venadas, Sr. for disability retirement but withheld the amount of ₱100,000.00 pending the final resolution of this case. In view thereof, the fine of ₱20,000.00 herein imposed on Judge Venadas, Sr. is to be deducted from the withheld amount of ₱100,000.00.

**WHEREFORE**, in G.R. No. 179914, the Petition is hereby **DENIED**. The June 13, 2007 Decision and the August 8, 2007 Resolution of the Court of Appeals in CA-G.R. SP No. 00477-MIN are hereby **AFFIRMED**.

In Administrative Matter No. RTJ-06-2000, Judge Rolando S. Venadas, Sr. of the Regional Trial Court of Malaybalay City, Bukidnon, Branch 8, is hereby found guilty of grave abuse of authority bordering on gross ignorance of the law and is ordered to pay a **FINE** of **TWENTY THOUSAND PESOS (₱20,000.00)** to be deducted from the withheld amount of ₱100,000.00 from his retirement benefits pursuant to the April 18, 2007 Resolution in A.M. No. 12600-Ret.

**SO ORDERED.**

  
**MARIANO C. DEL CASTILLO**  
Associate Justice

<sup>83</sup> *Lilia v. Judge Fanuñal*, 423 Phil. 443, 451 (2001); *Ogka Benito v. Judge Balindong*, 599 Phil. 196, 201 (2009).

<sup>84</sup> *Atty. Gomos v. Judge Adiong*, 484 Phil. 116, 126-127; Sec. 11, Rule 140, Rules of Court.

<sup>85</sup> *Application for Disability Retirement under R.A. No. 910 as amended by RA 5095 and PD 1438 of Judge Rolando S. Venadas, Sr., Regional Trial Court, Branch 9, Malaybalay, Bukidnon.*

WE CONCUR:



**ARTURO D. BRION**

*Associate Justice*  
*Acting Chairperson*



**JOSE PORTUGAL PEREZ**  
*Associate Justice*



**JOSE CATRAL MENDOZA**  
*Associate Justice*



**ESTELA M. PERLAS-BERNABE**  
*Associate Justice*

**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ARTURO D. BRION**  
*Associate Justice*  
*Acting Chairperson*



## **CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**

*Chief Justice*

