

FELIPE FERRER, ARTURO FERRER AND SERAFIN FERRER, COMPLAINANTS, VS. JUDGE ADORADO S. LIM, RESPONDENT.

Adm. Matter No. 983-MJ. October 27, 1981

Ponente: BARREDO, J.

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BARREDO, J.:

Administrative complaint against Judge Adorado S. Lim of the Municipal Circuit Court of Cabagan-Sto. Tomas, Isabela (formerly of Municipal Court of Reina Mercedes, Isabela) for undue delay in the disposition of Civil Case No. 1838, a forcible entry action, filed with his court.

The relevant circumstances are stated in the report of Deputy Court Administrator, Hon. Romeo D. Mendoza as follows:

"Complainant alleged that his father, Longino Ferrer, filed a forcible entry case against one Jose Galanga (Galanza) before respondent judge's court; that the said case involved a land situated in Reina Mercedes, Isabela which their family had been tilling for many years and which was taken from them by said Jose Galanga without any legal justification; that the trial of the aforesaid case was terminated in 1962 but as of the date of the filing of the complaint, respondent judge has not yet rendered his decision.

"Respondent judge, by way of comment, submitted a Joint Affidavit dated April 9, 1980,[1] executed by complainant Felipe Ferrer, his brother Arthur Ferrer and nephew Sebastian Ferrer stating that they are voluntarily withdrawing their administrative charge against respondent judge because the CFI of Ilagan, Isabela, has allegedly issued in another civil case, a writ of possession in favor of plaintiff Francisco Galanga (defendant in the forcible entry case) over the parcel of land which was the subject matter of the case pending before respondent judge's court, thus rendering the latter case moot and academic; and that said complainants have lost their interest in the prosecution of the instant administrative case against the respondent judge.

"This case was referred to Judge Andres B. Plan, Executive Judge of the CFI of Isabela for investigation, report and recommendation. Judge Plan submitted his Report dated September 12, 1980,[2] informing this Court that in the investigation conducted by him, complainant submitted a copy of the aforementioned Joint Affidavit dated April 9, 1980, and on the basis thereof, Judge Plan recommended the exoneration of the respondent judge of the charge herein.

"On June 5, 1981, the undersigned referred back the case to Judge Plan for further investigation in view of his failure to explain the reasons why respondent judge was not able to render his decision in Civil Case No. 1838 from the time it was allegedly submitted for decision in 1962 up to the time of the filing of the administrative complaint in 1974.[3]

"Judge Plan submitted his Findings and Recommendation dated August 6, 1981,[4] reiterating his recommendation for exoneration of herein respondent judge of the charge herein for the following reasons: (1) Complainants voluntarily executed a Joint Affidavit withdrawing their administrative charge against respondent judge. (2) There is another civil case in the CFI of Isabela involving the same land subject matter of the case rendering the case filed with respondent judge moot and academic. (3) The records of the case in the

municipal court where it was being tried were destroyed by floods which occurred on November 23, 1966 and no pleading for recon-stitution has ever been filed.

"During the investigation, the respondent judge testified that he is at present the judge of the Municipal Circuit Court of Cabagan-Sto. Tomas, Isabela; that before he was assigned thereat, he was the judge of the Municipal Court of Reina Mercedes, Isabela from September 16, 1957 to June 30, 1978 where he held office in the Office of the Municipal Secretary of Reina Mercedes; that from 1957-1970, he did not have any court personnel and had to perform the duties of a clerk, typist and janitor; that he kept the records of cases in a small aparador which had no lock; that Civil Case No. 1838 is not a case docketed in his court but is probably filed and docketed in the CFI of Isabela considering that his sala had only 18 to 19 docketed cases at that time; that he remembers however, that a civil case for forcible entry was filed before his court sometime in 1959 involving complainant Felipe Ferrer and Jose Galanga; that after a research was made, he saw the title of the said case in his docket book; that complainant's allegation that the trial of the forcible entry case was terminated in 1962 is not true, the truth of the matter being that, no actual hearings of the case were held therein because respondent judge had difficulty in serving subpoenas to the parties and because of the failure of the parties to attend the scheduled hearings thereof; that thereafter, respondent judge heard rumors that another civil case was filed before the CFI of Isabela, which court issued a writ of possession in favor of defendant Francisco Galanga over the parcel of land which is also the subject matter of the forcible entry case pending in his court, rendering the latter case moot and academic; that of his own knowledge, a case was also filed in the Bureau of Lands involving the same subject matter that because of the flood which occurred in 1966, the records of cases in his court were destroyed, for which reason the records of the forcible entry cannot now be located; that he did not try to reconstitute the records of the case as he already knew that the same had been rendered moot and academic by the decision rendered by the CFI of Isabela in the case before said court.[5]

"Atty. Silvestre Bello, lawyer of Jose Galanga, testified during the investigation that he was the one who filed Civil Case No. 1838 before the CFI of Isabela, Branch I for recovery of possession of a parcel of land; that the said court already rendered a decision placing the defendants therein in possession of the land in question; that he knows about the forcible entry case filed before respondent's court which is still pending up to the present time.[6]

"Complainant Felipe Ferrer likewise testified during the investigation. He stated that a joint affidavit was executed by him and the other complainants voluntarily withdrawing their complaint against respondent judge in view of the filing of another civil case before the CFI of Isabela rendering the forcible entry case pending before respondent's court moot and academic. Complainant further testified that a case was also filed in the Bureau of Lands involving the same parties.[7]"

On the basis of the foregoing, the Deputy Court Administrator has submitted the following findings and recommendation:

"After a review of the records, we find that the explanation of the respondent judge as to why he failed to act and/or render a decision in the forcible entry case from the time it was filed in 1959 up to the present unsatisfactory. His failure to act on said case is inexcusable and shows that the respondent judge is not performing his functions properly even taking into account the alleged inadequacy of personnel and the unfavorable working conditions in respondent judge's office. When the record of said case was allegedly destroyed by flood in 1966, he did not even try to notify the parties concerned of such fact nor did he make any move to reconstitute the same as provided for by Act 3110.[8] The fact that another civil case was filed before the Court of First Instance involving the same land, does not excuse his failure to act or dispose of the case before him. Obviously, he must be held accountable for his failure to act and/or decide the forcible entry case which partake a summary and expeditious remedy.

"In the case of Estillena vs. Judge Ostervaldo Z. Emilia,[9] this Court held:

'It is never superfluous to remind respondent that judges are duty-bound to observe promptness in disposing of all matters submitted to them, for justice delayed is justice denied (Canon B. Canons of Judicial Ethics). Since delay in the administration of justice is a common cause of complaint among litigants, judges should be able to steer the wheels of justice in a steady onward pace.'

"Judge Adorado Lim filed his application for optional retirement on January 28, 1980. But for lack of some supporting papers and this pending administrative case, action on said retirement had remained pending. As of the filing of his retirement, Judge Lim was 61 years, 11 months and 3 days old with a total of 22 years, 4 months and 14 days of service in the judiciary.

"IN VIEW OF ALL THE FOREGOING, it is respectfully recommended that Judge Adorado S. Lim be ordered to pay a fine equivalent to three (3) months of his salary with warning that a repetition of the same or similar acts will be dealt with more severely."

In a separate report, Justice Lorenzo Relova, the Court Administrator submits that:

"The undersigned concurs with the recommendation of Deputy Court Administrator Mendoza. Forcible entry or unlawful detainer is a summary proceeding, entitled to provide an expeditious means of protecting actual possession or right to possession of property. The fact that there was flood in 1966 is of no moment considering that he should have decided the case long before it occurred. Likewise, a civil case filed later in the Court of First Instance is no excuse for respondent to have disposed the forcible entry case much earlier."

We are of the considered opinion that the report and recommendation of the Office of the Court Administrator are well taken and adequately supported by the record. We approve the same.

WHEREFORE, respondent Judge Adorado S. Lim is hereby found guilty of misconduct in office by unexcusably delaying the disposition of a forcible entry case which ought to be summary and speedy and he is hereby imposed the penalty to pay a fine equivalent to his salary for three (3) months, with the stern warning that any other misconduct on his part will be dealt with more severely.

Aquino, Concepcion, Jr., Abad Santos, and De Castro, JJ., concur.

[1] Rollo, p. 23.

[2] Ibid., p. 20.

[3] Ibid., p. 29.

[4] Ibid., pp. 95-99.

[5] Ibid., transcript of steno. notes, pp. 53-76.

[6] Ibid., pp. 78-87.

[7] Ibid., pp. 89-92.

[8] Act 3110, An Act to provide an adequate procedure for the reconstitution of the records of pending judicial proceedings, and books, documents and files of the office of the register of deeds, destroyed by fire or other public calamities, and for other purposes. Public laws of the Philippine Islands, Vol. 18 pp. 230-237.

[9] Adm. Matter No. 1892-CFI, January 27, 1981.

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