

IN RE JUDGE JOSE F. MADARA, COURT OF FIRST INSTANCE OF ALBAY, LIGAO BRANCH V.

Adm. Mat. No. 2351-CFI. April 27, 1981

Ponente: AQUINO, J.

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AQUINO, J.:

The question in this administrative proceeding, initiated *motu proprio* by this Court, is whether disciplinary action should be taken against Judge Jose F. Madara by reason of the following irregularities shown in the expediente of Civil Case No. 194 of the Court of First Instance of Albay, Ligao Branch V which was filed in. 1972:

1. Delay in the promulgation of the decision. — That civil case was submitted for decision on October 18, 1976 when the plaintiff submitted his memorandum. The defendants had submitted their memorandum on July 27, 1976. The ninety-day period for deciding the case expired on January 16, 1977.

Judge Madara rendered a decision dated January 19, 1977 or three days after the deadline. The decision was in favor of plaintiff Pedro Ralla and adverse to defendants Pablo Ralla and Carmen Mufioz, spouses.

If Judge Madara's version is to be believed (p. 137, Rollo of G.R. No. 51601), that decision, strange as it may seem, remained in the custody of the clerk in charge of civil cases for nearly eight months or up to September 15, 1977 when a copy thereof was served on the counsel of the plaintiff (the winning party) and a copy was sent by registered mail to the counsel of the defendants (the losing parties) and received by the latter two days later or on September 17.

2. Delay in the promulgation of the order reversing the decision.— The defendants filed a motion for the reconsideration of the decision. It was opposed by the plaintiff. That motion was supposed to be submitted for decision on November 3, 1977 when the defendants filed their rejoinder to plaintiffs' opposition.

But, according to Judge Madara, the incident was heard on oral argument on November 11, 1977. So,, that motion was submitted for resolution on that date (p. 10, Rolloof G.R. No. 51601). The ninety-day period for resolving that motion would expire on February 9, 1978.

Judge Madara resolved that motion in an order ("decisional order" or "order of the reversion of the decision" as he calls it, pp. 57, 138, Rollo of G.R. No. 51601) dated February 8, 1978 or on the 89th day of the ninety-day period. In that order, he granted the motion, set aside his decision and rendered judgment in favor of the defendants.

Curiously enough, a copy of that reversal order was personally served upon the counsel of the defendants (the winning parties) only on July 18, 1978 or more than five months after its supposed issuance. The copy for plaintiffs' counsel was sent by registered mail on July 17, 1978 and received by him four days later or on July 21.

If Judge Madara's version is to be believed, that order remained in the custody of his clerk in charge of civil cases for more than five months (p. 139, Rollo of G.R. No. 51601).

3. Delays in the disposition of incidents involving the record on appeal.—On August 1, 1978 or within the

reglementary thirty-day period, plaintiff's heirs, Leonie Ralla, Peter L. Ralla and Marinela Ralla, filed a notice of appeal and deposited PI20 as cash appeal bond. On August 16, 1978, they filed a motion for extension of time within which to present their record on appeal.

More than a year later, Judge Madara had not taken any definitive action on the record on appeal. So, on September 25, 1979, the defendants filed a petition for certiorari in this Court, praying that the appeal "be dismissed" (p. 9, Rollo of G.R. No. 51601).

The copy of that petition sent to Judge Madara must have alerted him to the delay in acting on the record on appeal because in an order dated October 12, 1979 he found the record on appeal to be "true to form and substance" and he approved it (p. 106, Rollo of G.R. No. 51601).

As indicative of how slowly the wheels of justice moved in the lower court, it should be noted that in spite of the fact that on October 12, 1979 he had issued the order approving the record on appeal and instructed his clerk of court to transmit it "pursuant to sections 10, 11 and 12, Rule 41 of the Rules of Court," on December 5, 1979 or fifty-four days later, his clerk had not yet elevated the record on appeal to the Court of Appeals.

On that date, Judge Madara transmitted to this Court the record of Civil Case No. 194. The expediente, as received in the Court Administrator's office, includes the record on appeal. Section 11 of Rule 41, cited by the judge in his order of approval, provides that the clerk of court shall transmit the record on appeal "within ten (10) days after its approval."

The expediente reveals other anomalous delays in the judge's disposition of the incidents connected with the record on appeal.

A motion to dismiss the appeal filed on December 27, 1978 and set for hearing on January 5, 1979 was resolved in the order of April 25, 1979. A motion filed on May 28, 1979 for the reconsideration of that order of April 25, 1979 was resolved on September 5, 1979.

The judge admitted that the incidents in connection with the record on appeal "were caused at the behest of the parties and also of (sic) the liberality of the court in order to give the plaintiff a chance to arrange properly the said record on appeal" (p. 155, Rollo of G.R. No. 51601).

Rulings on the judge's contentions.— Judge Madara was directed in this Court's resolution of October 19, 1979 to state whether he complied with the ninety-day requirement in resolving the incidents in Civil Case No. 194.

In the resolution of November 28, 1979, the Honorable Court Administrator was instructed to investigate Judge Madara's delayed dispositions of the incidents involved in Civil Case No. 194.

In his comments mailed on November 14, 1979, he stated that his orders of April 25 and September 5, 1979 were issued within the ninety-day period

The Court Administrator in a memorandum dated December 11, 1979 recommended that Judge Madara be required to explain his noncompliance with the ninety-day period in rendering the decision and the order reversing it and the delay in giving notice to the parties of the said decision and order.

The judge, in his comments dated February 1, 1980, explained why there was a long interval between the supposed rendition of the decision and order of reversal and the dates of service upon the parties: January 19 and September 15, 1977 as to the decision and February 8 and July 17, 1978 as to the order of reversal or an interval of more than seven and five months, respectively. He said:

"The decision in Civil Case No. 194 was entered by this Honorable Court on January 19, 1977 after having

been in receipt of plaintiffs' memorandum on October 18, 1976. The question(ed) judgment was completed way back the expiry period (sic) but at the time of the release, the court noted of a portion of the despositive (sic) portion that should be mulled over. That done, the date when the little change was made was carried over. This decision was transmitted to Mrs. Consuelo C. Matias, Clerk-in-charge, by Benjamin E. Nueva, Clerical Aide, on January 19, 1977. In like manner, the order reconsidering the previous Decision was also transmitted to the aforementioned Clerk-in Charge on February 8, 1977 by the same Clerical Aide, as shown in the Affidavit marked as Annex '1'. (pp. 137-138, Rollo of G.R. No. 51601.)

The judge said in his comments that the delay in notifying the parties of the decision and the order of reversal was due to the "postal system" and the "laches" and "honest lapses" of Mrs. Matias, the clerk in charge of civil cases, who was not in good health.

We find the judge's explanation to be unsatisfactory. As noted by Deputy Court Administrator Arturo B. Buena, the fact that a copy of the decision mailed on September 15, 1977 was received two days later by defendants' counsel and that a copy of the order of reversal mailed on July 17, 1978 was received four days later by plaintiffs' counsel refutes Judge Madara's pretension that the delay was attributable to the "postal system."

The judge's observation that the "laches" and honest lapses" of his clerk in charge of civil cases could also be the cause of the delay is not well-taken. A delay of five months and more than seven months cannot be justified by the alleged state of health of his clerk.

Judge Madara was supposed to know the anomaly that his decision dated January 19, 1977 was served on the defendants only on September 17, 1977. If it were true that the delay was due to his clerk's state of health, "laches" and "honest lapses" and that there was no antedating of the decision, then he should have taken steps to prevent a repetition of that anomaly.

But that anomaly was repeated with respect to his order of reversal dated February 8, 1978 which was served upon the parties only about the middle of July, 1978.

Under the circumstances, it is difficult to dispel the impression that there was antedating of the decision and order of reversal to cover up noncompliance with the ninety-day period.

We find that Judge Madara transgressed the ninety-day requirement for rendering decisions and resolving motions. He exhibited gross negligence, incompetence and inefficiency in his management of Civil Case No. 194 as shown in the expediente of the case which is the irrefutable evidence on the matter. That rendered unnecessary a formal investigation by a Justice of the Court of Appeals.

Parenthetically, it should be stated that because the said expediente was elevated to this Court, the Court Administrator was directed to detach the record on appeal and to send it immediately to the Court of Appeals. The clerk of court of the Court of First Instance of Albay, Ligao Branch V should forward to the Court of Appeals as soon as possible the exhibits and transcripts of stenographic notes in Civil Case No. 194.

The Clerk of Court of the Court of Appeals should send without delay to the plaintiffs-appellants a notice for the payment of the docket and legal research fees.

WHEREFORE, Judge Jose F. Madara is found guilty of gross inefficiency. He is severely censured and reprimanded and ordered to pay a fine equivalent to his salary for one month. He is warned that a more drastic disciplinary action will be taken against him for the commission of similar irregularities. Copies of this decision should be attached to his personal record and furnished the Clerk of Court of the Court of Appeals and the clerk of court of the lower court.

SO ORDERED.

Barredo (Chairman), Concepcion Jr., Fernandez and De Castro, JJ., concur.
Abad Santos, J., is on leave.

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