ATTY. PATRICK JUAN PEREZ, COMPLAINANT, VS.JUDGE IGNACIO R. CONCEPCION, MTC – CALASIAO, PANGASINAN, RESPONDENT.

A.M. No. MTJ-99-1240 (OCA IPI No. 98-532-MTJ). December 21, 1999

Ponente: BUENA, J.

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BUENA, J.:

The administrative matter at bench stems from a sworn letter-complaint dated 09 March 1998 filed by complainant-lawyer Patrick Juan C. Perez charging herein respondent Judge Ignacio R. Concepcion with gross inefficiency and manifest partiality amounting grave misconduct relative to the handling of Criminal Case Nos. 70-96 and 71-96 for slight physical injuries entitled, "People vs. Joseph M. Terrado" and Criminal Case No. 75-96 for grave slander by deed entitled, "People vs. Patrick Juan Perez".

In Criminal Case Nos. 70-96 and 71-96 both of which fall under the Rules on Summary Procedure, herein complainant charged accused Joseph M. Terrado with slight physical injuries before the Municipal Trial Court of Binmaley Pangasinan, where respondent acted as judge designate. On 03 October 1996, respondent judge issued an order requiring accused Terrado to appear before the court and submit his counter-affidavit within ten days from receipt thereof.

On 17 October 1996, accused Terrado filed an Urgent Motion for Extension of Time to Submit Counter-affidavit. In an order[1] of the same date, respondent judge granted the motion "in the interest of justice", although fully cognizant that said motion is prohibited under the Rules on Summary Procedure.

Moreover, in an order[2] dated 09 January 1997, respondent judge granted accused Terrado’s request to file a motion to quash. On 11 February 1997, respondent judge, issued an order[3] in Criminal Case Nos. 70-96 and 71-96, declaring that the motion to quash and the opposition thereto filed by Terrado and Perez respectively, are deemed submitted for resolution. In spite of said order, respondent judge failed to resolve said incident even after the lapse of one year from the time of issuance of the order.

In Criminal Case No. 76-96, respondent judge nonetheless gave due course to the countercharge of slight physical injuries filed by Terrado against Eduardo Tagulao and Dr. Eric Jose C. Perez, the latter being a brother of herein complainant. Likewise, records reveal that the subpoena issued to the parties in Criminal Case No. 76-96 was signed on behalf of respondent judge by Court Interpreter Sonio Merrera Torio who is related to Terrado and the latter’s counsel.

In his letter-complaint, herein complainant Perez asserts that respondent judge was guilty of partiality and "amply demonstrated his more than willing attitude to accommodate the accused Joseph M. Terrado and his counsel Atty. Arsenio Merrera."[4]

On 27 January 1998, respondent judge, in Criminal Case No. 75-96, ordered the issuance of a warrant of arrest against herein complainant and fixed the bailbond at P2,000.00.[5]

On 07 July 1998, respondent judge filed his Comment[6] on the letter-complaint averring that although a Motion

for Extension of Time to File Counter-affidavit is a prohibited pleading under the Rules on Summary Procedure, he nonetheless granted the same "in the interest of justice."

On 01 February 1999, respondent judge compulsorily retired from the judicial service.

In a Report[7] dated 04 August 1999, the Office of the Court Administrator (OCAD) recommended that a fine of P30,000.00 be imposed on respondent on the ground of gross inefficiency for violating the Revised Rules on Summary Procedure.

We find respondent judge guilty of the charge of gross inefficiency.

The rule on this matter is crystalline. Thus, Section 19 of the 1991 Revised Rules on Summary Procedure explicitly provides:

> "Section 19. Prohibited Pleadings and Motions. The following pleadings shall not be allowed in the cases covered by this Rule:
>
> a) Motion to dismiss the complaint or to quash the complaint or information except on the ground of lack of jurisdiction over the subject matter, or failure to comply with the preceding section; X X X
>
> b) Motion for extension of time to file pleadings, affidavits or any other paper; X X X"

Certainly, even a cursory reading of the Rules would readily show that a Motion to Quash and a Motion for Extension of Time to File a Counter-affidavit are prohibited motions and thus should not have been allowed or entertained by respondent in the subject cases.

Respondent’s violation of the Rules is aggravated by the fact that the same was carried out in a deliberate, conscious and intentional manner. In his Order, respondent expressly stated that he knew of the prohibition against the filing of said motions in cases falling under the Rules on Summary Procedure. Regardless, respondent invokes equity to justify his action.

To our mind, however, his proffered explanation does not suffice to absolve him from administrative liability. For elementary is the rule that when laws or rules are clear, as in the instant case, it is incumbent upon respondent to apply them regardless of personal belief and predilections. To put it differently, when the law is unambiguous and unequivocal, application and not interpretation thereof is imperative.

In fine, by allowing the filing of such prohibited motions, respondent judge evidently manifested gross inefficiency and overtly transgressed basic mandatory rules adopted to ensure the expeditious resolution of cases.

Further, we do not subscribe to respondent’s excuse of having a heavy caseload so as to exonerate him from liability for the delay in the resolution of the pending motion to quash.

To reiterate, delay in resolving motions and incidents pending before a judge within the reglementary period of ninety (90) days fixed by the Constitution and the law, is not excusable and constitutes gross inefficiency.[8]

Similarly, respondent judge failed to observe Rule 3.05, Canon 3 of the Code of Judicial Conduct which mandates that a magistrate shall dispose of the court’s business promptly and decide cases within the required periods.

WHEREFORE, in view of the foregoing, the Court finds respondent judge guilty of gross inefficiency and hereby imposes upon him a fine of P10,000.00 to be deducted from his retirement benefits.

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SO ORDERED.

Bellosillo (Chairman), Mendoza, Quisumbing, and De Leon, Jr., JJ., concur.

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[1] Annex "C"; Rollo, p.6.

[2] Annex "D"; Rollo, p.7.

[3] Annex "E"; Rollo, p. 8.

[4] Rollo, p. 2.

[5] Order dated 27 January 1998; Annex "H"; Rollo p.12.

[6] Rollo, pp.30-34.

[7] Rollo, pp. 35-38.

[8] Guintu vs. Lucero, 261 SCRA 1.

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