EDGARDO D. AREOLA (A.K.A. MOHAMMAD KAHDAFFY), COMPLAINANT, VS. JUDGE BAYANI Y. ILANO, REGIONAL TRIAL COURT, BRANCH 71, ANTIPOLO CITY, RESPONDENT.

A.M. No. RTJ-09-2163 (Formerly OCA IPI No. 07-2717-RTJ). February 18, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

This refers to the administrative complaint filed by Edgardo D. Areola (a.k.a. Mohammad Kahdaffy) against Judge Bayani Y. Ilano, Regional Trial Court (RTC), Antipolo City, Branch 71, relative to Criminal Case No. 94-11519, entitled "People of the Philippines v. Edgardo D. Areola, et al.," for Murder.

The antecedent facts which gave rise to the administrative case are as follows:

Complainant Edgardo D. Areola, Police Officer (PO)3 Manuel Bayaga and Antonio Bayaga were charged with Murder. The case, docketed as Criminal Case No. 94-11519, was raffled to the RTC, Branch 72, Antipolo City, with Judge Rogelio Angeles as Presiding Judge. When Judge Angeles retired, the case was transferred to Branch 73, presided over by Judge Mauricio Rivera.

On July 1, 2002, Judge Mauricio Rivera issued an order denying the Urgent Motion for Admission to Bail filed by accused Areola and the Motion for Bail filed by the two other accused. A motion for reconsideration was duly filed but then Judge Rivera voluntarily inhibited himself from handling the case. Hence, the case was transferred to RTC, Branch 74, under Judge Francisco Querubin.

On March 16, 2004, Judge Querubin issued an order granting the Motion for Bail of PO3 Manuel Bayaga and Antonio Bayaga only and fixed the bail at P100,000.00 each. On May 6, 2004, complainant filed a Manifestation stating therein that he should likewise be granted bail. Upon motion of the complainant, Judge Querubin recused himself so the case was assigned to Branch 71, presided over by Judge Bayani Y. Ilano, herein respondent.

Thereafter, Judge Ilano also expressed that he was inhibiting from the case but pursuant to a Memorandum from the Office of the Court Administrator, he was compelled to handle the case because the pairing judge of the heinous crimes court (Branch 74) had earlier inhibited from the case.

On April 11, 2006, complainant filed an Urgent Motion to Resolve Motion for Reconsideration of the Order of Judge Mauricio Rivera dated July 1, 2002 which denied the Urgent Motion for Admission to Bail.

On July 28, 2006, complainant filed a Second Urgent Motion to Resolve and to Grant Motion for Admission to Bail, and another Manifestation and Motion dated August 29, 2006 reiterating his prayer to be admitted to bail.

Meanwhile, on September 4, 2006, Judge Ilano issued an Order directing the transfer of the complainant from the Rizal Provincial Jail to the Antipolo City Jail upon an urgent ex-parte motion filed by the Provincial Warden on even date.

On September 15, 2006, Judge Ilano issued an Order denying Complainant's Motion for Reconsideration.

Feeling aggrieved, complainant filed the instant administrative complaint dated October 16, 2006 charging Judge Ilano with violations of Republic Act No. 3019 (Anti-Graft and Corrupt Practices Act) and the New Code of Judicial Conduct, gross incompetence, gross ignorance of the law, bias and partiality, frequent unjustified absences without leave, and habitual tardiness.

Respondent Judge was asked to Comment. As the records reveal, respondent Judge failed to file his Comment despite receipt of the 1[st] Indorsement on December 13, 2006 and the 1[st] Tracer on March 14, 2007. The show cause order[1] of the Court was also not complied with; thus, Judge Ilano was fined in the amount of P2,000.00 for such failure.[2]

The records also show that Judge Ilano passed away on March 25, 2008.

In the Memorandum dated January 8, 2009, the Office of the Court Administrator (OCA), clarified that the fact of death of the respondent during the pendency of the case does not render the case moot and academic. The Court retains its jurisdiction either to pronounce the respondent innocent of the charges or declare him guilty thereof. If innocent, respondent merits vindication of his name and integrity; if guilty, he deserves to receive the correspondent censure and penalty proper and imposable under the situation.[3]

After a perusal of the records, we find complainant's charges against respondent Judge without basis. The orders which were adverse to the complainant pertained to the adjudicative function of respondent Judge. As a matter of policy, the acts of a judge in his judicial capacity are not subject to disciplinary action, no matter how erroneous, as long as he acts in good faith. In the instant case, the administrative complaint was obviously resorted to when complainant failed to obtain the favorable action he wanted from the court. It must be stressed that the filing of an administrative complaint is not an appropriate remedy where judicial recourse is still available, such as a motion for reconsideration, an appeal, or a petition for certiorari, unless issued or rendered with ill motive. Only judicial errors tainted with fraud, dishonesty, gross ignorance, bad faith or deliberate intent to do an injustice will be administratively sanctioned.[4] In the instant case, there is no proof that the respondent Judge was moved by bad faith when he issued the alleged erroneous orders. Needless to state, bare allegations of bias and partiality will not suffice. There must be clear and convincing proof to overcome the presumption that the judge dispensed justice according to law and evidence, without fear or favor.[5]

All these notwithstanding, the Court can not gloss over the fact that respondent Judge was remiss in his duty for his failure to resolve the pending motion for reconsideration with dispatch. Under the Constitution, trial judges are given only ninety (90) days from the filing of the last pleading within which to resolve the matter at hand.[6] Rule 3.05, Canon 3 of the Code of Judicial Conduct, likewise, enunciates that judges should administer justice without delay and dispose of the court's business promptly within the period prescribed by law. When respondent Judge took over the case, the motion for reconsideration had already been long pending and several motions were filed for its urgent resolution. Respondent Judge acted on said motion only after five (5) months from the time the case was assigned to him. Unfortunately, respondent Judge's explanation on this matter is wanting as he failed to file any comment on the charges hurled against him.

As the records reveal, respondent Judge Ilano failed to file his comments on the administrative complaint against him despite receipt of the notices to do so on December 13, 2006 and March 14, 2007. The resolutions of the Court requiring Comment on an administrative complaint are not mere requests from the Court. They are not to be complied with partially, inadequately or selectively. Respondents in administrative complaints should comment on all accusations or allegations against them because it is their duty to preserve the integrity of the judiciary. The Court will not tolerate indifference of respondents to administrative complaints and to resolutions requiring comment on such administrative complaints.[7] It must be stressed that every officer or employee in the Judiciary

is duty bound to obey the orders and processes of this Court without the least delay and to exercise at all times a high degree of professionalism.[8]

We have held that a judge who deliberately and continuously fails and refuses to comply with the resolution of this Court is guilty of gross misconduct and insubordination.[9] The respondent judge's consistent failure to comply with this Court's directives should, therefore, merit the appropriate sanction.

IN VIEW OF THE FOREGOING, Judge Bayani Y. Ilano is hereby IMPOSED a FINE of P20,000.00 chargeable to his retirement benefits.

SO ORDERED.

Quisumbing,[*] Austria-Martinez,[**] (Acting Chairperson), Chico-Nazario, and Peralta, JJ. concur.

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[*] Additional member in lieu of Associate Justice Consuelo Ynares-Santiago per Special Order No. 564 dated February 12, 2009.

[**] In lieu of Associate Justice Consuelo Ynares-Santiago per Special Order No. 563 dated February 12, 2009.

[1] Resolution dated January 23, 2008.

[2] Resolution dated June 23, 2008.

[3] Zarate v. Romanillos, A.M. No. RTJ-94-1140, March 23, 1995, 242 SCRA 593, 605.

[4] Pitney v. Judge Abrogar, 461 Phil. 28, 34 (2003).

[5] Causin v. Demecillo, A.M. No. RTJ-04-1860, September 8, 2004, 437 SCRA 594, 606.

[6] Abarquez v. Rebosura, A.M. No. MTJ-94-986, January 28, 1998, 285 SCRA 109.

[7] Palon, Jr. v. Vallarta, A.M. No. MTJ-04-1530, March 7, 2007, 517 SCRA 624, 629.

[8] Chan v. Castillo, A.M. No. P-94-1055, November 25, 1994, 238 SCRA 359, 361.

[9] Martinez v. Zoleta, A.M. No. MTJ-94-904, May 22, 1996, 257 SCRA 49, 54.

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