

PROSECUTOR ROBERT M. VISBAL, COMPLAINANT, VS. JUDGE ROGELIO C. SESCON, REGIONAL TRIAL COURT, BRANCH 9, TACLOBAN CITY, RESPONDENT.

A.M. NO. RTJ-04-1890. October 11, 2005

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

By verified letter complaint[1] dated September 21, 2003, Leyte Provincial Prosecutor Robert M. Visbal charges Judge Rogelio A. Sescon (respondent), Presiding Judge of the Regional Trial Court, Branch 9, Tacloban City, with Undue Delay in rendering a decision in Civil Case No. 2002-11-235, "Esteban Pedrigal and Virginia Pedrigal versus Fely Macawili," for Unlawful Detainer. Civil Case No. 2002-11-235 is an appealed case from the Municipal Trial Court in Cities (MTCC) of Tacloban.

Complainant early on invites attention to an earlier case against respondent, Visbal v. Sescon,[2] for undue delay in rendering decisions wherein this Court imposed upon him a fine of P11,000.00 and sternly warned him that a repetition of the same or similar act would be dealt with more severely.

It appears that Eugenio Alaba, counsel for the defendant-appellant in the above-stated unlawful detainer case, inquired about the status of the appeal, by letter[3] dated September 1, 2003 which was received by Rosalina M. Padilla, OIC Clerk of Court of RTC, Branch 9.[4] To the letter-inquiry, Padilla responded by letter dated September 4, 2003,[5] attaching thereto respondent's Order dated February 18, 2003[6] granting the defendant-appellant an extension of fifteen (15) days or until March 5, 2003 to file her Memorandum.

Complainant surmises though that the unlawful detainer case was "presumably" submitted for resolution on January 9, 2003 after the filing by the defendant-appellant's Memorandum.[7]

Complainant maintains, however, that even if the case was deemed submitted on March 5, 2003, the last day of the 15-day extension granted the defendant-appellant to submit her memorandum, respondent had already incurred a delay of one hundred eighty five (185) days or more than six months[8] when he decided the case on September 5, 2003.

In his Comment with Counter-Complaint[9] dated December 18, 2003, respondent faults Delia Tayabas, his clerk-in-charge of civil cases, for failure to submit the case to him in time for his action. He, however, attributes Delia's inadvertence to her state of health from November 15, 2002 until January 3, 2003 when she had a miscarriage, and when she got pregnant again during which she frequently got sick until she took her maternity leave of absence from August 26, 2003 up to October 24, 2003 and reported back for work on October 28, 2003.[10] To his Comment, respondent attached the Affidavit of Delia[11] attesting to such claim.

By way of Counter-Complaint, respondent charges complainant, who he claims to be a well-known legal gadfly for filing administrative and criminal cases against RTC and Municipal Trial Court officials or personnel, his co-prosecutors, lawyers and other public officials and employees in Leyte purposely "to extort money, goods or

favor, present or future,"[12] with violation of Canons 1, 1.01, and 1.03 (sic) of the Code of Professional Responsibility for maliciously filing the instant case.

Thus, respondent alleges that the present complaint against him was filed in order to intimidate him to grant favors relative to the cases filed by complainant and his wife which are now pending before his sala,[13] thereby preventing him (respondent) from performing his duties and functions as Presiding Judge freely and without intervention from any external forces.

In its Report[14] of October 18, 2004, the Office of the Court Administrator (OCA) finds respondent's explanation unsatisfactory. And considering that this is the second similar offense committed by respondent, the OCA recommends the imposition of a fine in the amount of P11,000.00.

With respect to respondent's Counter-Complaint against complainant, the OCA recommends its referral to the Office of the Bar Confidant for appropriate action.[15]

This Court, by Resolution[16] dated November 24, 2004, resolved to redocket the instant complaint as a regular administrative matter and to require the parties to manifest whether they are submitting the case on the basis of the pleadings/ records already filed and submitted.

Respondent, in a Manifestation[17] dated January 26, 2005 which was received by the OCA on February 15, 2005, manifested that he was submitting the case for resolution based on the pleadings already submitted. He attached as Annex "A"[18] to his Manifestation a copy of the Decision dated September 3, 2004 rendered by the First Division of this Court in A.M. No. MTJ-02-1432, "Provincial Prosecutor Robert M. Visbal v. Judge Marino S. Buban, Municipal Trial Court in Cities, Branch 1, Tacloban City"[19] where he, as complainant in said case, was fined by this Court for misconduct.

Complainant, meanwhile, in his Manifestation[20] dated January 27, 2005 which was received by the OCA on February 15, 2005, manifested that he was submitting the case for resolution. To his Manifestation he attached a copy of his January 18, 2005 "petition" in above-stated A.M. No. MTJ-02-1432[21] for the deletion of that portion of the decision imposing a fine on him.

This Court finds respondent guilty of gross inefficiency.

No less than the Constitution[22] mandates that cases or matters before the lower courts be decided within ninety (90) days.

The New Code of Judicial Conduct for the Philippine Judiciary[23] which took effect on June 1, 2004 expressly requires judges to perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness.[24]

Rule 3.05 of the Code of Judicial Conduct likewise requires judges to dispose of the court's business promptly and decide cases within the required periods.

Any delay in the administration of justice, no matter how brief, deprives the litigant of his right to a speedy disposition of his case,[25] and undermines the people's faith and confidence in the judiciary as well as lower its standards and brings it to disrepute.[26] It reinforces in the minds of litigants the impression that the wheels of justice grind ever so slowly,[27] disabusing which should be the collective concern of all of us in the judiciary.

On the whole, judges ought to be mindful of the crucial role they play in keeping the flames of justice alive and forever burning. Cognizant of this sacred task, judges are duty-bound to vigilantly and conscientiously man the wheels of justice as it grinds through eternity. In a sense, judges are revered as modern-day sentinels, who, like their erudite forerunners, must never slumber, so to speak, in the hour of service to their countrymen.

For as lady justice never sleeps, so must the gallant men tasked to guard her domain.[28]

As correctly pointed out by the OCA, respondent cannot escape liability for the delay by passing the blame on his clerk-in-charge. A judge cannot take refuge behind the inefficiency or mismanagement of court personnel.[29]

For a judge is responsible not only for the dispensation of justice but also for managing his courts efficiently to ensure the prompt delivery of court services.[30] Since he is the one directly responsible for the proper discharge of his official functions, he ought to know the cases submitted to him for decision, particularly those pending for more than ninety (90) days.[31] That explains why Rule 3.09 of the Code of Judicial Conduct mandates a judge to organize and supervise the court personnel to ensure the prompt and efficient dispatch of business, and require at all times the observance of high standards of public service and fidelity.

All told, respondent Judge is guilty of undue delay in rendering a decision which is classified as a less serious charge under Sec. 9 (1), Rule 140.[32] Section 11 (B) of the same Rule provides that the penalty for such charge is suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months, or a fine of more than P10,000.00 but not exceeding P20,000.00.

In *Arcenas v. Avelino*,[33] the Court, citing *The Report on the Judicial Audit Conducted in the RTC, Branches 29 and 59, Toledo City*,[34] reiterated the factors to be considered in the determination of the proper penalty for undue delay in rendering a decision:

We have always considered the failure of a judge to decide a case within ninety (90) days as gross inefficiency and imposed either fine or suspension from service without pay for such. The fines imposed vary in each case, depending chiefly on the number of cases not decided within the reglementary period and other factors, to wit: the presence of aggravating circumstances - the damages suffered by the parties as a result of the delay, the health and age of the judge, etc.[35]

Considering that respondent, as earlier stated, was in *Visbal v. Sescon*[36] faulted for undue delay in rendering decisions[37] for which he was imposed a fine of P11,000.00 with a stern warning that a repetition of the same or a similar act shall be dealt with more severely, the amount of fine recommended by OCA - P11,000.00 should be increased.

Respecting respondent's Counter-Complaint against complainant, it is the Department of Justice which has control and supervision over public prosecutors, hence, this Court may not pass upon it.

WHEREFORE, this Court finds Judge Rogelio C. Sescon, Presiding Judge of Branch 9 of the Regional Trial Court of Tacloban City, GUILTY of gross inefficiency for undue delay in rendering a decision and is FINED the amount of Twenty Thousand Pesos (P20,000.00), with STERN WARNING that another repetition of the same or similar acts will be dealt with more severely.

Let the Counter-Complaint against herein complainant Provincial Prosecutor Roberto M. Visbal be FORWARDED to the Secretary of Justice for any action it may deem appropriate.

SO ORDERED.

Panganiban, (Chairman), Sandoval-Gutierrez, Corona, and Garcia, JJ., concur.

[1] Rollo at 1-3.

[2] 409 SCRA 293 (2003).

[3] Annex "D", Rollo at 18.

[4] Ibid.

[5] Annex "E", Rollo at 20.

[6] Annex "F", Rollo at 21.

[7] Rollo at 1.

[8] Id. at 2.

[9] Id. at 23-30.

[10] Id. at 24.

[11] Annex "A" of the Comment with Counter-Complaint, Rollo at 30.

[12] Rollo at 25-26.

[13] Id. at 26-27.

[14] Id. at 60-63.

[15] Id. at 62.

[16] Id. at 64.

[17] Id. at 67.

[18] Id. at 69-78.

[19] 437 SCRA 520 (2004).

[20] Rollo at 81.

[21] Id. at 82-89.

[22] Constitution, art. VIII, sec. 15.

[23] The Code superseded the Canons of Judicial Ethics and the Code of Judicial Conduct. However, in case of deficiency or specific provisions in the New Code, the Canons of Judicial Ethics and the Code of Judicial Conduct shall be applicable in a suppletory character.

[24] Sec. 5, Canon 6; Sps. John & Annabelle F. Chan v. Judge Jane Aurora C. Lantion, A.M. No. RTJ-05-1945, August 25, 2005.

[25] Belleza vs. Cabarde, 451 SCRA 632, 635 (2005).

[26] Espenelli v. Español, 453 SCRA 96 (2005); Bangco v. Gatdula, 378 SCRA 534 (2002); Yu-Asensi v. Judge Villanueva, 322 SCRA 255 (2000).

[27] Reyes-Garmsen v. Bello, Jr. , 447 SCRA 377 (2004).

[28] Report on the Judicial Audit Conducted in the RTC- Br. 20, Manila, 342 SCRA 587, 592 (2000).

[29] Visbal v. Buban, 437 SCRA 520 (2004); Aguilar v. How, 407 SCRA 482 (2003).

[30] *Garong v. Benipayo*, 416 SCRA 155 (2003); *Buenaflor v. Ibarreta, Jr.*, 381 SCRA 518 (2002).

[31] *Nidua v. Lazaro*, 174 SCRA 581 (1989).

[32] As amended by A.M. No. 01-8-10-SC which was promulgated on September 11, 2001 and became effective on October 1, 2001.

[33] 453 SCRA 202 (2005).

[34] 292 SCRA 8 (1998).

[35] 453 SCRA 202, 210 (2005)

[36] *Supra*, note 2.

[37] In Civil Case No. 2000-05-65, it took him a period of 21 months or 630 days to issue an Order affirming the appealed decision while in Criminal Case No. 90-08-356, it took him 9 months or 270 days to resolve the Demurrer to Evidence. In Criminal Case No. 99-10-513, he resolved the Motion for Reinvestigation only after four months from submission.

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