

EMIL J. BIGGEL, COMPLAINANT, VS. JUDGE FERNANDO VIL. PAMINTUAN, REGIONAL TRIAL COURT, BRANCH 3, BAGUIO CITY, RESPONDENT.

A.M. No. RTJ-08-2101 (Formerly OCA-I.P.I. No. 07-2763-RTJ). July 23, 2008

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TINGA, J.:

This is an administrative complaint against respondent judge Fernando Vil. Pamintuan of the Regional Trial Court of Baguio City, Branch 3, for manifest partiality, gross misconduct, ignorance of the law and unjust and malicious delay in the resolution of incidents in Criminal Case No. 25383-R entitled "People of the Philippines v. Emil Biggel," a case for estafa

In a verified Complaint[1] dated 5 September 2006, complainant narrated that after the complaint for estafa had been filed against him, the assistant city prosecutor issued a resolution, subsequently approved by the city prosecutor, recommending the filing of an information in court with a recommended bail of P60,000.00. Complainant stated that this was made without the benefit of a preliminary investigation and a subpoena sent to him as the Assistant City Prosecutor had relied on the bare assertions of private complainant's counsel in the criminal case that complainant had no address on record. Thereafter, the recommended bail was increased to P600,000.00 by the City Prosecutor allegedly on request.

Thus, complainant's counsel filed a motion for reinvestigation before the sala of respondent judge which was set for hearing on 13 January 2006, praying that the criminal case be remanded to the Prosecutor's Office of Baguio City for the conduct of the requisite preliminary investigation. On 9 January 2006, respondent judge issued an order directing Public Prosecutor Raymond Tabangin to file his comment on the motion. He also rescheduled the hearing of the motion to 25 January 2006. On the rescheduled date of hearing, in view of Public Prosecutor Tabangin's failure to file a comment, respondent judge reset the hearing to 1 March 2006 as well as gave Public Prosecutor Tagudar, who was new in the case, time to file her comment.

On 21 February 2006, complainant's counsel filed a manifestation and motion praying that his motion for reinvestigation be deemed submitted for resolution as Public Prosecutor Tagudar failed to file the required comment. On 1 March 2006, complainant's counsel again manifested that since the prosecution had failed to file its comment, the motion should be deemed submitted for resolution. The parties were then brought inside the judge's chambers and upon respondent judge's prodding, complainant's counsel agreed to the request of Public Prosecutor Tabangin, who had reappeared in the case, that he be given another period of five (5) days or until 6 March 2006 to file his comment. Complainant was likewise given the same period of time to file his reply upon receipt of the comment.

On 6 March 2006, Public Prosecutor Tabangin filed his comment which complainant received on 10 March 2006. In said comment, the public prosecutor contended that there was no legal infirmity in the certification issued by Assistant City Prosecutor Centeno which stated that the accused's (complainant in this administrative matter) "not (being) a permanent resident of the Philippines tends to indicate that the address so given was only a temporary

one" and that "therefore with that basis it could be assumed that accused cannot be subpoenaed." [2] The public prosecutor likewise contended that the certification issued by the Assistant City Prosecutor that a preliminary investigation had been conducted should be presumed correct pursuant to the well-entrenched presumption of regularity in the performance of official duties.

Immediately thereafter, on 7 March 2006, respondent judge issued an order denying the motion for reinvestigation without awaiting complainant's reply to the comment. In view of this incident, on 23 March 2006, complainant filed a motion for inhibition and motion for reconsideration of the order denying the motion for reinvestigation. On 17 April 2006, respondent judge denied the motion for his inhibition and directed Public Prosecutor Tabangin to file his comment to the motion for reconsideration.

On 11 May 2006, complainant filed a manifestation and motion praying that his motion for reconsideration be deemed submitted for resolution in view of the failure of the public prosecutor to file his comment. On 26 May 2006, complainant filed a motion for early resolution of his motion for reconsideration. However, despite several inquiries into the status of said motion, the motion remained unresolved, for which reason complainant filed on 19 June 2006 a motion reminding the court that his motion for reconsideration had not been acted upon.

On 24 July 2006, complainant filed a motion to lift the hold departure order/resolve the motion for reconsideration. On 26 July 2006, complainant received a copy of the Order dated 14 July 2006 granting his motion for reconsideration and directing the public prosecutor to conduct the reinvestigation within thirty (30) days.

On 4 August 2006, complainant received the Public Prosecutor's comment on his motion to lift the hold departure order, [3] complainant's reply to which was filed on 16 August 2006. On 29 August 2006, complainant filed a motion to resolve to no avail.

In his Comment [4] dated 9 November 2006, respondent judge pointed out that he had already voluntarily inhibited himself from the criminal case on 26 September 2006, or before receipt of the instant administrative complaint. He moreover stated that it was his pairing judge who had issued the warrant of arrest in the criminal case as he was on leave at the time. In addition, he claimed that he was not responsible for the increase of the amount of bail but rather for its reduction to P300,000.00, and that upon his return to office on 19 December 2006, he set the arraignment of complainant on 25 January 2007.

Anent complainant's motion for reinvestigation, respondent judge explained that Public Prosecutor Tabangin appeared in court only on behalf of Public Prosecutor Tagudar who was then on an extended leave. Naturally, he stated, as Public Prosecutor Tabangin failed to file his comment, he decided to await Public Prosecutor Tagudar's comment and reset the arraignment to 1 March 2007.

Respondent judge bewailed complainant's insistence on having his motions resolved immediately though filed via the mails. He contended that such is not the official filing method, thus his hesitation to calendar the motions in view of the possibility that the other party might not have yet received the motions.

Respondent judge stated that he had exercised his discretion in calling the parties in his chambers to spare complainant's counsel the humiliation of receiving his remarks in public and with the end in view of resolving the conflict amicably. He also explained that he had given the public prosecutor extra time to file the required comment to enable the latter to familiarize himself with the case. He also justified the denial of the motion for reinvestigation, stating that absent grave abuse of discretion, regularity is presumed in the performance of duties of a public officer.

As regards complainant's motion for reconsideration, respondent judge reasoned out that he had to await Public

Prosecutor Tabangin's comment, which was eventually filed on 4 July 2006. In said comment, the public prosecutor expressed his willingness to have a reinvestigation in the interest of justice and fair play. Respondent judge pointed out that the resolution granting the motion for reinvestigation was made on 14 July 2006, or only ten (10) days after receipt of the comment.

Lastly, respondent judge contended that the motion to lift the hold departure order could not be resolved based on the pleadings alone, it being adversarial in nature as it affects the parties' rights and must be resolved with extreme caution.

In a Report[5] dated 3 December 2007, the Office of the Court Administrator (OCA) found respondent judge guilty of undue delay in rendering an order. Accordingly, the OCA recommended that he be meted a fine in the amount of P20,000.00.

In a Resolution[6] dated 28 January 2008, the Court noted the report of the OCA and directed the parties to manifest their willingness to submit the case for resolution on the basis of the pleadings filed. In his Manifestation dated 26 February 2008, complainant manifested that he was submitting the case for resolution on the basis of the pleadings filed.[7] Respondent manifested the same willingness in his Manifestation dated 12 March 2008.[8]

The Court finds the OCA's recommendation to be in order.

Undue delay in the disposition of cases and motions erodes the faith and confidence of the people in the judiciary and unnecessarily blemishes its stature. No less than the Constitution mandates that lower courts must dispose of their cases promptly and decide them within three months from the filing of the last pleading, brief or memorandum required by the Rules of Court or by the Court concerned. In addition, a judge's delay in resolving, within the prescribed period, pending motions and incidents constitutes a violation of Rule 3.05 of the Code of Judicial Conduct requiring judges to dispose of court business promptly.[9]

There should be no more doubt that undue inaction on judicial concerns is not just undesirable but more so detestable especially now when our all-out effort is directed towards minimizing, if not totally eradicating the perennial problem of congestion and delay long plaguing our courts. The requirement that cases be decided within the reglementary period is designed to prevent delay in the administration of justice, for obviously, justice delayed is justice denied. An unwarranted slow down in the disposition of cases erodes the faith and confidence of our people in the judiciary, lowers its standards and brings it into disrepute.[10]

In the instant case, complainant filed an urgent motion for reinvestigation on 5 January 2006. Respondent judge issued an Order dated 9 January 2006 directing Public Prosecutor Tabangin to file a comment within ten (10) days from receipt of the motion. As the public prosecutor failed to file a comment, respondent judge reset the hearing to 1 March 2006 instead of submitting the motion for resolution. On 7 March 2006, respondent judge denied the urgent motion for reinvestigation. Hence, complainant moved for reconsideration on 23 March 2006. Respondent judge then directed the public prosecutor to file a comment on said motion. Despite the public prosecutor's failure to file the required comment and complainant's several motions for resolution, respondent judge granted the reinvestigation only on 26 July 2006--clearly beyond the mandated period. Notably, respondent judge not only delayed the submission for resolution of the motion for reinvestigation but also delayed the submission of the motion for reconsideration for resolution.

Respondent judge's failure to act with dispatch constitutes undue delay punishable under Section 9 of Rule 140[11] of the Rules of Court, which reads:

SEC. 9. Less Serious Charges.--Less serious charges include :

1. Undue delay in rendering a decision or order, or in transmitting the records of a case;

x x x

Section 11 (B) of the same Rule provides the penalty as follows:

B. If the respondent is guilty of a less serious charge, any of the following sanctions shall be imposed:

- 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."

For the record, in OCA IPI No. MTJ-98-1115, respondent judge was preventively suspended pending resolution of the case for oppression and acts unbecoming of a judge. In A.M. No. RTJ-02-1691, respondent judge was suspended for one (1) year for gross ignorance of the law, gross violation of the constitutional rights of the accused, arrogance and violation of the Canons of Judicial Ethics. The records of the OCA also reveal that in A.M. No. RTJ-99-1483, respondent judge was fined in the sum of P10,000.00 and was reprimanded as well for violations of Canons 2 and 3 of the Code of Judicial Ethics amounting to grave misconduct, conduct unbecoming of an officer of the judiciary and conduct prejudicial to the best interest of the service. Lastly, in A.M. No. RTJ-99-1450, respondent judge was admonished for violation of Canon 3, Rule 3.04 of the Code of Judicial Conduct.

WHEREFORE, the Court finds Judge Fernando Vil. Pamintuan of the Regional Trial Court of Baguio City, Branch 3, guilty of violating Rule 3.05 of the Code of Judicial Conduct and imposes upon him a FINE in the amount of P20,000.00, with a STERN WARNING that a repetition of the same or similar acts will be dealt with more severely.

SO ORDERED.

Quisumbing, (Chairperson) Carpio Morales, Velasco, Jr., and Brion, JJ., concur.

[1] Rollo, pp. 8-14.

[2] Id. at 10.

[3] Id. at 32-36.

[4] Id. at 66-75.

[5] Id. at 1-7.

[6] Id. at 95.

[7] Id. at 98-99

[8] Id. at 111-116.

[9] Gonzales v. Judge Hidalgo, 449 Phil. 336, 341 (2003).

[10] Atty. Beltran, Jr. v. Atty. Paderanga, 455 Phil. 227, 234 (2003).

[11] The Court resolved to approve the amendment of Rule 140 of the Rules of Court regarding the discipline of Justices and Judges in A.M. No. 01-8-10-SC dated 11 September 2001.

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