MARITES O. TAM, COMPLAINANT, VS. JUDGE JOCELYN G. REGENCIA, MUNICIPAL CIRCUIT TRIAL COURT(MCTC), ASTURIAS-BALAMBAN,CEBU, RESPONDENT.

A.M. NO. MTJ-05-1604 (FORMERLY OCA I.P.I. NO. 04-1580-MTJ). June 27, 2006

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

In a verified complaint dated January 12, 2004, Marites O. Tam (complainant) administratively charged Judge Jocelyn G. Regencia (respondent) of the Municipal Circuit Trial Court (MCTC) of Asturias-Balamban, Cebu with ignorance of the law, grave abuse of discretion, dereliction of duty, and dishonesty.

Complainant alleges that: she is the private complainant in Criminal Case No. 4003-A, entitled "People of the Philippines v. Alejandro Blase Conise," where the accused was charged with the crime of serious illegal detention; the criminal complaint was filed with the MCTC of Asturias-Balamban, Cebu presided over by herein respondent; preliminary investigation was conducted on February 13, 2003 and was terminated on June 9, 2003; the case was deemed submitted for resolution on June 16, 2003; on September 19, 2003, or after a lapse of more than three months from the time the case was deemed submitted for resolution, private complainant filed a motion to resolve or to forward the records of the case to the Office of the Provincial Prosecutor of Cebu for resolution; on even date the trial court issued an order giving due course to the motion, with a declaration that the resolution of the case will soon be issued; on December 11, 2003 private complainant's father-in-law, Nonito Tam, Sr. (Nonito) inquired from the trial court whether respondent was able to render a resolution on the subject criminal case; he was told by the stenographer of the court, who is an aunt of the accused, that a resolution has already been made but the same is not yet signed by respondent who was then out of the office; on December 15, 2003 Nonito again inquired from the court regarding the resolution and he was informed by the same stenographer that the resolution was already signed by respondent on December 12, 2003; he was able to obtain a copy of the resolution; he noticed, however, that it was dated October 31, 2003; when he asked the court personnel why the resolution was ante-dated, he was told that the case was already reported as having been resolved in the month of October 2003; the private prosecutor who handles the case received a copy of the resolution on December 22, 2003; despite sufficient ground to engender a well-founded belief that a crime of serious illegal detention has been committed and that the accused is probably guilty thereof, respondent issued the subject resolution finding no probable cause to hold the accused for trial on the charge of serious illegal detention; instead, respondent found probable cause against the accused for the crime of serious physical injuries.[1]

In her Verified Answer to the Complaint, respondent denies all the charges against her contending that: the same are bereft of any factual and legal bases and that they are the by-products of the extreme and uncontrollable desire of Nonito to subject the judicial process to his whims and caprices; during the dates mentioned by complainant, respondent was not only presiding over the MCTC of Asturias-Balamban but was also the acting judge of MCTC Tuburan-Tabuelan and MTCC Toledo City; respondent's travel from one sala to another consumes much of her official and personal time; her resolution in People of the Philippines v. Conise was not ante-dated because the

same had actually been done as early as October 31, 2003 but she decided not to release the same until the stenographic notes are transcribed and finalized so that she can attach the same to the resolution to enable the Provincial Prosecutor to intelligently review the case; respondent had warned Nonito to refrain from discussing the merits of the criminal case in her chambers, but despite such warning the former approached respondent several times asking that the case be resolved in their favor; the detention of the accused in the criminal case was due to the complainant's maneuverings by amending the complaint from attempted murder to serious illegal detention; respondent took pains in arriving at the truth of the allegations in the criminal complaint by conducting clarificatory hearings; her finding of a probable cause for the crime of less serious physical injuries was arrived at on the basis of the records, TSN and her personal notes. [2]

In its report dated August 4, 2005 the Office of the Court Administrator (OCA) found no basis to hold respondent liable on the charge of grave abuse of discretion arising from the latter's findings that no probable cause exists to hold the accused responsible for serious illegal detention. The OCA held that the accusation infringes on the judicial prerogative of respondent whose ruling may be questioned only through the judicial remedies provided under the Rules of Court. However, the OCA found respondent guilty of violating the provisions of Section 5, Rule 112 of the Rules of Court, for the delay in transmitting her resolution of the preliminary investigation in Criminal Case No. 4003-A to the Provincial Prosecutor of Cebu. Accordingly, the OCA recommended that the instant administrative complaint be re-docketed as a regular administrative matter and that respondent be fined in the amount of P11,000.00.[3]

In a Resolution dated August 24, 2005, the Court resolved to re-docket the instant administrative complaint as a regular administrative matter and required the parties to manifest whether they are willing to submit the case for resolution based on the pleadings filed.[4]

In her Manifestation dated September 23, 2005, respondent manifested her desire to file additional pleadings. She prayed that she be granted reasonable time within which to file said pleadings.[5]

On the other hand, complainant manifested her willingness to submit the case for resolution based on the pleadings filed.[6]

In its Resolution of November 21, 2005, the Court granted respondent a period of 10 days from notice within which to submit additional pleadings and noted complainant's manifestation stating her willingness to submit the case for resolution based on the pleadings filed.[7]

In her Supplemental Comments, respondent reiterates her claim that the instant administrative case is clearly unfounded, malicious, and intended for purposes of harassment. She asserts that she was not moved by malice, bad faith, corrupt practice, or improper consideration when she rendered the questioned resolution in Criminal Case No. 4003-A. She contends that to merit disciplinary action, the error or mistake of a judge must be gross and patent, malicious, deliberate, or in bad faith. Respondent also argues that private complainant is not without remedy because her resolution in the subject criminal case is still subject to review by the Provincial Prosecutor of Cebu and, in case the same is affirmed, the aggrieved party still has the option to appeal the ruling to the Regional State Prosecutor and, thereafter, to the Secretary of Justice. Citing various authorities, respondent maintains that as a matter of policy, the acts of a judge in his judicial capacity are not subject to disciplinary action; that he cannot be subjected to criminal, civil, or administrative liability for any of his official acts no matter how erroneous, as long as he acts in good faith.[8]

In her Reply to respondent's Supplemental Comments, complainant averred that respondent downgraded the charge from serious illegal detention to less serious physical injuries to favor the accused who is the nephew of the stenographer assigned to her sala; a case for attempted murder was finally filed in court against the accused by

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virtue of a Resolution of the Office of the Provincial Prosecutor dated April 22, 2004.[9] Complainant prayed that respondent be dismissed from the service.[10]

In its report, the OCA submitted its evaluation and recommendation, to wit:

> Complainant's assertion that respondent judge gravely abused her discretion in not finding probable cause for serious illegal detention against the accused deserves scant consideration. The accusation infringes on the judicial prerogatives [sic] of the respondent judge, which may only be questioned through the judicial remedies under the Rules of Court, and not by way of an administrative complaint. Besides, the 22 April 2004 [R]esolution of the Office of the Provincial Prosecutor of Cebu directing the filing of information for attempted murder against the accused proved complainant's accusation against respondent judge wrong.
>
> However, respondent judge cannot escape from administrative liability for the delay in resolving Criminal Case No. 4003-A. Section 5, Rule 112 of the Revised Rules of Criminal Procedure provides, thus:Sec. 5. Resolution of investigating judge and its review. – Within ten (10) days after the preliminary investigation, the investigating judge shall transmit the resolution of the case to the provincial or city prosecutor, or to the Ombudsman or his deputy in cases of offenses cognizable by the Sandiganbayan in the exercise of its original jurisdiction, for appropriate action. x x x (Underscoring supplied)

x x x x

In this case, no less than the respondent judge admitted the delay in resolving Criminal Case No. 4003-A. Records show that the preliminary investigation was terminated on 9 June 2003. Following the Rule above-stated, the case should have been resolved on or before 19 June 2003, and respondent judge should have transmitted the resolution to the Provincial Prosecutor of Cebu immediately. The filing of a memorandum after the termination of the preliminary investigation is not required by the Rules. This renders the submission for resolution of the case on 16 June 2003 unnecessary as the reckoning of the 10-day period under the Rule heretofore mentioned begins on the day the preliminary investigation was terminated, or on 9 June 2003.

It was only on 31 October 2003, or after the lapse of more than four months, that respondent judge resolved the case. Worse, the resolution was released on 16 December 2003 only, or after almost six months from the time the preliminary investigation was terminated, in clear violation of Section 5, Rule 112 of the Revised Rules of Criminal Procedure.

The justifications offered by respondent judge for the delay are insufficient to exculpate her from administrative liability. The multiple judicial assignments given her were not unilaterally imposed upon her by the Court. As a matter of practice, judges are informed about their impending designation either as acting presiding judge or as judge-designate to try and decide inhibited cases in order to get their consent thereto. Such consent is an affirmation not only of their willingness to take on additional judicial assignments, but, more importantly, of their ability to discharge their judicial functions efficiently and effectively despite the added responsibilities given them. Respondent judge is no exception to this; otherwise, she would have sought her relief from her additional judicial assignments. On the delay in the finalization of the TSN, respondent judge has shown her ability to resolve cases without the benefit of the TSN as she can very well rely on her own notes in resolving cases. Despite the absence of the TSN when she prepared the 31 October 2003 Resolution, she managed to come up with a thorough and exhaustive resolution. While the TSN is among the records required to be transmitted with the resolution to the City or Provincial Prosecutor, respondent judge could have caused the transmittal of the resolution as soon as she finished the resolution of the case even without the TSN knowing that its transmittal had already been delayed for several months. She, however, allowed the delay to unnecessarily drag on.

Under Section 9, Rule 140 of the Revised Rules of Court, violation of SC Rules is classified as a less serious

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charge, which, under Section 11 (B) of the same Rule, is punishable by suspension from office without salary and other benefits for not less than one month nor more than three months or a fine of more than P10,000.00 but not exceeding P20,000.00.

It appearing that this is the first time that respondent judge has committed a violation of the SC Rules, the imposition of a fine of P11,000.00 upon her is appropriate.[11]

x x x x

The Court agrees with the findings of the OCA, but modifies the recommended penalty.

On the matter of respondent downgrading the criminal charges against the accused, suffice it to state that the Court agrees with the OCA that on errors in the interpretation of the law, the recourse of the aggrieved party is judicial and not administrative.

The Court finds the ruling in Claro v. Efondo[12] applicable to the present case. Thus,

> 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 the assailed order or decision is tainted with fraud, malice, or dishonesty. The remedy of the aggrieved party is to elevate the assailed decision or order to the higher court for review and correction. Furthermore, a judge's failure to correctly interpret the law or to properly appreciate the evidence presented does not necessarily render him administratively liable. The acts of a judge in his judicial capacity are not subject to disciplinary action. He cannot be subjected to liability – civil, criminal or administrative – for any of his official acts, no matter how erroneous, as long as he acts in good faith. Only judicial errors tainted with fraud, dishonesty, gross ignorance, bad faith or deliberate intent to do an injustice will be administratively sanctioned. To hold otherwise would be to render judicial office untenable, for no one called upon to try the facts or interpret the law in the process of administering justice can be infallible in his judgment.[13]

In the present case, complainant was not left without any remedy when she felt aggrieved by the subject resolution. It was still subject to review by the Provincial Prosecutor of Cebu who, as it turned out, filed an Information against the accused for Attempted Murder. As correctly argued by respondent, if complainant still feels wronged by the Provincial Prosecutor's resolution, then she still had the option to appeal the same to the Regional State Prosecutor and eventually to the Department of Justice.

Moreover, the Court finds that complainant failed to prove her charges of ignorance of the law, grave abuse of discretion, dereliction of duty, and dishonesty against respondent judge. Settled is the rule that in administrative proceedings the burden of proof that the respondent committed the acts complained of rests on the complainant.[14] In fact, if the complainant, upon whom rests the burden of proving his cause of action, fails to show in a satisfactory manner the facts upon which he bases his claim, the respondent is under no obligation to prove his exception or defense.[15] Even in administrative cases, if a court employee or magistrate is to be disciplined for a grave offense, the evidence against him should be competent and should be derived from direct knowledge.[16] In the absence of evidence to the contrary, the presumption that the respondent has regularly performed his duties will prevail.[17] In the present case, complainant failed to substantiate her imputations against respondent. Complainant contends that the subject Resolution was issued to favor the accused who is a relative of the stenographer assigned to the sala of respondent judge. However, aside from her naked allegations, complainant failed to present any other evidence to prove her charges. The fact alone that respondent judge found no probable cause to hold the accused in Criminal Case No. 4003-A for trial on the charge of serious illegal detention does not render her liable for ignorance of the law, grave abuse of discretion, dereliction of duty, and dishonesty. Hence, the presumption that respondent regularly performed her duties prevails.

The Court agrees with the findings of the OCA that respondent should be held administratively liable for her delay in issuing the trial court's resolution in the preliminary investigation of Criminal Case No. 4003-A.

Respondent failed to comply with the provisions of Section 5, Rule 112 of the Revised Rules of Criminal Procedure, as amended, which specifies the duty of the investigating judge upon conclusion of a preliminary investigation, to wit:

> Sec. 5. Resolution of investigating judge and its review. – Within ten (10) days after the preliminary investigation, the investigating judge shall transmit the resolution of the case to the provincial or city prosecutor, or to the Ombudsman or his deputy in cases of offenses cognizable by the Sandiganbayan in the exercise of its original jurisdiction, for appropriate action. The resolution shall state the findings of facts and the law supporting his action, together with the record of the case which shall include: (a) the warrant, if the arrest is by virtue of a warrant; (b) the affidavits, counter-affidavits and other supporting evidence of the parties; (c) the undertaking or bail of the accused and the order for his release; (d) the transcripts of the proceedings during the preliminary investigation; and (e) the order of cancellation of his bail bond, if the resolution is for the dismissal of the complaint.
>
> Within thirty (30) days from receipt of the records, the provincial or city prosecutor, or the Ombudsman or his deputy, as the case may be, shall review the resolution of the investigating judge on the existence of probable cause. Their ruling shall expressly and clearly state the facts and the law on which it is based and the parties shall be furnished with copies thereof. They shall order the release of an accused who is detained if no probable cause is found against him. (Emphasis supplied)

Consistent with the above-quoted Rule, respondent had the duty to promptly forward her resolution together with the records of the case to the provincial prosecutor.

In Guerrero v. Judge Deray,[18] the Court had occasion to reiterate that it is the duty of judges to promptly resolve pending incidents, such as preliminary investigations, especially in criminal cases, consistent with the constitutionally guaranteed right of the accused to speedy trial and the time-honored precept that justice delayed is justice denied. The Court held thus:

> The conduct of preliminary investigation by judges of municipal trial courts and municipal circuit trial courts is a non-judicial function, which is an exception to their usual duties and their findings are subject to review by the Provincial Prosecutor concerned. The performance of this non-judicial or executive function, however, does not place them beyond the disciplinary power of this Court for any act or omission in relation or as an incident to their task, which is only in addition to their judicial functions. Thus, the Court has imposed disciplinary sanctions on judges for their ignorance or deliberate disregard of the laws on preliminary investigation.
>
> In a litany of cases we have reminded members of the bench that the unreasonable delay of a judge in resolving a pending incident is a violation of the norms of judicial conduct and constitutes a ground for administrative sanction against the defaulting magistrate. Indeed, we have consistently impressed upon judges the need to decide cases promptly and expeditiously on the principle that justice delayed is justice denied.
>
> This oft-repeated adage requires the expeditious resolution of disputes, much more so in criminal cases where an accused is constitutionally guaranteed the right to a speedy trial, which, as defined, is one "[c]onducted according to the law of criminal procedure and the rules and regulations, free from vexatious, capricious and oppressive delays." The primordial purpose of this constitutional right is to prevent the oppression of the accused by delaying criminal prosecution for an indefinite period of time. It is likewise intended to prevent delays in the administration of justice by requiring judicial tribunals to proceed with reasonable dispatch in the trial of criminal prosecutions.[19]

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Respondent's contention that she still had to wait for the stenographic notes to be transcribed, proofread, and finalized does not serve as an excuse for her to issue the subject resolution six months after the preliminary investigation was terminated. A period of six months is more than enough time for respondent and her staff to transcribe, proofread, and finalize the stenographic notes in the subject preliminary investigation. In fact, the period given by the Constitution for lower courts to decide a case is only three months.[20] Granting that this period is still not sufficient for respondent to resolve the pending incident, she is not precluded from asking for extension of time to decide the same and complete the records for transmission to the provincial prosecutor. The Court has always been sympathetic to requests made by judges for extension of time for deciding cases and other matters and incidents related thereto.[21]

Neither will the lack of facilities in court as well as the lack of knowledge of the stenographer in the use of computers completely absolve respondent judge from liability for her failure to resolve the subject pending incident on time. A judge cannot take refuge behind the inefficiency or mismanagement of his court personnel since they are not responsible for his judicial functions.[22] On the contrary, a judge should be the master of his own domain and take responsibility for the mistakes of his subordinates.[23]

Respondent will not also be exonerated by the fact that she had multiple assignments in three different courts, which makes it very difficult for her to resolve pending incidents on time. The designation of a judge to preside over another sala is an insufficient reason to justify delay in deciding a case because, as the Court earlier mentioned, he is not precluded from asking for an extension of the period within which to decide a case if this is necessary.[24] The Court is not persuaded by respondent's contention that it would be impractical to ask from the Court for extension of time to resolve cases assigned to her because before the extension could be granted another case will be due for decision and respondent will again be constrained to ask for another extension which is not good for her image. The fact that cases and other pending incidents become successively due for decision or resolution is precisely the reason why respondent should have asked for extra time to decide or resolve these matters. It is simply unjustified on respondent's end to argue on the premise that it is bad for her image to regularly ask for extensions. If she really does not want to ask for additional time to resolve pending matters then she should strive to meet her deadlines; otherwise, she has no choice but to ask for extensions. If she fails to do so and the period lapses, as in the present case, she becomes administratively liable for delay.

Respondent violated Canon 1, Rule 1.02 and Canon 3, Rule 3.05, of the Code of Judicial Conduct, to wit:

> Rule 1.02. – A judge should administer justice impartially and without delay.
>
> Rule 3.05. – A judge shall dispose of the court's business promptly and decide cases within the required periods.

The Court has always impressed upon all members of the judiciary the need to decide cases promptly and expeditiously.[25] The Code of Judicial Conduct enjoins judges to administer justice impartially and without delay.[26] They must dispose of the court's business promptly and decide cases within the required periods.[27] Failure of a judge to decide a case within the prescribed period is inexcusable and constitutes gross inefficiency warranting a disciplinary sanction.[28]

Section 9(4), Rule 140 of the Rules of Court classifies undue delay in rendering a decision or order, or in transmitting the records of a case and violation of Supreme Court rules, directives and circulars as a less serious charge. Under Section 11(B) of the same Rule, the penalty imposed, if the respondent is found guilty of a less serious charge, is either 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.

Considering, however, that respondent judge has been in the service of the judiciary for 11 years and it appearing

that this is her first administrative offense of this nature, the Court finds it proper to impose a lesser penalty.[29] Moreover, the fact that respondent judge is also assigned in another circuit court and one city court also mitigates her liability.[30] Hence, the penalty of fine in the amount of P5,000.00 is deemed commensurate to the infraction committed by respondent judge.[31]

WHEREFORE, respondent judge is found GUILTY of GROSS INEFFICIENCY. She is ordered to pay a FINE of Five Thousand Pesos (P5,000.00) and WARNED that a repetition of the same or similar offense will be dealt with more severely.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Callejo, Sr., and Chico-Nazario, JJ., concur.

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[1] Rollo, pp. 1-10.

[2] Id. at 37-49.

[3] Id. at 198-201.

[4] Id. at 202.

[5] Id. at 203.

[6] Id. at 208.

[7] Id. at 212.

[8] Id. at 223-228.

[9] Annex "H", Verified Answer to the Complaint, id. at 181-182.

[10] Id. at 242.

[11] Id. at 199-201.

[12] A.M. No. MTJ-05-1585, March 31, 2005, 454 SCRA 218.

[13] Id. at 226-227.

[14] Go v. Achas, A.M. No. MTJ-04-1564, March 11, 2005, 453 SCRA 189, 195.

[15] Id.

[16] Suarez-De Leon v. Estrella, A.M. No. RTJ-05-1935, July 29, 2005, 465 SCRA 37, 44.

[17] Id.

[18] 442 Phil. 85 (2002).

[19] Id. at 90-92.

[20] CONSTITUTION, Article VIII, Sec. 15.

[21] Office of the Court Administrator v. Avelino, A.M. No. MTJ-05-1606, December 9, 2005, 477 SCRA 9, 17.

[22] Office of the Court Administrator v. Javellana, A.M. No. RTJ-02-1737, September 9, 2004, 438 SCRA 1, 15.

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[23] Id.

[24] Supra note 20, at 16-17.

[25] Ricafranca, Jr. v. Judge Lopez, 398 Phil. 520, 524 (2000).

[26] Id.

[27] Id.

[28] Id. at 524-525.

[29] Taran v. Jacinto, A.M. No. MTJ-02-1436, January 12, 2004, 419 SCRA 1, 5 citing Office of the Court Administrator v. Panganiban, 343 Phil. 276 (1997).

[30] Supra note 21, at 16.

[31] Pesayco v. Layague, A.M. No. RTJ-04-1889, December 22, 2004, 447 SCRA 450, 463; Sps. Magallon v. Paraguya, 441 Phil.98, 103 (2002); Ang v. Asis, 424 Phil. 105, 120 (2002).

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