

NARCISO BERNARDO, JR., COMPLAINANT, VS. JUDGE PETER M. MONTOJO, MUNICIPAL TRIAL COURT, ROMBLON, RESPONDENT.

A.M. No. MTJ-10-1754 (Formerly OCA I.P.I. No. 08-2090-MTJ). October 20, 2010

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

Before the Court is an administrative complaint^[1] filed on November 14, 2008 by Narciso Bernardo, Jr. (complainant Bernardo) against Presiding Judge Peter M. Montojo (respondent Judge Montojo) of the Municipal Trial Court (MTC), Romblon, for undue delay in the disposition of Criminal Case Nos. 4173-4176 and Civil Case No. 490.

Complainant Bernardo is one of the accused in Criminal Case Nos. 4173-4176, all entitled *People of the Philippines v. Narciso Bernardo, et al.*, for violation of Sections 86, 89, 90, and 104 of Republic Act No. 8550, otherwise known as "The Philippine Fisheries Code of 1998." He is also a member of the *Kooperatiba sa Ikauunlad ng Mga Maliit na Mangangisda ng Romblon (Kammaro)*, a cooperative which filed Civil Case No. 490, entitled *KAMMARO (Kooperatiba sa Ikauunlad ng Mga Maliit na Mangangisda ng Romblon)*, *Eddie Cajilig, et al. v. Perpetuo Ylagan, et al.*, for damages. All these cases had been pending before respondent Judge Montojo's sala.

Complainant Bernardo charged respondent Judge Montojo of sitting on the foregoing cases because of his affiliation with the political rival of the latter's family.

Respondent Judge Montojo conducted only two hearings - on August 16, 2007 and October 9, 2007 - in Criminal Case Nos. 4173-4176. Since the October 9, 2007 hearing, Judge Montojo no longer acted upon said criminal cases.

Complainant Bernardo alleged that he was supposed to be arraigned during the hearing of Criminal Case Nos. 4173-4176 on August 16, 2007, but he did not have any counsel to represent him. Although complainant Bernardo wanted to wait for a lawyer from the Public Attorney's Office (PAO), respondent Judge Montojo wanted to proceed with his arraignment, intimating that he could be represented by Atty. Karen Silverio Buffe (Atty. Buffe), the Clerk of Court of the Regional Trial Court of Romblon, Branch 81. However, when complainant Bernardo talked to Atty. Buffe after the hearing, the latter said that she was proscribed from representing any party in a case, even for purposes of arraignment only. Subsequently, complainant Bernardo discovered that the transcript of stenographic notes (TSN) for the August 16, 2007 hearing only quoted respondent Judge Montojo as saying that, "[t]he court will assign a counsel de oficio for you if you cannot secure the services of a private lawyer." Mrs. Carmen R. Faigao, the stenographer who prepared the TSN, explained to complainant Bernardo that Judge Montojo's utterance about Atty. Buffe acting as complainant Bernardo's counsel for the arraignment was made off the record. Complainant Bernardo requested that the TSN of August 16, 2007 be amended to faithfully reflect what Judge Montojo said during the hearing and that the voice tape record of said hearing be produced as basis for the TSN.

Complainant Bernardo further questioned Judge Montojo's private talk with Atty. Jay Formilleza (Atty. Formilleza) inside the court staff room on August 16, 2007. During the hearing on even date, Atty. Formilleza represented all the accused in Criminal Case Nos. 4173-4176, except complainant Bernardo. Complainant Bernardo claimed that he was dropped as client by Atty. Formilleza because said lawyer is the employee of Romblon Provincial Governor Natalio Beltran III, who belonged to the same election ticket as Judge Montojo's son, Romblon Municipal Mayor Gerard Montojo; while complainant Bernardo openly supported the Montojos' political rival in the last election.

Based on the foregoing circumstances, complainant Bernardo moved for Judge Montojo's inhibition from Criminal Case Nos. 4173-4176, but Judge Montojo refused.

Complainant Bernardo called attention to a similar delay in Civil Case No. 490. Judge Montojo's last action in said civil case was in November 2007, when he conducted a hearing on therein defendants' Motion to Dismiss.

In his Comment, respondent Judge Montojo attributed the delay in Criminal Case Nos. 4173-4176 to complainant Bernardo himself, who insisted on being represented by a PAO lawyer. Respondent Judge Montojo, although admitting that he talked to Atty. Formilleza inside the court staff room on August 16, 2007, denied that they spoke about the criminal cases. Respondent Judge Montojo pointed out that since complainant Bernardo was outside the staff room, the latter could not have heard what the former and Atty. Formilleza were talking about. Respondent Judge Montojo opined that complainant Bernardo's charges against him were politically motivated. Complainant Bernardo's suspicion that he would not have a fair trial was not only unsubstantiated, but also unfair. Respondent Judge Montojo maintained that his decisions had always been based on the evidence on record and not on political affiliations.

Respondent Judge Montojo retired upon reaching the compulsory retirement age on October 23, 2009.

On January 25, 2010, the Office of the Court Administrator (OCA) submitted its Report,[2] with the following recommendations:

In view of the retirement of respondent Judge Montojo, it would not be judicious to recommend an investigation of the case. Hence, a fine of Ten Thousand Pesos (P10,000.00) to be deducted from his retirement benefits is recommended.

Respectfully submitted for the consideration of the Honorable Court our recommendations that this administrative case be RE-DOCKETED as a regular administrative matter and respondent Judge Peter M. Montojo (retired) be FINED (P10,000.00) to be deducted from his retirement benefits.[3]

On February 17, 2010, the instant administrative complaint against respondent Judge Montojo was re-docketed as a regular administrative matter and the Court required the parties to manifest within 10 days from notice if they were willing to submit the matter for resolution based on the pleadings filed.[4] Respondent Judge Montojo submitted such a Manifestation[5] on April 14, 2010; while complainant Bernardo failed to file any despite notice sent to and received by him. Resultantly, the matter was submitted for decision based on the pleadings filed.

Canons 2, 6 and 31 of the Canons of Judicial Ethics, provide, respectively, that the "administration [of justice] should be speedy and careful"; that judges "should be prompt in disposing of all matters submitted to [them], remembering that justice delayed is often justice denied;" and that in the discharge of his judicial duties, a judge "should be conscientious x x x [and] thorough x x x." Moreover, Rule 3.05, Canon 3 of the Code of Judicial Conduct expressly directs that a judge should dispose of the court's business "promptly and decide cases within the required periods."

The Court cannot overstate the policy on prompt disposition or resolution of cases. Delay in case disposition is a

major culprit in the erosion of public faith and confidence in the judiciary and the lowering of its standards.[6] Needless to say, any delay in the determination or resolution of a case, no matter how insignificant the case may seem to a judge, is, at bottom, delay in the administration of justice in general. The suffering endured by just one person - whether plaintiff, defendant or accused - while awaiting a judgment that may affect his life, honor, liberty or property, taints the entire judiciary's performance in its solemn task of administering justice. Inefficient, indolent or neglectful judges are as equally impermissible in the judiciary as the incompetent and dishonest ones. Any of them tarnishes the image of the judiciary or brings it to public contempt, dishonor or disrespect and must then be administratively dealt with or criminally prosecuted, if warranted, and punished accordingly.[7]

Records show that there were only two hearings held in Criminal Case Nos. 4173-4176, particularly, on August 16, 2007 and October 9, 2007; and the last hearing in Civil Case No. 490 was conducted sometime in November 2007. From said dates, no other action was taken by respondent Judge Montojo on these cases. By the time complainant Bernardo filed his administrative complaint on November 14, 2008, more than a year went by without any action at all by respondent Judge Montojo on the aforementioned cases. And even after the filing of the administrative complaint against him, respondent Judge Montojo still failed to take any action on the cases until his retirement on October 23, 2009, almost another year later.

Respondent Judge Montojo's reason for the delay in resolving Criminal Case Nos. 4173-4176, i.e., complainant Bernardo's insistence on being represented by a PAO lawyer, is not acceptable. A judge should not be at the mercy of the whims of lawyers and parties for it is not their convenience which should be the primordial consideration but the administration of justice.[8] Respondent Judge Montojo's duty was to ascertain that complainant Bernardo was properly represented during trial and respondent Judge Montojo could have complied therewith by appointing a counsel de oficio for complainant Bernardo.

As for Civil Case No. 490, the Court notes that respondent Judge Montojo did not even bother to provide an explanation for his delay in resolving the same.

Respondent Judge Montojo's delay in acting on pending cases clearly demonstrated his inefficiency. He failed to control the proceedings or course of the cases; to impose deadlines in the submission of documents or performance of acts incident to the disposition of cases; and to resolve pending incidents on time, and take appropriate action on incidents arising in the course of proceedings. A judge should at all times remain in full control of the proceedings in his sala. Court management is ultimately his responsibility.[9]

Verily, respondent Judge Montojo is guilty of unjustified delay in resolving Criminal Case Nos. 4173-4176 and Civil Case No. 490. A proportionate penalty must be imposed upon him for conduct violative of the Code of Judicial Conduct to which he is bound as a judge.

Under Rule 140 of the Rules of Court, as amended by A.M. No. 01-8-10-SC dated 11 September 2001, undue delay in rendering a decision or order is categorized as a less serious charge with the following sanctions: (a) suspension from office without salary and other benefits for not less than one (1) nor more than three months; or (b) a fine of more than P10,000.00 but not exceeding P20,000.00.

In the Report on the Judicial Audit Conducted in the RTC, Branches 29 and 59, Toledo City,[10] the Court observed the following factors in the determination of the proper penalty for failure to decide a case on time:

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 or mitigating circumstances - the damage suffered by the parties as a result of the delay, the health and age of the judge, etc. x x x.[11]

The Court herein takes into consideration that the delay for which respondent Judge Montojo is found liable pertains only to Criminal Case Nos. 4173-4176 and Civil Case No. 490; that this was the only administrative complaint filed against him in his almost six years of service in the judiciary; and that he already compulsorily retired on October 23, 2009. Under the premises, the fine of P10,000.00 recommended by the OCA is reasonable.

The Court, though, dismisses complainant Bernardo's charge that respondent Judge Montojo was manipulating Criminal Case Nos. 4173-4176 and Civil Case No. 490 for political reasons. Other than his bare allegations, complainant Bernardo was unable to substantiate the same with any evidence. The basic rule is that mere allegation is not evidence, and is not equivalent to proof.[12]

IN VIEW WHEREOF, retired Judge Peter M. Montojo of the Municipal Trial Court of Romblon, is fined the amount of TEN THOUSAND PESOS (P10,000.00) to be deducted from his retirement benefits due and payable to him. Let a copy of this resolution be forwarded to the Office of the Court Administrator so that the remaining benefits due the respondent judge are promptly released, unless there exists another lawful cause for withholding the same.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Del Castillo, and Perez, JJ., concur.

[1] Rollo, pp. 1-10.

[2] Id. at 93-95.

[3] Id. at 95.

[4] Id. at 99.

[5] Id. at 101.

[6] Re: Report on the Judicial Audit in RTC-Branch 15, Ozamiz City, A.M. No. RTJ-04-1849, September 20, 2004, 438 SCRA 363, 374, citing *Abarquez v. Rebosura*, 349 Phil. 24, 36 (1998).

[7] Re: Report on the Judicial Audit Conducted in the Regional Trial Court, Branches 4 and 23, Manila and Metropolitan Trial Court, Branch 14, Manila, 353 Phil. 199, 218 (1998).

[8] *Mosquera v. Legaspi*, 390 Phil. 643, 648 (2000).

[9] Report on the Judicial Audit Conducted in the MCTC-Dapa, Surigao Del Norte, 482 Phil. 712, 725 (2004), citing *Mosquera v. Legaspi*, id.; *Office of the Court Administrator v. Salva*, 391 Phil. 13, 22 (2000).

[10] 354 Phil. 8 (1998).

[11] Id. at 21.

[12] *Nedia v. Laviña*, A.M. No. RTJ-05-1957, September 26, 2005, 471 SCRA 10, 20.

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