SPOUSES KIAT & TERESA REAPORT, PETITIONERS, VS. JUDGE EFREN S. MARIANO, MUNICIPAL TRIAL COURT, BRANCH 2, ZAMBOANGA CITY, RESPONDENT.

A.M. No. MTJ-00-1253. July 11, 2001

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Justice delayed is justice denied. A magistrate who deliberately consents to or abets needless, groundless and obviously unmeritorious motions for postponement, especially in ejectment cases, is administratively liable.

Statement of the Case

Before this Court is a Petition[1] filed by Spouses Kiat and Teresa Reaport praying for the "REMOVAL/DISCHARGE from office and/or other disciplinary sanctions" against Judge Efren S. Mariano of the Municipal Trial Court of Zamboanga City, Branch 2. The Petition stems from his alleged violation of Section 7 of the New Rules on Summary Procedure and Rule 1.02 of the Code of Judicial Conduct.

The Facts

The facts in the present case are aptly summarized in the Court Administrator's Report[2] dated November 16, 1999, as follows:

> "x x x x x x x x x
>
> "Complainants, x x x allege that:
>
> - On March 6, 1995, they, together with Spouses Nilo and Lourdes Uro, filed an ejectment case (unlawful detainer) against Spouses Guillermo B. Natividad, Jr. and Elsie C. Natividad with the MTC, Zamboanga City. The case was docketed as Special Civil Action No. 4862, and later raffled to Branch 2 of the said court presided by respondent;
>
> - On April 25, 1995, summons under the `New Rule on Summary Procedure' and copies of the complaint were duly served on defendants;
>
> - On May 3, 1995, defendants filed their Answer;
>
> - In an Order dated July 4, 1995, respondent set the subject ejectment case for preliminary conference on July 26, 1995 or exactly eighty-four (84) days after the answer of the defendants was filed;
>
> - On July 24, 1995, defendants filed a `Manifestation with Omnibus Motion' praying that the ejectment case be suspended or held in abeyance on the ground that there [was] a case (Civil Case No. 4406) pending before the RTC, Branch 12, Zamboanga City involving the same parties;
>
> - On November 6, 1995, respondent Judge ordered the dismissal of the subject ejectment case for lack of jurisdiction although the defendants only prayed for the suspension of the proceeding therein and said

> dismissal was appealed with the RTC, Zamboanga;
>
> - In a `Resolution' dated March 10, 1996, Judge Vicente L. Cabatingan, RTC, Branch 15, Zamboanga City reversed and set aside the aforesaid Order, holding that:
> `. . . firmly settled is the rule that the pendency of an action questioning the ownership of property will not abate ejectment suits or bar the execution of the judgments therein. The rationale for the rule is that an ejectment suit involves only the issue of material possession or possession de facto. There may be identity of the parties and subject matter but not of the cause of the action or the relief prayed for. (San Pedro vs. CA, 235 SCRA 145, 146)';

- On April 23, 1996, the MTC, Branch 2, Zamboanga City received the complete records of the subject ejectment case from the appellate court (RTC, Branch 15, Zamboanga City); and

- From April 23, 1996, up to the present (March 1997), or for a period of eleven (11) months, respondent Judge made a mockery of the `New Rules on Summary Procedure' by setting the subject ejectment case several times for preliminary conference, only to cancel the same upon motion/s for postponement/resetting filed by the defendants.

"Complainants assert that respondent Judge is guilty of violating the mandate of Sections 7 and 19 (i) of the Revised Rules on Summary Procedure. According to them, the Order of the respondent Judge setting the preliminary conference only on July 26, 1999 or exactly eighty-four (84) days after the Answer was filed on May 3, 1995, contravened the provision of Section 7, supra, which provides thus:

> `SEC. 7. Preliminary conference; appearance of parties. - Not later than thirty (30) days after the last answer is filed, a preliminary conference shall be held. The rules on pre-trial in ordinary cases shall be applicable to the preliminary conference unless inconsistent with the provisions of this Rule.'

"In addition, complainants alleged that for almost two (2) years or from May 3, 1995 up to March 1997, no preliminary conference took place.

"Finally, complainants allege that the act of the respondent of granting several motions for postponement/resetting of the scheduled preliminary conference on the ground that the defendants' counsel, Atty. Rosendo Castillo, Sr., was sick without any medical certificate attesting to such fact, as required by the Rules of Court, violated the provision of Section 19 (i), supra, prohibiting dilatory motions for postponement. Complainants further assert that defendants' counsel was not Atty. Rosendo Castillo, Sr. but the law partnership of Castillo and Castillo and that even if in reality Atty. Castillo, Sr. was sick, the preliminary conference could have taken place with another member of the firm in attendance.

"x x x x x x x x x

"Respondent argued that the material allegations in the complaint [were] false, baseless and malicious. He admitted that although there was delay in the proceedings, the same was not his fault. In support of his argument he alleged that:

> `3. The fact and truth of the matter being that petitioners and counsel contributed [i]n great measure to such delay because (a) petitioners' complete address in Metro Manila [had] not [been] given or indicated in the Complaint for ejectment, for the purpose of notice; (b) their lawyer, Atty. Jesus F. Balicanta, when he left the City of Zamboanga to run [for] his dear life never left any forwarding address nor that of his clients[,] and lawyers in Zamboanga City could not provide the court with the desired information; (c) Atty. Abelardo A. Climaco, Jr. entered his appearance for plaintiff Spouses Nilo C. Uro and Lourdes Uro only and he informed the court that he [did] not have the other plaintiffs, petitioners herein, and he [did] not have the address of Atty. Balicanta in Manila nor that of the other plaintiffs in Manila. The undersigned does not know the petitioners and does not remember having seen them in his court.

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> `4. Atty. Rosendo M. Castillo, Sr., attorney-in-fact and counsel for the defendants in the ejectment suit, suffered a stroke and was hospitalized at the Zamboanga A.E. Colleges Community Hospital, for many days, and up to now, has not fully recovered from his illness;
>
> `5. The court tried to know and get the exact address of petitioners in Manila to send them notices, as well as their lawyer, but to no avail, as no lawyer here could furnish information on the matter;
>
> `x x x x x x x x x
>
> `7. The subject ejectment case was called several times for pre-trial conference, but had to be postponed due to the absence of counsels and parties (petitioners and defendants), and on those occasions, only Mr. Nilo C. Uro was present, but he never informed the court of the exact address of his co-plaintiffs in [M]anila, much less of the fact that he was designated as their attorney-in-fact. What more, no objection was interposed to the motions for postponement and the court granted them in the interest of justice. Atty. Climaco also requested x x x postponements;
>
> `8. On February 11, 1997, Atty. Climaco registered objection to the motion for postponement filed by Atty. Rosendo U. Castillo, Jr. after the court asked him if he was not objecting to the motion because the court desire[d] to terminate the proceedings at the earliest possible time because of the many cases he ha[d] to attend to;
>
> `9. Again, it was only on March 25, 1997 [that] for the first time, x x x plaintiff Nilo C. Uro brought out and submitted to his counsel, Atty. Climaco, in open court, a copy of the Special Power of Attorney executed in his favor by the petitioners on July 24, 1995. Apparently, there [was] some kind of concealment of material facts done with evil intent to leave the court in limbo and them blame the Judge for the delay.'

"Respondent asserts that his integrity, competence and independence of mind were attested to by his record as a lawyer and as a judge. According to him, thirteen (13) lawyers recommended him to the City Mayor for appointment to the position of City Legal Officer, resulting in his appointment as such. The IBP, Zamboanga City Chapter, recommended him for appointment to the Judiciary. The RTC and MTC judges and the City Prosecutor of Zamboanga City certified to his moral character, competence and independence of mind.

"Respondent alleges that the filing of the instant administrative complaint against him was done in order that herein complainants['] counsel, Atty. Balicanta, could get back at him since he suffered some setbacks in his court.

Finally, respondent avers that the subject ejectment case had already been decided by him on May 27, 1997."[3]

In his Memorandum-Report, then Court Administrator Alfredo L. Benipayo made the following evaluation:

> "It is evident from the record that respondent does not deny the fact that he had set the preliminary conference, for the first time, 84 days after the filing of the defendants' answer. Neither does he deny the fact that no preliminary conference was conducted for two years after the issues had been joined with the filing of the answer. This delay, complainants lament, was principally caused by respondent's grant of the many motions for postponement filed by Atty. Rosendo Castillo, Jr., of the `Castillo and Castillo Law Offices.' These motions were grounded on the alleged continued illness of Rosendo Castillo, Sr., of the same law firm, who had originally appeared for said defendants.
>
> "Had respondent been more aware of the purposes underlying the adoption of the `Summary Procedure' in first level courts, he would not have countenanced such long delay. It certainly was within his powers to order Atty. Castillo, Jr. to appear for the defendants since the latter were being represented by a law firm to which he belonged. Or he could have validly required the said defendants to secure the services of a substitute counsel considering that the date of the recovery of their counsel was not certain.

"x x x x x x x x x

"That respondent violated the provisions of Section 19 of the Rule on Summary Procedure is patent. One of the prohibited pleadings and motions listed by said rule is [a] dilatory motion for postponement. The repeated grant of the defendants' motions for postponement based on the ground that their counsel was ill, can be clearly characterized as dilatory and as such were prohibited pleadings under the rule referred to above. This [was] aggravated by the fact that respondent did not require the presentation of the medical certificate under oath attesting to the counsel's inability to attend trial.

"The inordinate liberality of respondent in granting the repeated motions for postponement based on the same ground, which resulted in his failure to terminate the preliminary conference for two years, effectively set at naught the very purpose of adopting the summary procedure in ejectment cases where the continued occupation of the disputed premises results in irreparable damages to the person who may be ultimately entitled to its possession. Respondent, by his inaction, had brought this result about. For this failure, he must be disciplined."[4]

The court administrator then made this recommendation:

"x x x [A] FINE in the amount of P5,000.00 [should] be imposed on respondent Judge Efren S. Mariano for his failure to observe the Rule on Summary Procedure, with a warning that a repetition of the same or similar act in the future would be dealt with more severely."[5]

The Court's Ruling

We agree with the findings and recommendations of the court administrator.

Petitioners contend that respondent judge contravened Sections 7 and 19 (i) of the Revised Rules on Summary Procedure by setting the preliminary conference relative to their complaint for ejectment[6] 84 days after the Answer[7] was filed. Moreover, the holding of the preliminary conference was postponed several times and was finally held only after almost two years. Section 7, however, requires that such conference should be held not later than 30 days after the last answer has been filed.

For his part, respondent maintains in his Comment[8] that the delay complained of was not his fault, but was due to petitioners' failure to indicate their full address in their Complaint. Also, their counsel, Atty. Jesus F. Balicanta, had not left any forwarding address when he left Zamboanga City. Likewise, counsel for the defendants, Atty. Rosendo M. Castillo Sr., had asked for several postponements because of illness.

After due consideration of all attendant circumstances, this Court finds respondent guilty of violating Sections 7 and 19 (i) of the Rules on Summary Procedure. We quote Section 7 below:

"Sec. 7. Preliminary conference; appearance of parties. - Not later than thirty (30) days after the last answer is filed, a preliminary conference shall be held. The rules on pre-trial in ordinary cases shall be applicable to the preliminary conference unless inconsistent with the provisions of this Rule.

The failure of the plaintiff to appear in the preliminary conference shall be a cause for the dismissal of his complaint. The defendant who appears in the absence of the plaintiff shall be entitled to judgment on his counterclaim in accordance with Section 6 hereof. All cross-claims shall be dismissed.

If a sole defendant shall fail to appear, the plaintiff shall be entitled to judgment in accordance with Section 6 hereof. This Rule shall not apply where one of two or more defendants sued under a common cause of action who had pleaded a common defense shall appear at the preliminary conference."

Section 19 (i) reads as follows:

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> "SEC. 19. Prohibited pleadings and motions. - The following pleadings, motions, or petitions shall not be allowed in the cases covered by this Rule:
>
> x x x x x x x x x
>
> (i) Dilatory motions for postponement; x x x."

Respondent does not deny that after the last Answer had been filed, the preliminary conference was first set only after 84 days and actually held only after almost two years. He was duty-bound to comply with the summary rules, considering that their very purpose is the speedy disposition of cases falling under the procedure. Yet, his actions clearly and directly contravened them.

Consequently, respondent also violated Rule 1.02 of Canon 1 of the Code of Judicial Conduct, which states that judges should administer justice without delay. "Delay in the disposition of cases undermines the people's faith and confidence in the judiciary. Hence, judges are enjoined to decide cases with dispatch. Their failure to do so constitutes gross inefficiency and warrants the imposition of administrative sanctions on them."[9]

The flimsy explanations of respondent do not detract from his liability, considering the very long delay incurred. More important, the delay could have been avoided had he exercised more diligence and determination in disposing of the case.

Although the Rules provide that notice should be served on both counsel and parties, the requirement is deemed to have been complied with when notice is served on the counsel of record, who in turn is bound to inform the client or else be liable for administrative sanctions. In the alternative, the absent plaintiffs could have been declared non-suited and the preliminary conference held with the rest of the plaintiffs in appearance.

Respondent judge should not have accommodated so many Motions for Postponement filed by the then ailing Atty. Rosendo Castillo Sr. Because a law firm (Castillo & Castillo), to which the latter belonged, was really representing the defendants, there certainly were other competent lawyers who could have handled the matter. Respondent, however, continued to entertain and grant several Motions for Postponement based on the same ground. He did not even ascertain the gravity of counsel's illness or require the presentation of a medical certificate.

Respondent judge was instead quite liberal, too liberal, in granting postponements which greatly contributed to the long delay in the disposition of petitioner's ejectment suit. In Arquero v. Mendoza,[10] this Court said that when the motion for postponement based on illness is not supported by documentary evidence such as a medical certificate, the grant of postponement is "without sufficient basis."

WHEREFORE, Respondent Judge Efren S. Mariano is hereby found GUILTY of gross misconduct and ORDERED to pay a fine of P5,000 for failure to comply with the Rules on Summary Procedure. He is sternly warned that the commission of the same or a similar act in the future shall be dealt with more severely.

SO ORDERED.

Melo (Chairman), Vitug, and Sandoval-Gutierrez, JJ., concur.
Gonzaga-Reyes, J., on leave.

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[1] Rollo, pp. 1-7. The Petition was signed by Jesus F. Balicanta, counsel for petitioners.

[2] Rollo, pp. 104 et seq.

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[3] Court Administrator's Report, pp. 1-4.

[4] Ibid., pp. 5-6.

[5] Ibid., p. 6.

[6] Special Civil Action No. 4862 entitled "Sps. Nilo Uro and Lourdes Uro and Sps. Kiat Reaport and Teresa Reaport vs. Sps. Guillermo B. Natividad, Jr. and Elsie C. Natividad."

[7] Rollo, pp. 13-16.

[8] Rollo, pp. 62-69.

[9] Report on the Judicial Audit Conducted in RTC Brs. 29, 56 & 57, Libmanan, Camarines Sur, 316 SCRA 272, October 7, 1999 per Mendoza, J.

[10] 315 SCRA 503, September 30, 1999, per Mendoza, J.

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