

FIDEL SERRA, COMPLAINANT, VS. JUDGE LEODEGARIO A. BELARMINO, MUNICIPAL JUDGE OF BATUAN, MASBATE, NOW CIRCUIT MUNICIPAL JUDGE OF SAN FERNANDO-BATUAN, MASBATE, RESPONDENT.

Adm. Mat. No. 967-MJ. March 24, 1981

Ponente: AQUINO, J.

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AQUINO, J.:

The respondent has been the municipal judge of Batuan, Masbate since 1972. He was designated to sit in the municipal court of San Fernando, Masbate to try Civil Case No. 209, Rivas vs. Espenilla, an ejectment case, because the incumbent municipal judge of San Fernando had inhibited himself (p. 17, Rollo).

That case was submitted for decision on March 16, 1974 (p. 2, Rollo). The ninety-day-period for deciding it, as fixed in section 11(1), Article X of the Constitution, expired on June 14, 1974.

The respondent decided the case on November 4, 1974, or after a delay of 143 days. He attributed the delay to the fact that the court stenographer, who went on maternity leave, did not transcribe her notes promptly.

He also alleged that the case was partly tried by another municipal judge and that one of the lawyers in the case signified that he would file a memorandum but the said lawyer did not submit it.

The respondent in his certificates of service for July, August, September and October, 1974, as required by section 5 of the Judiciary Law, stated that all cases which had been under submission for decision or determination for a period of ninety days or more had been determined and decided on or before the date of making the certificates (pp. 3-6, Rollo).

He said that those certificates embraced only the cases pending in his court in Batuan and did not include the case in the San Fernando municipal court because his predecessor allegedly advised him that the certificates as to work completed refer only to cases docketed in his own court and do not include the cases in another court to which a municipal judge is detailed.

Fidel Serra, a defendant in the said ejectment case, asked in his verified complaint of June 4, 1975 for the dismissal of the respondent for having falsified his certificates of service.

The respondent alleged in his comment that Serra filed the complaint just to harass him. Serra allegedly tried to extort a big amount of money from the respondent as consideration for not filing the administrative complaint (pp. 10-11, Rollo).

A formal investigation of the case is not necessary because the respondent admitted the delay in the decision of the said ejectment case and its non-inclusion in his certificates of service.

We hold that the delay in the disposition of the ejectment case was inexcusable. The respondent should have

required the transcription of the stenographic notes when he took over the case from the late Judge Inocentes A. Perez.

With respect to the hearings held by him, it was his obligation to take notes of the testimonies of the witnesses (Circular No. 87 of the Department of Justice dated October 19, 1964).

As to cases heard by the judge who is to render the decision, the ninety-day period for deciding them commences from the date the case is submitted for decision, not from the date the stenographic notes are transcribed (In re Flordeliza, 44 Phil. 608; Lawan vs. Moleta, Adm. Matter No. 1696-MJ, June 19, 1979, 90 SCRA 579; Philippine Trial Lawyers Association, Inc. vs. Agana, Administrative Matter No. 2395-CFI, January 31, 1981).

Respondent's delay in deciding the ejectment case was a culpable dereliction of duty.

A municipal judge may be disciplined if he has not been performing his duties properly or if he is unfit for the office (Sec. 97, Judiciary Law).

WHEREFORE, respondent municipal judge is severely censured and reprimanded. He is warned that his commission of another irregularity will merit a more drastic penalty. A copy of this decision should be attached to his personal record.

SO ORDERED.

Barredo (Chairman), Concepcion Jr., Fernandez[*] and De Castro, JJ., concur.

Justice Abad Santos is abroad.

[*] Justice Fernandez was designated to sit in the Second Division

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