MANUEL B. ARCENAS, COMPLAINANT, VS. JUDGE HENRY B. AVELINO, PRESIDING JUDGE, MUNICIPAL CIRCUIT TRIAL COURT, PONTEVEDRA-PANAY, PONTEVEDRA, CAPIZ, RESPONDENT.

A.M. No. MTJ-06-1642 (Formerly OCA IPI NO. 05-1735-MTJ). June 15, 2007

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before us is a complaint[1] dated April 14, 2005 of Manuel B. Arcenas (complainant) charging Judge Henry B. Avelino (respondent), Presiding Judge, Municipal Circuit Trial Court (MCTC), Pontevedra-Panay, Pontevedra, Capiz with Gross Inefficiency and Gross Neglect of Duty for delay in resolving Civil Case No. 391 entitled Demetrio B. Arcenas, et al. v. Spouses Manolo Amador and Rosemarie Amador for Unlawful Detainer.

Complainant alleges: He is the attorney-in-fact for the plaintiffs. On May 7, 2004 respondent dismissed Civil Case No. 391 for lack of jurisdiction. He filed a Notice of Appeal and the case was elevated to the Regional Trial Court (RTC), Branch 16, Roxas City, Capiz. On September 24, 2004, a decision was rendered setting aside respondent's decision and remanding the case to the lower court for further proceedings. However, respondent failed to render a decision thereon in violation of the Rules on Summary Procedure. He filed an earlier complaint against respondent docketed as A.M. No. MTJ-05-1583. In the Decision of March 11, 2005, we found respondent guilty of gross inefficiency for his failure to decide the case within the reglementary period and was fined P20,000.00 with warning that a repetition of the same or similar act shall be dealt with more severely.

In his Comment[2] dated July 26, 2005, respondent contends that complainant went on media hype after the RTC reversed his decision in Civil Case No. 391 and after the judgment of the Supreme Court in A.M. No. MTJ-05-1583; that in his belief that complainant is utilizing the press in order to influence his decision on the case, he inhibited himself from conducting further proceedings over the case; and that the case was subsequently assigned to Judge Hannibal R. Patricio and a decision was rendered on July 4, 2005. Respondent concludes that he cannot be charged with gross inefficiency as he inhibited himself from hearing the case.

In a letter[3] dated August 12, 2005, complainant denied using the media to influence respondent as the latter had nothing to do except to render judgment in accordance with the decision of the appellate court reversing his own decision and respondent's rendition of the mandated decision is ministerial on his part. He avers that respondent inhibited himself from rendering the decision only on April 18, 2005 or at least six months after the complete records were remanded by the appellate court and after the instant administrative case was filed against respondent.

In the Agenda Report[4] dated June 14, 2006, the Office of the Court Administrator (OCA) found respondent guilty of undue delay in violation of Section 5, Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary; and recommended that respondent be suspended from office without salary and other benefits for three months on the ground of gross inefficiency.

On July 19, 2006, the Court required the parties to manifest their willingness to submit the case for resolution

based on the pleadings filed. On September 20, 2006, complainant complied in the affirmative. However, respondent failed to comply with the Resolution of July 19, 2006. Thus, the Court, in its Resolution of February 26, 2007, resolved to dispense with the filing of said manifestation.

We agree with the findings and recommendations of the OCA.

Section 5, Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary[5] mandates judges to perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness.

Delay in resolving motions and incidents pending before a judge within the reglementary period of 90 days fixed by the Constitution and the law, is not excusable and constitutes gross inefficiency.[6]

Record shows that on appeal, the RTC of Roxas City rendered a Decision[7] in Civil Case No. 391 and remanded the case subject of the present complaint to the court of origin for further proceedings. However, for reasons only known to respondent, he sat on the case, so to speak, and reasoned that he already inhibited himself from the case, seeing complainant's lack of faith and bias in his (respondent's) action.

Further, Section 21, Revised Rule on Summary Procedure, provides:

> Sec. 21. Appeal. – x x x The decision of the Regional Trial Court in civil cases governed by this Rule, including forcible entry and unlawful detainer, shall be immediately executory, without prejudice to a further appeal that may be taken therefrom. x x x

It is clear from the aforecited provision that the decision of the RTC in the appealed decision, in this case Civil Case No. 391, is immediately executory. Therefore, respondent's lackadaisical attitude in sitting on the case for more than five months only to thereafter inhibit himself therefrom, to the detriment and prejudice of the complainant, clearly shows his utter disregard of settled rules and jurisprudence. It must be stressed that the Rule was enacted to achieve an expeditious and inexpensive determination of cases falling within its coverage.[8] It is therefore not encouraging when it is the judge himself who occasions the delay sought to be prevented by the Rule.[9]

It bears stressing that the public's faith and confidence in the judicial system depends, to a large extent, on the judicious and prompt disposition of cases and other matters pending before the courts.[10] Failure to decide a case or resolve a motion within the reglementary period constitutes gross inefficiency and warrants the imposition of administrative sanction against the erring magistrate.[11] The delay in resolving motions and incidents pending before a judge within the reglementary period of 90 days fixed by the Constitution and the law is not excusable. It constitutes gross inefficiency warranting administrative sanction from this Court.

As aptly observed by the OCA, it is unfortunate that despite having been earlier fined by the Court for delay in the disposition of Civil Case No. 391, respondent still failed to promptly act on the case. Respondent should be reminded that his assumption of judicial office casts upon him duties and restrictions peculiar to his position.[12] Courts exist to dispense and promote justice. Judges are the visible representations of law and justice.[13] One of their principal duties is to have an adequate grasp of the Constitution, the law and jurisprudence. Indeed, they must be the embodiments of competence, integrity and independence.[14] They owe it to the dignity of the court over which they preside, to the public who depend on them, and to the legal profession to which they belong, to know the very law they are supposed to interpret and apply.[15] Party litigants will have great faith in the administration of justice only if judges can demonstrate their grasp of legal principles.[16]

Under Rule 140 of the Rules of Court, delay in rendering a decision or order is classified as a less serious charge and is punishable with (a) suspension from office without salary and other benefits for a period of not less than

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one month but not more than three months; or (b) fine of more than P10,000.00 but not exceeding P20,000.00.

In our Decisions dated March 11, 2005 in A.M. No. MTJ-05-1583,[17]entitled Arcenas v. Avelino; and December 9, 2005 in A.M. No. MTJ-05-1606,[18] entitled Office of the Court Administrator v. Avelino, respondent was fined P20,000.00 for gross inefficiency with warning that a repetition of the same or similar act shall be dealt with more severely.

Considering that this is the third time that respondent is found guilty of gross inefficiency, the maximum penalty of three months suspension without salary and other benefits is in order.

WHEREFORE, the Court finds Judge Henry B. Avelino, MCTC, Pontevedra, Capiz, guilty of gross inefficiency and is SUSPENDED from office for three months without salary and other benefits, effective upon receipt of herein Resolution, with a STERN WARNING that a repetition of the same or similar act in the future shall be dealt with more severely.
SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, and Nachura, JJ., concur.

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[1] Rollo, pp. 1-7.

[2] Id. at 45-46.

[3] Id. at 40-41.

[4] Id. at 47-50.

[5] A.M. No. 03-05-01-SC, June 1, 2004.

[6] Perez v. Concepcion, 378 Phil. 918, 923 (1999).

[7] Penned by Judge Delano F. Villarruz, September 24, 2004.

[8] Office of the Court Administrator v. Avelino, A.M. No. MTJ-05-1606, December 9, 2005, 477 SCRA 9, 15.

[9] Cuevas v. Balderian, 389 Phil. 580, 583 (2000).

[10] Dumaua v. Ramirez, A.M. No. MTJ-04-1546, July 29, 2005, 465 SCRA 1, 4.

[11] Id.

[12] Rollo, p. 49.

[13] Community Rural Bank of Guimba, Nueva Ecija, Inc. v. Talavera, A.M. No. RTJ-05-1909, April 6, 2005, 455 SCRA 34, 43.

[14] Id.

[15] Id.

[16] Id.

[17] Penned by Associate Justice Minita V. Chico-Nazario.

[18] Penned by Associate Justice Cancio C. Garcia, supra note 8.

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