

THE SECRETARY OF JUSTICE, COMPLAINANT, VS. HON. VICENTE P. BULLECER, RESPONDENT.

A.C. No. 190-J. March 21, 1974

Ponente: FERNANDO, J.

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FERNANDO, J.:

Respondent Judge Vicente P. Bullecera was administratively proceeded against by Secretary of Justice Vicente Abad Santos on December 22, 1970. He was charged with serious inefficiency for failing to decide a civil case[1] and two criminal cases[2] within ninety days after they were submitted to him for decision and with misconduct for a false certification that he had determined and decided all cases submitted to him within the ninety-day period, as required by the judiciary Act[3] to enable him to collect his salary. In his answer submitted on March 5, 1971, he alleged that the expediente in Civil Case No. 4571 was misplaced, thus causing him to have "honestly overlooked" its pendency and that the two aforesaid criminal cases were decided within the ninety-day period. He therefore sought the dismissal of the complaint and his exoneration. The matter was submitted for investigation and report to the then justice of the Court of Appeals, Arsenio Solidum, who, prior to his retirement, submitted his report after conducting such investigation.

1. Retired Justice Solidum discussed the evidence submitted thus: "The only evidence presented by the complainant to prove such charges consists of the monthly report of the Clerk of Court for November 1970 of the Court of First Instance of Davao Oriental (Exhibit A) and respondent's certificates of service (Exhibits B, C, D, E and F) attesting that all cases which had been under submission or determination for 90 days or more had been determined and decided, when the truth of the matter was that Civil Case No. 4571 was still pending decision and Criminal Cases Nos. 141 and 229 were not decided within said period. On the other hand, respondent, while admitting that Civil Case No. 4571, entitled 'Luisa Barroquina, et al., vs. Pedro Batikan,' was decided by him only on December 14, 1970, or beyond the 90 day period, by his combined testimony and that of his witnesses, has endeavored to prove that said civil case was tried by him while he was yet the Presiding Judge of the Court of First Instance of Davao in Davao City; that in July 1967, his court was transferred to Mati, Davao Oriental, which is about 173 kilometers from Davao City; that while the hearing of the case was already terminated, the parties had not yet submitted their memoranda; that the stenographers had also failed to submit the transcripts of the stenographic notes taken by them during the hearing of said case; that when the court was transferred to Mati, Davao Oriental, the records of pending cases were bundled up by an employee by the name of Miss de la Victoria and transported to Mati in a dump truck supplied by Davao province; that respondent had instructed Miss de la Victoria to separate the records of the cases, the hearings of which were already terminated, but apparently, she failed to do so; that in the meanwhile, respondent was unaware of the whereabouts of the record of said Civil Case No. 4571 so much so that when he signed and filed with the Department of Justice his certificates of service (Exhibits B to G) prepared by his docket clerk, Mrs. Elsi Barquez, he honestly believed that everything stated in said certificates was correct; that the record of said case was finally found sometime in October 1970, when another employee by the name of Pedro Guillen located it in the bundles of finished cases in the bodega of the court; and that upon finding that the transcripts were already complete, respondent forthwith decided the case on

December 14, 1970 (Exhibit 10). As regards Criminal Case No. 141, entitled, 'People of the Philippines vs. Dominciano Carlos, et al.,' and Criminal Case No. 229, entitled 'People of the Philippines vs. Vianacy D. Reyes,' respondent insists that he has decided them within the period of 90 days from the dates of their submission. According to respondent, upon the termination of the hearing of Criminal Case No. 141 on September 1, 1970, he issued an order on the same date giving the parties 20 days from receipt of the transcript of the stenographic notes within which to file their memoranda with the understanding that with or without the submission of the memoranda, after the lapse of the period granted them, the case shall be deemed submitted for decision. The parties were furnished copies of the transcript on October 28, 1970, and they had therefore until November 17, 1970, to file their memoranda. Since respondent decided the case on December 29, 1970 (Exhibit 3), the decision was well within the period of 90 days. As regards the other Criminal Case No. 229, the evidence of the respondent shows that while the said case was completely heard on July 30, 1970, he issued a similar order granting the parties 30 days from receipt of the transcript of the stenographic notes within which to submit their memoranda (Exhibit 1). The private prosecutor received copies of the transcripts during the third week of October 1970, and counsel for the accused obtained his copy in the second week of December 1970, despite the two telegrams dated October 6, 1970 and November 3, 1970 (Exhibits 7 & 8), sent by the stenographer. The private prosecutor filed his memorandum on November 13, 1970, while the accused did not file any. Consequently, when the case was decided by respondent on December 14, 1970 (Exhibit 4), the decision was also within the period of 90 days."[4]

2. The findings of Justice Solidum follow: 'It is to be admitted that when the respondent stated in his certificates of service that all cases which had been under submission or determination for a period of 90 days or more had been determined and decided when, as a matter of fact, said Civil Case No. 4571 was still pending decision, he committed a falsehood. However, it was not done intentionally but rather was due to his carelessness, negligence or reliance upon his employees. Under the circumstances, it was really possible for the record in said Civil Case No. 4571 to have been misplaced, considering that the court was moved from Davao City to Mati and it could not be expected that respondent should have personally supervised the transfer of all the records of pending cases. At any rate, such false statement could not be classified as serious misconduct to justify the taking of any disciplinary action against respondent for as ruled by the Supreme Court in the case of *In re Impeachment of Horrilleno*, 43 Phil. 212, 214: "The grounds for removal of a judge of first instance under Philippine law are two: (a) Serious misconduct and (b) inefficiency. The latter ground is not involved in these proceedings. As to the first, the law provides that "sufficient cause" must exist in the judgment of the Supreme Court involving "serious misconduct". The adjective is "serious"; that is, important, weighty, momentous, and not trifling. The noun is "misconduct"; that is, a transgression, more particularly, unlawful behavior or gross negligence by the public officer. The word "misconduct" implies a wrongful intention and not a mere error or judgment. For serious misconduct to exist, there must be reliable evidence showing that the judicial acts complained of were corrupt or inspired by an intention to violate the law, or were in persistent disregard of well-known legal rules.' (Italics supplied). As regards Criminal Cases Nos. 141 and 229, it is contended by the complainant that while he agrees with the respondent that the parties should be allowed to submit memoranda in support of their respective claims, he doubts the validity of commencing the period for submitting such memoranda upon receipt of the transcript as it is in violation of Section 5 of the Judiciary Act (Rep. Act No. 296) because the date of submission of the case for decision becomes indefinite thereby rendering said provision ineffective. We note, however, that said Section 5 of the Judiciary Act does not precisely determine when a case should be deemed submitted for decision. As to the orders of respondent Judge requiring the parties to obtain transcripts and commencing the period for filing of their memoranda only upon receipt of said transcripts, we find that it was necessary for respondent to wait for the transcripts of the stenographic notes for the reason that, according to him, he could not take down notes during the trial due to his defective right arm as a result of his nervous sickness from which he has been suffering for the last three years."[5]

3. It was therefore Justice Solidum's recommendation: "The undersigned recommends that, while the respondent should be exonerated from the charges, he should be admonished to be more careful in the future in the preparation of his monthly certificates of service with the warning that the repetition therein of the same misrepresentation would merit a more drastic action." [6]

4. This Court is inclined to lend its approval to such a recommendation. The principle announced in *Horrilleno* retains its validity. It is desirable that a judge should at all times manifest fidelity to the trust reposed in him. Necessarily, an adequate grasp of the codal and statutory provisions, not to mention the Constitution, as well as of legal doctrines is of the essence. That he should be impartial is likewise a truism. Of equal importance, however, is the promptness with which cases in his sala are disposed of. The people's faith in the administration of justice, especially those who belong to the low-income group, would be greatly impaired if decisions are long in coming, more so from trial courts, which unlike collegiate tribunals where there is a need for extended deliberation, could be expected to act with dispatch. Unfortunately, it cannot be denied that delay still attends the performance of the judicial task. It could amount to serious inefficiency, arising either from lack of skill in the handling of authoritative legal materials or the lack of a proper system in the handling of court business. For that matter negligence, if reckless in character, could amount to serious inefficiency. As noted, however, by Justice Solidum, it would be unwarranted under the test laid down by *Horrilleno* to find respondent Judge culpable. Nonetheless, he should be, as he is now, admonished to take greater care not only in the preparation of his monthly certificates of service but also in the scrutiny that he should pay to the state of his docket, exerting at all times due care and diligence.

WHEREFORE, respondent is exonerated from the charges of serious misconduct and inefficiency, with the above admonition.

Makalintal, C.J., Zaldivar, Teehankee, Barredo, Makasiar, Antonio, Esguerra, Fernandez, Muñoz Palma, and Aquino, JJ., concur.

Ruiz Catro, J., took no part.

[1] Civil Case No. 4571.

[2] Criminal Cases Nos. 141 and 229.

[3] According to Sec. 5 of Republic Act No. 296 (1948): "Judge's certificate as to work completed. — District judges, judges of city courts, and municipal judges shall certify on their applications for leave, and upon salary vouchers presented by them for payment, or upon the payrolls upon which their salaries are paid, that all special proceedings, applications, petitions, motions, and all civil and criminal cases which have been under submission for decision or determination for a period of ninety days or more have been determined and decided on or before the date of making the certificate, and no leave shall be granted and no salary shall be paid without such certificate. In case any special proceeding, application, petition, motion, civil or criminal case is resubmitted upon the voluntary application or consent in writing of all the parties to the case, cause, or proceeding, and not otherwise, the ninety days herein prescribed within which a decision should be made shall begin to run from the date of such resubmission."

[4] Report of Justice Solidum, 2-6.

[5] *Ibid*, 6-8.

[6] *Ibid*, 8.

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