

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. JUDGE ROBERTO S. JAVELLANA AND JUDGE ABRAHAM D. CAÑA, RESPONDENTS.

A.M. No. RTJ-02-1737 (Formerly A.M. No. 00-8-354-RTC). September 09, 2004

Ponente: CORONA, J.

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CORONA, J.:

Time and again, this Court has emphasized that any delay in the rendition of judgments diminishes our people's faith in the judiciary. If, for some valid reason, a judge cannot comply with the required deadline, he should seek an extension to avoid administrative sanctions.[1]

An on-the-spot judicial audit and physical inventory of cases, including cases submitted for decision, were conducted in Branches 57, 58 and 59 of the Regional Trial Court, San Carlos City, Negros Occidental.[2]

(A). JUDGE ROBERTO S. JAVELLANA

At the time of the audit, respondent Judge Roberto S. Javellana was handling two salas, Branch 57 (in an acting capacity) and Branch 59 (his original station) which was designated as a special court for heinous crimes. He was likewise the incumbent Executive Judge.

Based on the records as of February 28, 2000, Branch 57 had a caseload of 559 cases. This caseload consisted of 398 criminal and 155 civil and other cases.

Branch 59, as of audit date in February 2000, had a caseload of 86 cases consisting of 67 criminal and 19 civil cases.

Consequently, the audit team reported:

It should be noted that aside from handling his regular court Branch 59, Judge Javellana is also handling Branch 57 in concurrent capacity. This situation is further aggravated by the fact that Judge Javellana is also the incumbent Executive Judge and the presiding judge of Branch 59 which is a special court for heinous crime, etc. No wonder, the audit shows how the over all performance of Judge Javellana was affected while handling Branch 57 which has the highest caseload so far compared to the two (2) other branches which are special courts.

Although admittedly, Judge Javellana has so many cases that are submitted for decision which are already beyond the reglementary period, the above-discussed circumstance are considered mitigating circumstance that should be given due consideration in favor of Judge Javellana.

In fact, during the conversation with Judge Javellana, he suggested the possibility of considering the return of Judge Beldia to his official station or perhaps another acting presiding judge be designated to handle Branch 57 if only to exclusively devote the time in handling all other cases not falling within the designated special courts. The uneven distribution of caseload in the three (3) RTC branches in San Carlos City is a situation that

Judge Javellana had reluctantly accepted. The said situation becomes uncontrollable because the two (2) designated special courts are limited to handling specific cases under the directive of the Honorable Court.

Based on the report of the audit team, this Court issued a resolution[3] dated August 28, 2000, with the following directives:

DIRECT: (1) Acting Presiding Judge Roberto S. Javellana, Regional Trial Court, Branch 57 to: (a) EXPLAIN in writing within fifteen (15) days from notice why: (aa) Criminal Case No. 2176; Civil Cases Nos. 246, 445, 613, 514, 633, 524, 5571, 6154, 265, 267, 492, 421, 564, 250, 260, 458, 355, 587, 555, 629; Special Proceeding Nos. 301 and SCA No. 522 have not been decided within the ninety (90) days reglementary period; (b) DECIDE with dispatch the above-enumerated cases that are submitted for his decision as well as Civil Case No. X-119 (SP-354) which was submitted for decision before Judge Rolindo Beldia, Jr. and RESOLVE with dispatch the pending matters in the above-enumerated cases; (c) ACT on: (aa) Criminal Case No. 2297; Civil Cases Nos. 631, 575 and 244; Special Proceeding Nos. 452, 435, 468 and 311 and Cadastral Cases Nos. CAD 488 and CAD-248 which have no action or setting in the court calendar after the lapse of considerable period of time; and (bb) Civil Case No. 669 which has no action taken since the time it was filed; and (d) INFORM the Honorable Court through the Office of the Court Administrator within ten (10) days from notice hereof, whether or not: (aa) the judgment in Criminal Cases Nos. 1468 had been promulgated as scheduled; (bb) Civil Cases Nos. 449 and 684 to 689 had been decided within the reglementary period; and (cc) the pending matters or incidents in Criminal Cases Nos. 3373, 1432, 1364, 1367 and 1343 and Civil Case No. 496 had been resolved within the reglementary period;

x x x x

(3) Judge Roberto S. Javellana, Regional Trial Court, San Carlos City, Branch 59, to: (a) EXPLAIN in writing within fifteen (15) days from notice why Civil Case No. 662 had not been decided within the ninety (90) days reglementary period; and (b) INFORM the Court whether or not the judgment in Criminal Case No. 514 had been promulgated as scheduled and whether or not Civil Case No. 452 was decided within the reglementary period; and

(B) AMEND the provision in the resolution dated February 1, 2000 in A.M. No. 99-11-07-SC to effect an equal distribution of case insofar as the Regional Trial Court of San Carlos City, Negros Occidental is concerned, in such a way that the cases assigned to Branch 58 shall not be limited to family cases under RA 8369 but shall likewise be included in the raffle of ordinary cases.

In compliance with the aforesaid directive, two separate letter-reports dated October 16 and 18, 2000, respectively, were submitted by acting Judge Javellana to the Office of the Court Administrator (OCA, for brevity). In his first letter, he informed OCA of the action taken by his court in the following cases:

Case No.

Court Action

CRIMINAL

1. 2297 Decided and promulgated on June 16, 2000
2. 1468 Decided and promulgated on March 31, 2000
3. 1432 Resolve the Pending Incident within the reglementary period

4. 1364 -do-

5. 1367 -do-

6. 1343 -do-

Case No.

Court Action

CIVIL

1. 524 Decided on October 2, 2000

2. 587 Decided on October 6, 2000

3. 555 Decided on August 31, 2000

4. 449 Decided within the 90-day period

5. 684 -do-

6. 689 -do-

7. 631 Archived on October 2, 2000

8. 575 Archived on October 4, 2000

9. 669 Pre-trial set on November 11, 2000

10. 496 Resolve the pending incident within the reglementary period. Pre-trial set on October 3, 2000

Case No.

Court Action

SPECIAL PROCEEDINGS

1. 435 Case dismissed per order dated October 4, 2000

2. 468 Petition granted per Order dated August 16, 2000

3. 311 Archived per order dated October 6, 2000

Case No.

Court Action

CADASTRAL CASES

1. 488 Case dismissed per order October 4, 2000
2. 248 Denied the Motion for Contempt per Order dated October 4, 1999

Acting Presiding Judge Javellana likewise admitted that he failed to decide criminal case no. 2176, civil case nos. 246, 633, 524, 492, 256, 355, X-260, 555, 629, 587 and SCA No. 522 despite the lapse of the 90-day period due to the following reasons:

- (a) The incumbent Officer-in-Charge, Mr. Guillermo Bora, who is also the Legal Researcher, and former Branch Clerks of Court, Attys. Winston Villegas and Riah Debulgado-Credo, failed to call his attention on the aforesaid cases which were all due for his decision;
- (b) The court experienced frequent power failure/electrical brown-outs which left the court employees with no choice but to leave the office early as it is already dark and warm;
- (c) During the time the position of the Branch Clerk of Court would be vacant or the Branch Clerk of Court physically unable to perform her job (such as the case of Atty. Credo who went on sick leave from February 3, 1999 until her death on March 19, 1999), the court had no recourse but to appoint an Officer-in-Charge who is not a lawyer and who lacks the ability to properly manage the daily court activities and records of cases;
- (d) Inadequate books and research materials such as SCRA, Quick Index Digest, etc;
- (e) He is also acting judge of Branch 57 aside from being regular judge of Branch 59 (a special court for heinous crimes) and is an Executive Judge;
- (d) He suffers from physical inability to perform his duties due to hypertension and other illnesses.

Judge Javellana further claimed that, per verification of the criminal case docket book, he found out that criminal case no. 3373 was not assigned to Branch 57.

Moreover, in his compliance-report dated October 18, 2000, Judge Javellana informed this court of the actions he took on the following cases, viz:

- Civil Case No. 662 is still subject for his decision despite the lapse of the 90 day reglementary period. The record of this case is voluminous that requires further study. Because of his concurrent duty as Acting Judge in Branch 57 and Executive Judge, he has no enough time to devote to this case.
- For failure of the accused to appear during the scheduled promulgation on May 2, 2000, the judgment in Criminal Case No. 514 was promulgated only on May 23, 2000.
- A decision was rendered in Civil Case No. 452 on April 7, 2000 which is still within the 90-day reglementary period to decide.

In a resolution dated November 29, 2000,[4] this Court noted the letters submitted by respondent and required OCA to make an evaluation, report and recommendation on the matter.

In its report[5], the OCA stated:

After a careful review of the worksheet of the audit team and the Docket Inventory Report ending December 31, 1999, it was discovered that Criminal Case No. 1784 was erroneously written as No. 3373. Criminal Case

No. 1784 is entitled “People vs. Marcella” for Violation of P.D. 1866. The pending incident is Demurrer to Evidence filed on March 6, 2000.

However, contrary to the allegation of Acting Judge Javellana, there is not a single copy of the decision or order of the cases referred to in his letter-compliance that were attached.

In summary, the following enumerated cases appear to have remained undecided or unacted upon by Acting Judge Javellana as of the date of this report despite the submission of compliance dated October 16 and 18, 2000, to wit: Criminal Case No. 2176 and 1784; Civil Cases Nos. 246, 445, 613, 514, 633, 5571, 6154, 265, 267, 492, 421, 564, 250, 260, 458, 355, 629, 638, 266, 244 and X-119 (SP-354); Special Proceeding No. 301 and 452; and SCA No. 522.

For the speedy disposition of cases, the directive in the 28 August 2000 resolution must be reiterated so that Acting Judge Javellana will immediately decide or appropriately act on the above-enumerated cases. Likewise, copies of the decision or order of the cases referred to in the compliance-letter dated October 16 and 18, 2000 be immediately furnished to the court for the proper evaluation of the present matter at bar. (*Italics Ours*)

Again, in a resolution dated March 5, 2001,[6] we adopted OCA’s report and recommendation which stated:

(a) Acting Presiding Judge Roberto S. Javellana, Regional Trial Court, San Carlos City, Negros Occidental, Branch 57, to: (1) DECIDE the following cases within a non-extendible period of ninety (90) days from receipt of notice, to wit: Criminal Case No. 2176, Civil Cases Nos. 246, 445, 613, 514, 633, 5571, 6154, 265, 267, 492, 421, 564, 250, 260, 458, 355, and 629; Special Proceeding No. 301 and X-119 [SP-354]; and SCA No. 522; (2) RESOLVE within a non-extendible period of thirty (30) days the pending matter or incidents in Civil Cases Nos. 638 (Re: Motion to Dismiss) and 266 [Re: Omnibus Motion for Leave to take Deposition and for Admission of Facts] and Criminal Case No. 1784 [3373] entitled “People vs. Marcella” for violation of P.D. 1866 {Re: Demurrer to Evidence; (3) ACT with dispatch Civil Case No. 244 and Special Proceeding No. 452 which have no further setting in the court calendar for a considerable period of time; and (4) FURNISH the Court with a copy of the decision, order or resolution of the cases referred to in the letter compliance dated October 16 and 18, 2000;

x x x x

(c)

Judge Roberto S. Javellana to: (1) DECIDE Civil Case No. 662 within a non-extendible period of thirty (30) days from receipt of notice and (2) FURNISH the Court with a copy of the decision or order of the cases referred to in the letter compliance dated October 18, 2000 specifically the decision in Civil Case No. 452 and Criminal Case No. 514 and the proof of promulgation of judgment in the latter case.

Thereafter, in compliance with the aforementioned directive of this Court, Judge Javellana, in a letter dated April 4, 2001, attached certified copies of the decisions, resolutions or orders of cases mentioned therein as well as the actions taken:

Case No.

Court Action

CRIMINAL

2176 Decided on July 4, 2000

3373 (1784) Demurrer to Evidence was denied per Order dated November 29, 2000

Case No. Court Action

CIVIL

246 Decided on June 29, 2001

445

Decided on May 31, 2001

613

Decided on January 2, 2001

514 Decided on March 29, 2001

633 Decided on May 17, 2001

265 (6154) Intervenor and Oppositors given 30 days to file their formal written offer of exhibits and the Office of the Solicitor General is likewise given the same period to comment thereon thereafter, the case shall be submitted for resolution without further argument

267 Decided on March 22, 2001

492 Order dated January 2, 2001 directing the issuance of summons in favor of the defendants

421 Decided on June 4, 2001

564 Decided on March 7, 2001

250 Decided on April 17, 2001

260 Decided on June 29, 2001

458 Decided on October 26, 2000

355 Decided on April 20, 2001

629 Decided on November 20, 2000

524

Decided on October 2, 2000

119

Decided on May 3, 2001

266 Omnibus Motion for Leave to take Deposition was granted per Order dated October 3, 2000

244 Special Administrators were appointed per Order dated October 3, 2002

452 After the manifestation of the petitioner's counsel, the incident is submitted for resolution per Order dated August 17, 2002

Case No.

Court Action

SPECIAL CIVIL ACTION

1. 522

Decided on May 3, 2001

Then again, in another letter dated July 31, 2001, he manifested his further compliance with our directive, attaching machine copies of the decisions in civil case no. 452 and criminal case no. 514, as well as proof of promulgation of the latter.

In a resolution dated September 19, 2001,[7] this court again referred the matter to OCA for evaluation, report and recommendation.

In a memorandum dated July 17, 2002, OCA submitted its report and recommendation on the matter which was redocketed as a regular administrative matter.

In its report, OCA stated:

In failing to decide numerous cases, Judge Javellana cites the following as his reasons:

(a)

the failure of his clerk of court to call his attention of those cases submitted for decision;

(a)

the frequent power failure;

(b)

the inability of the officer-in-charge to properly manage the daily court activities;

(c)

inadequate books and research materials;

(d)

he is merely acting judge at Branch 57 in addition to his regular station at Branch 59 and as Executive Judge; and

(e)

physical inability due to hypertension and other illness.

We find the same to be insufficient and wanting. It is incumbent upon him to inform this Court of his inability to seasonably decide the cases. He could have requested additional time for their proper disposition based on the reasons which he cited. When circumstances arise that render him incapable to decide within the prescribed time a case submitted for decision or resolution, all that a judge has to do is to request and justify an extension of time within which to resolve it. Hence, Judge Javellana's neglect of this matter in the light of his inability to

reduce his backlog of undecided cases cannot be completely excused and correspondingly, we are constrained to recommend a fine on him as administrative penalty. (*Italics Ours*).

Hence, the OCA recommended:

From the foregoing, it is very clear that Judge Javellana had been remiss in the performance of duties as judge by failing to adopt a system of record management resulting in delay of disposal of cases. “A judge ought to know the cases submitted to him for decision or resolution and is expected to keep his own record of cases so that he may act on them promptly.” To enforce this requirement, several Supreme Court Circulars require judges to list the cases submitted for decision in their quarterly reports to the Supreme Court and in a special list to be posted in the court’s bulletin board. Judge Javellana has not done so. Moreover, the judge is allowed extensions to decide cases upon his request and on good grounds. Respondent judge failed to avail of this available mode despite his knowledge that it exists.

xxx xxx xxx

Judge Javellana failed to decide thirty-eight (38) cases, aside from nineteen (19) cases with pending motions for resolutions, both in Branches 57 and 59, within the mandatory 90-day period. Thus, a fine in the amount of Ten Thousand Pesos (P10,000.00) would be appropriate in his case. (*Italics Supplied*)

We agree with the OCA’s conclusion that respondent Judge Javellana should be meted an administrative penalty for being remiss in the performance of his duties. Nonetheless, we do not agree with the recommended penalty.

While respondent Judge Javellana decided practically all the cases submitted to him for decision, it was done only after an audit was conducted in his sala and a directive to immediately decide the cases was issued by this Court. Moreover, the dates of the decisions were way beyond the reglementary period.

A judge cannot choose his deadline for deciding cases pending before him. Without an extension granted by this Court, the failure to decide even a single case within the required period constitutes gross inefficiency that merits administrative sanction.[8]

The Code of Judicial Conduct, specifically Canon 3, Rule 3.05 mandates judges to attend promptly to the business of the court and decide cases within the periods prescribed by law and the Rules.[9] Under the 1987 Constitution, lower court judges are also mandated to decide cases within 90 days from submission.

Judges must closely adhere to the Code of Judicial Conduct in order to preserve the integrity, competence and independence of the judiciary and make the administration of justice more efficient. Time and again, we have stressed the need to strictly observe this duty so as not to negate our efforts to minimize, if not totally eradicate, the twin problems of congestion and delay that have long plagued our courts.[10] Respondent Judge Javellana reneged on this duty.

Respondent Judge should have known that if his caseload, additional assignments or designations, health reasons or other factors prevented the timely disposition of his pending cases, all he had to do was to ask this Court for a reasonable extension of time to dispose of his cases.[11] The Court, cognizant of the heavy caseloads of some judges and mindful of the difficulties encountered by them in the disposition thereof, is almost always disposed to grant such requests on meritorious grounds.

As correctly pointed out by the OCA, respondent Javellana failed to file any motion for extension despite the availability of this remedy.

Furthermore, his designation as Executive Judge and his appointment to another branch, in addition to his regular station, was no excuse for his delay in promptly deciding the cases assigned to him.[12] As earlier stated, he could

have asked for an extension of time within which to decide. For his failure to do so, respondent Judge has to suffer the consequences.

The failure of his clerk of court to call his attention to the cases submitted for decision, the inability of his officer-in-charge to properly manage the daily court activities and all the excuses he gave are not acceptable to us. The reasons proffered were not beyond his control. More importantly, respondent Judge should have known that it was incumbent upon him to devise an efficient recording and filing system in his sala. A judge cannot take refuge behind the inefficiency or mismanagement of his court personnel since they are not responsible for his judicial functions. On the contrary, a judge should be the master of his own domain and take responsibility for the mistakes of his subordinates.[13]

All told, we find respondent Judge Javellana guilty of unjustified delay in rendering decisions.

Under Section 9(1), Rule 140, as amended, of the Revised Rules of Court, undue delay in rendering a decision is classified as a less serious charge. And under Section 11(b) of the same Rule, the penalty for such offense is suspension from office without salary and other benefits for not less than one nor more than three months, or a fine of more than P10,000 but not exceeding P20,000.

While we agree with the findings and recommendation of OCA that respondent Judge Javellana be sanctioned, we do not consider the recommended fine of P10,000 as commensurate to the gravity of the offense committed. As reported by OCA, respondent Judge Javellana failed to decide 38 cases, aside from 19 cases with pending motions for resolutions, both in Branches 57 and 59, within the mandatory 90 days period.

Nonetheless, the fact that respondent judge presides over two courts and is also an Executive Judge serves to mitigate his liability. Instead of suspension, a fine in the amount of P20,000 would be sufficient.

(B). JUDGE ABRAHAM D. CAÑA

Upon the other hand, Branch 58, designated as a Family Court, is presided by Judge Abraham D. Caña. The audit team found that, as of February 29, 2000, the said branch had a caseload of 84 cases, consisting of 24 criminal and 60 civil and other cases.

During the audit, Judge Caña was on sick leave and confined in the hospital. As a result of the judicial audit conducted in his sala, this Court in a resolution dated August 28, 2000 ordered:

x x x x

(2) Judge Abraham D. Caña, Regional Trial Court, San Carlos City, Branch 58, to: (a) EXPLAIN in writing within fifteen (15) days from notice why Criminal Case No. 2107 has not been decided within the ninety (90) days reglementary period; (b) TAKE APPROPRIATE ACTION on Criminal Cases Nos. 2287 and 2261: Civil Cases Nos. 272, 284, 296, 668, 671, 471, 462, 780 and 399; Special Proceeding Nos. 113, 187 and 636 which have no further action or setting in the court calendar after the lapse of considerable period of time and Civil Case No. 661 which has no action since the time it was filed or assigned with the Court; and (c) INFORM the court whether: (aa) Criminal Case No. 1563 and Civil Case No. 416 had been decided within the ninety (90) day reglementary period; and (bb) the pending matters or incidents in Civil Case No. 650 had been resolved within the reglementary period; and

Judge Caña of Branch 58 also submitted his compliance with our August 28, 2000 resolution.

In his compliance-report dated October 10, 2000, he informed this Court of the action(s) taken by him in the following cases:

Case No.

Court Action

CRIMINAL

1. 2107 Decided on April 25, 2000

2. 2287 Archived August 28, 2000

3. 2261 Per order dated June 2, 2000 , the court directed the Director of the BJMP to deliver the person of accused Rodolfo Manalastas to Negros Occidental Provincial Hospital to undergo mental, neurologic and otolaryngologic examination. A subsequent order dated September 27, 2000 was issued reiterating the previous order.

4. 1563 Decided on June 7, 2000

Case No.

Court Action

CIVIL

1. 272 Case dismissed per order dated July 29, 1975

2. 284 Decided in 1983

3. 296 Decided in 1978

4. 471 Decided in 1979

5. 462 Decided in 1983

6. 780 Decided in 1993

7. 668 On August 30, 2000 the Office of the Solicitor General filed its entry of appearance. The court set the case for preliminary conference.

8. 671 The summons and copy of the complaint were served upon the defendant on October 2, 2000 .

9. 636 Per order dated September 26, 2000 the hearing of the Motion to Dismiss was set for October 25, 2000

10. 416 The decision of this case could not be possibly rendered due to the filing of a case against Judge Caña before the Office of the Court Administrator with docket no. OCA-IPI No. 00-984-RTJ. An order dated September 13, 2000 was issued by the court, directing the suspension of further proceedings of the case pending the resolution of the aforesaid inquiry before the Office of the Court Administrator

11. 650 The pending matter for resolution had been resolved by the court which resulted in the rendition of the decision on April 5, 2000 .

Case No.

Court Action

SPECIAL PROCEEDING

1. 113 The Special Administrator always asks for an authority from the court every now and then. The latest order of the court was last December 12, 1999 by granting the motion as soon as the judicial administrator has complied with all directives of the court pursuant to the pre-trial conference order dated June 16, 1999 .

2. 187 Records of the case were sent to the archives per order dated June 7, 2000, without prejudice of reviving the case as soon as the judicial administrators has complied with all the court's directives pursuant to the pre-trial conference order dated June 16, 1999

He further claimed that he had already decided criminal case no. 2107 within the prescribed period because, although the subject case was submitted for decision on December 10, 1999, the 90-day period expired only on April 19, 2000 and not March, 2000 since he was on approved leave of absence for a total number of 40 days.

As to the other cases, respondent Judge Caña explained:

The records of Civil Cases Nos. 284, 296, 471, 462 and 780 show that these cases had been decided in 1983, 1978, 1979, 1983 and 1993, respectively. However, part of the decision is still subject to review or appeal before the appellate court. Hence, there are pending matters incidental to the appeal that are still subject to the action of the court.

The records of Special Proceedings Nos. 187, 272 and 399 were sent to the archives per order dated June 7, 2000 without prejudice to reviving the case as soon as the judicial administrator has complied with the directives of the court pursuant to the pre-trial conference order dated June 16, 1999.

A decision has been rendered in Criminal Case No. 1563 on June 7, 2000. Although the 90-day period to decide the case expired on May 20, 2000, the approved leave of absence of 40 days as earlier mentioned shall be taken into consideration. The 90-day period actually expired on June 30, 2000. Therefore, the decision in this case was rendered within the 90-day reglementary period.

He maintained that if one were to consider the period of his approved absences and his hospitalization due to a right eye cataract operation and other physical infirmities caused by his other illnesses (pneumonia, hypertension, diabetes, asthma and allergies), then the subject cases were decided by him substantially within the reglementary period.

In the same letter, he also pleaded for this Court's indulgence for his judicial shortcomings and vowed to improve on his performance after his recovery.

Judge Cana's letter was also noted by this Court in its resolution dated November 29, 2000 and required OCA to make an evaluation, report and recommendation.

The OCA reported:

After careful review of this case, it shows that there is only one case, Civil Case No. 661, that Judge Caña failed to act. The Court has not acted upon Civil Case No. 661 since the time it was filed or referred to Branch 58. (*Italics Ours*)

In the same resolution dated March 5, 2000, we adopted OCA's report and recommendation which stated:

xxx xxx xxx

(b) Judge Abraham D. Caña, Regional Trial Court, same court, Branch 58, to ACT with dispatch on Civil Case

No. 661 which has no action since the time it was filed; and

The letter-report dated October 10, 2000 of Judge Caña is considered satisfactory. (Emphasis supplied)

Judge Caña, whom we ordered to act with dispatch relative to case no. 661, responded to the aforementioned resolution in a letter dated March 29, 2001, explaining that several factors prevented him from acting on civil case no. 661 (an annulment case):

(a)

postponement made by petitioner, the delay in the filing of comment and opposition of the Solicitor General.

(b)

investigation of fiscal on the issue of collusion.

(c)

the fact that he has undergone a pacemaker implant in St. Luke's.

(d)

and that as a family court judge, he deemed it appropriate not to rush the disposition of the case and to undertake a genuine, not just a perfunctory effort, to reconcile the parties, pursuant to the mandate of Article XV, 1987 Constitution, in relation to Article 58 and 59 of the Family Code.

He further reported that he had already set the hearing of the said case on June 19, 2001, to enable the court to determine if respondent was able to comply with his previous undertaking to try resolve the differences between the parties.

This Court again referred the matter to OCA for evaluation, report and recommendation.

We note that while the OCA report contained a recommendation as to Judge Javellana, it failed to include one as far as Judge Caña was concerned. The latter, as earlier mentioned, was ordered to act with dispatch relative to civil case no. 661.

As borne out by the records, the delay in the resolution of the annulment case filed before Judge Caña was due to the parties themselves, the delay in the filing of the comment and opposition of the Solicitor General, the fiscal, and his failing health. Taking these circumstances into account and in the absence of proof that Judge Caña deliberately delayed the resolution of the annulment case, we accept his explanation as satisfactory and exonerate him[14] from any administrative liability.

WHEREFORE, the complaint against respondent Judge Abraham D. Caña is hereby DISMISSED for lack of merit.

Judge Roberto S. Javellana, on the other hand, is hereby held administratively liable for undue delay in rendering decisions and is ordered to pay a FINE of P20,000, with a WARNING that a repetition of the same or similar acts

in the future shall be dealt with more severely.

SO ORDERED.

Panganiban, (Chairman), and Sandoval-Gutierrez, JJ., concur.
Carpio-Morales, J., on official leave.

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- [1] OCA vs. Judge Tomas Noynay, A.M. No. RTJ-02-1704, March 18, 2003; Gallego vs. Judge Arturo Doronilla, 334 SCRA 339 [2000].
- [2] Memorandum dated July 17, 2000, Rollo, pp. 1-10.
- [3] Rollo, pp. 37-39.
- [4] Resolution dated November 29, 2000, Rollo, p. 72.
- [5] Memorandum dated January 26, 2001, Rollo, pp. 75-81.
- [6] Resolution dated March 5, 2001, Rollo, pp. 84-85.
- [7] Rollo, pp. 416-417.
- [8] Re: Cases Left Undecided by Retired Judge Arbis, RTC (Branch 48) Bacolod City, A.M. No. 99-1-01-RTC, Jan. 20, 2003; Maquiran vs. Lopez, 359 SCRA 40 [2001].
- [9] Canon 3, Rule 3.05, Code of Judicial Conduct.
- [10] OCA vs. Judge T. Noynay, A.M. No. RTJ-02-1704, March 18, 2003.
- [11] Gonzalez-Decano vs. Siapno, 353 SCRA 270 [2001].
- [12] Gallego vs. Doronila, A.M. No. MTJ-00-1278, 334 SCRA 339 [2000]; Re: Report on the Judicial Audit of Cases in the RTC, Branch 35, Iriga City, 299 SCRA 382 [1998].
- [13] Pantaleon vs. Guadiz, Jr., 323 SCRA 147, 151 [2000].
- [14] Judge Caña compulsorily retired from the service on April 10, 2002.

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