

## FIDEL ISIP, JR., COMPLAINANT, VS. JUDGE VALENTINO B. NOGOY, RESPONDENT.

*A.M. No. MTJ-03-1485 (formerly A.M. No. 00-920-MTJ). April 01, 2003*

Ponente: CARPIO MORALES, J.

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### CARPIO MORALES, J.:

Before this Court is the COMPLAINT-AFFIDAVIT[1] of July 31, 2000 addressed to then Supreme Court Administrator Alfredo L. Benipayo by Fidel L. Isip, Jr. (complainant) charging Macabebe-Masantol, Pampanga Municipal Circuit Trial Court (MCTC) Judge Valentino B. Nogoy (respondent) with gross ignorance of the law, gross inefficiency and gross misconduct.

The following facts which spawned the filing of the complaint are not disputed:

Complainant filed on May 14, 1998 before the Commission on Elections (COMELEC) a petition, “Fidel L. Isip, Jr., petitioner v. Pedro Yabut, Jr., et al., respondents,” docketed as SPC No. 98-014, for the confirmation of his election as Vice Mayor during the just concluded local elections, his rival Pedro Yabut having represented that he too was proclaimed as Vice-Mayor by the Municipal Board of Canvassers of Macabebe.

The Second Division of the COMELEC, by Order of May 25, 1998, affirmed complainant’s proclamation as the duly elected Vice Mayor in this wise:

[T]his Commission [SECOND DIVISION] RESOLVED, as It hereby RESOLVES to AFFIRM the proclamation of petitioner Fidel L. Isip, Jr. as the duly elected Vice-Mayor of Macabebe, Pampanga as evidenced by the Certificate of Canvass of Votes and Proclamation of the Winning Candidates for Municipal Offices [CE Form No. 25], with Serial No. 03540368 dated 13 May 1998.

Accordingly, the proclamation of Pedro Yabut secured through coercion and intimidation of Election Officer and Chairman of the Municipal Board of Canvassers of Macabebe, Pampanga, Mr. Joselito T. Matias[,] and superimposition of his name over that of the declared winner in the COCPWC is hereby ANNULLED and SET ASIDE. (Emphasis and italics in the original)

Complainant thus assumed office as Vice-Mayor commencing on June 30, 1998.

On Yabut’s Motion for Reconsideration of the above-said COMELEC Second Division Order of May 25, 1998, the COMELEC en banc, by Resolution of December 16, 1999, vacated said order, disposing as follows:

WHEREFORE, premises considered, the Omnibus Motion for Reconsideration of [Yabut] is hereby GRANTED. The assailed Order of the Second Division dated 25 May 1998 is VACATED. A new Municipal Board of Canvassers for the Municipality of Macabebe is hereby constituted . . . Thereafter, they shall add up the votes and announce the true winner for the position of Vice Mayor in Macabebe, Pampanga x x x. (Italics supplied)

On December 23, 1999, complainant filed a Very Urgent Motion to Defer Execution of the COMELEC en banc December 16, 1999 Resolution in view of, so he claimed, newly discovered manifest errors in the election returns

of precinct Nos. 8-A and 24A/25A. The motion was granted by the COMELEC en banc, hence, the reconvening of the new Municipal Board of Canvassers was suspended.

In the meantime, Yabut filed on January 10, 2000, a criminal complaint before the MCTC, of which respondent is the Presiding Judge, against complainant for Usurpation of Authority in support of which he executed an affidavit dated January 10, 2000 wherein he, among other things, invited attention to the COMELEC en banc Resolution of December 16, 1999 which vacated the proclamation of complainant.

By Order of January 10, 2000, respondent found probable cause for Usurpation of Authority against complainant and issued on even date a warrant for his arrest.

On February 8, 2000, complainant filed a Motion to Dismiss the criminal complaint against him on the ground that it does not charge an offense.

In the meantime, the COMELEC en banc issued a Resolution of April 25, 2000 lifting the suspension of the convening of the new Municipal Board of Canvassers. Thus it disposed:

WHEREFORE, in view of the foregoing, the Commission en banc resolves to lift the suspension for the new Municipal Board of Canvassers of Macabebe, Pampanga as duly constituted in its 16 December 1999 resolution to convene. Atty. Zoilo Pers . . . are thus directed to convene, with due regard to the proper procedure and notice as to the date and venue thereof to the affected candidates, to effect the necessary corrections not only in the election returns in Precincts 159A/160A but also in Precincts 8A and 24A/25A and the corresponding Statement of Votes. Thereafter, they shall add up the votes and announce the true winner for the position of Vice-Mayor of Macabebe, Pampanga.

x x x x x x x x (Italics in the original)

Complainant thereupon filed on May 29, 2000 a “Manifestation with Motion” before the MCTC praying for the resolution of his Motion to Dismiss the criminal complaint against him.

On June 8, 2000, the newly constituted Municipal Board of Canvassers proclaimed complainant as the winner in the 1998 Vice Mayoralty race. On the strength of his proclamation, complainant filed on June 28, 2000 a “Second Motion to Resolve” his Motion to Dismiss the criminal case, despite which respondent failed to resolve it, hence, the filing of complainant’s Complaint-Affidavit of July 31, 2000 charging respondent with

“gross ignorance of the law for issuing the Order dated 10 January 2000 . . ., gross inefficiency for failing to act on [his] case despite the lapse of more than five (5) months and gross misconduct for giving undue advantage to Pedro Yabut, a private individual,”

and alleging that, inter alia, during the preliminary investigation of the criminal complaint against him conducted by respondent, the Secretary to the Mayor of Macabebe who belongs to Yabut’s political party was present; and that respondent has been receiving allowance from the Office of the Mayor.

In his Comment,[2] respondent alleged as follows: Immediately after he read complainant’s complaint-affidavit, he showed complainant’s lawyer Atty. Ma. Paz Duque, who was then inside his chambers, his draft of his Order/Resolution of complainant’s “Second Motion to Dismiss (sic).” While there was indeed delay in resolving the Motion to Dismiss, it was brought about by, among other things, the ravages of typhoons, very heavy rains, the opening of “a certain DAM,” and the submerging in flood waters of portions of his hometown (San Luis) and many other municipalities and cities which prevented him from going to his official station. His situation became more difficult as he had to attend to the many cases at the MCTC Apalit-San Simon of which he was designated Presiding Judge, in addition to the numerous cases which had remained pending for years at the MCTC Macabebe-Masantol.

With respect to complainant's allegation of seeing the secretary to the Mayor during the preliminary investigation of the criminal complaint against complainant, respondent informed that the courtroom and his chambers are government offices, but that in any event he did not notice the presence of the Mayor's secretary.

As for the allegation that Yabut and the Mayor belong to the same political party, respondent denied awareness thereof.

Regarding the "allowance" complainant claimed respondent has been receiving from the municipality, respondent alleged that the same comes from the "municipal fund."

In his Reply[3] to respondent's Comment, petitioner countered, among other things, as follows: What his counsel Atty. Duque filed was not a "Second Motion to Dismiss" but a "Second Motion to Resolve" the Motion to Dismiss, it having been unresolved and as of the filing of the present complaint dated July 31, 2000, the motion to dismiss had been pending for almost six (6) months. Complainant added that an order denying or granting a motion to dismiss could be made merely on the basis of the pleadings and other documents submitted to the court.

On May 28, 2002, petitioner filed an Affidavit of Desistance wherein he manifested that he was no longer interested in the prosecution of the present administrative case and prayed for its dismissal.

By Resolution of September 11, 2002,[4] this Court noted petitioner's Affidavit of Desistance and referred the complaint to Executive Judge Herminio Z. Canlas of the Regional Trial Court of Macabebe, Pampanga for investigation, report and recommendation.

After conducting hearings on October 16, 21 and 28, 2002, the Investigating Judge submitted a REPORT[5] on November 21, 2002 recommending the a) dismissal of the charge for gross ignorance of the law; b) faulting of respondent for inefficiency for which he should be fined P5,000.00; and 3) dismissal of the charge for "[g]iving undue advantage to . . . Yabut, a private individual."

The pertinent portions of the investigating Judge's Report are quoted as follows:

x x x x x x x x

A. As to Charge No. I: Gross Ignorance of Law.

x x x x x x x x

The question that arose was whether the Comelec Resolution on December 23, 1999 which ordered the suspension of the reconvening of the new Municipal Board of Canvassers has the effect of setting aside the Comelec's (sic) resolution of December 16, 1999 which "vacated" complainant's earlier proclamation on May 13, 1998. The resolution dated December 16, 1999 has two parts to wit: (a) the order dated May 25, 1998 confirming the proclamation of Fidel Isip on May 23, 1998 was vacated; and (b) a new Municipal Board of canvasser was created and should convene to effect necessary corrections in the election returns of precinct 159A/160A and Statement of Votes. It appears clear therefore that what was ordered suspended in the order of Comelec on December 23, 1999 was only the reconvening of the new Municipal Board of Canvassers. But the setting aside of complainant's proclamation has remained in force. The Comelec in its resolution dated April 25, 2000 stated that "in ordering for the suspension of the convening of Municipal Board of Canvasser last 23 December 1999, the Commission en banc did not amend or reverse its 16 December 1999 resolution." Hence, the only logical conclusion is that complainant appeared to have unlawfully assumed office and illegally discharged the duties and functions of the office of the Vice mayor; consequently, respondent was correct in giving due course to the criminal complaint for usurpation of authority. Respondent's finding of a probable cause that the crime as charged in the complaint has been committed and that complainant was probably guilty of the said crime stood on solid ground. Most importantly, respondent does not appear to have acted in bad faith.

x x x x x x x x

On the question of whether or not respondent acted correctly in ordering the arrest of the complainant, there is no doubt respondent acted within the scope of his authority.

x x x x x x x x

It is therefore recommended that Charge No. I be dismissed for lack of factual and legal bases.

B. As to Charge No. II: Gross Inefficiency (sic).

Complainant's accusation is to the effect that on February 9, 2000 he filed a motion to dismiss the criminal complaint against him (for usurpation of authority) on the ground that the same did not charge an offense, and while the case was pending before the MCTC where the respondent was the presiding judge, the Comelec came up with a resolution dated April 25, 2000 which resolved to lift the suspension for the new Municipal Board of Canvassers of Macabebe, Pampanga to convene and proceed "to effect the necessary corrections not only in the election returns in Precincts 159A/160A but also Precincts 8A and 24A/25A and the corresponding Statement of Votes." With the expected correction of the election returns in Precincts Nos. 8A and 24A/25A, complainant anticipated and was so confident he will increase his lead over his rival (Pedro Yabut) by 91 votes. Hence, he filed his Manifestation with Motion dated May 29, 2000, claiming that he was the true winner and still is the Vice Mayor of Macabebe, Pampanga and thus, his proclamation cannot be disturbed, and that it was now clear that he, complainant (accused) was wrongly charged for the crime of usurpation of public authority and official function. As stated earlier, series of pleadings were filed by the parties: A written opposition was filed by Pedro Yabut; accused (complainant) filed a Reply; Pedro Yabut filed his rejoinder; and accused (complainant) filed his sur-rejoinder. The sur-rejoinder which appears to be the last pleading relating to the motion to dismiss was filed on March 24, 2000. The Motion to Dismiss was thus considered submitted for resolution as of March 24, 2000 and respondent judge had up to June 22, 2000 to resolve the same.

For his defense respondent cited three grounds for the delay in the resolution of the motion to dismiss, namely:

(a)

There was (sic) so many pleadings being filed with the Court, the Comelec and even with the Supreme Court (t.s.n. p.3, October 8, 2002) and he did not want to pre-empt the result of the recounting of ballots cast in the elections of May 11, 1998 between Pedro Yabut and Fidel Isip (t.s.n. p. 4, Oct. 28, 2002).

(b)

The flood that inundated the towns of Macabebe, Masantol, San Simon and San Luis, all in the province of Pampanga, in the year 2000 (t.s.n. p.5, Oct. 28, 2002).

(c)

His workload as regular presiding judge of the MCTC of Macabebe-Masantol and as acting presiding judge of the MCTC of Apalit-San Simon.

which however are unworthy of credence for the following reasons:

- The pleadings being filed with the Court, the Comelec and with the Supreme Court were not and cannot be considered as obstacle in the resolution of the motion which is predicated on the simple ground that the criminal complaint for usurpation of authority did not allege facts that would constitute the offense charged therein. It could have been and should have resolved on the basis of its allegations and what the criminal complaint has alleged. Moreover, if it is true that respondent did not want to pre-empt the recounting of votes, then, he could have acted on the motion to dismiss shortly after complainant has filed his Second Motion To Resolve, dated June 28, 2000, where he alleged that on June 8, 2000, he was finally proclaimed by the Comelec as the winner. Had respondent promptly resolved the motion, chances are that complainant would not have bothered to file the instant administrative case which the record shows is dated July 21, 2000 and was

filed with the Office of the Court Administrator on July 31, 2000.

- The flood in the year 2000 that submerged portions of the towns of Macabebe, Masantol, San Luis and San Simon occurred sometime in the month of July 2000; consequently, in June 2000 when the motion to dismiss should have been resolved by respondent there was no flood to talk about. In any event, there is no showing that all principal roads in said municipalities were closed to traffics at the height of the flood.

- The case load of respondent as presiding judge of both the MCTC of Macabebe-Masantol and MCTC of Apalit-San Simon, cannot be a good reason to delay the resolution of the motion to dismiss in question. Firstly, respondent was designated acting judge of the MCTC in Apalit-San Simon only on January 5, 2001. Secondly, respondent could have seasonably requested for a reasonable extension of time to resolve the motion by filing an appropriate request with the Office of the Court Administrator.

What appears to be clear is that respondent felt intimidated by the series of orders/resolutions issued by the Comelec and as a result, he became indecisive. It was a clear case of judicial vacillation that has no place in the efficient and speedy administration of justice.

Respondent should therefore be held administratively liable for Charge No. II. x x x

Recommendation: Respondent should be fined in the amount P5,000.00.

C. As to Charge No. III: Giving undue advantage to Pedro Yabut, a private individual.

Despite respondent's acts in giving due course to the criminal complaint for usurpation of authority, there is no evidence on record that he deliberately favored Pedro Yabut. It is true complainant suffered initial set backs in the case filed against him. He was inconvenienced; he was ordered arrested and he had to post a bond for his provisional liberty. But he was not unseated. From June 30, 1998 he was occupying the office of the Vice Mayor for Macabebe, Pampanga so, it cannot be said that Pedro Yabut benefited from the filing of the case against complainant.

Absent any clear incriminating proof against respondent it would be unfair to pronounce him guilty of acts that have favored Pedro Yabut.

x x x x x x x x

It is therefore recommended that Charge No. III be dismissed for lack of merit.

x x x x x x x x (Emphasis and italics supplied)

It is gathered that after complainant filed at the MCTC a Sur-Rejoinder on March 24, 2000, his Motion to Dismiss was submitted for resolution. Respondent thus had 90 days or up to June 24, 2000 within which to resolve the motion.

During the October 28, 2002 hearing conducted by the Investigating Judge, respondent claimed that he resolved the motion on September 7, 2000.[6] There was no order of such date proffered by him, however.

But even if respondent had resolved the motion on September 7, 2000, he still incurred in delay.

His justification, during the investigation of the complaint at bar, for the delay in resolving the Motion to Dismiss was correctly discredited by the Investigating Judge when he made the following observation:[7]

The pleadings being filed with the Court, the Comelec and with the Supreme Court were not and cannot be considered as obstacle in the resolution of the motion which is predicated on the simple ground that the criminal complaint for usurpation of authority did not allege facts that would constitute the offense charged therein. It could have been and should have resolved on the basis of its allegations and what the criminal complaint has alleged. Moreover, if it is true that respondent did not want to pre-empt the recounting of votes,

then, he could have acted on the motion to dismiss shortly after complainant has filed his Second Motion To Resolve, dated June 28, 2000, where he alleged that on June 8, 2000, he was finally proclaimed by the Comelec as the winner. Had respondent promptly resolved the motion, chances are that complainant would not have bothered to file the instant administrative case which the record shows is dated July 21, 2000 and was filed with the Office of the Court Administrator on July 31, 2000. x x x. (Italics supplied)

That respondent was burdened with a heavy case load in MCTC Apalit-San Simon and MCTC Macabebe-Masantol is not a valid excuse, especially given the fact that while he was the Presiding Judge of the MCTC of Macabebe-Masantol since 1998, it was only on January 5, 2001,[8] after the present complaint was filed, that he was designated Presiding Judge of the MCTC of Apalit-San Simon.

When circumstances arise which prevent a judge from deciding a case or an incident thereof within the reglementary period, all he has to do is to file an application with this Court for a reasonable extension of time within which to decide or resolve the same.[9] The record is bereft, however, of any showing that respondent made any such request. Instead, he preferred to keep the resolution of the motion pending, the filing of two motions for the purpose notwithstanding.[10]

This Court has always emphasized “the need and the imperative”[11] for judges to promptly and expeditiously decide cases including all incidents therein. Failure to do so constitutes gross inefficiency which warrants administrative sanctions.[12] For

. . . any delay in the determination or resolution of a case, no matter how insignificant the case may seem to a judge, is, at bottom, delay in the administration of justice in general. The suffering endured by just one person – whether plaintiff, defendant, or accused – while awaiting a judgment that may affect his life, honor, liberty, or property, taints the entire judiciary’s performance in its solemn task of administering justice.[13]

Under Rule 140 of the Rules of Court,[14] Gross Inefficiency (“Undue delay in rendering a decision or order, or in transmitting the records of a case”) is classified as a less serious charge, for which Section 10-B thereof provides the following sanctions:

x x x x x x x x

B. If the respondent is found culpable of having committed a less serious charge, any of the following sanctions shall be imposed:

- Suspension from office without salary and other benefits for one (1) to two (2) months and twenty-nine (29) days; or
- A fine of not less than P10,000.00 but, not more than P19,999.00. x x x

So must respondent be thereunder penalized.

WHEREFORE, respondent JUDGE VALENTINO B. NOGOY is hereby found guilty of Gross Inefficiency for which he is FINED the amount of Ten Thousand Pesos (P10,000.00), payable immediately to this Court, with the WARNING that a repetition of the same shall be dealt with more severely.

**SO ORDERED.**

Puno (Chairman), Panganiban, Sandoval-Gutierrez, and Corona JJ., concur.

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[1] Records at 1-5.

[2] Id. at 81-85.

[3] Ibid. at 90-92.

[4] Records at 137.

[5] Report and Recommendation of Judge Canlas, see attached envelope.

[6] TSN, October 28, 2002 at 4.

[7] Report and Recommendation at 8.

[8] Ibid.

[9] Luzarraga v. Meteoro, 337 SCRA 152, citations omitted.

[10] Ibid.

[11] Rule 3.05, Canon 3 of the Code of Judicial Conduct, provides:

“A judge shall dispose of the court’s business promptly and decide cases within the required periods.” Cited in OCAD v. Quiñanola, 317 SCRA 37 (1999).

[12] OCAD v. Quiñanola, *ibid*, citations omitted.

[13] Luzarraga v. Meteoro, 337 SCRA 152, 156 (2000).

[14] It was later amended on October 1, 2001, by A.M. No. 01-8-10-SC (“RE: PROPOSED AMENDMENT TO RULE 140 OF THE RULES OF COURT RE DISCIPLINE OF JUSTICES AND JUDGES”).

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