

ARIEL AVILLA, WILBERT DIVINA, FAITH ELEONOR FABIO, JENNY DELA CRUZ, RANDY MORATALLA, ELISEO V. BERNALES, JOANNE ENRIQUEZ, CRISOSTOMO L. UBAC, AND RICARDO DALMACIA, COMPLAINANTS,...

A.M. NO. 01-34-CA-J. January 23, 2006

Ponente: AZCUNA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-m-no-01-34/>

AZCUNA, J.:

In a verified complaint [1] dated February 1, 2001, filed before this Court on February 5, 2001 complainants charge respondent of violating Rule 1.02 of Canon 1 of the Code of Judicial Conduct for failing to resolve their petition with dispatch. [2]

This complaint is an offshoot of a case filed with the Court of Appeals, for Mandamus with Damages and Prayer for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Mandatory Injunction under Section 4, Rule 65 of the 1997 Rules of Court, by complainants and 452 others against Hon. Alfredo Lim, in his capacity as Secretary of the Department of Interior and Local Government (DILG), Philippine Public Safety College (PPSC), Dr. Ernesto B. Gimenez, in his capacity as President of PPSC, Philippine National Police Academy (PNPA) and Dr. Dionisio B. Coloma, Jr. in his capacity as Director of the PNPA.

Complainants, in the case for Mandamus before the Court of Appeals, questioned the various orders suspending, dismissing and imposing various other disciplinary actions against the members of Class 2001 and Class 2002 of the PNPA, resulting from the death of Cadet Dominante Tunac allegedly caused by the hazing activities of some members of both classes, despite explicit prohibition of such activities by the school. It was alleged in the petition for mandamus that if the acts complained of are not restrained it will prevent complainants from continuing with their studies and, therefore, jeopardize their graduation.

A similar case was earlier filed before Branch 23 of the Regional Trial Court of Trece Martires City, but it was dismissed without prejudice for lack of jurisdiction.

Complainants claim that respondent, Court of Appeals Associate Justice Andres B. Reyes, Jr., delayed the resolution of the petition despite the extreme urgency of the matter to their prejudice and damage. Specifically complainants allege:

- That from the time the Petition was filed on September 19, 2000 and raffled to the Second Division and to respondent as ponente on September 20, 2000, [3] respondent did not act on it until they filed a motion to set the case for oral arguments, which prompted respondent to set the petition for oral arguments on November 6, 2000;
- That comments were required from the Office of the Solicitor General only on November 7, 2000;
- That due to the further inaction of respondent, they filed a Reiterative Motion on December 14, 2000, for the immediate issuance of a temporary restraining order and/or writ of mandatory injunction;

- That, finally, due to the failure of respondent to act on their Petition, they filed a Motion for the Inhibition of herein respondent on January 3, 2001, which he granted on January 19, 2001.

Hence, complainants conclude that "in light of the foregoing considerations, the failure on the part of respondent herein to act with dispatch, despite knowledge of the extreme urgency of the reliefs prayed for in the petition, constitutes a violation of Rule 1.02 of Canon 1 of the Code of Judicial Conduct, which states that "a judge should administer justice impartially and without delay." [4]

On November 6, 2002, respondent filed his comment to the verified complaint pursuant to this Court's resolution of August 28, 2002, wherein he alleges:

1)

That it is not true as alleged by complainants that it took the filing of an urgent motion to set case for oral argument to get the case moving. In fact upon receipt of the rollo he immediately conducted a study of the case and found technical defects in the petition; [5]

2)

That it is not true as alleged by complainants that respondent failed to act on the petition with dispatch as from the time the rollo was forwarded to him for decision on November 20, 2000, a draft decision was prepared by him by November 27, 2000 and copies thereof were forwarded to the other Justices in the division for their study;

3)

That any delay in the resolution of the case was not caused by respondent but by "the collegiate body" character of the appellate court. Thus draft decisions are circulated to the other members of the division for their review, revision and approval. Hence when Mr. Justice Brawner inhibited [6] himself on December 4, 2000, a new member had to be appointed. This new member had to be given time to study the records and the case. Hence any delay is the necessary consequence of the procedures being observed in the Court of Appeals in the resolution of cases.

4)

Under the facts surrounding the case, respondent did not violate Rule 1.02 of Canon 1 of the Code of Judicial Conduct because the delay mentioned in said rule speaks of the reasonableness of time in disposing pending cases. By the nature of the Court of Appeals cases are not decided by the designated ponente alone. They are decided after consultations with the other members of the division, who must each be given time to study the case. Hence even if there was delay, the same is not actionable as it is the result of the internal proceedings of the court in resolving cases.

In their reply complainants allege:

That the claim of respondent that he had drafted a decision by November 27, 2000 is purely self-serving and highly doubtful as there is no way to confirm the same. Furthermore, the draft was done only on November 27, 2000 or only after the case was set for oral arguments. Prior to that respondent had not acted on the case.

The Court's Decision

There is no merit to the complaint.

The records show that from the time the case was filed in the Court of Appeals on September 14, 2000 the following happened:

- On September 20, 2000, the case was raffled and assigned to respondent as ponente;
- On October 10, 2000, a motion for oral arguments was filed by complainants;
- On October 18, 2000, respondent Alfredo Lim was required to file his comment to the petition;
- On October 27, 2000, a resolution granting the motion for oral arguments was issued by respondent;
- On November 6, 2000, oral arguments were presented by both parties and they agreed to submit their respective comments within a non-extendible period of ten (10) days from November 7, 2000;
- On November 16, 2000, the Office of the Solicitor General filed its comments on behalf of the public respondents;
- On November 20, 2000, the rollo of the case was forwarded to the office of the respondent for decision writing;
- On November 27, 2000, herein respondent appears to have completed the draft of a decision in the case;
- On November 28, 2000, copies of the draft were sent to the members of the division;
- On November 29, 2000, Associate Justice Cancio Garcia made a marginal note on the draft suggesting that they meet to discuss the draft;
- On December 4, 2000, Associate Justice Romeo A. Brawner inhibited himself from the case;
- On December 6, 2000, Justice Bienvenido L. Reyes was appointed to replace Justice Brawner in said division;
- On January 3, 2001, herein complainants filed a motion for herein respondent to inhibit himself from the case;⁷
- On January 19, 2001, herein respondent inhibited himself from the case;

Respondent submits that as of November 27, 2000, he had prepared a draft decision which he had forwarded to the other Justices in the division for consideration. In the copy of the transmittal letter dated November 28, 2000, copy of which he attaches as Annex "K," a notation appears thereon which states "Let us all sit together and discuss this," alleged by respondent to be that of Justice Cancio Garcia.

There is, therefore, ground to believe that respondent had utilized the period from the time the case was raffled to him to study the case and inasmuch as he was inclined to deny the petition he proceeded to prepare a full-blown decision.

It must be noted that complainants' petition was not merely for the ordinary writ of preliminary injunction but for a writ of preliminary mandatory injunction. Unlike an ordinary preliminary injunction which is a preservative remedy, a writ of preliminary mandatory injunction requires the performance of a particular act that tends to go beyond maintaining the status quo and is thus more cautiously regarded. [7] Accordingly, the issuance of the writ is justified only in a clear case, free from doubt or dispute. [8] The period to study its propriety in the circumstances was, however, interrupted when complainants filed their motion for oral arguments, and by the succeeding incidents where comments were required and filed and by the inhibition of Justice Brawner.

Just as complainants claim that the allegations of respondent that a draft decision had been prepared is self-serving, their allegations that such is non-existent is also self-serving as there is nothing on record to show that this is not so. What appears on record as part of the annexes of respondent is a copy of the draft decision and the marginal note of Justice Garcia. This Court is inclined to believe the existence of the document.

Thus this Court finds that the period of one and a half month within which to study and prepare a decision does not constitute the delay stated in the Canons of Judicial Conduct.

The right to a speedy disposition of a case, like the right to a speedy trial, is deemed violated only when the proceeding is attended by vexatious, capricious, and oppressive delays. The concept of speedy disposition is a relative term and must necessarily be a flexible concept. [9] Hence, the doctrinal rule is that in the determination of whether or not that right has been violated, the factors that may be considered and balanced are the length of delay, the reasons for such delay, the assertion or failure to assert such right by the accused, and the prejudice caused by the delay. [10]

This Court does not find that respondent in this case has thus delayed the disposition of the case. Furthermore, what is beneficial speed or delay for one side could be harmful speed or delay for the other, and vice-versa. [11] For in the effort to accord complainants their demands, greater injury may be caused to the responsible officers of the PNPA whose duty it is to maintain the integrity of the school. Some balancing had to be considered.

Neither did this Court find indicia of bad faith in the actuations of respondent nor have complainants made any averment to this effect. The semblance alone of inaction is not sufficient to constitute violation of Rule 1.02 of Canon 1 of the Code of Judicial Conduct.

WHEREFORE, the complaint is DISMISSED for lack of merit. No costs.

SO ORDERED.

Panganiban, C.J., Puno, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Tinga, Chico-Nazario, and Garcia, JJ., concur.

[1] Complaint, pp. 1-12.

[2] Id. at 5 & 9.

[3] Annex "B," Respondent's comment

[4] Complaint, p. 9.

[5] Respondent's Comment, pp. 10-12.

[6] Exhibit "L," Respondent's Comment.

[7] *Crystal v. Cebu International School*, G.R. 135433 April 4, 2001, 356 SCRA 296, 305.

[8] *Subic Bay Metropolitan Authority v. Universal International Group of Taiwan*, G. R. No. 131680, September 14, 2000, 340 SCRA 359, 375.

[9] *Lopez v. Office of the Ombudsman*, G. R. No. 140529 September 6, 2001, 364 SCRA 569, 578.

[10] *Alvizo v. Sandigabayan*, G. R. No. 101689, March 17, 1993, 220 SCRA 55, 64.

[11] Id. at 65.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.