

CANDIDO BULAN, COMPLAINANT, VS. TEOFILO B. CARDENAS, RESPONDENT.

A.M. No. 100-MJ. December 29, 1980

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

Candido Bulan, complaining witness in the case of People vs. Nemesio Palmea for Serious Physical Injuries before the Municipal Court of Rizal, Cagayan (Crim. Case No. 78), has charged respondent Judge of the Municipal Court of Tuao, Cagayan, with undue delay in the trial of the said criminal case.

In a letter dated 2 November 1972, addressed to the Secretary of Justice, complainant had alleged that on 26 September 1962, he filed a criminal case for Serious Physical Injuries against Nemesio Palmea before the Municipal Court of Rizal; that because the then incumbent Municipal Judge inhibited himself from trying the case due to his relationship to the accused, respondent Judge Cardenas was designated to hear the case on the merits, but that the latter failed to do so for almost ten (10) years despite complainant's repeated requests to set the case for trial.

The records sufficiently establish that the disposition of Criminal Case No. 78 for Serious Physical Injuries filed on 26 September 1962, had, in fact, dragged on for more than ten years.

In his Affidavit dated 30 January 1973, respondent Judge explained in part:

"x x x x x

"(4) That every time this Criminal Case No. 78 was set for hearing, Candido Bulan by himself or accompanied by Mayor Francisco Mamba always approached me in my residence at Tuao, Cagayan, to ask and/or plead for postponement of the hearing, informing me that his lawyer did not arrive yet;

"(5) Likewise, the accused himself on several occasions asked and/or pleaded, too, for postponements on the same reason that he did not have a Counsel;

"(6) That whenever I set Criminal Case No. 78 for hearing I became help-less in the face of the repeated request of the then Mayor Francisco Mamba to postpone the case because he needed Candido Bulan at his gasoline filling station at all times;

"(7) That he, Mayor Mamba, even imposed upon me to postpone the hearing of the case for an indefinite period of time, and that during his incumbency he was one among the most powerful mayors of Cagayan such that such impositions were dangerous to resist;

"(8) That the same Candido Bulan who is the Accused in Criminal Case No. 142, entitled 'People of the Philippines vs. Candido Bulan, for Multiple Murder' filed on July 3, 1970, before the Municipal Court of Rizal, Cagayan, could no longer be found in Tuao, Cagayan nor in Rizal, Cagayan, as the warrant for his arrest was never returned to the Municipal Court of Rizal, Cagayan;

“(9) That as such Candido Bulan remains at large thus further prolonging the delay in the proceedings;

“(10) That I could have even dismissed the said Criminal Case No. 78 due to lack of interest on the part of the complaining witness, for his repeated and unnecessary postponements and dis-appearance had it not been for an administrative complaint filed against me for dismissing a criminal case in the Municipal Court of Faire, Cagayan, wherein I was reprimanded by the Secretary of Justice thru the Presiding Judge of the Court of First Instance of Cagayan, Third Branch, Tuao, Cagayan, against such dismissal;

"x x x x x x x x x x"[1]

Referred for investigation to Judge Jesus B. Ruiz, then Judge of the Court of First Instance of Cagayan, his report was that respondent Judge could not be blamed for inaction or negli-gence for the following reasons: (a) Judge Cardenas set the hearing of the criminal case five times but hearings were post-poned upon complainant's request except for one which was re-requested by the accused; (b) neither complainant nor the special counsel, who filed the complaint, ever bothered to move that the case be scheduled for hearing; (c) Judge Cardenas could have rightfully dismissed the case but refrained from doing so because of the reprimand he received from the Department of Justice in another case; and (d) it was strange that complainant should complain against the actuations of Judge Cardenas when he (complainant) was also responsible for the delay.

The former Judicial Consultant, Justice Manuel Barcelona, however, in his Memorandum of 21 March, 1975, recommended that Judge Cardenas be separated from the service, thus:

"x x x Clearly, respondent has violated Section 3 of Rule 22 of the Revised Rules of Court, which reads:

"Adjournments and Postponements - A court may adjourn a trial from day to day, and to any stated time, as the expeditious and convenient trans-action of business may require, but shall have no power to adjourn a trial for a longer period than one month for each adjournment, nor more than three months in all, except when authorized in writing by the Chief Justice of the Supreme Court.

"Respondent's gross ignorance of the law, is aggravated with his admission that he succumbed to the pressure imposed on him by the Mayor of Tuao, Cagayan. Allow-ances may be given respondent for his failure to observe the said provision as no one is infallible. But for him to surrender the independence of his office, is an unpardonable act. This unmitigated actuation of respondent renders him unfit to continue occupying this position of trust. I recommend that he be separated from the service."[2]

This Court en banc set the case for hearing on 1 July 1975[3] but there were no appearances for either the complainant or the respondent. The case was then submitted for decision.

In postponing the case indefinitely there was a wilful dis-regard or reckless violation of section 3, Rule 22, supra, on the part of respondent Judge constituting a breach or neglect of duty which cannot but subject him to the corresponding administrative action.[4] That complainant, allegedly, became a fugitive from justice, will not absolve respondent Judge from administrative liability. Criminal Case No. 78, which is involved in this ad-ministrative complaint, was filed on 26 September 1962, while Criminal Case No. 142, in which complainant Candido Bulan is the accused and has allegedly remained at-large, was filed on 3 July 1970. Considering the lapse of almost eight (8) years from the filing of the criminal case in question until complainant allegedly became a fugitive from justice, respondent had all the opportunity to take the initiative and positively act on, or rightfully dismiss, the case for lack of interest to prosecute. Besides, if complain-ant had actually been at large, why would he emerge from hiding and risk arrest by filing this administrative Complaint on 2 November 1972?

Even conceding arguendo that complainant herein was not pre-judiced by the inaction of respondent Judge, it is best to bear in mind the cardinal principle that a crime committed is an offense against the State. In criminal cases, the intervention of the aggrieved parties is limited to being witnesses for the prosecution. The prompt disposition

of criminal cases remains the paramount objective that should consistently and relentlessly be pursued. Postponements for a few months could still be explicable. But a delay in the trial of a criminal case for eight years, and specially for 10 years, is reprehensible under the truism that justice delayed is justice undermined.

To aggravate matters, respondent Judge allowed himself to be swayed by extraneous considerations and to be dictated to by interested parties to the case particularly by the then incumbent Mayor of Tuao, Cagayan, upon the untenable reason that he was one of the most influential Mayors of that municipality and his "impositions were dangerous to resist." Thereby, he succumbed to pressure from a local politician, allowed his official actuations to be deterred by outside influence, and surrendered the prized independence of his office. Respondent's reason for not ordering the dismissal of the case for lack of interest to prosecute, which was fear of another administrative complaint against him and a reprimand from the Department of Justice, displayed lack of judicious discernment in the handling of suits pending before him based on facts and circumstances peculiar to each case. He was solicitous more of possible criticisms and administrative sanctions rather than in pursuing a positive judicial course of action.

We are constrained to find, therefore, that respondent has exhibited traits undesirable for dispensers of justice and is unfit to continue in office.

WHEREFORE, respondent, Teofilo B. Cardenas, is hereby dismissed as Municipal Judge of Tuao, Cagayan.

SO ORDERED.

Fernando, C.J., Teehankee, Barredo, Makasiar, Aquino, Concepcion, Jr., Fernandez, and Guerrero, JJ., concur.

Abad Santos, J., concurs with Justice de Castro.

De Castro, J., see separate opinion.

[1] pp. 6-7, Rollo.

[2] p. 28, *ibid*.

[3] Resolution, Second Division, Rollo, p. 30.

[4] *Barrueco vs. Abeto*, 71 Phil. 7 (1940).

SEPARATE OPINION

DE CASTRO, J.:

I concur, but only in finding respondent judge administratively liable. I am of the opinion that dismissal is too severe a penalty to be imposed upon the respondent Municipal Judge, considering that he was even recommended for exoneration by the Judge of the Court of First Instance, Hon. Jesus B. Ruiz, who personally investigated the case upon orders of this Court, and who knew the situation under which the respondent Judge was morally intimidated to act without complete volition on his part when he granted postponements at the instance of the complainant himself, but requested or imposed as respondent alleged, by Mayor Francisco Mamba, of Tuao, Cagayan.

The complainant also appears to have become a fugitive of justice later, because he himself was accused of multiple murder before the Municipal Court of Rizal, Cagayan on July 3, 1970, and the warrant for his arrest was never returned to the Court. He never asked for the setting of the case for hearing in respondent judge's court

personally or through the special counsel who filed the information, as he should have done if he was interested in the pro-secution of the case. To all appearances, he was no longer interested in prosecuting the case. Complainant had, therefore, given reasonable ground for the case to be dismissed either for lack of interest, or denial of right to speedy trial of the accused and the inaction for which respondent Judge has been charged has therefore, not prejudiced the complainant at all. But it would not be fair to punish respondent Judge for the latter ground - denial of right to speedy trial - which was not alleged in the complaint. Nor was his alleged surrender of independence of his office to the Municipal Mayor specified among the charges filed by complainant, which came to light only by way of explanation for the repeated postponements he granted almost all in behalf of the complainant.

It does not appear clear to me that there is violation of Section 3 of Rule 22 of the Revised Rules of Court on adjournments and postponements. From respondent's affidavit as quoted in the decision, it is not clear whether he "postponed" or "adjourned" the trial of the case. From the reasons given that complainant's counsel "did not arrive yet", and that the accused "did not have counsel", what seems likely is that trial never had commenced at all, or that continuation of trial set for the day never, likewise, perhaps even took place, so respondent judge "postponed", not "adjourned", the trial of the case, which is what the Rule aforesaid expressly does not allow for "longer than one month for each adjournment." There seems, indeed to be some ambiguity in the Rule as to whether adjournment and postponement mean the same thing, as some distinction exists between the two terms, (See 12 Am Jur 449). The doubt thus engendered should operate in respondent judge's favor. By all means, it is not through "gross ignorance of the law" as former Judicial Consultant, Justice Manuel Barcelona stated in his Memorandum of March 21, 1975, quoted in the decision, that respondent Judge granted postponements allegedly in violation of Section 3 of Rule 22, as earlier demonstrated.

In any case, the violation, if any, is perhaps, only akin to that of not deciding cases within 90 days from submission, as the time limit set for Judges of the Court of First Instance to render and promulgate the decision. This form of inaction may even be more serious in nature. But for such violation, the extreme penalty of dismissal has never been imposed. Only non-payment of salary, if certification of compliance with the rule (now a constitutional mandate in appealed cases) is not accomplished, is the usual sanction for the inaction, if committed not repeatedly.

It appears that the case was set for hearing on July 1, 1975. Neither complainant nor respondent Judge appeared. The case was then submitted for decision. While some explanation may be found in the respondent's non-appearance in that he may have relied so strongly and confidently on the absolutory findings and recommendation of Hon. Jesus B. Ruiz, the CFI Judge-Investigator, there seems to be no reason for complainant's failure to appear except perhaps his acquiescence in the recommendation of the Investigating Judge of which he must have gained knowledge.

Accordingly, and as recommended by the Office of the Court of Administrator, who restudied the case and made a very different finding from that of former Judicial Consultant Appellate Justice Manuel Barcelona who recommended dismissal, I vote to impose on respondent Judge one year suspension without pay. There are several circumstances intimated above, particularly those enumerated in the decision as having been found by the Judge-Investigator, which, at the very least, should be regarded as clearly mitigating the offense for which respondent judge was charged, to relieve him from the extreme or "capital" administrative punishment of dismissal.

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