

RUFINA BENDESULA, COMPLAINANT, VS. JUDGE ALFREDO C. LAYA, CFI, CEBU, BRANCH XII, ARGAO, RESPONDENT.*A.M. No. 144-CFI. July 18, 1974*

Ponente: ESGUERRA, J.

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A letter-complaint addressed to the President by Mrs. Rufina Bendesula which was referred to the Secretary of Justice who in turn forwarded the record of the case to this Court after we have assumed administrative supervision over inferior courts under the New Constitution, is the basis of this case against District Judge Alfredo C. Laya, Court of First Instance, Argao, Cebu, who is charged with alleged undue delay in the disposition of Civil Case No. 9739 (AV-177), entitled "Urbano Bendesula, Plaintiff vs. Celestina Templanza, et al, Defendants", then pending in the respondent's court. The respondent was requested to comment thereon, considering that an examination of the monthly reports submitted by respondent's Clerk of Court from April to November of 1972, did not show the aforementioned civil case as pending in his court. He explained that the cause of delay in the disposition of the civil case could be attributed to the parties themselves who failed to submit their memoranda, and to the failure of Docket Clerk Timoteo Egos to submit to Clerk of Court Rafael P. de la Victoria an ex-parte motion for extension of time to file memorandum sent by registered mail by the counsel for plaintiff in said Civil Case No. AV-177, thus preventing the Clerk of Court from calling the attention of the respondent to the pending motion. The respondent vehemently protested the insinuation of his being a misfit in the service contained in the letter-complaint and invoked his twenty three years of public service in the national and local government and his record in the judiciary as a career man possessed of integrity and independence.

This Court referred the case to Hon. Justice Emilio Gancayco of the Court of Appeals on August 10, 1973, for investigation, report and recommendation. On the very day that the case was set for investigation, the Investigator received by registered mail a motion for dismissal of the administrative case sent by Atty. Jesus Ermena Campos, counsel for complainant Rufina Bendesula, with an affidavit of desistance, stating that complainant never intended to file an administrative charge nor asked for investigation of respondent and her intention was merely to seek an early disposition of the civil case wherein her son is the plaintiff. On the strength of the above-mentioned motion to dismiss, the respondent asked also for the dismissal of the case, but the Investigator required him to present evidence.

The respondent testified in his defense that his sala at Argao, Cebu is a new one, all the personnel being new and inexperienced in the service so that he practically had to supervise everything; that his court is undermanned, there being no Deputy Clerk of Court and other necessary clerk; that his Legal Researcher acts as Court-Interpreter; that he had to go to Cebu City (67 kilometers away) to research in the law library of the Court of First Instance at his own expense; that his court has very inadequate law books; that he even had to supervise the repair of his chambers, being a new sala; that since he had been detailed before to Branch VII, at Barili and to Branch II, in Cebu City, he had to continue, as required by an administrative order, the hearing of cases that he had partially began in those two branches: that his office has incomplete equipment; that he had to leave his

station to attend to the hearing of Civil Case No. 22111; entitled "Alfredo C. Laya et al vs. Concepcion Tengson", filed in the City Court of Quezon City, an ejectment case he personally filed and had to attend to personally, the hearing of which was postponed seven times notwithstanding his opposition; that in his five years of service in the judiciary, he can recall only one case appealed to the Court of Appeals and the Supreme Court where his decision was reversed on a mistake of the appellee and not due to his decision.

The respondent also stated that when he assumed office in his permanent station after his appointment to the judiciary on August 28, 1968, he had more than 300 cases pending but at the time he testified there were only about 190 cases. When he was assigned at Branch II, in Cebu City, his average monthly case disposal was 20 to 25, because of the availability of law library facilities and experienced personnel, but in his station at Argao his average monthly rate of case disposal is only 15 because of the inadequacy of facilities previously mentioned.

When the delay in the disposition of Civil Case No. AV-177 was brought to respondent's attention, he reprimanded the Clerk of Court and the Docket Clerk for their failure to comply with respondent's instruction to call his attention to cases pending resolution, but considering that both of them were new in the service he gave them another chance to improve. In hearing cases, respondent used to take notes, but lately his right hand was getting numb and he had to discontinue doing so referring his ailment to a doctor.

It is irrefutedly established that there was a delay in the disposition of Civil Case No. AV-177 after its trial was terminated on March 17, 1972, as it was only decided on March 5, 1973, or about ten months after the extended period for filing memoranda had expired and after the respondent had been required to comment on the letter-complaint. The respondent is presumed to know that under Department of Justice Circular No. 64, dated September 14, 1970, judges should decide cases even if the parties failed to submit memoranda within the given periods. As stated in Circular No. 17, dated March 4, 1963, also of the Department of Justice, "should the parties fail to file their memoranda, the said period of 90 days shall be counted from the expiry date of the period fixed by the court." Circular No. 64, is explicit that "non submission of memoranda" is "not a justification for failure to decide cases".

Respondent's contention that the parties' failure to submit memoranda caused the delay in the disposition of the case is, therefore, absolutely untenable. The fault of his Clerk of Court and Docket Clerk for their failure to call his attention to that civil case pending resolution, is at most only a mitigating circumstance in his favor. A judge imbued with a high sense of responsibility and dedicated to the performance of his duties, as respondent would like to impress this Court that he is such one, knowing that the personnel of his court were new and inexperienced in the service, should have taken extraordinary precaution to closely supervise them, to prevent such infractions of mandatory rules as was committed in this case. He should have been fully aware of the reason for the stringent requirement of rendering a decision or resolving motions or other incidents within 90 days which is to prevent delay in the administration of justice, cognizant as he should be of that well-known adage that justice delayed is justice denied and of the danger that delay in the disposition of cases erodes the faith and confidence of our people in the judiciary.

Respondent's omission in causing delay in the disposition of Civil Case No. AV-177 cannot be excused. But in deciding this case We do not lose sight of extenuating circumstances in his favor, such as his good faith in his involuntary omission, prompt action in deciding the case in question when he was made aware of the delay in its disposition, previous good record of 23 years of public service, lack of trained personnel, equipment and facilities in his court at Argao, Cebu, and the fact that he had to attend to cases filed in three different branches of the Court of First Instance of Cebu.

WHEREFORE, respondent Judge Alfredo C. Laya is hereby admonished to be more careful and attentive in the

performance of his duties and functions and to exercise closer supervision and vigilance over his subordinates. So ordered

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

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