

**MARTINO GUITANTE, COMPLAINANT, VS. HON. TAGO BANTUAS,
DISTRICT JUDGE OF THE COURT OF FIRST INSTANCE OF MISAMIS
ORIENTAL, BRANCH II, CAGAYAN DE ORO CITY, RESPONDENT.***A.M. No. 1638-CFI. January 28, 1980*

Ponente: ANTONIO, J.

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In the verified complaint, dated May 3, 1977, filed by Martino Guitante on behalf of Antonio C. Tan, respondent District Judge Tago Bantuas of the Court of First Instance of Cagayan de Oro City, is charged with having failed to decide Civil Case No. 4018, entitled "Rosario Bandico v. Antonio Tan, et al.", pending before Branch VII of the Misamis Oriental Court of First Instance, within the ninety-day period required by law. It is alleged that the case was filed on October 13, 1972 and the trial thereof terminated on May 4, 1976, on which date plaintiff was given thirty (30) days from receipt of the transcribed notes of the proceedings within which to file her memorandum, and the defendants were given the same period from receipt of plaintiff's memorandum within which to file their respective memoranda. In accordance therewith, plaintiff's memorandum was received by defendants on September 4, 1976, while defendants filed theirs on September 22, 1976, and thereafter, plaintiffs filed their reply memorandum on February 11, 1977. Since February 11, 1977 until May 31, 1977 when the present complaint was filed, about 110 days had already transpired since the submission of the case for decision, without respondent resolving the case definitely.

Respondent Judge admitted that he was not able to decide Civil Case No. 4018 on time. He explained, however, that the cause of the delay is the non-transcription of the stenographic notes, and he had to rely on the transcribed notes of stenographers because the case is complicated. Considering the respondent's admission that Civil Case No. 4018 was not decided within the ninety-day period provided by law, no formal investigation of the charge is, therefore, necessary. The circumstances that there was late submission of the transcript of stenographic notes and that the case is a complicated one do not constitute a valid defense on the part of the respondent.

As this Court stated in *Lawan v. Moleta*:^[1]

"Such contention is untenable. It is clear from the provision of Art. X, Sec. 11 of the 1973 Constitution and of Sec. 5 of the Judiciary Act (R.A. No. 296) that the period within which a court should decide a case should be reckoned with from the date said case is submitted for decision. * * *.

"Respondent's claim that such reglementary period commences to run only upon the expiration of the period he gave his stenographer to complete her transcript of stenographic notes is clearly without merit. Precisely, judges are directed to take down notes of salient portions of the hearing and to proceed in the preparation of decisions without waiting for the transcript of stenographic notes. Furthermore, we have already ruled that with or without the transcribed stenographic notes, the 90-day period for deciding cases should be adhered to."

It must be noted, however, that according to respondent Judge in his answer to the complaint on August 23, 1979, Civil Case No. 4018 had already been decided.

ACCORDINGLY, respondent Judge is hereby REPRIMANDED and admonished that a repetition of the same offense shall be dealt with more severely.

Let a copy of this resolution be filed in the personal records of respondent Judge.

SO ORDERED.

Aquino, and Concepcion, Jr., JJ., concur.

Barredo, (Chairman), J., concur, but in my part, this decision should be without prejudice to other liabilities respondent has increased and the admonition should be for other misconduct, irregularity or offense.

Abad Santos, J., concur. Respondent's explanation that the cause of the delay is the non-transcription of the stenographic notes (which in itself is not an excuse) is not supported by the allegations in the complaint which were admitted by the respondent. For according to the complaint the case was submitted for decision only after the filling of memoranda which in turn depended on the transcription of the stenographic notes. Hence, when the 90-day period commenced to run the judge already had the transcript of notes.

[1] Administrative Matter No. 1696-MJ, June 19, 1979, 90 SCRA 579.

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