

SANCHO LAWAN, COMPLAINANT, VS. JUDGE ANTONIO MOLETA OF BACUAG, SURIGAO DEL NORTE, RESPONDENT.

A.M. No. 1696-MJ. June 19, 1979

Ponente: SANTOS, J.

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SANTOS, J.:

Verified complaint dated July 29, 1977 filed by Sancho Lawan, complainant, charging herein respondent, Municipal Judge Antonio P. Moleta, of Bacuag, Surigao del Norte with - 1) delay in the resolution of Criminal Case No. 869 for oral def-amation, or for having failed to decide the case within the three-month period required under Article X, Sec. 11 of the new Constitution; 2) failure to pay just debts; 3) habitual drunkenness; and 4) absenteeism and tardiness.

By way of particulars, complainant alleges -

1) Delayed Judgement - That respondent failed to comply with the constitutional mandate to decide cases within the 90-day period in Crim-inal Case 869 for oral defamation, which was filed against herein complainant, Sancho Lawan, with the Municipal Court of Bacuag, Surigao del Norte; that said case was submitted for decision on Jan-uary 15, 1977, the expiry date for the filing of the parties' memoranda, but was decided only on May 23, 1977 and the decision promulgated only on July 1, 1977.[1]

2) Failure to Pay Just Debts - That respon-dent is a perennial debtor, who consistently fails to pay his debts; that he is indebted to Sergio Lawan in the amount of P98.35, as evidenced by his signed vales, since 1972 yet; and, that he has not shown the least inclination to pay the same.[2]

3) Habitual Drunkenness - That respondent always gets drunk; people who are witnesses to his drinking vice are willing to come out in the open and testify.[3]

4) Absenteeism and Tardiness - That respondent seldom holds office as Municipal Judge and, if ever he holds office, he arrives very late - to the prejudice and damage of the dispensation of justice.[4]

Pursuant to the 1st Indorsement[5] dated September 7, 1977 issued by this Court thru Justice Lorenzo Relova, then Acting Judicial Consultant, Municipal Judge Moleta filed his comment[6] under date of October 10, 1977.

Respondent in his behalf avers that complainant is a disgruntled litigant, whom he sentenced in Criminal Case No. 869 for oral defamation to pay a fine of two hundred pesos (P200.00) and that complainant and his wife, Felicitas B. Lawan, are both teachers who entangled themselves as complainants or accused in various litigations involving: a) grave threats,[7] b) grave oral defamation,[8] c) administrative charge of immorality and serious misconduct in office[9] and, d) libel.[10]

Respondent vehemently denies the charges levelled against him. Point by point he dis-putes and impugns their veracity thus -

1) Delayed judgment - Respondent denies having rendered a delayed judgment in the afore-said criminal case. He

contends that while the period he gave to the parties to file their memoranda expired on January 15, 1977, the 90-day period within which to decide the case should not be counted from such date but from the date the period of 45 days which he gave to his stenographer to complete her transcript of stenographic notes expires, namely, March 1, 1977. He thus concludes that when he rendered the decision on May 23, 1977, only 83 days have lapsed. Justifying his act of giving his stenographer a long period of 45 days within which to complete her transcript of stenographic notes, respondent Judge explains that said stenographer is the lone personnel of the court performing, aside from her regular duties as stenographer, the routinary work in the office. He ascribes the delay in the transcription of the stenographic notes, which was not even completed within the 45-day period, to the heavy load of cases consisting of 27 criminal cases newly filed and 33 cases pending. Respondent Judge furthermore states that he has been designated by the Executive Judge, Hon. Oscar M. Herrera, as Municipal Judge Designate of Placer, Surigao del Norte as of June, 1977. Finally, he explains that the reason why the decision was promulgated only on July 1, 1977 was because of the motion for postponement of promulgation filed by the complainant himself.[11]

2) Failure to pay just debts - Respondent denies being indebted to Sergio Lawan, the brother of the complainant, and presents as Annex "9" of his comment a receipt dated September 17, 1976 whereby Fresnida Lawan, wife of Sergio Lawan, acknowledged having "(r)ecieved the amount of One Hundred and Thirty Pesos and Fifty Centavos (P130.50) from Antonio P. Moleta as payment for all his vales and accounts with (Lawan's) store and carinderia." [12]

3) Habitual drunkenness - Respondent disputes the complainant's charge of habitual drunkenness with the certification issued by Dr. Rafael B. Eliot, Rural Health Physician of Bacuag, Surigao del Norte, to the effect that the former is under the latter's medical care since 1975, for Hyper-tension, Essential, with blood pressure reading ranging from 140-180/20-110, and has been advised by him to refrain from drinking alcoholic beverages. Respondent contends that with such physical condition, a habitual drunkard cannot survive up to the present. Furthermore, he points out that if it were true, as complainant alleged, that there are "witnesses to his drinking vice (who) are willing to come out in the open to testify", why did complainant not submit even one affidavit just like he did in his second charge where he submitted an affidavit of his brother? [13]

4) Absenteeism and Tardiness - Respondent avers that he reports to office everyday, except in cases of emergency. He wonders how complainant - who is a teacher and who must perforce attend to his own classes every school day - can pretend to have a first hand information on his absences or tardiness, unless complainant has absented him-self from his own duties merely to spy upon him. Again respondent asks why complainant failed to produce even a single affidavit of a resident in Bacuag to support his charge. [14]

After a careful consideration of the complaint and the comment, together with their respective annexes, We find that the facts of record sufficiently provide a basis for the determination of respondent's administrative liability, or lack of it, without the further need of referring the four charges levelled against him to the executive judge for investigation. [15] We shall, thus, dispose of this case at this stage of the proceeding, resolving the aforesaid charges in their order of significance.

1) FAILURE TO PAY JUST DEBTS

We find no merit in the complainant's charge that respondent fails and refuses to settle his account with the store of Sergio Lawan (complainant's brother) since 1972. The receipt issued by Fresnida Lawan (wife of Sergio Lawan) on September 17, 1976 acknowledging payment by respondent of "all his vales and accounts with (Lawan's) store and carinderia" [16] negates any claim of account incurred with said store prior to such date.

2) HABITUAL DRUNKENNESS

We deem respondent's explanation satisfactory. Because he is suffering from hypertension, as certified to by Dr. Rafael E. Eliot,[17] he cannot imbibe liquor to the extent of being habitually drunk without endangering his health and life.

3) ABSENTEEISM AND TARDINESS

Complainant has not presented any proof to substantiate his charge of absenteeism and tardiness. Thus, the presumption of regular performance of official duties by the respondent Judge stands.

4) DELAYED JUDGMENT

Respondent admits that the period he gave to the parties in the criminal case within which to file their memoranda expired on January 15, 1977 and that he rendered the decision on May 23, 1977, or after a period of 128 days. He, however, insists that the 90-day period within which to decide the case should begin to run not from the expiry date of the period to file the memoranda but from March 1, 1977, the expiry date of the 45-day period he gave his stenographer to complete the transcript of stenographic notes. He thus contends that he decided the case well within the 90-day period since only 83 days have lapsed from March 1, 1977 to May 23, 1977.

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. And a criminal case is considered submitted for decision upon termination of the trial and/or the expiration of the period to file memoranda.

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.[18] Furthermore, We have already ruled that with or without the transcribed stenographic notes, the 90-day period for deciding cases should be adhered to.[19]

Consequently, We find respondent Judge guilty of delay in the rendition of judgment when he decided Criminal Case No. 869 on May 23, 1977, 128 days after the same was submitted for decision.

WHEREFORE, the charges of failure to pay just debts, habitual drunkenness and absenteeism and tardiness are hereby DISMISSED, but respondent Judge, for having decided Criminal Case No. 869 beyond the 90-day period required by Sec. 11, Art. X of the Constitution and Sec. 5 of the Judiciary Act, is hereby REPRIMANDED and ADMONISHED that a repetition of the same offense will be dealt with dismissal from the service.

Let this Resolution be noted in the personal record of respondent Judge in this Court.

SO ORDERED.

Barredo, (Acting Chairman), Antonio, Aquino, and Abad Santos, JJ., concur.
Concepcion, Jr., J., on leave.

[1] Rollo, p. 1.

[2] Ibid; Sergio Lawan is the elder brother of complainant.

[3] Ibid.

[4] Ibid.

[5] Rollo, p. 19.

[6] Rollo, pp. 21-25.

[7] Crim. Case No. 720, for Grave Threats, where Felicitas B. Lawan was the accused (Annex "Z" of respondent's comment; rollo, p. 27).

[8] Crim. Case No. 721, for Grave Oral Defamation, where Felicitas B. Lawan was the accused (Annex "3" of respondent's comment; rollo, p. 28); Crim. Case No. 870, for Oral Defamation, where Sancho Lawan was the accused (Annex "5" of respondent's comment; rollo, p. 30); Criminal Case No. 426, for Grave Oral Defamation, where Felicitas Lawan was the complainant in this case which was dismissed (Annex "6" of respondent's comment; rollo, p. 31).

[9] Administrative Case No. R-1079, where Felicitas B. Lawan was found guilty of misconduct and fined five (5) days' pay with warning that any repetition of the same offense in the future shall be dealt with drastically (Annex "4" of respondent's comment; rollo, p. 29).

[10] Criminal Case No. 374, for Libel, where Felicitas B. Lawan was the accused (Annex "7" of respondent's comment; rollo, p. 32).

[11] Respondent's comment, pp. 3-4 (rollo, pp. 23-24).

[12] Id., p. 4 (rollo, p. 24); Rollo, p. 34.

[13] Respondent's comment, pp. 4-5 (rollo, pp. 24-25); Annex "10" of respondent's comment (rollo, p. 35).

[14] Respondent's comment, p. 5 (rollo, p. 25).

[15] See: *Aquino v. Aficial* (Adm. Matter No. P-1065, January 31, 1978, 81 SCRA 222) and *In re Impeachment of Flordeliza* (March 12, 1923, 44 Phil. 608) - where the administrative charges were resolved by the Supreme Court without first conducting a formal investigation.

[16] Annex "9" of respondent's comment (rollo, p. 34).

[17] Annex "10" of respondent's comment (rollo, p. 35).

[18] Circular No. 87 issued by the Department of Justice on October 19, 1964.

[19] *In Re Impeachment of Flordeliza*, March 12, 1923, 44 Phil. 608.

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