

MANUEL BEDUYA, COMPLAINANT, VS. HON. PANFILO ALPUERTO, ACTING CITY JUDGE OF DANAOS CITY, RESPONDENT.

A.M. No. 1762-CTJ. March 31, 1980

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

In a verified complaint dated November 3, 1977, Manuel Beduya charged Municipal Judge Panfilo Alpuerto of Carmen, Cebu, in his capacity as Acting City Judge of Danao City, for inefficiency and incompetence in connection with the disposition of Criminal Case No. 2323 of the City Court of Danao City, entitled "People vs. Francisco Tabla, Sr., et al." for grave coercion.

The complainant specified four (4) counts to support the charge, to wit: [1] the aforementioned criminal case was submitted for decision on February 11, 1975 but the judgment was promulgated only on September 26, 1977, in violation of the provisions of the Constitution; [2] that in the same judgment, the respondent failed to make any finding as to the matter of conspiracy when there were two (2) persons charged in the case and the evidence adduced by the prosecution was sufficient to show the concurrence of their sentiments; [3] the decision was rendered with apparent partiality because the respondent failed to make any pronouncement as to the existence or non-existence of the third element of grave coercion; and [4] the respondent, in his penchant to acquit the accused on the mere pretext that there was no force or intimidation employed, ignored the directive to convict the accused for a lesser offense as per jurisprudence and law.

The respondent admitted that there really was a delay in the promulgation of his decision in the said criminal case. However, he attributed the same to ill-health resulting from his performing the duties of two offices - as the regular judge of Carmen, Cebu, and as the acting city judge of Danao City.

With respect to the second count, the respondent alleged that he could not possibly make any finding of conspiracy because in the first place the crime charged was not even proven by the evidence adduced during the trial.

With respect to the third count, the respondent claimed that the matter specified therein was thoroughly discussed in his decision.

Finally, the respondent claimed that the accused in the criminal case in question could not be convicted of grave coercion under 287 of the Revised Penal Code for insufficiency of evidence.

Pursuant to the resolution of this Court (First Division) dated January 10, 1979, the administrative case was referred to the Executive Judge of the Court of First Instance of Danao City for investigation, report and recommendation.

At the hearing held by the Investigating Judge on February 27, 1979, the complainant, instead of presenting evidence in support of his charge, manifested that he was no longer interested in prosecuting the case and asked that the same be dismissed. Consequently, the Investigating Judge submitted his report of the proceedings and

recommended that the case be dismissed in view of the lack of interest on the part of the complainant and for the latter's failure to substantiate the charge.

The fact that the complainant had lost interest in prosecuting the case does not warrant the dismissal of the instant case for the first count was sufficiently established. By his own admission and the certification of the Clerk of Court of the City Court of Danao City to the effect that the judgment was promulgated only on September 26, 1977 - over two years and seven months after the case was submitted for decision on February 11, 1975 - there can be no doubt that Criminal Case No. 232 was not decided within the ninety-day period provided by law. Thus, it is very clear that the respondent is administratively liable for the unreasonable delay in the disposition of the aforesaid criminal case.

ACCORDINGLY, THE RESPONDENT IS HEREBY REPRIMANDED AND ADMONISHED THAT A REPETITION OF THE SAME OFFENSE SHALL BE DEALT WITH MORE SEVERELY.

Let a copy of this decision be filed in the personal records of the respondent judge.

Teehankee, Acting C.J., Fernandez, Guerrero, De Castro, and Melencio-Herrera, JJ., concur.

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