

BERNARDA CONONIZADO, COMPLAINANT, VS. HON. REGINA ORDONEZ-BENITEZ, JDRC, MANILA, RESPONDENT.

A.M. No. 1970-JDRC. July 09, 1981

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

This is an administrative case charging Judge Regina Ordonez-Benitez of abuse of discretion and refusal to perform her duty as judge of the Juvenile and Domestic Relations Court, Manila, in Civil Case No. 29211.

The verified complaint, dated July 20, 1978, against the respondent judge states that the previous judge of the court ordered on July 14, 1976, the issuance of a writ of execution in the above-numbered civil case and that on April 15, 1977, complainant filed with the respondent a motion for the issuance of an Alias Writ of Execution. What happened thereafter is a tale of delay as narrated in the words of the complaint thus:

"The Court issued an Order on April 26, 1977, Annex "14" setting it [Motion for Alias Writ of Execution] for hearing over objections of Plaintiff to any further hearing. From this order—Annex "14", followed series of postponements sought by Respondent lawyer who claimed that he was busy in his big cases in courts, both civil and military, that he has to hire an accountant to go over the payments made; that the case has been pending for a long time yet plaintiffs manage to live and improved their lives so there is no need of support. All postponements sought by Defendant Lawyer were granted.

"Plaintiff called the attention of the Court that at the stage of the proceedings the issuance of the 'Alias Writ of Execution' has become a duty for the Court to do so and the Petitioner had a right to it.

"The Court assigned the case to its hearing officers four times without any results for there are no facts nor amounts to settle. It then issued an Order—Annex "15" setting the motion of Defendant for hearing on Feb. 10, 1978;

"Plaintiff filed a motion for reconsideration, Annex "16" to the order-Annex "15", citing cases to show that at the stage of the proceedings, no further hearing can be made- The Honorable Court has not acted on the motion up to the present.

"Defendant Lawyer did not come to the hearing as set by him for Feb. 10, 1978—Annex "15" but filed a motion to Dismiss—Annex "17"; which the Plaintiff opposed Annex "18".

"The Court then issued an Order, Annex "19" setting Defendant Lawyer's motion to dismiss—Annex "17" for hearing, while Plaintiff filed a Motion for Reconsideration, Annex "20" to the Court Order, Annex "19".

"On April 3, 1978, Defendant Lawyer did not come to court but filed Annex "21" which was again granted by the court, Annex "22". The Plaintiff's motion for reconsideration was not acted upon."

The principal defense of the respondent is as follows:

". . . upon assumption to duty she had to attend to numerous juvenile and civil cases, as well as special

proceedings within the court's exclusive jurisdiction, presently numbering 4,700 in all, and that the case of the complainant, Atty. Bernarda Cononizado, is only one of them.

"Our records show that her case was filed on March 14, 1956 in the Court of First Instance of Manila. This was among thousands of cases transferred from the Courts of First Instance and Municipal (now City) Courts of Manila to the Juvenile and Domestic Relations Court, upon its organization pursuant to Section 2 of Rep. Act No. 1401. Per our records, this case was received by the herein Court on June 5, 1956. Right now, the records of this case consists of seven (7) thick volumes. Certainly, as complainant is a lawyer herself, she will expect that her Judge will familiarize herself with the background of the case before she can issue the order prayed for. Besides, judges are just human; there is a limit to what one judge can do at a given time. The Court's daily calendar will show the volume of work which the undersigned has to tackle each day, not to mention the conferences and seminars she has to attend personally. Suffice it to say, that the undersigned is trying to the best of her ability to perform her duties effectively and well. Her periodic report of accomplishment to the Supreme Court will speak for herself."

We find the respondent's excuse lacking in merit. Considering that the incident in the case refers to a simple motion for the issuance of an alias writ of execution, the respondent did not have to go over the records of the whole case; it was sufficient to concern herself only with the decision and the incidents thereafter. In other words, she should always exercise discretion on the basis of the consideration that, more than the convenience of the courts or of the parties, the ends of justice and fairness must be served (*Vda. de Zubiri vs. Zubiri*, 18 SCRA 1157). She must consider all peculiar circumstances with a view of doing substantial justice (*People vs. Martinez*, 105 Phil. 200.) In any case, two considerations must be taken, namely: (1) the merit of the motion, and (2) the reasonableness of the objection.

WHEREFORE, the respondent judge is hereby reprimanded and admonished to resolve all pending motions within the period prescribed by law and her failure to do so will be dealt with more severely. Let a copy of this decision be placed in respondent's personal file.

SO ORDERED.

Barredo (Chairman), Concepcion Jr., Fernandez* and De Castro, JJ., concur.

* Designated to sit in the Second Division in lieu of Justice Ramon C. Aquino who did not take part.

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