

**NICOMEDES PENERA, COMPLAINANT, VS. MUNICIPAL CIRCUIT
JUDGE CRESCENCIO R. DALOCANOG OF GENERAL LUNA-PILAR,
SURIGAO DEL NORTE, RESPONDENT.**

A.M. No. 2113-MJ. April 22, 1981

Ponente: GUERRERO, J.

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GUERRERO, J.:

In a letter complaint dated January 29, 1979, Atty. Nicomedes Penera charged Municipal Circuit Judge Crescencio R. Dalocanog with ignorance of the law, gross incompetence and corrupt practices.

The records show that complainant filed with the respondent's court a complaint for forcible entry against Mrs. Severa Vda. de Literate. The respondent dismissed said complaint on the ground that the action has already prescribed and that the court has no jurisdiction over the subject matter-as the issue involved is boundary dispute not forcible entry. The complainant contended that the action has not yet prescribed because the complaint was filed within one month from the time defendant illegally entered the land in question, and that the issue of boundary was not raised in the pleadings.

The complainant alleged that there was a delay in the disposition of the said case (Civil Case No. 17 for forcible entry) considering that complaint was filed on Nov. 11, 1975 but was dismissed by respondent only on Sept. 4, 1978, or after a period of three years without the benefit of having it tried on the merits. It is further alleged that the respondent notarized a certain deed of sale notwithstanding the fact that four of-the vendors did not appear, sign and. acknowledge the said document before him. And, the respondent collected notarial fees for every document presented for his ratification and acknowledgment at the rate of 5% to of the amount of consideration involved.

Respondent in his comment denied the charges. He claimed that his actuaciones in Civil Case No. 17 for forcible entry are not relevant in this administrative matter considering that complainant interposed an appeal from respondent's resolution in said case to the Court of First Instance, Branch III, Dapa, Surigao del Norte. Anent the notarization of a certain deed of sale, respondent admitted that it was signed by the parties in the office of the Municipal Judge of Pilar, Surigao del Norte and was subscribed and sworn to before him, but he denied having charged notarial fees in all the documents notarized by him.

This Court take cognizance of the appeal of Civil Case No. 17 by the complainant. So much so that the imputation of ignorance of law based upon the erroneous dismissal of Civil Case No. 17, has become moot and academic. The issue, being sub judice may not be ventilated in this administrative matter. Nevertheless, the unexplained and prolonged inaction, encompassing three lengthy years to dispose said case cannot be ignored nor countenanced. These habits of indecision must be sedulously curtailed. Besides, the records reveal that a motion to dismiss was filed by the defendant in the early part of May, 1978. Yet, it was only on Sept. 4, 1978 did respondent resolve the said motion to dismiss. This act of slothfulness for almost four months is a manifest defiance of Section 5, Republic Act 296 otherwise known as the Judiciary Act of 1948 which requires judges to determine or decide

motions, special proceedings, petitions and all civil and criminal cases submitted within a period of ninety (90) days from the date of their submission.

The case of Custodio Escabillas vs. Hon. Luis D. Martinez[1] and Sancho vs. Judge Antonio Moleta[2] stressed the significance of Section 5 of Republic 296. This Court underscored prompt performance of duties and speedy administration of justice to minimize the deplorable and intolerable congestion of court dockets. Thus, in the words of Justice Malcolm:

"Much of the popular criticism of the courts which, it must be frankly admitted, is all too often justified, is based on the laws' delay. Congested conditions of courts dockets is deplorable and intolerable. It can have no other result than the loss and frequent defeat of justice. It lowers the standards of the courts, and brings them into disrepute." (In re Impeachment of Flordeliza, 44 Phil. 608)

We are also not in accord with the respondent's actuation of notarizing a deed of sale, inasmuch as the act is not in connection with the exercise of his official duties. A notary ex officio should notarize only documents connected with the exercise of his official duties.[3]

Consequently, We find respondent judge guilty of violating Section 5 of Republic Act 296, otherwise known as the Judiciary Act of 1948, and acting beyond the scope of his authority as a notary public ex officio.

WHEREFORE, the respondent judge is hereby reprimanded and admonished that a repetition of the same offense will be dealt with more severely. Let this Resolution be noted in the personal record of the respondent judge.

SO ORDERED.

Teehankee (Chairman), Fernandez and Melencio-Herrera, JJ., concur.

Makasiar, J., concurs in the result.

[1] A.M. No. i:7-MJ, 78 SCRA 367.

[2] 2A.M. No. 1696-MJ. 90 SCRA 579.

[3] Borre vs. Moya, et al., A.M. No. 1765-CFI October 17, 1980.

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