

RICARDO B. MOYA, COMPLAINANT, VS. JUDGE RICARDO TENSUAN, DISTRICT JUDGE, CFI, Q.C., RESPONDENT.

A.M. No. 2507-CFI. August 10, 1981

Ponente: GUERRERO, J.

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GUERRERO, J.:

It is not unusual that delay is the common cause of complaint in the administration of justice. The Canons of Judicial Ethics demand judges to be punctual in the performance of their judicial duties, recognizing that the time of litigants, witnesses, and attorneys is of value, and that if the judge is unpunctual in his habits, he sets a bad example to the bar and tends to create dissatisfaction with the administration of justice.

Delay in the disposition of Criminal Case No. Q-4882, entitled "People of the Philippines vs. Flor-deliza Ramirez," is the grievance of complainant Ricardo B. Moya against respondent Judge Ricardo P. Tensuan of the Court of First Instance of Rizal, Branch IV, Quezon City, in the instant administrative proceeding.

In a letter complaint dated November 10, 1980, complainant alleged that during the months of August, 1979, until March 1980, the respondent judge has issued a certificate that he has no pending motions or incidence or decisions when in truth and in fact, the afore-mentioned Criminal Case No. Q-4882 remained unresolved until April 1980, in violation of the provisions of Section 5 of the Judiciary Act.[1]

In his comment[2] Judge Tensuan averred that Mr. Ricardo Moya was the complaining witness against his wife in Criminal Case No. Q-4882 entitled "People of the Philippines vs. Flordeliza N. Ramirez", wherein a judgment of acquittal was rendered under date of February 4, 1980. He explained that said case was deemed submitted for decision on November 10, 1979 pursuant to an order dated October 12, 1979 giving defense counsel thirty (30) days therefrom within which to submit his memorandum; that the rendition of the Decision only on February 4, 1980 - which was the 86th day after the case was submitted for resolution - could be attributed to the fact that the docket of Branch IV is burdened with more than 1,000 pending cases; and that "due to the suffocating number of pending cases before his sala, the undersigned has indeed - as in Criminal Case No. Q-4882 subject of the complaint - rendered decisions on the 84th, 86th, 88th or even the 90th day after the submission of cases - BUT, most certainly never beyond the ninety (90) day period. Undoubtedly, when complainant Moya heard of the Judiciary Reorganization Act of 1980, he thought of this devious way of "getting back" at the Judge who refused to believe the charge he filed against his own wife; for is it not true that in the impending reorganization of the Judiciary, those Judges with pending administrative cases will not be reappointed? and never mind if the administrative case had no basis - at least, it will be pending!"

In reply[3] to the comment of respondent Judge, complainant asserted that:

"x x x EVEN AFTER FEBRUARY 4, 1980, I together with a friend has been inquiring the status of the said case to the said Respondent Judge Sala but everything were all in vain and that the clerks and employees assigned therein, even up to April 18, 1980, all their answers were in the NEGATIVE and still there was NO DECISION YET as allegedly rendered on February 4, 1980.

That as early as March 21, 1980, the said respondent Judge Ricardo P. Tensuan re-ceived my "EX-PARTE MANIFESTATION AND MOTION" requesting that respondent Judge have me properly notified for the promul-gation of the decision for the same, and said motion is hereto attached as Annex "A" of this reply.

That I still remember, that I was only notified of the promulgation of his deci-sion last April 28, 1980 setting the date of his promulgation of the same but it was RESET to April 30, 1980 but it was again RESET to another date on the re-quest of accused Ramirez, after we were confronted by the Respondent Judge Tensuan with his Chamber, and after we were in-formed by said respondent Judge that our Case or our Court battle was very closely like a "CRISPA-TOYOTA FIGHT."

That I was only informed by the said Res-pondent Court personnels that the decision was rendered/promulgated only on the first week of May, 1980 in the subject Criminal Case, far BEYOND THE 90 DAYS REGLEMENTARY PERIOD."

It appears, after an inquiry[4] by the Court Administrator as to when Criminal Case No. Q-4882 was con-sidered submitted for decision, decided and promulgated, that:

1. On October 10, 1979, defense coun-sel filed an urgent ex-parte motion praying that he be granted a period of thirty (30) days within which to file a memorandum for the accused;
2. On October 12, 1979, respondent Judge issued an order granting the ex-parte motion of defense counsel to file within thirty (30) days from October 10, 1979 to file his memorandum, with a warning that should he fail, the case would be deemed submitted for resolution;
3. The decision is dated February 4, 1980;
4. On May 12, 1980, the decision was promulgated after four (4) re-settings on the following dates: (1) April 28, 1980 -re-set for non-appearance of counsel for accused; (2) April 30, 1980 - re-set to May 5, 1980 with notice to accused, her counsel and complainant; (3) May 5, 1980 - re-set to May 7, 1980 with notice to accused, her counsel and complainant; (4) May 7, 1980 - re-set to May 12, 1980, with notice to accused, her counsel and complainant.

In the light of the foregoing, it is intimated that "(w)hile the decision in said case is dated February 4, 1980, Complainant Moya wants to imply that the same was rendered much later but ante-dated so that the same would appear to have been decided within the period allowed by law. On the other hand, res-pondent Judge contends that at the time he had more than 1,000 pending cases and yet he was able to render the decision even before the 90-day period; that the deep sense of grievance on the part of the complainant stemmed from the acquittal of the accused. In other words, respondent argues that if the accused were con-victed, he would have not filed this administrative case; that because of the acquittal, he retaliated by filing this case which may prejudice him in the impend-ing reorganization of the Judiciary." [5]

The records do not show when the Clerk of Court received the decision of the respondent Judge.

Whether or not the charge at bar arose from a suspicion as to the partiality of the Judge, or as an act of retaliation to the acquittal of the accused, the interest of justice would have been served and no complaint for delay would have arisen had respondent Judge promptly set the promulgation of his decision within the month of February after he had signed it on February 4, 1980, or even March, 1980. While it is possible that because of the number of cases in his sala (1,000 pending cases) respondent failed to direct the Clerk of Court to set immediately the case for the promulgation of the decision, nevertheless, more care and punctuality in the performance of his duties is required under the circumstances. Judges must be cautioned that it is not the date of signing the deci-sion but the date of receipt by the Clerk of Court that must be reckoned from the date of submission of the case for decision in order to comply with the ninety-day (90) period under Section 5 of the Judiciary Act. A conscientious and

responsible effort should have been made and exerted to avoid delay.

WHEREFORE, respondent Judge Ricardo F. Tensuan is hereby admonished to exercise the requisite circumspection, promptness and diligence in the discharge of his duties. Let this Resolution be noted in the personal record of the respondent Judge.

SO ORDERED.

Teehankee, Acting C.J., Makasiar, Fernandez, and Melencio-Herrera, JJ., concur.

[1] Sec. 5 of the Judiciary Act of 1948 (R.A. 296 as amended) requires judges to decide civil and criminal cases submitted for decision within a period of ninety (90) days from the date of their submission.

[2] Rollo, pp. 3-4.

[3] Rollo, pp. 10-11.

[4] Rollo, p. 18.

[5] Memorandum of the Court Administrator

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