

**LUCITO MACABASA, COMPLAINANT, VS. TOMAS P. BANAAG,
MUNICIPAL JUDGE OF JASA-AN, MISAMIS ORIENTAL, RESPONDENT.***A.M. No. 280-MJ. June 28, 1974*

Ponente: FERNANDO, J.

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This is an administrative proceeding against respondent Tomas P. Banaag, Municipal Judge of Jasa-an, Misamis Oriental, for negligence and dereliction of duty. More specifically, it was alleged by complainant Lucito Macabasa, the offended party in a case for grave oral defamation, entitled *People v. Casiano Galisa*, that at the scheduled continuation of its hearing set for August 29, 1970 at 8:30 o'clock in the morning, respondent Judge failed to appear until 12:00 o'clock noon, all the while planting mango seedlings in his garden, thus keeping waiting the parties, their witnesses, an assistant provincial fiscal and the defense counsel, who were all in court at the appointed time. It was then stated in the complaint, that the hearing having been reset for September 14, 1970, at the same time in the morning, respondent Judge having acted favorably on a joint manifestation of the parties with that request, he again failed to make his appearance until noon time, his absence caused by his being at his farm, this repeat performance resulting in the parties, witnesses, and the prosecuting fiscal as well as counsel for the defense losing half-a-day anew. Asked to comment and to explain by the Department of Justice, the complaint having been filed prior to the effectivity of the present Constitution, all that respondent Judge could allege by way of defense was that on both occasions his failure to go to his sala was caused by a severe, excruciating headache.

The matter was referred for investigation to Judge Benjamin K. Gorospe of the Court of First Instance of Misamis Oriental. The parties were duly heard. Thereafter, on November 22, 1972, Judge Gorospe submitted his report. It was therein noted: "As the respondent admits that he did not appear in his court on the dates he had himself set for the continuation of the hearing of the criminal case against *Casiano Galisa*, the only matter now left for the determination of this Court is whether his absence is justifiable." [1] Judge Gorospe did not so consider it. Thus: "This Court finds the explanation of the respondent hollow and unconvincing. For if the respondent was strong and hale enough to go to his garden at 6:30 to plant mango seedlings in the morning of August 29, 1970 certainly he would have been hale enough at 8:30 A.M. to go to his Court. The weight of probabilities indicate that the trial scheduled for that day slipped off his mind, and it was not until he was reminded thereof, by the messenger sent by Fiscal Cain that he remembered it, and as the hour was already late he decided to have the case called in the afternoon. If he were more attentive to his duties — assuming that he really had a headache — he could have dispatched a messenger to his Court before the hour set for trial or shortly thereafter, to inform the parties of the fact so that they will not be kept waiting in his courtroom for hours. Again, his explanation of his failure to appear on September 14, 1970 is implausible, for it passes the bounds of human credulity that a wife should not know of the presence or absence of her husband in their house, which is not so big, - or that she should unhesitatingly say that he was in the farm without first verifying upstairs if he was there or not (according to her she later found him in a room in the house) specially so because he was sent for in relation to his official duties." [2] Further, it was rightly observed by Judge Gorospe: "But even if it is conceded that he was really in his house as she claims still the manner in which he allegedly sent Exhibit 2 to the Chief of Police postponing the trial of the case - thru a

schoolboy whom he did not even know and whom the Chief of Police could not identify; and who allegedly delivered said note past twelve noon after the parties had already left - demonstrates lack of diligence, care, and seriousness on his part in the performance of his duties and a scant regard for the rights of the parties who underwent the trouble and expense of coming to Court in the two days set for hearing expecting speedy administration of justice. If the respondent judge had a little more concern and seriousness in the performance of his duties he would have sent his communication postponing the hearing thru a responsible messenger of sufficient age and discretion, to insure its delivery to the Chief of Police. But this he did not do – indicating that he did not take seriously the responsibilities of his exalted position." [3]

Such appraisal of the matter by Judge Gorospe commends itself for approval. The assailed conduct of respondent Judge cannot be interpreted as other than being oblivious to the trust reposed in him. He was deaf to the summons of a routinary task, one that accompanies a responsibility voluntarily assumed. There was not even a plausible pretense that could explain, much less justify, so obvious an inattention to duty. What appears to be indubitable is that between the claims of self-interest and attendance at court sessions, respondent Judge chose the former. This he could not do without being held accountable. Never is the truism that a public office is a public trust of more relevance than in the case of judges. [4] So it is if only to assure prompt and expeditious administration of justice, given express recognition in the present Constitution in these words: "All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies." [5] Now more than ever there is relevance to this excerpt from the pen of Justice Malcolm found in his *In re Flordeliza* [6] opinion: "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 condition of court dockets is deplorable and intolerable. It can have no other result than the loss of evidence, the abandonment of cases, and the denial and frequent defeat of justice. It lowers the standards of the courts, and brings them into disrepute." [7]

WHEREFORE, a fine is imposed on Tomas P. Banaag of Jasaan, Misamis Oriental, equivalent to two months' salary.

Makalintal, C.J., Zaldivar, Castro, Barredo, Makasiar, Antonio, Esguerra, Fernandez, Muñoz Palma, and Aquino, JJ., concur.

Teehankee, J., did not take part.

[1] Report of Judge Gorospe, 2.

[2] Ibid. 4.

[3] Ibid, 4-5.

[4] Cf. *Orencia v. Enrile*, L-28997, February 22, 1974, 55 SCRA 580.

[5] Article IV, Section 16 of the Constitution.

[6] *In re Impeachment of Flordeliza*, 44 Phil. 608 (1923).

[7] Ibid, 615.

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