

**JUANA SAN PEDRO AND FRANCISCO SAN PEDRO, complainants, vs.
HON. JUDGE SERAFIN SALVADOR AND ATTY. JOSE S. CATBAGAN,
respondents.**

A.M. No. 749-CFI. September 05, 1975

Ponente: MARTIN, J.

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MARTIN, J.:

Respondent Judge Serafin Salvador of the Court of First Instance of Rizal is charged with:

- (a) Failure to comply with the decision of the Court of Appeals in CA-G.R. No.46874-R;[1]
- (b) Inaction in the disposition on the merits of Civil Case No. C-1302;and
- (c) Falsification of time records as of the signing of Judicial Form No. 86.

Respondent Atty. Jose S. Catbagan on the other hand is charged with:

- (a) Inefficiency for having failed to comply or discharge his duties as receiver in Civil Case No. C-1302, from July 1, 1972; and
- (b) Falsification of documents for submitting a pleading in his behalf with the Court of Appeals with a false allegation or narration of facts.

For a factual background of CA-G.R. No. 46874-R, the records show that the property for which the appointment of a receiver is being requested by complainant Francisco San Pedro consists of 29 hectares of fishpond donated by a rich woman of Tonsuya, Malabon, Rizal to the Salaos and Gozons of the same place, the earnings of which are intended for the maintenance of San Antonio Church, situated at Tonsuya, Malabon, Rizal, as well as for its personnel, like the caretakers, organist, janitor, choir singers and for other pious works and activities of the church. The fishpond was entrusted to the fathers of the 'Salaos and the Gozons, the protagonists in Civil Case No, C-1302, for their management and administration by virtue of a deed of donation, entitled "Donacion De Una Pesqueria Otorgada Por Dona Geronima Gabriel o de San Gabriel, A Favor de Don Francisco Gozon Y Sta. Maria Y Don Pedro Salao Y Vicencio," executed in the year 1902. Over the years the Salaos and the Gozons neglected the San Antonio Church. Almost all the earnings of the fishpond donated to them were being used by the Salaos and Gozons for their own benefit so much so that there came a time when the Salaos and the Gozons could no longer see eye to eye as regards the earnings of the fishpond. This ended up in a suit filed by the Salaos against the Gozons in the Court of First Instance presided by the respondent Judge. Upon learning of the filing of the case against the Salaos, complainants Francisco San Pedro and Juana San Pedro, as caretakers of the San Antonio Church, intervened in Civil Case No. C-1302 in order to protect the interests of the church.

From the records it is clear that after the promulgation of the decision of the Court of Appeals in CA-G.R. No. 46874-R, complainants filed with the respondent Judge a motion for immediate appointment of a receiver pursuant to the Court of Appeals' decision and for the payment of their salary as caretakers of the church. Despite

said motion, respondent Judge, however, allegedly refused to obey the order of the Court of Appeals. And so, the complainants asked the Court of Appeals for a clarification of its order.

On May 26, 1972 the Court of Appeals issued a resolution to the effect that there was no need to clarify its order because it was clear enough for anybody to understand. The respondent Judge continued to ignore the aforesaid resolution of the Court of Appeals.

On June 22, 1972 complainants filed a manifestation with the Court of Appeals praying that the respondent Judge be ordered to immediately appoint a receiver. Respondent Judge readily obliged by appointing Atty. Jose S. Catbagan, Branch Clerk of the Court, as receiver in Civil Case No. C-1302. For failure of Atty. Jose S. Catbagan to discharge his duties as such, complainants filed a motion to cite him in contempt of court. On April 11, 1973, the Court of Appeals admonished Atty. Jose S. Catbagan to comply with his duties as receiver.

I

As to the alleged failure of the respondent Judge to comply with the decision of the Court of Appeals requiring him to appoint a receiver in Civil Case No. C-1302 respondent Judge explained that inasmuch as private respondent in said case has filed a motion for reconsideration of the decision of the Court of Appeals on February 14, 1972 and upon denial of the same, has appealed the decision to the Supreme Court, he deemed it proper not to appoint a receiver in the meantime for, in the words of the Honorable investigator.[2] "there was the chance that the decision of the Court of Appeals might be changed." Besides, the appointment of a receiver requires certain amount of discretion in the selection of a qualified and capable person. In the opinion of the respondent Judge, complainant Francisco San Pedro who insisted that he be appointed receiver in the aforesaid case was not qualified because of his interest in the subject-matter of the controversy. That respondent Judge did not mean to wilfully and maliciously delay the appointment of a receiver is confirmed by the fact that immediately after receiving the Court of Appeals' resolution of October 26, 1972 he appointed Atty. Jose Catbagan as a receiver in Civil Case No. C-1302.

II

As to the alleged failure of the respondent Judge to implement the resolution of the Court of Appeals to pay the salaries of the complainants, as caretakers of the San Antonio Church, and to require an accounting of funds, if necessary, the respondent Judge explained that he could not immediately implement said resolution because Atty. Jose Catbagan was at first reluctant and hesitant to immediately assume his position as receiver on the grounds: (1) that he might not be able to discharge his duties well because of the burdens of his position as branch clerk of Court; (2) that one of the parties was questioning his appointment as receiver; and (3) that he felt that he should not defray the expenses for the filing of the required bond. However, Atty. Jose S. Catbagan was constrained to accept the position and pay the caretakers their monthly allowance from July 1, 1972 until January 13, 1973 when the Court of Appeals ordered him to temporarily pay a substantial monthly salary to the caretakers of the church and conduct an accounting if necessary. If there was therefore a delay in the implementation of the resolution of the Court of Appeals to pay the salaries of the caretakers of the church, it was due to circumstances not of the respondent Judge's own making.

III

As to the alleged failure of the respondent Judge to dispose of Civil Case No. C-1302, respondent Judge gave as his reasons:

"x x x. the unavoidable delays in the early termination of this case is the multitudinous, repetitious and

oftentimes simultaneous filing of pleadings by complainants with this Court (Supreme Court) and the Court of Appeals and which entailed numerous separate hearings and resolutions by this Court, and consequently interrupted the hearings of the main case."

Indeed, in the incident concerning the appointment of the receiver alone, the complainants had to file pleadings on February 1973, May 3, 1973, May 15, 1973, August 6, 1973, February 19, 1974 repeatedly requesting that he be appointed receiver but which respondent Judge consistently denied for the reason that complainant Francisco San Pedro was not the best qualified. Similarly, complainants did the same thing in other incidents of the main case. This is the reason why the pleadings in the main case have accumulated to no less than four volumes, a reason for the Honorable Investigator to complain that the case had really become "complicated and not very easy to understand and remember all its incidents, ramifications and details." A judge should not be blamed for the delay in the disposition of a case when the delay is beyond his control, specially in the absence of any showing that it was done in bad faith and intended to prejudice a party to the case or that it was motivated by some ulterior ends. In the case before Us, complainants have not shown any such motive why the judge should delay the disposition of the case on the merits.

IV

As to the charge that respondent Judge violated the 90-day period in the disposition of pending motions, several counts have been presented.

It is claimed that (1) the motion to fix monthly salary dated December 15, 1969; (2) the motion for appointment of receiver of fishpond dated December 16, 1969; (3) the petition for issuance of writ of preliminary injunction dated August 8, 1970 filed by intervenors have not been resolved for four (4) years. The records show that the respondent Judge has resolved said motions in the following manner:

"As regards the motion for appointment of a receiver the Court after a careful consideration of the arguments adduced for and against said motion, is of the opinion that the same should be, as it is hereby DENIED.

However, with respect to the motion to fix monthly salary of the intervenors and the petition for the issuance of a writ of preliminary injunction, action thereon is held in abeyance, it appearing that they are linked to the very issues to be decided by the Court after hearing of this case on the merits."

Claim is also made that the motion for the translation and interpretation of the Spanish Deed of Donation has not been resolved up to more than one year. The records reveal that the respondent Judge has resolved said motion in his order of April 27, 1973, by holding in abeyance the interpretation of said Deed of Donation until the presentation of evidence by the parties.

Likewise, it is submitted that complainants' motion to require the Salaos and the Gozons to deposit all moneys and/or earnings of the fishpond in question and to render an accounting thereof covering the last ten years, was submitted for resolution on February 28, 1970 which according to complainants has not been resolved for four (4) years. To this respondent Judge explained that all he has done to resolve said motion was to issue an order on November 17, 1970 which reads as follows:

"Let all pending incidents in this case be deemed submitted for resolution by this Court."

We believe this order has not disposed of the subject motion.

It is further claimed that the complainants' Ex-Parte Motion to command the Salaos and the Gozons to pay the salaries of the complainants and to deliver all earnings of the fishpond to a new receiver had been submitted for resolution on November 18, 1972 but up to now no resolution has yet been made. However, the records indicate

that said motion has already been resolved by the respondent Judge's order of December 8, 1972 which states:

"Pursuant to the Resolution, dated October 26, 1972, of the Court of Appeals, specifically the implementation of the No. 2 of the dispositive portion thereof, dated January 26, 1972, to temporarily pay a substantial monthly salary to the caretakers and it appearing that there are no sufficient funds to pay the same. Atty. Jose S. Catbagan, the duly appointed Receiver, is hereby order to pay the San Pedro, caretakers of the San Antonio Church, the sum of P500.00 monthly commencing from July, 1972 and every month thereafter, subject to the availability of funds."

It is also claimed that complainant's Urgent Motion to implement the order of the Court of Appeals submitted for resolution on May 19, 1973 has not been resolved for more than one year, Respondent Judge, however, explained that there were some intervening incidents after said motion, which he declared submitted for resolution on June 2, 1973. such as the resolutions of the Court of Appeals on May 30, 1973, setting for hearing on June 22, 1973 the motion of the Salaos to set aside the resolution of said Court dated April 11, 1973. Inasmuch as the subject motion is closely related to the motion submitted for resolution on May 19, 1973, the respondent Judge held in abeyance his action thereon. However, he finally acted on the subject motion when the Court of Appeals issued its resolution dated January 2, 1974. requiring all incidents in connection with the implementation of its decision in CA -G.R. No. 46874-R, be submitted to and resolved by the respondent Judge.

Then it is submitted that complainants' Urgent Motion for Admission by Adverse Parties, dated February 15, 1973 was not allegedly resolved for sixteen months. The records, however, show that the respondent Judge has already resolved said motion in his order dated April 27, 1973 by denying said motion.

Finally, it is claimed that complainants' Motion to Appoint New Receiver to replace Atty. Jose Catbagan and the opposition thereto were submitted for resolution on March 8, 1974 but have not been yet resolved. The records show that the said motion has been resolved by the order of the respondent Judge dated June 7, 1974.

All told, We have come to the same conclusion arrived at by the Honorable Investigator that except in two instances, all other motions in the case have been duly acted upon either by denying them or holding them in abeyance for resolution with the main case. For the aforesaid two instances, respondent Judge deserves admonition. Considering the multifarious motions filed in the case, it is not very unlikely that respondent judge, despite utmost efforts exerted, will find himself in a quandary in complying with the 90-day limitation within which to decide pending motions.

V

On the other hand, the charges against Atty. Jose S. Catbagan of (a) inefficiency for having failed to comply or discharge his duties as receiver in Civil Case No. C-1302 and (b) falsification of documents for having submitted in his behalf, a pleading in the Court of Appeals with false allegations or narration of facts, have not been sufficiently proven. As discussed earlier, Atty. Jose S. Catbagan was reluctant and hesitant to assume the position of receiver in Case No. C-1302 for three good reasons: (1) that he believed that he would not be able to discharge his duties as receiver in Civil Case No. C-1302 because of his duties as Branch Clerk of Court; (2) that one of the parties was trying to question his appointment as a receiver in said case; and (3) that he felt that he should not defray the expenses for the filing of the bond. But even with these reasons, Atty. Jose Catbagan upon request of the Court of Appeals, accepted the position and discharged his duties as a receiver. This Court has already adopted a policy of prohibiting clerks of court from being appointed receivers in cases pending before their courts.

The charge of falsification of public documents against Atty. Jose S. Catbagan is anchored on the allegations in his "comment" to the motion of complainants to cite him for contempt of court. Said comment reads as follows:

"That the undersigned was appointed on July 1, 1972, pursuant to the resolution of the Hon. Court of Appeals dated June 23, 1972, but because of the opposition to his appointment by defendant Gozon, which reached the Court of Appeals and subsequently elevated to the Supreme Court, his assumption of the position was held in abeyance until final disposition of the opposition to his appointment.

That on November 7, 1972, he requested Mr. Allan Hernandez, Process Server of the Court to make an ocular inspection of the San Antonio Church to determine the needs of the church (Annex C) and he reported that there is no need for immediate repair, x x x"

It is claimed that the foregoing allegations are false.

There can be no better analysis of the aforesaid charge than that of the Honorable Investigator's which We find to be sound and reasonable. An examination of the records show that there was really a petition filed with the Supreme Court in G.R. No. L-36177 against the decision of the Court of Appeals, only, the Supreme Court did not give it due course (sec page 318, SP-46874-R and as shown on page 323). The Gozons even moved for a reconsideration of the resolution of their petition for certiorari, but the motion was denied. There is therefore no basis in the charge that Atty. Jose S. Catbagan had falsified his allegations in paragraph 13 of the complaint: As to the charge that he made untruthful statements in paragraph 15 of the complaint, complainants failed to present the report mentioned by them in their charge. Without such report there is no way of telling whether Atty. Jose Catbagan had really committed the alleged untruthful statement in said paragraph 15.

IN VIEW OF ALL THE FOREGOING, judgment is hereby rendered:

- (1) Exonerating respondent Branch Clerk of Court Jose S. Catbagan of the charges filed against him, and
- (2) Admonishing respondent Judge Serafin Salvador to be more diligent and careful in the disposition of cases before him with a warning that a repetition of similar acts contained in the present charges against him will be dealt with severely.

SO ORDERED.

Teehankee, Makasiar, Esguerra, and Muñoz Palma, JJ., concur.

Castro (Chairman), J., did not take part.

[1] "WHEREFORE, in view of the foregoing considerations, judgment is hereby rendered directing respondent judge to (1) appoint a receiver pendente lite giving priority to the one agreed upon by the parties, to take charge of the fishpond temporarily and receive its fruits and any improvements thereon; (2) after the appointment of receiver, ordering the latter to pay temporarily a substantial monthly salary to the caretakers, the San Pedros, from the fruits he received, such allowance being subject later on to the result of the case after trial on the merits; (3) ordering said receiver to cooperate with the caretakers in making provisions for the temporary maintenance of the church. Should a receiver be not immediately appointed, the respondents Gozons are temporarily ordered to fulfill Nos. 2 and 3 above enumerated.

The writ of preliminary injunction previously issued shall remain in full force and effect with respect to the restraining of the Gozons and Salaos from alienating, encumbering or disposing of the land in question or any portion thereof pending the termination of the case below. Respondent Judge is enjoined to expedite trial on the merits so that the conflicting claims of the parties may be resolved as soon as practicable."

[2] Justice Magno S. Gatmaitan. Court of Appeals investigated the charges against respondents.

[3] "WHEREFORE, the respondent Judge is hereby ordered to immediately implement upon receipt of this resolution the entire dispositive portion of January 26, 1972 resolution specifically the unfulfilled portion of No. 1 as well as Nos. 2 and 3. Attention is drawn to the receiver that No. 2 specifically orders him to temporarily pay a substantial monthly salary to the caretakers, the San Pedros and conduct an accounting if need be in order to fulfill the same. We also reiterate our order to respondent Judge to expedite trial on the merits so that the conflicting claims of the parties may be resolved as soon as practicable, more so, since the Supreme Court has already denied the petition for certiorari filed by private respondents."

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