

REQUEST FOR ASSISTANCE RELATIVE TO SPECIAL PROCEEDINGS NO. 28 PENDING AT REGIONAL TRIAL COURT OF HIMAMAYLAN, NEGROS OCCIDENTAL, BRANCH 55, PRESIDED BY JUDGE JOSE Y. AGUIRRE, JR.

A.M. No. RTJ-01-1624 (Formerly A.M. No. 96-8-303-RTC). March 26, 2001

Ponente: VITUG, J.

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VITUG, J.:

In a verified letter-complaint, dated 09 May 1996, complainant Constancia Amar requested assistance relative to Special Proceedings No. 28, entitled "Intestate Estate of Spouses Dioscoro & Emperatriz Rubin," assigned to Judge Jose Y. Aguirre of the Regional Trial Court, Branch 55, of Himamaylan, Negros Occidental.

Complainant states that she obtained a favorable decision for wage differentials in a labor case (Case No. A-593-81, "Constancia Amar vs. Hda. Fanny and Dioscoro Rubin") before the National Labor Relations Commission ("NLRC"). A writ of execution was issued by the NLRC against the Estate of Spouses Rubin. In relation thereto, in Special Proceedings No. 28, respondent judge issued an order, dated 16 November 1993, directing the judicial administrator of the Estate of Spouses Rubin to settle Amar's claim.

On 27 April 1994, complainant filed a motion for the issuance of an order of contempt against the judicial administrator, Feliciano Rubin, for not heeding the court order. Respondent judge failed to resolve the motion for more than three years. Suspecting a possible collusion between respondent judge and the judicial administrator, complainant sought the assistance of the Office of the Court Administrator.

On 28 June 1996, a verified complaint was ultimately filed by Atty. Napoleon Corral, counsel for complainant Amar in Special Proceedings No. 28, against respondent judge. In the complaint, Atty. Corral, after reiterating the foregoing settings, added that he likewise filed a motion to order the sheriff to sell personal property or sell or mortgage real property of the estate in order to allow the settlement of Amar's claim but the motion also remained unresolved by respondent judge. Atty. Corral claimed that the available property of the Estate of Spouses Rubin could well satisfy Amar's claim.

In his comment, respondent judge admitted having issued his order of 16 November 1993 directing the judicial administrator to pay the judgment award of Constancia Amar. Explaining that the estate had no immediate funds to pay Amar's claims, respondent judge said that he authorized the judicial administrator to sell or mortgage real property of the estate in order to pay its creditors but no third party was willing to transact with the judicial administrator as there were three groups of heirs claiming ownership of the estate property. He denied any collusion between him and the judicial administrator.

The case was referred to the Office of the Court Administrator ("OCA") for evaluation, report and recommendation.

The Office of Deputy Court Administrator Zenaida Elepaño, to whom the case was assigned, required respondent

judge to submit a status report on the motion to cite the judicial administrator for contempt and the motion to order the sheriff to sell or mortgage so much of the property of the estate to satisfy the claim of Constancia Amar. Respondent judge, in his letter of 13 April 1998, explained that the court could not direct the sheriff to sell the property of the estate for being inconsistent with Section 3, Rule 88, of the Rules of Court. He failed to give an account on the status of the motion for contempt. In a letter, dated 15 September 2000, addressed to the Office of DCA Elepaño, respondent judge reported that Special Proceedings No. 28 was still pending hearing due to repeated change of counsel made by both parties. As regards his directive to the judicial administrator to pay the claim of Constancia Amar, he attached a copy of his order of 23 August 1999 that read:

"This court has reached the limit of its patience over the gross disobedience of the judicial administrator to the several lawful orders of this court directing him to pay the claim of Constancia Amar, et al. in the amount of P205,125.00.

"In view of the utter disregard by the judicial administrator of the several orders of this court commanding him to pay Constancia Amar, et al., the court hereby sets the case for hearing on September 6, 1999 at 8:30 a.m. to receive evidence from the judicial administrator why he should not be replaced as judicial administrator. Failure on his part to appear will constrain this court to immediately replace him with a person of suitable qualifications and competence.

"SO ORDERED."

Upon further inquiry, respondent judge admitted that as of 03 October 2000, he was still unable to resolve the two motions subject of the instant complaint.[1]

Then, in a letter dated 15 December 2000, respondent judge informed the OCA that complainant Amar's claim for wage differentials against the estate had finally been satisfied; he prayed that the instant administrative complaint be considered as having become moot and academic.

The OCA, in its memorandum of 29 January 2001, came out with its evaluation, report and recommendation; it said:

"It has repeatedly been held that delay in resolving motions and incidents pending before a judge within the reglementary period of ninety (90) days fixed by the Constitution and law is not excusable and constitutes gross inefficiency. The judge is likewise guilty of violation of Rule 3.05, Canon 3 of the Code of Judicial Conduct which mandates that a magistrate shall dispose of the court's business promptly and decide cases within the required periods (Bonifacio I. Buinto vs. Judge Aunario L. Lucero, 261 SCRA 1).

"Obviously, Judge Jose Y. Aguirre has been remiss in the performance of his duties when he failed to act on Amar's Motion for Issuance of the Order of Contempt to the Judicial Administrator despite the lapse of six (6) years and Motion to Order the Sale of Personal Property or Sale or Mortgage of Real Property through the Sheriff for five (5) years.

"The excuse proffered by Judge Aguirre that he didn't want to cite the judicial administrator in contempt because the latter is sickly and he didn't want to be the cause of the administrator's death is flimsy. Judge Aguirre is mandated by law to resolve the motion within ninety (90) days and he must resolve it regardless of consequences, real or imagined.

"Nonetheless, Judge Aguirre is correct when he said that Amar's motion to order the sheriff to sell in public auction or to mortgage the properties of the estate is contrary to law. The motion contravenes Section 3, Rule 88 of the Revised Rules of Court which specifically provides that it is only the executor or administrator of the estate whom the court may authorize to dispose of the properties of the estate so that the proceeds of the sale or mortgage may be applied to its obligations. However, Judge Aguirre still has the duty to resolve the motion within the 90-day reglementary period. What he should have done was simply to deny the motion on the

ground that it is contrary to law.

"The non-compliance of the 90-day period for resolving motions renders the respondent judge subject to administrative liability. The 90-day period is intended to prevent delay in the administration of justice and non-compliance thereof constitutes a serious violation of the constitutional right of the parties to speedy disposition of their cases."

The OCA recommended that the case be formally docketed as an administrative case, and that respondent be FINED in the amount of P2,000.00 for failure to resolve the two motions filed by Constancia Amar within the reglementary period required therefor, with a WARNING that a repetition of the same or similar act shall be dealt with more severely.

The Court basically agrees with, and thereby adopts, the recommendation of the OCA.

Canon 3, Rule 3.05, of the Code of Judicial Conduct requires that a judge shall dispose of the court's business promptly and decide cases within the periods prescribed therefor. The Court has consistently reminded judges to be conscious of that duty and to handle the cases before them with dispatch. Procrastination not only can cause great injustice but also can invite suspicion of ulterior motives on the part of the judge. When circumstances do arise that could render them incapable of seasonably acting, all that a judge should do is to request from the Court, and justify to it, an extension of time to resolve or decide the pending matter. The Court, cognizant of the caseload of judges and mindful of the difficulty encountered by them in the timely disposition of cases, would almost always grant the request.[2]

The motion to cite the judicial administrator for contempt, filed on 4 May 1994, was never resolved by respondent judge. The explanation that he could not grant the motion because the judicial administrator was sickly certainly is no excuse. The motion to require the sheriff to sell or mortgage the real properties of the estate was also not resolved by respondent judge, stating that to grant the motion would be contrary to Section 3, Rule 88, of the Revised Rules of Court. If respondent judge indeed felt so, then he should have forthwith issued an order denying the motion instead of allowing the motion to remain unresolved.

The Court has consistently impressed upon members of the judiciary the need to resolve and decide cases promptly and expeditiously under the time-honored precept that justice delayed is justice denied. Every judge should act with dispatch and should be careful, punctual, and observant in the performance of his office. Failure to decide a case within the reglementary period constitutes a violation of this mandate warranting the imposition of administrative sanction on the defaulting judge.[3]

The fine of P2,000.00 recommended by OCA, lower than the usual amount imposed in cases of this nature, appears to be appropriate considering that respondent judge appears to have exerted efforts to have the claim of complainant Amar settled. Although late in coming, the claim, nevertheless, was eventually satisfied.

WHEREFORE, for his failure to timely resolve the two pending incidents in Special Proceedings No. 28, Judge Jose Y. Aguirre of the Regional Trial Court of Himamaylan, Negros Occidental, Branch 55, is meted a FINE of P2,000.00 with stern warning that a repetition of the same or similar act will be dealt with severely.

SO ORDERED.

Davide, Jr., C.J., Melo, Puno, Kapunan, Mendoza, Panganiban, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, De leon, Jr., and Sandoval-Gutierrez, JJ., concur.

Bellosillo J., no part due to closeness to one of parties.

Quisumbing J., on leave.

[1] Memorandum of the Office of the Court Administrator dated 29 January 2001, p.4.

[2] Report on the Judicial Audit Conducted in Municipal Trial Court, Sibulan, Negros Oriental, 282 SCRA 463.

[3] Ibid.

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