DANILO DAVID S. MARIANO, COMPLAINANT, VS. JUDGE JOSE P. NACIONAL, RESPONDENT.

A.M. No. MTJ-07-1688 (Formerly OCA I.P.I. No. 05-1763-MTJ). February 10, 2009

Ponente: CORONA, J.

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CORONA, J.:

This concerns an administrative complaint stemming from an action for ejectment[1] docketed as Civil Case No. 12334.[2] In the course of the ejectment proceedings, respondent Judge Jose P. Nacional issued a pre-trial order dated September 3, 2004 requiring the parties to file their respective position papers and affidavits of witnesses on September 30, 2004. The parties complied with the September 3, 2004 order.

Subsequently, respondent issued an order dated December 28, 2004[3] requiring the parties to submit their respective "memorand[a] in the form of a court decision." The parties likewise complied with this order. The case was eventually decided by respondent on February 14, 2005.

Complainant avers that the issuance of the December 28, 2004 order violated the prohibition on memoranda by the Revised Rules on Summary Procedure (RRSP). Complainant likewise posits that respondent violated the Rules when he decided the case only on February 14, 2005 or 136 days from the date required by law.[4]

In view of respondent's acts, complainant filed this administrative complaint for gross inefficiency, gross ignorance of the law, dereliction of duty and violation of judicial conduct.

In his comment, respondent admitted that he had exceeded the maximum period allowed under the RRSP. He offered the following excuses: (1) the quality of his decision had priority over compliance with the reglementary period; (2) his caseload was heavy and (3) the documents of the case were voluminous. He also justified his December 28, 2004 order by stating that the case was "not an ordinary one."[5]

Respondent added that this administrative complaint was filed only because the judgment was against complainant.

In its evaluation, the Office of the Court Administrator (OCA) found that respondent violated basic procedure and the code of judicial conduct.[6] It also found that respondent had been previously admonished for gross ignorance of the law, dereliction of duty, partiality, oppression and incompetence in Prado v. Judge Nacional.[7]

The OCA recommended that respondent be held liable for violation of judicial conduct and gross ignorance of the law or procedure. It proposed that respondent be fined P20,000 with a stern warning that a repetition of the same or similar act would be dealt with more severely.

The findings of the OCA are well-taken but we do not agree with the recommended penalty.

Without doubt, Civil Case No. 12334 was a case of unlawful detainer covered by the RRSP.[8] Section 5 of the RRSP explicitly provides that only complaints, compulsory counterclaims and cross-claims pleaded in the answer, as well as the answers to these pleadings, are allowed. The RRSP also expressly prohibits the filing of a

memorandum.[9] The same prohibition is contained in Section 13, Rule 70 of the Rules of Court (ROC).

The urgency of restoring social order is the paramount consideration in settling unlawful detainer and forcible entry cases. To aid the judiciary in proceeding with these cases, the RRSP was promulgated with the following rationale:[10]

> [T]he adoption of the Rule on Summary Procedure is part of the commitment of the judiciary to enforce the constitutional right of litigants to a speedy disposition of their cases. It was promulgated [to] achiev[e] "an expeditious and inexpensive determination of cases." Any member of the judiciary who causes the delay sought to be prevented by the Rule is sanctionable.

The necessity of promptly resolving unlawful detainer and forcible entry cases is made more imperative by the express legal provisions on periods of rendition of judgments. Specifically, Section 11, Rule 70 of the ROC provides that the court shall render judgment within 30 days after receipt of the

affidavits and position papers, or expiration of the period for filing the same. The RRSP provides for the same period.

Corollarily, Rule 3.05, Canon 3 of the Code of Judicial Conduct[11] admonishes all judges to dispose of the court's business promptly and decide cases[12] within the period specified in Section 15 (1) and (2), Article VIII of the Constitution.[13] This is supplemented by Section 5, Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary[14] requiring judges to perform all judicial duties efficiently, fairly and with reasonable promptness.

We cannot accept the justifications advanced by respondent. Doing so will undermine the wisdom behind procedural rules and diminish respect for the law. We reiterate that a judge (by himself) cannot choose to prolong the period for deciding cases beyond that authorized by law.[15] If a judge needs more time to decide a case, he should formally request this Court for an extension of the deadline.

The rules of procedure are clear and unambiguous, leaving no room for interpretation. We have held in numerous cases that the failure to apply elementary rules of procedure constitutes gross ignorance of the law and procedure.[16] Neither good faith nor lack of malice will exonerate respondent because, as previously noted, the rules violated were basic procedural rules. All that was needed for respondent to do was to apply them.[17] Unfortunately, he chose not to.

It is settled that one who accepts the exalted position of a judge owes the public and the court the ability to be proficient in the law and the duty to maintain professional competence at all times.[18] Competence and diligence are prerequisites to the due performance of judicial office.[19]

We note that aside from Prado v. Judge Nacional[20] for which respondent was admonished in 2001, he was also indicted for conduct unbecoming of a judge in Abesa v. Judge Nacional.[21]

Respondent argues that his 24 years in the judiciary should be considered in his favor. We disagree. Length of service, as a factor in determining the imposable penalty in administrative cases, is a double-edged sword. While it can sometimes help mitigate the penalty, it can also justify a more serious sanction.[22] Whatever it is, a judge's long years of service on the bench are no excuse for ignorance of procedural rules.[23]

As to the penalty that should be properly meted out to respondent, A.M. No. 01-8-10-SC governs.[24] Gross ignorance of the law and procedure is classified as a serious charge.[25] And for his violation of the Code of Judicial Conduct, the evidence shows that he only committed simple misconduct, a less serious charge.[26]

Pursuant to A.M. No. 02-9-02-SC,[27] this administrative case against respondent is also considered a

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disciplinary proceeding against him as a member of the bar.[28] Violation of the basic tenets of judicial conduct embodied in the New Code of Judicial Conduct for the Philippine Judiciary and the Code of Judicial Conduct constitutes a breach of Canons 1[29] and 12[30] as well as Rules 1.03[31] and 12.04[32] of the Code of Professional Responsibility (CPR). Respondent also transgressed Rule 10.03[33] of the CPR when he violated the provisions of the RRSP and the ROC.

WHEREFORE, respondent Judge Jose P. Nacional is hereby found GUILTY of gross ignorance of the law and procedure for which he is FINED P40,000. He is also found GUILTY of violation of Rule 3.05, Canon 3 of the Code of Judicial Conduct and Section 5, Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary for which he is FINED P20,000. Respondent is furthermore found GUILTY of violation of Canons 1 and 12 as well as Rules 1.03, 10.03 and 12.04 of the Code of Professional Responsibility for which he is FINED P10,000.

He is hereby ordered to remit payment of the fines within ten (10) days from receipt of this resolution.

Respondent is STERNLY WARNED that a repetition of the same or similar offense shall warrant an even more severe penalty.

Let a copy of this resolution be attached to the personal records of respondent in the Office of Administrative Services, Office of the Court Administrator and the Office of the Bar Confidant.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Carpio Morales, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., Nachura, Leonardo-De Castro, Brion, and Peralta, JJ., concur.

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[1] Rollo, p. 7. Captioned as Heirs of Jose Mariano, et al. v. City of Naga. The land in question was co-owned by Macario Mariano and Jose Gimenez, predecessors-in-interest of therein plaintiffs. The complaint alleged that the City of Naga refused to vacate a parcel of land donated to it by Mariano and Gimenez. Said donation was allegedly voided due to the failure of the City of Naga to comply with certain conditions set forth in the deed of donation. In its Answer, the City of Naga averred that the said donation remained in force. Therefore, it cannot be ejected from the land in question.

[2] In other pleadings and orders, the docket number was written as Civil Case No. 12834.

[3] Rollo, p. 403. The Order stated in part: "Considering now the voluminous records under consideration by the Court, to expedite the resolution of the issue before it, both counsel[s] are given thirty (30) days from receipt of this order to submit their respective MEMORAND[A] IN THE FORM OF A COURT DECISION after which the case shall be deemed submitted for decision of the Court."

[4] Respondent should have decided the case on November 2, 2004 or 30 days after the date the parties submitted their position papers and affidavits of witnesses pursuant to the pre-trial order dated September 3, 2004.

[5] Rollo, p. 405. Respondent avers that the case was not ordinary because the City Hall of Naga City, the Hall of Justice and various local and national government offices were located on the lot in question. Moreover, the plaintiffs' memorandum contained new elements which "caught him by surprise, particularly whether a narration of facts contained in an affidavit not formally offered can be appreciated by the Court."

[6] Rollo, p. 408.

[7] A.M. No. MTJ-98-1170. On November 12, 2001, respondent was found guilty of the charges therein. He was

admonished. The dispositive portion of the said case reads: "WHEREFORE, Judge Jose P. Nacional of the Municipal Circuit Trial Court of Camaligan-Gainza-Milaor, Camarines Sur is ADMONISHED to be more circumspect in the performance of his duties."

[8] Revised Rules on Summary Procedure (1991), Section 1 (A) (1).

[9] Section 19 (f) of the Revised Rules on Summary Procedure provides: "Section 19. Prohibited pleadings and motions. - The following pleadings, motions, or petitions shall not be allowed in the cases covered by this Rule:

(a) xxx
(f) Memoranda;
(g) xxx."

[10] Tugot v. Coliflores, A.M. No. MTJ-00-1332, 16 February 2004, 423 SCRA 1, 8.

[11] The New Code of Judicial Conduct for the Philippine Judiciary (A.M. No. 03-05-01-SC) provides:

"This Code, which shall hereafter be referred to as the New Code of Judicial Conduct for the Philippine Judiciary, supersedes the Canons of Judicial Ethics and the Code of Judicial Conduct heretofore applied in the Philippines to the extent that the provisions or concepts therein are embodied in this Code: Provided, however, that in case of deficiency or absence of specific provisions in this New Code, the Canons of Judicial Ethics and the Code of Judicial Conduct shall be applicable in a suppletory character."

[12] Code of Judicial Conduct (1989).

[13] Acuzar v. Ocampo, A.M. No. MTJ-02-1396, 15 March 2004, 425 SCRA 464, 469. Section 15 (1) and (2) of the Constitution provides: "Section 15. (1) All cases or matters filed after the effectivity of this Constitution must be decided or resolved within twenty-four months from date of submission for the Supreme Court, and, unless reduced by the Supreme Court, twelve months for all lower collegiate courts, and three months for all lower courts.

"(2) A case or matter shall be deemed submitted for decision or resolution upon the filing of the last pleading, brief, memorandum required by the Rules of Court or by the court itself."

[14] A.M. No. 03-05-01-SC. Dated 27 April 2004.

[15] Reyes-Garmsen v. Bello, Jr., A.M. No. RTJ-04-1877, 21 December 2004, 447 SCRA 377, 382.

[16] Basilia v. Becanon, A.M. No. MTJ-02-1438, 22 January 2004, 420 SCRA 608, 612.

[17] Victory Liner, Inc. v. Bellosillo, A.M. No. MTJ000-1321, 10 March 2004, 425 SCRA 79, 91.

[18] Lim v. Judge Dumlao, A.M. No. MTJ-04-1556, 31 March 2005, 454 SCRA 196.

[19] Canon 6, New Code of Judicial Conduct, A.M. No. 03-05-01-SC.

[20] Supra note 7.

[21] A.M. No. MTJ-05-1605, 8 June 2006, 490 SCRA 74. In this case, Judge Nacional was accused of lawyering for the accused in a criminal case which was filed in his sala. Judge Nacional was found guilty of conduct prejudicial to the best interest of the service. He was reprimanded and sternly warned that a repetition of the same and similar acts shall be dealt with more severely.

[22] By express provision of Section 53 of the Revised Uniform Rules on Administrative Cases (1999)

in the Civil Service, length of service may be considered as an extenuating, mitigating, aggravating or alternative circumstance.

[23] Gutierrez, et al. v. Judge Hernandez, Sr., A.M. No. MTJ-06-1628, 8 June 2007, 524 SCRA 1.

[24] Amendment to Rule 140 of the Rules of Court regarding the discipline of Justices and Judges. Dated September 11, 2001.

[25] A serious charge is punishable by either dismissal from the service, suspension from office without salary and other benefits for more than three months but not exceeding six months or a fine of not more than three months but not exceeding six months or a fine of not more than P20,000 but not exceeding P40,000.

[26] A less serious charge is punishable by either suspension from office without salary and other benefits for not less than one month nor more than three months or a fine of not more than P10,000 but not exceeding P20,000.

[27] Re: Automatic Conversion of Some Administrative Cases Against Justices of the Court of Appeals and the Sandiganbayan, Judges of Regular and Special Courts, and Court Officials Who Are Lawyers as Disciplinary Proceedings Against Them Both as Officials and as Members of the Philippine Bar. Dated September 17, 2002.

[28] De la Cruz (A Concerned Citizen of Legazpi City) v. Judge Carretas, A.M. No. RTJ-07-2043, 5 September 2007, 532 SCRA 218.

[29] CANON 1 - A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND FOR LEGAL PROCESSES.

[30] CANON 12 - A LAWYER SHALL EXERT EVERY EFFORT AND CONSIDER IT HIS DUTY TO ASSIST IN THE SPEEDY AND EFFICIENT ADMINISTRATION OF JUSTICE.

[31] Rule 1.03 - A lawyer shall not, for any corrupt motive or interest, encourage any suit or proceeding or delay any man's cause.

[32] Rule 12.04 - A lawyer shall not unduly delay a case, impede the execution of a judgment or misuse court processes.

[33] Rule 10. 03 - A lawyer shall observe the rules of procedure and shall not misuse them to defeat the ends of justice.

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