

SURIGAO CITIZENS' MOVEMENT FOR GOOD GOVERNMENT (SURCIMO) THRU ITS CHAIRMAN, EDUARDO S. BAROTAC, COMPLAINANT, VS. JUDGE FLORDELIZA D. CORO, MCTC, DEL CARMEN-SAN BENITO-SAN ISIDRO...

A.M. No. MTJ-96-1099. September 23, 1996

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PER CURIAM:

On March 22, 1995, the Surigao Citizens' Movement for Good Government (SURCIMO), through its Chairman, Eduardo S. Barotac, filed before Executive Judge Melchor Libarnes[1] a letter-complaint[2] charging Judge Flordeliza D. Coro[3] with undue delay in the disposition of cases and indiscriminate archiving of cases. The letter contained a list of cases[4] which allegedly remained frozen for several years in respondent judge's sala without resolution or proper action taken by respondent judge. Some of these cases are not within the jurisdiction of the Metropolitan Circuit Trial Court, but were nevertheless archived by respondent judge.

On May 12, 1995, Judge Libarnes directed respondent judge to comment on the complaint within ten (10) days. Respondent judge, however, failed to file her comment within the said period. On June 1, 1995, Judge Libarnes wrote another letter[5] to respondent judge giving her ten (10) days more to file her comment. Still, respondent judge did not comply.

On July 24, 1995, Judge Libarnes forwarded SURCIMO's complaint to the Office of the Court Administrator.[6]

In a resolution dated October 18, 1995, we required respondent judge to file her Comment. We also ordered Judge Libarnes to conduct an audit and inventory of the cases pending at respondent judge's sala.[7]

On January 29, 1996, Judge Libarnes submitted his report[8] together with the Comment[9] of respondent judge. He also submitted a tabulated report[10] on the status as of March 31 1995 of the cases cited in the complaint, and a tabulated report[11] on the status as of January 1996 of all criminal and civil cases pending in respondent judge's sala. Judge Libarnes stated in his report that the criminal cases: specified in the complaint have been given preference and were expeditiously resolved by respondent judge.

Respondent judge, in her comment,[12] denied the complainant's charges. She averred that she acted upon all the cases in her sala, except those where the accused are at large. In most of the cases cited by the complainant, the accused have not been arrested. She placed these cases in the archives in order to clean the court's docket. Respondent judge, however, admitted that when Judge Libarnes conducted an inventory, he instructed her to transmit to the Provincial Prosecutor the cases which were not within her jurisdiction.

We are not convinced.

The records show that as of March 31, 1995, there were at least thirty-five (35) archived cases in respondent judge's sala.[13] Nineteen (19) of these do not fall within the jurisdiction of the MCTC.[14] Yet, respondent judge, instead of forwarding them to the Provincial Prosecutor, placed them in the archives on the ground that the accused have not been arrested. This violates Sections 3 and 5 of Rule 112 of the Revised Rules of Court which

provides:[15]

Sec. 3. Procedure. -- Except as provided for in Section 7 hereof, no complaint or information for an offense cognizable by the Regional Trial Court shall be filed without a preliminary investigation having been first conducted in the following manner:

(a) x x x

(b) Within ten (10) days after the filing of the complaint, the investigating officer shall either dismiss the same if he finds no ground to continue with the inquiry, or issue a subpoena to the respondent, attaching thereto a copy of the complaint, affidavits and other supporting documents. Within ten (10) days from receipt thereof, the respondent shall submit counter-affidavits and other supporting documents. He shall have the right to examine all other evidence submitted by the complainant.

(c) x x x

(d) If the respondent cannot be subpoenaed, or if subpoenaed, does not submit counter-affidavits within the ten (10) day period, the investigating officer shall base his resolution on the evidence presented by the complainant.

(e) If the investigating officer believes that there are matters to be clarified, he may set a hearing to propound clarificatory questions to the parties or their witnesses, during which the parties shall be afforded an opportunity to be present but without the right to examine or cross-examine. If the parties so desire, they may submit questions to the investigating officer which the latter may propound to the parties or witnesses concerned.

(f) Thereafter, the investigation shall be deemed concluded, and the investigating officer shall resolve the case within ten (10) days therefrom. Upon the evidence thus adduced, the investigating officer shall determine whether or not there is sufficient ground to hold the respondent for trial.

xxx

Sec.5. Duty of investigating judge. -- Within ten (10) days after the conclusion of the preliminary investigation, the investigating judge shall transmit to the provincial or city fiscal, for appropriate action, the resolution of the case, stating briefly the findings of facts and the law supporting his action, together with the entire records of the case, which shall include: (a) the warrant, if the arrest is by virtue of a warrant; (b) the affidavits and other supporting evidence of the parties; (c) the undertaking or bail of the accused; (d) the order of release of the accused and cancellation of his bond, if the resolution is for the dismissal of the complaint.

xxx (emphasis supplied)

Respondent judge tried to cover up her negligence by claiming that she already issued resolutions forwarding these cases to the provincial prosecutor for proper action. A close examination of the resolutions,[16] however, reveals that these were issued only in 1995, from April to December. The complaints were filed from 1988 to 1992. This means that the cases have been pending for three to seven years before respondent judge acted on them. This is a clear violation of the rule requiring municipal judges to resolve cases for preliminary investigation within ten (10) days from conclusion thereof.

Furthermore, respondent judge has been remiss in her duty as presiding judge to conduct a periodic review of the archived cases in her sala.[17] It appears that all the archived cases in respondent judge's sala have remained untouched for several years. Respondent judge reviewed these cases only after SURCIMO filed a complaint with the Executive Judge charging her with undue delay in the disposition of cases. Were it not for the pressure exerted by the complainant, respondent judge would not have attended to said cases.

We therefore find respondent judge guilty of gross inefficiency and gross negligence for failure to act promptly on the cases pending in her sala and for unduly archiving cases which are not within her jurisdiction.

We also note that this is respondent judge's second offense. She was previously found guilty of releasing prisoners without bail and was fined P5,000.00.[18]

IN VIEW WHEREOF, respondent Judge Flordeliza D. Coro is DISMISSED from service with forfeiture of all leave credits and retirement benefits and with disqualification for reemployment in the national & local governments, as well as in any government instrumentality or agency, including government-owned or controlled corporations.

This decision is immediately executory and the respondent judge is further ordered to cease and desist from discharging the functions of his office upon receipt of this. Decision. Let a copy be entered in the personal records of the respondent.

SO ORDERED.

Narvasa, C.J., Padilla, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Francisco, Hermosisima, Jr., Panganiban, and Torres, Jr., JJ., concur.
Mendoza, J., on official leave.

[1] Regional Trial Court, Dapa, Surigao del Norte.

[2] Rollo, p. 7.

[3] Municipal Circuit Trial Court (MCTC), Del Carmen - San Benito - San Isidro, Surigao del Norte.

[4] Criminal Case No. 3167, 3168, 3162, 3178, 3022, 3041, 3096, 3074, 3158, 3152, 3172, 3169, 3181, 3119, 3176, 3105, 3165, 3161, 3156, 3112, 3046, 3166, 3177, 3106, 3151, 3170, 3155, 3068, 3111, 3142, 3147, 3107, 3160, 3153, 3174, 3033, 3138, 3109.

[5] Rollo, p. 5.

[6] Rollo, p. 1

[7] Rollo, p. 8.

[8] Rollo, pp. 12.-13.

[9] Rollo, p. 14.

[10] Rollo, pp . 17-23.

[11] Rollo, pp. 89-110.

[12] Received by the Regional Trial Court of Dapa, Surigao del Norte on January 6, 1996; Rollo, p. 14.

[13] Per examination of the criminal docket and records of MCTC, Del Carmen - San Benito - San Isidro, Surigao del Norte conducted by Clerk of Court Doris R. Camingue on March 31, 1995; Rollo, pp. 17-23.

[14] Crim. Case No. 3046 (Cattle Rustling); No. 3106 Frustrated Homicide); No. 3 10'7 (Frustrated Murder); No. 3111 (Murder); Nos. 3147, 3151, 3152, 3153, 3158, 3161, 3165, 3166, 3168, 3170, 3178 (Illegal Fishing); Nos. 3155, 3156, 3172, 3177 (Illegal Possession of Explosives).

[15] See Cantela vs. Almoradie, 229 SCRA 712 (1994).

[16] Rollo, pp. 24-88.

[17] Administrative Circular No. 7-A-92.

[18] Rollo, pp. 188-189.

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