

GODOFREDO DELA CRUZ, COMPLAINANT, VS. JUDGE BONIFACIO V. CURSO, MUNICIPAL TRIAL COURT, PALOMPON, LEYTE, RESPONDENT.*A.M. No. MTJ-89-315. April 07, 1993*

Ponente: NOCON, J.

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In an unsworn letter-complaint dated July 31, 1989, complainant Godofredo dela Cruz charged respondent Judge Bonifacio V. Curso of delay in the administration of justice for allegedly failing to decide Criminal Case No. 717 entitled “People of the Philippines vs. Felix Gervacio, et al.” for violation of Presidential Decree No. 772 (the Anti-Squatting Law), while the latter was still the presiding judge of the Municipal Trial Court of Kawayan, Leyte.

On August 31, 1989, this Court required respondent Judge to comment on said complaint. On October 31, 1989, respondent judge, through counsel, requested that the Court require complainant to verify his complaint as required by Sec. 1, Rule 140 of the Rules of Court. The Court granted said request and required complainant to verify his complaint.

On December 12, 1989, complainant submitted the same letter-complaint, this time sworn to before Notary Public Bonifacio B. Matol,[1] as well as a certification dated December 5, 1989 from the Clerk of Court of the Municipal Circuit Trial Court of Kawayan-Almeria,[2] Leyte, to the effect that Criminal Case No. 717 was one of two (2) cases that are in the possession of respondent Judge and that said case was submitted for decision on April 29, 1981.

Though duly served with a copy of the verified complaint,[3] respondent Judge failed to file his comment thereto, thereby compelling the Court on June 26, 1990 to require respondent Judge to show cause why no disciplinary action should be taken against him for not filing his comment, and to file said comment.

On July 19, 1990, respondent Judge filed his compliance with said resolution, alluding that he had not received a copy of the verified complaint and alleging that complainant had already executed an affidavit of desistance on March 1, 1990.

As to his comments on the allegation contained in the complaint, respondent Judge admitted not having decided Criminal Case No. 717 because the records thereof were lost before he could render his decision. Respondent does not know how or when the records were lost; he believes that the records could have been lost during one of the typhoons that hit the area since the court was located in a dilapidated building and was at the mercy of strong winds and heavy rains generated by said typhoon. Respondent Judge further alleged that complainant could not move for the reconstitution of the case since the records of his counsel were lost in a fire that destroyed the latter's office.

In view of the allegation in the comment, the Court required complainant to file a reply. When no reply was filed

within the period given by the Court, a show cause resolution dated August 31, 1992 was issued to complainant. On October 5, 1992, complainant submitted his Manifestation and Explanation, stating that he had already executed an affidavit of desistance and that because of his poor health and advanced age, and the fact that he is presently in possession of the property in dispute, he is no longer interested in pursuing the complaint.

The Court then referred the case to the Office of the Court Administrator, who recommended that respondent be reprimanded.

The Court agrees with the Court Administrator.

The fact that the complainant had manifested that he is no longer interested in pursuing the case does not warrant the dismissal of the administrative complaint, especially where respondent Judge admits the material allegations of the complaint and reveals his failure to safeguard the records of cases pending before him. On this score, We agree with the Court Administrator when he said:

We cannot give concurrence with the wish of both parties that this case be dropped and considered terminated. In *Bais vs. Tugaoen, Jr.* 89 SCRA 109, it was held that: "This [C]ourt looks with disfavor at the outright dismissal of this complaint [upon the mere affidavit of desistance executed by the complainant] where on the basis of the evidence presented and record of the case, herein respondent should at least be severely warned to be more discreet in the performance of his judicial function x x x." The fact that respondent judge admitted that he does not exactly know how or when the record was lost is a clear indication that he was negligent in the performance of his duties. In *Longboan vs. Polig*, 186 SCRA 557, the Court ruled that x x x "This fact reflects an inefficient and disorderly system in the recording of cases assigned in the sala. Although blame can also be conveniently laid on the court's personnel[s] [mis]management of the records [of the cases], proper and efficient court management is as much the judge[s] responsibility x x x." [4]

Respondent Judge should be thankful that his inaction and negligence had not prejudiced the complainant, in which case, We would have called for a stiffer penalty, if not his outright dismissal from service.

WHEREFORE, respondent Judge Bonifacio V. Curso is hereby REPRIMANDED with a stern warning that a commission of the same or similar offense in the future will be dealt with more severely.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Padilla, Bidin, Griño-Aquino, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Campos, Jr., and Quiason, JJ., concur.

[1] Rollo, p. 7.

[2] *Id.*, p. 8.

[3] *Id.*, p. 10.

[4] Memorandum of Deputy Court Administrator Eutropio Migriño, p. 2.

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