

**JOSE PEÑALOSA, COMPLAINANT, VS. HON. ALFREDO A. ROSERO,
MUNICIPAL JUDGE, CABUSAO, CAMARINES SUR, RESPONDENT.***Adm. Mat. No. 1492-MJ. January 30, 1982*

Ponente: DE CASTRO, J.

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In a complaint filed by Jose Peñalosa against Municipal Judge Alfredo Rosero for serious misconduct, falsification, inefficiency and ignorance of the law, it was alleged that respondent was designated to try Criminal Case No. 4847, "People vs. Ruben Aureus" for Slight Physical Injuries, and Criminal Case No. 4852, "People vs. Ruben Aureus", for Grave Oral Defamation, which were pending in the Municipal Court of Libmanan, Camarines Sur, in view of the inhibition of the judge therein; that said cases were submitted for decision on April 5, 1976; that respondent rendered a decision on June 15, 1976 acquitting the accused of the charges; that the decision was promulgated only on November 4, 1976 in violation of Sec. II, Art. X of the New Constitution; that respondent is in the habit of drinking liquor with party litigants, which is unbecoming, if not degrading of members of the bench; and that he misled the Supreme Court by submitting and making it appear in his Monthly Report of Cases for July to October 1976 that Criminal Case No. 4847 was still pending trial when the decision thereon was already rendered on June 15, 1976.

By way of explanation, respondent judge submits the following:[1]

"Your respondent denies that Sec. 11(1), Article X of the Constitution of the Republic of the Philippines had been violated. The said section and article of the constitution provides 'Upon effectivity of this Constitution, the maximum period within which a case or matter shall be decided or resolved from the date of its submission, shall be eighteen months for the Supreme Court, and, unless reduced by the Supreme Court, twelve months for all inferior collegiate courts, and three months for all other inferior courts.' It is a matter of record that Criminal Cases Nos. 4847 and 4852 were jointly submitted for decision on April 5, 1976 and decided on June 15, 1976, a fact admitted by the complainant (par. 4 of the Complaint), and, therefore, these cases were decided very well within the 90-day period required by the Constitution. 'Decide' means to form a definite opinion. (In re Impeachment of Flordeliza, 44 Phil. 608). Of significance is the case of Dimson vs. Elepaño, 99 Phil. 737, wherein the Court ruled that '... the 90-day period fixed by the law is for the decision of cases or proceedings pending before the trial courts, and has no application to cases already decided and disposed of.' Complainant's contention that 'the actuation of the respondent Judge is highly suspicious aside from being violative of the new Constitution of the Philippines', is a mere conjecture intended to malign the dignity and integrity of the court. If ever the reading of the decision to the accused in the aforesaid cases was done much later, it was due one way or the other to circumstance beyond the control of your respondent and not of his own making, to wit: (1) that he has no Clerk nor any other personnel for almost three years now since the resignation of the last clerk. There are no applicants for the position because of the low salary, the hardships of travel to this place which takes about 2 1/2 hours to reach from Naga City, and the lack of qualified stenographer in this area. Under the circumstances, your respondent had been uncomplainingly performing the duties of both a judge and a clerk at the same time and this fact is known to the Executive Judge of Camarines Sur; (2) in addition to his duties in the municipal court of Cabusao, Camarines Sur, your

respondent since the year 1975 has been hearing cases in the municipal court of Libmanan, Camarines Sur, wherein the regular judge had inhibited himself from trying these cases and that for the year ending December 31, 1976, your respondent had disposed of 7 out of the 11 cases tried by him; (3) that the records of the cases tried by your respondent in the court at Libmanan are kept by the Clerk of Court thereat but when your respondent prepares the decision in a particular case he brings with him the expediente to his office in Cabusao; that after your respondent had decided Criminal Cases Nos. 4847 and 4852 on June 15, 1976 and so was due for reading to the accused, his own handwritten notes of the proceedings could no longer be located and he presumed that it could have been mixed-up with the records of the Cabusao court and it was only in the middle part of the month of October, 1976 that the missing notes finally surfaced and so your respondent at once set the decision for promulgation on October 29, 1976; and that to your respondent his notes of the proceedings was so important because it is his practice to review his notes even after he had penned the decision, especially in criminal cases, in order to assure himself that no error, whether in the appreciation of the evidence or purely clerical, is committed which might result to a miscarriage of justice and, whereas if so, that the necessary correction be made before the decision is finally read to the accused. Every effort taken by your respondent towards the final disposition of the aforesaid cases was done with the utmost diligence and good faith, in consonance with the law, and without the least intention to cause a wrong to any one.

"Your respondent denies the entire allegation in paragraph 7 of the complaint it being a pure fabrication with no other purpose than to harass and discredit your respondent.

". . . The truth of what actually happened on that afternoon of August 23, 1976 is as follows: Your respondent was taking his snack of fried bananas in the carinderia of Mrs. Aida Paglinawan when Jose Peñalosa arrived. In a very discourteous manner, he was forcing your respondent to sign a paper purporting to be a prepared certification of good moral character which your respondent refused to sign because he came to know Peñalosa only for the first time on that date. The complainant was, however, too insistent that when your respondent refused him the former hurriedly left with anger. Jose Peñalosa felt humiliated and embarrassed by your respondent's refusal to accommodate him. It is not true that that your respondent was drinking beer and that he was drunk at the time. Neither does he drink liquor in public nor with party litigants. Since his operation for a liver ailment in 1971 your respondent has consistently refrained from taking alcohol in any form. . . .

"Your respondent vehemently denies that he 'misinformed or misled the Superior Court by submitting reports that the aforesaid Criminal Case No. 4847 was still pending trial in the months of July to October, 1976' (par. 8 of the Complaint). The truth is that while your respondent admits that in the months of July to October, 1976 it still appears that Criminal Case No. 4847 is pending trial, that, however, was a clerical error in the numbering of the case occasioned by an honest oversight. Criminal Case No. 4847 should have been reported and read as Criminal Case No. 4875 which is the correct number. This latter case entitled 'People of the Philippines vs. Norberto Genova', also for Slight Physical Injuries, was actually being tried by your respondent in the Libmanan court during the months of July to October, 1976. To prove that no deception whatsoever is intended by your respondent, your Honor will please note that in the attached carbon copy of the Certificate of Appearance dated January 12, 1977 issued by the Hon. German Vilgera of the Municipal Court of Libmanan, Camarines Sur, in Criminal Case No. 4875 and marked as Annex "6", the trial dates of that case, to wit: August 25, 1976; September 28, 1976; October 23, 1976 and November 13, 1976, marked as Annexes "6-A", "6-B", "6-C", and "6-D", respectively, exactly correspond to the trial dates also appearing in the last column opposite Criminal Case No. 4847 in Page 2 thereof, the pertinent portion, of the monthly report for the months of July, 1976; August, 1976; September, 1976; and October, 1976, certified xerox copies of which issued by the Clerk of Court, Court of First Instance of Camarines Sur, are attached as Annexes "7 & 7-A", "8 & 8-A", "9 & 9-A" and "10 & 10-A", respectively. But as soon as your respondent has come to realize his error, your respondent at once rectified the same by way of a "Correction" embodied in Page 2 of his report for the month of November, 1976, a certified xerox copy of which issued by the Clerk of Court, Court of First Instance of Camarines Sur, is hereto attached and marked as Annex "11" and the pertinent portion of which is marked as Annex "11-A". Moreover, what reason or interest does your respondent have to misinform or mislead his

superior officer. Your Honor's attention is invited to the fact that for all the acts herein complained, no averments of bad faith is imputed to your respondent. Absence of evidence, as in this case, of ill-motive or improper consideration, or mere conjectures in a complaint cannot prove the charges against the respondent. (Answer, pp. 28-34, Rollo)."

Complainant filed a rejoinder to respondent's explanation and countered that it is unbelievable that the judge would consume 138 days to look for his notes and re-examine the same when he is a judge of a very small municipality; that the judge can promulgate the decision even in the absence of the accused, or if he was busy then, he can send the decision to the Clerk of Court of the Municipal Court of Libmanan for reading of the same; that he did not take any of these courses, and if not, that he does not know the law, or his intention was to hold the decision for something which should be proven during the formal hearing.

The case was referred to the Executive Judge of the Court of First Instance of Camarines Sur for investigation, report and recommendation.

The hearing of the case was set on June 25, August 15, 28 and 29, 1980. It appears that while counsel for respondent was always present, counsel for complainant asked for postponement of all the scheduled dates of hearing. The Inquest Judge issued an Order on August 28, 1980 with the observation that despite the court's admonition in its last order of July 25, 1980 that the court will be forced to dismiss the case without prejudice, should they fail to appear for the next scheduled hearing, complainant and counsel still failed to appear on said date.

On July 21, 1981, Executive Judge Delfin Vir. Sunga issued his order returning the records of the case to the Supreme Court and recommending the dismissal thereof for complainant's lack of interest.

The charge of serious misconduct against respondent for allegedly indulging in public and habitual drinking, and for having misled this Court in his Monthly Report of Cases was not substantiated. Respondent therefore can not be held liable for this charge. The fact, however, that he failed to immediately promulgate his decision of acquittal is a fact that is not disputed nor can it be disregarded. The liberty and reputation of the accused are at stake, and in unduly delaying the promulgation of the decision, respondent in effect prolonged the agony of said accused. While it can not be said that respondent acted in bad faith, yet, he was negligent in the performance of his judicial functions particularly in the keeping of his notes, which resulted in the delay of the administration of justice. The explanation of respondent does not absolve him from responsibility for his subordinate's failure to properly take care of the records of the case. Such negligence, even if found not to be tainted with malice, deserves proper sanction. We agree with the recommendation of the Court Administrator, that although there was no full-blown investigation conducted because of complainant's failure to appear thereat, respondent be admonished to be more attentive and concerned in the discharge of his functions.

WHEREFORE, Judge Alfredo Rosero of the Municipal Court of Cabusao, Camarines Sur is hereby ADMONISHED to be more careful in the discharge of his duties, and a repetition of similar acts in the future will be dealt with more severely by this Court.

SO ORDERED.

Barredo (Chairman), Aquino, Concepcion Jr., Abad Santos, Ericta and Escolin, JJ., concur.

[1] pp. 82-85, Rollo.

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