

MARIETTA DUQUE, COMPLAINANT, VS. JUDGE CRISOSTOMO L. GARRIDO, REGIONAL TRIAL COURT, BRANCH 7, TACLOBAN CITY [PRESENTLY ASSIGNED AS PRESIDING JUDGE, BRANCH 13, CARIGARA, LEYTE], ...

A.M. No. RTJ-06-2027. February 27, 2009

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

In a verified letter-complaint[1] dated February 7, 2006 complainant Marietta Duque charged respondent, Judge Crisostomo L. Garrido of the Regional Trial Court (RTC), Branch 7, Tacloban City, Leyte, with gross violation of Section 15, Article VIII of the 1987 Constitution for rendering a decision beyond ninety (90) days in Criminal Case No. 2000-10-580 entitled *People v Reynaldo Caones y Royo Sr., et al.*

Complainant is the alleged common-law wife of the murdered victim in the aforementioned Criminal Case No. 2000-10-580. She claimed that the respondent Judge violated Section 15, Article VIII of the 1987 Constitution for rendering a decision beyond the 90 day reglementary period without requesting an extension of time from this Court. She alleged that the prosecution filed its Memorandum submitting the case for resolution on August 10, 2005, but the respondent issued a Decision on December 12, 2005 which was promulgated on January 27, 2006. Complainant further alleged that neither the offended party nor the handling prosecutor was notified of the promulgation.

In a 1st Indorsement[2] dated March 22, 2006, the Office of the Court Administrator (OCA) required respondent Judge to comment on the complaint within ten (10) days from receipt thereof.

In his Omnibus Comment[3] dated May 18, 2006, respondent judge denied the accusation that the decision in Criminal Case No. 2000-10-580 was rendered beyond the 90-day period as prescribed by the 1987 Constitution.

He explained that while the last pleading - the Memorandum for the Prosecution - was filed on August 10, 2005, the Order declaring the case submitted for resolution was issued on September 13, 2005. Respondent further explained that the Decision dated December 12, 2005 was promulgated only on January 27, 2006 because he was on official leave from December 15, 2005 to January 15, 2006 as he left for the United States.

Respondent maintained that there was no impropriety or procedural infirmity in the promulgation of the decision even though the complainant and the handling prosecutor, Robert M. Visbal, were not present at that time. He reasoned that the complainant is not entitled to be notified of the promulgation as she is neither the private complainant nor a witness, while the prosecution was duly represented during the promulgation by Prosecutor Edgar A. Sabarre who was also assigned in the RTC. Respondent pointed out that the court had already set the schedule of the promulgation. Hence, when Prosecutor Visbal opted not to attend, it was for a reason only known to him.

Reacting to respondent's explanation regarding Prosecutor Visbal, the complainant attached to her Reply[4] an

Affidavit[5] executed by said prosecutor wherein the latter averred that he was never informed of the date of the promulgation and that he was surprised to learn that respondent judge promulgated the decision in Criminal Case No. 2000-10-580 with Prosecutor Sabarre appearing in his behalf.

In his Rejoinder[6] respondent Judge claimed that his track record in deciding cases filed with the OCA bear out that no case of his had been decided beyond the 90-day reglementary period, as some were even decided within thirty (30) and sixty (60) days from the date the case was submitted for decision

In a Report[7] dated September 6, 2006, the OCA found respondent judge administratively liable for rendering a decision beyond the 90-day period in violation of Section 15, Article VIII of the 1987 Constitution and Canon 3, Rule 3.05 of the Code of Judicial Conduct. Additionally, respondent was found to have violated the franking privilege under Presidential Decree (P.D.) No. 26. The OCA thus recommended:

- That the instant administrative case be Re-docketed as a regular administrative matter.
- That respondent Judge Crisostomo L. Garrido be found Guilty of Undue Delay In Rendering A Decision, in which case he should be meted with a penalty of Fine in the amount of Ten Thousand Pesos (P10,000.00) with a Stern Warning that a similar infraction in the future shall be dealt with more severely.
- That respondent Judge Crisostomo L. Garrido be Admonished for violating the franking privilege in filing his rejoinder to this administrative case.[8]

In the Resolution[9] dated October 9, 2006, the Court noted the letter-complaint, the comment of the respondent judge, the complainant's reply, respondent's rejoinder thereto and the report of the OCA.

Subsequently, by Resolution dated December 11, 2006[10], this Court required the parties to manifest, within ten (10) days from notice, their willingness to submit the case for resolution on the basis of the pleadings filed. In compliance thereto, both parties submitted their respective manifestations which the Court duly noted in the Resolution dated March 12, 2007[11].

We agree with the findings and recommendation of the OCA.

Time and again, the Court has emphasized that the office of a judge exacts nothing less than faithful observance of the Constitution and the law in the discharge of official duties.

Section 15 (1), Article VIII of the Constitution mandates lower court judges to decide a case within the reglementary period of 90 days, to wit:

- (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 other lower courts. (Emphasis ours)

Likewise, the Code of Judicial Conduct under Rule 3.05 of Canon 3 dictates as follows:

- Rule 3.05 — A judge shall dispose of the court's business promptly and decide cases within the required periods.

Indeed, rules prescribing the time within which certain acts must be done are indispensable to prevent needless delays in the orderly and speedy disposition of cases. Thus, the 90-day period within which to decide cases is mandatory.[12] The Court has consistently emphasized strict observance of this rule in order to minimize the twin problems of congestion and delay that have long plagued our courts.[13] Any delay in the administration of justice, no matter how brief, deprives the litigant of his right to a speedy disposition of his case, for, not only does

it magnify the cost of seeking justice, it undermines the people's faith and confidence in the judiciary, lowers its standards and brings it to disrepute.[14]

As readily gleaned from the records, the last pleading submitted i.e., the Memorandum for the Prosecution, was filed on August 10, 2005[15]. Thus, the case was deemed submitted for decision on that date. Accordingly, the decision should have been rendered not later than November 8, 2005. However, respondent issued it only on December 12, 2005 which was more than four months after the case had been submitted for decision.

Respondent Judge Garrido clearly violated both the Constitution and the Code of Judicial Conduct when he failed to decide Criminal Case No. 2000-10-580 within the 90-day period to decide cases prescribed for the lower courts.

Whenever a judge cannot decide a case promptly, all he has to do is to ask the Court for a reasonable extension of time to resolve it.[16] In this case, granting that it was for a justifiable reason to render a decision or resolve a matter beyond the reglementary period, the respondent could have sought additional time by simply filing a request for extension. Respondent, however, did not avail of such relief.

Respondent did not proffer any tenable justification for the delay in rendering the decision. He insisted that it was proper and procedural to first resolve the parties' memoranda before the case may be considered submitted for decision. He, thus, would want the Court to consider his Order[17] dated September 13, 2005 resolving the memoranda of the parties and declaring the case submitted for resolution as the starting point of the 90-day period for deciding the case and not on August 10, 2005, the date when the last pleading was filed.

Administrative Circular No. 28 issued by this Court on July 3, 1989 regarding the submission of memoranda for purposes of deciding cases, clearly provides:

x x x The ninety (90) day period for deciding the case shall commence to run from submission of the case for decision without memoranda; in case the court requires or allows its filing, the case shall be considered submitted for decision upon the filing of the last memorandum or upon the expiration of the period to do so, whichever is earlier. (Emphasis ours)

A judge cannot even justify his delay in deciding a case on the excuse that he was still awaiting the parties' memoranda. In Report on the Judicial Audit Conducted in the Regional Trial Court, Branch 55, Himamaylan City, Negros Occidental,[18] the Court held:

x x x judges should decide cases even if the parties failed to submit memoranda within the given periods. Non-submission of memoranda is not a justification for failure to decide cases. The filing of memoranda is not a part of the trial nor is the memorandum itself an essential, much less indispensable pleading before a case may be submitted for decision. As it is merely intended to aid the court in the rendition of the decision in accordance with law and evidence - which even in its absence the court can do on the basis of the judge's personal notes and the records of the case - non-submission thereof has invariably been considered a waiver of the privilege. (Emphasis ours)

Failure of a judge, such as respondent herein, to decide a case within the prescribed period is inexcusable and constitutes gross inefficiency warranting a disciplinary sanction.[19]

Under Section 9(1)[20], Rule 140, as amended by A.M. No. 01-8-10-SC, of the Revised Rules of Court, undue delay in rendering a decision or order is categorized as a less serious charge. Under Section 11(B) [21] of the same Rule, the penalty for such charge is suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months, or a fine of more than P10,000 but not exceeding P20,000.

In a case, we held the respondent judge administratively liable for gross inefficiency for delay in the disposition of

cases and fined him P20,000.00 considering that he failed to act promptly and decide eight (8) cases within the time prescribed by law and it was not the first time that an administrative case was filed against said judge.[22]

In another, the respondent judge failed to decide three (3) cases and resolve eleven (11) motions within the reglementary period. Considering that it was the judge's first offense, the Court imposed a fine of P15,000.00.[23]

For failure of respondent judge in this case to decide Criminal Case No. 2000-10-580 within the prescribed period and taking into consideration the mitigating circumstance that it was his first offense, we impose on him a fine of Ten Thousand Pesos (P10,000.00).

We agree with the findings of the OCA that respondent must also be penalized for violation of P.D. No. 26[24] because he filed his Rejoinder to this administrative case taking advantage of the franking privilege. Although such privilege is extended to judges, the same refers only to official communications and papers directly connected with the conduct of judicial proceedings which shall be transmitted in the mail free of charge. The respondent, in mailing his Rejoinder, made it appear that the same is an official court process as the envelope used bears his station and the words "FREE FROM POSTAGE". We concur with the OCA that respondent be admonished for such violation.

WHEREFORE, respondent Judge Crisostomo L. Garrido is hereby found GUILTY of GROSS INEFFICIENCY for delay in the disposition of a case and for which he is FINED Ten Thousand Pesos (P10,000.00). He is likewise found GUILTY of violation of Presidential Decree No. 26 for which he is ADMONISHED. He is STERNLY WARNED that a repetition of the same or similar acts in the future shall be dealt with more severely. Let a copy of the decision be attached to his personal record.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio, Corona, and Brion,[*] JJ., concur.

[*] Additional Member as per Special Order No. 570.

[1] Rollo, p. 1.

[2] Id. at 38.

[3] Id. at 39-44.

[4] Id. at 141-142

[5] Id. at 143-144.

[6] Id. at 150-151.

[7] Id. at 154-157.

[8] Id. at 157.

[9] Id. at 158.

[10] Id. at 159.

[11] Id. at 163.

[12] OCA v. Judge Lourdes M. Garcia-Blanco and Atty. Lolita R. Mercado, A.M. No. RTJ-05-1941, April 25, 2006, 488 SCRA 109, 120.

[13] Id.

[14] Id. at 121.

[15] Rollo, pp. 3-11.

[16] Supra at note 12, p. 121.

[17] Rollo, p. 416.

[18] A.M. No. 05-4-213-RTC, March 6, 2006, 484 SCRA 99, 111.

[19] Marites O. Tam v. Judge Jocelyn G. Regencia, MCTC, Asturias-Balamban, Cebu, A.M. No. MTJ-05-1604, June 27, 2006, 493 SCRA 26, 42.

[20] Sec. 9. Less Serious Charges -- Less serious charges include:

- Undue delay in rendering a decision or order, or in transmitting the records of a case;
- Frequent and unjustified absences without leave or habitual tardiness;
- Unauthorized practice of law;
- Violation of Supreme Court rules, directives and circulars;
- Receiving additional or double compensation unless specifically authorized by law;
- Untruthful statements in the certificate of service; and simple misconduct.

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[21] Sec. 11. Sanctions.

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B. If the respondent is guilty of a less serious charge, any of the following sanctions shall be imposed:

- Suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months; or
- A fine of more than P10,000 but not exceeding P20,000;

xxx xxx xxx.

[22] Report on the Judicial Audit Conducted in the Regional Trial Court, Branch 55, Himamaylan City, Negros Occidental, supra at note 18.

[23] Supra at note 12.

[24] Entitled Extending Franking Privilege To Papers Connected With Judicial Proceedings.

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