

YOLANDA DIPUTADO-BAGUIO, COMPLAINANT, VS. JUDGE FELIPE T. TORRES, MTC, BRANCH II, DUMAGUETE CITY, RESPONDENT.*A.M. No. MTJ-90-490. July 03, 1992*

Ponente: PARAS, J.

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Yolanda Diputado-Baguio, Second Assistant City Prosecutor in Dumaguete City, charges respondent Felipe T. Torres, Presiding Judge of Branch II of the Municipal Trial Court in the same City, with: (a) dishonesty and violation of the 1987 Constitution; (b) gross ignorance of the law, grave abuse of discretion and complete disregard of Supreme Court decisions; and (c) misconduct, and prays for the latter's immediate dismissal from the Judiciary.

Complainant contends that respondent deliberately stated in his Monthly Report of Cases submitted to this Court from January 1989 to September 1990 that there are no cases submitted for his decision when in truth, a number of criminal cases previously tried by him had been submitted for his decision which up to the present have remained undecided. Several cases were cited by complainant in support of this charge. According to her, respondent deliberately falsified his Monthly Report of Cases to enable him to regularly collect his monthly salary and to evade the task of deciding cases within ninety (90) days from the date of submission thereof, which is in violation of Sec. 15 (1), Art. VIII of the 1987 Constitution. Complainant also argues that some of the said cases are even covered by the Rule on Summary Procedure which should thus have been decided by respondent within fifteen (15) days from the termination of the trial pursuant to Sec. 17 thereof; and that respondent required the parties therein to submit their memoranda on the merits, which is prohibited under Sec. 15 of the said rule.

As Asst. City Prosecutor in Dumaguete City, complainant was assigned to handle some of the cases before respondent judge. One of such cases is Crim. Case No. C-23 wherein respondent, pursuant to Secs. 9 and 6(b) of Rule 112 of the Rules on Criminal Procedure, apparently issued an order quashing the information for Grave Slander by Deed filed by the Fiscal and made a finding that the crime committed by the accused therein was Slight Physical Injuries. Complainant claims that respondent displayed ignorance of the law for conducting his own preliminary examination of the case before the issuance of a warrant of arrest, disregarding the prosecutor's certification that he has conducted a preliminary investigation of the case and found the existence of a probable cause. Complainant adds that the official to determine what offense to file is the Fiscal, who, in this case, filed the complaint for Grave Slander by Deed. The other criminal cases, such as Crim. Cases No. C-34-S, C-23, B-106-S and C-66-S, which are all covered by the Rule on Summary Procedure, were dismissed by respondent judge on the ground of prescription. Complainant claims that since the complaint was initially filed with the Fiscal's office, such filing interrupts the period of prescription for the offense pursuant to Sec. 1, Rule 110 of the Amended Rules on Criminal Procedure. The dismissals, complainant avers, are therefore erroneous.

Respondent judge denied the allegations of the complainant and argues that it is his Clerk of Court who files his Monthly Report of Cases and that any error that may have been committed by said Clerk of Court was not done intentionally and with bad faith; that the questioned orders are in accordance with law and jurisprudence; and that

his use of the questioned statements was merely to express his opinion "in a manner most convincing and easily understood by his readers" and was intended to "liven his order or pleading".

In a Resolution dated August 21, 1991, this Court referred the case to Executive Judge Enrique Garovillo of the RTC of Dumaguete City for investigation, report, and recommendation. The Executive Judge submitted his Report and Recommendation dated February 12, 1992.

As correctly found by Executive Judge Garovillo, there was really a delay in the disposition of certain cases submitted for respondent's decision. The following cases were apparently not decided within the 90-day period mandated by the Constitution: (a) Crim. Case No. 9770-S, decided after one (1) year and one (1) month; (b) Crim. Case No. 10051-S, decided after one (1) year and three (3) months; (c) Crim. Case No. 9210, decided after one (1) year and eight (8) months; and (d) Crim. Cases Nos. B-131-5, 9523 and 7614 (which were submitted for decision on November 19, 20 and 15, 1990 respectively but were not as yet decided on February 28, 1991 and February 25, 1991). Crim. Cases Nos. 8693, 8750, 8842, 9414-S, 9412-S, 9404-S, 9770-S and 10151-S were also decided beyond the reglementary period of ninety (90) days. The delay, however, may be attributed in part to the following factors: congestion of the docket of respondent's court, lack of necessary personnel, respondent's detail in other courts, and his illnesses. Thus, we may consider the presence of the aforesaid circumstances to mitigate respondent's liability.

The charges of gross ignorance of the law, grave abuse of authority and disregard of Supreme Court decisions are unmeritorious. Complainant claims that respondent displayed ignorance of the law in disposing of Crim. Cases Nos. C-23, C-34-S, B-106, and C-66-S. In this regard, it must be noted that on July 25, 1990, this Court, in *People vs. Inting, et al.*, G.R. No. 88919, July 25, 1990, ruled that "the determination of probable cause is a function of the Judge"; that the "preliminary inquiry made by a Prosecutor does not bind the Judge. xx The Judge does not have to follow what the Prosecutor presents to him." It cannot, therefore, be said that respondent has ignored the law because the above-quoted ruling has, in effect, cured the defect in respondent's rulings. Also, respondent has been proven right in three (3) cases (Crim. Cases Nos. C-23, B-106 and C-6-S) when the Regional Trial Court and the Court of Appeals sustained his dismissal orders. With such an affirmation by the Regional Trial Court and the Court of Appeals, respondent cannot easily be branded as ignorant of the law.

As for the other questioned orders of the respondent, We hold that since there was no evidence to convince Us that the error was attributable to a willful and deliberate intent to perpetrate an injustice, respondent's questioned rulings may not be the subject of an administrative action against him.

Thus, this Court has ruled:

"A judge is not administratively accountable for every erroneous ruling or decision rendered provided he acts in good faith and without malice. The proper remedy of the aggrieved party is not an administrative charge against the judge but an appeal or petition for review of his decision where a judge's good faith has not been put in issue, the presumption of regularity in the performance of his official duties must be conceded to him." (Martin vs. Judge, AM No. MTJ-90-495, Aug. 12, 1991)

As for the last charge, Executive Judge Garovillo opined that some of respondent's statements in his orders and pleadings "have gone beyond what is necessary as they are clearly sarcastic and too personal." We agree with the finding that respondent's arguments could have been better expressed in clear and simple language limited to the issue being disputed instead of by insulting remarks. While it is true that the pleadings of complainant are bluntly critical of respondent's actuations, the latter, being a dispenser of justice, should have exercised some restraint and acted with sobriety in his reaction to complainant's criticisms.

WHEREFORE, respondent judge is fined in the amount of Twenty Thousand (P20,000.00) Pesos for delaying the

decision in Crim. Cases Nos. 9770-S, 10051-S and 9210, appreciating in his favor the mitigating circumstances of heavy docket, illness and additional assignment in other municipal circuit courts of the province; and is reprimanded for his unnecessary use of insulting and sarcastic remarks in certain orders in Crim. Case No. C-23 of his court and in his answer to the petition in Special Civil Action No. 9737 of the RTC. The respondent is warned that more drastic penalties will be imposed in case of repetition of the same or similar offenses. Let this decision be spread on his record.

SO ORDERED.

Narvasa, C.J., (Chairman), Gutierrez, Jr., Cruz, Feliciano, Padilla, Bidin, Grino-Aquino, Medialdea, Regalado, Davide, Jr., Romero, Nocon, and Bellosillo, JJ., concur.

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