

THE PHILIPPINE TRIAL LAWYERS ASSOCIATION INC., PETITIONER, VS. JUDGE ENRIQUE A. AGANA SR., RESPONDENT.

A.M. No. L-2395-CFI. January 31, 1981

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

The Court Administrator submitted the following report:

"This is a complaint for gross misconduct against Judge Enrique Agana, Sr. of the Court of First Instance, Branch XXVIII in Pasay City, for falsifying a certification that he had no case pending decision beyond the ninety days reglementary period, while he knew fully well that Case No. PQ-5987-P, entitled: Gloria Vera Lim, et al. vs. B.C. Ponce, Co. Inc., had already been pending decision beyond said period. He was thus able to receive his salary unduly.

"The following are the undisputed facts:

"1) In said Civil Case No. PQ-5987-P, respondent judge issued an Order declaring the case submitted for decision as of December 4, 1978. He received his salaries from March to December 1979 upon submitting Certificates of Service for the period.

"2) Respondent Judge went on leave of absence from September 17 to October 7, 1979.

"3) The decision rendered by respondent in said Civil Case No. PQ-5987-P is dated October 26, 1979. Plaintiff, through counsel Atty. Beltran, who is the herein complainant, received a copy thereof on December 12, 1979.

"It is the position of complainant that as the case was submitted for decision on December 4, 1978, the 90-day period within which a decision should have been rendered would expire on March 4, 1979.

"Atty. Beltran testified that after waiting for the decision for over eight (8) months, he prepared an 'Ex-Parte Motion to Decide' dated October 27, 1979, which he sent by messenger for filing in Branch XXVIII. However,

the messenger brought it back because Deputy Clerk of Court Urbano .said that [here was no need for ii as a decision had already been prepared.

"On the other hand, Judge Agana declared that he prepared a decision before he went abroad in September 1979 but he signed it upon his return in October 1979. The decision was dated October 28, 1979, Tiled with the receiving clerk of Branch XXVIII on November 21, 1979 and promulgated on December 5, 1979.

"Justice Carolina Griño-Aquino of the Court of Appeals, to whom this case was referred for investigation, reports:

" 'The records of the Disbursing & Collection Office of the Supreme Court show that from March 1979 to December 1979 Judge Agana collected his salaries as Judge of the Court of First Instance of Pasay City and submitted monthly certificates of service in support of his salary vouchers certifying that "all cases which have been under submission for decision and determination for a period of 90 days, or more, have been determined and decided" by him (Exhs. F, G, H, I, J, K, L, M, N, & O).

" 'Respondent Judge contends that his certificates of service were not false because Civil Case No. PQ-5987-P was allegedly decided within ninety days from his receipt of the records, transcripts and exhibits from his clerk, Ofelia Tubeo, in the later part of July 1979. The decision dated October 26, 1979 was allegedly rendered within 90 days from the last week of July 1979.

" 'There is no merit in that contention. The date of submission of the case for decision was fixed by the respondent himself in his order of December 4, 1978. From then on the collation of the records, . transcripts and exhibits and the preparation of the decision were the sole responsibility of respondent Judge and should be finished within ninety days or on or before March 4, 1979.

"It is clear from the provision of Art. X, Sec. 11 of the 1973 Constitution and of Sec. 5 of the Judiciary Act (R.A. No. 296) that the period within which a court should decide a case should be reckoned with from the date said case is submitted for decision. And a criminal case is considered submitted for decision upon termination of the trial and/or the expiration of the period to file memoranda. Respondent's claim that such reglementary period commences to run only upon the expiration of the period he gave his stenographer to complete her transcript of stenographic notes is clearly without merit. Precisely, judges are directed to take down notes of salient portions of the hearing and to proceed in the preparation of decisions without waiting for the transcript of stenographic notes. Furthermore, we have already ruled that with or without the transcribed stenographic notes, the 90 day-period for deciding cases should be adhered to" (Lawan vs. Moleta, AM-1696-MJ, June 19, 1979, 90 SCRA 679, 680).

" 'The record shows that Enriquez submitted his transcript to Ofelia Tubeo on January 5, 1979 and that Aida Francisco's stenographic notes (of the hearing on September 1, 1978) were transcribed by her on September 15, 1978 (p. 55, Exh. 1). In fact, on September 27, 1978, the plaintiffs, through Attorney Beltran, filed a motion to

strike out a portion of said transcript (Exh. 9 or U, p. 64 of Exhibit 1). Clearly Aida Francisco's transcript had been prepared prior to December 4, 1978.

" 'Respondent Judge, through counsel, admitted that he knew that Francisco's transcript had been ready since October 1978, or, even before the trial of Civil Case No. PQ-5987-P was finished.

" 'That admission tears apart the efforts of Ofelia Tubeo and Aida Francisco painstakingly to cover up for respondent Judge. Since Aida Francisco's transcript was completed on September 15, 1978, it follows that Ofelia Tubeo could not have 'misfiled' the case record while 'waiting for said transcript.' The admission of respondent Judge that he 'forgot the case' after issuing his order of December 4, 1978 hews closer to the truth that his inattention to his duties was the cause of the delay in rendering a decision in Civil Case No. PQ-5987-P.

" 'The decision, although dated October 26, 1979, was filed with the clerk of court only on November 21, 1979 and promulgated on December 5, 1979, or after a delay of two more weeks. Since a decision is deemed rendered as of the date it is filed with the clerk of Court (Sta. Maria vs. Ubay, 87 SCRA 179), the decision in Civil Case No. PQ-5987-P was rendered on November 21, 1979 when it was filed with the receiving clerk of Branch XXVIII, and not on October 26, 1979, the date of the decision. It was rendered eight (8) months and 17 days after the expiration of the deadline on March 4, 1979.

" 'The alleged 'misfiling' of the record of the case by Ofelia Tubeo, even if true, was not a valid excuse for rendering a delayed judgment in Civil Case No. PQ-5987. A judge should not rely on a subordinate employee to remind him of his deadlines. Subordinate employees of the court are riot the guardians of a judge's responsibilities. A judge is personally and directly responsible for the pro-per discharge of his functions.'

and recommended that 'respondent judge be severely reprimanded and admonished to be more attentive and assiduous in the performance of his duties, and that he be warned that a repetition of such infraction of the rules in the future will be more severely dealt with.' "

The Court Administrator recommends the approval of the aforementioned report and recommendation of Court of Appeals Justice Carolina Griño-Aquino, which recommendation is approved.

WHEREFORE, respondent Judge Enrique A. Agana Sr. is hereby severely reprimanded and admonished to be more attentive and assiduous in the performance of his duties, and warned that a repetition of such infraction of the rules in the future will be more severely dealt with.

Teehankee (Chairman), Fernandez, Guerrero and Melencio-Herrera, JJ., concur.

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