

VIRILIO P. ALCONERA, COMPLAINANT, VS. JUDGE JOSE S. MAJADUCON, RESPONDENT.

A.M. NO. MTJ-00-1313. April 27, 2005

Ponente: CORONA, J.

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CORONA, J.:

This is a complaint for gross ignorance of the law or procedure and/or grave misconduct against Judge Jose S. Majaducon, Presiding Judge of the Municipal Trial Court in Cities (MTCC), Branch 1, General Santos City filed by Atty. Virgilio P. Alconera.[1]

This complaint originated from a case for forcible entry with a prayer for the issuance of a temporary restraining order and/or a writ of preliminary injunction, damages and attorney's fees filed by complainant on March 13, 1997 on behalf of Dioscoro Bactol and Elizabeth Bactol Viquiera against Faustino Labao with the MTCC of General Santos City.[2] The case was subsequently assigned to the sala of the respondent. Summons was served upon the defendant on April 4, 1997.[3]

On April 19, 1997, defendant Labao filed his unverified answer, well beyond the ten-day period provided by the 1991 Revised Rule on Summary Procedure.[4] Nevertheless, respondent admitted defendant's answer and set the case for preliminary conference.[5] Shortly after receiving the order for preliminary conference, the plaintiffs filed a motion for summary judgment or judgment on the pleadings, contending that, having filed his answer out of time and without verification, defendant in effect failed to file his answer and that, in any event, his answer failed to tender an issue.[6] Respondent never acted on the said motion. Three preliminary conferences were held on April 28, May 21 and May 26, 1997.

On May 26, 1997, Labao was absent but still the conference proceeded, after which respondent, in an order given in open court, gave the parties a non-extendible period of 15 days to submit their position papers with their evidence. In the same hearing, he also ordered that because defendant Labao did not appear at the conference despite notice, he was given "a chance to move for reconsideration within ten (10) days from notice hereof whether or not he intend[ed] still to present more documentary evidence for marking..."[7]

On June 9, 1997, plaintiffs filed their position paper.[8] Thereafter, defendant Labao, through counsel, filed a "Motion to File Answer through Counsel." [9] Respondent granted said motion and also directed defendant Labao to file his position paper.[10] Defendant Labao never filed either his position paper or his answer.

On October 9, 1997, respondent declared the case submitted for decision.[11] On November 3, 1997, he rendered a decision in favor of Labao and dismissed the complaint.[12] A little over a month later, complainant filed this case against respondent for gross ignorance of the law and/or grave misconduct for manifest bias toward a litigant, specifically for ignoring the rule on summary procedure and favoring the other party.

On May 7, 1998 the Office of the Court Administrator (OCA) referred the verified complaint to respondent, directing him to answer within ten days.[13]

In his answer,[14] respondent refuted the charge of bias, claiming that he rendered his decision based on defendant's evidence that he was in prior possession of the land. He likewise explained his failure to act on complainant's motion, saying that he had not done so because "during the initial stages, a certain Atty. Johnny Landero filed a motion to allow Faustino Labao to file an amended answer. Atty. Alconera himself did not object to this motion." [15] However, he did not at all address the complaint that he violated the Revised Rule on Summary Procedure.

After evaluating the case, the OCA recommended that the case be re-docketed as a regular administrative matter and that respondent be fined P10,000 for gross ignorance of the law.[16] We referred the complaint to Executive Judge Abednego O. Adre[17] of General Santos City for investigation, report and recommendation.[18]

However, it turned out that Judge Adre had been appointed to the RTC of Quezon City.[19] On top of that, respondent submitted a manifestation to the Court dated October 20, 2000 that, not only was there no Executive Judge in General Santos City but also that he was the Vice-Executive Judge and therefore the acting Executive Judge.[20] Respondent also prayed that his counter-charge against complainant be given due course.

Furthermore, due to the fact that the respondent had in the meantime been promoted to RTC judge, the OCA recommended that the case be referred to an associate justice of the Court of Appeals for investigation, report and recommendation.[21] The case was subsequently assigned to Associate Justice Juan Enriquez who set the case for preliminary conference.

In a strange turn of events, however, complainant informed the Court that he was withdrawing his complaint and moving for the dismissal of the case.[22] Justice Enriquez informed complainant that his letter-request could not be favorably acted upon owing to the sui generis nature of an administrative case. He reset the preliminary conference.[23]

Because no one appeared at the preliminary conference, Justice Enriquez issued an order giving the parties five days to manifest whether they were amenable to have the case submitted for decision based on the pleadings on record.

Complainant submitted a manifestation in which he prayed for the dismissal of the case.[24] He later submitted another manifestation, this time in response to Justice Enriquez's order, reiterating the said prayer and stating that he was not, in fact, amenable to have the case submitted for decision based on the pleadings.[25]

On February 24, 2002, respondent retired upon reaching the compulsory retirement age of 70.

On July 8, 2002, the Third Division of this Court, in Administrative Matter No. 10874-Ret., concerning the compulsory retirement of respondent, resolved to release his retirement benefits but set aside P100,000 thereof in view of several administrative cases still pending against him.

On October 10, 2003, Justice Enriquez finally submitted his report and recommendation. He found respondent guilty of gross ignorance of the law and recommended that he be fined P20,000 considering that the same was a serious charge under Section 3 (actually Section 8) of Rule 140 of the Revised Rules of Court and punishable under Section 11(A)(3) of the same Rule.[26]

The main issue here is whether respondent was in fact guilty of gross ignorance of the law or procedure. A secondary issue is whether the withdrawal of charges by the complainant was a valid ground for the dismissal of the case.

We will first dispose of the ancillary issue.

In the recent case of *Gamboa v. Gamboa*, [27] we suspended court employee Pedro S. Gamboa for six months and

one day without pay for disgraceful and immoral conduct, even though the complainant (his wife) had filed an “Affidavit of Forgiveness, Pardon and Desistance.” We reiterated the rule that an administrative case against an official or employee of the judiciary, once filed, ceases to be dependent on the interest of the complainant to pursue the case. Quoting *Rizon v. Zerna*,^[28] we said:

Administrative actions cannot depend on the will or pleasure of the complainant who may, for reasons of his own, condone what may be detestable. Neither can the Court be bound by the unilateral act of the complainant in a matter relating to its disciplinary power...Desistance cannot divest the Court of its jurisdiction to investigate and decide the complaint against the respondent. To be sure, public interest is at stake in the conduct and actuations of officials and employees of the judiciary. And the program and efforts of this Court in improving the delivery of justice to the people should not be frustrated and put to naught by private arrangements between the parties.

In short, complainant’s manifestation to the effect that he was no longer interested in prosecuting this case was of no moment, as were his attempts to persuade us that respondent was, lo and behold, objective and professional after all. Respondent’s infraction, manifest from the records, should be the proper basis of our decision.

We adopt most of Justice Enriquez’s recommendations which actually echo those of OCA three years earlier.

Sections 5 and 6 of the 1991 Revised Rule on Summary Procedure provide in no uncertain terms the period within which a defendant must file his answer, and the consequences of failure to file the same:

SEC. 5. Answer. — Within ten (10) days from service of summons, the defendant shall file his answer to the complaint and serve a copy thereof on the plaintiff. Affirmative and negative defenses not pleaded therein shall be deemed waived, except for lack of jurisdiction over the subject matter. Cross-claims and compulsory counterclaims not asserted in the answer shall be considered barred. The answer to counterclaims or cross-claims shall be filed and served within ten (10) days from service of the answer in which they are pleaded.

SEC. 6. Effect of failure to answer. — Should the defendant fail to answer the complaint within the period above provided, the court, *motu proprio*, or on motion of the plaintiff, shall render judgment as may be warranted by the facts alleged in the complaint and limited to what is prayed for therein: Provided, however, That the court may in its discretion reduce the amount of damages and attorney’s fees claimed for being excessive or otherwise unconscionable. This is without prejudice to the applicability of Section 4, Rule 18 of the Rules of Court, if there are two or more defendants. (emphasis ours)

The rules are unequivocal as to what a judge who is hearing a summary proceeding is supposed to do when the defendant fails to file his answer within the reglementary period. The word “shall” indicates that the act of rendering judgment is mandatory and not discretionary upon him. The same specific requirement can be found in the rule on Forcible Entry and Unlawful Detainer proceedings.^[29] Highlighting the absence of discretion is the fact that in the proviso, the judge is given discretion as to the amount of damages he is allowed to impose. It was therefore not within respondent’s authority to accept defendant Labao’s late answer.

In addition, by granting Labao’s “Motion for Time to File Answer,” respondent, in effect, violated Section 19(e) of the Rule on Summary Procedure prohibiting motions for extension of time to file pleadings, affidavits or any other paper. By granting it, he defeated the summary nature of the case.

Regarding respondent’s alleged bias in favor of Labao, it is clear from the records that respondent bent over backwards several times by admitting late and even unauthorized pleadings, and by blithely offering him several extensions to submit evidence as he pleased. Whether or not such actions were motivated by bias was actually irrelevant because they violated not only the letter but also the spirit of the Rule on Summary Procedure. The fact

that the Rule sets such a stringent time limit on filing an answer and excludes a multitude of pleadings allowed in ordinary proceedings can only point to a specific intent: the efficient and expeditious disposal of cases covered by the Rule. What happened in respondent's sala, with all the extensions of time and undue granting of the defendant's motions, was the exact opposite.

We likewise adopt Justice Enriquez's finding that respondent's alleged closeness to defendant was without sufficient basis.

Respondent's counter-charge against complainant is dismissed, given the merit of the complaint against him for ignorance of law or procedure.

As a member of the judiciary, respondent is supposed to know his law. The Code of Judicial Conduct provides that "A judge shall be faithful to the law and maintain professional competence." [30] Respondent was sorely remiss in that obligation in at least one instance. His ignorance of procedure, manifest from the records, properly fell under Section 8 of the Rule on Discipline of Judges of Regular and Special Courts, specifically gross ignorance of the law or procedure. [31]

OCA's records disclose that respondent, while still in the service, was the subject of several administrative cases, at least two of which resulted in his being fined. In one case, he was fined P10,000. Under these circumstances, we disagree with Justice Enriquez's recommended penalty of P20,000 which is the lightest possible penalty for respondent's offense.

The penalty for gross ignorance of law or procedure as provided in Section 11 of the Rules on Discipline ranges from fine to dismissal. Since this is not respondent's first offense, we impose the maximum fine of P40,000 and not just P20,000 as originally recommended by the OCA, to be deducted from the P100,000 set aside from respondent's retirement benefits in A.M. No. 10874-Ret.

WHEREFORE, Judge JOSE S. MAJADUCON is hereby found GUILTY of gross ignorance of procedure and is hereby FINED in the amount of P40,000, the amount to be deducted from the P100,000 set aside from his retirement benefits in A.M. No. 10874-Ret.

Furthermore, let a copy of this decision be furnished the Committee on Bar Discipline of the Integrated Bar of the Philippines, for the investigation of complainant Atty. Virgilio P. Alconera for trifling with the time and resources of the Court. Members of the bar, being officers of the court, should not use administrative complaints as instruments of vindictiveness. When they file a complaint, they are presumed to be motivated by a noble desire to rid the judiciary of misfits. Vengeance ought to be totally out of the picture.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Carpio-Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, and Garcia, JJ., concur.

[1] Rollo, pp. 1-9.

[2] Id., p. 10.

[3] Id., p. 15.

[4] Id., p. 16.

[5] Id., p. 17.

- [6] Id., p. 18.
- [7] Id., pp. 20-21.
- [8] Id., pp. 22-28.
- [9] Id., pp. 38-39.
- [10] Id., p. 40.
- [11] Id., p. 41.
- [12] Id., pp. 42-45.
- [13] Id., p. 48.
- [14] Id., pp. 49-57.
- [15] Id., pp. 49-50.
- [16] Id., pp. 79-84.
- [17] Referred to by the OCA as “Abedneco O. Adre”
- [18] Id., pp. 85-86.
- [19] Id., pp. 89.
- [20] Id., p. 95.
- [21] Id., pp. 101-102.
- [22] Id., p. 111.
- [23] Id., p. 110.
- [24] Id., pp. 138-143.
- [25] Id., p. 158.
- [26] Report and Recommendation submitted by Associate Justice Juan Q. Enriquez, submitted October 10, 2003.
- [27] A.M. No. P-04-1836, 30 July 2004.
- [28] 417 Phil. 634 (2001), citing *Enojas, Jr. v. Gacott, Jr.*, 379 Phil. 277 (2000).
- [29] Sections 6 and 7, Rule 70, 1997 Revised Rules of Civil Procedure.
- [30] Rule 3.01, Canon 3, Code of Judicial Conduct.
- [31] Section 8 (9), Rule 140, Revised Rules of Court.

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