

FRANCISCO BOLALIN, COMPLAINANT, VS. JUDGE SALVADOR M. OCCIANO, RESPONDENT.

A.M. No. MTJ-96-1104. January 14, 1997

Ponente: REGALADO, J.

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REGALADO, J.:

In a sworn letter complaint[1] dated January 15, 1996, complainant Francisco Bolalin, who was a candidate for the office of Barangay Captain during the 1994 Barangay Elections, charged respondent Judge Salvador M. Occiano of the Municipal Trial Court (MTC) of Balatan, Camarines Sur, with gross inefficiency and neglect of duty for his failure to render his decision in Election Protest No. 1 within the prescribed period. Complainant alleges that the last and final hearing of the election protest was on February 27, 1995 but, until now, it does not appear that a decision has been rendered by respondent.

He further claims that respondent judge was absent from his court for five consecutive months already and many cases have been pending for decision, including that of the Chief of Police of Balatan which remained unacted upon since August 29, 1995. Additionally, he reports that respondent judge solemnizes marriages without being present at the ceremony. He allegedly just directs the contracting parties and witnesses to sign the marriage contract in his absence and, thereafter, the documents are brought to his residence at Nabua, Camarines Sur for his signature.

In compliance with the resolution[2] of this Court dated March 20, 1996, respondent judge filed his comment on May 29, 1996, wherein he questions the veracity of the allegations of complainant. Specifically, he denies that Election Protest No. 1 was submitted for decision on February 27, 1995 which was allegedly the last hearing conducted in the case, the truth being that the last pleading captioned "Protestee's Objection to Formal Offer of Exhibits"[3] was submitted on September 5, 1995. He vehemently denies being partial to the protestee who is not a relative, friend or even an acquaintance of his, and he claims that such allegation is speculative and a product of complainant's fertile imagination.

Furthermore, he also denies having been absent for five consecutive months which resulted in his nonfeasance on the cases submitted for decision in his court. He claims that aside from presiding over the MTC of Balatan, he is also holding office in the Municipal Circuit Trial Court (MCTC) of Nabua-Bato, Camarines Sur which is some twenty-seven kilometers away from Balatan; that, to date, he is trying ten criminal and civil cases originally assigned to Judge Mirardo R. Armea[4] but who had inhibited himself therefrom; that he was also designated by the Executive Judge of the Regional Trial Court (RTC), Iriga City to try fifteen criminal cases for violation of B.P. Blg. 22 filed before the MCTC of Nabua-Bato, but from which he later recused himself by reason of personal affinity with the private complainant; that he was on vacation leave of absence during the period from August to December, 1995 for several days, except in November, 1995 when Typhoon "Rosing" hit the Bicol region, especially Nabua where he resides, resulting in overflowing and impassable road conditions. Said leaves of absence are allegedly indicated in his certificates of service for August to December, 1995 submitted to the Leave Section of the Supreme Court.

Respondent likewise contends that he had actually acted on the criminal complaint filed by the Chief of Police of Balatan. that the last hearing therein for reception of the evidence for the prosecution was on April 19, 1996, and that the defense was scheduled to present its witnesses on May 17, 24 and 31, 1996.

Finally, he gainsays the reports that he had solemnized marriages without being present at the ceremony or that the contracting parties and their witnesses merely signed the marriage contracts which were then brought to his residence for signature. He theorizes that since complainant is not an employee of the court or of any government agency, he could not have been able to obtain information of those facts, assuming the truth thereof.

As a counterpoise, he alleges that, on two occasions, complainant had asked him inside his chambers to decide the election protest in his favor. He avers that the case is being carefully studied by him on account of the numerous documentary exhibits and, as of the date of his comment, he was already finalizing the draft of his decision which he himself types without the aid of his stenographer as has been his practice ever since he was appointed as a judge.

After a careful examination of the records of the case, and a thorough evaluation of the respective contentions of the parties, we find merit in the administrative complaint.

Respondent judge. by his own admission in his comment is guilty of delay in deciding Election Protest No. 1 for, up to the present, it would appear that he is still in the process of preparing the final draft of his decision although eight months have already elapsed.

A petition or protest contesting the election of a barangay officer should be decided by the municipal or metropolitan trial court within fifteen days from the filing thereof.[5] The period provided by law must be observed faithfully because an election case, unlike ordinary actions, involves public interest. Time is of the essence in its disposition since the uncertainty as to who is the real choice of the people for the position must soonest be dispelled. It is neither fair nor just that one whose right to the office is in doubt should remain in that office for an uncertain period. It must be noted that the term of office of barangay officials is only three years, hence the need for the resolution of the controversy in the shortest possible time.

As observed in the memorandum of the Office of the Court Administrator submitted on October 24, 1996 which merits our approval —

"The excuse given by respondent Judge that he is also the Acting Judge of MCTC, Nabua-Bato and that he types his own decision cannot be given credence for he ought to know that an election protest case should be given preferential attention and, moreover, he should keep a list of cases already due for decision, to keep him guided. His inaction for 8 months considering that the law requires only 15 days to decide the case cannot be ignored and shows his incompetency."

A judge should always be the embodiment of competence, integrity and independence and should administer justice impartially and without delay.[6] He should be faithful to the law and maintain professional competence, dispose of the court's business promptly, and decide cases within the required periods.[7]

As we held in *Española vs. Panay*,[8] if the caseload of the judge prevents the disposition of cases within the reglementary periods, he should ask this Court for a reasonable extension of time to dispose of the cases involved. This is to avoid or dispel any suspicion that something sinister or corrupt is going on. However, the records of this administrative matter do not show that any attempt was made by respondent judge to make such a request. Instead, he preferred to keep the case pending and shrouded by his silence.

Anent the charge of absenteeism, respondent judge vehemently disputes the allegation on his absence for five consecutive months with the concomitant inaction on cases filed and submitted in his court for decision. He

reasons out that whenever he was not in the MTC of Balatan, Camarines Sur, he was holding office in the MCTC of Nabua-Bato, Camarines Sur by designation of the Executive Judge[9] of the RTC of Iriga City. He insists that his absence for several days for the period from August to December, 1995 were duly reflected in his certificates of service submitted and on file with the Leave Section of this Court.[10] These representations, it will be noted, were made by him under oath.

His aforestated submissions only aggravate the charges against him for, again, we advert to the findings in the memorandum of the Office of Court Administrator, to wit:

"(We) find merit (in) the charge of absenteeism. Judge Occiano maintains that he was on leave of absence from August to December 1995 for several days and the same is reflected in his Certificates of Service covering said period. A verification with the Leave Section of this Court, however, reveals that Judge Occiano for the periods mentioned never did file any application for leave of absence and, worse, he had stated in his Certificates of Service for December 1995 that all applications, petitions, motions, resolutions and all civil and criminal cases under submission for decision or determination for a period of ninety (90) days have been determined and decided on or before November 30, 1995 when the truth is Election Protest No. 1 has not been decided by him. His being absent without any application for leave constitutes frequent unauthorized absences and his filing of a false certificate of service is tantamount to gross dishonesty which falls within the category of less serious and serious charges respectively under Sec. 3. Rule 140 Rules of Court."

Thus, because of his unauthorized absences, not only the constitutional and statutory requirements that cases be decided within the period fixed therefor were flagrantly violated. In the process, he also contravened Section 16, Article III of the Constitution which provides that "(a)ll persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies." Delay in the disposition of cases erodes the faith and confidence of our people in the judiciary, lowers its standards, and brings it into disrepute.[11] We cannot countenance such undue delay by a judge, especially now when there is an all-out effort to minimize, if not totally eradicate, the problems posed by congested dockets which have long plagued the courts.

On top of his gross inefficiency, we are gravely disturbed by his submission of false certificates of service which seriously undermines and reflects on the honesty and integrity expected of an officer of the court. We have ruled in *Maceda vs. Vasquez*[12] that a judge who submits a false certificate of service is administratively liable for serious misconduct under Section 1, Rule 140 of the Rules of Court and he is further criminally liable to the State under the Revised Penal Code.[13] A certificate of service is not merely a means to one's paycheck but is an instrument by which the Court can fulfill the constitutional mandate of the people's right to a speedy disposition of cases. [14]

As to the charge of solemnizing marriage without his actual presence, complainant failed to mention any names or the particulars thereof, nor did he adduce any evidence, such as sworn affidavits of the contracting parties or the marriage contract itself, which would prove that indeed the respondent judge committed such malfeasance. We are, therefore, constrained to dismiss this particular charge for lack of substantiation.

Respondent judge has committed infractions, both administrative and criminal, of such a grave nature as to call for sanctions of commensurate degrees. He has disregarded and ignored our repeated injunctions that judges should endeavor to conduct themselves strictly in accordance with the mandate of the law and the Code of Judicial Ethics that they be exemplars in their community and the living personifications of Justice and the Rule of Law.[15] He has even ignored constitutional mandates.

WHEREFORE, we find and declare Judge Salvador M. Occiano guilty of undue delay in deciding Election Protest No. 1, absenteeism in office, and falsification of certificates of service. He is hereby meted, in this instance, an administrative penalty of **SUSPENSION** from office for six (6) months without pay, without

prejudice to the contingency contemplated in the following paragraph.

The Office of the Court Administrator shall conduct an evaluation of the criminal aspects of the falsification of certificates of service by respondent judge, as well as his false statements to this Court in his comment made under oath, and based on the findings thereon, to take appropriate steps leading to the criminal prosecution thereof. A report of the action taken shall forthwith be submitted to this Court, with the corresponding recommendation.

Let a copy of this decision be attached to the personal records of respondent judge.
SO ORDERED.

Romero, Puno, Mendoza, and Torres, Jr., JJ., concur.

[1] Rollo, 1.

[2] Ibid., 4.

[3] Ibid., 23.

[4] Presiding Judge, MCTC, Nabua-Bato, Camarines Sur.

[5] Sec. 252 of B.P. 881 (Omnibus Election Code).

[6] Rule 1.01 and 1.02, Code of Judicial Conduct; Cantela vs. Almoradie, A.M. No. MTJ-93-749, February 7, 1994, 229 SCRA 712.

[7] Wingarts vs. Mejia, A.M. No. MTJ-94-1012, March 20, 1995, 242 SCRA 436.

[8] A.M. No. RTJ-95-1325, October 4, 1995, 248 SCRA 684, citing Cruz vs. Basa, A.M. No. MTJ-91-598, February 9, 1993, 218 SCRA 551.

[9] Judge Reno R. Gonzalez.

[10] Rollo, 8-9.

[11] BPI vs. Generoso, A.M. No. MTJ-94-907, October 25, 1995, 249 SCRA 477.

[12] G.R. No. 102781, April 22, 1993, 221 SCRA 464.

[13] Art. 174, Revised Penal Code.

[14] Sabitsana, Jr. vs. Villamor, A.M. No. RTJ-90-474, October 4, 1991, 202 SCRA 435.

[15] SC Circular No. 13, dated July 1, 1987, par. 9.

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