

**CHINA BANKING CORPORATION, REPRESENTED BY MARGARITA L. SAN JUAN AND GEORGE C. YAP, COMPLAINANT, JUDGE LEONCIO M. JANOLO, JR., REGIONAL TRIAL COURT, BR. 264, PASIG CITY, RESPONDENT.**

*A.M. No. RTJ-07-2035. June 12, 2008*

Ponente: CARPIO, J.

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**CARPIO, J.:**

This is a complaint for simple misconduct and undue delay in rendering two orders filed by China Banking Corporation (China Bank) against Judge Leoncio M. Janolo, Jr. (Judge Janolo, Jr.) of the Regional Trial Court, Branch 264, Pasig City.

On 5 October 2000, Solid Builders, Inc. (SBI) and Medina Food Industries, Inc. (MFII) filed a complaint[1] against China Bank praying that the bank be (1) restrained from instituting foreclosure proceedings, (2) restrained from implementing the interest rates stipulated in the mortgage contracts, and (3) made to pay damages. SBI and MFII applied for a writ of preliminary injunction against China Bank. The case was docketed as Civil Case No. 68105 and raffled to Judge Janolo, Jr.

On 10 November 2000, China Bank filed its answer[2] praying that the complaint be dismissed and that SBI and MFII be the ones made to pay damages.

In an order[3] dated 14 December 2000, Judge Janolo, Jr. granted SBI and MFII's application for a writ of preliminary injunction. On 2 February 2001, China Bank filed a motion for reconsideration[4] questioning the 14 December 2000 order. On 24 April and 23 October 2001, SBI and MFII filed their comment and supplemental comment to the motion for reconsideration, respectively. In an order[5] dated 10 December 2001, Judge Janolo, Jr. denied the motion for reconsideration.

On 22 March 2002, China Bank asked Judge Janolo, Jr. to set the case for pre-trial. On 24 February 2003, China Bank filed a motion[6] to dissolve the 14 December 2000 and 10 December 2001 orders. In an order[7] dated 10 November 2003, Judge Janolo, Jr. denied the motion to dissolve. On 4 February 2004, China Bank filed a petition for certiorari[8] with the Court of Appeals questioning Judge Janolo, Jr.'s 10 November 2003 order.

On 3 September 2004, China Bank filed with Judge Janolo, Jr. a motion[9] to dismiss Civil Case No. 68105 claiming that SBI and MFII failed to prosecute the case for an unreasonable length of time. On 5 October 2004, SBI and MFII filed their comment to the motion to dismiss. On 25 October 2004, China Bank filed its reply to SBI and MFII's comment. In an order[10] dated 17 January 2005, Judge Janolo, Jr. denied the motion to dismiss.

After Judge Janolo, Jr. denied China Bank's motion to dismiss, he failed to act on Civil Case No. 68105 for a considerable length of time. This prompted China Bank to file with the Office of the Court Administrator (OCA) a complaint[11] dated 2 November 2005 charging Judge Janolo, Jr. with simple misconduct and undue delay in rendering two orders. In its 1<sup>st</sup> Indorsement[12] dated 24 January 2006, the OCA directed Judge Janolo, Jr. to

comment on the complaint. In his comment[13] dated 27 March 2006, Judge Janolo, Jr. stated that the complaint was defective because it lacked a certificate of non-forum shopping and that China Bank was the one to blame for some of the delays.

In a Report[14] dated 21 September 2006, the OCA found Judge Janolo, Jr. guilty of undue delay in resolving two motions -- China Bank's motion for reconsideration and its motion to dissolve. The OCA recommended that the case be re-docketed as a regular administrative matter and that Judge Janolo, Jr. be fined P15,000.

In a Resolution[15] dated 28 February 2007, the Court re-docketed the case as a regular administrative matter and required the parties to manifest if they were willing to submit the case for decision based on the pleadings already filed. In his manifestation[16] dated 10 April 2007, Judge Janolo, Jr. manifested his willingness to submit the case for decision. In its manifestation[17] dated 11 April 2007, China Bank stated that Judge Janolo, Jr. discontinued the proceedings in Civil Case No. 68105 without justifiable cause and prayed that the Court ask Judge Janolo, Jr. to inhibit himself in Civil Case No. 68105 and in another case involving China Bank, which is also pending before Judge Janolo, Jr.

The Court finds Judge Janolo, Jr. liable for simple misconduct and for undue delay in rendering two orders. Due to the fact that this is Judge Janolo, Jr.'s third offense, the Court finds the OCA's recommended penalty too light.

Section 5, Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary provides that judges shall perform all judicial duties efficiently and with reasonable promptness. Judge Janolo, Jr. failed to do so. He left Civil Case No. 68105 dormant for more than one year. The last pleading (China Bank's reply) was filed on 25 October 2004. Since 25 October 2004 until the time China Bank filed the instant complaint on 2 November 2005, Judge Janolo, Jr. unjustifiably failed to act on the case. The Court has repeatedly held that failure to act on a case for a considerable length of time demonstrates lack of dedication to one's work and is administratively sanctionable.[18]

Judge Janolo, Jr.'s failure to act on Civil Case No. 68105 for a considerable length of time constitutes simple misconduct. Simple misconduct is a transgression of some established rule of action, an unlawful behavior, or negligence committed by a public officer.[19] It is a less serious offense[20] punishable by suspension from office without salary and other benefits for not less than one month nor more than three months or a fine of more than P10,000 but not exceeding P20,000.[21]

Aside from his failure to act on Civil Case No. 68105 for a considerable length of time, Judge Janolo, Jr. also failed to act on two motions within the prescribed periods. Section 4, Rule 37 of the Rules of Court provides that a motion for reconsideration shall be resolved within 30 days from the time it is submitted for resolution. China Bank filed its motion for reconsideration on 2 February 2001. SBI and MFII filed their comment and supplemental comment to the motion on 24 April 2001 and 23 October 2001, respectively. Following Section 4, Judge Janolo, Jr. had 30 days from 23 October 2001 to resolve the motion. He issued the order denying the motion only on 10 December 2001 or 18 days after the due date.

Section 15(1), Article VIII of the Constitution provides that judges must resolve all matters within three months from the date of submission. A matter is deemed submitted for resolution upon the filing of the last pleading.[22] China Bank filed its motion to dissolve Judge Janolo's 14 December 2000 and 10 December 2001 orders on 24 February 2003. SBI and MFII filed their comment to the motion on 15 April 2003. China Bank filed its reply to the comment on 16 May 2003. Following Section 15(1), Judge Janolo, Jr. had three months from 16 May 2003 to resolve the motion. He issued the order denying the motion only on 10 November 2003 or two months and 25 days after the due date.

Delay in resolving motions violates the norms of judicial conduct[23] and is administratively sanctionable.[24] Judges must decide cases and resolve matters with dispatch because any delay in the administration of justice, no matter how brief, deprives litigants of their right to a speedy disposition of their case and undermines the people's faith in the judiciary.[25]

Section 9, Rule 140 of the Rules of Court classifies undue delay in rendering an order as a less serious offense. It is punishable by suspension from office without salary and other benefits for not less than one month nor more than three months or a fine of more than P10,000 but not exceeding P20,000.[26]

This is not the first time Judge Janolo, Jr. has been found inefficient. In *Office of the Court Administrator v. Janolo, Jr.*,[27] the Court found him guilty of undue delay in rendering numerous decisions. In that case, Judge Janolo, Jr. failed to (1) decide 15 cases within the prescribed period; (2) resolve 23 matters within the prescribed period; and (3) act on 98 cases for a considerable length of time. In *Gil v. Judge Janolo, Jr.*,[28] the Court found him guilty of gross inefficiency for delay in rendering a decision. In both cases, the Court sternly warned him that the commission of the same offense shall be dealt with more severely.

Section 1, Rule 140 of the Rules of Court does not require the filing of a certificate of non-forum shopping in the institution of administrative proceedings against judges. In fact, administrative proceedings may be instituted by an anonymous complaint.[29] In *Atty. Villanueva-Fabella v. Judge Lee*,[30] the Court held that a certification of non-forum shopping is not needed in the institution of administrative proceedings against judges because Rule 140 makes no such requirement. Thus, China Bank's complaint is not defective for lack of a certificate of non-forum shopping.

In its 11 April 2007 manifestation, China Bank prayed that the Court ask Judge Janolo, Jr. to voluntarily inhibit himself in Civil Case No. 68105 and in another case involving China Bank, which is also pending before Judge Janolo, Jr. China Bank claimed that Judge Janolo, Jr. is partial: (1) he described the banking industry as adept solely in making profits; (2) he discontinued the proceedings in Civil Case No. 68105 without justifiable cause; (3) he stated that he would not be surprised if China Bank charges the justices of the Court of Appeals with undue delay in rendering a decision or order; and (4) he declared in open court that he will challenge the instant administrative case.

Judge Janolo, Jr.'s inhibition from the two cases is discretionary. The grounds relied upon by China Bank do not fall under the first paragraph of Section 1, Rule 137 of the Rules of Court[31] which enumerates the grounds for compulsory inhibition. In *Santos v. Lacurom*,[32] the Court held that the issue of voluntary inhibition is primarily a matter of conscience and sound discretion on the part of the judge. Nevertheless, the Court reminds Judge Janolo, Jr. to (1) perform his judicial duties without bias or prejudice; (2) ensure that his conduct, both in and out of court, maintains and enhances the confidence of the litigants in the impartiality of the judge and of the judiciary; and (3) disqualify himself from participating in any proceeding in which he is unable to decide the matter impartially or in which it may appear to a reasonable observer that he is unable to decide the matter impartially.[33]

WHEREFORE, the Court finds Judge Leoncio M. Janolo, Jr. of the Regional Trial Court, Branch 264, Pasig City, GUILTY of SIMPLE MISCONDUCT and of UNDUE DELAY IN RENDERING ORDERS. Accordingly, the Court FINES him P20,000 and STERNLY WARNS him that the repetition of the same or similar offense shall be dealt with more severely.

Puno, C.J., (Chairperson), Corona, Azcuna, and Leonardo-De Castro, JJ., concur.

- [1] Rollo, pp. 9-24.
- [2] Id. at 88-103.
- [3] Id. at 115-117.
- [4] Id. at 118-126.
- [5] Id. at 319.
- [6] Id. at 310-317.
- [7] Id. at 159-163.
- [8] Id. at 132-154.
- [9] Id. at 333-334.
- [10] Id. at 337-339.
- [11] Id. at 1-7.
- [12] Id. at 340.
- [13] Id. at 345-357.
- [14] Id. at 362-369.
- [15] Id. at 370-371.
- [16] Id. at 372-373.
- [17] Id. at 376-379.
- [18] Office of the Court Administrator v. Laron, A.M. No. RTJ-04-1870, 9 July 2007, 527 SCRA 45, 54-56; Office of the Court Administrator v. Gaudiell, Jr., A.M. No. RTJ-04-1825, 27 January 2006, 480 SCRA 266, 272-274; Office of the Court Administrator v. Avelino, A.M. No. MTJ-05-1606, 9 December 2005, 477 SCRA 9, 14-15.
- [19] Jacinto v. Layosa, A.M. No. RTJ-02-1743, 11 July 2006, 494 SCRA 456, 464.
- [20] RULES OF COURT, Rule 140, Sec. 9.
- [21] RULES OF COURT, Rule 140, Sec. 11(B).
- [22] Constitution, Art. VIII, Sec. 15(2).
- [23] Sianghio, Jr. v. Judge Reyes, 416 Phil. 215, 224 (2001).
- [24] Custodio v. Quitain, 450 Phil. 70, 72 (2003).
- [25] Visbal v. Sescon, A.M. No. RTJ-04-1890, 11 October 2005, 472 SCRA 233, 238.
- [26] RULES OF COURT, Rule 140, Sec. 11(B).
- [27] A.M. No. RTJ-06-1994, 28 September 2007, 534 SCRA 262, 268.
- [28] 400 Phil. 768, 771 (2000).
- [29] RULES OF COURT, Rule 140, Sec. 1.

[30] 464 Phil. 548, 566 (2004).

[31] Section 1, Rule 137 of the Rules of Court provides:

SECTION 1. Disqualification of judges. -- No judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity or affinity, or to counsel within the fourth degree, computed according to the rules of the civil law, or in which he has been executor, administrator, guardian, trustee or counsel, or in which he has presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record.

A judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for just or valid reasons other than those mentioned above.

[32] A.M. No. RTJ-04-1823, 28 August 2006, 499 SCRA 639, 650.

[33] Sections 1, 2, and 5, New Code of Judicial Conduct for the Philippine Judiciary, A.M. No. 03-05- 01-SC.

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