JUDGE NARCISO G. BRAVO, COMPLAINANT VS. JUDGE RICARDO M. MERDEGIA, RESPONDENT.

AM RTJ-99-1430 (Formerly OCA IPI No. 97-430-RTJ). October 22, 1999

Ponente: DAVIDE, JR., C.J.

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DAVIDE, JR., C.J.:

In a sworn complaint dated 25 August 1997, Judge Narciso G. Bravo, Presiding Judge of Branch 46 of the Regional Trial Court of Masbate, charged respondent Judge Ricardo M. Merdegia, Presiding Judge of Branch 45 of said court, with (1) falsification of the Certificate of Service and (2) rendition of an unjust judgment through negligence or gross ignorance of the law. These acts were allegedly committed in connection with Civil Case No. 4241, entitled Narciso J. Bravo vs. Masbate Colleges, Inc., and Manuel J. Bunan, which was assigned to respondent's sala.

Complainant alleged that on 24 January 1995 he filed a Manifestation calling respondent's attention to defendant's non-compliance with the 17 January 1995 Order for the payment of P1,500 as reimbursement for the deposit for surveyor's fee. On 1 March 1995, he reiterated his manifestation and moved for the issuance of a writ of execution on his second cause of action. Despite his manifestations and motion for its resolution, his motion for execution was resolved only on 10 June 1997 in the dispositive portion of the decision in the main case. Yet, in his certificate of service, he reported that he had resolved all incidents and cases submitted for decision within the reglementary period of ninety days.

Complainant further averred that in the said decision he was ordered to pay moral damages of P10,000; attorney's fees of P10,000; and litigation expenses of P3,000. Such awards had no legal basis, as they did not fall under the provisions of Articles 2219 and 2208 of the Civil Code. Respondent then committed a felonious act of rendering an unjust judgment through negligence or gross ignorance of the law.

Complainant thereafter submitted to the Office of the Court Administrator a certified true copy of respondent's decision in Civil Case No. 4241 and a copy of his letter written in the official stationery of his office, addressed to the respondent wherein he pointed out and discussed the alleged palpable errors in the decision.

In his comment of 5 March 1998, respondent prayed for the dismissal of the complaint, alleging that his failure to act on complainant's motion for a writ of execution was due to his honest belief that the motion was merely incidental to the main case and that the resolution of the same could be had when the case would be finally decided. Anent the second charge, respondent pointed out that on 29 September 1997, complainant also filed a criminal complaint before the Municipal Trial Court (MTC) of Masbate charging him with rendering a manifestly unjust judgment through inexcusable negligence or ignorance of the law under Article 205 of the Revised Penal Code. After submission of his counter-affidavit the MTC dismissed the criminal case.

In the meantime, having compulsorily retired on 2 March 1998, respondent asked for an early resolution of this case. He manifested that he was amenable to the retention of any amount from his retirement benefits to answer for any liability which he might be directed to pay in this administrative case.

In our resolution in A.M. No. 9650-Ret., we approved the application of respondent for compulsory retirement under R.A. No. 910; granted the release of his retirement benefits; but directed the withholding therefrom of P50,000 pending resolution of the instant case.

On 15 February 1999, we ordered that OCA IPI No. 97-430-RTJ be docketed as a regular administrative matter, and directed the parties to manifest whether they would submit this case for resolution on the basis of the pleadings already filed. In their separate Manifestations, the complainant and the respondent answered in the affirmative.

In his memorandum of 15 December 1998, Deputy Court Administrator Reynaldo Suarez submitted this evaluation:

> EVALUATION: From the facts on record which were augmented by the respondent's admission, it is clear that respondent Judge was guilty of delay in the disposition of complainant's Manifestation dated January 24, 1995 and Motion dated March 1, 1995. However, such delay does not appear to be deliberate.
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> Respondent's explanation that the reason for such delay was due to his honest belief that the resolution of these incidents could still be had when the case is finally decided will only mitigate but will not exonerate him from administrative liability.
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> In the case of Ubarra v. Tecson, 134 SCRA 4, the Court stressed:
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> "Delay in resolving motions and incidents pending before a judge's sala within the reglementary period of ninety (90) days fixed by the Constitution and the law is not excusable and should not be condoned."

Canon 3, Rule 3:05 of the Canons of Judicial Ethics [should be Code of Judicial Conduct] is also very explicit on the duty of judges to be prompt in the performance of judicial duties, to wit:

> "A judge shall dispose of [the] court's business promptly and decide cases within the required period[s]."
>
> Anent the charges of ignorance of the law and knowingly rendering unjust judgment, a cursory reading of the complaint and its annexes shows that these charges arose from respondent's appreciation of the evidence of the parties in the civil case in which complainant as plaintiff lost. It is respondent's decision which is actually being questioned.
>
> Since obviously complainant disagrees with respondent Judge's ruling in the case, his remedy was to appeal the decision, as he in fact did, and not to file an administrative complaint against the judge. He must await the final outcome of his appeal so that it can then be properly determined whether an administrative complaint lies against the judge. Even then and even if the appellate court upholds complainant's appeal, respondent judge cannot be held administratively liable in the absence of showing of malice or wrongful conduct on his part in rendering his decision. (Pagayanan vs. dela Victoria, A.M. OCA IPI 97-282-RTJ, March 4, 1998).
>
> Moreover, any action that may be taken with respect to these charges may be premature at this stage and may pre-empt the action that the Court of Appeals may take on the appeal. (Paulina S. Alvernaz vs. Judge Manuel Padolina, A.M. No. RTJ 90-612).

Deputy Court Administrator Suarez then recommends that for respondent's delay in the disposition of complainant's Manifestation and Motion for Execution, respondent be fined in the amount of P5,000 to be deducted from his retirement benefits. As to the charge of ignorance of the law or knowingly rendering unjust judgment the same should be dismissed, as the questioned decision is still the subject of appeal with the Court of Appeals.

We are in full accord with the findings and recommendation of the Deputy Court Administrator except as to the penalty, which should be reduced from P5,000 to P1,000 only, considering that what is involved is a neglect of

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duty which does not appear to be serious enough to warrant the penalty recommended. This should not, however, end the story in this case.

It is apparent to us that the personal and professional relationship between complainant and respondent is far from cordial, which cannot in any manner project a good image for the Judiciary. Complainant had exceeded the bounds of propriety. After his appeal from the adverse decision of respondent in Civil Case No. 4241, he wrote respondent on 15 July 1997, using his official stationery, stating therein the errors allegedly committed by respondent in his decision "which have been causing [him] agony from the time [he] received the said decision and will continue to agonize him for some indefinite period of time." Therein, complainant enumerated five "palpable errors" allegedly committed by respondent, and he concluded: "In fine the merits of the case was [sic] not judiciously considered by a magistrate of even with a mediocre ability." The letter is a veritable Brief for the complainant in his appeal from the decision. Clearly, he resorted to the wrong procedure. Worse, he lost his equanimity by attacking the qualification of respondent and describing the latter as a magistrate with an ability less than that of a mediocre judge. Worst, unsatisfied with his appeal, complainant charged respondent in a criminal complaint with the offense of rendering a manifestly unjust judgment through inexcusable negligence or ignorance of law under Article 205 of the Revised Penal Code.

While we cannot prevent complainant from availing himself of all available legal remedies for redress of grievances, his position as a judge demanded utmost caution and circumspection to avoid poor public impression on the Judiciary. Certainly, when Judges of the same court in the same place fight, the image of the Judiciary is impaired rather than enhanced.

What happened in this case is simply regrettable.

WHEREFORE, judgment is hereby rendered approving the findings and recommendation of the Court Administrator, except as to the penalty, which is hereby reduced.

For violation of Canon 3, Rule 3:05 of the Code of Judicial Conduct by delaying the disposition of complainant's Manifestation of 24 January 1995 and Motion for Execution of 1 March 1995, respondent is hereby FINED in the amount of P1,000.

Let the amount withheld from respondent's retirement benefits, less the fine, be now released to him.

SO ORDERED.

Puno, and Pardo, JJ., concur.

Kapunan, and Ynares-Santiago, JJ., on official leave.

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