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SECOND DIVISION

[Adm. Matter No. RTJ-00-1536. November 28, 2000]

ATTY. REDENTOR S. VIAJE, *complainant, vs.* **JUDGE JOSE V. HERNANDEZ, Regional Trial Court, Branch 64, Mauban, Quezon,** *respondent.*

SYNOPSIS

Atty. Redentor Viaje filed a complaint against Judge Jose Hernandez for ignorance of the law and grave misconduct. The charges stemmed from a case for damages with prayer for issuance of preliminary injunction pending before the court of respondent. According to the complainant, his client filed a case against the municipality because the mayor arbitrarily converted plaintiff's farmland into a core horsing project. Judge Hernandez refused to act on plaintiff's prayer for injunction and instead set the hearing of defendant's motion to dismiss. Complainant alleged that respondent's acts are clear manifestation of his ignorance of Rule 58 of the 1997 Rules of Civil Procedure and his partiality amounting to grave misconduct.

The Court ruled that although the respondent cannot be held liable for ignorance of the law, he should nevertheless be sanctioned for undue delay in acting on the prayer for issuance of a writ of preliminary injunction. Regardless of whether the issuance of the writ of injunction was urgent or not, it was incumbent upon respondent to immediately act on plaintiff's prayer either by expressly granting, denying or deferring its resolution. Accordingly, respondent judge was fined ₱1,000.00 for the delay in resolving plaintiff's prayer for issuance of a writ of injunction.

SYLLABUS

JUDICIAL ETHICS; JUDGES; RESPONDENT JUDGE FINED ₱1,000.00 FOR UNDUE DELAY IN ACTING ON THE PRAYER FOR THE ISSUANCE OF WRIT OF PREMILINARY INJUNCTION. — It is our view that although respondent judge cannot be held liable for ignorance of Rule 58 of the 1997 Rules of Civil Procedure, he should nevertheless

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be sanctioned for undue delay in acting on the prayer for issuance of a writ of preliminary injunction. Regardless of whether the issuance of the writ of injunction was urgent or not, it was incumbent upon respondent judge to immediately act on plaintiff's prayer either by expressly granting, denying or deferring its resolution. Plaintiff's application for injunctive relief had been pending with respondent judge for four (4) months before he decided to schedule it for hearing. His contention that the hearing of the case on February 26, 1999 was postponed because he attended a dialogue with the Chief Justice and the Court Administrator is a lame excuse as the fact remains that plaintiff's prayer for injunction was ignored by him for a considerable length of time before he scheduled it to be heard. Besides, respondent judge's prolonged inaction on plaintiff's prayer gave defendant more than sufficient time to file whatever pleadings he so desired. This gave ground for plaintiff to suspect bias and partiality on the part of respondent judge. It bears stressing that undue delay undermines public faith and confidence in the judges to whom aggrieved parties turn for the speedy resolution of their cases. In a case previously decided by the Supreme Court, wherein there was a delay of five (5) months in the resolution of a motion for the issuance of a writ of preliminary injunction in a forcible entry case, the respondent judge in that case was fined One Thousand Pesos (₱1,000.00). We hereby adopt a similar ruling.

D E C I S I O N

DE LEON, JR., *J.*:

Before us is a verified complaint filed by Atty. Redentor S. Viaje with the Office of the Court Administrator on April 12, 1999, charging Judge Jose V. Hernandez of Regional Trial Court (RTC), Branch 64, Mauban, Quezon with ignorance of the law and grave misconduct.

The charges stemmed from Civil Case No. 0547-M entitled "*Gavino de Asis vs. Municipality of Mauban, Quezon*, represented by Mayor Fernando Llamas" for Damages with

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Prayer for Issuance of Preliminary Injunction,[1] pending before the court of the respondent Judge Hernandez.

According to Atty. Viaje, his client filed a civil case on October 6, 1998 against the municipality because the mayor was arbitrarily converting plaintiff's farmland into a Core Housing Project. Despite service of a copy of the complaint to the defendant and receipt by the court of the sheriff's return of service, Judge Hernandez refused to act on plaintiff's prayer to set for hearing his application for preliminary injunction.

On December 7, 1998, defendant Mayor Llamas filed a Motion to Dismiss.[2] Instead of giving due course to the plaintiff's prayer for injunctive relief, respondent judge issued an Order dated December 10, 1998 setting the hearing for defendant's Motion to Dismiss on January 14, 1999. On the date of the hearing, plaintiff filed an Opposition to Motion to Dismiss[3] requesting that his prayer for injunction be set for hearing. Plaintiff alleged that his prayer was virtually ignored by respondent judge and to aggravate matters, he reset the hearing for the Motion to Dismiss to February 26, 1999, which was further reset to March 26, 1999. Plaintiff also alleged that respondent judge's acts are clear manifestations of his ignorance of Rule 58 of the 1997 Rules of Civil Procedure and his partiality amounting to grave misconduct.

In his Comment, Judge Hernandez contended that none of the actions taken by him in Civil Case No. 0547-M may be considered arbitrary or biased as he had done nothing amounting to grave misconduct or ignorance of the law. According to him, his only intention was to prevent the improvident issuance of a writ of preliminary injunction and/or to avert the improper denial of the same. Judge Hernandez clarified that in order to be entitled to an injunctive writ, one must show an unquestionable right over the premises and that such right has been violated.

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[1] Annexes "A", "A-1", "A-2" & "A-3".

[2] Annexes "F", "F-1" & "F-2".

[3] Annexes "H" & "H-1".

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He said that plaintiff was not able to show a right over the subject property since he admitted that he was only a farmworker. As such he cannot be considered a tenant whose rights and interests are protected by law. Furthermore, the issuance of a writ of preliminary injunction did not appear to be urgent considering that the municipality has been using the lot since 1992 and the plaintiff filed the case only in 1998. Furthermore, respondent judge also insisted that the delay due to the postponements of the hearings of the case cannot be totally attributed to him. For instance, the February 26, 1999 hearing was reset because on that day, he attended a dialogue with the Chief Justice and the Court Administrator in Lipa City, Batangas. The hearing scheduled on March 26, 1999 was also cancelled in view of the absence of the parties and their counsels.

It is our view that although respondent judge cannot be held liable for ignorance of Rule 58 of the 1997 Rules of Civil Procedure, he should nevertheless be sanctioned for undue delay in acting on the prayer for issuance of a writ of preliminary injunction. Regardless of whether the issuance of the writ of injunction was urgent or not, it was incumbent upon respondent judge to immediately act on plaintiff's prayer either by expressly granting, denying or deferring its resolution. Plaintiff's application for injunctive relief had been pending with respondent judge for four (4) months before he decided to schedule it for hearing. His contention that the hearing of the case on February 26, 1999 was postponed because he attended a dialogue with the Chief Justice and the Court Administrator is a lame excuse as the fact remains that plaintiff's prayer for injunction was ignored by him for a considerable length of time before he scheduled it to be heard.

Besides, respondent judge's prolonged inaction on plaintiff's prayer gave defendant more than sufficient time to file whatever pleadings he so desired. This gave ground for plaintiff to suspect bias and partiality on the part of respondent judge. It bears stressing that undue delay undermines public faith and confidence in the judges to whom aggrieved parties turn for the speedy resolution of their cases.

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In a case[4] previously decided by the Supreme Court, wherein there was a delay of five (5) months in the resolution of a motion for the issuance of a writ of preliminary injunction in a forcible entry case, the respondent judge in that case was fined One Thousand Pesos (₱1,000.00). We hereby adopt a similar ruling.

WHEREFORE, the Court hereby *FINES* Judge Jose V. Hernandez One Thousand Pesos (₱1,000.00) for the delay in resolving plaintiffs prayer for issuance of a writ of preliminary injunction. He is also *DIRECTED* to try and decide the case and all its incidents with dispatch.

SO ORDERED.

Bellosillo (Chairman), Mendoza, Quisumbing and *Buena, JJ.*, concur.

SECOND DIVISION

[G.R. No. 129252. November 28, 2000]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **FRANCISCO CABER, SR.,** *accused-appellant.*

SYNOPSIS

In the morning of November 20, 1994, Julian Rama saw accused-appellant Francisco Caber, Sr. chasing Teodolfo Ramirez with a bladed weapon. Rama both knew Caber and Ramirez. Caber being his fellow barangay *tanod* while Ramirez was his *Kumpadre*. The latter ran towards him asking for help and sought cover behind him. But, still the accused-appellant was

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[4] *Dumaya vs. Mendoza*, 227 SCRA 488 (1993)