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Costs against petitioners.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Melo, Vitug, and *Panganiban JJ.,* concur.

EN BANC

[A.M. No. SDC-98-3. December 16, 1998]

ERLINDA ALONTO-FRAYNA, *complainant, vs.* **JUDGE ABDULMAJID J. ASTIH, 2nd Shari'a District Court, Bongao, Tawi-Tawi,** *respondent.*

SYNOPSIS

This is an administrative case filed by Erlinda Alonto-Frayna charging herein respondent Judge for the latter's failure to render a decision in Civil Case No. 1 for partition, as mandated by law, within the required period. Records disclose that respondent Judge, despite the issuance of several directives from the Office of the Court Administrator (OCA) and from the Supreme Court to answer the administrative charge, had never bothered to submit any comment and/or explanation. Due to his inaction, Deputy Court Administrator Reynaldo Suarez, through a memorandum addressed to the Chief Justice, recommended the dismissal of herein respondent from the service for his contumacious and willful disregard of the directives of the Court and the Office of the Court Administrator.

The Court agreed with the recommendation of the OCA. The Court found that respondent Judge has been remiss in the performance of his official duties exacerbated by his audacious stance in defying the Court's orders. Respondent's deliberate and willful disregard of the directives of the OCA and in refusing

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to comply with the resolutions of the Court clearly manifest that herein respondent is guilty of gross misconduct and insubordination. In view thereof, the Court dismissed respondent Judge from the service with forfeiture of his retirement benefits, except accrued leave credits already earned, with prejudice to re-employment in any branch, agency or instrumentality of the government, including government-owned or controlled corporations.

SYLLABUS

1. **LEGAL AND JUDICIAL ETHICS; CODE OF JUDICIAL CONDUCT; A JUDGE WHO DELIBERATELY AND CONTINUOUSLY FAILS AND REFUSES TO COMPLY WITH THE RESOLUTION OF THE COURT IS GUILTY OF GROSS MISCONDUCT AND INSUBORDINATION.**— A judge who deliberately and continuously fails and refuses to comply with the resolution of this Court is guilty of gross misconduct and insubordination. It is gross misconduct and even outright disrespect for this Court for the respondent judge to exhibit indifference to the resolutions requiring him to comment on the accusations contained in the complaint against him.

2. **ID.; ID.; ID.; RESOLUTIONS OF THE SUPREME COURT REQUIRING COMMENT ON AN ADMINISTRATIVE COMPLAINT ARE NOT MERE REQUEST FROM THE COURT; CASE AT BAR.** — It should be borne in mind that a resolution of the Supreme Court requiring comment on an administrative complaint against officials and employees of the judiciary should not be construed as a mere request from the Court, nor should it be complied with partially, inadequately or selectively. Thus, this Court in the case of *Parane vs. Reloza* ruled that: "This contumacious conduct and his disregard of the Court's mandate should merit no further compassion. Respondent's continued refusal to abide by lawful directives issued by this Court can mean no less than his own utter lack of interest to remain with, if not his contempt of, the system to which he has all along pretended to belong."

3. **ID.; ID.; ID.; FAILURE TO RENDER A DECISION BEYOND THE NINETY (90) DAY PERIOD FROM ITS SUBMISSION CONSTITUTES SERIOUS MISCONDUCT.** — Respondent judge, as well as all other judges, must be reminded that a case

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should be decided within 90 days from its submission, otherwise, the judge would be guilty of gross inefficiency and neglect of duty. Failure to render a decision beyond the ninety (90)-day period from its submission constitutes serious misconduct to the detriment of the honor and integrity of his office and in derogation of a speedy administration of justice. The decision was long overdue and the period to decide the case under the solemn mandate of Sec. 15 (1), Article VIII of the 1987 Constitution had long expired.

D E C I S I O N

***PER CURIAM*:**

Respondent Abdulmajid J. Astih is the presiding judge of the 2nd Shari'a District Court in Bongao, Tawi-Tawi. The complainant, Ms. Erlinda A. Frayna, instituted the present complaint against the respondent judge for the latter's utter failure to render a decision as mandated by law, within the required period.

In her sworn letter complaint, complainant charged respondent judge with delay in the resolution of Civil Case No. 01 entitled "Erlinda Alonto Frayna, et al. *vs*. Juhura Frayna, et. al.,"[1] for Partition, which was filed on June 23, 1992 and submitted for resolution on April 7, 1994.

October 3, 1994, Ms. Frayna requested the assistance of the Office of the Court Administrator (OCA) for the speedy resolution of her case. The OCA directed the respondent judge to comment on the letter of Frayna. However, Judge Astih never complied with the directive.

On December 19, 1994,[2] Ms. Frayna wrote another letter to the OCA complaining that her case still remained unresolved. On January 27, 1995, the OCA again referred the letter to Judge Astih for comment and/or to take appropriate action on the

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[1] Annex "C" of Complaint; *Rollo*, pp. 4-7.

[2] Annex "D" of Complaint; *Rollo*, p. 9.

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same. Again, respondent judge completely ignored the directive of the OCA.

Several months later, Atty. Mario Alegado, counsel of Ms. Frayna, wrote a letter[3] to the Court Administrator that despite the lapse of considerable amount of time, the case of Ms. Frayna remained undecided. Atty. Alegado importuned that appropriate action be undertaken by the OCA to ensure the proper operation of the Shari'a District Court and Shari'a Circuit Court, both in the Province of Tawi-Tawi. The OCA, for the third time, referred the letter of Atty. Alegado to Judge Astih. The referral was again ignored by respondent judge.

Due to respondent's continued inaction, the OCA brought the matter to the attention of this Court. On July 3, 1996, this Court issued a resolution requiring Judge Astih to comment within ten (10) days on the complaint of Ms. Frayna and to explain why he should not be administratively dealt with for his deliberate refusal to comply with the directives of the OCA.[4] Despite the resolution, no compliance was ever received from the respondent judge. Thus, on October 23, 1996, another resolution was issued requiring "respondent to SHOW CAUSE why he should not be disciplinarily dealt with or held in contempt for such failure and to comply with the aforesaid directives requiring said comment and explanation, both within ten (10) days from notice."[5]

On December 4, 1996, the OCA received an URGENT MOTION from the respondent judge requesting that he be given an extension of seven (7) days within which to file his explanation/ comment, citing as reason for his failure to comply with the resolution of this Court was due to abdominal pain brought about by bleeding peptic ulcers and hypertension. In addition to the above-mentioned ailments, respondent judge said he has been undergoing medical treatment for bronchial asthma/asthmatic

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[3] Annex "F" of Complaint; *Rollo*, p. 11

[4] Resolution of the First Division dated July 3, 1996; *Rollo*, p. 18.

[5] First Division Resolution; *Rollo*, p. 19.

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bronchitis and rheumatism since November 23, 1996.[6] This court granted the motion. However, despite the additional time given, no comment and/or explanation was ever filed by Judge Astih.

In a memorandum[7] dated December 1, 1997 addressed to the Chief Justice, Deputy Court Administrator Reynaldo Suarez recommended that Judge Astih be dismissed from the service for his contumacious and willful disregard of the directives of this Court and the Office of the Court Administrator.

We agree with the recommendation of the OCA.

The respondent judge, in his failure to comply with the mandates of this Court, neither offered any reason nor raised any defense. Nothing was heard from the respondent judge except when he filed his Urgent Motion on December 4, 1996, requesting for an extension of one week within which to file his comment. He suggests in his motion that he was suffering from certain ailments, which prevented him from complying with our directives. However, despite respondent judge having been given more than ample time to abide with the orders of this Court, he failed to do so.

A judge who deliberately and continuously fails and refuses to comply with the resolution of this Court is guilty of gross misconduct and insubordination.[8] It is gross misconduct and even outright disrespect for this Court for the respondent judge to exhibit indifference to the resolutions requiring him to comment on the accusations contained in the complaint against him.[9]

It should be borne in mind that a resolution of the Supreme Court requiring comment on an administrative complaint against officials and employees of the judiciary should not be construed

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[6] Annex "3", (Medical Certificate) of Urgent Motion, *Rollo*, p. 23.

[7] Memorandum for Chief Justice Narvasa; *Rollo*, p. 27.

[8] *Martinez vs. Zoleta*, 257 SCRA 49.

[9] *Tabao vs. Espina.*

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as a mere request from the Court, nor should it be complied with partially, inadequately or selectively.[10]

Thus, this Court in the case of *Parane vs. Reloza*[11] ruled that:

"This contumacious conduct and his disregard of the Court's mandate should merit no further compassion. Respondent's continued refusal to abide by lawful directives issued by this Court can mean no less than his own utter lack of interest to remain with, if not his contempt of, the system to which he has all along pretended to belong."

Significantly, a Judicial Audit Team was sent to Tawi-Tawi on March 4-8, 1998, to inspect the dockets of the Shari'a District Court of Bongao, Tawi-Tawi, in accordance with the resolution issued by this Court dated February 4, 1997.[12] The Audit Team reported that SDC Case No. 01 entitled "Erlinda Alonto-Frayna, et al. *vs*. Juhura Frayna, et al.," was submitted for resolution as early as April 7, 1994 or barely two (2) years after the case was filed. Yet, it still remained undecided as of audit date.

Respondent judge, as well as all other judges, must be reminded that a case should be decided within 90 days from its submission, otherwise, the judge would be guilty of gross inefficiency and neglect of duty.[13] Failure to render a decision beyond the ninety (90)-day period from its submission constitutes serious misconduct to the detriment of the honor and integrity of his office and in derogation of a speedy administration of justice.[14] The decision was long overdue and the period to decide the case under the solemn mandate

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[10] *Josep vs. Abarquez*, 261 SCRA 629.

[11] *Melencio Parane vs. Judge Ricardo A. Reloza*, A.M. MTJ-92-718, November 7, 1994.

[12] Memorandum for the Chief Justice; *Rollo*, p. 27.

[13] *Ubarra vs. Mapalad*, 220 SCRA 224.

[14] *Castillo vs. Castro*, 234 SCRA 398.

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of Sec. 15 (1), Article VIII[15] of the 1987 Constitution had long expired.[16]

Respondent judge cannot just sit on the case without deciding it, specially since the parties are considered as indigents. This fact was certified by the Municipal Treasurer[17] and the Social Welfare Officer[18] of Bongao, Tawi-Tawi. Thus, the immediate resolution of the case is of utmost importance to the complainant and her children. If a judge requires more time to resolve cases, he should ask for more time from this Court, giving justification therefor.[19] This Court has always been consistent in its stand that the very purpose of its existence is to the accomplishment of the ends of justice.[20]

In sum, the respondent judge has been remiss in the performance of his official duties exacerbated by his audacious stance in defying this Court's orders. We can not tolerate the attitude of the respondent judge in defying this Court's authority and undermining its integrity.

WHEREFORE, the Court resolved to *DISMISS* respondent Judge ABDULMAJID J. ASTIH from the service with *FORFEITURE* of his retirement benefits, except accrued leave credits already earned, with prejudice to re-employment in any branch, agency or instrumentality of the Government, including government-owned or controlled corporations.

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[15] Sec. 15 (1) — All cases or matters filed after the effectivity of this Constitution must be decided or resolved within twenty-four months from date of Submission for the Supreme Court, and unless, reduced by the Supreme Court, twelve months for all collegiate courts and three months for all lower courts.

[16] *Bentulan vs. Dumatol*, 223 SCRA 168.

[17] *Abdulnaser H. Hadjiula*, See Complaint, Annex "A"; *Rollo*, p. 2

[18] *Carmen v. Colinares*, See Complaint Annex "B"; *Rollo*, p. 3.

[19] *Mapala vs. Nuñez*, 240 SCRA 600.

[20] *Aboitiz Shipping Corporation vs. General Accident Fire and Life Assurance Ltd.*, 217 SCRA 359.

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Let copies of this decision be furnished the OCA and spread in his personal records in the Office of the Bar Confidant.

SO ORDERED.

Davide, Jr. C.J., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Martinez, Quisumbing, Purisima, and *Pardo, JJ.,* concur.

SECOND DIVISION

[G.R. No. 101240. December 16, 1998]

QUEZON DEVELOPMENT BANK, *petitioner, vs.* **THE COURT OF APPEALS, CONSTRUCTION SERVICES OF AUSTRALIA-PHILIPPINES, INC. (CONSAPHIL), LEOCADIO J. DOMINGUEZ, ISIDRO D. CARIÑO, and MELCHOR D. ELEGADO,** *respondents.*

SYNOPSIS

Petitioner Quezon Development Bank and private respondent Construction Services of Australia-Philippines, Inc. (CONSAPHIL) entered into a loan agreement pursuant to which petitioner granted CONSAPHIL loans and for which CONSAPHIL through individual private respondents, executed two (2) promissory notes. Three years thereafter, petitioner brought an action for recovery of the amounts stated in the promissory notes, plus interest, penalties, and attorney's fees against private respondents. The trial court rendered judgment ordering private respondents, jointly and severally, to pay the sum of ₱850,545.72 with interest at the rate of 48% per annum, from July 1, 1986 until the amount was fully paid. Private respondents appealed to the Court of Appeals which modified the decision with respect to the amount and rate of interest. On motion of private respondents, the appellate court modified again its judgment by absolving private respondents from paying