Supreme Court E-Library

EN BANC

[A.M. No. MTJ-03-1504. August 26, 2003]
(OCA IPI 99-746-MTJ)

FELICITAS M. HIMALIN, complainant, vs. **JUDGE ISAURO M. BALDERIAN, Municipal Trial Court, Bacoor, Cavite,** respondent.

SYNOPSIS

Felicitas M. Himalin charged Judge Isauro M. Balderian with Serious or Deliberate Neglect of Duty for his failure to act on plaintiffs' "Motion to Strike Out Defendant's Position Paper" and to resolve the ejectment case despite the lapse of the thirty-day period prescribed under Sec.11, Rule 70 of the 1997 Rules of Civil Procedure. When required to comment, respondent failed to comply despite receipt of several directives from the Court. Thus, the Court resolved the same on the basis of the pleadings and other documents already on record as well as the attendant circumstances.

The Court held that the delay in the disposition of even one case constitutes gross inefficiency. In the determination of the proper penalty, a number of factors have generally been taken into consideration, namely: the presence of aggravating or mitigating circumstances, the damage suffered by the parties as a result of the delay, the health and age of the judge, etc. However, under the new amendments to Rule 140 of the Revised Rules of Court, effective 1 October 2001, specifically Sec. 4, undue delay in rendering a decision in a case is classified as a less serious offense that merits under Sec.10 (B) either suspension from office or a fine of not less than ₱10,000.00 but not more than ₱19,999.00. However, under the circumstances, we shall not impose the foregoing penalty on respondent judge considering that his less serious offense of undue delay in resolving Civil Case No. 2127 has been exacerbated and overshadowed by the more serious offense of wilful defiance and contumacious refusal of respondent judge to obey the lawful orders of the Court. Thus, for Gross Misconduct and Insubordination, respondent judge was dismissed from the service.

Supreme Court E-Library

SYLLABUS

1. **JUDICIAL ETHICS; CODE OF JUDICIAL CONDUCT; JUDGES SHOULD DISPOSE OF THE COURT'S BUSINESS PROMPTLY AND DECIDE CASES WITHIN THE PRESCRIBED PERIODS.** — We have repeatedly warned judges that they should dispose of court business promptly, resolve pending motions and incidents, and decide cases within the prescribed periods on the simple principle that justice delayed is justice denied. We have defined the noble office of a judge as not merely to render justice impartially but expeditiously as well, for "*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.*" No less than the Constitution, specifically Sec. 15, par. (1), of Art. VIII, as well as the Code of Judicial Conduct, specifically Rule 3.05, Canon 3, mandates that a magistrate should dispose of the court's business promptly and decide cases within the prescribed periods. We have administratively dealt with violators on charges of gross inefficiency as well as serious violations of the constitutional right of the parties to a speedy disposition of their cases.

2. **ID.; ID.; ID.; VIOLATED IN CASE AT BAR.** — In the instant case, respondent Judge failed to act on the "*Motion to Strike Out Defendant's Position Paper*" filed by the plaintiffs and to act on the ejectment case within thirty (30) days from receipt of the defendants' position paper, if same be admitted, or from the expiration of the period to file the same, which was on 8 February 1999, despite the motion for resolution of the case dated 16 April 1999 filed by the plaintiffs, and in violation of Sec. 10 of *The 1991 Revised Rule on Summary Procedure[.]*

3. **ID.; ADMINISTRATIVE CHARGES AGAINST JUDGES; GROSS INEFFICIENCY; UNDUE DELAY IN RENDERING A DECISION; PENALTY.** — Delay in the disposition of even one case constitutes gross inefficiency. In the determination of the proper penalty, a number of factors have generally been taken into consideration, namely: the presence of aggravating or mitigating circumstances, the damage suffered by the parties as a result of the delay, the health and age of the judge, etc. However, under the new amendments to Rule 140 of the Revised Rules of Court, effective 1 October 2001, specifically Sec. 4, undue delay in rendering a decision in a case is classified as a less serious offense that

Supreme Court E-Library

merits under Sec. 10 (B) either suspension from office or a fine of not less than ₱10,000.00 but not more than ₱19,999.00.

4. ID.; ID.; ID.; WILFUL DEFIANCE AND CONTUMACIOUS REFUSAL TO OBEY THE LAWFUL ORDERS OF THE SUPREME COURT. — [U]nder the circumstances, we shall not impose the foregoing penalty on respondent judge considering that his less serious offense of undue delay in resolving Civil Case No. 2127 has been exacerbated and overshadowed by the more serious offense of *wilful defiance and contumacious refusal* of respondent judge to obey the lawful orders of this Court.

5. ID.; ID.; RESOLUTION OF THE COURT REQUIRING COMMENT ON ADMINISTRATIVE COMPLAINT AGAINST OFFICIALS AND EMPLOYEES OF THE JUDICIARY IS NOT TO BE CONSTRUED AS A MERE REQUEST FROM THE COURT. — We have said that a resolution of this Court requiring comment on an administrative complaint against officials and employees of the judiciary is not to be construed as a mere request from the Court. On the contrary, respondents in administrative cases are to take such resolutions seriously by commenting on *all* accusations or allegations against them as it is their duty to preserve the integrity of the judiciary. Any indifference to such resolutions has never been tolerated by this Court.

6. ID.; ID.; GROSS MISCONDUCT; INSUBORDINATION; DELIBERATE AND CONTINUOUS FAILURE AND REFUSAL OF THE JUDGE TO COMPLY WITH RESOLUTION OF THE COURT. — Thus, a judge who deliberately and continuously failed and refused to comply with a resolution of this Court was held guilty of gross misconduct and insubordination, the Supreme Court being the agency exclusively vested by our Constitution with administrative supervision over all courts and court personnel from the Presiding Justice of the Court of Appeals to the lowest municipal trial court clerk. The Court can hardly discharge such constitutional mandate of overseeing judges and court personnel and taking proper administrative sanction against them if the judge or personnel concerned does not even recognize its administrative authority.

7. ID.; ID.; ID.; ID.; PENALTY; DISMISSAL FROM SERVICE. — In *Grefaldeo v. Lacson*, a case very similar to the instant one, respondent Judge likewise repeatedly and contumaciously refused to comment on the administrative case filed against her for delay

Supreme Court E-Library

in the resolution of a motion to dismiss a criminal case for estafa pending in her sala, despite numerous opportunities given her. Thus, after several directives issued in a span of more than three (3) years to no avail, the Court was left with no alternative but to dismiss respondent from the service. In meting out such penalty, the Court considered respondent's defiant silence as not only an implied admission of guilt but, more importantly, a glaring proof of her recalcitrance and stubbornness to obey legitimate orders of the Court, and of utter lack of interest to remain with the judicial system to which, unfortunately, she unfittingly belonged. On the same principle, the Court did not hesitate to dismiss similar disobedient respondents in the more recent cases of *Alonto-Frayna v. Astih, Martinez v. Zoleta,* and *Davila v. Generoso.*

DECISION

PER CURIAM:

FELICITAS M. HIMALIN filed this administrative complaint on 22 July 1999 charging respondent Judge Isauro M. Balderian, MTC-Bacoor, Cavite, with Serious or Deliberate Neglect of Duty for his failure to act on a "*Motion to Strike Out Defendant's Position Paper*" filed by plaintiffs in Civil Case No. 2127, "*Spouses Loreto Estrada and Daisy H. Estrada represented by their Attorney-In-Fact Mrs. Felicitas M. Himalin v. Tranquilino F. Seloterio, et al.*," and to resolve the ejectment case despite the lapse of the thirty (30)-day period prescribed under Sec. 11, Rule 70, of the 1997 Rules of Civil Procedure.[1]

Specifically, complainant alleged that she was the attorney-in-fact of the plaintiffs in the ejectment case; that respondent Judge

[1] *Period for rendition of judgment.* — Within thirty (30) days after receipt of the affidavits and position papers, or the expiration of the period for filing the same, the court shall render judgment.

However, should the court find it necessary to clarify certain material facts, it may, during the said period, issue an order specifying the matters to be clarified, and require the parties to submit affidavits or other evidence on the said matters within ten (10) days from receipt of the order. Judgment shall be rendered within fifteen (15) days after the receipt of the last affidavit or the expiration of the period for filing the same.

The court shall not resort to the foregoing procedure just to gain time for the rendition of the judgment.

Supreme Court E-Library

issued a pre-trial order dated 12 January 1999 directing the parties to submit their respective position papers within ten (10) days from receipt of the order; that plaintiffs seasonably filed their paper but the defendants failed to do so despite receipt of the order on 29 January 1999;[2] that when the defendants finally filed their position paper on 13 February 1999 or four (4) days beyond the prescribed period, plaintiffs filed a "*Motion to Strike Out Defendants' Position Paper*" for late filing; that when respondent Judge failed to act on the motion for almost two (2) months plaintiffs filed on 16 April 1999 a "*Motion for Early Resolution*" not only of the motion but also of the case for ejectment itself; and, that by reason of respondent Judge's continued failure to do so, this administrative case was filed on 22 July 1999, docketed as OCA-IPI-No. 99-764-MTJ.

In a 1st Indorsement dated 9 August 1999, the complaint was referred by then Court Administrator Alfredo L. Benipayo to respondent Judge for comment within ten (10) days from notice. Respondent Judge however did not file the required comment.

Consequently, a 1st Tracer dated 15 November 1999 was issued by the Court Administrator reminding respondent Judge of his failure to file his comment. Respondent was given another five (5) days otherwise the case would be submitted to the Court for its consideration without his comment. Respondent Judge received the letter on 25 November 1999 per registry return receipt attached to the records but respondent again failed to comply.

On 7 June 2000, upon recommendation of the Court Administrator, respondent was required to show cause why he should not be administratively charged for his repeated failure to file his comment. Respondent Judge received copy of the directive on 28 June 2000 per registry return receipt but respondent still failed to comply. Consequently we imposed upon respondent a fine of ₱2,000.00 to be paid within ten (10) days from notice or suffer imprisonment for five (5) days. At the same time, we reiterated the directive for the submission of his comment.[3]

---

[2] Per Certification dated 19 February of the Mandaluyong Central Post Office.

[3] Resolution dated 14 March 2001.

Supreme Court E-Library

Unfazed, respondent persistently failed to comply despite receipt of the foregoing directive on 24 April 2001. Hence, in our Resolution dated 12 November 2001 we increased the fine to ₱4,000.00 and directed him to file the comment or face arrest and detention.

Respondent paid the fine of ₱4,000.00 on 30 January 2002 but did not explain why he did not file his comment in the first place.

On 8 July 2002 the Court was constrained to declare respondent guilty of contempt of court and ordered his arrest and detention at the National Bureau of Investigation detention cell until he shall have filed his comment. The NBI was directed to make an immediate return of the order of arrest and detention. On 12 February 2003, in view of the failure of the NBI to make a return of our order of arrest and detention, we issued another Resolution reiterating our directive to the NBI.

Finally, in compliance with our foregoing directive, NBI Special Agent Dante Bonoan submitted his *Return of Order of Arrest* dated 20 March 2003 informing the Court that operatives of the Special Action Unit, NBI, attempted to arrest respondent Judge on 12 and 20 March 2003 but to no avail because the latter was reportedly neither in his sala at the MTC-Bacoor, Cavite, nor in his residence at No. 21 Julian Felipe St., BF Homes, Parañaque. Nonetheless, Special Agent Bonoan gave the assurance that the operatives would continue to pursue respondent Judge so that he would be detained until he complied with the directive of this Court.

Verification from the Leave Section of the Office of the Court Administrator shows that respondent Judge did not file any leave of absence for the whole month of March 2003, hence, we could not find any reason why the NBI special agents could not arrest respondent on the dates mentioned in their Return or on any other date prior thereto since our Order of Arrest was issued as early as 8 July 2002.

Considering that more than ample opportunity had been given respondent Judge to file his comment and defend himself, we see no further reason to delay resolution of this case. Hence,

Supreme Court E-Library

we resolve the same on the basis of the pleadings and other documents already on record as well as the attendant circumstances.

We have repeatedly warned judges that they should dispose of court business promptly, resolve pending motions and incidents, and decide cases within the prescribed periods[4] on the simple principle that justice delayed is justice denied.[5] We have defined the noble office of a judge as not merely to render justice impartially but expeditiously as well, for "*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.*"[6] No less than the Constitution, specifically Sec. 15, par. (1), of Art. VIII, as well as the *Code of Judicial Conduct*, specifically Rule 3.05, Canon 3, mandates that a magistrate should dispose of the court's business promptly and decide cases within the prescribed periods.[7] We have administratively dealt with violators on charges of gross inefficiency[8] as well as serious violations of the constitutional right of the parties to a speedy disposition of their cases.[9]

In the instant case, respondent Judge failed to act on the "*Motion to Strike Out Defendant's Position Paper*" filed by

---

[4] *Ganzon II v. Ereño*, A.M. No. RTJ-00-1554,1 June 2000, 333 SCRA 6, 11.

[5] *Villanueva, Jr. v. Estoque*, A.M. No. RTJ-99-1494, 346 SCRA 230, 236.

[6] *Office of the Court Administrator v. Quilada*, A.M. No. MTJ-01-1341, 15 February 2001, 351 SCRA 597, 603; *Cases Submitted for Decision Before Retired Judge Maximo A. Savellano, Jr., RTC-Br. 53, Manila*, A.M. No. 99-7-250-RTC, 5 April 2000, 329 SCRA 637, 643.

[7] *Heirs of Crisostomo Sucaldito v. Cruz*, A.M. RTJ-99-1456, 27 July 2000, 336 SCRA 469, 474; *Office of the Court Administrator v. Aquino*, A.M. No. RTJ-00-1555, 22 June 2000, 334 SCRA 179, 184.

[8] *Office of the Court Administrator v. Salva*, A.M. No. RTJ-98-1412, 19 July 2000, 336 SCRA 133, 141; *Hilario v. Concepcion*, A.M. No. RTJ-99-1454, 2 March 2000, 327 SCRA 96, 103-104; *Saylo v. Rojo*, A.M. No. MTJ-99-1225, 12 April 2000, 330 SCRA 243, 248–249.

[9] *Mosquera v. Legaspi*, A.M. RTJ-99-1511, 10 July 2000, 335 SCRA 326, 329 citing *Re: Judge Fernando P. Agdamag*, A.M. No. RTJ-94-4-156, 13 March 1996, 254 SCRA 644, 650.

Supreme Court E-Library

the plaintiffs and to act on the ejectment case within thirty (30) days from receipt of the defendants' position paper, if same be admitted, or from the expiration of the period to file the same, which was on 8 February 1999, despite the motion for resolution of the case dated 16 April 1999 filed by the plaintiffs, and in violation of Sec. 10 of *The 1991 Revised Rule on Summary Procedure* which provides —

Rendition of judgment. — Within thirty (30) days after receipt of the last affidavits and position papers, or the expiration of the period for filing the same, the court shall render judgment.

However, should the court find it necessary to clarify certain material facts, it may, during the said period, issue an order specifying the matters to be clarified, and require the parties to submit affidavits or other evidence on the said matters within ten (10) days from receipt of said order. Judgment shall be rendered within fifteen (15) days after the receipt of the last clarificatory affidavits, or the expiration of the period for filing the same.

Delay in the disposition of even one case constitutes gross inefficiency.[10] In the determination of the proper penalty, a number of factors have generally been taken into consideration, namely: the presence of aggravating or mitigating circumstances, the damage suffered by the parties as a result of the delay, the health and age of the judge, etc. However, under the new amendments to Rule 140 of the Revised Rules of Court, effective 1 October 2001, specifically Sec. 4, undue delay in rendering a decision in a case is classified as a less serious offense that merits under Sec. 10 (B) either suspension from office or a fine of not less than ₱10,000.00 but not more than ₱19,999.00. However, under the circumstances, we shall not impose the foregoing penalty on respondent judge considering that his less serious offense of undue delay in resolving Civil Case No. 2127 has been exacerbated and overshadowed by the more serious offense of *wilful defiance and contumacious refusal* of respondent judge to obey the lawful orders of this Court.

[10] *Report on the Spot Judicial Audit Conducted in the Metropolitan Trial Court, Br. 40, Quezon City*, A.M. No. 98-2-22-MeTC, 11 May 2000, 331 SCRA 627, 638; *Dela Cruz v. Bersamira*, A.M. No. RTJ-00-1567, 24 July 2000, 336 SCRA 353, 360.

Supreme Court E-Library

As the records show and as already enumerated above, respondent ignored no less than two (2) directives of the Office of the Court Administrator (OCA) and three (3) resolutions of this Court issued in a span of more than three (3) years directing him merely to file his comment on the administrative complaint.

We have said that a resolution of this Court requiring comment on an administrative complaint against officials and employees of the judiciary is not to be construed as a mere request from the Court.[11] On the contrary, respondents in administrative cases are to take such resolutions seriously by commenting on *all* accusations or allegations against them as it is their duty to preserve the integrity of the judiciary.[12] Any indifference to such resolutions has never been tolerated by this Court.

Thus, a judge who deliberately and continuously failed and refused to comply with a resolution of this Court was held guilty of gross misconduct and insubordination,[13] the Supreme Court being the agency exclusively vested by our Constitution[14] with administrative supervision over all courts and court personnel from the Presiding Justice of the Court of Appeals to the lowest municipal trial court clerk. The Court can hardly discharge such constitutional mandate of overseeing judges and court personnel and taking proper administrative sanction against them[15] if the judge or personnel concerned does not even recognize its administrative authority.

In *Grefaldeo v. Lacson*,[16] a case very similar to the instant one, respondent Judge likewise repeatedly and contumaciously refused to comment on the administrative case filed against her for delay in the

---

[11] *Martinez v. Zoleta*, A.M. No. MTJ-94-904, 29 September 1999, 315 SCRA 438, 448–449.

[12] *Ibid.*

[13] *Alonto-Frayna v. Astih*, A.M. No. SDC-98-3, 16 December 1998, 300 SCRA 199, 202–203.

[14] See Art. VIII, Sec. 6, which provides: 'The Supreme Court shall have administrative supervision over all courts and the personnel thereof.

[15] *Fuentes v. Office of the Ombudsman-Mindanao*, G.R. No. 124295, 23 October 2001, 368 SCRA 36, 42.

[16] A.M. No. MTJ-93-881, 3 August 1998, 293 SCRA 524.

Supreme Court E-Library

resolution of a motion to dismiss a criminal case for estafa pending in her sala, despite numerous opportunities given her. Thus, after several directives issued in a span of more than three (3) years to no avail, the Court was left with no alternative but to dismiss respondent from the service. In meting out such penalty, the Court considered respondent's defiant silence as not only an implied admission of guilt but, more importantly, a glaring proof of her recalcitrance and stubbornness to obey legitimate orders of the Court, and of utter lack of interest to remain with the judicial system to which, unfortunately, she unfittingly belonged. On the same principle, the Court did not hesitate to dismiss similar disobedient respondents in the more recent cases of *Alonto-Frayna v. Astih*,[17] *Martinez v. Zoleta*,[18] and *Davila v. Generoso*.[19]

We cannot hold otherwise in the instant case.

WHEREFORE, for Gross Misconduct and Insubordination, respondent Judge Isauro M. Balderian is *DISMISSED* from the service with forfeiture of all retirement benefits and privileges, except accrued leave credits, if any, and with prejudice to re-employment in any branch, agency or instrumentality of the government, including government-owned or controlled corporations. This Decision is immediately executory and respondent is directed upon receipt of this Decision to cease and desist from performing the functions of the office of Judge, Municipal Trial Court, Bacoor, Cavite, except to turn over all his cases and property accountabilities to his Clerk of Court or whoever is officially designated in charge of the court.

SO ORDERED.

Davide, Jr., C. J., Bellosillo, Puno, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Callejo, Sr., Azcuna, and *Tinga, JJ.*, concur.

Corona, and *Carpio Morales, JJ.*, on leave.

---

[17] A.M. No. SDC-98-3, 16 December 1998, 300 SCRA 199.

[18] A.M. No. MTJ-94-904, 29 September 1999, 315 SCRA 438.

[19] A.M. No. MTJ-95-1062, 31 July 2000, 336 SCRA 576.