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[Adm. Case No. 165-J. August 31, 1970]

ILUMINADO S. ESPINAS, *complainant, vs.* HON. PERFECTO QUICHO, *respondent.*

SYLLABUS

ADMINISTRATIVE PROCEEDINGS AGAINST JUDGE; CHARGE OF MISBEHAVIOUR AND FAILURE TO DECIDE WITHIN 90 DAYS FROM DATE CASE WAS SUBMITTED FOR DECISION; DISMISSED ON GROUND OF LACHES.— Considering that the present charges have been filed almost three years after the rendition of the decision complained of; that complainant has not introduced any evidence in support of his allegations of fact concerning respondent's behavior and his alleged improper notice in rendering against him the decision in Land Registration Case No. 352 of the Court of First Instance of Albay; and the matter of collection of respondent's emoluments notwithstanding the existence of several cases pending decision for over 90 days is the subject matter of Administrative Case No. 138-J against respondent herein, the Court believes that the charges of complainant herein should be, as they are hereby, dismissed, without prejudice to such action as may be taken in said Administrative Case No. 138-J as regards the collection of respondent's emoluments despite said cases pending decision for over 90 days.

APPEARANCES OF COUNSEL

Iluminado S. Espinas for and in his own behalf.
Perfecto Quicho for and in his own behalf.

RESOLUTION

CONCEPCION, *C.J.*:

On January 15, 1970, this Office received a 3rd indorsement of the Department of Justice, dated December 18, 1969, forwarding a letter-complaint of Iluminado S. Espinas, dated June 1, 1969,

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preferring administrative charges against Honorable Perfecto Quicho, District Judge of the Court of First Instance of Albay, as well as the latter's 2nd indorsement, dated September 30, 1969, by way of answer to said complaint, and complainant's letter-rejoinder thereto, of November 15, 1969. Soon thereafter, or by resolution of this Court dated January 26, 1970, the matter was referred to Justice Jose N. Mendoza of the Court of Appeals for investigation, report and recommendation, which was incorporated in a "resolution" dated July 23, 1970, and filed with the Supreme Court on August 5, 1970, recommending that the charges preferred against respondent Judge be dismissed for failure to prosecute on the part of the complainant.

It appears that when the case was called for hearing before Justice Mendoza , on March 30, 1970, only Judge Quicho appeared. Thereupon, Justice Mendoza resolved to postpone the hearing to June 8, 1970, at 9:30 a.m., with the warning that, should the complainant still not show up on the latter date, no further postponement would be granted. This notwithstanding, complainant failed once more to appear at the scheduled hearing, on June 8, 1970, without giving any explanation therefor. After waiting for him, in vain, up to 10:00 a.m. the investigator concluded that the complainant had lost interest in prosecuting the case, and, accordingly, recommended its dismissal.

The basic letter-complaint of June 1, 1969, appears to have been written by one of the parties in Land Registration Case No. N-352 of the Court of First Instance of Albay, entitled "Felipe Y. Gutierrez, Applicant, Iluminado Espinas, Oppositor," which was allegedly submitted for decision on October 15, 1966, and decided adversely to Espinas on October 11, 1967. The latter avers that he believes he lost that case by reason of the fact that he had not complied "with a request of said Judge"; that it took respondent Judge much more than the 90 days permitted by the regulations to decide the case; and that, notwithstanding his "pending cases undecided or untouched even after the expiration of 90 days, he received his pay, xxx." Complainant, likewise, alleges that there are "common rumors" to the effect that respondent Judge fraternizes with lawyers who have cases pending

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in his court and even goes with them to "nightspots," and that these lawyers have been favored in respondent's decisions.

In his 2nd indorsement of September 30, 1969, respondent states that the delay in disposing of said Land Registration Case No. N-352 was due to the inadequacy of his clerical staff and the lack of legal aid, despite representations made by him in 1966,1967 and 1968; that he had no branch clerk of court for almost two years, his former deputy clerk of court having been promoted clerk of court, and none of his remaining personnel being a lawyer who could be designated as acting branch clerk of court until 1968; that, up to the present, respondent has no legal researcher; and that it was only during the year 1969 that the positions of two docket clerks, in the branch presided over by him, had been filled up. Respondent, likewise, denied, as false and mischievous, the charge that he fraternizes with lawyers who have cases pending in his sala; that he has favored them in his decisions; and that complainant had lost Case No. N-352 owing to his failure to comply with a request allegedly made by respondent.

Considering that the present charges have been filed almost three years after the rendition of the decision complained of; that complainant has not introduced any evidence in support of his allegations of fact concerning respondent's behavior and his alleged improper motive in rendering against him the decision in Land Registration Case No. N-352 of the Court of First Instance of Albay; and that the matter of collection of respondent's emoluments notwithstanding the existence of several cases pending decision for over 90 days is the subject matter of Administrative Case No. 138-J against respondent herein, the Court believes that the charges of complainant herein should be, as they are hereby, dismissed, without prejudice to such action as may be taken in said Administrative Case No. 138-J, as regards the collection of respondent's emoluments, despite said cases pending decision for over 90 days.

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IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Fernando, Barredo, Villamor and *Makasiar, JJ.*, concur.

Ruiz Castro and *Teehankee, JJ.*, did not take part.

[Adm. Case No. 141-J. August 31, 1970]

SERGIO F. DEL CASTILLO, *complainant, vs.* HON. RAFAEL C. CLIMACO, *respondent.*

SYLLABUS

1. **ADMINISTRATIVE PROCEEDINGS; COMPLAINT AGAINST JUDGES; CHARGE OF DELAY IN HEARING, NOT SUFFICIENTLY ESTABLISHED IN INSTANT CASE.—** The charge that the respondent Judge deliberately delayed the trial of a civil case and that he did so because of his alleged friendship with one of the attorneys for the defendants has not been sufficiently established.

2. **ID.; ID.; CHARGE OF COERCING THE PLAINTIFF TO COMPROMISE CASE; NO BASIS IN INSTANT CASE.—** The actuation of the respondent Judge in trying to effect a compromise between the parties, considering that they are brothers and sisters, is not improper, for as a matter of fact the law expressly directs that litigants be advised and counselled to compromise their mutual differences, especially when they are members of the same family. (Article 222, New Civil Code)

APPEARANCES OF COUNSEL

Sergio F. del Castillo for and in his own behalf.

Rafael C. Climaco for and in his own behalf.