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SECOND DIVISION

[A.M. No. 131-MJ. August 21, 1976]

JACOB O. MEIMBAN, *complainant, vs.* **MUNICIPAL JUDGE EMMA B. BALITE of Catarman, Northern Samar,** *respondent.*

SYLLABUS

1. ADMINISTRATIVE LAW; PUBLIC OFFICERS AND EMPLOYEES; COURT PERSONNEL; CHARGES FOR NEGLECT OF DUTY AMOUNTING TO INEFFICIENCY; UNFOUNDED IN CASE AT BAR.— In his report to this Court, District Judge Juan Figueroa recommended that the administrative complaint be dropped in view of the insufficiency of the evidence. He sustained the defense to the main charge that there was a failure on the part of respondent Judge to act on a motion to dismiss, in view of his findings that as of the time of the complaint, the stenographic notes of the evidence for the prosecution taken before Municipal Judge Alberto S. Lim of Catarman, who inhibited himself out of *delicadeza*, had not been transcribed. Respondent Judge would not therefore be in a position to pass upon the question of the insufficiency of the evidence for the prosecution. As was pointed out by Judge Figueroa: "From the above-quoted comment of the respondent, it appears that her failure to resolve the motion to dismiss Annex 'D', and the opposition thereto, Annex 'E', was because the stenographers who took the previous proceedings failed to transcribe their respective stenographic notes on time. If that were so, there is no evidence to the contrary, the undersigned considers the actuation of the respondent not violative of any law or circulars. Indeed it would be very hard, if not impossible, for the respondent, without those transcript, to resolve said motion to dismiss with necessary judiciousness." Nor was there evidence sufficiently persuasive to justify the imputation of propensity for delay as respondent Judge, in the opinion of Judge Figueroa, offered a credible explanation for the acts assailed. His recommendation was that "the case be dropped." Such report was referred to the then Judicial Consultant Barcelona for further study. From him came this memorandum: "I fully concur in the recommendation of the

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Judge-Investigator for the *dismissal of the charges* against respondent Municipal Judge Emma B. Balite, not only because of complainant's failure to adduce any evidence to substantiate the charges, but also because of respondent's satisfactory explanation thereof contained in her amended comments . . . so much so that the complainant had to repeatedly move for the withdrawal of his complaint.

2. **JUDICIAL ETHICS; JUDICIAL CONDUCT; REQUIRES PROMPTNESS AND EFFICIENCY IN THE DISCHARGE OF OFFICIAL DUTIES; CASE AT BAR.**— While this administrative complaint against respondent Judge cannot prosper, it is not amiss to remind her of the exigent need for promptness and efficiency in the discharge of official duties by occupants of the bench. For this purpose, they must ever be fully cognizant of the state of their docket. They should so apportion their time that judicial matters are not left unattended. Their personnel certainly would be spurred to greater diligence if they set the example. It should ever be borne in mind by municipal judges that precisely because it is their court that is the gauge of judicial performance, their responsibility for maintaining in high repute the administration of justice is great. They are expected to live up to it.

RESOLUTION

FERNANDO, *Acting C.J.:*

The delay suffered by complainant Jacob Meimban, the offended party, in a case for grave threats pending in the Municipal Court of Catarman, Northern Samar, resulting according to his allegation from the failure of respondent Acting Municipal Judge of such municipality, Emma B. Balite, to rule even after the lapse of the period of six months on a motion to dismiss filed by the accused therein on the ground of insufficiency of evidence, led to the filing of this administrative complaint for neglect of duty amounting to inefficiency. In his amended complaint to further emphasize what he characterized as "the propensity of herein respondent judge in neglecting her duty,"[1]

[1] Amended Complaint, par. 7.

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he referred to her failure to resolve or determine a motion for execution and urgent motion to set for hearing filed by the District Forester of Catarman. Northern Samar. Under the law a showing of serious misconduct or inefficiency calls for a penalty of a severe nature including that of removal.[2] Accordingly, the complaint was referred by the then Judicial Consultant, retired Justice Manuel P. Barcelona of the Court of Appeals, to the Executive Judge, Court of First Instance of Catarman, Northern Samar, for a formal investigation. The investigation was conducted in June of 1975 with the charges of complainant carefully looked into by District Judge Juan Figueroa.

In his report to this Court, he recommended that the administrative complaint be dropped in view of the insufficiency of the evidence. He sustained the defense to the main charge that there was a failure on the part of respondent Judge to act on a motion to dismiss, in view of his findings that as of the time of the complaint, the stenographic notes of the evidence for the prosecution taken before Municipal Judge Alberto S. Lim of Catarman, who inhibited himself out of *delicadeza*, had not been transcribed. Respondent Judge would not therefore be in a position to pass upon the question of the insufficiency of the evidence for the prosecution. As was pointed out by Judge Figueroa: "From the above-quoted comment of the respondent, it appears that her failure to resolve the motion to dismiss Annex 'D', and the opposition thereto, Annex 'E', was because the stenographers who took the previous proceedings failed to transcribe their respective stenographic notes on time. If that were so, there is no evidence to the contrary, the undersigned considers the actuation of the respondent not violative of any law or circulars. Indeed it would be very hard, if not impossible, for the respondent, without those transcript, to resolve said motion to dismiss with necessary judiciousness."[3] Nor was

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[2] Under Section 97 of the Judiciary Act, the suspension or removal may be ordered upon a showing that "a municipal judge is not performing his duties properly, or [he] is unfit for the office, ***." Republic Act No. 296 as amended (1948).

[3] Report and Recommendation of District Judge Juan Figueroa, 4.

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there evidence sufficiently persuasive to justify the imputation of propensity for delay as respondent Judge, in the opinion of Judge Figueroa, offered a credible explanation for the acts assailed. His recommendation was that "the case be dropped."[4]

Such report was referred to the then Judicial Consultant Barcelona for further study. From him came this memorandum: "I fully concur in the recommendation of the Judge-Investigator for the *dismissal of the charges* against respondent Municipal Judge Emma B. Balite, not only because of complainant's failure to adduce any evidence to substantiate the charges, but also because of respondent's satisfactory explanation thereof contained in her amended comments *** so much so that the complainant had to repeatedly move for the withdrawal of his complaint ***. Hence, it is respectfully recommended that the instant administrative matter be dismissed."[5] A study of the record persuades us of the correctness thereof. Accordingly, this case should be dismissed.

1. It is to be remembered that proceedings of this character, according to *In re Horrilleno*,[6] as set forth in the opinion of Justice Malcolm, are "in their nature highly penal in character and to be governed by the rules of law applicable to criminal cases. The charges must, therefore, be proved beyond a reasonable doubt."[7] That 1922 decision has been subsequently adhered to.[8]

2. While this administrative complaint against respondent Judge cannot prosper, it is not amiss to remind her of the exigent

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[4] *Ibid.*, 8.

[5] Memorandum of Judicial Consultant Jose P. Barcelona dated August 7, 1975.

[6] 43 Phil. 212 (1922).

[7] *Ibid.*, 215.

[8] Cf. *Enriquez v. Araula*, Adm. Case No. 270-J, Dec. 18 1973, 54 SCRA 232; *Tombo v. Medina;* Adm. Case No. 292, Jan. 17, 1974, 55 SCRA 13; *Lampauog v. Villarojo*, Adm. Matter No. 381-MJ, Jan. 28, 1974, 55 SCRA 304; *Bartolome v. de Borja*, Adm. Matter No. 1096, May 31, 1976.

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need for promptness and efficiency in the discharge of official duties by occupants of the bench. For this purpose, they must ever be fully cognizant of the state of their docket. They should so apportion their time that judicial matters are not left unattended. Their personnel certainly would be spurred to greater diligence if they set the example. It should ever be borne in mind by municipal judges that precisely because it is their court that is the gauge of judicial performance, their responsibility for maintaining in high repute the administration of justice is great. They are expected to liye up to it.

WHEREFORE, the administrative complaint against Judge Emma B. Balite is dismissed for lack of merit. Let a copy of this resolution be spread on her record.

Barredo, Antonio, Aquino, and *Concepcion, Jr., JJ.,* concur.

SECOND DIVISION

[A.M. No. 535-MJ. August 21, 1976]

ELSIE Q. TOLENTINO, *complainant, vs.* **MUNICIPAL JUDGE GODOFREDO O. TIONG of Pozorrubio, Pangasinan,** *respondent.*

SYLLABUS

ADMINISTRATIVE LAW; PUBLIC OFFICERS AND EMPLOYEES; COURT PERSONNEL; CHARGES OF IRREGULARITY AND BIAS; UNFOUNDED IN CASE AT BAR.— There was no violation of the applicable provision of the Rules of Court. No irregularity was shown in the mode respondent Judge acted in this case. No bias in favor of the accused was shown. On a showing by his counsel that there was no intent to kill, the offense committed was one of physical injuries. Nor could respondent Judge be blamed for concluding that as the parties