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Similarly, this is the first offense for respondent Gibas. Hence, the Court deems the recommended penalty of dismissal inappropriate. In accordance with the prescribed penalty in the Uniform Rules on Administrative Cases in the Civil Service, the penalty of six months and one day is sufficient considering that this is respondent Gibas' first offense for immorality.

WHEREFORE, we find respondent Ma. Jesusa E. Gibas *GUILTY* of immorality. We *SUSPEND* Ma. Jesusa E. Gibas from service for six months and one day without pay and other fringe benefits including leave credits, with a stern warning that a repetition of the same or similar act in the future shall be dealt with more severely. We *DISMISS* the administrative case against Franconello S. Lintao for lack of jurisdiction.

SO ORDERED.

Nachura, Brion,[*] *Peralta* and *Abad, JJ.,* concur.

FIRST DIVISION

[A.M. No. MTJ-11-1782. March 23, 2011]
(Formerly OCA IPI No. 05-1807-MTJ)

JOSEFINA NAGUIAT, *complainant, vs.* **JUDGE MARIO B. CAPELLAN, Presiding Judge, MTCC, Br. 1, Malolos City, Bulacan,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; SPECIAL CIVIL ACTIONS; EJECTMENT; COVERED BY THE 1991 REVISED RULE ON SUMMARY PROCEDURE; DUTY OF THE COURT UPON FILING OF

[*] Designated additional member per Special Order No. 975 dated 21 March 2011.

EJECTMENT CASE; NOT COMPLIED WITH.— Civil Case No. 98-84 for ejectment is covered by the *1991 Revised Rule on Summary Procedure*. Under the Rule, the first duty of the respondent upon the filing of the case for ejectment was to examine the allegations in the complaint and the evidence appended to it, and to dismiss the case outright on any of the grounds apparent for the dismissal of a civil action. Section 4 of the Rules on Summary Procedure says as much: Sec. 4. Duty of the Court.¾After the court determines that the case falls under summary procedure, it may, from an examination of the allegations therein and such evidence as may be attached thereto, dismiss the case outright on any of the grounds apparent for the dismissal of a civil action. In his Order of December 3, 2003, respondent dismissed Civil Case No. 98-84 on the stated ground that one Joseph Jacob, the plaintiff's representative, was not authorized to appear for the corporation because his authority, as reflected in the corporate secretary's certificate appended to the complaint, was for another case. In net effect, the ground for dismissing Civil Case No. 98-84 existed and was apparent upon the filing of the basic complaint on August 12, 1998. Yet, respondent judge allowed the case to unnecessarily drag on for more than five years.

2. ID.; ID.; ID.; ID.; ISSUE AND DEFENSE OF LACK OF PERSONALITY DEEMED WAIVED WHERE THE SAME WAS NOT RAISED IN THE ANSWERS OF THE DEFENDANTS.— The issue of Jacob's lack of legal personality to institute the ejectment suit was, as respondent judge stressed in his supplemental position paper, raised in the position paper of defendant Rufino Cruz. It was, respondent adds, a primordial issue, not a mere technicality, to which all other issues ought to yield. The above argument may perhaps be accorded some measure of plausibility, but Sec. 5 of the Rule on Summary Procedure, in part, states that "affirmative and negative defenses not pleaded in the [answer] shall be deemed waived, except for lack of jurisdiction over the subject matter." Not one of the answers of the defendants in Civil Case No. 98-84 raised the question of Jacob's lack of personality. In the strictly legal viewpoint, therefore, the issue and defense of lack of personality, was, by force of said Sec. 5, deemed waived.

3. ID.; ID.; ID.; ID.; 30-DAY PERIOD WITHIN WHICH TO RENDER JUDGMENT RECKONED FROM THE TIME THE COURT

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RECEIVED THE LAST AFFIDAVITS AND POSITION PAPERS, OR THE EXPIRATION OF THE PERIOD FOR FILING THE SAME.— When confronted with administrative charges of delay, the Court shall be guided by the period allowed by law. Reglementary periods fixed by law and the various issuances of the Court are designed not only to protect the rights of all the parties to due process but also to achieve efficiency and order in the conduct of official business. Sec. 10 of the Rule on Summary Procedure requires the court "to render [on covered cases] judgment within thirty (30) days after receipt of the last affidavits and position papers, or the expiration of the period for filing the same." In the context of Civil Case No. 98-84, and assuming that the 30-day threshold was to be reckoned from the time defendant Rufino Cruz filed his position paper on March 26, 2003, respondent had up to April 26, 2003 within which to decide the case. As it were, respondent rendered his terse dismissal order on December 3, 2003, or seven (7) months beyond the prescribed period under Sec. 10.

4. JUDICIAL ETHICS; JUDGES; REQUIRED TO REMAIN, AT ALL TIMES, IN FULL CONTROL OF THE PROCEEDINGS IN THEIR SALA AND TO ADOPT A FIRM POLICY AGAINST IMPROVIDENT POSTPONEMENTS; ALLOWING 14 POSTPONEMENTS DURING THE PRELIMINARY CONFERENCE STAGE OF THE CASE IS HIGHLY INAPPROPRIATE AND WELL-NIGH IMPROVIDENT.— Another procedural lapse attributable to respondent relates to his having allowed several and doubtless unnecessary postponements which contributed to the delay in the resolution of what was otherwise a simple case. As aptly observed by the OCA and as records show, respondent conducted the preliminary conference of the ejectment case on September 15, 1999 and ended it on October 23, 2000. Between these two dates, respondent granted a total of fourteen (14) postponements. Evidently, respondent did not exert his authority to expedite the summary proceedings of the case. He was oblivious to the basic objectives of summary procedures, one of which is to obviate dilatory practices and unnecessary delays which have long been the bane of ejectment proceedings. The fact that the resetting may have been sought and agreed upon by the parties is, by itself, of little moment, for judges have a wide latitude of discretion on the matter of granting or denying a

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plea for continuance or postponement. Sound practice requires a judge to remain, at all times, in full control of the proceedings in his sala and to adopt a firm policy against improvident postponements. Given the summary nature of ejectment proceedings, allowing 14 postponements during the preliminary conference stage of the case strikes this Court as not only highly inappropriate but well-nigh improvident.

5. ID.; ID.; UNDUE DELAYS IN RENDERING A JUDGMENT; ERODE THE PEOPLE'S FAITH IN THE JUDICIAL SYSTEM; PENALTY.— The Court has time and again admonished judges to be prompt in the performance of their solemn duty as dispenser of justice, since undue delays erode the people's faith in the judicial system. Delay not only reinforces the belief of the people that the wheels of justice grind ever so slowly, but invites suspicion, however unfair, of ulterior motives on the part of the judge. The *raison d'être* of courts lies not only in properly dispensing justice but also in being able to do so seasonably. Under Sec. 9, Rule 140 of the Rules of Court, undue delay in rendering a decision or order constitutes a less serious offense which, under the succeeding Sec. 11(B), is punishable as follows: 1. Suspension from office without salary and other benefits for one (1) month to two (2) months and twenty-nine days; or 2. A fine of not less than ₱10,000.00 but not more than ₱19,999.00.

R E S O L U T I O N

VELASCO, JR., *J.*:

The instant administrative matter stemmed from a verified letter-complaint of Josefina Naguiat dated August 2, 2005, with enclosures, charging Judge Mario B. Capellan, Presiding Judge, Metropolitan Trial Court in Cities (MTCC), Branch 1 in Malolos City, Bulacan, with Delay in Rendering Judgment relative to Civil Case No. 98-84, entitled *Sta. Monica Industrial and Development Corporation v. Eugenio Roxas Buenaventura, Mario Cruz, Graciano C. Cruz and Rufino Cruz*. As alleged, it took respondent judge six (6) years to resolve, on technicality, a case governed by the rule on summary procedure.

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Complainant Naguiat, during the period material, was the president and general manager of Sta. Monica Industrial and Development Corporation (Sta. Monica), the plaintiff in Civil Case No. 98-84, a suit for ejectment which the corporation filed on August 12, 1998 and raffled to the MTCC, Branch 1 in Malolos City. Summonses having been served, Eugenio R. Buenaventura and Rufino Cruz filed their joint Answer on September 3, 1998; Graciano C. Cruz filed his Answer to the complaint on September 4, 1998; while Mario Cruz did not file an Answer. Sta. Monica filed its pre-trial brief on October 26, 1998, and Graciano filed his pre-trial brief on November 17, 1998. On January 20, 1999, Rufino filed a pre-trial brief accompanied by another answer.

According to the complaint, Sta. Monica, pursuant to the orders of the court, submitted its position paper on January 29, 2001. Graciano and Rufino filed their position papers on January 17, 2001 and March 26, 2003, respectively.

On December 3, 2003, or over seven (7) months after its receipt of the last position paper, the MTCC, presided by the respondent, issued an order dismissing Civil Case No. 98-84, on the ground that plaintiff Sta. Monica's representative lacked the personality to file the said ejectment case.

In his Comment dated February 2, 2006, respondent admitted the filing of the pleadings adverted to, except as to the filing by plaintiff Sta. Monica of its position paper. He attributed the delay in rendering judgment to the numerous pleadings that had to be filed, postponements, and the purported failure of the plaintiff to file its position paper. He went on to state that in barely three months and 25 days from the date of the filing of the case, he had conducted and terminated the pre-trial conference and ordered the submission of position papers. He could have, so he claimed, rendered judgment shortly thereafter were it not for Atty. Cenon Navarro entering his appearance for Rufino Cruz and filing a separate answer and pre-trial brief, necessitating the setting of another pre-trial that was itself reset over a dozen times at the instance of both parties.

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In a Resolution dated January 29, 2007, the Court directed the parties, if they so desired, to file their respective papers and/or additional evidence. Per Resolution of July 19, 2007, followed later by another resolution, the Court referred the case to the Office of the Court Administrator (OCA) for investigation, report and recommendation.

In its memorandum-report dated February 15, 2008, the OCA found the commission of at least four (4) procedural lapses that caused unnecessary delay in the final resolution of Civil Case No. 98-84. The OCA, thus, recommended that respondent judge be adjudged guilty, as charged, and penalized accordingly.

The Court agrees with the recommendation of the OCA.

Indeed, respondent committed several lapses in his handling and eventual disposition of Civil Case No. 98-84, a failing which could have easily been avoided and, in the process, saved the parties and the court much time and resources had he exercised due diligence. Civil Case No. 98-84 for ejectment is covered by the *1991 Revised Rule on Summary Procedure*.[1] Under the Rule, the first duty of the respondent upon the filing of the case for ejectment was to examine the allegations in the complaint and the evidence appended to it, and to dismiss the case outright on any of the grounds apparent for the dismissal of a civil action. Section 4 of the Rules on Summary Procedure says as much:

> Sec. 4. Duty of the Court.—After the court determines that the case falls under summary procedure, it may, from an examination of the allegations therein and such evidence as may be attached thereto, dismiss the case outright on any of the grounds apparent for the dismissal of a civil action.

In his Order[2] of December 3, 2003, respondent dismissed Civil Case No. 98-84 on the stated ground that one Joseph Jacob, the plaintiff's representative, was not authorized to appear for the corporation because his authority, as reflected in the

[1] Sec. 1 of the Rule provides that "this rule shall govern x x x all cases of forcible entry and unlawful detainer, irrespective of the amount of damages or unpaid rentals sought to be recovered. x x x

[2] *Rollo*, p. 82.

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corporate secretary's certificate appended to the complaint, was for another case. In net effect, the ground for dismissing Civil Case No. 98-84 existed and was apparent upon the filing of the basic complaint on August 12, 1998. Yet, respondent judge allowed the case to unnecessarily drag on for more than five years.

This brings us to another but related point. The issue of Jacob's lack of legal personality to institute the ejectment suit was, as respondent judge stressed in his supplemental position paper, raised in the position paper of defendant Rufino Cruz. It was, respondent adds, a primordial issue, not a mere technicality, to which all other issues ought to yield.

The above argument may perhaps be accorded some measure of plausibility, but Sec. 5 of the Rule on Summary Procedure, in part, states that "affirmative and negative defenses not pleaded in the [answer] shall be deemed waived, except for lack of jurisdiction over the subject matter." Not one of the answers of the defendants in Civil Case No. 98-84 raised the question of Jacob's lack of personality. In the strictly legal viewpoint, therefore, the issue and defense of lack of personality, was, by force of said Sec. 5, deemed waived.

Another procedural lapse attributable to respondent relates to his having allowed several and doubtless unnecessary postponements which contributed to the delay in the resolution of what was otherwise a simple case. As aptly observed by the OCA and as records show, respondent conducted the preliminary conference of the ejectment case on September 15, 1999 and ended it on October 23, 2000. Between these two dates, respondent granted a total of fourteen (14) postponements. Evidently, respondent did not exert his authority to expedite the summary proceedings of the case. He was oblivious to the basic objectives of summary procedures, one of which is to obviate dilatory practices and unnecessary delays which have long been the bane of ejectment proceedings. The fact that the resetting may have been sought and agreed upon by the parties is, by itself, of little moment, for judges have a wide latitude of discretion on the matter of granting or denying a plea for continuance or

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postponement.[3] Sound practice requires a judge to remain, at all times, in full control of the proceedings in his sala and to adopt a firm policy against improvident postponements.[4] Given the summary nature of ejectment proceedings, allowing 14 postponements during the preliminary conference stage of the case strikes this Court as not only highly inappropriate but well-nigh improvident.

When confronted with administrative charges of delay, the Court shall be guided by the period allowed by law. Reglementary periods fixed by law and the various issuances of the Court are designed not only to protect the rights of all the parties to due process but also to achieve efficiency and order in the conduct of official business.[5] Sec. 10 of the Rule on Summary Procedure requires the court "to render [on covered cases] judgment within thirty (30) days after receipt of the last affidavits and position papers, or the expiration of the period for filing the same." In the context of Civil Case No. 98-84, and assuming that the 30-day threshold was to be reckoned from the time defendant Rufino Cruz filed his position paper on March 26, 2003, respondent had up to April 26, 2003 within which to decide the case. As it were, respondent rendered his terse dismissal order on December 3, 2003, or seven (7) months beyond the prescribed period under Sec. 10.

The Court has time and again admonished judges to be prompt in the performance of their solemn duty as dispenser of justice, since undue delays erode the people's faith in the judicial system. Delay not only reinforces the belief of the people that the wheels of justice grind ever so slowly, but invites suspicion, however unfair, of ulterior motives on the part of the judge.[6] The *raison*

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[3] *Philippine National Bank v. Donasco*, No. L-18638, February 28, 1963, 7 SCRA 409, 413-419.

[4] *Sevilla v. Quintin*, A.M. No. MTJ-05-1603, October 25, 2005, 474 SCRA 10, 17.

[5] *Ocampo v. Bibat-Palamos*, A.M. No. MTJ-06-1655, March 6, 2007, 517 SCRA 480, 486.

[6] *Concillo v. Gil*, A.M. No. RTJ-02-1722, September 24, 2002, 389 SCRA 487, 490-491.

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d'être of courts lies not only in properly dispensing justice but also in being able to do so seasonably.[7]

Under Sec. 9, Rule 140 of the Rules of Court, undue delay in rendering a decision or order constitutes a less serious offense which, under the succeeding Sec. 11(B), is punishable as follows:

1. Suspension from office without salary and other benefits for one (1) month to two (2) months and twenty-nine (29) days; or

2. A fine of not less than ₱10,000.00 but not more than ₱19,999.00.

WHEREFORE, Judge Mario B. Capellan, MTCC, Branch 1 in Malolos City, Bulacan, is adjudged *GUILTY* of undue delay in rendering a decision or order. He is *FINED* in the amount of ten thousand one hundred pesos (PhP 10,100), with stern warning that a repetition of the same or similar offense shall be dealt with more severely.

SO ORDERED.

Corona, C.J. (Chairperson), Leonardo-de Castro, Brion,[*] and *del Castillo, JJ.,* concur.

FIRST DIVISION

[G.R. No. 146839. March 23, 2011]

ROLANDO T. CATUNGAL, JOSE T. CATUNGAL, JR., CAROLYN T. CATUNGAL and ERLINDA CATUNGAL-WESSEL, *petitioners, vs.* **ANGEL S. RODRIGUEZ,** *respondent.*

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[7] *Lim, Jr. v. Magallanes*, A.M. No. RTJ-05-1932, April 2, 2007, 520 SCRA 12, 18.

[*] Additional member per Raffle dated February 28, 2011.