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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.

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DECISION

MAKALINTAL, *J.*:

This administrative case was initiated on January 29, 1969 upon complaint of Sergio F. del Castillo, charging Hon. Rafael C. Climaco, District Judge of the Court of First Instance of Negros Occidental, on three counts. In synthesis they are: (1) that respondent intentionally delayed hearing a certain case for partition (No. 94) filed in his court in 1962, because the lawyer for the defendants, who was himself one of them, was a friend of his; (2) that in said case he compelled the plaintiffs to mark their documentary evidence all at once and indicate the pages of the record where the documents were found instead of having them formally marked and presented individually in the course of the trial, in accordance with the customary procedure, and that because the marking consumed some time he lost his patience and left the court, but continued to conduct the proceeding by telephone; and (3) that he tried to coerce the plaintiffs to enter into a compromise with the defendants although he knew there was no prospect that it could be done, thus unnecessarily delaying the disposal of the case.

Respondent Judge filed his answer to the complaint, after which the case was assigned to Hon. Arsenio Solidum, Associate Justice of the Court of Appeals, for investigation, report and recommendation. Hearing was held before him on August 28, 1969, at which only complainant appeared and testified, respondent submitting the case on the strength of his answer.

The report of Justice Solidum, submitted on August 21, 1970, contains the following findings:

"As to the first charge that the respondent Judge deliberately delayed the trial of Civil Case No. 94 because of his alleged friendship for Atty. Vivencio Ibrado, Sr., one of the attorneys for the defendants and actually one of the defendants in said case, as they are both members of the Rotary Club of Bacolod, the same has not been sufficiently established. There is absolutely no proof to show in what way the respondent had intentionally delayed the hearing of said case

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simply because Atty. Ibrada and the respondent were friends and members of the Rotary Club of Bacolod. Be that as it may, in the memorandum filed by the respondent, he states that even before his receipt of the complaint in this administrative case, he had resigned from the Rotary Club of Bacolod because his son was being considered for a scholarship grant by said club.

As to the second charge, the respondent in his memorandum admitted that he abruptly adjourned the trial in the afternoon of February 14, 1967, but the reason was because complainant, as counsel for plaintiffs, had indicated that he had about 20 documents to be marked and offered as evidence but when Atty. Castillo and the deputy clerk started marking the exhibits after one hour, they made very little progress as the record was voluminous; so respondent directed Atty. Castillo to make use of the remaining time and proceed with the marking of the exhibits in the presence of the deputy clerk. The undersigned does not find anything wrong with this procedure. At any rate, according to the respondent he adjourned the hearing that afternoon at already 3:25 o'clock.

With respect to the charge that the respondent tried to coerce the plaintiffs in the said Tupas case to enter into a compromise with the defendants knowing that there was absolutely no prospect for said compromise, thereby delaying the proceeding of this case, the respondent readily admitted that considering that the parties in said civil case are close relatives, being brothers and sisters, he really exerted efforts to achieve such compromise. This actuation of the respondent Judge 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. (Art. 222, New Civil Code)."

It may be mentioned that according to respondent the trial of the Civil Case No. 94 was terminated on July 31, 1969 and was then awaiting only the filing of the memoranda of the parties.

In view of the foregoing, and as recommended by the investigator, the complaint is dismissed and respondent Judge is absolved of the charges against him.

Concepcion, C.J., Reyes, J.B.L., Dizon, Zaldivar, Ruiz Castro, Fernando, Teehankee, Villamor and *Makasiar, JJ.*, concur.

Barredo, J., did not take part.