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Republic of the Philippines
Supreme Court
Manila



**SECOND DIVISION**

**MURPHY CHU/ATGAS TRADERS and MARINELLE P. CHU,**
Complainants,

**A.M. No. MTJ-11-1779**
(formerly A.M. OCA IPI No. 09-2191-MTJ)

Present:

BRION, *J.*, Acting Chairperson,
PEREZ,
MENDOZA, **
SERENO, and
REYES, *JJ.*

Promulgated:

JUL 16 2012

**HON. MARIO B. CAPELLAN, Assisting Judge, Metropolitan Trial Court (MeTC), Branch 40, Quezon City,**
Respondent.

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## DECISION

**BRION, *J.*:**

In a verified complaint dated September 14, 2009 filed before the Office of the Court Administrator (*OCA*), Murphy Chu,[1] Marinelle P. Chu[2] and ATGAS Traders (*complainants*) charged Judge Mario B. Capellan (*respondent*), Assisting Judge of the Metropolitan Trial Court (*MeTC*), Branch 40, Quezon City, with Gross Ignorance of the Law, Partiality and Grave Abuse of Discretion.[3]

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* The words "the spouses" in pp. 1, 2, 3, 4, 5, 6, 8, 9, 10, and 11 deleted.

** Justice Jose C. Mendoza was designated as additional member in lieu of Senior Associate Justice Antonio T. Carpio per Raffle dated July 16, 2012.

1 President and General Manager of ATGAS Traders.

2 Attorney-in-fact of Murphy Chu.

3 *Rollo*, pp. 1-16.

## BACKGROUND FACTS

On March 22, 2007, Ofelia and Rafael Angangco filed before the MeTC, Branch 40, Quezon City, an unlawful detainer complaint, with application for the issuance of a writ of preliminary mandatory injunction (*PMI*) against the complainants.[4] The complainants filed their answer with compulsory counterclaim on March 30, 2007.[5]

The respondent heard the application for the issuance of a writ of PMI on April 11, 2007,[6] November 20, 2007,[7] December 11, 2007,[8] February 12, 2008,[9] and April 22, 2008.[10] He later set the unlawful detainer case for preliminary conference on June 24, 2008, but rescheduled it to August 26, 2008 due to the still pending application for a writ of PMI.[11]

In an order dated October 7, 2008,[12] the respondent denied the application for a writ of PMI and set the case for preliminary conference on November 25, 2008. On this date, the respondent referred the case for mediation,[13] so the preliminary conference was again reset to December 9, 2008.[14]

On November 21, 2008, Angangco filed their pre-trial brief.[15] The complainants, on the other hand, did not file their pre-trial brief.

During the December 9, 2008 preliminary conference, the complainants moved for the consignation of several checks as payment for the amounts they owed to Angangco, for which the respondent

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4 Civil Case No. 07-37177, entitled "*Ofelia R. Angangco and Rafael R. Angangco v. Murphy Chu and ATGAS Traders*"; *id.* at 17-33.
5 *Id.* at 55-69.
6 *Id.* at 84.
7 *Id.* at 111.
8 *Ibid*.
9 *Id.* at 112.
10 *Id.* at 113.
11 *Id.* at 114.
12 *Id.* at 115-118.
13 *Id.* at 119.
14 *Id.* at 120.
15 *Id.* at 123-133.

set clarificatory hearings on January 23 and 30, 2009.[16] The preliminary conference finally took place on February 3, 2009.[17]

During the February 3, 2009 preliminary conference, the complainants moved to dismiss the unlawful detainer complaint on the grounds that: (1) Angangco failed to comply with the required *barangay* conciliation and to implead the other co-owners of the property subject of the unlawful detainer case; and (2) the MeTC had no jurisdiction to issue a writ of PMI. On the other hand, Angangco orally moved to declare the complainants in default for their failure to file a pre-trial brief.[18]

On February 26, 2009, the respondent issued the assailed joint order[19] which submitted the unlawful detainer case for decision based on the facts alleged in the unlawful detainer complaint.

The complainants moved for reconsideration, but the respondent denied their motion.[20] The complainants thereupon filed the present administrative complaint against the respondent. They also filed a motion asking for the respondent's inhibition from the unlawful detainer case.[21] The respondent eventually inhibited himself from the case in an order dated September 8, 2009.[22]

## COMPLAINT AGAINST THE RESPONDENT

The complainants allege that the respondent had no basis to declare them in default because no notice of preliminary conference was issued to them.[23] They argue that the issuance of a notice of preliminary conference is

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16 *Id.* at 366.
17 *Ibid*.
18 *Id.* at 134.
19 *Id.* at 134-135.
20 In an order dated June 30, 2009; *id.* at 143-144.
21 *Id.* at 145-150.
22 *Id.* at 343-344.
23 To prove their allegation, the complainants presented a certification from Atty. Lucia S. Garcia-Kapunan, Clerk of Court of the MeTC, Branch 40, Quezon City, showing that no notice and order of preliminary conference was ever issued by the respondent in the subject unlawful detainer case (*id.* at 136).

mandatory and its non-issuance may be punishable under Section 2, Rule 11 of Supreme Court Administrative Memorandum (*A.M.*) No. 01-2-04, which provides:

> SEC. 2. *Disciplinary sanctions on the judge*. – The presiding judge may, upon a verified complaint filed with the Office of the Court Administrator, be subject to disciplinary action under any of the following cases:
>
> xxxx
>
> (2) Failure to issue a pre-trial order in the form prescribed in these Rules.

Also, the complainants allege that the respondent erred in entertaining the oral motion to declare the defendants in default; in incurring delay in setting the unlawful detainer case for preliminary conference; and in not dismissing the unlawful detainer complaint for Angangco's failure to personally appear during the mediation proceedings. The complainants also allege that these acts of the respondent clearly showed the latter's bias and partiality towards the plaintiffs.

## THE RESPONDENT'S ANSWER

In his answer with counter-charge,[24] the respondent argues that he did not commit any violation for failing to issue a notice of preliminary conference because there is nothing in the 1991 Revised Rules on Summary Procedure or the Rules of Court, particularly in Section 6, Rule 18, that requires him to issue a notice of preliminary conference, in addition to his order setting the case for preliminary conference. He claims that, despite the lack of notice, both parties were duly informed of the preliminary conference on November 25, 2008 through his order dated October 7, 2008; thus, to issue a notice at that time would only be superfluous.

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[24] Dated November 6, 2009; *id.* at 197-220.

The respondent adds that the complainants' citation of Supreme Court A.M. No. 01-2-04 was misplaced; that the said memorandum applies exclusively to cases involving intra-corporate controversies, not to ejectment cases, and subjects a judge to disciplinary action for his failure to issue a pre-trial order, not for failure to issue a notice of preliminary conference.

On the complainants' other allegations, the respondent argues that he could not be faulted for not dismissing the unlawful detainer complaint due to the alleged failure of Angangco to *personally* appear at the mediation proceedings because he could not have known of their non-appearance during that time, as he was informed of what happened during the mediation proceedings only after their conclusion. He also states that it would be unfair to allow the complainants, who actively participated in the mediation proceedings, to now impugn their dealings with and the authority of the lawyer who attended the mediation in behalf of Angangco.

Ultimately, the respondent prayed for the dismissal of the administrative complaint, as it is nothing but an insidious attempt by the complainants to harass him and to conceal their negligence in not filing a pre-trial brief.

## THE OCA'S RECOMMENDATION

**In a report dated November 11, 2010**,[25] **the OCA finds no merit in some of the complainants' allegations.**

First, the OCA remains unconvinced that the complainants' rights to due process were violated because of the lack of notice of preliminary conference; that the complainants could not feign ignorance of the scheduled date of preliminary conference and their need to file a pre-trial brief since

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[25] *Id.* at 365-376.

they received copies of the respondent's order dated October 7, 2008 and of the other party's pre-trial brief before the scheduled preliminary conference on November 25, 2008; and that the complainants were also present in court during the times the preliminary conference was repeatedly reset to later dates. Considering these circumstances, the OCA opines that the complainants were merely finding an excuse to justify their negligence as they were afforded enough opportunity to submit their pre-trial brief, but they still failed to do so.

Second, the OCA agrees with the respondent that Supreme Court A.M. No. 01-2-04 is inapplicable to the subject unlawful detainer case as it pertains to the Proposed Interim Rules of Procedure Governing Intra-Corporate Controversies under Republic Act (*R.A.*) No. 8799.[26]

Third, the OCA belies the complainants' allegation that the respondent entertained Angangco's oral motion to declare defendants in default. While the complainants were correct that a motion to declare defendants in default is a prohibited pleading under the 1991 Revised Rules on Summary Procedure; the respondent, in issuing the assailed joint order dated February 26, 2009, did not rule on the basis of the oral motion but relied on Section 8, Rule 70, in relation to Section 6, Rule 18 of the Rules of Court, which provides:

> Sec. 8. *Preliminary conference; appearance of parties.* – Not later than thirty (30) days after the last answer is filed, a preliminary conference shall be held. The provisions of Rule 18 on pre-trial shall be applicable to the preliminary conference unless inconsistent with the provisions of this Rule.
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> The failure of the plaintiff to appear in the preliminary conference shall be cause for the dismissal of the complaint. The defendant who appears in the absence of the plaintiff shall be entitled to judgment on his counterclaim in accordance with the next preceding section. All cross-claims shall be dismissed.
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> If a sole defendant shall fail to appear, the plaintiff shall likewise be entitled to judgment in accordance with the next preceding section. This

[26] Also known as "The Securities Regulation Code."

> procedure shall not apply where one of two or more defendants sued under a common cause of action who had pleaded a common defense shall appear at the preliminary conference.
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> Sec. 6. *Pre-trial brief.* - The parties shall file with the court and serve on the adverse party, in such manner as shall ensure their receipt thereof at least three (3) days before the date of the pre-trial, their respective pre-trial briefs which shall contain, among others:
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> xxxx
>
> Failure to file the pre-trial brief shall have the same effect as failure to appear at the pre-trial.

And even assuming that the respondent erred in issuing the assailed joint order, the OCA opines that errors committed in the exercise of adjudicative functions cannot be corrected through administrative proceedings where judicial remedies are available; that there must be a final declaration by the appellate court that the assailed order is manifestly erroneous or impelled by ill-will, malice or other similar motive.

**The OCA, however, finds merit in the complainants' allegation that the respondent incurred delay in setting the case for preliminary conference.** The OCA finds that the respondent violated Section 7 of the 1991 Revised Rules on Summary Procedure, which provides that a preliminary conference shall be held not later than thirty (30) days after the last answer is filed, and Rule 1.02, Canon 1 of the Code of Judicial Conduct, which mandates that judges should administer justice without delay. It opines that the respondent should have facilitated the prompt disposition of the subject case and refrained from postponing and resetting the case for preliminary conference several times.

The OCA, then, recommends that the present administrative complaint be redocketed as a regular administrative case and that the respondent be reprimanded, considering that this was his first offense, with a stern warning that a repetition of the same or similar act shall be dealt with more severely.

In a Resolution dated January 19, 2011,[27] we ordered the administrative complaint against the respondent redocketed as a regular administrative case and required the parties to manifest, within ten (10) days from notice, whether they were willing to submit the case for decision on the basis of the pleadings or records filed and submitted.

Both the complainants and the respondent expressed their willingness to submit the case for decision in their Manifestations dated March 22, 2011[28] and August 29, 2011,[29] respectively.

## THE COURT'S RULING

**We find the OCA's findings to be well taken.**

As the OCA recommends, we find no merit in the complainants' allegations that the respondent committed gross ignorance of the law, partiality and grave abuse of discretion in not issuing a notice for the holding of the November 25, 2008 preliminary conference, and in entertaining Angangco's oral motion to declare the defendants in default.

We find no violation committed by the respondent in not issuing a notice for the November 25, 2008 preliminary conference because his order dated October 7, 2008 already constituted sufficient notice to the parties of the holding of such preliminary conference. In the dispositive portion of said order, the respondent clearly set the case for preliminary conference at exactly one o'clock in the afternoon of November 25, 2008. And both parties in the subject unlawful detainer case received copies of the respondent's order. Therefore, the complainants have no reason to argue that they were denied their rights to due process in this instance.

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27 *Rollo*, pp. 377-378.
28 *Id.* at 403-405.
29 *Id.* at 444-445.

On the complainants' other contention, a close reading of the assailed joint order dated February 26, 2009 would show that the respondent did not actually entertain the oral motion to declare the defendants in default filed by Angangco, to wit:

> On the plaintiffs' motion to declare defendants as in default, record reveals that defendants have not filed any pre-trial brief with this Court despite the directive setting the case for preliminary conference and as mandated in the Notice of Pre-Trial Conference. **While a motion to declare defendants in default is prohibited in unlawful detainer cases, (Section 3, Rule 70) the failure of the defendants to file a pre-trial brief within the 3-day period before the preliminary conference necessitates a judgment based on the facts alleged in the Complaint.** (Section 7, Rule 70[,] in relation to Section 8, Rule 70 and Section 6, Rule 18 of the Rules of Court) Thus, this Court resolves and treats the oral motion of the plaintiffs to declare defendants as in default as a Motion to render judgment and that the instant case is now submitted for decision on the basis of the facts alleged in the Complaint.[30] (emphasis supplied)

As the OCA correctly observed, the respondent's order in submitting the unlawful detainer case for decision was not based on Angangco's oral motion, but was the inevitable result of the complainants' failure to file their pre-trial brief. Thus, contrary to the complainants' allegation, the respondent did not commit the mistake of entertaining in the unlawful detainer case a motion to declare the defendants in default, which is a prohibited pleading in ejectment cases under Section 19, Rule IV of the 1991 Revised Rules on Summary Procedure.[31]

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[30] *Id.* at 135.

[31] Sec. 19. Prohibited pleadings and motions. — The following pleadings, motions or petitions shall not be allowed in the cases covered by this Rule:

(a) Motion to dismiss the complaint or to quash the complaint or information except on the ground of lack of jurisdiction over the subject matter, or failure to comply with the preceding section;
(b) Motion for a bill of particulars;
(c) Motion for new trial, or for reconsideration of a judgment, or for opening of trial;
(d) Petition for relief from judgment;
(e) Motion for extension of time to file pleadings, affidavits or any other paper;
(f) Memoranda;
(g) Petition for certiorari, mandamus, or prohibition against any interlocutory order issued by the court;
(h) Motion to declare the defendant in default;
(i) Dilatory motions for postponement;
(j) Reply;
(k) Third party complaints;
(l) Interventions.

We, likewise, dispel the complainants' assertions that Supreme Court A.M. No. 01-2-04 may be suppletorily applied to the subject unlawful detainer case and that the failure of Angangco to personally appear during the mediation proceedings should have caused the dismissal of the unlawful detainer complaint.

Section 2, Rule 11 of Supreme Court A.M. No. 01-2-04[32] cannot be suppletorily applied to the subject unlawful detainer case. The cited administrative memorandum specifically refers to the rules governing intra-corporate controversies under R.A. No. 8799 and applies only to the cases defined under Section 1, Rule 1[33] thereof, which does not include ejectment cases. Also, there is nothing in Supreme Court A.M. No. 01-2-04 that permits its suppletory application to ejectment cases.

Regarding the complainants' other assertion, we find that the failure of Angangco to personally appear at the mediation proceedings was not a ground to dismiss the subject unlawful detainer complaint. In *Senarlo v. Paderanga*,[34] we held that the personal non-appearance of a party at mediation may be excused when the representative, such as the party's counsel, has been duly authorized to enter into possible amicable settlement or to submit to alternative modes of dispute resolution.[35] In the present case,

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[32] Effective April 1, 2001, also known as the "Proposed Interim Rules of Procedure Governing Intra-Corporate Controversies Under R.A. No. 8799."

[33] SECTION 1. (a) *Cases covered.* - These Rules shall govern the procedure to be observed in civil cases involving the following:

(1) Devices or schemes employed by, or any act of, the board of directors, business associates, officers or partners, amounting to fraud or misrepresentation which may be detrimental to the interest of the public and/or of the stockholders, partners, or members of any corporation, partnership, or association;
(2) Controversies arising out of intra-corporate, partnership, or association relations, between and among stockholders, members, or associates; and between, any or all of them and the corporation, partnership, or association of which they are stockholders, members, or associates, respectively;
(3) Controversies in the election or appointment of directors, trustees, officers, or managers of corporations, partnerships, or associations;
(4) Derivative suits; and
(5) Inspection of corporate books.

[34] A.M. No. RTJ-06-2025, April 5, 2010, 617 SCRA 247.

[35] Rule 9 of A.M. No. 01-10-5-SC-PHILJA, otherwise known as the "Second Revised Guidelines for the Implementation of Mediation Proceedings," provides:

> 9. Personal appearance/Proper authorizations. Individual parties are encouraged to personally appear for mediation. In the event they cannot attend, their representatives must be fully authorized to appear, negotiate and enter into a compromise by a Special Power of Attorney. A corporation shall, by board resolution, fully authorize its representative to appear, negotiate and enter into a compromise agreement.

Angangco were fully represented by their lawyer during the mediation proceedings.

**We now proceed to the administrative liability of the respondent.**

The Revised Rules on Summary Procedure was promulgated to achieve an expeditious and inexpensive determination of the cases that it covers.[36] In the present case, the respondent failed to abide by this purpose in the way that he handled and acted on the subject unlawful detainer case.

A review of the relevant background facts shows that the unlawful detainer case against the complainants was filed on March 22, 2007 and the complainants filed their answer thereto on March 30, 2007. Under Section 7 of the 1991 Revised Rules on Summary Procedure, a preliminary conference should be held not later than thirty (30) days after the last answer is filed. The respondent set the case for preliminary conference only on June 24, 2008, *i.e.*, at a time way beyond the required thirty (30)-day period.

Another of the respondent's procedural lapses relates to the frequent resetting of the date of the preliminary conference. The preliminary conference scheduled for June 24, 2008 was reset, for various reasons, to August 26, 2008, November 25, 2008 and December 9, 2008, and was finally conducted on February 3, 2009, or almost two (2) years after the complainants filed their answer. Clearly, the respondent failed to exert his authority in expediting the proceedings of the unlawful detainer case. Sound practice requires a judge to remain, at all times, in full control of the proceedings in his court and to adopt a firm policy against unnecessary postponements.[37]

In numerous occasions, we admonished judges to be prompt in the performance of their solemn duty as dispensers of justice because undue

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[36] *Bongato v. Sps. Malvar*, 436 Phil. 109, 123 (2002).
[37] *Sevilla v. Quintin*, 510 Phil. 487, 495 (2005).

delay in the administration of justice erodes the people's faith in the judicial system.[38] Delay not only reinforces the belief of the people that the wheels of justice in this country grind slowly; it also invites suspicion, however unfair, of ulterior motives on the part of the judge.[39] Judges should always be mindful of their duty to render justice within the periods prescribed by law.

Sections 9 and 11, Rule 140 of the Rules of Court, as amended by A.M. No. 01-8-10-SC,[40] classifies undue delay in rendering a decision or order as a less serious charge sanctioned by either (a) suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months, or (b) a fine of more than Ten Thousand Pesos (₱10,000.00) but not to exceed Twenty Thousand Pesos (₱20,000.00).

Considering that the respondent had been previously adjudged guilty of the same offense,[41] we impose upon him a maximum fine of Twenty Thousand Pesos (₱20,000.00). Again, we remind him that a repetition of the same or similar offense will warrant the imposition of a more severe penalty.

**WHEREFORE,** we find Judge Mario B. Capellan, Assisting Judge, Metropolitan Trial Court, Branch 40, Quezon City, **GUILTY** of undue delay in rendering a decision or order and hereby impose upon him a **FINE** of Twenty Thousand Pesos (₱20,000.00).

**SO ORDERED.**

**ARTURO D. BRION**
Associate Justice

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38 *Antonio Y. Cabasares v. Judge Filemon A. Tandinco, Jr., etc.*, A.M. No. MTJ-11-1793, October 19, 2011; *Angelia v. Grageda,* A.M. No. RTJ-10-2220, February 7, 2011, 641 SCRA 554, 557; *Salvador v. Limsiaco, Jr.*, A.M. No. MTJ-08-1695, April 16, 2008, 551 SCRA 373, 376-377; *Villa v. Ayco,* A.M. No. RTJ-11-2284, July 13, 2011, 653 SCRA 701, 709; *Atty. Montes v. Judge Bugtas*, 408 Phil. 662, 667 (2001).

39 *Concillo v. Judge Gil*, 438 Phil. 245, 250 (2002).

40 Promulgated on September 11, 2001 and became effective on October 1, 2001.

41 *Naguiat v. Capellan,* A.M. No. MTJ-11-1782, March 23, 2011, 646 SCRA 122.

WE CONCUR:

**JOSE PORTUGAL PEREZ**
Associate Justice

**JOSE CATRAL MENDOZA**
Associate Justice

**MARIA LOURDES P. A. SERENO**
Associate Justice

**BIENVENIDO L. REYES**
Associate Justice