



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

ATTY. FELINO U. BANGALAN,
Complainant,

A.M. RTJ-12-2317
(Formerly OCA I.P.I. No. 10-3378-RTJ)

Present:

- versus -

CARPIO, *J.*, Chairperson,
DEL CASTILLO,*
PEREZ,
SERENO, and
REYES, *JJ.*

JUDGE BENJAMIN D. TURGANO,
Regional Trial Court, Branch 15,
Laoag City,

Promulgated:

Respondent.

JUL 25 2012 *Alfredo C. Sereno*

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DECISION

SERENO, *J.*:

The facts as found by the Office of the Court Administrator (OCA) are as follows:

In a Complaint dated 5 February 2010, complainant Atty. Felino U. Bangalan accused respondent Presiding Judge Benjamin D. Turgano, of undue delay in rendering a decision or order, dishonesty, gross ignorance of the law and partiality.

* Designated as additional member in lieu of Associate Justice Arturo D. Brion per S.O. No. 1257 dated 19 July 2012.

It appears that complainant is counsel for plaintiff in Civil Case No. 11140-15, *Rosalinda Ver-Fajardo v. Jimmy Espejo*, a case on ownership and recovery of possession.

On the charge of undue delay in rendering a decision or an order, complainant alleged that Civil Case No. 11140-15 was filed on 13 November 1996 and raffled to respondent judge's *sala*. The case was submitted for decision on 4 May 2007 and decided after more than 15 months on 8 August 2008, beyond the 90-day period required by Article VIII, Section 15 of the 1987 Constitution. Further, complainant alleged that the Notice of Appeal and Motion for Execution Pending Appeal filed in October 2008 were resolved only after almost a year on 2 September 2009.

On the charge of dishonesty, he claimed that respondent was dishonest in declaring in his Certificate of Service that he had no unresolved motions submitted for resolution within the reglementary period, as provided by rules and circulars.

Complainant further alleged that respondent committed gross ignorance of the law when the latter reversed his previous Order dated 2 September 2009 granting the former's Motion for Execution Pending Appeal. In that Order dated 12 November 2009, respondent, citing *Universal Far East Corporation v. Court of Appeals*¹ declared that the court lost jurisdiction to grant the motion when it was filed two (2) days after the defendants therein had perfected their appeal. Thus, complainant posited that by relying on an obsolete and abandoned doctrine espoused in the cited case, respondent allowed himself to become an instrument for the interests of the other party and hence showed a badge of partiality.

In answer to the charges of gross ignorance of the law and partiality, respondent maintained that he acted pursuant to Section 2, Rule 30 of the

¹ 216 Phil. 598 (1984).

Rules of Court, when he reversed his 2 September 2009 Order. Even if it be shown that he erred in the interpretation or application of the Rules of Court, the proper remedy available to complainant was a petition for certiorari at the Court of Appeals (CA). Respondent further insisted that complainant's charge of partiality was baseless, because the assailed Orders were based on the evidence and the law applicable to the matter.

Moreover, respondent explained that the delay in rendering the Decision and resolving the pending motions was largely attributable to a series of transient ischemic attacks coupled with pulmonary problems that ailed him. Further, at the time the case was submitted for decision, his father and his brother died on 16 November 2007 and in the first quarter of 2008, respectively.

After verification, the OCA found that complainant had filed with the CA a Petition for Certiorari against respondent docketed as CA-G.R. SP No. 111883. The CA promulgated a Decision on 31 January 2011 reinstating the 2 September 2009 Decision, in which respondent granted the Motion for Execution Pending Appeal.

Furthermore, in its evaluation of the surrounding circumstances, the OCA found that complainant merely questioned the propriety of respondent's Order dated 12 November 2009, an issue that could have been properly settled in a judicial proceeding. It found that the errors attributed to respondent pertained to his adjudicatory functions. Thus, an administrative action was not the appropriate remedy available to complainant for the correction of these errors in judgment. Likewise, it opined that the charge of dishonesty was merely speculative.

Nevertheless, the OCA noted that respondent failed to comply with the constitutional mandate for all lower court judges to decide cases within the reglementary period of 90 days from the time they are submitted for

decision. Respondent likewise failed to adhere to Canon 3, Rule 3.05 of the Code of Judicial Conduct, which directs judges to dispose of the court's business promptly and decide cases within the required period. However, the OCA found that the reasons cited by respondent were sound. Furthermore, since the present case is his first offense, it recommended that this mitigating circumstance be applied in his favor. Thus, it recommended the penalty of admonition.

THE COURT'S RULING

We find that the recommendation of the OCA is proper.

In *Flores v. Abesamis*, we said:

As everyone knows, the law provides ample judicial remedies against errors or irregularities being committed by a Trial Court in the exercise of its jurisdiction. The *ordinary remedies* against errors or irregularities which may be regarded as normal in nature (i.e., error in appreciation or admission of evidence, or in construction or application of procedural or substantive law or legal principle) include a motion for reconsideration (or after rendition of a judgment or final order, a motion for new trial), and appeal. The *extraordinary remedies* against error or irregularities which may be deemed extraordinary in character (i.e., whimsical, capricious, despotic exercise of power or neglect of duty, etc.) are *inter alia* the special civil actions of *certiorari*, prohibition or *mandamus*, or a motion for inhibition, a petition for change of venue, as the case may be.

Now the established doctrine and policy is that disciplinary proceedings and criminal actions against Judges are not complementary or suppletory of, nor a substitute for, these judicial remedies, whether ordinary or extraordinary. Resort to and exhaustion of these judicial remedies, as well as the entry of judgment in the corresponding action or proceeding, are pre-requisites for the taking of other measures against the persons of the judges concerned, whether of civil, administrative, or criminal nature. It is only after the available judicial remedies have been exhausted and the appellate tribunals have spoken with finality, that the door to an inquiry into his criminal, civil or administrative liability may be said to have opened, or closed.² (Emphasis supplied, italics in the original)

² 341 Phil. 299, 312-313 (1997).

Complainant was clearly assailing respondent's 12 November 2009 Order, which was unfavorable to his client's interest. He was, in truth, alleging an error of judgment, which may be addressed through the proper judicial remedy. As such, the error may not be the subject of an administrative proceeding.

Anent the charge of undue delay, we find respondent guilty. He failed to substantiate his claim that the delay in his acting appropriately on the case pending before him was due to reasonable circumstances.

In *Reyes v. Paderanga*, we held:

The Constitution provides that all lower courts must decide or resolve cases or matters brought before them three months from the time a case or matter is submitted for decision. Canon 6, Sec. 5 of the New Code of Judicial Conduct for the Philippine Judiciary, which became effective on June 1, 2004, also provides that judges shall perform all duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness.

If a judge is unable to comply with the 90-day reglementary period for deciding cases or matters, he can, for good reasons, ask for an extension, which request is generally granted. Indeed, the Court usually allows reasonable extensions of time to decide cases in recognition of the heavy caseload of the trial courts. As respondent failed to ask for an extension in this case, he is deemed to have incurred delay.

The need to impress upon judges the importance of deciding cases promptly and expeditiously cannot be stressed enough, for delay in the disposition of cases and matters undermines the people's faith and confidence in the judiciary. As oft stated, justice delayed is justice denied.³ (Emphases supplied.)

To reiterate, respondent rendered his Decision fifteen months after the case was submitted for decision. Meanwhile, the Notice of Appeal and Motion for Execution Pending Appeal was only resolved almost a year after it was filed.

³ A.M. No. RTJ-06-1973, 14 March 2008, 548 SCRA 244, 262-263.

Respondent claimed that the delays were due to health reasons, and that members of his family passed away at the time the case was submitted for decision and the motions were filed for resolution. However, upon a perusal of the records, we find that respondent did not provide any evidence to prove his alleged ailments. He did not submit any medical certificate to support his claim that he was suffering from transient ischemic attacks.

Even if indeed there were reasonable grounds for the delay, respondent could have requested from this Court an extension of time to decide cases pending before the lower courts. This he failed to do.

Under Section 9, Rule 140 of the Rules of Court, undue delay in rendering a decision or an order, or in transmitting the records of a case, is considered as a less serious charge punishable by either suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months; or a fine of more than ₱10,000, but not exceeding ₱20,000.

Nevertheless, considering that this is his first offense, we find it proper to apply this mitigating circumstance in his favor.

Thus, we find reprimand an appropriate penalty, with a warning that the commission of the same or a similar offense will be dealt with more severely.

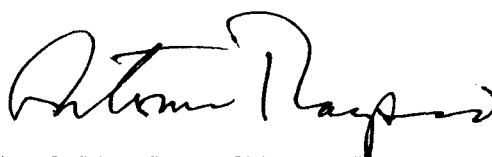
WHEREFORE, in view of the foregoing, Judge Benjamin D. Turgano is found **GUILTY** of undue delay in the disposition of Civil Case No. 11140-15. He is hereby **REPRIMANDED**, with a **WARNING** that the commission of the same or a similar offense will be dealt with more severely.

SO ORDERED.



MARIA LOURDES P. A. SERENO
Associate Justice

WE CONCUR:



ANTONIO T. CARPIO
Senior Associate Justice
Chairperson



MARIANO C. DEL CASTILLO
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice



BIENVENIDO L. REYES
Associate Justice