Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

COL. DANILO E. LUBATON (Retired, PNP), Complainant,	**A.M. No. RTJ-12-2320**
	Present:
-versus-	SERENO, *C.J.*, LEONARDO-DE CASTRO, BERSAMIN, VILLARAMA, JR., and REYES, *JJ.*
JUDGE MARY JOSEPHINE P. LAZARO, REGIONAL TRIAL COURT, BRANCH 74, ANTIPOLO CITY, Respondent.	Promulgated: SEP 02 2013

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RESOLUTION

BERSAMIN, *J.*:

For consideration and resolution is the Motion for Reconsideration dated June 25, 2012 filed by respondent Hon. Judge Mary Josephine P. Lazaro, Presiding Judge of Branch 74 of the Regional Trial Court in Antipolo City, whereby she seeks to undo the resolution promulgated on April 16, 2012 fining her in the amount of ₱5,000.00 for her undue delay in resolving a Motion to Dismiss in a pending civil case.

Antecedents

Through the aforecited resolution, the Court adopted and approved the following recommendations contained in the Report dated February 6, 2012 of the Office of the Court Administrator (OCA), to wit:

> (1) [T]he instant administrative complaint against Judge Mary Josephine P. Lazaro, Reginal Trial Court, Branch 74, Antipolo City, Rizal, is RE-DOCKETED as a regular administrative case; and

> (2) Judge Lazaro is FINED in the amount of Five Thousand Pesos (₱5,000.00) and is REMINDED to be more circumspect in the performance of her duties particularly in the prompt disposition of cases pending and/or submitted for decision before her court.[1]

Thereby, the Court declared respondent Judge administratively liable for undue delay in the resolution of the Motion to Dismiss of the defendants in Civil Case No. 10-9049 entitled *Heirs of Lorenzo Gregorio y De Guzman, et al. v. SM Development Corporation, et al.*,[2] considering that she had resolved the Motion to Dismiss beyond the 90-day period prescribed for the purpose without filing any request for the extension of the period.

In her Motion for Reconsideration, respondent Judge alleges that:

> *a.* She had not been furnished copies of the supplemental complaints dated June 13, 2011, June 17, 2011 and July 5, 2011 (with enclosures) mentioned in item no. 2 of the resolution of April 16, 2012, thereby denying her right to due process; and
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> *b.* The delay had been only of a few days beyond the period for resolving the Motion to Dismiss in Civil Case No. 10-9049, but such delay was necessary and not undue, and did not constitute gross inefficiency on her part in the manner that the *New Code of Judicial Conduct for the Philippine Judiciary* would consider to be the subject of a sanction.

On July 16, 2012, the Court directed Lubaton to comment on respondent Judge's Motion for Reconsideration within 10 days from notice, but he did not comment despite receiving the notice on September 17, 2012.

Ruling

The Motion for Reconsideration is meritorious.

1.
Respondent Judge's right to due process should be respected

It appears that Lubaton actually filed five complaints, four of them being the letters-complaint he had addressed to Chief Justice Corona

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1 *Rollo*, p. 119.
2 Id. at 15.

(specifically: (1) that dated May 18, 2011;[3] (2) that dated June 13, 2011;[4] (3) that dated June 17, 2011;[5] and (4) that dated July 5, 2011[6]), and the fifth being the verified complaint he had filed in the OCA.[7] All the five complaints prayed that respondent Judge be held administratively liable: (*a*) for gross ignorance of the law for ruling that her court did not have jurisdiction over Civil Case No. 10-9049 because of the failure of the plaintiffs to aver in their complaint the assessed value of the 37,098.34 square meter parcel of land involved the action; and (*b*) for undue delay in resolving the Motion to Dismiss of the defendants.

In its directive issued on July 27, 2011, however, the OCA required respondent Judge to comment only on the verified complaint dated July 20, 2011.[8] Thus, she was not notified about the four letters-complaint, nor furnished copies of them. Despite the lack of notice to her, the OCA considered the four letters-complaint as "supplemental complaints" in its Report dated February 6, 2012,[9] a sure indication that the four letters-complaint were taken into serious consideration in arriving at the adverse recommendation against her.

Respondent Judge now complains about being deprived of her right to due process of law for not being furnished the four letters-complaint before the OCA completed its administrative investigation.

Respondent Judge's complaint is justified.

It cannot be denied that the statements contained in the four letters-complaint were a factor in the OCA's adverse outcome of its administrative investigation. Being given the copies would have forewarned respondent Judge about every aspect of what she was being made to account for, and thus be afforded the reasonable opportunity to respond to them, or at least to prepare to fend off their prejudicial influence on the investigation. In that context, her right to be informed of the charges against her, and to be heard thereon was traversed and denied. Verily, while the requirement of due process in administrative proceedings meant only the opportunity to explain one's side,[10] elementary fairness still dictated that, at the very least, she should have been first made aware of the allegations contained in the letters-complaint before the OCA considered them at all in its adverse recommendation and report. This is no less true despite the similarity of the statements contained in the four letters-complaint, on the one hand, and of

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3 Id. at 54-57.
4 Id. at 49-53.
5 Id. at 61-63.
6 Id. at 28-29.
7 Id. at 1-5.
8 Id. at 68.
9 Id. at 116-119.
10 *Catbagan v. Barte*, A.M. No. MTJ-02-1452, April 6, 2005, 455 SCRA 1, 8.

the statements contained in the verified complaint, on the other, simply because the number of the complaints could easily produce a negative impact in the mind of even the most objective fact finder.

Moreover, the OCA's treatment of the four letters-complaint as "supplemental complaints" was legally unsustainable. The requirements for a valid administrative charge against a sitting Judge or Justice are found in Section 1, Rule 140 of the *Rules of Court*, which prescribes as follows:

> Section 1. *How instituted.* – Proceedings for the discipline of judges of regular and special courts and Justices of the Court of Appeals and the Sandiganbayan may be instituted *motu proprio* by the Supreme Court or upon a verified complaint, supported by affidavits of persons who have personal knowledge of the facts alleged therein or by documents which may substantiate said allegations, or upon an anonymous complaint, supported by public records of indubitable integrity. The complaint shall be in writing and shall state clearly and concisely the acts and omissions constituting violations of standards of conduct prescribed for Judges by law, the Rules of Court, or the Code of Judicial Conduct.

Based on the rule, the three modes of instituting disciplinary proceedings against sitting Judges and Justices are, namely: (*a*) *motu proprio*, by the Court itself; (*b*) upon verified complaint, supported by the affidavits of persons having personal knowledge of the facts alleged therein, or by the documents substantiating the allegations; or (*c*) upon anonymous complaint but supported by public records of indubitable integrity.[11]

Only the verified complaint dated July 20, 2011 met the requirements of Section 1, *supra*. The four letters-complaint did not include sworn affidavits or public records of indubitable integrity. Instead, they came only with a mere photocopy of the denial of the Motion to Dismiss, which was not even certified. The OCA's reliance on them as "supplemental complaints" thus exposed the unfairness of the administrative investigation.

Although the denial of respondent Judge's right to be informed of the charges against her and to be heard thereon weakened the integrity of the investigation, it was not enough ground to annul the investigation and its outcome in view of her admission of not having filed a motion for extension of the 90-day period to resolve the Motion to Dismiss.

Consequently, the Court should still determine whether she was administratively liable or not.

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[11] See *Sinsuat v. Hidalgo*, A.M. No. RTJ-08-2133, August 6, 2008, 561 SCRA 38, 46.

2.
Respondent Judge's delay in resolving the Motion to Dismiss was not undue

The 90-day period within which a sitting trial Judge should decide a case or resolve a pending matter is mandatory. The period is reckoned from the date of the filing of the last pleading. If the Judge cannot decide or resolve within the period, she can be allowed additional time to do so, provided she files a written request for the extension of her time to decide the case or resolve the pending matter.[12] Only a valid reason may excuse a delay.

Regarding the Motion to Dismiss filed in Civil Case No. 10-9049, the last submission was the Sur-Rejoinder submitted on December 16, 2010 by defendants-movants SM Development Corporation, *et al.* As such, the 90th day fell on March 16, 2011. Respondent Judge resolved the Motion to Dismiss only on May 6, 2011, the 51st day beyond the end of the period to resolve. Concededly, she did not file a written request for additional time to resolve the pending Motion to Dismiss. Nor did she tender any explanation for not filing any such request for time.

To be clear, the rule, albeit mandatory, is to be implemented with an awareness of the limitations that may prevent a Judge from being efficient. In respondent Judge's case, the foremost limitation was the situation in Antipolo City as a docket-heavy judicial station. She has explained her delay through various submissions to the Court (*i.e.*, the Comment dated August 25, 2011, the Rejoinder dated January 20, 2012, and the Motion for Reconsideration), stating that her Branch, being one of only two branches of the RTC in Antipolo City at the time, then had an unusually high docket of around 3,500 cases; that about 1,800 of such cases involved accused who were detained; that her Branch could try criminal cases numbering from 60 to 80 on Mondays and Tuesdays, and civil cases with an average of 20 cases/day on Wednesdays and Thursdays; that despite its existing heavy caseload, her Branch still received an average number from 90 to 100 newly-filed cases each month; that the four newly-created Branches of the RTC in Antipolo City were added only in early 2011, but they did not immediately become operational until much later; that she had devoted only Fridays to the study, consideration and resolution of pending motions and other incidents, to the drafting and signing of resolutions and decisions, and to other tasks; that she had spent the afternoons of weekdays drafting and signing decisions and extended orders, issuing warrants of arrest and commitment orders, approving bail, and performing additional duties like the raffle of cases and the solemnization of marriages.

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[12] *Re: Report on the Judicial Audit Conducted in the Regional Trial Court - Branch 56, Mandaue City, Cebu*, A.M. No. 09-7-284-RTC, February 16, 2011. 643 SCRA 407, 413–414.

Under the circumstances specific to this case, it would be unkind and inconsiderate on the part of the Court to disregard respondent Judge's limitations and exact a rigid and literal compliance with the rule. With her undeniably heavy inherited docket and the large volume of her official workload, she most probably failed to note the need for her to apply for the extension of the 90-day period to resolve the Motion to Dismiss.

This failure does happen frequently when one is too preoccupied with too much work *and* is faced with more deadlines that can be humanly met. Most men call this failure inadvertence. A few characterize it as oversight. In either case, it is excusable except if it emanated from indolence, neglect, or bad faith.

With her good faith being presumed, the accuser bore the burden of proving respondent Judge's indolence, neglect, or bad faith. But Lubaton did not come forward with that proof. He ignored the notices for him to take part, apparently sitting back after having filed his several letters-complaint and the verified complaint. The ensuing investigation did not also unearth and determine whether she was guilty of, or that the inadvertence or oversight emanated from indolence, neglect, or bad faith. The Court is then bereft of anything by which to hold her administratively liable for the failure to resolve the Motion to Dismiss within the prescribed period. For us to still hold her guilty nonetheless would be speculative, if not also whimsical.

The timing and the motivation for the administrative complaint of Lubaton do not escape our attention. The date of his first letter-complaint – May 18, 2011 – is significant because it indicated that Lubaton had already received or had been notified about the adverse resolution of the Motion to Dismiss. If he was sincerely concerned about the excessive length of time it had taken respondent Judge to resolve the Motion to Dismiss, he would have sooner brought his complaint against her. The fact that he did not clearly manifested that he had filed the complaint to harass respondent Judge as his way of getting even with her for dismissing the suit filed by his principals.

In conclusion, we deem it timely to reiterate what we once pronounced in an administrative case involving a sitting judicial official, *viz*:

> x x x as always, the Court is not only a court of Law and Justice, but also a court of compassion. The Court would be a mindless tyrant otherwise. The Court does not also sit on a throne of vindictiveness, for its seat is always placed under the inspiring aegis of that grand lady in a flowing robe who wears the mythical blindfold that has symbolized through the ages of man that enduring quality of objectivity and fairness, and who wields the balance that has evinced the highest sense of justice

> for all regardless of their station in life. It is that Court that now considers and favorably resolves the reiterative plea of Justice Ong.[13]

This reiteration is our way of assuring all judicial officials and personnel that the Court is not an uncaring overlord that would be unmindful of their fealty to their oaths and of their dedication to their work. For as long as they act efficiently to the best of their human abilities, and for as long as they conduct themselves well in the service of our Country and People, the Court shall always be considerate and compassionate towards them.

WHEREFORE, the Court **GRANTS** the Motion for Reconsideration; **RECONSIDERS AND SETS ASIDE** the Resolution promulgated on April 16, 2012; **ABSOLVES** Hon. Judge Mary Josephine P. Lazaro from her administrative fine of ₱5,000.00 for undue delay in resolving a Motion to Dismiss in a pending civil case, but nonetheless **REMINDS** her to apply for the extension of the period should she be unable to decide or resolve within the prescribed period; and **DISMISSES** this administrative matter for being devoid of substance.

SO ORDERED.

LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

BIENVENIDO L. REYES
Associate Justice

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[13] *Asst. Special Prosecutor III Rohermia J. Jamsani-Rodriguez v. Justices Gregory S. Ong, Jose R. Hernandez, and Rodolfo A. Ponferrada, Sandiganbayan*, A.M. No. 08-19-SB-J, February 19, 2013.