



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

**SPOUSES RICARDO and
EVELYN MARCELO,**
Complainants,

A.M. No. MTJ-13-1838
[Formerly A.M. OCA IPI NO. 10-
2260-MTJ]

- versus -

**JUDGE RAMSEY DOMINGO
G. PICHAY, METROPOLITAN
TRIAL COURT, BRANCH 78,
PARAÑAQUE CITY,**
Respondent.

Present:

CARPIO, J., Chairperson,
BRION,
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, JJ.

Promulgated:

MAR 12 2014 *Manila*

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RESOLUTION

PERLAS-BERNABE, J.:

Before the Court is an administrative complaint¹ filed against respondent Judge Ramsey Domingo G. Pichay (Judge Pichay) for delay in the disposition of the pending incidents relative to Civil Case No. 2004-286 entitled "*Spouses Ricardo S. Marcelo and Evelyn Beato-Marcelo* ([Sps. Marcelo]) v. *Spouses Vilma Magopoy and Florentino Magopoy* ([Sps. Magopoy]).

The Facts

Complainants Sps. Marcelo were the plaintiffs in Civil Case No. 2004-286 for unlawful detainer before the Metropolitan Trial Court of

¹ Rollo, pp. 11-12 & 16-18.

Parañaque City, Branch 78 (MeTC). By virtue of a Joint Decision² dated September 5, 2005 (subject decision), the defendants therein, Sps. Magopoy, were ordered by the MeTC to vacate and surrender the possession of the property located at Marcelo Compound, Philip Street Extension, Barangay Moonwalk, Parañaque City (subject property) to Sps. Marcelo.³ On April 14, 2006, a writ of execution⁴ was issued, and later implemented by Branch Sheriff Hildo D. Epres (Sheriff Epres) on July 27, 2006.⁵ Thus, Sps. Marcelo obtained the possession of the subject property on the said date, as shown in the Certificate of Turn-over of Possession. However, at around 6 o'clock in the evening of the same day, Sps. Magopoy successfully re-entered the subject property and regained its possession.⁶

On August 3, 2007, Sps. Marcelo moved⁷ to cite Sps. Magopoy in contempt for disobedience/resistance to lawful court processes. While finding the act of re-entry by Sps. Magopoy as a clear defiance of a lawful writ, (*i.e.*, the April 14, 2006 writ of execution) which is a form of indirect contempt punishable under Rule 71 of the Rules of Court, the MeTC, in an Order⁸ dated February 25, 2009, did not cite them in contempt but, instead, ordered them to surrender the subject property to Sps. Marcelo within ten (10) days from receipt of the order.⁹

On June 5, 2009, Sps. Marcelo filed an *Ex-Parte Constancia* in view of the continued refusal of Sps. Magopoy to surrender the subject property.¹⁰ This prompted Judge Pichay to issue an Order¹¹ dated August 7, 2009, giving Sheriff Epres¹² three (3) days within which to effect Sps. Magopoy's eviction from the subject property. Consequently, Sps. Magopoy filed a motion for reconsideration¹³ on August 26, 2009, which was opposed¹⁴ by Sps. Marcelo on September 8, 2009.¹⁵

The hearing on the aforesaid motion was conducted on September 11, 2009, wherein Sps. Magopoy were directed to file their reply. In compliance, Sps. Magopoy filed their Supplemental Motion and Reply on September 24, 2009 (supplemental motion),¹⁶ alleging that the miscellaneous sales application of Sps. Marcelo over the subject property had been denied by the

² The subject decision is not attached to the records of this case.

³ *Rollo*, p. 30.

⁴ *Id.* Issued by Clerk of Court III Rosalinda S. Arnuelo.

⁵ *Id.* at 32. Per Certificate of Turn-over of Possession and Acceptance of Possession.

⁶ *Id.* at 16-17.

⁷ *Id.* at 42. See Urgent Motion to Cite for Contempt.

⁸ *Id.* at 47-50. Penned by respondent Judge Pichay.

⁹ *Id.* at 50.

¹⁰ *Id.* at 95.

¹¹ *Id.* at 51.

¹² On August 24, 2009, Sheriff Flores issued a Final Notice to Vacate to Sps. Magopoy giving them three (3) days from receipt of the notice to comply with the same; *id.* at 54.

¹³ *Id.* at 55-56. By way of a Motion.

¹⁴ *Id.* at 59-62. By way of a *Salungat sa Motion ng Nasasakdal ng Mag-Asawang Magopoy*.

¹⁵ *Id.* at 65.

¹⁶ The supplemental motion is not attached to the records of this case.

Department of Environment and Natural Resources.¹⁷ The following day, Sps. Marcelo filed a motion submitting all incidents for resolution.¹⁸

Instead of resolving the pending incidents, Judge Pichay, in an Order¹⁹ dated October 1, 2009 (October 1, 2009 Order), directed Sps. Marcelo to file their comment and/or opposition to Sps. Magopoy's supplemental motion within five (5) days from receipt of the order, with a warning that upon the expiration of said period, the court will resolve the pending incidents. The pertinent portions of the October 1, 2009 Order read as follows:

With respect to the Supplemental Motion and Reply, and in the interest of justice, the Court directs [Sps. Marcelo] to file their Comment and/or Opposition to said Supplemental Motion and Reply within five (5) days from receipt of this Order with copy furnished the [Sps. Magopoy]. The latter is given three (3) days from the Comment and/or Opposition within which to file their Reply if necessary.

Considering the Ex-Parte Constancia, the Court makes it clear to the parties that the only pleading left to be received by this Court is the Comment and/or Opposition of [Sps. Marcelo] on the Supplemental Motion and Reply of [Sps. Magopoy] and the Reply of [Sps. Magopoy] to said [Sps. Marcelo's] Comment and/or Opposition.

The Court will no longer conduct a hearing on the pending incidents.

Hence, upon the expiration of the periods given above, the Court will resolve the pending incidents.²⁰ (Emphases supplied)

Despite the directive of the court *a quo*, Sps. Marcelo failed to file their comment and/or opposition. Nonetheless, Judge Pichay, set Sps. Magopoy's previous motion for reconsideration as well as their supplemental motion for hearing on February 12, 2010,²¹ March 16, 2010²² and June 15, 2010.²³

¹⁷ *Rollo*, p. 65.

¹⁸ *Id.* at 65, 88-89, and 102.

¹⁹ *Id.* at 112-112-A.

²⁰ *Id.* at 112-A.

²¹ See Order dated December 9, 2009; *id.* at 64-66. The February 12, 2010 hearing was reset to March 16, 2010 by Sps. Marcelo considering that their counsel cannot attend the hearing due to conflict of schedule; *id.* at 90.

²² See Order dated February 12, 2010; *id.* at 67. The March 16, 2010 hearing was reset to June 15, 2010 pursuant to the motion of Sps. Marcelo asking for an additional period of five (5) days to file their comment/opposition to the motion for reconsideration and supplemental motion. It was only on April 12, 2010 when Sps. Marcelo filed their comment/opposition (to the motion for reconsideration) and/or rejoinder (to supplemental motion and reply); *id.* at 91.

²³ See Order dated March 16, 2010; *id.* at 71-72. The June 15, 2010 hearing was reset to August 19, 2010 per a *Constancia* issued on June 11, 2010; *id.* at 77. See also *id.* at 92.

Disconcerted with Judge Pichay's continuous inaction, Sps. Marcelo filed an administrative complaint²⁴ on March 10, 2010 before the Office of the Court Administrator (OCA), charging him and Sheriff Epres with inordinate delay in the disposition of the pending incidents in Civil Case No. 2004-286 relating to the implementation of the writ of execution of the subject decision.

In his Comment dated September 8, 2010,²⁵ Judge Pichay attributed the delay to the new arguments raised in Sps. Magopoy's supplemental motion. In particular, he considered the denial of the sales application of Sps. Marcelo over the subject property, as brought to his attention by Sps. Magopoy, as a supervening event that may materially change the situation of the parties²⁶ and, thus, render the execution of the subject decision inequitable.²⁷ Therefore, in the interest of justice and equity, he scheduled the supplemental motion for hearing in order to be better apprised of the situation of the parties. Unfortunately, the hearing dates therefor were further reset due to the requests of Sps. Marcelo,²⁸ and because he went on sick leave from June 8 to 29, 2010.²⁹

The Action and Recommendation of the OCA

In a Memorandum³⁰ dated July 22, 2013, the OCA recommended³¹ that Judge Pichay be held administratively liable for undue delay in the resolution of the pending incidents relative to the execution of the subject decision in Civil Case No. 2004-286, and that a fine in the amount of ₱10,000.00 be imposed for the infraction.³² The OCA found that Judge Pichay entertained dilatory machinations that resulted in the delay in the implementation of the writ of execution issued as early as in 2006 for the eviction of Sps. Magopoy from the subject property.³³

Separately, however, the OCA did not recommend that Sheriff Epres be held administratively liable, considering the dearth of evidence showing that the delay in the implementation of the subject writ of execution was attributable to him or that he acted with bad faith or any corrupt motive.³⁴

²⁴ Id. at 11-12 & 16-18.

²⁵ Id. at 83-97.

²⁶ Id. at 89-90.

²⁷ Id. at 96.

²⁸ Id. at 90-91.

²⁹ On June 7, 2010, Judge Pichay underwent an operation due to a ruptured appendix; id. at 92. See also Medical Certificate dated June 12, 2010; id at 125.

³⁰ Id. at 128-133.

³¹ The same memorandum recommended that the complaint be dismissed against Sheriff Flores for failure to prove that he acted with bad faith and corrupt motives; id. at 132-133.

³² Id. at 132-133.

³³ Id. at 132.

³⁴ Id.

Thereafter, the Court, in its Resolution dated November 13, 2013, dismissed the administrative complaint against Sheriff Epres.³⁵

The Issue Before the Court

The essential issue in this case is whether or not Judge Pichay should be held administratively liable for undue delay in the resolution of the pending incidents in Civil Case No. 2004-286.

The Court's Ruling

The Court concurs with the OCA's recommendations, subject to the modification of the recommended penalty to be imposed against Judge Pichay.

The Constitution requires our courts to conscientiously observe the time periods in deciding cases and resolving matters brought to their adjudication, which, for lower courts, is three (3) months from the date they are deemed submitted for decision or resolution. Section 15, Article VIII of the 1987 Philippine Constitution (1987 Constitution) states this rule, *viz.*:

Section 15. (1) All cases or matters filed after the effectivity of this Constitution must be decided or resolved within twenty-four months from date of submission for the Supreme Court, and, unless reduced by the Supreme Court, twelve months for all lower collegiate courts, and three months for all other lower courts.

In consonance with the foregoing, Section 5, Canon 6 of the New Code of Judicial Conduct For the Philippine Judiciary³⁶ states that:

Sec. 5. Judges shall perform all judicial duties, including the delivery of reserved decisions, efficiently fairly and with **reasonable promptness**.
(Emphasis supplied)

In furtherance of the foregoing mandate, the Court issued Administrative Circular No. 13-87³⁷ [dated July 1, 1987], which states:

The reorganized judiciary is tasked with the tremendous responsibility of assisting parties litigants in obtaining just, speedy and inexpensive determination of their cases and proceedings as directed in Rule 1, Section 2 of the Rules of Court.³⁸ Delay is a recurring complaint of every litigant. The main objective of every judge, particularly trial

³⁵ Id. at 134-135.

³⁶ Adopted by virtue of A.M. No. 03-05-01-SC, effective June 1, 2004.

³⁷ Entitled "GUIDELINES IN THE ADMINISTRATION OF JUSTICE."

³⁸ Now Section 6, Rule 1 of the 1997 Rules of Civil Procedure.

judges, should be to avoid delays, or if it cannot be totally avoided, to hold them to the minimum and to repudiate manifestly dilatory tactics.

GENERAL GUIDELINES

For all members of the judiciary, the following guidelines are hereby issued:

x x x x

3. Judges shall observe scrupulously the periods prescribed by Article VIII, Section 15 of the Constitution for the adjudication and resolution of all cases or matters submitted in their courts. Thus, all cases or matters must be decided or resolved within twelve months from date of submission by all lower collegiate courts while all other lower courts are given a period of three months to do so. x x x x

Also, [the] Court's Administrative Circular No. 1-88³⁹ [dated January 28, 1988] states that:

Pursuant to Sec. 12, Art. XVIII of the 1987 Constitution mandating the adoption of a systematic plan to expedite the decision or resolution of cases or matters pending in the Supreme Court and the lower courts prior to the effectivity of the Constitution on February 2, 1987, the following directives must be complied with strictly by all concerned.

x x x x⁴⁰

In *Re: Cases Submitted for Decision before Hon. Teofilo D. Baluma, Former Judge, Branch 1, Tagbilaran City Bohol*,⁴¹ the Court held that non-compliance with the periods prescribed under Section 15, Article VIII of the 1987 Constitution **constitutes gross inefficiency**, and, perforce, warrants the imposition of administrative sanctions against the defaulting judge, *viz.*:

The Court has consistently impressed upon judges the need to decide cases promptly and expeditiously under the time-honored precept that justice delayed is justice denied. Every judge should decide cases with dispatch and should be careful, punctual, and observant in the performance of his functions for delay in the disposition of cases erodes the faith and confidence of our people in the judiciary, lowers its standards and brings it into disrepute. **Failure to decide a case within the reglementary period is not excusable and constitutes gross inefficiency warranting the imposition of administrative sanctions on the defaulting judge.** (Emphasis supplied)

³⁹ Entitled "IMPLEMENTATION OF SEC. 12, ARTICLE XVIII OF THE 1987 CONSTITUTION."

⁴⁰ See also *Ang v. Judge Asis* 424 Phil. 105, 117-118 (2002).

⁴¹ A.M. No. RTJ-13-2355, September 2, 2013

While trial court judges are often burdened with heavy case loads which, in turn, preclude the expeditious resolution of disputes, **they are given the option to, for good reasons, ask for an extension of the period within which to resolve a particular case or any pending incident therein.** In *Re: Report on the Judicial Audit conducted in the Regional Trial Court, Branches 72 And 22, Narvacan, Ilocos Sur*,⁴² citing the case of *Office of the Court Administrator v. Judge Javellana*, the Court thus remarked:⁴³

x x x [A] judge cannot choose his deadline for deciding cases pending before him. Without an extension granted by the Court, the failure to decide even a single case within the required period constitutes gross inefficiency that merits administrative sanction. **If a judge is unable to comply with the period for deciding cases or matters, he can, for good reasons, ask for an extension.**

An inexcusable failure to decide a case within the prescribed 90-day period constitutes gross inefficiency, warranting the imposition of administrative sanctions such as suspension from office without pay or fine on the defaulting judge. The fines imposed vary in each case, depending chiefly on the number of cases not decided within the reglementary period and other factors, such as the presence of aggravating or mitigating circumstances, the damage suffered by the parties as a result of the delay, the health and age of the judge, and other analogous circumstances. (Emphasis supplied; citations omitted)

As correctly observed by the OCA in this case, Judge Pichay failed to resolve the subject motions, namely the motion for reconsideration and supplemental motion, within the three (3) month-period prescribed therefor. Records show that Sps. Marcelo's period to file their comment/opposition to the supplemental motion and/ or rejoinder to the reply lapsed on October 18, 2009,⁴⁴ at which time, the pending incidents were, as stated in the Order dated October 1, 2009, already deemed submitted for resolution. This is concordant with Section 15(2), Article VIII of the 1987 Constitution which states that "[a] case or matter shall be deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the Rules of Court or by the court itself."

Notwithstanding that the matter had already been submitted for resolution, Judge Pichay continued with the proceedings by setting the motions for hearing to the effect of unreasonably delaying the execution of the subject decision. Indeed, while it has been held that a presiding judge shall at all times remain in firm control of the proceedings, he is nevertheless mandated to adopt a policy against unwarranted delays.⁴⁵ In this case, Judge

⁴² A.M. No. 06-9-525-RTC, June 13, 2012.

⁴³ 481 Phil. 316, 327 (2004).

⁴⁴ To reiterate, the October 1, 2009 Order gave Sps. Marcelo five (5) days from receipt to file a comment/opposition; *rollo*, p. 112-A.

⁴⁵ See *Hernandez v. Judge De Guzman*, 322 Phil. 65, 69 (1996).

Pichay did not sufficiently explain the reasons as to why he failed to resolve the pending incidents on time, as well as to why he still had to set the same for hearing and repeatedly grant postponements therefor, either *motu proprio* or by motion, despite the summary nature of ejectment proceedings and the ministerial nature of the subsequent issuance of a writ of execution. These considerations he should have been fully aware of. As case law instructs, “[e]jectment cases are summary proceedings intended to provide an expeditious means of protecting actual possession or right of possession of property,”⁴⁶ and that “it becomes mandatory or ministerial duty of the court to issue a writ of execution to enforce the judgment which has become executory,”⁴⁷ as in Civil Case No. 2004-286. To add, the fact that Judge Pichay required medical attention on June 7, 2010 is no excuse for his default, considering that on such date, the subject motions were already due for resolution.⁴⁸ Thus, without having duly applied for any extension before the Court, Judge Pichay was bound to resolve the pending incidents in the said case within the three (3) month-period prescribed by the Constitution. This, he, however, failed to do, and, as such, the imposition of administrative sanctions against him remains in order.

Pursuant to Section 9, Rule 140 of the Rules of Court, undue delay in rendering a decision or order is considered as a less serious offense which is punishable⁴⁹ 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 ₱10,000.00 but not exceeding ₱20,000.00. Considering, however, that Judge Pichay was held administratively liable for the same offense in A.M. No. MTJ-10-1763 (formerly OCA IPI No. 09-2209-MTJ),⁵⁰ and hitherto warned that a repetition of a similar infraction would warrant a more severe penalty, the Court deems it apt to increase the fine recommended by the OCA from ₱10,000.00 to ₱12,000.00.

WHEREFORE, respondent Judge Ramsey Domingo G. Pichay is found **GUILTY** of violating Section 9, Rule 140 of the Rules of Court for undue delay in resolving the pending incidents relative to Civil Case No. 2004-286 and is thus **FINED** in the amount of ₱12,000.00. He is **STERNLY WARNED** that a repetition of the same or similar offense will be dealt with more severely.

⁴⁶ *National Onion Growers Cooperative Marketing Association, Inc. v. Lo*, 479 Phil. 249, 254 (2004).


⁴⁷ *Mindanao Terminal and Brokerage Service, Inc. v. CA*, G.R. Nos. 163286, 166025 & 170269, August 22, 2012, 678 SCRA 622, 635; see also Section 1, Rule 39 of the Rules of Court.

⁴⁸ “The Court cannot accept respondent Judge’s explanation either that he failed to render the decision because he required medical attention. The case had long been due for decision before he was even hospitalized in 2009.” (*Cabasares v. Judge Tandinco, Jr.*, A.M. No. MTJ-11-1793, October 19, 2011, 659 SCRA 396, 401.)

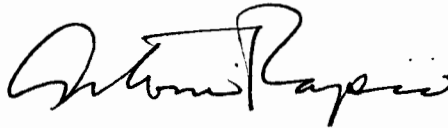
⁴⁹ See Item (B), Section 11, Rule 140 of the Rules of Court.

⁵⁰ *Rollo*, pp. 126-127. In the Court’s Minute Resolution dated July 19, 2010, Judge Pichay was fined in the amount of ₱5,000.00.

SO ORDERED.



ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson


ARTURO D. BRION
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice