



Republic of the Philippines
Supreme Court
Manila

EN BANC

**SPOUSES CESAR and THELMA
SUSTENTO,**

Complainants,

A.M. No. RTJ-11-2275

Present:

SERENO, C.J.,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
*BRION,
PERALTA,
BERSAMIN,
DEL CASTILLO,
PEREZ,
MENDOZA,
REYES,
PERLAS-BERNABE,
LEONEN,
JARDELEZA, and
CAGUIOA, JJ.

- versus -

Promulgated:

JUDGE FRISCO T. LILAGAN,
Respondent.

March 8, 2016

x-----*Frisco T. Lilagan - Pana*-----x

DECISION

BERSAMIN, J.:

A judge is mandated to resolve with dispatch the cases and matters in his court, mindful that any delay in their disposition erodes the faith of the people in the judicial system.

Antecedents

The Office of the Court Administrator (OCA) summarized the antecedents as follows:

* On leave.

x x x In the **Administrative Complaint** dated 05 July 2010 filed by Spouses Cesar and Thelma Sustento, it was averred that the said complainants concurrently appear as the “Defendants” in an Unlawful Detainer case (“Wilfreda Pontillan vs. Spouses Cesar Sustento and Thelma Sustento,” Civil Case No. 2008-05-CV-08, filed before the Municipal Trial Court in Cities, Branch 1, Tacloban City, Leyte) as well as the “Plaintiffs” in a Specific Performance and Damages case (“Spouses Cesar Sustento and Thelma Sustento vs. Wilfreda Pontillan, et al.,” Civil Case no. 2005-03-37, before the Regional Trial Court, Branch 6, Tacloban City, Leyte). In the Unlawful Detainer case, complainants Spouses Sustento raised as one of their three affirmative defenses [in their Answer] the alleged violation of non-forum-shopping rule by the plaintiff for their failure to disclose the pending case for Specific Performance in the RTC, Branch 6, Tacloban City, Leyte, involving the same property subject matter of the ejectment case. On 09 September 2008, Judge Sylvia Z. Pocpoc-Lamoste issued an Order decreeing *inter alia* that “it is not plaintiff’s duty to disclose the pendency of the case for Specific Performance since it was not she who filed the case and [that] the issues and cause of action of the cases are different x x x.” On 29 September 2008, herein complainants Spouses Sustento filed an Omnibus Motion for a reconsideration of the 09 September 2008 Order. However, in an Order dated 24 November 2008, Judge Pocpoc-Lamoste denied the Omnibus Motion.

On 26 January 2009, complainants Spouses Sustento filed a Petition for Review on Certiorari before the Regional Trial Court, Branch 34, Tacloban City, Leyte, praying for the annulment of the aforesaid Orders issued by Judge Pocpoc-Lamoste. In an Order dated 03 March 2009, respondent Judge Frisco T. Lilagan directed private respondents to file their comment to the petition. On 31 March 2009, private respondents filed their Comment/Answer. Complainants Spouses Sustento followed suit, filing a rejoinder to Private Respondent’s Comments/Answer.

Almost six (6) months had already elapsed [and only after complainants filed a motion for Early Resolution, dated 08 September 2009] before respondent Judge Lilagan issued an Order dated 15 September 2009 dismissing the Petition for Certiorari. Complainants Spouses Sustento filed a Motion for Reconsideration. On 01 December 2009, private respondents’ Comment/Opposition to the Motion for Reconsideration was filed. On 08 December 2009, complainants Spouses Sustento filed their Reply.

On 10 December 2009, respondent Judge Lilagan issued an Order deeming the Motion for Reconsideration submitted for resolution. However, up to the date of the instant administrative matter was filed, respondent Judge Lilagan has still yet to resolve the Motion for Reconsideration.¹

On the basis of the foregoing, the complainants have charged the respondent with undue delay in the resolution of the petition for *certiorari* they had filed to assail the adverse order issued by Judge Sylvia Z. Pocpoc-

¹ *Rollo*, pp. 216-217.

Lamoste of the Municipal Trial Court in Cities (MTCC), Branch 1, in Tacloban City in Civil Case No. 2008-05-CV-08 entitled *Wilfreda Pontillan v. Spouses Cesar Sustento and Thelma Sustento*, and undue delay in the resolution of their motion for reconsideration beyond the prescribed 90-day period in violation of the Administrative Circular No. 38-98 and Section 15, Article VIII of the Constitution. They have further charged him with having issued the order of September 15, 2009 dismissing their petition for *certiorari* without passing upon the issues raised in the petition by making findings of fact bereft of factual basis, and relying on information that were immaterial and irrelevant to the petition.²

Later on, the complainants withdrew their charge against the respondent through their motion dated October 7, 2010,³ stating that complainant Thelma Sustento had decided “to give herself a softer atmosphere to focus more on the appeal of the main case from which this complaint emanates.”⁴

In his comment with motion,⁵ the respondent sought the termination of the case based on the withdrawal of the complaint against him.

The OCA denied the motions of the parties, however, pointing out instead that the complainants could not just withdraw the administrative complaint out of a sudden change of mind;⁶ and that the unilateral act of the complainants did not control the Court’s exercise of its disciplinary power.⁷ It recommended to the Court the following actions on the complaint, to wit:

1. That the instant administrative case be **RE-DOCKETED** as a regular administrative matter;
2. That respondent Judge Frisco T. Lilagan of the Regional Trial Court, Branch 34, Tacloban City, be **DIRECTED** to submit a more responsive **COMMENT** to the Complaint dated 05 July 2010 of Spouses Cesar A. Sustento and Thelma C. Sustento within a **non-extendible period of ten (10) days** from notice; and
3. That failure to submit the required Comment within the given period shall be considered a **WAIVER** of his right to file his comment and/or related pleadings relative to the complaint.⁸

² Id. at 217-218.

³ Id. at 68-69.

⁴ Id. at 68.

⁵ Id. at 97-98.

⁶ Id. at 111.

⁷ Id.

⁸ Id. at 112-113.

In the resolution promulgated on March 21, 2011,⁹ the Court re-docketed the case as a regular administrative matter, and directed the respondent to submit a more responsive comment vis-à-vis the complaint.

In his comment dated May 28, 2011,¹⁰ the respondent denied liability, and contended that the petition for *certiorari* subject of the complaint was a prohibited pleading for being brought against the interlocutory order issued by MTCC Judge Pospoc-Lamoste in the *accion interdictal*; that, as such, he was not obliged to rule on the petition for *certiorari*;¹¹ that his failure to seasonably resolve the motion for reconsideration within the prescribed 90-day period did not amount to gross incompetence on his part because several reasons justified the delay, namely: (a) his increasing workload;¹² (b) his suspension from work for three months by virtue of another administrative case filed against him;¹³ (c) the failure of his Clerk III (Ms. Jerlyn Lapesura) to remind him of the pendency of the motion for reconsideration;¹⁴ and (d) the issuance of the order submitting the motion for reconsideration for resolution on December 10, 2009 coincided with “the period of euphoria for the Christmas holidays.”¹⁵ He pleaded for leniency considering that his lapse concerned the motion for reconsideration against the dismissal of the prohibited petition for *certiorari*.¹⁶ He denied being biased in favor of a colleague, MTCC Judge Pospoc-Lamoste, the respondent in the petition for *certiorari*, and insisted that such claim was not supported by evidence.¹⁷

On January 26, 2012, the OCA recommended that the respondent be held guilty of undue delay in resolving the motion for reconsideration; and that he be meted the penalty of suspension from office for six months without pay and without other benefits, with warning that a repetition of the same or similar acts would be dealt with more severely.¹⁸

Issue

Was the respondent guilty of the less serious offense of undue delay in rendering an order by not resolving the complainants’ motion for reconsideration within the prescribed period?

⁹ Id. at 114-115.

¹⁰ Id. at 116-133.

¹¹ Id. at 123.

¹² Id. at 129.

¹³ Id. at 131.

¹⁴ Id. at 150.

¹⁵ Supra note 13.

¹⁶ Id. at 129-130.

¹⁷ Id. at 127.

¹⁸ Id. at 225.

Ruling of the Court

We adopt the findings of the OCA.

The complainants' allegation against the respondent judge of being biased in favor of MTCC Judge Pocpoc-Lamoste, the respondent in the petition for *certiorari*, was untenable because it was based on suspicion. We emphasize that every allegation of bias against a judge should be established with proof of clear and actual bias. Otherwise, the allegation should be rejected as speculative.

Anent the delay in the resolution of the complainants' motion for reconsideration, we find that the respondent judge was guilty thereof. We remind that decision-making is primordial among the many duties of judges. The speedy disposition of cases thus becomes the primary aim of the Judiciary, for only thereby may the ends of justice not be compromised and the Judiciary may be true to its commitment of ensuring to all persons the right to a speedy, impartial and public trial.¹⁹ To pursue this aim, the Court, through the *Rules of Court* and other issuances, has fixed reglementary periods for acting on cases and matters. In respect of decisions, judges are given 90 days from the time the cases are submitted for determination within which to render their judgments. Also, Rule 3.05 of Canon 3 of the *Code of Judicial Conduct* admonishes all judges to promptly dispose of the court's business and to decide cases within the required periods. Failure to render a decision within the 90-day period from the submission of a case for decision is detrimental to the honor and integrity of the judicial office, and constitutes a derogation of the speedy administration of justice.²⁰ Accordingly, any judge who delays the disposition of any case or matter beyond the prescribed period without the Court's express clearance is liable for gross inefficiency and must be administratively sanctioned.

On January 26, 2009, the complainants brought in the RTC in Tacloban City their petition for *certiorari* to annul the order issued by MTCC Judge Pocpoc-Lamoste in Civil Case No. 2008-05-CV-08, and the case was assigned to the respondent judge. It was only on March 3, 2009 when he directed the private respondent to file the comment on the petition. The comment was filed on March 31, 2009, and the complainants submitted their rejoinder to the comment. Subsequently, after they requested the resolution of the petition for *certiorari* by motion dated September 8, 2009, he issued his order of September 15, 2009 dismissing the petition for *certiorari*. In due time, they filed their motion for reconsideration. The parties exchanged their written submissions on the issue until the respondent judge issued the order of December 10, 2009 deeming the motion for reconsideration submitted for resolution. But he did not resolve the motion

¹⁹ *Cadauan v. Alivia*, A.M. No. RTJ-00-1595, October 24, 2000, 344 SCRA 174, 177.

²⁰ *Saylo v. Rojo*, A.M. No. MTJ-9-1225, April 12, 2000, 330 SCRA 243, 248.

for reconsideration even by the time they filed their administrative complaint against him on July 26, 2010 in the Office of the Court Administrator.²¹

What is obvious is that the respondent judge took too much time in disposing of the petition for *certiorari* and the ensuing motion for reconsideration. The delays were plainly violative of the injunction to him to act expeditiously on the matters 90 days from their submission.

The respondent judge sought to justify his delay by citing the voluminous caseload he had as the presiding judge. The justification does not persuade. Although we are not insensitive to the heavy caseloads of the trial judges, we have allowed reasonable extensions of the periods for the trial judges to resolve their cases. If the heavy caseload of any judge should preclude his disposition of cases within the reglementary period, he should notify the Court, through the Court Administrator, of the reasons or causes for the delay, and request in writing a reasonable extension of the time to dispose of the affected cases. No judge should arrogate unto himself the prerogative to extend the period for deciding cases beyond the mandatory 90-day period.

The respondent judge insists that that he did not need to act on the resulting motion for reconsideration because the petition for *certiorari*, being a prohibited pleading, was a contravention of the rules of procedure.²² Such insistence did not justify his inability to act promptly. The fact that the petition for *certiorari* was a prohibited pleading furnished him a better reason to act promptly on the petition for *certiorari* and the motion for reconsideration.

We are also not swayed by his other excuses of not having then a legal researcher assigned to him; and of his branch clerk of court being recently appointed. The court's business did not stop because of such events; hence, he could not use such excuses to delay his actions on the pending matters before his court. Verily, the responsibility for the prompt and expeditious action on the case, which belonged first and foremost to him as the presiding judge, could not be shifted to others like the legal researcher or the recently appointed branch clerk of court.

The respondent judge gave other justifications, like the time when the motion for reconsideration was submitted for resolution on December 10, 2009 being already in "the period of euphoria for the Christmas holidays;"²³ and that he was serving his three-month suspension from office relative to another administrative case of undue delay in rendering an order when the

²¹ *Rollo*, pp. 1-6.

²² *Id.* at 130.

²³ *Id.* at 131.

case was filed, but resolved the complainants' motion for reconsideration as soon as he reported back to work. We reject these justifications as unworthy explanations of the failure to resolve the motion for reconsideration in an expeditious and seasonal manner simply because they did not place the timely resolution beyond the control of the respondent judge.

The respondent cannot be spared from the consequences of his undue delays in the case of the complainants. He did not show that he ever requested the Court for the additional time within which to dispose of the matters therein. It then becomes inescapable for him to face the consequences of his inexplicable inaction. He was guilty of gross inefficiency and neglect of duty. Failure to render a decision within the 90-day period from the submission of a case for decision is detrimental to the honor and integrity of the judicial office, and constitutes a derogation of the speedy administration of justice.²⁴

Under Section 9, Rule 140 of the *Rules of Court*, undue delay in rendering a decision or order falls within the category of a less serious charge, and is penalized as follows:

SEC. 11. *Sanctions.* – x x x

B. If the respondent is guilty of a less serious charge, any of the following sanctions shall be imposed:

1. Suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months; or

2. A fine of more than ₱10,000.00 but not exceeding ₱20,000.00.

x x x x

This case is not the first time that the respondent is found guilty of an administrative offense. Aside from the charge dealt with in *Daaco v. Judge Lilagan*,²⁵ where he was suspended for three months without pay for undue delay in rendering an order, he had been penalized five times, as follows:

1. A.M. No. RTJ-99-1490, for falsification of certificate of service, in which he was fined ₱1,000.00 on July 28, 1999;²⁶

²⁴ Supra note 20, at 248.

²⁵ A.M. No. RTJ-09-2172 (Formerly A.M. OCA IPI No. 08-2892-RTJ), April 14, 2010.

²⁶ See *Visbal v. Buban*, A.M. No. MTJ-02-1432, September 03, 2004, 437 SCRA 520, 526.

2. A.M. No. RTJ-01-1651, for gross ignorance of the law, gross abuse of judicial authority and willful disobedience to settled jurisprudence, in which he was fined ₱10,000.00;²⁷

3. A.M. No. RTJ-00-1564, for falsification of certificate of service, maltreatment and violation of the *Code of Judicial Conduct*, in which he was reprimanded;²⁸

4. OCA IPI No. 01-1280-RTJ, for gross ignorance of the law, grave abuse of authority and serious misconduct, in which he was reprimanded;²⁹ and

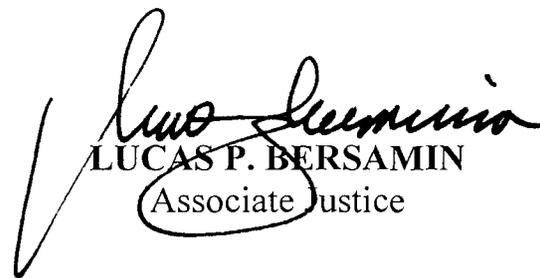
5. A.M. No. RTJ-06-1985, for violation of the Constitution and *Code of Judicial Conduct*, in which he was reprimanded.³⁰

Although the OCA has recommended the penalty of suspension from office for six months without salary and other benefits, the Court opts to impose on the respondent the penalty of fine of ₱45,000.00, with a warning that a similar infraction in the future will be more severely sanctioned.

WHEREFORE, the Court **FINDS** and **DECLARES** respondent Judge Frisco T. Lilagan, Presiding Judge of the Regional Trial Court, Branch 34, in Tacloban City **GUILTY** of gross inefficiency for his undue delay in resolving the pending motion for reconsideration; and, **ACCORDINGLY**, **FINES** him in the amount of ₱45,000.00, with a warning that a similar infraction in the future will be more severely sanctioned.

SO ORDERED.

WE CONCUR:


LUCAS P. BERSAMIN
Associate Justice


MARIA LOURDES P. A. SERENO
Chief Justice

²⁷ *Tabao v. Lilagan*, A.M. No. RTJ-01-1651 (formerly A.M. No. 98-551-RTJ), September 4, 2001, 364 SCRA 322; see also *rollo*, p. 224.

²⁸ *Gordon v. Lilagan*, A.M. No. RTJ-00-1564, July 26, 2001, 361 SCRA 690, 700; see also *rollo*, p. 224.

²⁹ *Rollo*, p. 224.

³⁰ *Id.*

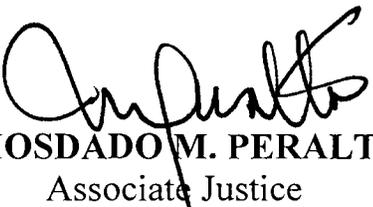


ANTONIO T. CARPIO
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PRESBITERO J. VELASCO, JR.
Associate Justice

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

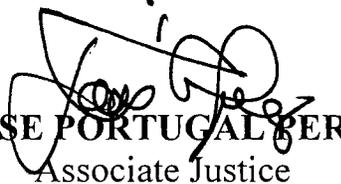
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ARTURO D. BRION
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MARIANO C. DEL CASTILLO
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JOSE PORTUGAL PEREZ
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JOSE CATRAL MENDOZA
Associate Justice



BIENVENIDO L. REYES
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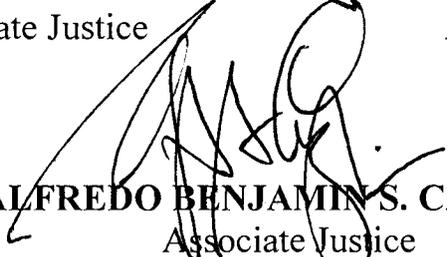
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Clerk of Court