

FIRST DIVISION

[A.M. No. RTJ-00-1575, September 17, 2001]

**ISAGANI RIZON, COMPLAINANT, VS. JUDGE OSCAR E. ZERNA,
RESPONDENT.**

R E S O L U T I O N

KAPUNAN, J.:

The delay in the resolution of an election protest by respondent Judge prompted the protestant to institute these administrative proceedings.

Complainant Isagani B. Rizon filed an election protest before the Regional Trial Court of Tubod, Lanao del Norte, Branch VII, presided by respondent Judge Oscar Zerna. Complainant contested the election of protestee William P. Ong for the position of Mayor of the Municipality of Baroy, Lanao del Norte, the latter having been proclaimed as winner in the May 11, 1998 elections. On November 22, 1998, the parties submitted the case for decision but the case had remained undecided within three (3) months after its submission. On February 26, 1998 complainant filed a "Motion to Render Early Decision," which according to complainant, fell on "deaf ears." Complainant thus filed an affidavit-complaint before this Court charging respondent with "willful, deliberate, and malicious delay in rendering the decision."

Responding to these charges, respondent judge attributes the delay to the time consumed in going over the questioned ballots one by one, the appreciation of the ballots being the grounds for the protest. Thereafter, he had to draft a decision, which was subsequently rendered a week or two after the complaint before this Court was filed. Respondent judge asserts that complainant is merely looking for a scapegoat for his loss in the elections, judgment in the election protest having been rendered against him.

Upon evaluation of the complaint and respondent Judge's comment thereto, the OCA submitted a report to this Court finding the judge guilty of gross inefficiency, the delay in the disposition of the case being inexcusable. The report stated, among other things, that:

xxx

Judge Zema has a history of delay in deciding cases. In a Resolution dated November 25, 1977, the Court en banc, acting on a report of the Judicial Audit Team that conducted judicial audit on Judge Zema's court, directed the said judge to explain why he failed to render decision within the ninety (90) day period and to accordingly render decision in twenty two (22) criminal cases, seventeen (17) civil cases, five (5) criminal and nine (9) civil cases appealed from the lower courts, and other pending matters in four (4) cases; to take appropriate action for the early

resolution of twenty eight (28) other cases; to take further action on thirty two (32) others which he failed to act on or set in the court calendar after the lapse of considerable length of time; and to act on twenty three (23) other cases that could already be archived.

Moreover, in respondent judge's 201 Personnel File are copies of twelve (12) various indorsements from the Office of the Court Administrator, referring to him letters and complaints of party-litigants asking for the early disposition of their cases pending before him. The indorsements involve at least twenty (20) cases.

xxx

The Court agrees with this finding.

Section 258 of the Omnibus Election Code provides:

Sec. 258. Preferential disposition of contests in courts. - The courts, in their respective cases, shall give preference to election contests over all other cases, except those of *habeas corpus*, and shall without delay, hear and, within thirty days from the date of their submission for decision, but in every case within six months after filing, decide the same.

The Court notes that respondent Judge did not deny in his comment that there was delay in the disposition of the election protest. Indeed, he implicitly admitted the delay when he stated that the decision was rendered "one or two weeks after [complainant] filed his complaint" with this Court on March 29, 1999. (Upon further query by the OCA, respondent judge failed to inform it of the exact date of the rendition of judgment.) In other words, the judge came out with the decision at least three and a half months beyond the 30-day period prescribed by Section 258 of the Omnibus Election Code. That there was delay, therefore, is beyond dispute.

Whether the delay was justified is the next question. The OCA found it was not, and the Court quotes with favor the OCA's reasoning:

Judge Zerna did not contest the allegation of delay. He however ascribed it to the process of going over each of the questioned ballot. This is a flimsy excuse considering that the thirty-day period provided him under Sec. 258 of the Omnibus Election Code is more than sufficient to examine a little over a hundred questioned ballots, and that he could have asked the Court for an extension of time to render decision if he was having problems with the "examination" of the contested ballots such that he could not be able to decide the case on time. As the Court have held in *Española vs. Panay* (248 SCRA 684) cited in *Bolalin vs. Occiano* (266 SCRA 203), asking for an extension of time to dispose a case is to avoid or dispel any suspicion that something sinister or corrupt is going on.

The OCA recommends that the Court impose upon respondent a fine of Five Thousand Pesos (P5,000) with a warning that future similar acts shall be dealt with more severely. While ordinarily a fine of Three Thousand Pesos (P3,000) is imposed