

THIRD DIVISION

[A.M. No. RTJ-16-2462 [Formerly OCA IPI No. 14-4311-RTJ], October 14, 2019]

**FREDDIE J. FARRES AND ORWEN L. TRAZO, COMPLAINANTS, VS.
JUDGE EDGARDO B. DIAZ DE RIVERA, JR., BRANCH 10,
REGIONAL TRIAL COURT, LA TRINIDAD, BENGUET,
RESPONDENT.**

DECISION

INTING, J.:

"We must once more impress upon the members of the Judiciary their sworn duty of administering justice without undue delay under the time-honored precept that justice delayed, is justice denied. The present clogged condition of the courts' docket in all levels of our judicial system cannot be cleared unless each and every judge earnestly and painstakingly takes it upon himself to comply faithfully with the mandate of the law. No less important than the speedy termination of hearings and trials of cases is the promptness and dispatch in the making of decisions and judgment, the signing thereof and filing the same with the Clerk of Court."^[1]

Antecedents

Freddie J. Farres and Orwen L. Trazo (complainants) filed a Joint Affidavit Complaint^[2] dated September 8, 2014 against Judge Edgardo B. Diaz De Rivera, Jr., (respondent Judge) of Branch 10, Regional Trial Court (RTC), La Trinidad, Benguet for violation of Republic Act No. (RA) 3019, also known as the Anti-Graft and Corrupt Practices Act, Section 1, Canon 3,^[3] and Canon 5^[4] of the Code of Judicial Conduct.

Complainants alleged that they were the private complainants in Criminal Case No. 11-CR-8444 filed against Priston Paran and Jimboy Alumpit (accused) for the Violation of Presidential Decree (P.D.) No. 705, otherwise known as "The Revised Forestry Code of the Philippines." The criminal case was assigned to the *sala* of respondent Judge sometime in May 2011, and as of the filing of the complaint, the case has been pending for three years and four months, and the prosecution has not yet finished with the presentation of witnesses. To date, there were only four hearings conducted.^[5]

Both of the accused in the criminal case were allowed by respondent Judge to post a cash bail amounting to one-fourth of the bail recommended by the Benguet Provincial Prosecutors Office. However, in a summary of 50 cases concerning P.D. No. 705 and raffled to respondent Judge's court, it appeared that none of the accused therein were even allowed a 75% reduction of bail.

Further, while complainants were aware that respondent Judge had a stroke

sometime in the latter part of 2012, he was already conducting hearings in his *sala* in 2013. Hence, complainants believed that the delays in conducting trials could not be justified by the medical condition of respondent Judge.

In his Comment^[6] dated March 10, 2015, respondent Judge averred that based on the records, the following is the chronological summary of the significant incidents of the case:

May 23, 2011 – Information was filed. Accused were under detention.

June 14, 2011 – Both accused were present but the arraignment was postponed and reset to June 21, 201^[1], because their retained counsel, Atty. Richard Zarate was absent. Accused declined services of counsel-de-oficio from the Public Attorneys Office.

June 21, 2011 – Accused were arraigned and pleaded Not Guilty. Pre-trial was set on July 18, 2011. Accused, through counsel, filed a motion to reduce the recommended bail bond from P40,000.00 to P5,000.00. The court deferred the hearing on the motion and directed the prosecution to file a written comment and/or an opposition to the motion.

June 28, 2011 – Prosecutor Winston Suaking filed a "Comment" for the reduction of bond that ended with the statement: "we submit the incident to the sound discretion of the Honorable Court."

July 18, 2011 – The motion was heard. The court set the bail bond at P10,000 each.

August 24, 2011 – Pretrial was cancelled due to the absence of defense counsel.

September 28, 2011 – Pretrial was cancelled as both accused were absent due to a passing typhoon (Pedring). It was manifested by defense counsel that the accused (who resided in Itogon – some 20 kilometers from La Trinidad) probably could not attend due to the inclement weather that made the roads impassable or too risky to traverse.

October 26, 2011 – Pretrial was cancelled.. Prosecution requested and was given time to conduct a reinvestigation to determine the total amount of lumber allegedly to have been illegally cut and to include the identities and true names of two more accused who were not named in the original information.

December 6, 2011 – Pretrial was cancelled. Atty. Zarate was again absent and fined P500.00

December 6, 2011 – Motion to amend the Information was filed

February 7, 2012 – Amended Information was admitted.

March 13, 2012 – Pretrial was finally conducted and terminated. The prosecution requested and was granted eight (8) trial dates to present its

evidence to wit: June 18, 25; July 16, 23, 30; and August 6, 13, 20, 2012 all at 8:30 in the morning.

June 25, 2012 – Initial trial hearing.. Frederick Farres was presented and testified. After his testimony, prosecution prayed for continuance.

July 23, 2012 – Prosecution had no witness to present; the accused and defense counsel were also absent[.]

July 30, 2012 – The court allowed the second prosecution witness, Orwen Trazo, to be presented and testify despite the absence of the accused and their counsel.

August 6, 2012 – Atty. Zarate was again absent and fined P500. He was warned that should he fail to attend the next scheduled hearing, the accused shall be deemed to have waived the right to cross-examine the second prosecution witness.

August 13, 2012 – Atty. Zarate cross examined the witness Orwen Trazo[.]

September 3, 2012 – SPO1 Balaso and PO3 E. Bocalan were presented as additional prosecution witnesses[.]

(October 12, 2012 – Presiding judge suffered severe stroke that paralyzed the left side of his body. He was confined at the Medical City Hospital, Ortigas center, Metro Manila. He was confined there for about a month. When he was discharged, his doctors advised him to adhere to a strict regimen of medication and diet and to undergo a series of prescribed physical therapy to regain the use of his left limbs. Due to his continuous physical therapy sessions, he had to take numerous leaves of absence from work.)

October 17, 2012 – No hearing.. Judge on leave.

November 27, 2013 – Accused and counsel were not in court. Atty. Zarate was fined P500[.]

February 12, 2014 – Judge on leave[.]

June 16, 2014 – Judge on leave[.]

Nov. 26, 2014 – Both accused were in court but Atty. Zarate was not in court. Hearing cancelled.

Feb. 18, 2015 – Hearing was cancelled as Atty. Zarate was not in court^[7]

Further, respondent Judge stressed that on October 12, 2012, he suffered a stroke that paralyzed the left side of his body. He was confined at the Medical City Hospital, Ortigas Center, Metro Manila for about a month. When he was discharged, his doctors advised him to adhere to a strict regimen of medication and diet, and to undergo a series of prescribed physical therapy to regain the use of his left limbs.

Due to his continuous physical therapy sessions, he had to take numerous leaves of absence from work. Upon his request by midyear of 2014, the Office of the Court Administrator (OCA) appointed an assisting judge to Branch 10 to hear pending cases.

As to the allegation that both the accused in Criminal Case No. 11-CR-8444 were allowed to post a cash bail bond amounting to only one-fourth of the recommended bail by the Benguet Provincial Prosecutors Office, respondent Judge explained that the accused in the criminal case requested a reduction of the bail from P40,000.00 to P5,000.00 considering that they could not raise the amount as they were in their early twenties, unemployed, dependent and living with their parents. Prosecutor Winston Suaking (Prosecutor Suaking) of the Benguet Prosecution Office, Atty. Cleo Sabado Andrada (Atty. Andrada) of the DENR, and complainants were present; but none of them raised any objection on the matter and agreed to submit the incident to the discretion of the court.^[8]

With respect to the allegation that the accused in the 50 cases concerning P.D. No. 705 were not even allowed a 75% reduction of bail, respondent Judge explained that assuming without admitting that the data was correct and accurate, it was because none of the accused in those 50 cases mentioned asked for more than 50% reduction of the recommended bail. Respondent Judge further averred that it was best if the prosecuting attorneys and the counsel of the DENR be requested or directed to submit their respective comments to shed light on the matter. He clarified that his bases for the grant of reduction of bail were the financial capacity of the accused and their right to bail.^[9]

Respondent Judge asserted that the public prosecutors assigned to his court and the counsel of the DENR, who have been actively participating in environmental cases for more than 10 years, be directed to submit their respective comments on the matter as they would definitely give a more objective and clearer picture on the manner of how respondent Judge conducted this type of cases. These persons can very well attest to his several admonitions made in open court to determine whether the private individuals involved in these cases had a selfish motive and/or hidden agenda in pursuing their complaints; most especially, when these individuals were the contending claimants of the land where trees were allegedly illegally cut, and the criminal proceedings were used as a threat and a leverage to claim possession and ownership over a disputed parcel of land.^[10]

On July 14, 2015, respondent Judge filed an application for disability retirement before the Employees Welfare and Benefits Division and the OCA, which was made effective on April 30, 2015.^[11]

In a Report and Recommendation^[12] dated April 1, 2016, the OCA recommended that the administrative complaint against respondent Judge be re-docketed as a regular administrative matter, and he be found liable for violation of Supreme Court rules, directives and circulars, and be fined in the amount of P5,000.00 to be deducted from his disability benefits that may be due him.

The OCA Report and Recommendation is well-taken.

The reduction of the