

## SECOND DIVISION

**[ A.M. No. MTJ-14-1841 (Formerly OCA IPI No. 11-2388-MTJ), June 02, 2014 ]**

**GERSHON N. DULANG, COMPLAINANT, VS. JUDGE MARY JOCYLEN<sup>[1]</sup> G. REGENCIA, MUNICIPAL CIRCUIT TRIAL COURT (MCTC), ASTURIAS-BALAMBAN, CEBU, RESPONDENT.**

### R E S O L U T I O N

#### **PERLAS-BERNABE, J.:**

This is an administrative case for gross inefficiency, gross ignorance of the law, gross incompetence, serious misconduct, and serious dereliction of duty against respondent Judge Mary Jocylen G. Regencia (Judge Regencia) of the Municipal Circuit Trial Court of Asturias-Balamban, Cebu (MCTC), commenced thru a Verified Complaint<sup>[2]</sup> dated May 28, 2011 filed by complainant Gershon N. Dulang (Dulang) before the Office of the Court Administrator (OCA).

#### **The Facts**

The instant case stemmed from an ejectment complaint with prayer for the issuance of a writ of preliminary injunction, docketed as Civil Case No. 212-B, entitled "*Spouses Gershon Dulang and Luzviminda Dulang, represented by Reynaldo Moldez v. Emmanuel Flores*," which was filed before the MCTC on February 2, 2000 (ejectment case).

In the Verified Complaint, Dulang alleged that on May 4, 2009, he moved<sup>[3]</sup> for the resolution of the above-mentioned ejectment case, given that the same had been filed as early as year 2000 and had already been submitted for resolution.<sup>[4]</sup> Notwithstanding the summary nature of the ejectment proceedings, Judge Regencia rendered a Judgment<sup>[5]</sup> dismissing the ejectment case only on February 18, 2011 (February 18, 2011 Judgment), or more than 11 years since its filing. Consequently, the Notice of Judgment was issued only on March 7, 2011 and mailed on March 15, 2011.<sup>[6]</sup>

Dulang likewise noted that Judge Regencia was previously found administratively liable for gross inefficiency in *Tam v. Judge Regencia*<sup>[7]</sup> and was thereby ordered to pay a fine of P5,000.00 and warned that a repetition of the same or similar offense will be dealt with more severely.<sup>[8]</sup>

On September 1, 2011, Dulang filed a Verified Supplemental Complaint to the Verified Complaint dated May 28, 2011 (supplemental complaint)<sup>[9]</sup> before the OCA, alleging that despite the filing of a notice of appeal from Judge Regencia's February 18, 2011 Judgment, the latter nevertheless issued an Order<sup>[10]</sup> dated August 1,

2011 (August 1, 2011 Order) directing the postmaster and postal carrier of the Cebu Central Post Office, Cebu City to certify Dulang's receipt of a copy of the said Judgment. In this regard, Dulang accused Judge Regencia of gross ignorance of the law, gross incompetence, serious misconduct, and serious dereliction of duty, contending that by filing his appeal, the latter was already stripped of her (Judge Regencia) jurisdiction over the case and should not have issued the said order. Dulang claimed that this effectively stalled the administration of justice, much to his prejudice.<sup>[11]</sup>

In her Comments (to the Verified Complaint)<sup>[12]</sup> dated August 7, 2011, Judge Regencia maintained that no trial was held in Civil Case No. 212-B as the parties merely filed their respective position papers and that she could have easily resolved the said case if not for another case pending before the Regional Trial Court of Toledo City, Branch 59 (Toledo City RTC), i.e., Civil Case No. T-862, entitled "*Spouses Emmanuel Flores and Daisy Flores v. Spouses Jose G. Paulin and Eleodora Ganhinhin, et al.*," which was closely intertwined with the former.<sup>[13]</sup> As such, she found it prudent to defer the resolution of Civil Case No. 212-B until Civil Case No. T-862 was decided. She also averred that she should not be faulted for the long delay in resolving the ejectment case as she assumed her post as MCTC judge only in November 2002 and, thereafter, began presiding over the same starting on November 15, 2007.<sup>[14]</sup> In opposition to the accusations contained in the supplemental complaint, Judge Regencia commented that she issued the August 1, 2011 Order because the defendant in the ejectment case, Emmanuel Flores (Flores), opposed Dulang's notice of appeal. She explained that this order was merely intended to determine whether or not Dulang filed his appeal within the reglementary period.<sup>[15]</sup>

Pursuant to the Court's Resolution<sup>[16]</sup> dated July 30, 2012, the administrative case was referred to the Executive Judge of the Toledo City RTC for investigation, report, and recommendation. Consequently, in his Report and Recommendation<sup>[17]</sup> dated December 20, 2012, Executive Judge Hermes B. Montero (Judge Montero) found Judge Regencia administratively liable for gross inefficiency, gross ignorance of the law, gross incompetence, serious misconduct, and serious dereliction of duty in handling the ejectment case, and thereby recommended that she be dismissed from service.<sup>[18]</sup> Judge Montero opined that Judge Regencia failed to observe the Rules on Summary Procedure as she did not resolve said case with dispatch; despite the case having been submitted for resolution on October 17, 2008, she only rendered judgment on February 18, 2011, or after more than 11 years since the case was filed. Judge Montero also pointed out that contrary to Judge Regencia's contentions, there was no suspension of the proceedings that was agreed upon by the parties and that no prejudicial question ever existed to warrant a discontinuance of the same.<sup>[19]</sup>

Meanwhile, Judge Regencia filed a Motion for Reconsideration<sup>[20]</sup> of the Court's Resolution dated July 30, 2012 referring her administrative case to Judge Montero for investigation, report, and recommendation. She argued that Judge Montero cannot be expected to make an impartial investigation of her case as he is the "compadre" of Dulang's lawyer and that he had constantly shown a hostile attitude towards her. Judge Regencia also sent two (2) letters,<sup>[21]</sup> both dated April 10, 2013, informing the Court that Dulang was reportedly killed and that she had verified this

information with Flores. In view of Dulang's death, Judge Regencia prayed that the administrative case against her be dismissed.<sup>[22]</sup>

### **The Action and Recommendation of the OCA**

In a Memorandum<sup>[23]</sup> dated November 22, 2013, the OCA recommended that Judge Regencia be held administratively liable for undue delay in rendering a decision, and thereby fined her in the amount of ₱20,000.00 with a stern warning that a repetition of the same or similar acts shall be dealt with more severely. It agreed with the findings of Judge Montero that there is no justifiable excuse for Judge Regencia not to render judgment in the ejectment case within the 30-day reglementary period mandated by the Rules on Summary Procedure. In this relation, the OCA brushed aside Judge Regencia's charge of partiality against Judge Montero for lack of factual support and equally disregarded the fact of Dulang's death, holding that such circumstance does not automatically result in the dismissal of his administrative complaint.<sup>[24]</sup>

However, the OCA no longer determined Judge Regencia's administrative liability with respect to the charges of gross inefficiency, gross ignorance of the law, gross incompetence, serious misconduct, and serious dereliction of duty. Hence, in due deference to her right to be afforded due process, said charges shall no longer be tackled herein.

### **The Issue Before the Court**

The sole issue raised for the Court's resolution is whether or not Judge Regencia may be held administratively liable for undue delay in rendering a decision.

### **The Court's Ruling**

The Court agrees with the findings and conclusions of the OCA, with the modification, however, as to the penalty imposed on Judge Regencia.

Prompt disposition of cases is attained basically through the efficiency and dedication to duty of judges. If judges do not possess those traits, delay in the disposition of cases is inevitable to the prejudice of the litigants. Accordingly, judges should be imbued with a high sense of duty and responsibility in the discharge of their obligation to administer justice promptly.<sup>[25]</sup> This is embodied in Rule 3.05, Canon 3 of the Code of Judicial Conduct which states that "[a] judge shall dispose of the court's business promptly and decide cases within the required periods" and echoed in Section 5, Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary<sup>[26]</sup> which provides that "[j]udges shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly, and with reasonable promptness."

Here, it is undisputed that Civil Case No. 212-B was already submitted for resolution on October 17, 2008. Being an ejectment case, it is governed by the Rules of Summary Procedure which clearly sets a period of thirty (30) days from the submission of the last affidavit or position paper within which a decision thereon must be issued.<sup>[27]</sup> Despite this, Judge Regencia rendered judgment only about two (2) years and four (4) months later, or on February 18, 2011. While rules