

## FIRST DIVISION

**[ A.M. No. MTJ-11-1778 (Formerly OCA IPI No. 08-1966- MTJ), June 05, 2013 ]**

**MARICOR L. GARADO, COMPLAINANT, VS. REYES, JJ. JUDGE  
LIZABETH GUTIERREZ-TORRES, RESPONDENT.**

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

**VILLARAMA, JR., J.:**

Before us is a Verified Complaint-Affidavit,<sup>[1]</sup> filed by complainant Maricor L. Garado charging respondent Judge Lizabeth Gutierrez-Torres, Presiding Judge, Metropolitan Trial Court, Branch 60, Mandaluyong City, with violation of Rule 3.05,<sup>[2]</sup> Canon 3 of the Code of Judicial Conduct in connection with Civil Case No. 20129 entitled "*Maricor Garado v. Rose Virgie Estor.*"

Complainant alleges that she is the plaintiff in the aforesaid civil case for sum of money and damages. She complains that the case is covered by the 1991 Revised Rule on Summary Procedure and only involves a claim for the payment of a loan amounting to P50,000 plus interest and a claim for damages amounting to P30,000, but the case has remained unresolved for more than 20 months from the time it was filed.

Complainant narrates that her complaint against defendant Rose Virgie Estor was filed on August 22, 2005. After respondent judge denied defendant Estor's motion to dismiss on July 3, 2006, Estor thereafter filed an Urgent Ex-parte Motion for Extension of Time (To File Responsive Pleading) followed by a second motion to dismiss on November 16, 2006. Complainant, meanwhile, filed a motion to render judgment with an opposition to the second motion to dismiss on November 27, 2006. The two motions were submitted for resolution on November 27, 2006 and January 15, 2007, respectively, but both motions remained unresolved as of the date of the filing of the complaint on May 9, 2007.

In a 1<sup>st</sup> Indorsement<sup>[3]</sup> dated May 17, 2007, the Office of the Court Administrator (OCA) directed Judge Torres to file her Comment on the complaint within ten days. Respondent judge received the 1<sup>st</sup> Indorsement on May 25, 2007, but failed to comply with the directive. Thus, the OCA issued a 1<sup>st</sup> Tracer<sup>[4]</sup> against respondent judge on July 24, 2007 requiring her to file the required Comment within five days from notice. Respondent judge also received the 1<sup>st</sup> Tracer on August 3, 2007, but still failed to comply.

On March 10, 2008, this Court's Third Division issued a Resolution<sup>[5]</sup> directing respondent judge to: (1) show cause why she should not be administratively sanctioned in view of her refusal to submit her Comment despite the two directives, and (2) file her Comment within five days from receipt of notice, otherwise, an

administrative case will be filed against her. Respondent judge received a copy of the Resolution on April 16, 2008, but again ignored the same. Consequently, the Court issued another Resolution<sup>[6]</sup> on July 14, 2008 imposing upon Judge Torres a fine of P1,000, to be paid within ten days from receipt, or imprisonment of five days if the fine is not paid within the period of ten days. The July 14, 2008 Resolution also directed respondent judge to comply with the Court's Show Cause Resolution dated March 10, 2008. Despite receipt of the Resolution, however, Judge Torres neither complied with the Resolution nor paid the fine.

Thus, on April 21, 2010, the Court issued a Resolution<sup>[7]</sup> and resolved to await the payment of the fine by respondent judge; to consider the filing of her Comment as waived; and to refer this administrative matter to the OCA for final evaluation, report and recommendation.

On November 11, 2010, the OCA submitted its Memorandum<sup>[8]</sup> to the Court finding respondent judge administratively liable and recommending that the Court:

1. **RE-DOCKET** th[e] case as a regular administrative matter against respondent Judge Lizabeth G. Torres;
2. **DISMISS** respondent Judge Lizabeth G. Torres from the service and impose upon her all the attendant penalties; and
3. **IMPOSE** upon respondent Judge Lizabeth G. Torres the penalty of FIVE (5) days imprisonment for her failure to pay the FINE of P1,000.00 within the required period, pursuant to the Court's Resolution dated 14 July 2008.<sup>[9]</sup>

In recommending the penalty of dismissal, the OCA noted that in five previous administrative cases,<sup>[10]</sup> respondent was found liable for undue delay in rendering a decision, resolution or order, and sternly warned that the commission of the same or similar offense will be dealt with more severely. The OCA also noted eight other pending administrative cases<sup>[11]</sup> filed by different litigants against respondent judge involving offenses of similar nature. As well, the OCA noted the four instances under the present administrative case where respondent judge failed to comply with directives/orders issued by this Court.

We agree with the OCA that respondent judge should be held administratively liable.

At the outset, the Court notes that respondent had been given ample opportunity to address the complaint against her. The OCA sent and respondent judge received the 1st Indorsement dated May 17, 2007 and 1st Tracer dated July 24, 2007, both of which explicitly required her to file her Comment on the complaint. However, up until her dismissal from the service by the Court on November 23, 2010,<sup>[12]</sup> respondent had not complied with the OCA directives. Moreover, respondent also failed to comply, despite due notice, with the Resolutions dated March 10, 2008 and July 14, 2008 of the Court itself.

Respondent's failure to submit her Comment and compliance as required by the OCA

and this Court is tantamount to insubordination,<sup>[13]</sup> gross inefficiency, and neglect of duty.<sup>[14]</sup> It was respondent's duty then not only to obey the lawful orders of her superiors, but also to defend herself against complainant's charges and prove her fitness to remain a member of the bench. By her failure to comply with the OCA and this Court's directives, respondent judge has completely lost her chance to defend herself.

As to the merits of the administrative complaint, the pleadings and evidence on record clearly establish respondent's liability for undue delay in resolving Civil Case No. 20129.

Section 15(1), Article VIII of the 1987 Constitution, mandates that cases or matters filed with the lower courts must be decided or resolved within three months from the date they are submitted for decision or resolution. With respect to cases falling under the 1991 Revised Rule on Summary Procedure, first level courts are only allowed 30 days following the receipt of the last affidavit and position paper, or the expiration of the period for filing the same, within which to render judgment. Section 6 of the said Rule also requires first level courts to render judgment *motu proprio* or upon motion of the plaintiff if the defendant fails to file an answer to the complaint within the allowable period.

Judges are oft-reminded of their duty to act promptly upon cases and matters pending before their courts. Rule 3.05, Canon 3 of the Code of Judicial Conduct directs judges to "dispose of the court's business promptly and decide cases within the required periods." Canons 6 and 7 of the Canons of Judicial Ethics further exhort judges to be prompt and punctual in the disposition and resolution of cases and matters pending before their courts:

## 6. PROMPTNESS

He should be prompt in disposing of all matters submitted to him, remembering that justice delayed is often justice denied.

## 7. PUNCTUALITY

He should be punctual in the performance of his judicial duties, recognizing that the time of litigants, witnesses, and attorneys is of value and that if the judge is unpunctual in his habits, he sets a bad example to the bar and tends to create dissatisfaction with the administration of justice.

Administrative Circular No. 1 dated January 28, 1988 likewise reminds all judges to observe scrupulously the periods prescribed in Section 15, Article VIII of the 1987 Constitution and to act promptly on all motions and interlocutory matters pending before their courts.

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 litigants. Accordingly, judges should be imbued with a high sense of duty and responsibility in the discharge of