

## **FIRST DIVISION**

**[ A.M. No. MTJ-11-1782 [Formerly OCA IPI No. 05-1807-MTJ], March 23, 2011 ]**

**JOSEFINA NAGUIAT, COMPLAINANT, VS. JUDGE MARIO B. CAPELLAN, PRESIDING JUDGE, MTCC, BR. 1, MALOLOS CITY, BULACAN, RESPONDENT.**

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

**VELASCO JR., J.:**

The instant administrative matter stemmed from a verified letter- complaint of Josefina Naguiat dated August 2, 2005, with enclosures, charging Judge Mario B. Capellan, Presiding Judge, Metropolitan Trial Court in Cities (MTCC), Branch 1 in Malolos City, Bulacan, with Delay in Rendering Judgment relative to Civil Case No. 98-84, entitled *Sta. Monica Industrial and Development Corporation v. Eugenio Roxas Buenaventura, Mario Cruz, Graciano C. Cruz and Rufino Cruz*. As alleged, it took respondent judge six (6) years to resolve, on technicality, a case governed by the rule on summary procedure.

Complainant Naguiat, during the period material, was the president and general manager of Sta. Monica Industrial and Development Corporation (Sta. Monica), the plaintiff in Civil Case No. 98-84, a suit for ejectment which the corporation filed on August 12, 1998 and raffled to the MTCC, Branch 1 in Malolos City. Summonses having been served, Eugenio R. Buenaventura and Rufino Cruz filed their joint Answer on September 3, 1998; Graciano C. Cruz filed his Answer to the complaint on September 4, 1998; while Mario Cruz did not file an Answer. Sta. Monica filed its pre-trial brief on October 26, 1998, and Graciano filed his pre-trial brief on November 17, 1998. On January 20, 1999, Rufino filed a pre-trial brief accompanied by another answer.

According to the complaint, Sta. Monica, pursuant to the orders of the court, submitted its position paper on January 29, 2001. Graciano and Rufino filed their position papers on January 17, 2001 and March 26, 2003, respectively.

On December 3, 2003, or over seven (7) months after its receipt of the last position paper, the MTCC, presided by the respondent, issued an order dismissing Civil Case No. 98-84, on the ground that plaintiff Sta. Monica's representative lacked the personality to file the said ejectment case.

In his Comment dated February 2, 2006, respondent admitted the filing of the pleadings adverted to, except as to the filing by plaintiff Sta. Monica of its position paper. He attributed the delay in rendering judgment to the numerous pleadings that had to be filed, postponements, and the purported failure of the plaintiff to file its position paper. He went on to state that in barely three months and 25 days from the date of the filing of the case, he had conducted and terminated the pre-trial

conference and ordered the submission of position papers. He could have, so he claimed, rendered judgment shortly thereafter were it not for Atty. Cenon Navarro entering his appearance for Rufino Cruz and filing a separate answer and pre-trial brief, necessitating the setting of another pre-trial that was itself reset over a dozen times at the instance of both parties.

In a Resolution dated January 29, 2007, the Court directed the parties, if they so desired, to file their respective papers and/or additional evidence. Per Resolution of July 19, 2007, followed later by another resolution, the Court referred the case to the Office of the Court Administrator (OCA) for investigation, report and recommendation.

In its memorandum-report dated February 15, 2008, the OCA found the commission of at least four (4) procedural lapses that caused unnecessary delay in the final resolution of Civil Case No. 98-84. The OCA, thus, recommended that respondent judge be adjudged guilty, as charged, and penalized accordingly.

The Court agrees with the recommendation of the OCA.

Indeed, respondent committed several lapses in his handling and eventual disposition of Civil Case No. 98-84, a failing which could have easily been avoided and, in the process, saved the parties and the court much time and resources had he exercised due diligence. Civil Case No. 98-84 for ejectment is covered by the *1991 Revised Rule on Summary Procedure*.<sup>[1]</sup> Under the Rule, the first duty of the respondent upon the filing of the case for ejectment was to examine the allegations in the complaint and the evidence appended to it, and to dismiss the case outright on any of the grounds apparent for the dismissal of a civil action. Section 4 of the Rules on Summary Procedure says as much:

Sec. 4. Duty of the Court.-After the court determines that the case falls under summary procedure, it may, from an examination of the allegations therein and such evidence as may be attached thereto, dismiss the case outright on any of the grounds apparent for the dismissal of a civil action.

In his Order<sup>[2]</sup> of December 3, 2003, respondent dismissed Civil Case No. 98-84 on the stated ground that one Joseph Jacob, the plaintiff's representative, was not authorized to appear for the corporation because his authority, as reflected in the corporate secretary's certificate appended to the complaint, was for another case. In net effect, the ground for dismissing Civil Case No. 98-84 existed and was apparent upon the filing of the basic complaint on August 12, 1998. Yet, respondent judge allowed the case to unnecessarily drag on for more than five years.

This brings us to another but related point. The issue of Jacob's lack of legal personality to institute the ejectment suit was, as respondent judge stressed in his supplemental position paper, raised in the position paper of defendant Rufino Cruz. It was, respondent adds, a primordial issue, not a mere technicality, to which all other issues ought to yield.

The above argument may perhaps be accorded some measure of plausibility, but