

THIRD DIVISION

[A.M. No. MTJ-06-1631 (Formerly A.M. OCA IPI No. 05-1744-MTJ), September 30, 2008]

FENINA R. SANTOS, COMPLAINANT, VS. JUDGE ERASTO D. TANCIONGCO, RESPONDENT.

RESOLUTION

REYES, R.T., J.:

Fenina R. Santos' verified letter-complaint^[1] to the Office of the Court Administrator (OCA) initiated this administrative case against Judge Erasto D. Tanciongco of the First Municipal Circuit Trial Court (MCTC), Dinalupihan-Hermosa, Dinalupihan, Bataan for manifest bias, partiality and neglect of duty relative to Civil Case No. 1334.

On June 22, 2005, the OCA required Judge Tanciongco to submit a comment relative to the complaint. Judge Tanciongco filed his comment to the letter-complaint on September 2, 2005. On April 19, 2006, the Court's First Division referred this case to Hon. Jose Ener S. Fernando, Executive Judge, Regional Trial Court, Dinalupihan, Bataan, for investigation.

The case was immediately set for hearing. On July 17, 2006, Judge Fernando voluntarily inhibited himself from hearing the case due to doubts raised by Santos about the former's impartiality, since Judge Tanciongco had been the public prosecutor assigned to his *sala* from 1992 to 2002.

The OCA found that Santos failed to prove Judge Fernando's bias and prejudice with clear and convincing evidence, to be considered a valid justification for his inhibition. On July 26, 2006, the Court noted Judge Fernando's order inhibiting himself from the case, but directed him to proceed with the investigation and strictly comply with the Court's April 19, 2006 Resolution.

On December 18, 2006, Judge Fernando terminated the investigation and submitted the case for resolution upon agreement of the parties. On March 12, 2007, Judge Fernando submitted his investigation report and recommendation.

The evidence for the complainant consists of Santos' letter, attached affidavit and testimony. Santos narrated that on December 16, 2003, she and her husband filed an action for forcible entry, temporary restraining order and injunction against Dominador Jimenez, Maria Jimenez, Herminia Salenga Tan, and Purita Salenga Pinpin, docketed as Civil Case No. 1334, before the MCTC of Dinalupihan-Hermosa, Dinalupihan, Bataan, presided by Judge Tanciongco.

Santos accused Judge Tanciongco of uncalled for liberality in accepting defendant's Answer which was filed beyond the ten-day reglementary period. She also alleged

that Judge Tanciongco reset the case for hearing several times for the period February 5 to December 7, 2004. This was despite her pleas to cause the appearance of defendants in court. On three (3) occasions, Judge Tanciongco promised to act on her request, but defendants still failed to appear in court for the hearings of the case.

In view of defendants' continued non-appearance in court, Santos moved for the court to render judgment on the case. However, Judge Tanciongco allegedly suggested resetting the hearing of the case. Santos' counsel, Atty. Leopoldo C. Lacambra, withdrew from the case after filing the motion to render judgment.

On February 1, 2005, the counsel for defendants appeared for the first time in court. Santos was also present, and she manifested before Judge Tanciongco that she no longer had a counsel and that she wanted to know the outcome of the motion to render judgment. However, Judge Tanciongco ordered the start of the preliminary hearing of the case in the next hearing.

In contrast, Judge Tanciongco, in his Comment and testimony before the investigating Judge, denied the allegations of Santos. He maintained that he conducted hearings in accordance with law and observed due process by giving the parties and their respective lawyers enough time and opportunity to be heard in court. He asserted that the delays were attributable to non-appearance of counsel and the parties.

Judge Tanciongco further explained that he did not act on the motion to render judgment because of his earnest desire for the parties to settle their dispute amicably. However, his efforts were in vain. Moreover, in view of the complaint against him, he voluntarily inhibited himself and requested the Supreme Court to designate another judge.

After hearing, the investigating Judge found Judge Tanciongco guilty of gross ignorance of the law and inefficiency tantamount to neglect of duty relative to Civil Case No. 1334. The pertinent portion of his report and recommendation reads:

The culpability of respondent Judge lies on the propriety or impropriety of his acts. Respondent Judge was accused of manifest bias, partiality and neglect of duty relative to his actions in connection with Civil Case No. 1334. As a matter of policy the acts of a judge in his judicial capacity are not subject to disciplinary action - only judicial errors tainted with fraud, dishonesty, gross ignorance, bad faith or deliberate intent to do an injustice will be administratively sanctioned. While a judge is a man subject to the frailties of other men, his office is an exalted position in the administration of justice, thus, it behooves him to act with circumspection at all times in order to promote public confidence in the integrity and impartiality of the judiciary.

Records reveal that the complainant filed her complaint for forcible entry with TRO and injunction on December 16, 2003. All cases of forcible entry and unlawful detainer, irrespective of the amount of damages or unpaid rentals sought to be recovered, shall be governed by the rules on summary procedure. Section 6, Rule 70 of the Revised rules of Civil Procedure provides that the defendant shall file his answer within ten

(10) days from the service of the summons and his failure to answer the complaint within the said period, the court, *motu proprio* or motion of the plaintiff, shall render judgment as may be warranted by the facts alleged in the complaint.

Summons were issued on January 7, 2004. In their Answer, defendants Dominador and Maria Jimenez averred that they received the complaint on January 15, 2004. A close scrutiny of the Answer reveals that it was prepared on January 26, 2004, verified only on January 27, 2004 and received by the MCTC on the same date. Surely, the ten (10)-day reglementary period fixed by law had already lapsed. Complainant filed her comment with motion to strike out answer, but this was not even acted upon by respondent Judge, claiming that he was trying to settle the issues amicably between the parties, but despite his efforts, the same failed and that the complainant filed her pre-trial brief which was tantamount to abandonment of the motion to strike out answer. The filing of the pre-trial brief does not necessarily mean that the complainant is abandoning her motion to strike out answer. Respondent Judge should have acted on it just the same. Unfortunately, he chose to ignore it.

Granting for the sake of liberality that the aforementioned acts of respondent Judge are justifiable, the undersigned would like to point at respondent Judge's ignorance of the law which was manifested when he required defendants to file their answer within fifteen (15) days from receipt of the summons, considering that this case is governed by the rules on summary procedure. This fact was even argued by Atty. Lacambra, but respondent Judge was relentless in his stance. When the law is so elementary, such as the provisions of the Revised Rules of Court on the rules on summary procedure, not knowing it or to act as if one does not know it, constitutes gross ignorance of the law. Gross ignorance of the law, incompetence and inefficiency are characteristics impermissible in a judge.

Respondent Judge's leniency towards the cause of the defendants, while it may not be erroneous, transgresses the constitutional right of the complainant to a speedy disposition of her case. It is the noble office of a judge to render justice not only impartially but expeditiously as well, for delay in the disposition of cases erodes the faith and confidence of our people in the judiciary, lower its standards and brings it into disrepute.

On the issue of partiality and manifest bias, the rule is that mere suspicion that a judge is partial is not enough. Clear and convincing evidence to prove the charge is required. The burden to prove that respondent Judge committed the acts complained of rest on the complainant. It is complainant's asseveration that respondent Judge was protecting the defendants who are rich and influential; that some of them are townmates of the respondent judge; and they were sometimes seen together. These allegations remain as mere allegations without any evidence to support them. Complainant averred that her sister and relatives saw the respondent Judge with the defendants talking and