

SECOND DIVISION

[A.M. No. MTJ-08-1721 (Formerly A.M. No. IPI-03-1464-MTJ), October 24, 2008]

**MICHAEL GAMALIEL PLATA, COMPLAINANT, VS. JUDGE
LIZABETH G. TORRES, RESPONDENT.**

D E C I S I O N

BRION, J.:

In a sworn letter dated April 21, 2003 addressed to then Court Administrator, now Associate Justice Presbitero J. Velasco, Jr., Michael Gamaliel J. Plata (*complainant*) charged Judge Lizabeth G. Torres (*respondent Judge*) of the Metropolitan Trial Court in Cities (*MeTC*), Branch 60, Mandaluyong City, with grave abuse of discretion, gross negligence, serious inefficiency and violation of the Code of Judicial Conduct for her failure/refusal to resolve the Motion to Withdraw Information dated July 29, 1999, filed by Assistant City Prosecutor Susante J. Tobias of Mandaluyong City, in Criminal Case No. 6679 entitled "*People of the Philippines v. Michael J. Plata.*"

The complainant reiterated his charges against the respondent Judge in a verified letter-complaint dated August 14, 2003.

The recitals in both the letter and the complaint-affidavit show that the complainant was accused of attempted homicide before the City Prosecutor's Office of Mandaluyong City, docketed at I.S. No. 97-10732. The City Prosecutor's Office found probable cause to charge the complainant of the imputed crime in a Resolution dated November 21, 1997. Consequently, an Information for Attempted Homicide was filed against him with the MeTC of Mandaluyong City. The case was subsequently raffled to the sala of the respondent Judge.

The complainant appealed the City Prosecutor's resolution to the Department of Justice (*DOJ*). In Resolution No. 305, Series of 1998, the DOJ reversed the appealed resolution and directed it to cause, with leave of court, the withdrawal of the information for attempted homicide. Secretary of Justice Serafin R. Cuevas denied the motions for the reconsideration of DOJ Resolution No. 305.

In accordance with the DOJ directive, Prosecutor Tobias filed a Motion to Withdraw Information with the respondent Judge's court on July 29, 1999. Two (2) years after, the respondent Judge had not acted on the motion, prompting the complainant to file on August 28, 2001 a manifestation for its early resolution. The respondent Judge set the motion for hearing on December 13, 2001. Instead of proceeding with the hearing, the respondent Judge required the private complainants to file a manifestation within five days supporting their claim that DOJ Resolution No. 305 had been appealed to the Court of Appeals; otherwise the motion shall be deemed submitted for resolution. No action came from the respondent Judge despite the lapse of the five-day period; this inaction lasted up to the filing of the present

administrative complaint.

The complainant claims that the respondent Judge's failure to act on the motion to withdraw the information is a violation of his constitutional right to a speedy disposition of the case against him. He alleges that "[L]ike the sword of Dasmocles, the instant case has hounded me in the exercise of my lawful rights, in the performance of my tasks, and in my need to clear my name and reputation."

On August 26, 2003, we required the respondent Judge to comment on the administrative complaint. The respondent Judge failed to comply despite the several extensions and a warning we gave.

Finally, we required the respondent Judge in a Resolution dated November 21, 2005 to show cause why she should not be administratively dealt with for having repeatedly failed to comment on the complaint despite directives from the Court. We likewise required her to submit the required comment within five (5) days from notice. The respondent Judge disregarded our "show cause" order and likewise failed to file the required comment, prompting us to impose a P1,000.00 fine against her. She only filed her "show cause" explanation and comment on November 3, 2006, or more than three (3) years after she was first required to comment,

The Court designated Consultant Romulo S. Quimbo of the Office of the Court Administrator (OCA) to investigate the administrative complaint and to submit a report and recommendation on the case. On March 31, 2007, he reported as follows:

x x x

In her "Consolidated Order," respondent admits that in Criminal Case No. 66879 against the present complaint, a motion to withdraw the information was filed by the public prosecutor on July 30, 1999. Respondent is not necessarily responsible for the court's inaction on the matter before June 1, 2001 when she assumed the position of presiding judge of Branch 60, Metropolitan Trial Court of Mandaluyong City. But after her assumption, it was her responsibility to resolve the pending incident within the period allowed by law.

It appears from the same "Consolidated Order" that Criminal Case No. 66879 was dismissed on September 15, 2006. If we consider the fact that complainant filed, on August 1, 2001, a manifestation praying that the motion to withdraw information against him be given due course, it was quite a long time before respondent resolved the motion as she issued her "Consolidated Order" only on September 15, 2006 or more than five years after.

The excuse given by respondent is that she wanted to have all the cases disposed of at one time. This motive is laudable if by doing so the judge does not go beyond the periods provided by law for the resolution of pending incidents.

The failure of respondent to promptly resolve the motion filed by the public prosecutors to withdraw the information, damaged the