

## THIRD DIVISION

**[ A.M. NO. RTJ-02-1719, March 31, 2006 ]**

**ATTY. JOSE B. TIONGCO, COMPLAINANT, VS. JUDGE ADRIANO S. SAVILLO, REGIONAL TRIAL COURT, BRANCH 30, ILOILO CITY, RESPONDENT**

### DECISION

**CARPIO, J.:**

#### The Case

This is an administrative complaint filed by Atty. Jose B. Tiongco ("complainant") against Judge Adriano S. Savillo ("respondent judge") of the Regional Trial Court, Branch 30, Iloilo City, for gross incompetence and ignorance of the law.

#### The Facts

In a verified complaint<sup>[1]</sup> dated 21 November 2000, complainant alleged the following:

1. In Criminal Case No. 00-58710 entitled *People v. Alias Gamay Cruza Balle*, respondent judge, because of "familiarity" with accused's counsel, granted the motion for reduction of bail without notice to complainant, the private prosecutor and husband of the private complainant in the case. Respondent judge also granted the motion without the conformity of Prosecutor Constantino C. Tubilleja, the trial prosecutor assigned to Branch 30.
2. In Criminal Case No. 49222 entitled *People v. Pampag*, Criminal Case No. 45575 entitled *People v. Tuburan*, and Criminal Case No. 45060 entitled *People v. Hormina*, respondent judge rendered erroneous decisions because he erred in the appreciation of the evidence presented before the court.
3. Respondent judge rendered decisions beyond the mandatory 90-day period. In *People v. Tuburan*, submitted for decision on 16 August 1999, respondent judge promulgated his decision on 19 January 2000 or after a lapse of five months and three days. In *People v. Hormina*, submitted for decision on 21 June 1999, respondent judge promulgated his decision on 13 January 2000 or after a lapse of six months and twenty-two days.
4. On 29 October 1999, respondent judge invited complainant to his chambers and called complainant a "swindler." Complainant surmised that this was because he "caricatured" respondent judge

and the public prosecutor in his motion for reconsideration in *People v. Pampag*.<sup>[2]</sup>

5. Respondent judge does not wear his black robe during court sessions.
6. Respondent judge intervenes "too thickly" during the cross-examination of witnesses by complainant.
7. Respondent judge uniformly overrules complainant's objections, while uniformly sustaining objections of the public prosecutor.
8. Finally, respondent judge keeps on referring to the stenographer questions on matters that transpire during the court hearings.

In his Comment<sup>[3]</sup> dated 23 February 2001, respondent judge controverted the allegations against him as follows:

1. In *People v. Alias Gamay Cruza Balle*, respondent judge admitted that he knows accused's counsel but this was not the reason why he granted the motion for reduction of bail. Respondent judge stated that accused's counsel pointed out that the accused, being a minor offender, could be released on recognizance. However, accused's counsel opted to move for a reduction of bail to secure his immediate release. Respondent judge also stated that the motion was submitted with the conformity of Prosecutor Jeremy Bionat, who was duly authorized by City Prosecutor Efrain Baldago to act on petitions for reduction of bail.<sup>[4]</sup>
2. In *People v. Pampag*, *People v. Tuburan*, and *People v. Hormina*, which were all appealed to the Court of Appeals, respondent judge believed that it is up to the Court of Appeals to determine the validity of his analysis and conclusions of the evidence presented in these cases.

Respondent judge also pointed out that in *People v. Pampag*, complainant was "not all together candid and honest with his complaint." Complainant made it appear in the complaint that respondent judge's decision placed the value of the necklace at P15,000, as alleged in the information. According to respondent judge, the decision clearly stated that the value of the necklace was P1,000.<sup>[5]</sup> Complainant also claimed that respondent judge "almost" sent the accused to prison for six years and one day to ten years. Respondent judge considers this as "malicious" because this was not the penalty imposed by the court.<sup>[6]</sup>

3. In *People v. Tuburan* and *People v. Hormina*, respondent judge admitted that the decisions in these cases were promulgated beyond the 90-day period. Respondent judge explained that he was already loaded with complicated civil cases when these cases were submitted for decision. He also claimed that his staff did not inform

him that these two cases had already been submitted for decision. However, respondent judge accepts full responsibility for the delay and does not blame anyone for his shortcomings.

4. Respondent judge denied that he invited complainant to his chambers and that he called complainant a "swindler."
5. On the charge that he does not wear the black robe during court sessions, respondent judge attributed this to his "thyrotoxicosis" which causes excessive sweating, resulting to an imbalance of electrolytes in the muscles manifested by a sudden loss of muscle function.<sup>[7]</sup> Respondent judge, therefore, tries to avoid possible conditions that may subject him to excessive sweating, like wearing the black robe during trial, as it may aggravate his ailment. He also claimed that he consulted with then Court Administrator Meynardo A. Tiro ("Court Administrator Tiro") and Justice Ernani C. Paño on this matter. Court Administrator Tiro allegedly advised him that "he does not need to wear the robe if it will be unhealthy for him."<sup>[8]</sup> He also stated that the Court did not send him his black robe even if he sent his measurements.
6. Respondent judge denied that he intervenes during the cross-examination of witnesses by complainant.
7. On the objections that he overruled, respondent judge explained that he overruled them because they did not conform to the Rules of Court.
8. On the allegation that he keeps referring to the stenographer on matters relating to the proceedings during trial, respondent judge pointed out that this is because the stenographer is the one in charge of recording the whole proceedings during trial.

Respondent judge concluded that complainant filed the administrative case against him because his rulings were against the interest of complainant, particularly the granting of the motion to reduce bail. Respondent judge also asked the Court that sanctions be imposed on complainant for conduct and language unbecoming of an officer of the court because of the "colorful language" used in the complaint and the way he "manipulates" his arguments.

In a Resolution dated 6 May 2002, the Court ordered the re-docketing of the case as an administrative matter.

In a Resolution dated 19 February 2003, the Court required the parties to manifest within 10 days from notice if they were willing to submit the case for resolution based on the records on file.

In March 2003, respondent judge filed a Manifestation and Motion for Extension of Time to file additional comments on the complaint. In a Resolution dated 21 April 2003, the Court noted and granted his motion.

In a Manifestation dated 8 April 2003, respondent judge submitted a medical certificate issued by Dr. Rolando Jardeleza. The medical certificate stated that in 1986, respondent judge was diagnosed to have "hyperthyroidism (Grave's Disease) with episodes of Hypokalemic paresis due to hyperthyroidism."<sup>[9]</sup> Respondent judge also attached the Decision of the 16th Division of the Court of Appeals in People v. Tuburan, where his decision was affirmed.<sup>[10]</sup> He also manifested that People v. Hormina and People v. Pampag were still pending before the Court of Appeals. The Court noted the additional documents submitted by respondent judge in a Resolution dated 16 June 2003.

In a letter dated 12 January 2004, complainant informed Court Administrator Presbitero J. Velasco, Jr. that he has not received the comment of respondent judge on his complaint. The Court noted the letter in a Resolution dated 10 March 2004. On 10 January 2005, the Court forwarded a copy of respondent judge's comment to complainant, which he received on 31 January 2005.

In a Resolution dated 10 August 2005, the Court reiterated its 19 February 2003 Resolution and required both parties to manifest within 10 days from notice if they were willing to submit the case for resolution based on the records on file.

In a Compliance dated 5 October 2005, complainant manifested that he was submitting the case for resolution. However, complainant reiterated that respondent judge be "discharged" from the judiciary for concealing his "thyrotoxicosis," which complainant now calls "Black Robe Allergy," from the Court when he applied for judgeship and because "a judge with sick thyroid glands will, inevitably, issue sick orders and judgments."<sup>[11]</sup>

On 7 October 2005, respondent judge submitted a Manifestation and Motion for Leave to File Additional Affidavits. In a Resolution dated 16 November 2005, the Court noted and granted respondent judge's motion. On 27 October 2005, respondent judge filed another Manifestation and Motion for Leave to File Additional Evidence based on complainant's Compliance. Respondent judge manifested that he will file a complaint for suspension or disbarment against complainant as a counter charge.

On 10 November 2005, respondent judge submitted the joint affidavit<sup>[12]</sup> of Myra Gregorios ("Gregorios"), Court Interpreter, and Jeanne Guardiana ("Guardiana"), Court Stenographer III, to prove that he never invited complainant to his chambers and that he did not call complainant a "swindler."

Complainant filed his Comment, dated 24 November 2005, to respondent judge's manifestation and motion. Complainant contends that the joint affidavit of Gregorios and Guardiana was self-serving because members of respondent judge's staff executed it.

### **The Recommendation of the Office of the Court Administrator**

In its Report<sup>[13]</sup> dated 28 February 2002, the Office of the Court Administrator (OCA) recommended that respondent judge be held liable for delay in the

promulgation of the decision in *People v. Tuburan* and *People v. Hormina* and fined P3,000. The OCA also recommended that respondent judge be directed to wear the judicial robe in his courtroom, otherwise he would be held administratively liable for violation of a lawful order of the Court. The OCA's Report reads:

With respect to the charge of delay, respondent admits to the delay in rendition of judgment in the subject cases.

The Court time and again has pronounced that delay in resolving motions and cases pending before a judge's sala within the reglementary period of ninety (90) days fixed by the Constitution and the law is not excusable and should not be condoned. Respondent [j]udge should therefore be reminded that assumption of judicial office casts upon him duties and restrictions peculiar to his position. He should be faithful to the law and maintain professional competence, dispose of the court's business promptly and decide cases within the required period. (*Report on the Judicial Audit and Physical Inventory of the Cases in RTC, Branch 138, Makati City, Administrative Matter No. RTJ-94-4-156, 13 March 1996*)

In the present case, the respondent [j]udge was fully aware of the courts' condition which adversely affected the disposition of cases in his court. Therefore he could have seasonably requested an extension of time to decide said cases citing the reasons thereto if he could not comply with the mandate. But he failed to do so.

On the issue of granting the reduction of bail without the [public] prosecutors' opposition, suffice it to say that the [public] prosecutor could have objected to the reduction upon resumption of [the] hearing on the case. He did not. Respondent [judge] cannot now be faulted for the lapse of the public prosecutor.

*Administrative Circular No. 25 dated 9 June 1989* requires all judges to wear the black robe during court sessions to heighten public consciousness on the solemnity of judicial proceedings. Although respondent [judge] claims to have sought exemption from the rule from then Court Administrator Tiro, there seems [to be] no reason why he should consider himself excused now. If respondent is still suffering from "thyrotoxicosis" he should submit a medical certificate to buttress his claim considering that he has not been wearing the black robe since 1989.<sup>[14]</sup>

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

#### **On Respondent Judge's Undue Delay in Rendering Judgments**

The Constitution mandates all lower court judges to decide cases within the reglementary period of 90 days from the time the case is submitted for decision.<sup>[15]</sup> The Code of Judicial Conduct also directs judges to "dispose of the court's business promptly and decide cases within the required periods."<sup>[16]</sup> Furthermore, the New