

THIRD DIVISION

[A.M. NO. RTJ-06-1997 (FORMERLY OCA I.P.I. NO. 05-2263-RTJ), October 23, 2006]

ATTY. JESUS R. DE VEGA, COMPLAINANT, VS. JUDGE FATIMA G. ASDALA, REGIONAL TRIAL COURT, BRANCH 87, QUEZON CITY, RESPONDENT.

RESOLUTION

QUISUMBING, J.:

On May 3, 2005, complainant Atty. Jesus R. De Vega filed with the Office of the Court Administrator (OCA) a letter-complaint^[1] charging respondent Judge Fatima G. Asdala, Presiding Judge of the Regional Trial Court (RTC) of Quezon City, Branch 87, with gross negligence and inexcusable inefficiency, for issuing an erroneous order in Civil Case No. Q-03-50263 and for delay in the disposition of the case.

Complainant alleged that on July 16, 2004, respondent judge issued an Order dismissing his appeal from the decision of the Metropolitan Trial Court (MeTC) of Quezon City, Branch 31, in Civil Case No. Q-01-43445. Subsequently, on March 2, 2005, respondent judge issued another Order, which reads in part:

Considering that the Order of this Court dated July 16, 2004 has become final and executory, let the whole records of this case be remanded to the court *a quo* for appropriate action.

SO ORDERED.^[2]

Complainant filed omnibus motions for reconsideration of the March 2, 2005 Order and for explanation for its issuance. He alleged that the Order was misleading and false since the case had not yet attained finality. Complainant added that he had timely filed a petition for review with the Court of Appeals on August 9, 2004 assailing respondent judge's July 16, 2004 Order and furnished respondent judge a copy thereof. In fact, the Court of Appeals granted the petition on April 11, 2005.

Complainant alleged that respondent judge did not immediately rectify the erroneous order nor discipline the erring court personnel who prepared it. This only showed, according to complainant, that respondent judge was incompetent in supervising her court personnel. Finally, complainant alleged that respondent judge committed serious delay in the disposition of the cases since it took respondent judge eight months to decide his case.

Complainant prayed that respondent judge be held liable for gross negligence and inexcusable inefficiency in the performance of her duties as RTC judge.

In her Comment dated July 11, 2005, Judge Fatima G. Asdala vehemently denied

the charges against her and averred that the instant complaint was malicious and aimed only to harass her. Acting on the omnibus motions, respondent found that the court was indeed furnished with a copy of the petition for review of the July 16, 2004 Order, but the receiving clerk did not give it to the acting clerk of court who was primarily responsible for notifying the respondent judge. Instead, it was given to Rowena Agulo who was in charge of civil cases, who failed to attach it to the records of the case. She maintained that she should not be blamed for the court personnel's negligence. She said that despite the adoption of a case flow management system, her staff was still negligent and had occasionally misplaced pleadings and files. Respondent judge contended that had a copy of the petition for review been attached to the records, she would not have issued the March 2, 2005 Order. To rectify the same, respondent issued an Order dated June 22, 2005 recalling and setting aside the March 2, 2005 Order and directed Rowena Agulo to explain her negligence.

Respondent judge maintained that complainant should have resorted to judicial remedies rather than an administrative complaint. Besides, the March 2, 2005 Order did not prejudice complainant. Respondent judge asserted that the instant complaint was a mere afterthought, because if there was indeed a delay in rendering judgment, complainant should have filed his complaint even before the Court of Appeals ruled in his favor.

Respondent countered that complainant should be disbarred for instituting such frivolous complaint, using impolite words and for displaying lack of candor and fairness in violation of the Code of Professional Responsibility.

In the agenda report dated April 18, 2006, Senior Deputy Court Administrator Zenaida N. Elepaño of the OCA submitted an evaluation of the case. The OCA did not find sufficient grounds to hold respondent liable for gross inefficiency (1) in issuing an order declaring the judgment in Civil Case No. Q-03-50263 final and executory while there was a pending petition for its review before the Court of Appeals; and (2) for lack of close and effective disciplinary supervision and control over her staff. Likewise, the OCA found that the records did not show that there was delay in the resolution of the case pursuant to Section 7(c), Rule 40 of the Revised Rules of Court.^[3]

Nonetheless, the OCA recommended that respondent be reprimanded for issuing an erroneous order and be warned that repetition of the same or similar acts shall be dealt with more severely.

On the other hand, the OCA dismissed the respondent judge's countercharges of violation of the Code of Professional Responsibility against complainant.

We agree with the OCA as to its findings but not with its recommended penalty.

Complainant faults respondent judge for (1) issuing an erroneous order; (2) lack of close and effective disciplinary supervision and control over her court personnel; and (3) apparent serious undue delay in the disposition of Civil Case No. Q-03-50263.

In *De Guzman v. Pamintuan*,^[4] we held that an administrative complaint is not the appropriate remedy for every irregular or erroneous order or decision issued by a