

FIRST DIVISION

[**A.M. NO. MTJ-06-1660 (FORMERLY A.M. OCA IPI NO. 04-1519-MTJ), November 30, 2006**]

**SPOUSES TREFIL AND LINA A. UMALE, COMPLAINANTS, VS.
JUDGE NICOLAS V. FADUL, JR., MUNICIPAL TRIAL COURT,
PAGSANJAN, LAGUNA, RESPONDENT.**

RESOLUTION

CALLEJO, SR., J.:

The instant administrative matter stemmed from the Complaint^[1] filed by the spouses Trefil and Lina Umale, charging Judge Nicolas V. Fadul, Jr., Municipal Trial Court, Pagsanjan, Laguna, with serious neglect of duty, partiality, and gross ignorance of the law.

The antecedents, as well as the allegations in the complaint, are summarized by Executive Judge Maryann E. Corpus-Manalac, Regional Trial Court, Santa Cruz, Laguna (to whom the case was assigned for investigation, report and recommendation) as follows:

The complaint stemmed from respondent's Order dated December 4, 2002 suspending indefinitely the proceedings in seven (7) criminal cases for violation of BP 22 filed before his *sala* by herein complainants against one Hung Ching Ming docketed as Criminal Cases Nos. 4709-4710 and 4745-4749. The **order of suspension** came as a result of the parties' joint oral manifestation of a compromise agreement.

When Hung Ching Ming's counsel failed to draft the compromise agreement, herein complainants filed a **Motion, dated January 15, 2003**, for the early decision of the subject criminal cases. Because of the inaction of respondent judge on this motion, the complainants filed a **second motion for early resolution dated July 10, 2003**, and eventually on August 27, 2003 filed a **Motion for Inhibition and Disqualification** of respondent. As of the filing of the instant administrative charge, none of the subject motions were acted upon.

From the foregoing factual backdrop, complainants charged the respondent judge with the aforementioned administrative offenses, contending that:

1. The indefinite suspension of the proceedings in the subject criminal cases upon mere verbal manifestation of the parties of settlement instead of requiring the parties to submit the compromise agreement, constitute ignorance of the law, bias and prejudice against herein complainants;

2. [To] further support the claim of bias and prejudice of the respondent judge, complainants cited an alleged instance when complainant Trefil Umale went to the latter's sala to inquire on the status of the motions but respondent allegedly confronted her in a "loud voice overheard by many court employees."
3. The failure of the respondent to act on the two motions for early decision dated [January] 15 and July 10, 2003 as well as the motion for inhibition and disqualification beyond the 90-day period constitute gross neglect of duty;^[2]

Thus, the instant complaint centers on three motions filed by complainants in Criminal Cases Nos. 4709-4710 and 4745-4749, which respondent failed to act upon:

- (1) Motion for Early Decision dated 15 January 2003;
- (2) Motion for Immediate Resolution dated 10 July 2003; and
- (3) Motion for Inhibition or Disqualification filed on 27 August 2003.

In his Comment,^[3] respondent judge denied the allegations against him. He explained that it was the parties themselves who manifested that the proceedings be suspended after they agreed to talk about the civil aspect of the case, thus, he issued the Order^[4] dated December 4, 2002. Respondent judge pointed out that the suspension of the proceedings was made with the conformity of the public prosecutor, and that he had offered his chambers for the parties' use while he was hearing other cases. He was merely waiting for an appropriate legal move from the complainants to proceed with the case. He stressed that the defense had not yet terminated its presentation of evidence, and as such, it would not have been proper for him to act on the motion for early resolution.

To disprove the charge of bias and partiality, respondent judge pointed out that he had granted complainant's oral motion to strike the direct testimony of the accused when the latter failed to appear for continuation of his testimony. As to his alleged serious neglect of duty, respondent judge alleged that he is handling five *salas* and personally hears almost 2,000 cases, coupled with the constraint of limited court attendance of the public prosecutor who is available only for two (2) days a month. Hence, his delay in acting on the subject motions are for reasons attributable not solely to him.

During the hearings before Executive Judge Corpus-Manalac, respondent judge was initially directed to file an additional comment or answer to the complaint within ten (10) days from notice. Initial hearing was set on September 13, 2005. However, respondent judge failed to appear on the said date, and hearing was reset to September 27, 2005. On this date, respondent judge manifested that he was adopting his comment as his answer. On the other hand, complainant's counsel manifested that he had no witness to present since complainant Trefil Umale was in the United States, and thus, rested its case. The hearing for reception of evidence in respondent judge's favor was reset to October 12, 2005, during which complainant's counsel formally manifested that the charges against respondent judge were being withdrawn. Respondent judge welcomed this development and opted not to proceed

with the presentation of counter-evidence. Thus, the Executive Judge made the following findings:

As admitted by respondent, he incurred delay in resolving the motions pending before his sala way beyond the 90-day period fixed by the Constitution and the law. His explanation – that the two (2) motions for early decision are erroneous pleadings – does not absolve him from nonetheless acting on the same within the 90-day deadline, since he simply had to deny it and proceed with the reception of the defense' evidence as he claimed to be proper. On the other hand, the alleged unavailability of the public prosecutor and the volume of cases pressing his attention, granting them to be true, are hardly acceptable to exempt him from being prompt in resolving the pending incidents. The reasons he cited could have earned merit had he sought an extension of time to rule on the motions. x x x

x x x x

Be that as it may, a review of the record bears no trace of ignorance of the law, bias and partiality on the part of respondent to warrant an administrative sanction on that score.

It is noted from the complaint itself that the Order of suspension dated December 4, 2002 was an offshoot of complainant's own oral manifestation of a compromise settlement. If they, indeed, did not agree to the suspension of the proceeding, they should have timely moved for its reconsideration. Records show that it was only when the intended settlement failed that the complainants moved for early decision of the criminal cases, and belatedly prayed for the setting aside of the suspension order.

While complainants attribute error and irregularity in the questioned order, allegedly being tainted with bias and partiality, they miserably failed to prove the same. On the contrary, they withdrew their charge against respondent. Though in principle the said withdrawal does not terminate this administrative case, the same stripped the record of a persuasive showing that, indeed, respondent was motivated by bias in issuing the order of suspension and in failing to act on the subject motions. Mere failure to act on the motions within the prescribed period does not connote bad faith and partiality. Malice and bias are never presumed. The complainants have the burden of proving the allegations in the complaint with substantial evidence. In the absence thereof, charges of bad faith, bias and partiality based on mere suspicion and speculation cannot be given credence.

Recommendation

Whereof, it is respectfully recommended that:

1. The instant complaint for Gross Ignorance of the Law, Bias and Partiality and Serious Neglect of Duty against respondent be dismissed;