

## THIRD DIVISION

**[ A.M. NO. RTJ-03-1785 (FORMERLY OCA IPI NO. 02-1409-RTJ), March 10, 2005 ]**

**DANILO ESPINELI, COMPLAINANT, VS. JUDGE DOLORES L. ESPAÑOL, RTC, BRANCH 90, DASMARIÑAS, CAVITE, RESPONDENT.**

### RESOLUTION

**CORONA, J.:**

This is a complaint for gross inefficiency, neglect of duty and dishonesty/falsification of 'certificate of non-pending case,' filed by Danilo Espineli against Judge Dolores L. Español<sup>[1]</sup> of Branch 90 of the Regional Trial Court (RTC) of Dasmariñas, Cavite.

In his letter-complaint, Espineli averred that he was the accused in a murder case that was tried before the branch presided by respondent judge. After the prosecution rested its case, Espineli's lawyer filed a demurrer to evidence on March 8, 1999, without leave of court. Respondent judge ordered the assistant provincial prosecutor to file his comment to the demurrer within ten days. She then set the continuation of the trial of the case on April 19, 1999.

On the date of the hearing on April 19, 1999, respondent judge ordered that the case be considered submitted for decision in view of the demurrer to evidence submitted, without leave of court, by the accused's counsel. However, after accused's counsel left the courtroom, Espineli arrived with his NBI escorts so respondent judge set aside her previous order, reopened the case and set it for hearing on May 19, 1999. She decided the case on August 31, 1999, convicting the accused Espineli (complainant herein).

On October 8, 1999, Espineli filed a motion for reconsideration of the decision but it remained unresolved as of June 19, 2001.<sup>[2]</sup> Respondent judge averred that she did not act on it because she was still waiting for the comment of the prosecution.

Espineli surmised that respondent judge falsified her certificate of service by not indicating that there was, in her branch, a matter that remained unresolved even beyond the 90-day period set by law, for otherwise she could not have collected her salary.

In her letter dated January 7, 2002, respondent judge explained that the delay in the resolution of the motion for reconsideration was not intentional. She said that the delay was merely an oversight "which could be attributable to the maze of record that could not be properly kept, managed and reviewed considering the limited space being occupied by the court and its staff."<sup>[3]</sup> She further alleged that she could not act on the accused's motion because the prosecution had not yet filed its comment.

In its re-evaluation of Espineli's complaint against respondent judge, the Office of the Court Administrator (OCA) found the latter guilty of inefficiency and recommended that she be fined in the amount of P20,000.

We agree, with modification of the fine.

As correctly discussed by the OCA, when an accused files a demurrer to evidence without leave of court, the accused waives his right to present evidence and submits the case for judgment on the basis of the evidence submitted by the prosecution.<sup>[4]</sup> From March 8, 1999 when the demurrer was filed without leave of court by counsel for the accused, the case was already deemed submitted for decision although the court could require the prosecution to comment on or oppose the demurrer.

Respondent judge, however, set the case for hearing first on April 19, 1999 and then May 19, 1999. But it was not shown whether the setting was to hear the opposition of the prosecution or to hear the evidence for the defense.

Assuming that it was to hear the prosecution, then the case should have been considered submitted for decision on May 19, 1999. Respondent judge decided the case only on August 31, 1999 which was more than three months from May 19, 1999 or more than five months from March 8, 1999 when the demurrer was filed.

On October 4, 1999, accused Espineli moved for a reconsideration of the decision of conviction. But as of June 19, 2001, the motion had not yet been resolved. Respondent judge explained that she could not act on the motion because she was still waiting for the comment of the prosecution and the "working conditions (in her court were so) inadequate (and) unimaginable." We find her excuse flimsy and unacceptable.

The Constitution provides that all cases or matters filed before lower courts must be decided or resolved within three months from the date they are submitted for decision or resolution.<sup>[5]</sup> Rule 1.02, Canon 1 of the Code of Judicial Conduct requires that "a judge should administer justice without delay." Rule 3.05 thereof provides that "a judge shall dispose of the court's business promptly and decide cases within the required periods." A judge is mandated by the Constitution to render judgment and resolve pending incidents not more than 90 days from the time the case is submitted for resolution.<sup>[6]</sup>

No amount of explanation can justify respondent's failure to decide the case beyond the 90-day period prescribed by law and to resolve the motion for reconsideration for 23 months. The noble office of a judge is to render justice not only impartially, but expeditiously as well, for "delay in the judiciary lowers its standards and brings it into disrepute."<sup>[7]</sup>

On the charge of dishonesty/falsification of respondent judge's certificate of service, no evidence at all was submitted by complainant. Hence, the same has to be dismissed.

We note, however, that this is not respondent judge's first infraction of the rules and the Code of Judicial Conduct. In A.M. No. OCA IPI 98-523-RTJ (*Atty. Rexie Efren*