

## SECOND DIVISION

[ **A.M. No. MTJ-02-1448 [Formerly OCA IPI No. 01-1136-MTJ], March 25, 2004 ]**

**ATTYS. JOSE B. JOSON AND ANTHONY L. PO, PETITIONERS, VS.  
JUDGE BELEN B. ORTIZ, METC-BR. 49, CALOOCAN CITY,  
RESPONDENT.**

### DECISION

**TINGA, J.:**

Attys. Jose B. Sison and Anthony L. Po, counsel for the plaintiff in Civil Case No. 00-25537, "*Perlinda Lim Yeung and Yeung Yan Seu v. Salvador Brecilla*," for ejectment and damages before the Metropolitan Trial Court, Branch 53, Caloocan City (MeTC-Br. 53), in their verified *Complaint* dated 15 March 2001 charged respondent Judge Belen B. Ortiz, Presiding Judge, MeTC-Br. 49, Caloocan City, and Pairing Judge of MeTC-Br. 53 of the same court, with *Gross Inefficiency and Violation of the Code of Judicial Conduct*, particularly Rules 3.08 and 3.09 thereof.

Specifically, complainants alleged that —

(a) Respondent Judge cancelled the preliminary conference scheduled on 27 September 2000 on the bare manifestation of defendant's counsel that his brother "had already died," and reset the conference to 15 November 2000 "for the last time" despite the objection of plaintiff's counsel;

(b) The preliminary conference as reset was again cancelled without any notice whatsoever in view of the alleged attendance of respondent Judge in a seminar;

(c) Respondent Judge never bothered to send an order in reference to the ten (10)-day period she gave during the preliminary conference on 6 December 2000 to submit position papers;

(d) Respondent Judge, despite the expiration on 16 December 2000 of the 10-day period to submit position papers with only plaintiff submitting one, failed to decide the case for more than three (3) months after it was submitted for decision;

(e) The inaction of respondent Judge prompted them to file on 6 March 2001 a *Manifestation and Motion to Resolve and Render Decision in Civil Case No. 00-25537* and it was only then that respondent Judge acted by issuing an Order to the effect that the case could not be considered as submitted for decision yet on 164 December 2000 since there was no proof that the defendant had already received copy of her Order dated 6 December 2000; and

(f) The complainants received a copy of the Order dated 6 December 2000 on 14 March 2001 which was only mailed on 8 March 2001, which made them conclude

that the order must have been either antedated or respondent Judge was grossly inefficient in failing to supervise her court staff that failed to send out her order promptly, if that be the case.

In her *Comment* dated 6 June 2001, respondent Judge claimed that as to the cancellation of the preliminary conference on 27 September 2000,<sup>[1]</sup> Atty. Ariel de Guzman, who appeared in place of Atty. Po, did not object to a resetting when defendant's counsel manifested that he was not mentally prepared to proceed with the conference as he had just received a long distance call informing him of the death of his brother. Hence, she contended that complainants could not claim that she cancelled the preliminary conference over the objection of plaintiff's counsel.

As to the 15 November 2000 setting of the preliminary conference, respondent Judge averred that the cancellation was due to an unexpected call to an emergency meeting of the Board of Directors of the Metropolitan and City Judges Association of the Philippines, of which she is a member. According to her, there was no time to inform complainants about the cancellation since Atty. Po did not leave any telephone number through which he could be reached.

Respondent Judge also denied that her subject *Order* was antedated considering that it was given in open court during the preliminary conference on 6 December 2000. She maintained that it was mere oversight on the part of the staff of MeTC-Br. 53, Caloocan, in failing to send out copies of her order immediately after it was issued, and that such oversight was neither intentional nor attended with malice. She contended that she cannot be faulted for relying on the court employees to prepare her order, present it to her for her signature, and thereafter send it out to the parties considering her numerous tasks as Executive Judge, Presiding Judge of Branch 43, and Pairing Judge of both Branches 50 and 53.

With respect to her alleged failure to decide the case for more than three (3) months after it was allegedly submitted for decision, respondent Judge alleged that the case had not yet even been submitted for decision at the time complainants filed on 6 March 2001 their *Manifestation and Motion to Resolve and Render Decision in Civil Case No. 00-25537* since copies of her Order dated 6 December 2000 anent the preliminary conference had not yet even been sent out and received by the parties.

On 26 March 2001, respondent Judge voluntarily inhibited herself from hearing and deciding the case and it was eventually re-raffled to Branch 51.

In its *Report*<sup>[2]</sup> dated 15 May 2002, the Office of the Court Administrator (OCA) recommended that this case be dismissed for lack of merit but that respondent Judge be advised to be more careful in the performance of her duties.

The Court, in its *Resolution* of 13 January 2003 directed the OCA to conduct a complete investigation of the complaint and submit its report and recommendation within a non-extendible period of thirty (30) days from receipt of notice thereof. This was done after due consideration of the seriousness of the allegations of inefficiency, antedating of a court order and violation of the Code of Judicial Conduct. Also, dismissing the complaint is too lenient considering that there are factual issues that are as yet to be determined, such as the following:

(1) Proof of the emergency meeting of the Board of Directors of the Metropolitan and City Judges Association of the Philippines which respondent Judge allegedly attended;

(2) The nature of the "emergency," which necessitated the cancellation of the scheduled preliminary conference which was supposedly "for the last time;"

(3) The measures taken by respondent Judge in determining who was or were responsible for the belated release of subject Order dated 6 December 2000; and,

(4) The administrative sanction taken against the erring employee or employees, if any.

The Court, in its 26 March 2003 *Resolution*, upon recommendation of the OCA in its 24 February 2003 Memorandum, referred the instant administrative case to Honorable Silvestre H. Bello, Jr., Executive Judge, Regional Trial Court, Caloocan City for investigation, report and recommendation within sixty (60) days from receipt of records.

On 9 September 2003 Deputy Court Administrator Christopher O. Lock indorsed to Atty. Tomasita M. Dris, Clerk of Court of this Court's Second Division, the sealed *Report* submitted by Executive Judge Silvestre H. Bello, Jr., together with the complete records of subject case. The recommendation of Executive Judge Bello, Jr. recommended thus:

We submit that the benefits of a mitigated liability be afforded the respondent Judge Belen B. Ortiz. That the case against her be DISMISSED but she would be WARNED to be more judicious in the supervision of her court personnel.

The Court deems it necessary to rule on the allegations set forth in the complaint notwithstanding complainants' manifestation during the investigation conducted by Executive Judge Bello, Jr. that they were no longer interested in pursuing their complaint.

It was no less than the Executive Judge herself who cited *Judge Cabatingan v. Judge Arcueno*<sup>[3]</sup> where this Court ruled that "[a] simple expediency such as a complainant's change of mind followed by a withdrawal of the complaint would not result in the automatic dismissal of the case."<sup>[4]</sup> Moreover, the following exposition strongly militate against the exoneration of the respondent Judge.

*First.* To the cancellation of the preliminary conference set on 15 November 2000, respondent Judge offered as an explanation the emergency meeting of the Board of Directors of the Metropolitan and City Judges Association of the Philippines (MCJAP), of which she is a member. In her position paper, she maintained that the purpose of the emergency meeting was "to conduct a final check and verification on the logistical/manpower arrangements, program, speakers, etc. for the three-day convention and seminar of the MCJAP which was due to start the following day, 16 November 2000 at the Century Park Sheraton Hotel."<sup>[5]</sup> The Court, however, finds that the proffered purpose or nature of the "emergency" does not justify the cancellation of a scheduled hearing in the respondent Judge's sala. She must be reminded that her duty to the court and the public is more important than attending