

FIRST DIVISION

[A.M. No. MTJ-02-1453, April 29, 2003]

EDITHA PALMA GIL, COMPLAINANT, VS. JUDGE FRANCISCO H. LOPEZ, JR., MUNICIPAL CIRCUIT TRIAL COURT, LUPON, DAVAO ORIENTAL, RESPONDENT.

R E S O L U T I O N

YNARES-SANTIAGO, J.:

A magistrate should dispose of the court's business promptly and decide cases within the required periods. Delay in the disposition of cases erodes the faith and confidence of the public in the institution of justice, lowers its standards and brings them into disrepute. Every judge must cultivate a capacity for quick decision; he must not delay the judgment which a party justly deserves. The public trust reposed in a judge's office imposes upon him the highest degree of responsibility to promptly administer justice.^[1]

In an Affidavit-Complaint^[2] dated October 30, 2001, complainant Editha Palma Gil charged respondent Judge Francisco H. Lopez, Jr. of the Municipal Circuit Trial Court of Lupon, Davao Oriental, with Manifest Bias and Partiality, Undue Delay in the Disposition of Case and Ignorance of the Law.

Complainant alleged that she is the defendant in Civil Case No. 1110 for Forcible Entry and Damages with Preliminary Prohibitory and Mandatory Injunction, entitled "*Carlos Palen, Sr., Plaintiff versus Editha Palma Gil, Defendant,*" pending before the sala of respondent judge; and that respondent failed to render judgment therein within the thirty-day period required by Rule 70, Section 11 of the 1997 Code of Civil Procedure. She further averred that on October 9, 2001, the plaintiff in the said case filed a motion for temporary restraining order, which respondent Judge granted on the same day, despite procedural defects therein such as the lack of a verification, bond, and service of summons, all in violation of Rule 58, Section 4 of the 1997 Rules of Civil Procedure. Complainant further assails the manner in which the temporary restraining order was implemented with the assistance of policemen.

In his Comment dated March 1, 2002, respondent judge denied that there was a deliberate and unreasonable delay in the resolution of Civil Case No. 1110. He alleged that aside from his court, he had to hear the cases in the municipal courts in Governor Generoso and San Isidro, Davao Oriental due to the inhibition of the presiding judges therein. Moreover, he alleged that the legal and factual issues raised in Civil Case No. 1110 are complicated. Anent the alleged issuance of a temporary restraining order, respondent claims that what he issued was a *status quo* order because complainant's men entered the land in dispute and attempted to prevent the harvesting of palay by plaintiff. Finally, respondent states that he had to seek the assistance of the police to implement the order because his court had no regular sheriff and because there were armed guards employed by both parties. ^[3]

In compliance with our Resolution dated August 14, 2002,^[4] both parties manifested their willingness to submit the case on the basis of the pleadings filed.^[5]

After evaluation, the Office of the Court Administrator (OCA) found respondent guilty of delay in the rendition of judgment in Civil Case No. 1110 and erred in issuing a temporary restraining order despite procedural defects. Hence, it recommended that respondent be fined in the amount of Ten Thousand Pesos (P10,000.00).

We agree with the findings of the OCA, however, we find the recommended penalty to be not commensurate with the gravity of respondent's misdeeds.

The reasons proffered by respondent judge, i.e., that he had to hear cases in the other courts, will not excuse his delay in deciding Civil Case No. 1110.^[6] If he felt that he could not decide the case within the reglementary period, he should have asked for a reasonable extension of time to decide the same.^[7]

The office of a judge exists for one solemn end – to promote the ends of justice by administering it *speedily* and impartially. The judge as the person presiding over that court is the visible representation of the law and justice.^[8] Failure to resolve cases submitted for decision within the period fixed by law constitutes a serious violation of the constitutional right of the parties to a speedy disposition of their cases.^[9]

Rules 1.02 of Canon 1 and 3.05 of Canon 3 of the Code of Judicial Conduct state:

Rule 1.02. – A judge should administer justice impartially and ***without delay***. (Emphasis ours)

Rule 3.05. – A judge shall dispose of the court's business ***promptly*** and decide cases ***within the required periods***. (Emphasis ours)

Moreover, SC Administrative Circular No. 13-87 provides:

3. Judges shall observe scrupulously the periods prescribed by Article VIII, Section 15 of the Constitution for the adjudication and resolution of all cases or matters submitted in their courts. Thus, all cases or matters must be decided or resolved within twelve months from date of submission by all lower collegiate courts while all other lower courts are given a period of three months to do so. . . (Emphasis ours)

Along the same vein, SC Administrative Circular No. 1-88 states:

6.1 All Presiding Judges must endeavor to act promptly on all motions and interlocutory matters pending before their courts. x x x.

Considering the summary nature of Civil Case No. 1110, which is an action for forcible entry, Rule 70, Section 11 of the 1997 Rules of Summary Procedure expressly provides:

Period for rendition of judgment. – **Within thirty (30) days** after receipt of the affidavits and position papers, or the expiration of the period for filing the same, the court shall render judgment.

However, should the court find it necessary to clarify certain material facts, it may, during the said period, issue an order specifying the matters to be clarified, and require the parties to submit affidavits or other evidence on the said matters within ten (10) days from receipt of said order. Judgment shall be rendered within fifteen (15) days after receipt of the last affidavit or the expiration of the period for filing the same.

The court shall not resort to the foregoing procedure just to gain time for the rendition of judgment. (Emphasis ours)

Thus, respondent judge is guilty of gross inefficiency for his failure to resolve and dispose of Civil Case No. 1110 within the period prescribed by the Rules. The penalty for gross inefficiency ranges from reprimand and admonition^[10] to removal from office^[11] and/or a fine.^[12]

Respondent judge likewise erred in issuing the temporary restraining order. Rule 58, Section 4 of the 1997 Rules of Civil Procedure provides:

Verified application and bond for preliminary injunction or temporary restraining order. – A preliminary injunction or temporary restraining order may be granted only when:

(a) The application in the action or proceeding is verified and shows facts entitling the applicant to the relief demanded; and

(b) Unless exempted by the court, the applicant files with the court where the action or proceeding is pending, a bond executed to the party or person enjoined, in an amount to be fixed by the court, to the effect that the applicant will pay to such party or person all damages which he may sustain by reason of the injunction or temporary restraining order if the court should finally decide that the applicant was not entitled thereto. Upon approval of the requisite bond, a writ of preliminary injunction shall be issued.

(c) When an application for a writ of preliminary injunction or a temporary restraining order is included in a complaint or any initiatory pleading, the case, if filed in a multiple-sala court shall be raffled to only after notice to and in the presence of the adverse party or the person to be enjoined. In any event, such notice shall be preceded, or contemporaneously accompanied by service of summons, together with a copy of the complaint or initiatory pleading and the applicant's affidavit and bond, upon the adverse party in the Philippines.

However, where the summons could not be served personally or by substituted service despite diligent efforts, or the adverse party is a resident of the Philippines, temporarily absent therefrom or is a nonresident thereof, the requirement of prior contemporaneous service of