

THIRD DIVISION

[A.M. No. RTJ-03-1744 (formerly OCA IPI No. 02-1425-RTJ), August 18, 2003]

PROSECUTOR ROBERT M. VISBAL, COMPLAINANT, VS. JUDGE ROGELIO C. SESCON, REGIONAL TRIAL COURT, BRANCH 9, TACLOBAN CITY, RESPONDENT.

DECISION

SANDOVAL-GUTIERREZ, J.:

In a verified letter complaint^[1] dated February 4, 2002 addressed to the Court Administrator, Prosecutor Roberto M. Visbal^[2] charged Judge Rogelio C. Sescon of the Regional Trial Court, Branch 9, Tacloban City, with undue delay in the disposition of cases, in violation of Rule 3.05, Canon 3 of the Code of Judicial Conduct. These cases are listed below:

1. Civil Case No. 2000-05-65, "Robert M. Visbal vs. Alberta Hijada" for Collection of Sum of Money
2. Criminal Case No. 90-08-356, "People of the Philippines vs. Rolando Noseñas, et al." for Robbery by the Use of Force Upon Thing
3. Criminal Case No. 99-10-513, "People of the Philippines vs. Alberta Hijada" for Libel
4. Criminal Case No. 99-09-485, "People of the Philippines vs. Alberta Hijada" for Qualified Theft

Complainant alleged that he is the plaintiff-appellant in Civil Case No. 2000-05-65 for a sum of money. On August 31, 2000, the case was submitted for decision,^[3] however, it has not been resolved by respondent.

Criminal Case No. 90-08-356 was submitted for decision on August 1, 2001,^[4] but respondent has not resolved the same up to the filing of the complaint. In Criminal Case No. 99-10-513, respondent resolved the motion for reinvestigation only after four (4) months from submission.

Finally, Criminal Case No. 99-09-485, being prosecuted by complainant, has not gone beyond the pre-trial stage.

Complainant now prays that respondent be directed to inhibit himself from hearing the cases because he can no longer be expected to be impartial in the light of the

present administrative complaint.

In his "Comment with Counter-Complaint for Disbarment"^[5] dated May 3, 2002, respondent judge denied the allegations in the complaint. He explained that he inherited Criminal Case No. 90-08-356 and Civil Case No. 2000-05-65 from his predecessors. He could not resolve Criminal Case No. 90-08-356 for lack of transcript of stenographic notes. However, he issued an order directing the stenographer concerned to submit the transcript immediately.

Concerning Civil Case No. 200-05-65, he issued an order^[6] on April 17, 2002 affirming the appealed decision.

Respondent claimed that the slight delay in the resolution of the motion for reinvestigation in Criminal Case No. 99-10-513 is not deliberate or intentional. He was misled by its caption "Manifestation of Compliance with Motion." At any rate, the delay did not anyway hamper or affect the proceedings.

In Criminal Case No. 99-09-485, respondent explained that the cause of delay was complainant's filing of numerous motions intended to harass or oppress the accused.^[7]

Respondent averred that his administrative case is the offshoot of his orders granting accused Hijada's motion to reduce bail and denying complainant's motion to impose appropriate sanction on counsel for the accused.^[8] Respondent maintained that complainant purposely filed this administrative complaint as a leverage so he could obtain favorable decisions in Civil Case No. 2000-05-65, Criminal Case No. 99-10-513 and Criminal Case No. 99-09-485.

Respondent judge also alleged that complainant is well-known, not only in Tacloban City but also in its neighboring towns, as a legal gadfly who has a penchant for filing administrative and criminal cases against judges, court officials or personnel, his co-prosecutors, lawyers and other public officials and employees in the Province of Leyte. Thus, judges in Tacloban and other neighboring towns shy away from hearing cases filed by him.

Respondent judge prayed that complainant be disbarred from the practice of law for violating the Code of Professional Responsibility.

In her Report,^[9] Deputy Court Administrator Zenaida N. Elepaño made the following evaluation:

"An examination of the records show that respondent Judge was remiss in the performance of his duties when he failed to decide Civil Case No. 2000-05-65; Criminal Case No. 90-08-356; and Criminal Case No. 99-10-513 within the 90-day reglementary period.

"The excuses proffered by respondent Judge that (1) Civil Case No. 2000-05-65 was only inherited by him from his predecessor-Judges and was already pending resolution when he assumed office; (2) Criminal Case No. 90-08-356 was not heard by him and there were no transcripts

of stenographic notes attached to the record; and (3) he overlooked the Motion for reinvestigation filed in Criminal Case No. 99-10-513 because the party who filed the pleading did not label it as Motion for reinvestigation but Manifestation of Compliance with motion does not exculpate him from administrative liability.

"Records reveal that Civil Case No. 2000-05-65, an appealed case, was submitted for resolution on 31 August 2000 when defendant-appellee filed her Memorandum pursuant to the directive of Atty. Jose B. Lagado, Branch Clerk of Court, RTC, Branch 9, Tacloban City in his letter dated 31 July 2000. However, it was only on 17 April 2002 or after a period of 21 months or 630 days that respondent Judge issued an Order affirming the appealed decision.

"In Criminal Case No. 90-08-356, respondent failed to resolve the Demurrer to Evidence filed by the counsel for the accused within the 90-day reglementary period. Records show that the prosecution filed its Opposition to Demurrer to Evidence on 1 August 2001. However, it was only after the lapse of nine (9) months that respondent issued an Order granting the demurrer to evidence and dismissed the subject criminal case.

"On the other hand, in Criminal Case No. 99-10-513, the fact that the party who requested for reinvestigation mislabeled the pleading is not a valid excuse for the delay in the resolution of the motion. Respondent should not have relied on the title or caption of the pleading but rather on its content."^[10]

In the same Report, Deputy Court Administrator Elepaño recommended that this case be re-docketed as an administrative matter and that respondent judge be held liable for neglect of duty for failure to decide the subject cases within the 90-day reglementary period; and, that a fine of P2,000.00 be imposed upon him with a warning that a repetition of the same or similar offense shall be dealt with more severely.

In a Resolution dated November 20, 2002,^[11] this Court directed the parties to manifest within twenty days from notice whether they are submitting the case for decision on the basis of the pleadings filed; dismissed the charge of extortion against respondent judge for being unsubstantiated; and, referred the complaint for disbarment against complainant to the Office of the Bar Confidant.

Both parties submitted the required manifestations^[12] that they are willing to have this case decided on the basis of the pleadings filed.

We agree with the findings of Deputy Court Administrator Elepaño.

This Court has consistently impressed upon members of the judiciary that failure to decide a case within the reglementary period constitutes gross inefficiency warranting the imposition of administrative sanction on the defaulting judge.^[13]