

SECOND DIVISION

[A.M. No. MTJ-03-1502 (Formerly OCA IPI No. 01-1121-MTJ), August 06, 2003]

ANASTACIO E. GAUDENCIO, COMPLAINANT, VS. JUDGE EDWARD D. PACIS, MTC, BRANCH 3, MARILAO, BULACAN, RESPONDENT.

RESOLUTION

QUISUMBING, J.:

Complainant Anastacio E. Gaudencio filed charges against respondent Judge Edward D. Pacis of the Municipal Trial Court of Marilao, Bulacan, Branch 3, for inefficiency, absenteeism and incompetence.

In a letter-complaint^[1] dated June 30, 1999 addressed to the Office of the Chief Justice, complainant states that he has a case dragging on for years before the sala of respondent. Complainant attributes the delay to respondent's "constant resetting of hearings, inefficiency, absenteeism and inexpertise in the field of law."

In his comment^[2] dated October 4, 1999, respondent characterizes the complaint to be a mere demolition job against him. Respondent avers that the alleged complainant is a fictitious person; he is neither a party nor a witness in any of the cases pending in his sala. Respondent denies having been absent, except when he attended a monthly meeting conducted by the Executive Judge of Malolos, Bulacan. He disclaims re-setting an arraignment, except when an accused has no lawyer and asks for one of his own choice. Respondent adds that the only instances when pre-trial and trial of cases are reset are when witnesses are absent, or when the public prosecutor is absent. In both cases the re-setting is always with the acquiescence of the parties, respondent states.

On the matter of his caseload, respondent explains that he has inherited 766 cases from his predecessor and that about 40 to 100 cases are added monthly. He explains that as of October 4, 1999, he had 593 pending cases, which he avers to be "very low compared to [those in] other first class municipalities."^[3] As to his schedule, he says he conducts preliminary investigations daily from Monday to Friday, subject to the availability of witnesses. For civil cases, he holds hearings on Mondays, Tuesdays and Wednesdays, or any day except Thursday, subject to the availability of the parties and counsels, or as agreed upon by both parties.

Then Court Administrator, Alfredo Benipayo, referred the complaint and respondent's comment to Executive Judge Danilo Manalastas of the RTC, Malolos, Bulacan, for investigation, report and recommendation. For the investigation, Judge Manalastas sought the assistance of Mario F. Fumera, Jr., Court Interpreter of the RTC, Branch 7, Bulacan, who posed as a representative of a litigant. The staff of respondent informed Mr. Fumera that respondent conducts preliminary investigations every Monday, Tuesday and Wednesday, hears civil and criminal cases every Thursday,

while Friday is a "free day." [4]

In a follow-up report dated October 11, 1999, the investigating judge confirmed his initial report that respondent is usually absent on Friday; he holds hearings of civil and criminal case only every Thursday, conducts preliminary investigations only in the morning of Monday, Tuesday and Wednesday, and leaves his office afterwards. Further, the investigating judge found that respondent regularly sets more than thirty cases for the once a week hearing on Thursday mornings, but only two or three of these cases are actually heard for each sitting due to time constraints. The investigating judge reported he interviewed law practitioners in Bulacan, they characterized respondent as indifferent in regard to disposing speedily cases pending before his sala. Finally, Judge Manalastas recommended an audit of cases pending before the MTC of Marilao, Bulacan, to be conducted by a team from the Office of the Court Administrator to find out the actual number of the backlog of cases in respondent's court. [5]

Deputy Court Administrator Jose Perez seconded Judge Manalastas' recommendation for the conduct of judicial audit. According to DCA Perez, said audit will lay the basis as to whether or not Judge Pacis should be held administratively liable. [6] He adds that in respondent's six years as a judge, this is not respondent's first brush with an administrative complaint. In OCA IPI No. 01-1092-MTJ entitled *Abelardo S.M. Rosales vs. Judge Edward D. Pacis*, still pending investigation, the latter was charged with Gross Ignorance of Procedure.

By order of this Court, Court Administrator Alfredo Benipayo organized an audit team to conduct a judicial audit and physical inventory of cases pending before respondent's sala. In his report dated March 10, 2000, the Court Administrator enumerates the irregularities found in respondent's sala:

- (a.1) failure to decide Civil Cases Nos. 814 to 816 within the reglementary period to decide;
- (a.2) failure to set in the court calendar or take further action after lapse of considerable period of time the following Civil Cases Nos.: 831, 811, 875, 918, 872, and 914;
- (a.3) failure to resolve the following criminal cases after the conclusion of the preliminary investigation, to wit: 99-520, 99-521, 99-558, 99-388, 99-532, 99-526, 99-529, 99-501, 99-502, 99-547, 99-548, 99-482, and 99-465 to 99-475;
- (a.4) failure to observe the guidelines set forth under paragraph no[s]. I and IV, Administrative Circular No. 3-99 dated January 15, 1999 specifically on the observance of session hours and adherence to the policy on avoiding postponements;
- (a.5) not holding court session [o]n the following dates: October 1, 8, 14, 15, 22, November 5, 12, 16, 19, 26 and December 3, 16, 17, 21, 22, 23, 27, 28, 29, all in the year 1999;

The Court Administrator also reported that respondent failed to:

x x x

- (b) Undertake the appropriate action, pursuant to Administrative Circular No. 7-A-92 dated June 21, 1993, re: Guidelines in the Archiving of Cases, on the following criminal cases with pending warrant of arrest, to wit: 99-268 to 99-270, 99-091, 99-104, 99-054, 99-082, 99-017 to 99-033, 99-258, 9983, 9534, 9964, 10005 to 10008, 99-050, 99-088, 99-218 and 99-080.^[7]

As summarized by the Court Administrator, hereunder is the corresponding explanation of the respondent:

- a. Failure to decide Civil Case Nos. 814 and 815 to 816 within the reglementary period - he stated that Civil Case No. 814 was decided on July 24, 1997 and Civil Case Nos. 815 and 816 were decided on 21 July 1997 by the then Acting Judge Amante Bandayrel.
- b. Failure to set in the court calendar or take further action after lapse of considerable period of time Civil Case Nos. 831, 811, 875, 918, 872 and 914 - Judge Pacis gave the following explanations to wit:

(b.1) In Civil Case Nos. 831, 811 and 872 which involves collection cases, the plaintiff corporation was given authority to serve the corresponding summons to the defendants.

(b.2) Anent Civil Case Nos. 875 and 918 plaintiff's representatives were given authority to cause the service of summons to the defendants.

In all the above-mentioned cases Judge Pacis reasoned out that during the time of the judicial audit and physical inventory of cases conducted, no returns have yet been made by the plaintiffs' representatives so he could not act on these cases yet.

(b.3) With regard to Civil Case No. 914 according to Judge Pacis, the same has been decided on 26 June 2000.

- c. Failure to resolve the following Criminal Cases after the conclusion of the preliminary investigation to wit: 99-520, 99-521, 99-558, 99-388, 99-532, 99-526, 99-529, 99-501, 99-502, 99-547, 99-548, 99-482 and 99-465 to 99-475 - these cases were still under preliminary investigation during the months of November and December 1999 and the accused on these cases were given ample time within which to file their respective counter-affidavits and supporting documents, accordingly, the court has to wait or defer further action on the cases before concluding the preliminary investigation.

d. Failure to observe guidelines set forth under paragraph Nos. I and IV, Administrative Circular No. 3-99 dated 15 January 1999 specifically on the observance of session hours and adherence to the policy on avoiding postponements and for unduly granting motion for postponements or repeated resetting in court calendar - these alleged infractions should not be taken against him due to the following:

(d.1) The Assistant Prosecutor assigned in his sala is available only for one-half (1/2) a day a week and only in the afternoon, and the worst part of it is that most of the time she fails to appear during the scheduled trial/hearing, thus, reducing the number of sessions in a month from two (2) days to one and one-half (1 1/2) days a month.

(d.2) There are only few practicing lawyers who appear in his court and the public attorney assigned to his court usually moves for a resetting of the trial.

(d.3) The trial/hearing were also reset by mutual agreement of the parties.

(d.4) A case has to be postponed also because the parties have not received their respective notices on time, most especially when notices were sent thru the post office.

(d.5) The Police Officers who were tasked to cause the services of the notices, subpoenas/summons are no longer given the privilege to use the free postage mailing thus the court encounters the difficulty of waiting for the return of service.

(d.6) There are also instances when court processes were served by the Process Server and returned with a notation that the addresses cannot be found at the given address or unknown within the community.

e. Relative to not holding court sessions on the following dates: October 1, 8, 14, 15, 22, November 5, 12, 16, 19, 26 and December 3, 16, 17, 21, 22, 23, 27, 28, 29 all in the year 1999, he stated that:

(e.1) October 1, 8 and 22; November 5, 12, 19 and 26 and December 17, 1999, these dates fell on a Friday and were supposed to be motion day but lawyers still prefer to appear in the Regional Trial Court. Counsels of litigants, particularly in civil cases prefer Monday to Wednesday and refuse to set any hearing on these dates.