

THIRD DIVISION

[A.M. No. MTJ-03-1480, September 10, 2003]

TRINIDAD CABAUG, COMPLAINANT, VS. JUDGE JASPER JESSE G. DACANAY, MUNICIPAL TRIAL COURT, CONSOLACION, CEBU, RESPONDENT.

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

This is another occasion to reiterate our injunction that every judge should dispose of his court's business promptly. Delay in resolving pending motions or incidents is inexcusable and impermissible.

In her affidavit-complaint dated June 3, 2002 filed with the Office of the Court Administrator (OCA), Trinidad Cabahug charged respondent Judge Jasper Jesse G. Dacanay, pairing judge at the Municipal Trial Court (MTC), Consolacion, Metro Cebu, with undue delay in resolving her motion for reconsideration dated September 18, 2001 in Civil Case No. 217, entitled "Cirilo Cabahug, plaintiff, versus Remegio Cabahug, defendant," for recovery of possession of real property and damages.

Complainant alleged that her husband Cirilo Cabahug (now deceased) obtained a favorable judgment in said civil case. On appeal, both the Regional Trial Court, Branch 55, Mandaue City and the Court of Appeals affirmed the MTC Decision. The Decision of the Court of Appeals became final and executory on February 17, 2000.

[1]

On November 3, 2000, upon plaintiff's motion, the MTC issued a writ of execution. The sheriff then ejected defendant Remegio Cabahug from the property.

Complainant further averred that, despite the full implementation of the MTC judgment, Rosalinda Cabahug, defendant's wife, caused the survey of the property and again encroached thereon.

Thus, on July 24, 2001, complainant, who substituted her deceased husband as plaintiff, filed with the MTC a "Motion To Cite Defendant-Wife (Rosalinda) In Contempt Of Court."^[2] The MTC denied the motion in an Order dated August 24, 2001.

On September 19, 2001, complainant filed a motion for reconsideration^[3] which was **opposed by the defendant on November 22, 2001.**

Complainant claimed that from the time she filed her motion for reconsideration on September 19, 2001, it has remained unresolved.

In his comment^[4] dated August 9, 2002, respondent Judge Jasper Jesse G. Dacanay

alleged that sometime in December 2001, complainant approached him about her unresolved motion. He advised her to see the Clerk of Court of the MTC, Consolacion, Cebu to inquire when her motion could be heard. The Clerk of Court gave her a list of tentative dates of hearing and told her to ask her counsel when he would be available to avoid unnecessary postponements. The Clerk of Court waited for her but she did not return. Instead, on April 22, 2002, her counsel filed a "Motion To Withdraw Appearance." She then requested the Clerk of Court for the deferment of the hearing of her motion as she will look for a new counsel. Thus, it was only on June 19, 2002 that respondent judge issued an Order setting the hearing of the motion on July 12, 2002 at 8:30 AM. On July 1, 2002, complainant, by herself and on her behalf, filed a "Motion For Inhibition." During the scheduled hearing of her motion for reconsideration on **July 12, 2002**, she failed to appear. Consequently, **her motion for reconsideration and motion for inhibition were denied.**

On November 29, 2002, Court Administrator Presbitero J. Velasco, Jr. submitted his Report and Recommendation^[5] finding respondent judge guilty of gross inefficiency and recommended that a fine of P5,000.00 be imposed on him. The pertinent portions of the Report read:

"Respondent Judge failed to resolve the subject motion (for reconsideration of the Order denying complainant's motion for contempt) within the 90-day reglementary period. Records reveal that the subject motion was filed on July 24, 2001.^[6] The same was deemed submitted for resolution on November 22, 2001 when defendant filed his Comment/Opposition thereto. However, it was only after the lapse of 231 days^[7] that respondent Judge issued an Order denying the motion.

"His explanation that the delay was attributable to the complainant because she failed to choose a date for the hearing of the subject motion will not exculpate him from administrative liability. In the first place, there was no more need to set the motion for reconsideration for hearing because the motion could be acted upon by the respondent judge without prejudging the rights of the defendant as the latter has already filed an opposition thereto. Moreover, the Order dated 19 June 2002 (Annex `3') of respondent judge failed to state clearly what motion filed by the plaintiff was being set for hearing. If the said order refers to the motion for reconsideration, then it can be inferred that it was merely issued to cover-up for respondent's delay in resolving the subject motion. Lastly, if respondent judge had already resolved the motion, then he should have attached a copy of the same to his Comment to substantiate his claim."

In our Resolution dated January 20, 2003, we required the parties to manifest whether they are submitting the case for decision on the basis of the pleadings/records already filed and submitted. Respondent judge was likewise required to furnish us with a copy of his Order dated July 12, 2002 denying complainant's motion for reconsideration. In compliance, he filed on March 14, 2003 his "Manifestation" that he is submitting the case for resolution, attaching therewith a copy of his July 12, 2002 Order.

We agree with the findings of the Court Administrator that respondent judge committed gross inefficiency. It is undisputed that he failed to resolve complainant's