

## **THIRD DIVISION**

**[ A.M. No. RTJ-00-1591 (Formerly OCA IPI No. 98-490-RTJ), April 11, 2002 ]**

**LAURENTINO D. BASCUG, COMPLAINANT, VS. JUDGE GRACIANO H. ARINDAY, JR., PRESIDING JUDGE, BRANCH 69, REGIONAL TRIAL COURT OF NEGROS OCCIDENTAL, SILAY CITY, RESPONDENT.**

### **DECISION**

**VITUG, J.:**

A complaint, dated 01 December 1997, initiated by Laurentino D. Bascug, has charged Judge Graciano H. Arinday, Jr., of the Regional Trial Court of Silay City, Branch 69, with grave misconduct, knowingly rendering an unjust judgment, malicious delay in the administration of justice, and violation of the code of judicial conduct.

Relative to Civil Cases No. 1797-69, entitled "Spouses Laurentino and Estrella Bascug, et al., vs. Spouses Loreto Duganggay," and No. 1798-69, entitled "Spouses Laurentino and Estrella Bascug, et al., vs. Spouses Romeo Abuagan, et al.," complainant Laurentino Bascug charged respondent judge with delaying the proceedings thereat. The civil cases, formerly docketed Civil Cases No. 624-V and No. 633-V, were originally filed with the Municipal Circuit Trial Court ("MCTC") of Victorias-Manapla, Negros Occidental. On 15 May 1995, the MCTC rendered a decision dismissing the cases on the ground that no certificate of barangay conciliation was attached to the complaints. The plaintiffs subsequently appealed the decision to the Regional Trial Court ("RTC") of Silay City. The appeal was assigned to respondent judge. In an order, dated 20 October 1995, respondent judge reversed the 15<sup>th</sup> May 1995 decision of the MCTC and ordered the latter to conduct further proceedings on the cases. The defendants filed a motion for reconsideration but, because it did not bear the signature of defendants' counsel, the motion was denied by respondent judge. A second motion for reconsideration was filed on 16 January 1996. In his order, dated 23 January 1996, respondent judge lifted the denial of the first motion for reconsideration and gave due course to the second motion for reconsideration. On 12 November 1996, respondent judge ultimately denied the second motion for reconsideration for lack of merit. It was only, however, in his order of 13 June 1997 that respondent judge required the Clerk of Court to remand the entire records of the cases to MCTC Victorias-Manapla for further proceedings. Complainant Bascug attributed the delay in the disposition of the cases to the alleged influence on respondent judge by the mayor of the municipality of Victorias.

In respect to Civil Case No. 1718-69, entitled "Vicente Ditching, Jr., for himself and as ASSIGNEE of his co-heirs; viz: Ester, Editha, Juan, Corazon, Josefa, Otelia, Rosita, Jose Ramon, Marciano, Samson, Ciello, Herminio and Marino, all surnamed

Ditching vs. Odisco Farms System Cooperative Foundation, represented by Leyte Salvacion B. Monteroso, accompanied by her husband Glenn Monteroso and Lino Cornelio Cecilio Bascug," complainant Bascug charged respondent judge with gross misconduct when he directed a judgment on the pleadings. Complainant Bascug claimed that respondent judge had declared the parties as having agreed to the rendition of a judgment on the pleadings even while the defendant corporation, Odisco Farms System Cooperative Foundation of which complainant Bascug was the President, had never agreed to it. In fact, complainant Bascug stated, the corporation precisely did not submit any memorandum for judgment on the pleadings required by respondent judge in his order of 20 December 1994. On 04 April 1995, respondent judge, nevertheless, rendered a judgment based on the pleadings in favor of the plaintiffs. A motion for the reconsideration of the decision was denied in an order of 11 December 1995. The case was later brought to the Court of Appeals. In its decision, dated 14 August 1998, the appellate court set aside the appealed judgment and remanded the case to the court *a quo* for further proceedings.

In Criminal Case No. 4000-69, entitled "The People of the Philippines vs. Vicente Ditching, Jr., et al.," complainant Bascug, the father-in-law of the complaining witness, asserted that there was irregularity in the service of the warrant of arrest against the accused. He averred that respondent judge had failed to commence any prosecution against the persons liable.

Required to submit his comment on the complaint, respondent judge refuted the several allegations in the complaint. He attributed the delay in the resolution of Civil Cases No. 1797-69 and No. 1798-69 to the former counsel of complainant who had failed to file any opposition to the second motion for reconsideration. He denied the averment that he delayed the resolution of the cases due to the influence over him by the municipal mayor of Victorias. As regards Civil Case No. 1718-69, respondent judge maintained that the parties, including the former counsel of complainant, had manifested that they had no objection to the submission of the case for judgment on the pleadings. Respondent judge disowned any irregularity in Criminal Case No. 4000-69. He argued that if, indeed, there was any problem about the service of the warrant of arrest, that matter should have been addressed to Senior Inspector Larry Decena, Chief of Police of Victorias, Negros Occidental.

In reply to the comment of respondent Judge relating to Civil Case No. 1718-69, complainant Bascug submitted a certification from the Clerk of Court of the Court of Appeals stating that, on the basis of the records of CA-G.R. CV No. 54234 (formerly Civil Case No. 1718-69), no memorandum for a judgment on the pleadings was filed by the defendants.

The matter was referred by the Court to the Office of the Court Administrator ("OCA") for evaluation, report and recommendation. In its memorandum, dated 15 August 2000, the OCA found respondent judge liable for his failure to resolve the second motion for reconsideration in Civil Cases No. 1797-69 and No. 1798-69 within the reglementary period and for grave misconduct in issuing an order, dated 11 December 1995, in Civil Case No. 1718-69, stating that the parties had agreed to submit the case for judgment on the pleadings even though the defendant corporation in the civil case did not apparently agree thereto. The OCA recommended that a fine in the amount of P5,000.00 be imposed for unreasonably delaying the proceedings in Civil Cases No. 1797-69 and No. 1798-69 and for grave