

THIRD DIVISION

[A.M. No. MTJ-99-1189, May 12, 1999]

**FE T. BERNARDO, COMPLAINANT, VS. JUDGE AMELIA A. FABROS,
METROPOLITAN TRIAL COURT OF MANILA, BRANCH 9,
RESPONDENT.**

DECISION

PANGANIBAN, J.:

The failure of a judge to decide a case within the reglementary period constitutes gross dereliction of duty. The gravity of this offense depends on several factors, including the number of cases not decided on time, the damage suffered by the parties as a result of the delay, and the presence of other aggravating or mitigating circumstances.

The Case

The Court stresses this principle in resolving the February 29, 1996 sworn Complaint^[1] of Fe T. Bernardo, in which Judge Amelia A. Fabros (Metropolitan Trial Court of Manila, Branch 9) was charged with failure to decide Civil Case No. 150796, an ejectment case, within the reglementary period of thirty days.

The Facts

In her sworn Complaint, Bernardo alleges the following:

"1. I am the attorney-in-fact of the Spouses Marcial Yandoc and Emerciana Yandoc who filed an ejectment case against Flordeliza M. Morales last March 1, 1996[;] a copy of the said ejectment complaint is hereto attached and marked as Annex `A' hereof;

"2. Said case which is docketed as Civil Case No. 150796-CV was raffled to the sala of Judge Amelia A. Fabros of the Metropolitan Trial Court of Manila, Branch 9;

"3. On March 28, 1996, the herein defendant Flordeliza M. Morales filed or tendered her answer to the said ejectment case[;] a copy of the said answer is hereto attached and marked as Annex `B' hereof;

"4. The said presiding judge set the preliminary conference of the instant case last May 22, 1996 at 8:30 a.m. where the parties to the said ejectment case were required to submit their position paper and the affidavits of their witnesses therein;

"5. As attorney-in-fact of the plaintiffs therein, I filed my affidavit and the

position paper for the plaintiffs therein last May 28, 1996[;] a copy of my compliance containing the said affidavit and position paper is hereto attached and marked as Annex `C' hereof;

"6. On the other hand, I and even our counsel have not received a copy of the defendant's position paper or even her affidavit in the said ejectment case;

"7. Unfortunately, despite the fact that I have long submitted my said affidavit and position paper in behalf of the plaintiffs in the said ejectment case, it took almost seven (7) months for the said judge to decide a simple ejectment case which under the Revised Rules on Summary Procedure should be resolved within a period of thirty (30) days from the time the said case is deemed submitted for decision;

"8. Definitely, the said judge had flagrantly and blatantly violated the provision of the said rules in the instant case and I am even surprised how said judge could have possibly received her regular salary despite the pendency of the said case for more than thirty (30) days;

"9. I am hereby executing this affidavit in order to attest to the truth of all matters herein contained and for the purpose of filing an administrative complaint against Judge Amelia A. Fabros for being clearly inefficient and for deliberately neglecting her duty in resolving promptly the said ejectment case within the period allowed under the said Revised Rules on Summary Procedure."^[2]

In her Comment filed on June 26, 1997,^[3] Judge Fabros admitted that she failed to decide the said case within the prescribed period due to oversight. She offered no excuse for the omission, but assailed the legal standing of complainant. In her own words:

"This is my comment which you required for me to submit within ten (10) days from receipt of your 1st Indorsement dated May 20, 1997 which I received on June 18, 1997. The instant case complained of which is Civil Case No. 150796-CV was decided by the undersigned in favor of the defendant and against the plaintiff on December 23, 1996. The dispositive portion of [the Decision] is as follows:

`Wherefore, premises considered, the Court renders judgement for the defendant and against the plaintiffs [d]ismissing the Complaint therefor for lack of merit. The Court likewise orders the plaintiffs to pay the defendant the amount of P5,000.00 as attorney's fees and the cost of the suit.'

"The reason for the dismissal is based on the fact that the defendant in the ejectment case filed a criminal case against the son of the plaintiff[;] and from the evidence adduced by both the parties, I arrived at the conclusion that there was absolutely no basis for the complaint of unlawful detainer and that the filing of the complaint of unlawful detainer was motivated solely to harass the herein defendant. This is evident since the complaint was filed only by an attorney-in-fact, an agent of the

principal who is the plaintiff herein. This may be a collateral matter but I believe it is relevant when viewed for the purpose of showing the character of the complainant (she is not even the complainant for again it [was] the attorney-in-fact who filed the case[;] however, this will be taken up later) who herself [i]s a crusader, as it were, [in] the continuing campaign to remove corrupt and inefficient judges. From this letter-complaint, there is a dubious insinuation that even at this time I have not decided the case. For the record, I decided the case last December 23, 1996. It was appealed and raffled to the Regional Trial Court of Manila, Branch 36. The appeal of the plaintiff was decided against her. My decision was affirmed by the said Court, a copy of which is hereto attached.

"While it is true that the attorney-in-fact Fe Bernardo was the one who filed the instant complaint against me, in this particular administrative proceeding, it is respectfully and humbly submitted that her authority as an attorney-in-fact does not give her authority to file an administrative complaint against me. In administrative actions where there is a complainant and a respondent, certainly it is a condition sine qua non that the one who complains or who appears to be the offended party must personally file the same. Otherwise, how can the respondent, if charged unjustifiably or without any valid grounds at all, recover damages to vindicate a wrong done or committed against him. It is in this context and my submission, most respectfully, that a complainant or offended party must file a complaint in his or her personal capacity and not made through delegation to an attorney-in-fact who may never be held criminally or civilly answerable in case of any wrong doing or a groundless complaint. This would be akin to an anonymous complaint not worth the paper on which it is written. I believe that the respondent's right to confront his accuser personally is basic. The accuser must not hide behind the protective `shield' of a power of attorney. To sustain an accuser's right to be able to do this thru a third person would be overextending the purpose of a special power of attorney. If only for all the foregoing, the complaint proffered against me should not be given due course.

"But there is that other matter now which has come to fore and which is the documented fact that the decision was rendered beyond the thirty day period. While the case was submitted for decision on June 11, 1996 it was only on December 23, 1996 that it was decided. The explanation is simply that in the course of [my] working as the Presiding Judge of Branch 9 of the Metropolitan Trial Court of Manila there was an oversight. There was a failure to record the due date when it should be decided. I offer no excuses. I can not even say that because of the volume of work now facing Metropolitan Trial Court Judges it is virtually impossible to monitor each and every case. My court receives an average monthly input of raffled cases at the rate of 157 a month. I have 994 pending cases as of April 1997. Despite this I am able xxx to the best of my ability xxx resolve an average of 42 cases a month."

Recommendation of the Court Administrator