

## **SECOND DIVISION**

**[ A.M. No. MTJ-98-1158, July 30, 1998 ]**

**ATTY. NELSON Y. NG, COMPLAINANT, VS. JUDGE LETICIA Q. ULIBARI, METROPOLITAN TRIAL COURT, BRANCH 67, MAKATI CITY, RESPONDENT.**

### **D E C I S I O N**

**MENDOZA, J.:**

This refers to the complaint, dated February 24, 1997, of Atty. Nelson Y. Ng, charging Judge Leticia Q. Ulibari of the Metropolitan Trial Court of Makati (Branch 67) with "sheer ignorance of the law," gross incompetence, and neglect of duty. Complainant alleges that respondent is "a lazy judge" who calls her cases late at 9:30 in the morning in her chambers instead of in open court and who "repeatedly neglects or fails to discharge her duties." Complainant cites several instances which he claims prove his allegations.

In her comment, dated June 23, 1997, respondent judge denies the charges against her. The charges and respondent judge's answers thereto are as follows:

1. Civil Case No. 45497, "Philam Insurance Corp. v. EDSA Lines, et al." — It is alleged that respondent judge failed to resolve for more than four (4) months complainant's motion for the recall of a witness.

Ans. Complainant filed a motion to recall witness Ildefonso Cariño on the ground that the latter failed to identify certain exhibits. However, before she could act on the motion, complainant made a formal offer of his evidence. Respondent judge did not admit certain documents offered by complainant because of lack of identification. On March 11, 1997, complainant sought respondent judge's inhibition and the reraffle of the case.

2. Civil Case No. 49740, "Far East Bank and Trust Co. v. Sps. Corazon Mangubat and Elmer Mangubat." — It is alleged that respondent judge failed to resolve complainant's motion to declare defendants in default despite the lapse of almost one (1) year.

Ans. Complainant filed a motion to declare defendant spouses in default on March 4, 1996. On March 15, 1996, respondent judge acted on the motion by declaring defendant spouses in default. Complainant's motion to resolve his "Motion to Declare Defendants in Default" was unfortunately not brought to respondent judge's attention. Complainant moved for the ex parte presentation of his evidence on May 29, 1997, but this was postponed to June 6, 1997 in view of the unavailability of a court stenographer. Respondent judge alleges that since December 1996, she has had no court stenographer and has had to borrow one from the

RTC or from other branches of the MeTC of Makati.

3. Civil Case No. 49499, "Far East Bank and Trust Co. v. Luis Francisco V. Lebron." — Complainant alleges that, "through sheer ignorance of the law," respondent judge denied a motion filed by him seeking to amend the complaint by impleading another surety as party. Because of the denial of his motion, complainant had to file a separate action against the said surety thus giving rise to a multiplicity of suits.

Ans. Complainant filed a motion to amend the complaint by impleading Zenaida Dimalanta as party defendant allegedly because Dimalanta was a surety of the defendant Luis Lebron in that case. Respondent judge alleges, however, that she had to deny the said motion on the ground that Dimalanta was not a new surety but a co-maker of Lebron in relation to an application for another credit card issued by plaintiff bank. In any event, respondent judge alleges that if complainant did not agree with her ruling he should have resorted to judicial remedies available under the rules; and

4. Civil Case No. 51902, "Macondray Finance Corp. v. Maura Macasling and Fabio Uadan," Civil Case No. 51916, "Macondray Finance Corp. v. Maura C. Macasling and Danilo B. Esguerra," Civil Case No. 51930, "Macondray Finance Corp. v. Maura C. Macasling and Roberto G. Agtarap," and Civil Case No. 51923, "Macondray Finance Corp. v. Maura Macasling and Antonio C. Cordeta." — It is alleged that respondent judge granted complainant's motion by declaring defendant Maura Macasling in default and ordering the issuance of alias summons to defendant Agtarap, but she took no action on complainant's motion for the consolidation of the cases. Complainant claims that respondent judge "has no managerial skill and does not know how to delegate authority and responsibility to her staff and personnel."

Ans. - Respondent claims that "[t]hese cases are not supposed to be tried jointly but the lumping of all the motions pertaining to the different cases in a single pleading [referring to complainant's 'Motion to Declare in Default, for Issuance of Alias Summons and for Consolidation'] has been confusing not only to the staff but also to the presiding judge of this court."

On August 1, 1997, complainant, without giving any reason, moved for the withdrawal of his complaint against respondent judge. Evaluation of the case nonetheless proceeded.

The Office of the Court Administrator submitted a report, dated May 27, 1998, containing the following evaluation and recommendation:

#### **EVALUATION:**

The core of the controversy in the instant administrative case is centered on the alleged inaction and failure of respondent Judge to resolve pending motions in her sala relative to Civil Cases Nos. 45497, 49740,

51902, 51916, 51930 and 51923 and her perceived incompetence as shown by her denial of complainant's Motion for Leave to Admit Amended Complaint in Civil Case No. 49499.

In her Comment, respondent attempted to justify her failure to resolve pending motions in her sala to the lack of stenographer in her court and her inaction on some of these matters attributed to the fact that these were not properly brought to her attention. These are factors which may only serve to mitigate but not completely absolve respondent from any liability. While the undersigned is not unmindful of the plight of judges in MTCs in Metro Manila due to the bulk of cases pending before them, still this does not totally justify respondent's act as there are other judges who bear the same burden yet able to discharge their respective duties promptly and properly.

On the other hand, if complainant truly believes that the issuance by respondent of her ruling in Civil Case No. 49499 is erroneous, the recourse of complainant is to elevate the disputed order to the appellate court for review. Certainly, if respondent committed any error at all it was a legal error rectifiable by other legal remedies available to him and not by administrative sanction. In the case of Guillermo vs. Reyes, Jr. 240 SCRA 154 the Supreme Court held that:

"A judge may not be held administratively accountable for every erroneous order or decision he renders, and it is only when the error is gross or patent, when the judge acts fraudulently or with gross ignorance, that administrative sanction are called for an imperative duty of the Supreme Court."

Verification from the Statistics Division, OCAD, disclosed that Judge Ulibari has 5,548 pending cases, 78 of which are submitted for decision as of April 30, 1997. Further verification from the Office of the Administrative Services, OCAD disclosed that indeed, respondent is without a stenographer since 1996.

Anent complainant's withdrawal of the complaint, the fact that he lost interest in prosecuting the administrative case against respondent Judge will not necessarily warrant dismissal thereof. "Mere desistance on the part of the complaint does not warrant the dismissal of administrative cases against members of the bench". (Marcelino vs. Singson, Jr., 243 SCRA 685)

**RECOMMENDATION:** Respectfully submitted for the consideration of the Honorable Court recommending that:

- a) This case be DOCKETED as an administrative matter; and
- b) Respondent Judge Leticia Querubin Ulibari be ADMONISHED and WARNED that a repetition of the same or similar act in the future shall be dealt with more severely. It is further recommended that respondent be REMINDED that a judge should promptly dispose of all matters submitted