

## EN BANC

[ A.M. No. RTJ-98-1419, October 13, 1998 ]

**ATTY. RAUL A. SANCHEZ, COMPLAINANT, VS. JUDGE AUGUSTINE A. VESTIL, REGIONAL TRIAL COURT OF MANDAUE CITY, BRANCH 56, RESPONDENT.**

### DECISION

#### **PANGANIBAN, J.:**

Justice delayed is justice denied. This oft-repeated adage requires the expeditious resolution of disputes. Hence, judges are mandated to decide cases seasonably. Judges who cannot comply with such mandate should ask for additional time, explaining in their request the reasons for the delay.

#### **The Case**

In a complaint dated July 3, 1996, Atty Raul A. Sanchez charged Presiding Judge Augustine A. Vestil of the Regional Trial Court of Mandaue City, Branch 56, with (1) grave misconduct, (2) graft, (3) gross ignorance of the law and (4) falsification of his certificate of service in relation to Special Proceedings No. MAN 185 entitled "Intestate Estate Proceedings of the Deceased Jose D. Sanchez," allegedly committed as follows:

#### **"1. GRAVE MISCONDUCT IN PERFORMANCE OF HIS OFFICIAL DUTIES AND VIOLATION OF JUDICIAL ETHICS.**

"The respondent committed grave misconduct in the performance of his duties by showing partiality in granting Roquita A. Sanchez the authority to mortgage the property with an area of 8,742 Square Meters, despite the fact that in the compromise agreement entered into by the parties, it was specifically agreed to sell the said property within the earliest possible time and proceeds thereof will be equally divided by the parties less expenses and agent[']s commission.

"He violated Judicial Ethical Standard, by allowing his private car to be used by Roquita A. Sanchez a litigant in the case, in the transaction of sale of property.

#### **2. GRAFT CHARGES.**

"By receiving monetary considerations and accepting foods offered to him by Roquita A. Sanchez.

#### **3. GROSS IGNORANCE OF LAW, RENDERING UNJUST INTERLOCUTORY ORDER DEPRIVING PARTY A DAY IN COURT.**

"The respondent is guilty of gross ignorance of law by authorizing Roquita A. Sanchez, in behalf of her minor children, to mortgage property in the intestate/testate proceedings of Jose D. Sanchez when the same should be heard in Guardianship proceedings.

"The respondent is guilty of rendering unjust interlocutory order in granting Roquita A. Sanchez the authority to mortgage the property when the same should have been sold and depriving Teogenes P. Sanchez a day in court by failing to give notice of the notice of the motion and copy of order granting the same.

#### IV.FALSIFICATION OF CERTIFICATE OF SERVICE.

"The respondent had falsified his monthly certificate of service submitted to this Honorable Court by stating that he has no pending case submitted for decision or resolution that has gone beyond the NINETY (90) day period allowed by law. The truth of the matter being that there are several if not numerous not only civil but also criminal cases which the respondent ha[s] failed to resolve within the NINETY (90) days period. In fact some of them have been submitted for resolution more than a year ago yet until [the] present the presiding judge has not acted upon it.

"An example is the case of Ariston Perez vs. Marcelino Perez, et al., docketed as Civil Case No. MAN-796. The last pleading filed was on April 27, 1995 which is an opposition to plaintiff's motion for reconsideration. Until at present the same has not been acted upon. Photocopy of the pleading hereto attached and made an integral part of this complaint as Annex 'O'.

"Aside from the above-mentioned case, so far as known to this representation, the following are criminal cases submitted to the court for decision which has gone beyond the NINETY (90) day reglementary period:

P.P. vs. Gerry Ando - Crim Case No. DU-2259  
P.P. vs. Maximo Mora - Crim. Case No. DU-3754  
P.P. vs. Rudy Atis - Crim. Case No. DU-3085  
P.P. vs. Arturo Macasero - Crim. Case No. DU3096  
P.P. vs. Allan Ariza - Crim. Case No. D[U]-1907  
P.P. vs. Jorgie Blanco, et al. - Crim. Case No. DU-876 & 877  
P.P. vs. Simeon Cagang - Crim. Case No. DU-3629  
P.P. vs. Jose Bontuyan - Crim. Case No. 2322 & 2333  
P.P. vs. Primo Salundaga - Crim. Case No. DU-1056"<sup>[1]</sup>

On October 28, 1996, respondent filed his Comment, praying that the Complaint be dismissed and specifically denying the allegations therein, viz:

#### "I. Alleged Grave Misconduct.

"Complainants claim that respondent allegedly committed grave misconduct by showing partiality in granting Roquita Sanchez authority to mortgage the property with an area of 8,742 square meters, (located in

Li-ong, Mandaue City).

"This charge is a malicious lie, a distortion of facts and is without basis in fact because:

'a. What was authorized to be mortgaged was ANOTHER lot, only One Thousand Four Hundred Thirty Nine (1,439) square meters located in Paknaan (NOT Liong) Mandaue City.

x x x x

'There is no evidence whatsoever that respondent allowed Roquita Sanchez to use his (Respondent's) private car. In fact, in his Supplemental Motion to Inhibit, Complainant stated that he was allegedly merely 'told' or was 'informed'.

#### "II. Alleged Graft Charges

"There is absolutely no proof whatsoever that respondent received monetary consideration nor accepted foods offered by Roquita Sanchez.

"In fact, in his Supplemental Motion to Inhibit, Complainant himself stated (under oath) that he was merely 'informed' (HEAR-SAY) about the alleged offering of food.

"With respect to the baseless and cruel charge of monetary consideration, this has been explained and unmasked as maliciously false (please refer to our Annex '1').

#### "III. Alleged Gross Ignorance of Law, etc.

"This is a repetition of charges herein before already discussed. (Please see page 5 of this comment and the order of denying the motion to inhibit hereto attached as annex '2').

#### "IV. Falsification of Certificate of Service.

"This again is a distortion of facts. The truth is, and as hereinbefore already stated, almost seven hundred (700) cases most of which had been substantially heard by other judges were unloaded to Branch 56 from Branch[es] 55 and 28. Some of these cases were filed YEARS before respondent assumed office. As a consequence, some transcripts of records were no longer available. Worse, some stenographers could no longer be found. Which is precisely why in the Certificate of Service, there is always that portion which states 'except voluminous inherited cases which were substantially heard by another judge and require further study by the respondent or where stenographic notes have not been transcribed.'

"Clearly, therefore, the Certificate of Service does NOT contain any falsified statement. The cases enumerated in the Complaint were filed BEFORE respondent's assumption to duty. Despite this however, one, DU-

3629 entitled People versus Simeon Cagang, has already been resolved while the rest are under study.

"In this connection, respondent would like to respectfully inform this Honorable Supreme Court that he has been exerting utmost efforts reducing his case load which at one time reaches more than one thousand one hundred (1,100) cases including the almost seven hundred (700) unloaded to him in 1993. Almost EVERY SATURDAY and during some holidays, respondent with two or three of this staff have been reporting for work at no additional compensation.

"But with schedules or trial reaching sometimes as many as eighteen (18) cases a day and averaging around eight (8), it simply is beyond human capability and endurance to cope with cases substantially heard by other judges, oftentimes WITHOUT transcripts of testimonial evidence.

"Nonetheless, Branch 56 is doing its best, which probably explains why from a high of more than one hundred thousand one hundred cases we now have barely seven hundred."<sup>[2]</sup>

In a Resolution dated July 30, 1997, this Court referred the Complaint to Justice Consuelo Y. Santiago of the Court of Appeals for investigation, report and recommendation. The Court also directed the Office of the Court Administrator to send a team to conduct a judicial audit of cases pending before the sale of respondent.

After the judicial audit was conducted, the Court, in its Resolution dated December 3, 1997,<sup>[3]</sup> adopted the following recommendations of the OCA and directed respondent (1) "to concentrate meanwhile in deciding with dispatch" those cases which have remained unresolved beyond the constitutionality prescribed ninety days and (2) to explain within ten days from notice the reason for the delay in the resolution of said cases. The Court further directed the Fiscal Management and Budget Office of the OCA to withhold the salary of respondent "until he has decided the said cases and has submitted copies of the decision" to the Office of the Court Administrator.

### **Report and Recommendations**

In her Report dated July 27, 1998,<sup>[4]</sup> Justice Santiago stated:

"In the crux of the controversy is the Order of respondent Judge dated December 5, 1995 in Sp. Proc. No. 185-MAN, the full text of which reads as follows:

`Order

Forming part of the records of this case is an Ex Parte Motion for Authority to Mortgage Property filed by Roquita Sanchez

Considering the reasons set forth in the Motion and finding the same to be impressed with merit, the same is granted.

Accordingly, herein movant is hereby granted the authority for and in behalf of her minor children to mortgage/encumber the lot situated at Paknaan, Mandaue City under administration.

Notify counsel and parties.

SO ORDERED.

Given this 5th day of December 1995 at Mandaue City, Philippines.' (id., p. 29; Exh. H).'

"The aforequoted Order failed to indicate which property in Paknaan, Mandaue City, Roquita was authorized to mortgage. A circumspect scrutiny of the provisions of the Compromise Agreement entered into by Roquita and Teogenes on March 2, 1995 speaks of two (2) parcels of land situated in the same locality; a lot with an area of 1,439 square meters and another with a bigger area of 8,742 square meters. Both lots appear to have been denominated in Roquita's favor, except that the bigger parcel was to be disposed of immediately, with the proceeds thereof divided equally between Roquita and Teogenes. The complainant, moreover, charged that he had not been furnished with a copy of the December 5, 1995 Order which granted Roquita authority to mortgage the property (id., p. 10; Exh. P). Respondent Judge failed to controvert this charge.

"It needs [to] be stressed in this regard that the judge hearing or taking cognizance of an ex parte motion is duty bound to make known to all parties whatever action has been taken thereon. It is not enough that a judge issues orders or pens his decision[;] it is also important to promulgate and make them known to all concerned at the earliest possible time and within the mandated period (Nidua v. Lazaro, 174 SCRA 58 [1989], citing Mangulabnan v. Judge Tecson, 101 SCRA 810 [1980]; Centrum Agri-Business Realty Corp. v. Katalbas-Moscardon, 247 SCRA 145 [1995])

"Furthermore, after the motion for inhibition and the supplemental thereof were filed where it was alleged, among others, that complainant and Teogenes were not duly notified of what action he took on Roquita's ex parte motion, it was respondent Judge duty to ascertain whether or not a copy of the Order dated December 5, 1995 was indeed sent to complainant or Teogenes, the latter being the duly appointed administrator of the estate who, therefore, had every right to be notified of the said order.

"Judges should verify if notices of court hearings have been sent and received by the parties (Fernandez v. Imbing, 260 SCRA 536 [1996]). A judge is liable for culpable negligence if he did not ascertain the facts before reaching conclusions and issuing orders. It is, in fact, routinary in every hearing that the judge confirms in open court whether notices were duly served on all parties (Tabao v. Butalid, 262 SCRA 559 [1996]).

"Along the same vein, judges have been tasked with drawing up their