

## EN BANC

**[ A.M. No. SDC-98-3, December 16, 1998 ]**

**ERLINDA ALONTO-FRAYNA, COMPLAINANT, VS. JUDGE  
ABDULMAJID J. ASTIH, 2ND SHARI'A DISTRICT COURT,  
BONGAO, TAWI-TAWI, RESPONDENT.**

### D E C I S I O N

#### PER CURIAM:

Respondent Abdulmajid J. Astih is the presiding judge of the 2nd Shari'a District Court in Bongao, Tawi-Tawi. The complainant, Ms. Erlinda A. Frayna, instituted the present complaint against the respondent judge for the latter's utter failure to render a decision as mandated by law, within the required period.

In her sworn letter complaint, complainant charged respondent judge with delay in the resolution of Civil Case No. 01 entitled "Erlinda Alonto Frayna, et al. vs. Juhura Frayna, et. al.,"<sup>[1]</sup> for Partition, which was filed on June 23, 1992 and submitted for resolution on April 7, 1994.

October 3, 1994, Ms. Frayna requested the assistance of the Office of the Court Administrator (OCA) for the speedy resolution of her case. The OCA directed the respondent judge to comment on the letter of Frayna. However, Judge Astih never complied with the directive.

On December 19, 1994,<sup>[2]</sup> Ms. Frayna wrote another letter to the OCA complaining that her case still remained unresolved. On January 27, 1995, the OCA again referred the letter to Judge Astih for comment and/or to take appropriate action on the same. Again, respondent judge completely ignored the directive of the OCA.

Several months later, Atty. Mario Alegado, counsel of Ms. Frayna, wrote a letter<sup>[3]</sup> to the Court Administrator that despite the lapse of considerable amount of time, the case of Ms. Frayna remained undecided. Atty. Alegado importuned that appropriate action be undertaken by the OCA to ensure the proper operation of the Shari'a District Court and Shari'a Circuit Court, both in the Province of Tawi-Tawi. The OCA, for the third time, referred the letter of Atty. Alegado to Judge Astih. The referral was again ignored by respondent judge.

Due to respondent's continued inaction, the OCA brought the matter to the attention of this Court. On July 3, 1996, this Court issued a resolution requiring Judge Astih to comment within ten (10) days on the complaint of Ms. Frayna and to explain why he should not be administratively dealt with for his deliberate refusal to comply with the directives of the OCA.<sup>[4]</sup> Despite the resolution, no compliance was ever received from the respondent judge. Thus, on October 23, 1996, another resolution was issued requiring "respondent to SHOW CAUSE why he should not be disciplinary dealt with or held in contempt for such failure and to comply with the aforesaid

directives requiring said comment and explanation, both within ten (10) days from notice."<sup>[5]</sup>

On December 4, 1996, the OCA received an URGENT MOTION from the respondent judge requesting that he be given an extension of seven (7) days within which to file his explanation/comment, citing as reason for his failure to comply with the resolution of this Court was due to abdominal pain brought about by bleeding peptic ulcers and hypertension. In addition to the above-mentioned ailments, respondent judge said he has been undergoing medical treatment for bronchial asthma/asthmatic bronchitis and rheumatism since November 23, 1996.<sup>[6]</sup> This court granted the motion. However, despite the additional time given, no comment and/or explanation was ever filed by Judge Astih.

In a memorandum<sup>[7]</sup> dated December 1, 1997 addressed to the Chief Justice, Deputy Court Administrator Reynaldo Suarez recommended that Judge Astih be dismissed from service for his contumacious and willful disregard of the directives of this Court and the Office of the Court Administrator.

We agree with the recommendation of the OCA.

The respondent judge, in his failure to comply with the mandates of this Court, neither offered any reason nor raised any defense. Nothing was heard from the respondent judge except when he filed his Urgent Motion on December 4, 1996, requesting for an extension of one week within which to file his comment. He suggests in his motion that he was suffering from certain ailments, which prevented him from complying with our directives. However, despite respondent judge having been given more than ample time to abide with the order of this Court, he failed to do so.

A judge who deliberately and continuously fails and refuses to comply with the resolution of this Court is guilty of gross misconduct and insubordination.<sup>[8]</sup> It is gross misconduct and even outright disrespect for this court for the respondent judge to exhibit indifference to the resolutions requiring him to comment on the accusations contained in the complaint against him.<sup>[9]</sup>

It should be borne in mind that a resolution of the Supreme Court requiring comment on an administrative complaint against officials and employees of the judiciary should not be construed as a mere request from the Court, nor should it be complied with partially, inadequately or selectively.<sup>[10]</sup>

Thus, this Court in the case of *Parane vs. Reloza*<sup>[11]</sup> ruled that:

"This contumacious conduct and his disregard of the Court's mandate should merit no further compassion. Respondent's continued refusal to abide by lawful directives issued by this Court can mean no less than his own utter lack of interest to remain with, if not his contempt of, the system to which he has all along pretended to belong."

Significantly, a Judicial Audit Team was sent to Tawi-Tawi on March 4-8, 1998, to inspect the dockets of the Shari'a District Court of Bongao, Tawi-Tawi, in accordance with the resolution issued by this Court dated February 4, 1997.<sup>[12]</sup> The Audit Team