



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

**GERSHON N. DULANG,**

Complainant,

**A.M. No. MTJ-14-1841**

(Formerly OCA IPI No. 11-2388-MTJ)

Present:

- versus -

CARPIO, *J.*, Chairperson,  
BRION,  
DEL CASTILLO,  
PEREZ, and  
PERLAS-BERNABE, *JJ.*

**JUDGE MARY JOCYLEN<sup>1</sup> G.  
REGENCIA, MUNICIPAL  
CIRCUIT TRIAL COURT  
(MCTC), ASTURIAS-BALAMBAN,  
CEBU,**

Respondent.

Promulgated:

JUN 02 2014

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RESOLUTION

**PERLAS-BERNABE, *J.*:**

This is an administrative case for gross inefficiency, gross ignorance of the law, gross incompetence, serious misconduct, and serious dereliction of duty against respondent Judge Mary Jocylen G. Regencia (Judge Regencia) of the Municipal Circuit Trial Court of Asturias-Balamban, Cebu (MCTC), commenced thru a Verified Complaint<sup>2</sup> dated May 28, 2011 filed by complainant Gershon N. Dulang (Dulang) before the Office of the Court Administrator (OCA).

<sup>1</sup> "Jocelyn" in some parts of the records.

<sup>2</sup> *Rollo*, pp. 1-12.

### The Facts

The instant case stemmed from an ejectment complaint with prayer for the issuance of a writ of preliminary injunction, docketed as Civil Case No. 212-B, entitled “*Spouses Gershon Dulang and Luzviminda Dulang, represented by Reynaldo Moldez v. Emmanuel Flores*,” which was filed before the MCTC on February 2, 2000 (ejectment case).

In the Verified Complaint, Dulang alleged that on May 4, 2009, he moved<sup>3</sup> for the resolution of the above-mentioned ejectment case, given that the same had been filed as early as year 2000 and had already been submitted for resolution.<sup>4</sup> Notwithstanding the summary nature of the ejectment proceedings, Judge Regencia rendered a Judgment<sup>5</sup> dismissing the ejectment case only on February 18, 2011 (February 18, 2011 Judgment), or more than 11 years since its filing. Consequently, the Notice of Judgment was issued only on March 7, 2011 and mailed on March 15, 2011.<sup>6</sup>

Dulang likewise noted that Judge Regencia was previously found administratively liable for gross inefficiency in *Tam v. Judge Regencia*<sup>7</sup> and was thereby ordered to pay a fine of ₱5,000.00 and warned that a repetition of the same or similar offense will be dealt with more severely.<sup>8</sup>

On September 1, 2011, Dulang filed a Verified Supplemental Complaint to the Verified Complaint dated May 28, 2011 (supplemental complaint)<sup>9</sup> before the OCA, alleging that despite the filing of a notice of appeal from Judge Regencia’s February 18, 2011 Judgment, the latter nevertheless issued an Order<sup>10</sup> dated August 1, 2011 (August 1, 2011 Order) directing the postmaster and postal carrier of the Cebu Central Post Office, Cebu City to certify Dulang’s receipt of a copy of the said Judgment. In this regard, Dulang accused Judge Regencia of gross ignorance of the law, gross incompetence, serious misconduct, and serious dereliction of duty, contending that by filing his appeal, the latter was already stripped of her (Judge Regencia) jurisdiction over the case and should not have issued the said order. Dulang claimed that this effectively stalled the administration of justice, much to his prejudice.<sup>11</sup>

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<sup>3</sup> See *Ex-Parte Motion to Decide/ Reslove Case* dated April 26, 2009; *id.* at 13-14.

<sup>4</sup> See *Manifestation Relative to Order Dated June 24, 2009* dated July 19, 2009; *id.* at 15-16.

<sup>5</sup> *Id.* at 20-23.

<sup>6</sup> *Id.* at 458.

<sup>7</sup> 526 Phil. 25 (2006).

<sup>8</sup> *Rollo*, pp. 6-7 and 458.

<sup>9</sup> *Id.* at 48-53.

<sup>10</sup> *Id.* at 242.

<sup>11</sup> *Id.* at 459.

In her Comments (to the Verified Complaint)<sup>12</sup> dated August 7, 2011, Judge Regencia maintained that no trial was held in Civil Case No. 212-B as the parties merely filed their respective position papers and that she could have easily resolved the said case if not for another case pending before the Regional Trial Court of Toledo City, Branch 59 (Toledo City RTC), *i.e.*, Civil Case No. T-862, entitled “*Spouses Emmanuel Flores and Daisy Flores v. Spouses Jose G. Paulin and Eleodora Ganhinhin, et al.*,” which was closely intertwined with the former.<sup>13</sup> As such, she found it prudent to defer the resolution of Civil Case No. 212-B until Civil Case No. T-862 was decided. She also averred that she should not be faulted for the long delay in resolving the ejectment case as she assumed her post as MCTC judge only in November 2002 and, thereafter, began presiding over the same starting on November 15, 2007.<sup>14</sup> In opposition to the accusations contained in the supplemental complaint, Judge Regencia commented that she issued the August 1, 2011 Order because the defendant in the ejectment case, Emmanuel Flores (Flores), opposed Dulang’s notice of appeal. She explained that this order was merely intended to determine whether or not Dulang filed his appeal within the reglementary period.<sup>15</sup>

Pursuant to the Court’s Resolution<sup>16</sup> dated July 30, 2012, the administrative case was referred to the Executive Judge of the Toledo City RTC for investigation, report, and recommendation. Consequently, in his Report and Recommendation<sup>17</sup> dated December 20, 2012, Executive Judge Hermes B. Montero (Judge Montero) found Judge Regencia administratively liable for gross inefficiency, gross ignorance of the law, gross incompetence, serious misconduct, and serious dereliction of duty in handling the ejectment case, and thereby recommended that she be dismissed from service.<sup>18</sup> Judge Montero opined that Judge Regencia failed to observe the Rules on Summary Procedure as she did not resolve said case with dispatch; despite the case having been submitted for resolution on October 17, 2008, she only rendered judgment on February 18, 2011, or after more than 11 years since the case was filed. Judge Montero also pointed out that contrary to Judge Regencia’s contentions, there was no suspension of the proceedings that was agreed upon by the parties and that no prejudicial question ever existed to warrant a discontinuance of the same.<sup>19</sup>

Meanwhile, Judge Regencia filed a Motion for Reconsideration<sup>20</sup> of the Court’s Resolution dated July 30, 2012 referring her administrative case to Judge Montero for investigation, report, and recommendation. She argued that Judge Montero cannot be expected to make an impartial investigation of

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<sup>12</sup> Id. at 70-90.

<sup>13</sup> Id. at 73.

<sup>14</sup> Id. at 77-78.

<sup>15</sup> See Comments (To the Verified Supplemental Complaint to the Verified Complaint dated May 28, 2011) dated November 15, 2011; id. at 122-137. See also id. at 458-459.

<sup>16</sup> Id. at 272-273.

<sup>17</sup> Id. at 283-286.

<sup>18</sup> Id. at 286.

<sup>19</sup> See id. at 459.

<sup>20</sup> Id. at 297-306. Dated January 7, 2013.

her case as he is the “*compadre*” of Dulang’s lawyer and that he had constantly shown a hostile attitude towards her. Judge Regencia also sent two (2) letters,<sup>21</sup> both dated April 10, 2013, informing the Court that Dulang was reportedly killed and that she had verified this information with Flores. In view of Dulang’s death, Judge Regencia prayed that the administrative case against her be dismissed.<sup>22</sup>

### **The Action and Recommendation of the OCA**

In a Memorandum<sup>23</sup> dated November 22, 2013, the OCA recommended that Judge Regencia be held administratively liable for undue delay in rendering a decision, and thereby fined her in the amount of ₱20,000.00 with a stern warning that a repetition of the same or similar acts shall be dealt with more severely. It agreed with the findings of Judge Montero that there is no justifiable excuse for Judge Regencia not to render judgment in the ejectment case within the 30-day reglementary period mandated by the Rules on Summary Procedure. In this relation, the OCA brushed aside Judge Regencia’s charge of partiality against Judge Montero for lack of factual support and equally disregarded the fact of Dulang’s death, holding that such circumstance does not automatically result in the dismissal of his administrative complaint.<sup>24</sup>

However, the OCA no longer determined Judge Regencia’s administrative liability with respect to the charges of gross inefficiency, gross ignorance of the law, gross incompetence, serious misconduct, and serious dereliction of duty. Hence, in due deference to her right to be afforded due process, said charges shall no longer be tackled herein.

### **The Issue Before the Court**

The sole issue raised for the Court’s resolution is whether or not Judge Regencia may be held administratively liable for undue delay in rendering a decision.

### **The Court’s Ruling**

The Court agrees with the findings and conclusions of the OCA, with the modification, however, as to the penalty imposed on Judge Regencia.

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<sup>21</sup> Id. at 315-318.

<sup>22</sup> Id. at 459-460.

<sup>23</sup> Id. at 457-462. Signed by Court Administrator Jose Midas P. Marquez and Deputy Court Administrator Jenny Lind R. Aldecoa-Delorino.

<sup>24</sup> Id. at 460-461.

Prompt disposition of cases is attained basically through the efficiency and dedication to duty of judges. If judges do not possess those traits, delay in the disposition of cases is inevitable to the prejudice of the litigants. Accordingly, judges should be imbued with a high sense of duty and responsibility in the discharge of their obligation to administer justice promptly.<sup>25</sup> This is embodied in Rule 3.05, Canon 3 of the Code of Judicial Conduct which states that “[a] judge shall dispose of the court’s business promptly and decide cases within the required periods” and echoed in Section 5, Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary<sup>26</sup> which provides that “[j]udges shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly, and with reasonable promptness.”

Here, it is undisputed that Civil Case No. 212-B was already submitted for resolution on October 17, 2008. Being an ejectment case, it is governed by the Rules of Summary Procedure which clearly sets a period of thirty (30) days from the submission of the last affidavit or position paper within which a decision thereon must be issued.<sup>27</sup> Despite this, Judge Regencia rendered judgment only about two (2) years and four (4) months later, or on February 18, 2011. While rules prescribing the time within which certain acts must be done are indispensable to prevent needless delays in the orderly and speedy disposition of cases and, thus, should be regarded as mandatory,<sup>28</sup> the Court has nevertheless been mindful of the plight of judges and has been understanding of circumstances that may hinder them from promptly disposing of their businesses and, as such, has allowed extensions of time due to justifiable reasons.<sup>29</sup> However, Judge Regencia failed to proffer any acceptable reason in delaying the disposition of the ejectment case, thus, making her administratively liable for undue delay in rendering a decision.

Further, as adverted to earlier, Judge Regencia tried to justify the delay in resolving Civil Case No. 212-B by claiming, *inter alia*, that there exists a prejudicial question brought about by the existence of a pending case in the Toledo RTC and that the parties agreed on the suspension of the proceedings. However, Judge Montero found that there was neither a prejudicial question nor an agreement between the litigants that would warrant substantial delays in the proceedings – a finding which is subscribed to by the OCA.<sup>30</sup> Verily, Judge Regencia’s clear and blatant attempt to mislead the Court is deplorable and should never be countenanced.

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<sup>25</sup> *Garado v. Gutierrez-Torres*, A.M. No. MTJ-11-1778, June 5, 2013, 697 SCRA 176, 184-185, citing *Valdez v. Torres*, A.M. No. MTJ-11-1796, June 13, 2012, 672 SCRA 89, 96.

<sup>26</sup> A.M. No. 03-05-01-SC entitled “ADOPTING THE NEW CODE OF JUDICIAL CONDUCT FOR THE PHILIPPINE JUDICIARY SUPREME COURT OF THE PHILIPPINES,” (2001).

<sup>27</sup> See Section 10, Revised Rules on Summary Procedure.

<sup>28</sup> See *Jimenez, Jr. v. Amdengan*, A.M. No. MTJ-12-1818, February 13, 2013, 690 SCRA 486, 491-494.

<sup>29</sup> See *Re: Failure of Former Judge Antonio A. Carbonell to Decide Cases Submitted for Decision and to Resolve Pending Motions in the Regional Trial Court, Branch 27, San Fernando, La Union*, A.M. No. 08-5-305-RTC, July 9, 2013, 700 SCRA 806, 812.

<sup>30</sup> See *rollo*, pp. 285-286 and 459-460.

Undue delay in rendering a decision is classified as a less serious charge, punishable either by: (a) suspension from office without salary and other benefits for not less than one nor more than three months; or (b) a fine of more than ₱10,000.00 but not exceeding ₱20,000.00.<sup>31</sup> In imposing the proper sanction on Judge Regencia, the Court notes that aside from her aforementioned misrepresentation, she was also previously found administratively liable for gross inefficiency where she was ordered to pay a fine of ₱5,000.00 and warned that a repetition of the same or similar offense will be dealt with more severely.<sup>32</sup> Moreover, as correctly observed by Justice Arturo D. Brion during the deliberations of this case, her length of service of more than 17 years should be taken against her instead of being considered a mitigating factor as she should have already known that Civil Case No. 212-B, being an ejectment case, is a summary proceeding and, thus, ought to be expeditiously resolved.<sup>33</sup> Hence, a fine of ₱40,000.00, instead of suspension, should be the appropriate penalty for Judge Regencia's misconduct.

**WHEREFORE**, the Court finds respondent Judge Mary Jocelyn G. Regencia of the Municipal Circuit Trial Court of Asturias-Balamban, Cebu, **GUILTY** of undue delay in rendering a decision. Accordingly, she is ordered to pay a fine of **₱40,000.00** and is **STERNLY WARNED** that a repetition of the same or similar acts in the future shall be dealt with more severely.

**SO ORDERED.**

  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

**WE CONCUR:**



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson

<sup>31</sup> See Sections 9 and 11, Rule 140 of the Rules of Court, as amended by A.M. No. 01-8-10-SC entitled "RE: PROPOSED AMENDMENT TO RULE 140 OF THE RULES OF COURT RE: DISCIPLINE OF JUSTICES AND JUDGES," (2001).

<sup>32</sup> *Tam v. Judge Jocelyn G. Regencia*, supra note 7, at 41.

<sup>33</sup> "Length of service is not a magic word that, once invoked, will automatically be considered as a mitigating circumstance in favor of the party invoking it. Length of service can either be a mitigating or aggravating circumstance depending on the factual milieu of each case. Length of service, in other words, is an alternative circumstance." (*Ganapao v. Civil Service Commission*, G.R. No. 180141, May 31, 2011, 649 SCRA 595, 615, citing *Civil Service Commission v. Cortez*, G.R. No. 155732, June 3, 2004, 430 SCRA 593, 604.)

  
**ARTURO D. BRION**  
Associate Justice

  
**MARIANO C. DEL CASTILLO**  
Associate Justice

  
**JOSE PORTUGAL PEREZ**  
Associate Justice