



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **October 7, 2020** which reads as follows:*

“A.M. No. RTJ-20-2590 (Formerly OCA IPI No. 17-4693-RTJ) (Tristram D. Javellana, represented by Atty. Rex G. Rico v. Hon. Marie Yvette D. Go, Branch 37, Regional Trial Court, Iloilo City, Iloilo)

By Complaint¹ dated March 30, 2017, Tristram D. Javellana charges respondent Judge Marie Yvette D. Go, Presiding Judge of the Regional Trial Court (RTC)-Branch 37, Iloilo City with gross incompetence, gross ignorance of the law, and bias and partiality relative to her actions in Civil Case No. 14-32452 entitled “*Anna M. Britanico v. Tristram D. Javellana et al.*” for specific performance and damages with preliminary attachment pending before her *sala*.²

He essentially claims that an amended complaint in the case was filed on October 13, 2014 but respondent only issued the summonses on November 18, 2014 or more than a month after the case got filed in violation of Section 1, Rule 14³ of the Rules of Court. Summons was served on him only on March 19, 2015 or over five (5) months from the time plaintiff Anna Britanico filed the amended complaint.⁴ Meantime, under Order dated December 19, 2014, respondent granted *ex parte* Britanico’s application for issuance of a writ of preliminary attachment.

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¹ *Rollo*, pp. 1-15.

² *Id.* at 2.

³ **Section 1. Clerk to issue summons.** – Upon the filing of the complaint and the payment of the requisite legal fees, the clerk of court shall forthwith issue the corresponding summons to the defendants.

⁴ *Rollo*, p. 3.

Summons was served on him without copy of the December 19, 2014 order. In fact, to date, no copies of the order and the writ have been served on him and his co-respondents. He would not have even known about the writ of preliminary attachment had his counsel Atty. Rex G. Rico not examined the case records.⁵

On March 31, 2015, he filed a motion to dismiss “with show cause order” to explain the delay in the service of summons on him. On April 1, 2015, he also filed a motion to set aside respondent’s Order, dated December 19, 2014 which issued the writ of preliminary attachment. Following the parties’ exchange of pleadings, respondent issued an Order dated June 5, 2015 pronouncing that the court would no longer entertain any more pleadings and would already resolve all pending incidents.⁶ By Order⁷ dated October 2, 2015, respondent considered the pending incidents submitted for resolution.⁸ Even after six (6) months, however, respondent still failed to act on the pending motions prompting him to file yet another Motion dated December 11, 2015 seeking to resolve the pending incidents.⁹

Under Order dated December 28, 2015, respondent denied his Motion to Set Aside December 19, 2014 Order and Motion to Expunge the Complaint. On February 10, 2016, he moved for reconsideration. On July 11, 2016, he also filed another motion to dismiss for want of cause of action and averred that despite the lapse of almost eight (8) months since the earlier motions were submitted for resolution, respondent still failed to resolve the same.¹⁰

Respondent antedated her Order dated December 28, 2015 since the order was mailed to him only on January 26, 2016.¹¹

Respondent exhibited gross ignorance of the law when the summonses were not immediately issued and served on the defendants as required by the Rules of Court. In fact, since the filing of the amended complaint on October 13, 2014, defendants Dennis Javellana, Ivonne Javellana and Siegfried Javellana have yet to be served with summons. Summons was served on defendant Floro Divinagracia, Jr., only on February 13, 2017 or three (3) years after

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⁵ *Id.*

⁶ *Id.* at 4-5.

⁷ *Id.* at 3.

⁸ *Id.*

⁹ *Id.* at 5.

¹⁰ *Id.*

¹¹ *Id.* at 480.

the amended complaint was filed. As for him, summons was served on him only on March 19, 2015 or five (5) months after the amended complaint was filed.¹²

Respondent was biased in favor of Britanico because she issued the writ of attachment and refused to lift the same notwithstanding Britanico's failure to post an attachment bond. More, she intentionally did not serve the summons, the Order granting the writ of attachment, and the writ of preliminary attachment itself on defendants to ensure its unhampered enforcement. Respondent's refusal to dismiss the amended complaint on ground of non-service of summons on all the defendants further supports his allegation of bias or partiality.¹³

Respondent is incompetent because his Motion for Reconsideration dated February 10, 2016 and Motion to Dismiss dated July 11, 2016 remained unresolved despite the expiration of the ninety (90)-day reglementary period as mandated by the Constitution.¹⁴

In her Comment¹⁵ dated June 8, 2017, respondent denies the charges and asserts that they are all baseless. She counters that in her Order dated December 28, 2015, she dismissed the motion to set aside the December 19, 2014 Order, together with the motions to dismiss and "for show cause order" dated March 31, 2015. On the other hand, she ordered the Motion to Expunge Complaint and For Show Cause Order Against Attys. Rodolfo Britanico and Maria Samantha V. David to be resolved on October 2, 2015. She did resolve these motions within the ninety (90)-day reglementary period under the Constitution.¹⁶

The motion to dismiss filed on July 11, 2016 was only heard on August 5, 2016 because the whole month of July was utilized for the implementation of the Official Records Disposal Period For Terminated Cases Program of the Supreme Court. After the said hearing, complainant filed a supplement to his motion to dismiss and Britanico thereafter filed a rejoinder to complainant's reply. On August 15, 2016, complainant filed a sur-rejoinder. Under Order dated January 12, 2017, she considered the motion to dismiss and all pleadings related to it submitted for resolution.¹⁷

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¹² *Id.* at 8-9.

¹³ *Id.* at 11.

¹⁴ *Id.* at 6-7.

¹⁵ *Id.* at 322-340.

¹⁶ *Id.* at 332.

¹⁷ *Id.* at 331.

As for the motion for reconsideration filed on February 10, 2016, respondent explains that *“it can be perused from the sequence of facts that the motion for reconsideration had also several pleadings filed after it. There was still an opposition filed by Britanico, a reply to the Opposition and Rejoinder filed.”*¹⁸

She deemed it prudent though to defer the resolution of the said motions and had them decided by another judge because Atty. Rico, complainant’s counsel, questioned her impartiality and competency. On February 20, 2017, Atty. Rico filed a Motion to Recuse her on ground that he opposed her application for a position in the Court of Appeals and the Sandiganbayan before the Judicial and Bar Council. Thus, by Order dated April 28, 2017, she recused herself from the case. The delay, if any, was attributed to the parties’ propensity to file numerous pleadings, resulting in the overlapping of pleadings in the subject case. Complainant’s motions were overtaken by his counsel’s motion to recuse and she believes that the court where this case was re-raffled should be given a fair opportunity or time within which to study the case.¹⁹

There was no delay in the service of summons on defendants. The summonses were issued on November 18, 2014 after Britanico paid the required fees for additional defendants on November 18, 2014. Summons was served on complainant only on March 19, 2015 because the court waited first for Britanico to post the attachment bond. It was only when the latter notified the branch sheriff that no attachment bond was forthcoming did she have the summonses served.²⁰

It took some time to serve the summons on Dennis Javellana because this defendant left his place of residence in Makati City. The alias summons was served on Floro Divinagracia, Jr., only on February 13, 2017 because earlier attempts to serve it on him failed as he could not also be located at the address indicated in the summons. Personal service could not be effected on the other defendants because they reside in the United States of America.²¹

The court did not issue a writ of attachment because Britanico did not post the attachment bond and hence, there was nothing to lift or discharge. Concomitantly, complainant was not in any way prejudiced as no actual attachment was made by the court.²²

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¹⁸ *Id.* at 332.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* at 335.

²² *Id.* at 336-337.

She acted with impartiality, equality, and independence in handling the case and resolved the pending incidents based on the facts presented and applicable law.²³

In his Reply²⁴ dated December 1, 2017, complainant insists that there was delay in the resolution of the Motion for Reconsideration of the Order dated December 28, 2015 filed on February 10, 2016 and the Motion to Dismiss filed on July 11, 2016. The motions were ordered submitted for resolution as early as March 11, 2016 and January 12, 2017, respectively.

Respondent deliberately deferred the service of summons on defendants to give plaintiff sufficient time to procure an attachment bond. More, respondent's refusal to set aside the order granting the Writ of Attachment despite the absence of an attachment bond amplified her bias or partiality in favor of Britanico.²⁵

In her Rejoinder²⁶ dated January 8, 2018, respondent avers that there was no delay in the resolution of the subject motions. She considered it appropriate to have the said motions resolved by another judge due to the Motion to Recuse filed by complainant. Further, there was no partiality or bias in her actions for she does not even know Britanico personally.

Report and Recommendation of the Office of the Court Administrator

The Office of the Court Administrator (OCA) found that the acts for which respondent is sought to be penalized relate to the latter's prerogatives as a judge which may only be questioned through the judicial remedies provided by the Rules of Court and not by way of an administrative complaint. Errors attributed to judges pertaining to the exercise of their adjudicative functions should be assailed in judicial proceedings instead of an administrative case.²⁷

There is no belated issuance of summons to speak of. The reckoning date for its issuance should be the date of payment of docket fees and not upon the filing of the complaint. Here, the docket fees were paid only on November 6, 2014 or only twelve (12) days

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²³ *Id.* at 338.

²⁴ *Id.* at 465-468.

²⁵ *Id.* at 466.

²⁶ *Id.* at 476-478.

²⁷ *Id.* at 483.

from issuance of the summonses on November 18, 2014. Complainant was served with summons on March 19, 2015 because respondent gave Britanico ample time to procure an attachment bond for the hefty amount of ₱8,300,000.00. At any rate, complainant was not prejudiced but was in fact benefitted by the deferred service of summons on him.²⁸

Service of summons on defendants Dennis Javellana and Floro Divinagracia, Jr., also took some time since they could not be located at the respective addresses indicated in the summons and as correctly pointed out by respondent, other defendants are residents of a foreign country and thus, personal service could not be made on them.²⁹

Contrary to complainant's claim, the Order dated December 28, 2015 where respondent denied complainant's Motion to Dismiss and For Show Cause Order, Motion to Set Aside the December 19, 2014 Order, and Motion to Expunge the Complaint was timely issued. As correctly pointed out by respondent, the Order dated June 5, 2015 which stated that the Court "will proceed to resolve all pending motions" did not submit the motion for resolution and should not be considered the final word on the matter. It was the Order dated October 2, 2015 which deemed the subject motion submitted for resolution. Having resolved the motion on December 28, 2015, respondent was well within the reglementary period of ninety (90) days.³⁰

Additionally, the fact that the Order dated December 28, 2015 was mailed to complainant only on January 26, 2016 does not mean the order was antedated. Aside from his bare allegation, complainant did not present an evidence to prove the charge. It is a settled rule that in administrative proceedings, the complainant has the burden of proving that allegations in his complaint with substantial evidence, and in the absence of evidence to the contrary, the presumption is that respondent regularly performed his duties.³¹

Respondent nonetheless cannot altogether escape liability. Evidently, she failed to resolve the Motion for Reconsideration dated February 10, 2016 and Motion to Dismiss dated July 11, 2016, respectively, within the ninety (90)-day reglementary period.³²

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²⁸ *Id.* at 484.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.* at 485.

³² *Id.*

The motion for reconsideration and motion to dismiss were submitted for resolution on January 12, 2017. These motions remained unresolved until respondent's inhibition on April 28, 2017. The motion for reconsideration pended with respondent for more than one (1) year. Similarly, respondent failed to resolve the motion to dismiss for one hundred and six (106) days, prior to her inhibition.³³ Respondent's explanation citing the propensity of the parties to file overlapping pleadings does not justify her prolonged inaction on these motions. Her justification that complainant filed a motion for inhibition does not excuse her from resolving the pending motions within the reglementary period.³⁴

Delay in resolving motions and incidents pending before a judge within the ninety (90)-day period fixed by the Constitution constitutes gross inefficiency. As a trial judge, respondent is a front liner official of the judiciary and should have at all times acted with efficiency and with probity.³⁵

The mandatory nature of the period to decide cases under the Constitution cannot be considered as beyond the limits of acceptability or fairness. The Court is aware of the heavy caseload of trial courts, as well as the different circumstances or situations that judges may encounter during trial. The Court has allowed reasonable extensions of time needed to decide cases, but such extensions must first be requested from the Court. Whenever a judge cannot decide a case promptly, all he has to do is ask the court for a reasonable extension of time to resolve it. Unfortunately, in this case, respondent did not avail of such remedy. A judge cannot by himself or herself choose to prolong the period for deciding cases beyond that authorized by law.³⁶

Considering that respondent was already admonished for an offense of similar nature, the OCA recommended that for her present infraction, respondent be reprimanded, thus:³⁷

RECOMMENDATION: It is respectfully recommended for the consideration of the Honorable Court that:

(1) The instant administrative complaint against respondent Judge Marie Yvette D. Go, Branch 37, RTC, Iloilo City, Iloilo, be **RE-DOCKETED** as a regular administrative matter; and

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³³ *Id.*

³⁴ *Id.*

³⁵ *Id.* at 486.

³⁶ *Id.*

³⁷ *Id.*

(2) Respondent Judge Go be found GUILTY of delay in the resolution of motions and be meted with the penalty of **REPRIMAND** with **STERN WARNING** that a repetition of the same act in the future shall merit a more severe penalty.³⁸

Ruling

The Court resolves to adopt the OCA's Report and Recommendation dated February 20, 2020 except for the recommended penalty.

We exonerate respondent from the charges of gross ignorance of law and bias and partiality in handling the Civil Case No. 14-32452 raffled to her sala involving complainant and Britanico.

First. Complainant claims that respondent took more than a month before she issued the summons for him and his co-defendants. Complainant is mistaken. The period within which summons should be issued is reckoned from the time the required fees are paid by the plaintiff, and not from the time the complaint was filed. Here, the required fees for the additional defendants were paid by Britanico on November 6, 2014. Only within twelve (12) days thereafter, on November 18, 2014, respondent issued the summonses. This can hardly equate to delay.

Second. That complainant was actually served with summons only on March 19, 2015 or around five (5) months after it was issued does not immediately equate to inordinate delay. There are so many factors that could have caused it like the whereabouts of the complainant and the location of his residence, among others. Interestingly, complainant was not even prejudiced by this so called delay.

Third. Service of summons on defendants Dennis Javellana and Floro Divinagracia, Jr., also took some time because they could not be located at their respective addresses. More, the other defendants are residents of a foreign country, thus, personal service could not be made on them.

Fourth. There too was no delay in the resolution of the Motion to Dismiss and For Show Cause Order dated March 31, 2015, Motion to Set Aside the December 19, 2014 Order, and Motion to Expunge the Complaint. These incidents were resolved through Order dated December 28, 2015 within eighty seven (87) days from October 2, 2015 when the same were submitted for resolution.

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³⁸ *Id.* at 487.

Fifth. The fact that the Order dated December 28, 2015 was mailed to complainant only on January 26, 2016 does not mean the order was antedated. **Non sequitur.** Aside from his bare allegation, complainant did not present any evidence to prove this accusation. It is a settled rule that in administrative proceedings, the complainant has the burden of proving the allegations in his or her complaint with substantial evidence, and in the absence of evidence to the contrary, the presumption is that respondent regularly performed his or her duties.³⁹

Sixth. As for the alleged bias and partiality, complainant avers that respondent was biased in favor of Britanico when she refused to lift the writ of attachment despite the absence of an attachment bond. The fact is there was no writ of attachment issued at all. So what was there to lift?

In another vein, we find respondent liable for the delayed resolution of the Motion for Reconsideration dated February 10, 2016 and Motion to Dismiss dated July 11, 2016 in Civil Case No. 14-32452.

Section 15 (1) and (2), Article VIII of the Constitution commands that all cases and matters must be decided or resolved by the lower courts within three (3) months from the date the last pleading had been submitted. Section 5, Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary mandates judges to "perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness." Similarly, Rule 3.05, Canon 3 of the Code of Judicial Conduct exhorts judges to dispose of the court's business promptly and to decide cases within the required periods.

According to respondent, she opted not to resolve the pending motions since it is more prudent that the new judge to whom the case was raffled would be the one to resolve them in view of the Motion to Recuse filed by complainant against her on February 20, 2017.

Notably, these motions already pended with respondent as early as February 10, 2016 (motion for reconsideration) and July 11, 2016 (motion to dismiss) even before the Motion to Recuse was filed on February 20, 2017. But the motion for reconsideration had remained unresolved for more than one (1) year, and the motion to

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³⁹ *Id.* at 485.

dismiss, for one hundred and six (106) days long before she granted the Motion to Recuse on April 28, 2017.⁴⁰

This Court has incessantly admonished members of the bench to administer justice without undue delay, for justice delayed is justice denied. The present clogged dockets in all levels of our judicial system cannot be cleared unless every magistrate earnestly, painstakingly and faithfully complies with the mandate of the law. Undue delay in the disposition of cases amounts to a denial of justice which, in turn, brings the courts into disrepute and ultimately erodes the faith and confidence of the public in the judiciary. Hence, the failure of judges to render judgments and orders within the required period constitutes gross inefficiency and warrants the imposition of administrative sanction.⁴¹

Under Section 9, Rule 140 of the Revised Rules of Court, delay in rendering a decision or order is considered a less serious offense punishable by either (a) suspension from office without salary and other benefits for not less than one (1) month nor more than three (3) months; or (b) a fine of more than ₱10,000.00 but not exceeding ₱20,000.00.

The penalty to be imposed on the judge varies depending on the attending circumstances of the case. In deciding the penalty to be imposed, the Court takes into consideration, among others, the period of delay; the damage suffered by the parties as result of the delay; the number of years the judge has been in the service; the health and age of the judge; and the caseload of the court presided over by the judge.⁴²

The Court imposed a fine of ₱10,000.00 upon a judge who failed to decide one case within the reglementary period, without offering an explanation for such delay;⁴³ another who left one motion unresolved within the prescriptive period;⁴⁴ and a third who left eight cases unresolved beyond the extended period of time granted by the Court, taking into consideration that the judge involved was understaffed, burdened with heavy caseload, and hospitalized for more than a month.⁴⁵

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⁴⁰ *Office of the Court Administrator v. Chavez*, 806 Phil. 932 (2017).

⁴¹ *Re: Cases Left Undecided by Retired Judge Benjamin A. Bongolan*, 510 Phil. 210, 213-214 (2005).

⁴² *Rubin v. Corpus-Cabochan*, 715 Phil. 318, 334 (2013).

⁴³ *Saceda v. Gestopa, Jr.*, 423 Phil. 420, 425 (2001).

⁴⁴ *Isip, Jr. v. Nogoy*, 448 Phil. 210, 223 (2003).

⁴⁵ *Re: Request of Judge Sylvia G. Jurao for Extension of Time to Decide Criminal Case No. 5812 and 29 Others Pending Before the RTC-Branches 10 and 12, San Jose, Antique*, 455 Phil. 212, 227 (2003).

There were cases though in which the Court only imposed a fine of ₱1,000.00 or issued an admonition on respondent judge.

In *Beltran, Jr. v. Paderanga*,⁴⁶ respondent judge was fined ₱1,000.00 for his delay in resolving complainant's Amended Formal Offer of Exhibits, after the Court found that there was no malice in the delay which was caused by complainant himself.

Similarly, in *Office of the Court Administrator v. Judge Quizon*,⁴⁷ respondent judge was fined ₱1,000.00 for his failure to act on two civil cases and one criminal case for an unreasonable period of time.

In *Hilario v. Judge Concepcion*,⁴⁸ respondent executive judge was admonished for his delay in resolving a former judge's order of voluntary inhibition.

Here, we take into consideration respondent's heavy caseload at the time the resolution on the twin motions was delayed. She was then handling two courts, RTC-Branch 37 where she is the Presiding Judge and RTC-Branch 22, Iloilo City where she is the Acting Presiding Judge. Also, only the resolution of two (2) out of the multiple motions filed in the case were delayed. Respondent, therefore is admonished to be more circumspect in her compliance with the prescribed periods for resolving the incidents or cases pending before her sala. A repetition of the same or similar acts in the future will be dealt with more severely.

WHEREFORE, the Court resolves, as follows:

- (1) The Complaint against Judge Marie Yvette D. Go, Branch 37, Regional Trial Court, Iloilo City, Iloilo, is **RE-DOCKETED** as a regular administrative matter;
- (2) The charges against Judge Go for gross ignorance of the law and bias or partiality are dismissed; and
- (3) As for the delayed resolution of the Motion for Reconsideration dated February 10, 2016 and Motion to Dismiss dated July 11, 2016 in Civil Case No. 14-32452,

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⁴⁶ 455 Phil. 227, 236 (2003).

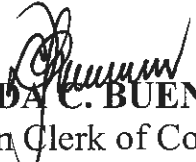
⁴⁷ 427 Phil. 63 (2002).

⁴⁸ 383 Phil. 843 (2000).

Judge Go is **ADMONISHED** to be more circumspect in her compliance with the prescribed periods for resolving the incidents or cases pending before her *sala*. A repetition of the same or similar acts in the future will be dealt with more severely.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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