

## FIRST DIVISION

[ A.M. No. RTJ-97-1388, September 05, 1997 ]

**ELEAZAR B. GASPAR, COMPLAINANT, VS. JUDGE WILLIAM H. BAYHON, RESPONDENT.**

### D E C I S I O N

**BELLOSILLO, J.:**

Eleazar B. Gaspar, Court Interpreter of the RTC-Br. 133, Makati complainant herein, is respondent in Adm. Matter No. P-92-670, "Remedios Antonio v. Eleazar B. Gaspar," filed with the Office of the Court Administrator on 3 February 1992 for conduct unbecoming of a government employee, intriguing against honor, less serious physical injuries, and acts of lasciviousness.<sup>[1]</sup> Respondent Judge William H. Bayhon, RTC Br. 23, Manila, respondent herein, was the fifth of the five (5) Executive Judges of the Regional Trial Court, National Capital Judicial Region who were tasked, one after another, to investigate Adm. Matter No. P-92-670.

Respondent Judge compulsorily retired on 12 July 1997 but due to his alleged failure to submit his report on his investigation of the complaint against Gaspar, the former was administratively charged by Gaspar in an unverified complaint filed on 30 August 1996, which on 29 November 1996 was supplanted by a verified complaint. As a consequence, Judge Bayhon was unable to receive his retirement benefits to which by law he has otherwise entitled.

The only issue to be resolved is whether the delay in the submission of his report on Adm. Matter No. P-92-670 constitutes malicious delay in the administration of justice and a violation of Rule 2, Canon 3, of the Code of Judicial Conduct.<sup>[2]</sup>

A perusal of the affidavit-complaint of Eleazar B. Gaspar fails to disclose any allegation that the delay, if any, was borne of malicious intent. Malice connotes that the act complained of must be the result of a deliberate evil intent and does not cover a mere voluntary act.<sup>[3]</sup> Further, the delay must be the result of a deliberate intent to inflict damage on either party to a case before him.<sup>[4]</sup> Considering that there was not a single specific act alleged in the complaint imputing malice to respondent Judge resulting in the delay, thus failing to prove that the delay was malicious, the charge must fail.

As regards the allegation that respondent Judge violated Rule, Canon 3, of the Code of Judicial Conduct, it appears from the recollection of Gaspar himself that respondent Judge however was the fifth of the five (5) Executive Judges of the National Capital Judicial Region who were assigned to investigate the administrative complaint of Remedios Antonio against Eleazar B. Gaspar. They were Judge Job B. Madayag and Judge Julio Logarta of Makati and now both retired, and Judge Rosalio G. de la Rosa and Judge Romeo J. Callejo, the former having already retired and the latter now an Associate Justice of the Court of Appeals. Quite understandably,

respondent Judge could not have been familiar with the facts and the antecedents of the case before it was finally referred to him.

The records show that Judge Madayag who received the records of Adm. Matter P-92-670 did not act on the case in deference to therein complainant's Motion to Transfer Venue.<sup>[5]</sup> Subsequently, on 12 October 1992, the case was reassigned to the Vice Executive Judge of Makati,<sup>[6]</sup> Judge Julio R. Logarta, who then set the case for hearing and received evidence but upon the instance of complainant Antonio the case was transferred to the Regional Trial Court of Manila on 24 February 1997.<sup>[7]</sup>

In the Regional Trial Court of Manila, the case was assigned by Deputy Court Administrator Juanito A Bernard to Executive Judge Rosalio G. de la Rosa who received the case on 24 May 1993.<sup>[8]</sup> Judge de la Rosa scheduled the hearing immediately. Unfortunately, due to the absence of complainant and the unavailability of their respective counsel, the proceedings were conducted on various dates until, on 17 August 1994, Judge de la Rosa retired from the judiciary.

The case was then transferred to Judge Romeo J. Callejo, the succeeding Executive Judge of Manila, who however inhibited himself from the case. <sup>[9]</sup>

Finally, the case was referred to the new Executive Judge, respondent William H. Bayhon. It was Judge Bayhon who expedited the disposal of the case by receiving the remaining evidence of the parties. In fact, in an Urgent Ex Parte Motion and Manifestation dated 11 September 1995 filed with the respondent Judge, herein complainant Gaspar stated, "finally, the case was assigned in this Branch 28, RTC-Manila, presided by Your Honor. I am grateful because the hearing was expedited until the evidence for the p[etitioner and respondent were concluded." (underscoring supplied).

After concluding the reception of the evidence of the parties, respondent Judge, in an Order dated 16 October 1995, gave complainant and respondent thirty (30) days to submit simultaneously their respective memoranda, if they so desired, and thereafter considered the case submitted for decision. The records disclose that the memorandum for respondent therein, complainant herein, was submitted on 4 December 1995 while the memorandum for complainant therein was filed on 5 March 1996. But, according to respondent Judge, he could not immediately submit his Report and Recommendation since he did not have the records of the proceedings conducted by the judges before him. As explained in his Supplemental Comment with prayer for Partial Release dated 31 July 1997-

But the undersigned could not immediately proceed to resolve it since the records of the case did not contain records of the proceedings conducted by the previous judges, if they conducted any, including the transcript of stenographic notes.

While in *Nidua v. Lazaro*<sup>[10]</sup> it was held that it was incumbent upon the judge to devise an efficient recording and filing system in his court so that no disorderliness could affect the flow of cases and their speedy disposition, particularly those submitted for decision, respondent Judge herein had no control over the completion of those stenographic notes as the testimonies were not heard before his sala and the stenographic notes were not under his supervision. As a matter of fact, to