

## SECOND DIVISION

**[ A.M. RTJ-12-2317 (Formerly OCA I.P.I. No. 10-3378-RTJ), July 25, 2012 ]**

**ATTY. FELINO U. BANGALAN, COMPLAINANT, VS. JUDGE  
BENJAMIN D. TURGANO, REGIONAL TRIAL COURT, BRANCH 15,  
LAOAG CITY, RESPONDENT.**

### D E C I S I O N

**SERENO, J.:**

The facts as found by the Office of the Court Administrator (OCA) are as follows:

In a Complaint dated 5 February 2010, complainant Atty. Pelino U. Bangalan accused respondent Presiding Judge Benjamin D. Turgano, of undue delay in rendering a decision or order, dishonesty, gross ignorance of the law and partiality.

It appears that complainant is counsel for plaintiff in Civil Case No. 11140-15, *Rosalinda Ver-Fajardo v. Jimmy Espejo*, a case on ownership and recovery of possession.

On the charge of undue delay in rendering a decision or an order, complainant alleged that Civil Case No. 11140-15 was filed on 13 November 1996 and raffled to respondent judge's sala. The case was submitted for decision on 4 May 2007 and decided after more than 15 months on 8 August 2008, beyond the 90-day period required by Article VIII, Section 15 of the 1987 Constitution. Further, complainant alleged that the Notice of Appeal and Motion for Execution Pending Appeal filed in October 2008 were resolved only after almost a year on 2 September 2009.

On the charge of dishonesty, he claimed that respondent was dishonest in declaring in his Certificate of Service that he had no unresolved motions submitted for resolution within the reglementary period, as provided by rules and circulars.

Complainant further alleged that respondent committed gross ignorance of the law when the latter reversed his previous Order dated 2 September 2009 granting the former's Motion for Execution Pending Appeal. In that Order dated 12 November 2009, respondent, citing *Universal Far East Corporation v. Court of Appeals*<sup>[1]</sup> declared that the court lost jurisdiction to grant the motion when it was filed two (2) days after the defendants therein had perfected their appeal. Thus, complainant posited that by relying on an obsolete and abandoned doctrine espoused in the cited case, respondent allowed himself to become an instrument for the interests of the other party and hence showed a badge of partiality.

In answer to the charges of gross ignorance of the law and partiality, respondent maintained that he acted pursuant to Section 2, Rule 30 of the Rules of Court, when he reversed his 2 September 2009 Order. Even if it be shown that he erred in the

interpretation or application of the Rules of Court, the proper remedy available to complainant was a petition for certiorari at the Court of Appeals (CA). Respondent further insisted that complainant's charge of partiality was baseless, because the assailed Orders were based on the evidence and the law applicable to the matter.

Moreover, respondent explained that the delay in rendering the Decision and resolving the pending motions was largely attributable to a series of transient ischemic attacks coupled with pulmonary problems that ailed him. Further, at the time the case was submitted for decision, his father and his brother died on 16 November 2007 and in the first quarter of 2008, respectively.

After verification, the OCA found that complainant had filed with the CA a Petition for Certiorari against respondent docketed as CA-G.R. SP No. 111883. The CA promulgated a Decision on 31 January 2011 reinstating the 2 September 2009 Decision, in which respondent granted the Motion for Execution Pending Appeal.

Furthermore, in its evaluation of the surrounding circumstances, the OCA found that complainant merely questioned the propriety of respondent's Order dated 12 November 2009, an issue that could have been properly settled in a judicial proceeding. It found that the errors attributed to respondent pertained to his adjudicatory functions. Thus, an administrative action was not the appropriate remedy available to complainant for the correction of these errors in judgment. Likewise, it opined that the charge of dishonesty was merely speculative.

Nevertheless, the OCA noted that respondent failed to comply with the constitutional mandate for all lower court judges to decide cases within the reglementary period of 90 days from the time they are submitted for decision. Respondent likewise failed to adhere to Canon 3, Rule 3.05 of the Code of Judicial Conduct, which directs judges to dispose of the court's business promptly and decide cases within the required period. However, the OCA found that the reasons cited by respondent were sound. Furthermore, since the present case is his first offense, it recommended that this mitigating circumstance be applied in his favor. Thus, it recommended the penalty of admonition.

### **THE COURT'S RULING**

We find that the recommendation of the OCA is proper.

In *Flores v. Abesamis*, we said:

As everyone knows, the law provides ample judicial remedies against errors or irregularities being committed by a Trial Court in the exercise of its jurisdiction. The *ordinary remedies* against errors or irregularities which may be regarded as normal in nature (i.e., error in appreciation or admission of evidence, or in construction or application of procedural or substantive law or legal principle) include a motion for reconsideration (or after rendition of a judgment or final order, a motion for new trial), and appeal. The *extraordinary remedies* against error or irregularities which may be deemed extraordinary in character (i.e., whimsical, capricious, despotic exercise of power or neglect of duty, etc.) are *inter*