

THIRD DIVISION

[A.M. NO. MTJ-02-1465, February 06, 2006]

CONSUELO VDA. DE CASTRO, COMPLAINANT, VS. JUDGE ALFONSO R. CAWALING, MUNICIPAL CIRCUIT TRIAL COURT OF PROMULGATED: LOOC, ROMBLON, RESPONDENT.

D E C I S I O N

CARPIO, J.:

The Facts

Complainant Consuelo Vda. de Castro ("complainant") is the wife of the late Atty. Democrito Castro, the plaintiff in two forcible entry cases docketed as Civil Cases Nos. L-29 and L-30 pending before respondent Judge Alfonso R. Cawaling ("respondent judge") of the Municipal Circuit Trial Court of Looc, Romblon. On 27 April 2000, the defendants in the forcible entry cases filed a Motion to Dismiss and Supplemental Answer with Motion to Dismiss. On 29 May 2000, the plaintiff filed an Opposition to the Supplemental Answer with Motion to Dismiss. On 26 January 2001 or about eight months later, respondent judge issued a resolution dismissing the cases on the ground of *res judicata*. The plaintiff filed a Motion for Reconsideration in February 2001 but the motion was set for hearing on 23 April 2001. At the hearing, neither respondent judge nor the defendants appeared. Complainant was of the impression that respondent judge was campaigning for one Jun Beltran, a gubernatorial candidate. Complainant asserts that respondent judge violated Article III, Section 15(1) of the 1987 Constitution and the 1997 Rules of Civil Procedure. Complainant further argues that, in giving due course to the motion to dismiss which is a prohibited motion, respondent judge violated Section 13 of Rule 70. Thus, complainant filed the instant administrative complaint against respondent judge for Ignorance of the Law and Neglect of Duty.

In his Comment, respondent judge asserts that the present administrative complaint is intended to harass him. Respondent judge denies campaigning for one Jun Beltran. He further argues that the Resolution of 26 January 2001 which dismissed the complaints for forcible entry has attained finality. He claims that the motion to dismiss on the ground of *res judicata* is not a prohibited pleading and is intended to put an end to a litigation which has been finally decided by a competent court. Respondent judge believes that if complainant thought otherwise, she should have appealed the resolution but she did not, thus rendering the resolution final and executory.

In the Resolution of 12 February 2003, the Court required the parties to manifest, within ten days, whether they were willing to submit the case for resolution based on the pleadings. Both parties filed separate manifestations submitting the case based on the pleadings.