

SECOND DIVISION

[A.M. NO. MTJ-05-1583 (FORMERLY OCA-IPI- NO. 04-1587-MTJ), March 11, 2005]

MANUEL B. ARCENAS, COMPLAINANT, VS. JUDGE HENRY B. AVELINO, MCTC, PONTEVEDRA, CAPIZ, RESPONDENT.

D E C I S I O N

CHICO-NAZARIO, J.:

Judge Henry B. Avelino of the 2nd Municipal Circuit Trial Court (MCTC) of Pontevedra-Panay, Pontevedra, Capiz, was charged^[1] by Manuel B. Arcenas with gross inefficiency for failure to decide an ejectment case within the reglementary period of thirty (30) days.

Complainant Arcenas is the attorney-in-fact of Demetrio Arcenas and Leah Arcenas, plaintiffs in Civil Case No. 391 for Unlawful Detainer and Damages. He narrated that defendants therein spouses Manolo and Rosemarie Amador, were served with summons requiring them to file their answer within ten (10) days which they failed to do so.^[2]

On 21 June 2001, respondent Judge issued an Order directing the Department of Environment and Natural Resources (DENR), Capiz, to conduct a relocation survey to determine the extent of the twenty (20) meters reservation for public easement as noted in Transfer Certificate of Title No. T-21277 in order to ascertain the exact location of the house of the defendants.

Respondent Judge issued on 22 August 2001 another order^[3] directing the Department of Public Works and Highways (DPWH) in coordination with the DENR, to conduct a relocation survey, to determine anew the metes and bounds of the twenty (20) meters public easement.

On 05 May 2003, Jurlie D. Zubiaga, Chief, Survey Party of the Provincial Environment and Natural Resources Office (PENRO) for Capiz, filed a Commissioner's Report dated 14 April 2003. Dissatisfied, respondent Judge, together with May D. Baldomar, the court stenographer, Julius Abella, Engineer II, DPWH-Capiz Engineering District of Roxas City, Ana Desales, a casual of DPWH, Roxas City, Elmer Acolentaba, Carthographer-Surveyman of the DENR, Roxas City, and plaintiff Manuel Arcenas, proceeded to the place and conducted an ocular inspection on 18 June 2003.

On 17 November 2003, plaintiffs filed an Ex Parte Motion^[4] to Render Judgment pursuant to the Revised Rules on Summary Procedure. Respondent Judge did not act on the motion.

On 16 March 2004, plaintiffs filed another motion^[5] to remind respondent Judge of his failure to decide the case. Up to the time of filing of this administrative case, respondent Judge has not rendered any judgment.

On 02 July 2004, the Office of the Court Administrator (OCA) required^[6] respondent Judge to comment within ten (10) days from receipt of notice.

In his comment dated 31 August 2004, respondent Judge admitted that he knew that the Revised Rules on Summary Procedure provides that if no answer has been filed, the court, *motu proprio*, or upon motion of the accused, shall render judgment within ten (10) days. Respondent Judge, however, argued that since plaintiffs' title contains a 20-meter public easement reservation, he sought the assistance of other government entities, i.e., the DENR, the DPWH, and the PENRO, to determine if defendants' house is within the lot of plaintiffs and within the 20-meter public easement. He claims that if defendants' house is inside said public easement, he would be exceeding his authority if he will immediately rule on the ownership thereon. He added that because he was not satisfied with the reports on the surveys he ordered, he personally conducted his own ocular inspection. His inspection revealed that defendants' house was not within the plaintiffs' titled property but was within the twenty meters public easement. He concluded that plaintiffs filed the two motions to render judgment because they knew of the adverse result of the ocular inspection he conducted. Respondent Judge also reasoned out the additional workloads in other courts and lack of typewriters, as cause of delay in deciding the case. He disclosed that he already rendered judgment on the case on 07 May 2004 and the records thereof have already been transmitted to the Office of the Clerk of Court, Regional Trial Court of Roxas City.

On 05 January 2005, the OCA submitted its report,^[7] recommending -

. . . that this case be redocketed as a regular administrative matter and that the respondent be found guilty of undue delay in the rendition of judgment. For this he should be SUSPENDED from office without salary and other benefits for a period of TWO (2) MONTHS and warned that a repetition of the same or the commission of another violation of Rule 140, will be dealt with more severely.

We agree in the recommendation of the Court Administrator.

As a general principle, rules prescribing the time within which certain acts must be done, or certain proceedings taken, are considered absolutely indispensable to the prevention of needless delays and the orderly and speedy discharge of judicial business. By their very nature, these rules are regarded as mandatory.^[8]

The rules require courts to decide cases submitted for decision generally within three (3) months from the date of such submission.^[9] With respect to cases falling under the Rules on Summary Procedure, first level courts are only allowed thirty (30) days following the receipt of the last affidavit and position paper, or the expiration of the period for filing the same, within which to render judgment.^[10] Moreover, Rule 3.05, Canon 3 of the Code of Judicial Conduct provides that a judge shall dispose of the court's business promptly and decide cases within the required periods.^[11]

Section 6 of the Rules on Summary Procedure clearly provides:

SEC. 6. *Effect of failure to answer.* - Should the defendant fail to answer the complaint within the period above provided, the court, *motu proprio*, or on motion of the plaintiff, shall render judgment as may be warranted by the facts alleged in the complaint and limited to what is prayed for therein: Provided, however, that the court may in its discretion reduce the amount of damages and attorney's fees claimed for being excessive or otherwise unconscionable.

In the case at bar, respondent Judge failed to render judgment after defendants failed to file their answer (which he duly acknowledged in his Order dated 26 June 2001) or even after PENRO officer, Dionisio S. Molina, Jr., filed his report^[12] or even after the two (2) motions dated 17 November 2003^[13] and 16 March 2004^[14] filed by plaintiffs requesting him to render judgment. It took respondent Judge almost three (3) years, counted from the time of his knowledge that defendants failed to file answer or on 27 May 2004 to finally dispose of the case.

Respondent Judge's act of seeking assistance from other government agencies in order to justify the delay will not excuse him from complying with Section 10 of the Revised Rules on Summary Procedure. Section 10 of the Rules on Summary Procedure explicitly provides:

SEC.10. *Rendition of judgment.* - Within thirty (30) days after receipt of the last affidavits and position papers, or the expiration of the period for filing the same, the court shall render judgment.

However, should the court find it necessary to clarify certain material facts, it may, during the said period, issue an order specifying the matters to be clarified, and require the parties to submit affidavits or other evidence on the said matters within ten (10) days from receipt of said order. Judgment shall be rendered within fifteen (15) days after the receipt of the last clarificatory affidavits, or the expiration of the period for filing the same.

The court shall not resort to the clarificatory procedure to gain time for the rendition of the judgment.

The above-quoted rule allows the court to clarify matters if the same is necessary, in the manner provided therein. The respondent Judge starkly deviated from the required procedure and instead conducted his own inspection after the agency submitted its report. There is no logic behind the respondent Judge's act of seemingly taking up the cudgels for the defendants. There was already a report submitted by the PENRO officer who, without doubt, is more knowledgeable on the issue of whether or not defendants' house is within the public easement.

Clearly, respondent Judge failed to decide the aforementioned case within the thirty-day period prescribed by the Revised Rules on Summary Procedure. Respondent Judge's act is contrary to the rationale of the Rules on Summary Procedure, which in particular, was promulgated for the purpose of achieving "an expeditious and