

## EN BANC

**[ A.M. No. RTJ-03-1745 (Formerly OCA IPI No. 01-1142-RTJ), August 20, 2003 ]**

**UNITRUST DEVELOPMENT BANK (REPRESENTED BY ATTY. ENRICO A. BENITO), COMPLAINANT, VS. JUDGE JOSE F. CAOIBES, JR., IN HIS CAPACITY AS PRESIDING JUDGE OF BRANCH 253, REGIONAL TRIAL COURT OF LAS PIÑAS CITY, AND MA. EDITHA CAUNAN, IN HER CAPACITY AS OFFICER IN CHARGE (OIC), RESPONDENTS.**

### R E S O L U T I O N

#### **QUISUMBING, J.:**

On March 24, 2000, Unitrust Development Bank (UDB) filed the instant complaint against respondents Judge Jose F. Caoibes Jr., Presiding Judge of the Regional Trial Court of Las Piñas City, Branch 253, and Court Stenographer Ma. Editha Caunan, in her capacity as Officer-In-Charge, for violation of Section 16,<sup>[1]</sup> Article III of the Constitution and the Code of Judicial Conduct. UDB alleged that the respondents are guilty of delay in the resolution of its motion to dismiss<sup>[2]</sup> filed in Civil Case No. LP-98-0050 entitled "*Olivia Garrido vs. Unitrust Development Bank*" and its *ex-parte* petition<sup>[3]</sup> for the issuance of a writ of possession pending before the same court and docketed as LRC Case No. LP-98-0350.

Herein complainant UDB was the defendant in Civil Case No. LP-98-0050, a case for annulment of certificate of sale with prayer for preliminary injunction and temporary restraining order pending before Branch 253 of the Regional Trial Court of Las Piñas City presided by the respondent judge. On August 12, 1998, UDB filed a motion to dismiss said case for the failure of the plaintiff, Olivia Garrido, to prosecute the case without justifiable reason for a period of four (4) months. At the hearing of the motion on August 21, 1998, Garrido moved for an extension of time to file her comment or opposition to the motion. Respondent judge granted the request and gave Garrido seven (7) days within which to file a comment or opposition to the motion, after which, the motion would be deemed submitted for resolution.<sup>[4]</sup>

On August 27, 1998, Garrido filed her Opposition/Comments to the motion and prayed, additionally, that the case be set for pre-trial. On September 1, 1998, UDB filed its reply.<sup>[5]</sup>

Despite numerous follow-ups either by telephone calls or personal visits to the court, respondent judge failed to resolve the motion to dismiss. UDB even filed three (3) urgent motions for the early resolution of its motion to dismiss on November 11, 1998,<sup>[6]</sup> May 12, 1999,<sup>[7]</sup> and September 2, 1999.<sup>[8]</sup>

On January 18, 2000,<sup>[9]</sup> respondent judge resolved said motion. On March 23,

2000, a copy of the court's resolution was mailed to UDB and received by the latter on March 29, 2000, or five (5) days after the instant administrative complaint was filed. UDB then filed a manifestation with the Office of the Court Administrator (OCA) stating that it received a copy of the Order dated January 18, 2000 resolving the motion to dismiss and that it was no longer interested in pursuing the administrative case against respondent judge.

It also appears that sometime in December 1998, UDB filed an *ex-parte* petition entitled *Re: "Ex-Parte Petition for the Issuance of a Writ of Possession"*<sup>[10]</sup> before the same court and docketed as LRC Case No. LP-98-0350. UDB alleged that it was only on September 14, 1999, or after the lapse of more than eight (8) months, that the respondent judge set the petition for initial hearing in violation of the 90-day rule under Section 15 (1),<sup>[11]</sup> Article VIII of the Constitution.

In an Indorsement<sup>[12]</sup> dated March 15, 2001, then Acting Court Administrator Zenaida N. Elepaño required respondent judge to file his comment. He asked for several extensions and eventually filed his comment on June 15, 2001. UDB reiterated its withdrawal of the administrative case in a Manifestation<sup>[13]</sup> dated May 5, 2001.

In his comment, respondent judge alleged that the instant complaint came as a surprise to him because he thought that everything was in order since the subject motion to dismiss had already been resolved on January 18, 2000, or two (2) months prior to the filing of the instant complaint on March 24, 2000.

Respondent judge admitted that there was a delay in resolving the subject motion although he blamed, and sought to transfer the fault, to Officer-In-Charge and Legal Researcher Laureana C. Buenaventura for her failure to adopt a system of proper records management and for misplacing the records of Civil Case No. LP-98-0050. Respondent judge explained that because Buenaventura abandoned her office on May 3, 1999, the records were found only after the newly designated Officer-In-Charge, the respondent Editha B. Caunan, conducted a physical inventory of cases. Since the records of Civil Case No. LP-98-0050 were misplaced, respondent judge claimed there was absolutely no way he could have acted on the motion even considering the urgent motions for resolution filed by UDB. Finally, respondent judge averred that upon receipt of the record, he immediately resolved the pending motion to dismiss on January 18, 2000.

With respect to the alleged delay in resolving UDB's *ex-parte* petition for the issuance of a writ of possession, respondent judge asserted that the late setting of the hearing was UDB's fault since it took UDB more than eight (8) months to set the petition for hearing. Respondent judge claimed that after the initial hearing on September 14, 1999, he immediately resolved the petition and issued the writ of possession on November 25, 1999, or two (2) months after the hearing. Hence, there was clearly no delay.

In two (2) separate resolutions dated September 16, 2002,<sup>[14]</sup> this Court adopted the recommendation of Court Administrator Presbitero J. Velasco, Jr., to dismiss the administrative complaint against respondent court stenographer Ma. Editha Caunan for lack of merit. The administrative matter against the respondent judge was referred to the OCA for re-evaluation, report and recommendation.

In its report, the OCA, after finding that the respondent judge was remiss in his duty to resolve the motion to dismiss in Civil Case No. LP-98-0050 within the 90-day reglementary period, recommended that the respondent judge be fined P2,000 for his infraction.<sup>[15]</sup>

Except as to the recommended penalty, this Court agrees with the findings of the OCA.

Evidence clearly supports UDB's allegation that there was undue delay in the resolution of its motion to dismiss in Civil Case No. LP-98-0050. There is no doubt that said motion was considered submitted for resolution on September 1, 1998 when UDB filed a reply to the plaintiff's opposition, the said reply being the last pleading submitted. Under Section 15(1) of Article VIII of the Constitution, respondent judge had 90 days or until November 30, 1998, to resolve said motion. However, respondent judge resolved the motion only on January 18, 2000 and promulgated the order granting the motion only on March 23, 2000, when copies of said order were mailed to the parties.

Respondent judge's explanation that the delay was occasioned by Ms. Buenaventura's inefficiency and her having misplaced the records of the case could not free him from administrative liability, even considering that the responsibility of safekeeping the record is primarily vested upon the Branch Clerk of Court or the Officer-In-Charge. As a judge, he has the bounden duty to maintain proper monitoring of cases submitted for his decision or resolution. A judge ought to know the cases submitted to him for decision or resolution and is expected to keep his own record of cases so that he may act on them promptly.<sup>[16]</sup> It is his duty to take note of the cases submitted for his decision or resolution and see to it that they are decided within the prescribed period.<sup>[17]</sup> He cannot hide behind the inefficiency or irresponsibility of his court personnel because the latter are not the guardians of his responsibilities.<sup>[18]</sup> Indeed, Rule 3.09<sup>[19]</sup> of the Code of Judicial Conduct requires respondent judge to organize and supervise the court personnel for prompt and efficient dispatch of business. The fact that Ms. Buenaventura misplaced the records and was inefficient only goes to prove that the respondent judge failed in his duty to properly supervise court personnel.

It is of no moment that UDB filed a manifestation before the OCA stating its intention to withdraw the complaint for alleged utter lack of interest.<sup>[20]</sup> The withdrawal of the case by the complainant, or the filing of an affidavit of desistance or the complainant's loss of interest does not necessarily cause the dismissal thereof.<sup>[21]</sup> To condition administrative actions upon the will of every complainant, who may, for one reason or another, condone a detestable act, is to strip the Supreme Court of its supervisory power to discipline erring members of the Judiciary.<sup>[22]</sup> Disciplinary proceedings of this nature involve no private interest and afford no redress for private grievance. They are undertaken and prosecuted solely for the public welfare, *i.e.*, to maintain the faith and confidence of the people in the government and its agencies and instrumentalities.

Notably, despite its intention to withdraw the case, UDB emphasized the respondent judge's delay in resolving the subject motion in its Manifestation<sup>[23]</sup> dated June 22,