

## FIRST DIVISION

[ **A.M. No. MTJ-00-1247 (formerly OCA IPI No. 98-563-MTJ), October 10, 2000** ]

**CHARLES N. UY, COMPLAINANT, VS. JUDGE NELIDA S. MEDINA, PRESIDING JUDGE OF THE MUNICIPAL TRIAL COURT OF ILOILO, BRANCH 2, RESPONDENT.**

### DECISION

**PUNO, J.:**

Before this Court is a verified complaint filed by Charles N. Uy against respondent Judge Nelida S. Medina of the Municipal Trial Court of Iloilo, Branch 2 for grave abuse of discretion, gross ignorance of the law, knowingly rendering unjust judgment, partiality and grave abuse of judicial authority relative to Civil Case No. 367(97) entitled "Charles N. Uy vs. Sps. Carlos F. Uy and Nelia N. Uy."

The records show that complainant filed a complaint<sup>[1]</sup> against his parents, spouses Carlos and Nelia Uy, for recovery of personal property with prayer for replevin of the owner's duplicate copy of Transfer Certificate of Title No. T-107085. The case was raffled to the sala of respondent judge.

Complainant alleges that he is the registered owner of a parcel of land located in Bo. Buhang, District of Jaro, City of Iloilo, Island of Panay under TCT No. T-107085 which was then in the possession of his parents. Defendants spouses Uy filed their Answer with Counterclaim,<sup>[2]</sup> wherein they alleged, among others, that they are the owners of the property covered by the subject title and that the property is the subject of Civil Case No. 23792 pending before Branch 30, Regional Trial Court of Iloilo entitled "Carlos F. Uy and Nelia Uy vs. Charles N. Uy and Register of Deeds of Iloilo City" for reconveyance, annulment of title, recovery of possession and damages.

Complainant executed an affidavit pursuant to Section 2, Rule 60 of the Rules of Court, paid the replevin bond in the amount of P100.00 and moved for the issuance of the writ of replevin. In an Order dated November 10, 1997, respondent judge denied complainant's prayer for the issuance of the writ of replevin for insufficiency of the replevin bond.

A Preliminary Conference Order<sup>[3]</sup> was issued on January 8, 1998 after the termination of the preliminary conference. On February 13, 1998, defendants served a copy of their Position Paper<sup>[4]</sup> upon the complainant by registered mail and filed its original copy with the trial court. An Affidavit of Service/Filing was attached to the said Position Paper with an explanation that personal service was not resorted to because of time constraint, lack of manpower and in order to minimize expenses.<sup>[5]</sup> Complainant's Position Paper, on the other hand, was personally served upon the

defendants and filed with the court on February 16, 1998.<sup>[6]</sup>

Complainant filed a Motion to Consider Defendants' Position Paper as Not Filed for their alleged failure to comply with Section 11, Rule 13 of the Rules of Court.<sup>[7]</sup> Respondent judge denied the motion in an Order dated March 25, 1998.<sup>[8]</sup>

On March 27, 1998, complainant filed an Ex-Parte Motion for Early Decision<sup>[9]</sup> which was granted by the trial court in an Order dated April 3, 1998.<sup>[10]</sup> On June 2, 1998, complainant filed a 2nd (Ex-Parte) Motion for Early Resolution.<sup>[11]</sup>

On May 29, 1998, respondent judge rendered a decision dismissing the complaint and ordering the complainant to pay the defendants the amount of P5,000.00 as attorney's fees.<sup>[12]</sup>

Complainant appealed the assailed decision to the Regional Trial Court of Iloilo which was raffled to Branch 39 and docketed as Civil Case No. 25254 [MTC Case No. 367(97)]. During the pendency of the complaint at bar, complainant and the defendants in Civil Case No. 25254 submitted a Compromise Agreement for the approval of the trial court. The Regional Trial Court of Iloilo, Branch 39 rendered a decision,<sup>[13]</sup> the dispositive portion of which provides, thus:

"WHEREFORE, finding the Compromise filed on September 8, 1998 not being contrary to law, morals or public policy, the court hereby approves the same and renders judgment in accordance therewith. The parties are enjoined to comply strictly with its terms and stipulations.

SO ORDERED."

In his present complaint, complainant raises the following grounds, to wit:

#### "G R O U N D S

1. Respondent judge Medina is guilty of gross ignorance of the law, if not evident bad faith and malice, and partiality in denying the writ of replevin due to insufficiency of the bond;
2. The respondent judge committed grave abuse of discretion and gross ignorance of the law, and ruled with partiality and bad faith in denying the motion to consider defendants' position paper as not filed despite the gross and patent violation of Section 11, Rule 13 of the Rules of Court.
3. The trial court showed gross ignorance of the law in holding that the Owner's Duplicate Copy of Transfer Certificate of Title No. T-107085 is not a personal property.
4. The trial court committed grave abuse of discretion and of judicial authority, manifested (sic) gross ignorance of the law, malice and bad faith in completely disregarding and departing, sans explanation despite due citation, from the ruling of the Supreme

Court in *Verceles vs. Bacani*, 156 SCRA 108.

5. Respondent Judge Medina is guilty of grave abuse of judicial authority and gross inefficiency in the performance of her duties in resolving Civil Case No. 367(97) beyond the mandatory period of thirty (30) days from date of submission."<sup>[14]</sup>

In its 1st Indorsement dated October 29, 1998, the Office of the Court Administrator referred the complaint to respondent judge for her Comment. Respondent judge contends that the complainant erroneously based the bond on the value of the unfilled form of the transfer certificate of title which is a mere piece of paper. The replevin bond should be based on the value of the property inscribed in the said title such that the P100.00 replevin bond cannot therefore answer for the damages which the defendants may suffer.<sup>[15]</sup>

The respondent judge also found defendants' explanation as to why they resorted to service by registered mail sufficient compliance with Section 11, Rule 13 of the 1997 Rules of Civil Procedure. She considered the time the Position Paper was filed in court which is 12:00 noon as appearing in the rubber stamp mark on the upper right hand portion of the said pleading. The window of the Iloilo Hall of Justice Post Office is only a meter distance from the door of the court room of the respondent judge where the pleading is to be filed.<sup>[16]</sup>

Respondent judge likewise maintains that this Court's ruling in *Verceles vs. Bacani*<sup>[17]</sup> is not squarely in point with the case before her. The ownership of the subject property is not an issue in the *Verceles* case unlike in the case pending before her.<sup>[18]</sup>

Respondent judge attributes the delay in the promulgation of the decision in Civil Case No. 367(97) to the lack of stenographers who would type the decision, the numerous times when the draft was corrected and her additional responsibilities as Vice Executive Judge. She stresses the fact that she has allegedly made a draft of the decision even before the expiration of the 30-day period.

Respondent judge filed a letter dated October 20, 1999 with this Court stating that she was applying for optional retirement effective October 30, 1999 and that if there is any charge against her in connection with the present administrative case, she requests that the same be withheld from her retirement benefits.

On the basis of the recommendation of the Office of the Court Administrator, the Court finds the respondent judge administratively liable but only for the delay in the disposition of Civil Case No. 367(97).

Sec. 10 of the Revised Rules on Summary Procedure provides that:

"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.

Applying the aforementioned provision of law, respondent judge is therefore obligated to decide the case within thirty (30) days from February 16, 1998 which was the date when the position papers of both parties were filed in court. When the complainant filed on February 19, 1998 a Motion to Consider Defendants' Position Paper as Not Filed, the respondent judge should have simply denied the motion on the basis of the applicable law and then immediately rule on the merits of the case so as not to defeat the purpose of the rules on summary procedure. We see no reason why it has to take the respondent judge a month to resolve a simple motion and more than two (2) months to decide the case.

The excuse proffered by the respondent judge for the delay is flimsy. A judge should diligently discharge administrative responsibilities, maintain professional competence in court management, and facilitate the performance of the administrative functions of other judges and court personnel.<sup>[19]</sup>

The Revised Rules on Summary Procedure was precisely enacted to achieve an expeditious and inexpensive determination of cases, and failure to observe the 30-day period within which to render a judgment subjects the defaulting judge to administrative sanction.<sup>[20]</sup>

The other grounds raised by the complainant are devoid of merit. Complainant contends that respondent judge committed gross ignorance of the law in denying complainant's motion to consider defendants' position paper as not filed. His reliance on Section 11, Rule 13 of the 1997 Rules of Civil Procedure is misplaced. Said provision states that:

"Sec. 11. *Priorities in modes of service and filing.* - Whenever practicable, the service and filing of pleadings and other papers shall be done personally. Except with respect to papers emanating from the court, a resort to other modes must be accompanied by a written explanation why the service or filing was not done personally xxx."

The evidence on record shows that defendants' position paper was accompanied by an explanation as to why personal service was not resorted to. Defendants found it impractical to personally serve the pleading to complainant due to time constraint, lack of manpower and in order to minimize expense. In the March 25, 1998 Order denying complainant's motion, respondent judge opines that "xxx. To mail the position paper at Iloilo Hall of Justice Post office and immediately file the same with the Court which is an adjacent door to the Iloilo Hall of Justice Post office is very practical and convenient xxx."<sup>[21]</sup> We reiterate our ruling in *Solar Team Entertainment, Inc. vs. Ricafort*<sup>[22]</sup> as to the proper application of Section 11, Rule 13 of the 1997 Rules of Civil Procedure. Thus:

"Pursuant, however, to Section 11 of Rule 13, service and filing of pleadings and other papers must, whenever practicable, be done personally; and if made through other modes, the party concerned must provide a written explanation as to why the service or filing was not done personally. xxx

Personal *service* and *filing* are preferred for obvious reasons. Plainly, such should expedite action or resolution on a pleading, motion or other paper; and conversely, minimize, if not eliminate, delays likely to be