

SECOND DIVISION

[A.M. No. MTJ-98-1154, August 26, 1998]

RENATO ALVARO RUPERTO, COMPLAINANT, VS. JUDGE TIRSO F. BANQUERIGO, RESPONDENT.

DECISION

REGALADO, J.:

This administrative matter was initiated by a verified complaint of one Renato Alvaro Ruperto against Judge Tirso F. Banquerigo of the Municipal Circuit Trial Court (MCTC) of Tayasan Jimmalud, Negros Oriental, in his acting capacity as presiding judge of the MCTC, Bindoy-Ayungon-Manjuyod, for alleged ignorance of the law, malicious prosecution, grave abuse of discretion and malicious delay in the administration of justice.^[1]

Complainant alleges that this administrative case stems from the questionable ruling of respondent Judge Banquerigo in a case he filed against the spouses Anselmo and Pacita Mojillo, for ejectment with damages, on August 2, 1995. This case was docketed as Civil Case No. A-178 of the MCTC of Bindoy-Ayungon-Manjuyod.

The Mojillo spouses failed to file their answer to the complaint within the reglementary period. Since the case falls under the Revised Rule on Summary Procedure, herein complainant filed a motion with the trial court on September 1, 1995 to summarily decide the case in accordance with the aforesaid Rule. Respondent judge, however, failed to act on the motion and, worse, he further granted therein defendant spouses an additional ten days within which to file their answer. The case was set for hearing on December 14, 1995, and, thereafter, it was again reset to March 14, 1996. Thus, complainant contends, Judge Banquerigo failed to promptly act as provided for under the Revised Rule on Summary Procedure, but he instead allowed the case to unduly drag on.

Complainant accordingly submits that although the case is governed by the Revised Rule on Summary Procedure, seven months have already elapsed and the Mojillo spouses have failed to offer a valid defense; that respondent judge should have ruled on the motion to decide the case through the required summary procedure; that Judge Banquerigo's refusal to act on said motion has delayed the administration of justice; that his utter disregard of the Rule is a blatant and irresponsible actuation, tantamount to grave abuse of discretion; and that respondent should not go unpunished since he has made a mockery of our justice system.

Regarding the charge of malicious prosecution, complainant alleges that respondent judge issued a warrant for his arrest on February 26, 1990 for two alleged crimes of qualified theft, despite the fact that the supposed crimes were committed in the presence of many persons and in broad daylight. Of greater importance, so he contends, is that the land in question belongs to him, hence he cannot be liable for theft of coconuts thereon while the ownership of the land was still in issue. To

further bolster his claim, complainant points out that said criminal cases for qualified theft were dismissed by the Regional Trial Court of Dumaguete City on March 13, 1991 as no criminal intent was proved. Hence, the issuance of the warrant of arrest by respondent judge was malicious and tantamount to grave abuse of discretion.

Respondent Judge Tirso F. Banquerigo, after several motions for extension, finally filed his comment. He stressed that he was only an acting judge of the MCTC, Manjuyod-Bindoy-Ayungon, which had jurisdiction over the cases in question and that he was reporting to that court, which had 226 pending cases, only twice a week. He retorts that it is complainant who is guilty of malicious prosecution because the filing of this administrative action has wasted the precious time of his court.

Respondent admits that he issued a warrant for the arrest of complainant, but adds that the same was done after it was established that there was *prima facie* evidence, hence the issuance of the warrant was in order. He further asserts that he should not be accused of malicious prosecution since he did not file any case against complainant.

As to the charges of ignorance of the law, grave abuse of discretion and malicious delay in the administration of justice in connection with the ejectment case filed by complainant against the Mojillo spouses, respondent avers that the case was filed in August, 1995. Considering that there were several cases filed with the MCTC of Manjuyod-Bindoy-Ayungon, the case was set for hearing on March 14, 1996 allegedly as agreed upon by the parties and their counsel.

He claims that his failure to act on the motion of complainant to decide the case in accordance with Section 6 of the Revised Rule on Summary Procedure was because, in the interest of justice and equity, he believed that said motion should be set for hearing. He contends that it was complainant's own act which allowed technicalities to set in, because he filed a responsive pleading or reply to the affirmative defenses and an answer to the counterclaim of therein defendant spouses. It is the opinion of respondent judge that the filing of such pleadings by complainant was tantamount to abandoning his motion for the resolution of the case based on Section 6 of the aforecited Rule.

Respondent judge, to further justify his actuations, calls attention to the fact that he was, at that time, also assigned as acting presiding judge of several courts, as a consequence of which he could not always keep track of all the cases filed in his own regular sala and those to which he was detailed.^[2]

The office of a judge exists for one solemn end -- to promote the ends of justice by administering it speedily and impartially. The judge, as the person presiding over that court, is the visible representation of the law and justice. These are self-evident dogmas which do not even have to be emphasized, but to which we are wont to advert when some members of the judiciary commit legal missteps or stray from the axioms of judicial ethics, hopefully only through unwitting error or inattention.

These fundamental tenets hold true regardless of the ranking of the court and its magistrate in the hierarchy of our judicial system. The fact that the cases involved in the present administrative matter are comparatively among the minor transgressions in criminal and civil law, and the respondent judge presides over a court on the lowest rung of the judicial ladder, all the more requires the attention of