

SECOND DIVISION

[A.M. No. MTJ-94-904, May 22, 1996]

JOSEPHINE C. MARTINEZ, COMPLAINANT, VS. JUDGE CESAR N. ZOLETA, RESPONDENT.

D E C I S I O N

REGALADO, J.:

The antecedents of and proceedings taken in this administrative matter are commendably summarized in the memorandum of Deputy Court Administrator Zenaida N. Elepaño, dated May 7, 1996, the pertinent portions of which we adopt and quote:

Initially filed with this Court is a letter dated 31 May 1993 of Josephine C. Martinez bringing to the attention of Deputy Court Administrator Reynaldo L. Suarez the predicament of her brother-in-law who is detained at the Provincial Jail at Trece Martires City. Allegedly, no action could be taken by the Office of the Provincial Prosecutor of Cavite City on Criminal Case No. 2506 entitled "People of the Philippines vs. Elranie Martinez" for Rape since the records have not yet been forwarded to the said office for further proceedings by the MCTC, Maragondon-Ternate, Cavite presided over by Judge Cesar N. Zoleta.

The aforesaid letter was referred by DCA Suarez to Judge Zoleta for APPROPRIATE ACTION in a 1st Indorsement dated 2 June 1993. With no advice received from respondent on the action taken by him, this Office required the former to submit his comment in a letter dated 13 July 1993. Again respondent failed to comply therewith so that a 3rd Tracer dated 7 September 1993 was sent to him reiterating the directive with a warning that appropriate action would be taken should he fail to submit his comment.

Meanwhile on 4 January 1994 Ms. Martinez filed a sworn letter-complaint charging respondent Judge with failure to forward the records of Criminal Case No. 2506 to the Office of the Provincial Prosecutor for further proceedings despite repeated demands. As a consequence, her brother-in-law remained in detention at the Trece Martires City Provincial Jail since his case had not yet been heard as the records were still with respondent Judge.

The Second Division of this Court in Its Resolution dated 16 February 1994 required respondent Judge to COMMENT on the complaint.

Because respondent failed to file the required comment, he was ordered in the Resolution dated 23 May 1994 to SHOW CAUSE why he should not

be disciplinary dealt with or held in contempt for such failure and to COMPLY with the aforesaid resolution of 16 February 1994.

Despite this, respondent Judge still failed to comply with the show-cause resolution. Hence in the Resolution dated 8 August 1994 a FINE of P500.00 was imposed by the Court on respondent Judge payable within ten (10) days from notice, otherwise, he would suffer imprisonment of five (5) days. Respondent was again ordered to COMPLY with the resolution of 16 February 1994 within ten (10) days from notice.

Respondent failed to comply with the Resolution dated 8 August 1994 thus, the Second Division of this Court in Its Resolution dated 3 July 1995 INCREASED the fine imposed on respondent Judge to P1,000.00 payable within ten (10) days from notice and failing payment, ordered imprisonment of ten (10) days, and to COMPLY with the Resolution of 16 February I 1994.

For respondent's failure to comply with the aforesaid directive the Second Division of this Court in its Resolution dated 20 November 1995 ADJUDGED respondent Judge Cesar N. Zoleta GUILTY of contempt of Court under Rule 71, Section 3(b) of the Rules of Court; ORDERED his IMPRISONMENT for ten (10) days pursuant to the Resolution of 3 July 1995; required him to COMPLY with the resolution of 16 February 1994 and directed the ISSUANCE of the Order for his Arrest and Commitment for immediate service by the National Bureau of Investigation.

Verification from the Disbursement and Collection Division of the Finance Management and Budget Office of this Court (FMBO) disclosed that on 9 September 1994 respondent Judge paid the P500.00 FINE imposed in the resolution dated 8 August 1994, as shown in the certified photo copy of Official Receipt No. 077122.

In view of respondent's failure to file a notice of compliance regarding the matter, the P500.00 was increased to P1,000.00 in the Resolution of 3 July 1995.

On the other hand, verification from the Documentation Unit of the Office of the Court Administrator disclosed that respondent Judge up to the present has not yet filed his Comment on the complaint, as shown in the Certification dated 3 May 1996 issued by Atty. Celso M. Gabalones, Chief, Documentation Unit.

A scrutiny of the records show that copies of the Resolutions dated 16 February 1994, 23 May 1994 and 8 August 1994 were personally received by respondent Judge while copy of the Resolution dated 3 July was received by one Monseur Maganto.

In its resolution of March 25,1996, the Court required the Director, National Bureau of Investigation (NBI) to submit the return of compliance of the Order of Arrest and Commitment issued against respondent judge on November 20,1995 within five (5)