

## EN BANC

**[ A.M. No. MTJ-93-794, August 23, 1996 ]**

**BONIFACIO I. GUINTU, COMPLAINANT, VS. JUDGE AUNARIO L. LUCERO, RESPONDENT.**

### DECISION

#### PER CURIAM:

Before this Court is a verified letter-complaint, dated April 20, 1993, filed by complainant Bonifacio I. Guintu charging respondent Judge Aunario L. Lucero of the 13th Municipal Circuit Trial Court (MCTC) of Alilem-Sugpon, Ilocos Sur (as then Presiding Judge of the 12th MCTC, Tagudin-Suyo, Ilocos Sur) with culpable failure to decide a case within the 90-day reglementary period. Complainant was the complaining witness in a case for grave oral defamation (People vs. Serafin R. Battad, Criminal Case No. 2105) filed before the MCTC of Tagudin-Suyo which was then presided over by respondent judge.

Complainant avers that the aforecited criminal case was submitted for decision, after trial on the merits, on October 25, 1988. On January 24, 1989, he personally inquired about the status of the case and respondent judge told him that "I could not expedite the promulgation of the decision because we are short of typewriter." On June 30, 1989, when complainant again followed up the matter, respondent judge told him "Mr. Guintu, you should understand that there are many criminal cases being filed with this Office and that I could not give preferential attention to your case. One thing more, I am in the process of correcting stenographic transcriptions."

This prompted complainant to bring the matter to the attention of the Office of the Court Administrator through a letter dated July 7, 1989.<sup>[1]</sup> Accordingly, in a 1st Indorsement dated July 12, 1989 by then Deputy Court Administrator Juanito C. Ranjo, complainant's letter was referred to respondent judge for appropriate action and "requesting assistance towards the expeditious disposition of Criminal Case No. 2105 which was submitted for decision on October 25, 1988." Respondent judge was further directed to "return by indorsement these papers with the action taken therein within ten (10) days from receipt hereof."<sup>[2]</sup>

When after the lapse of almost five (5) months respondent still had not acted on the case, complainant sent another follow-up letter dated January 25, 1990 to then Deputy Court Administrator Juanito C. Ranjo. The latter thereafter sent a first tracer letter dated February 6, 1990 to respondent judge, inviting the latter's attention to the 1st Indorsement of July 12, 1989, with a warning that "preferential attention is hereby enjoined. Failure to do so will constrain us to bring this matter to the attention of the Honorable Court."<sup>[3]</sup>

On March 15, 1990, respondent judge sent a 2nd Indorsement informing the Deputy

Court Administrator that "the decision in Criminal Case No. 2105 has been *personally* written and drafted by the Presiding Judge and the final copy of the same, as edited and revised by him *personally*, is being *personally* finalized and would soon be promulgated."<sup>[4]</sup> (Italics ours)

Despite such assurance, however, the case obviously remained dormant for a long period of time because on August 20, 1992, or more than two (2) years after respondent's last written communication with the Office of the Court Administrator, complainant sent another letter addressed this time to Chief Justice Andres R. Narvasa stating that, despite several follow-ups and requests for the immediate resolution of his case, the same had remained pending for three (3) years, nine (9) months and twenty-four (24) days from the date it was deemed submitted for decision.

Said letter was subsequently referred to respondent judge, in a 1st Indorsement of former Deputy Court Administrator Juanito A. Bernad dated September 9, 1992, for appropriate action within ten (10) days from receipt thereof.<sup>[5]</sup> In his letter-reply dated November 16, 1992, respondent judge manifested that "the decision in Criminal Case No. 2105 entitled 'People vs. Serafin Battad' is undergoing finalization (editing, retyping, and rechecking of authorities cited) in time to be included for promulgation in the December calendar of the 12th Municipal Circuit Trial Court, Tagudin-Suyo Circuit, Province of Ilocos Sur."<sup>[6]</sup>

Respondent judge again reneged on his undertaking, as a consequence of which then Deputy Court Administrator Bernad, apparently realizing the futility of it all, decided to refer the aforestated administrative complaint to this Court, with the recommendation that respondent judge be required to comment thereon. On May 31, 1993, the Court issued a resolution requiring respondent judge to file his comment within ten (10) days from notice. Respondent judge twice moved for extension of time totaling ten (10) days from expiration of the reglementary period within which to file comment,<sup>[7]</sup> which motions were granted in the Court's resolution of August 11, 1993.

Considering that the 10-day extended period had lapsed without a comment having been filed by respondent judge, another resolution was issued by the Court on November 24, 1993, requiring respondent judge to show cause why he should not be disciplinarily dealt with or held in contempt for failure to file comment as ordered in the resolution of May 31, 1993, and to comply with said resolution, both within ten (10) days from notice.

For almost a year, that show-cause order, as well as the resolution of May 31, 1993, remained unheeded. In exasperation, on March 21, 1994, the Court "resolved to impose upon respondent Judge Lucero a fine of P500.00 payable to this Court within ten (10) days from notice hereof or to suffer imprisonment of five (5) days if such fine is not paid within the prescribed period" and, for the third time, "to require him to comply with the resolution of May 31, 1993 by submitting to this Court also within ten (10) days from notice hereof, his comment on the administrative complaint."<sup>[8]</sup> The fine was paid on May 2, 1994, but no comment was filed.

On May 11, 1994, this Court received a telegraphic motion from respondent judge requesting an extension of fifteen (15) days from May 5, 1994 to file comment due

to the death of his father.<sup>[9]</sup> On May 17, 1994, the Office of the Court Administrator received another letter from respondent judge, dated April 25, 1994, requesting for an extension of at least ten (10) days from expiry date on the ground that he had yet to receive his salary for the first half of April and that he was preparing a resolution in connection with a criminal case filed with the Court.<sup>[10]</sup> Consistent with his nonfeasance in the previous incidents, these representations of respondent judge never materialized.

Once again, in a resolution dated January 11, 1995, respondent judge was required for the fourth time to fully comply with the resolution of March 21, 1994 by submitting, within ten (10) days from notice, his comment on the administrative complaint. Also, once again, nothing was received or heard from respondent judge.

In a letter dated February 25, 1995 and received by this Court on March 17, 1995, complainant Bonifacio I. Guintu requested information "on any further action taken in the present case, it appearing that the latest action taken on the matter is the resolution of March 21, 1994."<sup>[11]</sup> Accordingly, the Clerk of Court of the Second Division replied in a letter to the complainant dated April 21, 1995, apparently with a copy thereof furnished to respondent judge, informing the former that the case was still awaiting the comment of said respondent.<sup>[12]</sup> A handwritten note appearing thereon indicates that respondent judge personally received his copy of said letter on June 27, 1995.

Another show-cause-and-comply order was issued by the Court on July 3, 1995, on which respondent judge again requested and was granted an extension of ten (10) days within which to file his comment. On February 26, 1996, complainant Guintu filed an Urgent Motion to Resolve the present administrative case. A third show-cause-and-comply order was issued by the Court on March 13, 1996, after which the case referred to this Office of the Court Administrator for appropriate action, report and recommendation.

In a Memorandum dated April 17, 1996, Deputy Court Administrator Bernardo P. Abesamis recommended that respondent judge be dismissed from the service with forfeiture of all benefits and disqualification from reinstatement or appointment to any public office including government-owned or controlled corporations. In the meantime, another telegraphic motion was received by the Court wherein respondent judge requested an extension until the middle of June within which to comply.

To recall, the criminal case was due for decision as early as January 25, 1989, this administrative matter commenced on July 7, 1989, and appropriate action or comment was first required from respondent judge on July 12, 1989. Yet, up to the present, the decision and the comment are nowhere in sight. It is evident, therefore, that up to this late hour respondent judge has not as yet made any decision in Criminal Case No. 2105, for none has been submitted or presented nor has any manifestation to that effect been made before this Court.

It has repeatedly been held that delay in resolving motions and incidents pending before a judge within the reglementary period of ninety (90) days fixed by the Constitution and the law is not excusable and constitutes gross inefficiency.<sup>[13]</sup> The judge is likewise guilty of a violation of Rule 3.05, Canon 3 of the Code of Judicial