



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court's First Division issued a Resolution dated August 31, 2022 which reads as follows:*

**“A.M. No. RTJ-22-021 [Formerly OCA IPI No. 18-4884-RTJ] (Norhata P. Omar, complainant vs. Hon. Mariam G. Bien, Presiding Judge, Regional Trial Court, Taguig City, Branch 153, respondent). –** Before the Court is a Complaint-Affidavit<sup>1</sup> filed by Norhata P. Omar (*complainant*) with the Office of the Court Administrator, which detailed the alleged irregularities committed by Hon. Mariam G. Bien (*respondent*), Presiding Judge of the Regional Trial Court, Taguig City, Branch 153. The said complaint administratively charged respondent with gross ignorance of the law, incompetence, and undue delay relative to Civil Case No. 261, entitled “*Norhata P. Omar v. Motech Automotive (Pioneer Shaw)*.”

*Antecedents*

In her Complaint-Affidavit dated August 21, 2018, complainant charged respondent with ignorance of the law, incompetence and unreasonable delay in resolving the motion for reconsideration relative to Civil Case No. 261.

Complainant was the plaintiff in Civil Case No. 261, a case for recovery of possession of personal property and damages against Motech Automotive (*Motech*). In said case, complainant brought her broken down motor vehicle for repairs to Motech, a repair shop. Complainant then alleged that the latter made additional repairs without her consent, and that Motech charged her an exorbitant repair bill amounting to ₱132,164.50.<sup>2</sup> Despite repeated demands to return her motor vehicle, Motech refused, claiming that the motor vehicle was now an object of a pledge, as

<sup>1</sup> *Rollo*, pp. 3-8.

<sup>2</sup> *Id.* at 11-12.

complainant had not paid the repair bill.<sup>3</sup> Aggrieved, complainant filed a case against Motech, which was docketed as Civil Case No. 261 and was raffled to respondent. In her complaint, complainant included an application for the immediate issuance of a writ of replevin for the subject motor vehicle under Section 1, Rule 60 of the Rules of Court.<sup>4</sup>

However, in an Order<sup>5</sup> dated August 25, 2017, respondent denied complainant's application for the issuance of a writ of replevin stating that complainant had failed to comply with the requirements set forth under Sec. 2, Rule 60 of the Rules of Court,<sup>6</sup> specifically, for failing to attach an affidavit of merit.

From the order of denial, complainant filed a Motion for Reconsideration<sup>7</sup> dated September 22, 2017, where she admitted to inadvertently failing to attach an affidavit of merit in her complaint but she, nevertheless, attached it in her motion for reconsideration. In an Order<sup>8</sup> dated September 29, 2017, respondent stated that complainant's motion for reconsideration was submitted for resolution.

In an Order<sup>9</sup> dated December 22, 2017, respondent resolved the motion for reconsideration in complainant's favor. However, complainant claims that respondent belatedly resolved the motion for reconsideration on January 16, 2018.<sup>10</sup>

Hence, complainant filed the instant administrative complaint against respondent. Complainant objected to the initial denial of her application for

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<sup>3</sup> Id. at 13.

<sup>4</sup> Section 1. *Application*. A party praying for the recovery of possession of personal property may, at the commencement of the action or at any time before answer, apply for an order for the delivery of such property to him, in the manner hereinafter provided.

<sup>5</sup> *Rollo*, p. 19.

<sup>6</sup> Section 2. *Affidavit and bond*. — The applicant must show by his own affidavit or that of some other person who personally knows the facts:

(a) That the applicant is the owner of the property claimed, particularly describing it, or is entitled to the possession thereof;

(b) That the property is wrongfully detained by the adverse party, alleging the cause of detention thereof according to the best of his knowledge, information, and belief;

(c) That the property has not been distrained or taken for a tax assessment or a fine pursuant to law, or seized under a writ of execution or preliminary attachment, or otherwise placed under *custodia legis*, or if so seized, that it is exempt from such seizure or custody; and

(d) The actual market value of the property.

The applicant must also give a bond, executed to the adverse party in double the value of the property as stated in the affidavit aforementioned, for the return of the property to the adverse party if such return be adjudged, and for the payment to the adverse party of such sum as he may recover from the applicant in the action.

<sup>7</sup> *Rollo*, pp. 20-25.

<sup>8</sup> Id. at 28.

<sup>9</sup> Id. at 43.

<sup>10</sup> The issuance of the Order referring the case to mediation; also stated as "January 12, 2018" in the JIB Report and Recommendation (see *rollo*, p. 62).

a writ of replevin and argued that the issuance of the writ was only a temporary remedy and that respondent should have observed leniency considering that failure to immediately return the motor vehicle would cause damage to her. Complainant averred that the application for a writ of replevin was not a separate or independent motion where the applicant must first present evidence before the motion is resolved.<sup>11</sup>

Complainant also alleged that more than 120 days had lapsed from the time her motion for reconsideration was submitted for resolution before respondent resolved such motion. Further, she claimed that respondent did not read the entire allegations in her complaint to understand the importance of issuing a writ of replevin immediately. Due to the unreasonable delay of respondent in resolving the motion for reconsideration, complainant alleged that she lost interest in pursuing the case and was forced to enter into a compromise agreement with Motech, where she was obligated to pay the exorbitant amount she originally refused to pay.<sup>12</sup>

In her Comment,<sup>13</sup> respondent counters that she was only following the Rules of Court in denying complainant's application for the issuance of a writ of replevin, specifically, due to complainant's failure to comply with the requirements set forth under Sec. 2, Rule 60 of the Rules of Court regarding the non-attachment of an affidavit of merit. Hence, respondent claims that there was no grave abuse of discretion on her part for initially denying the application for the issuance of the writ of replevin. Respondent also argues that it was untrue that she resolved the motion for reconsideration only on January 16, 2018; instead, she granted said motion in her December 22, 2017 Order,<sup>14</sup> albeit subject to the filing of the requisite bond in the amount of ₱1,320,000.<sup>12</sup>

Respondent also insists that despite her heavy workload, she reads every case, and that it was complainant who failed to attach the required affidavit of merit in her application for a writ of replevin. Nonetheless, she points out that complainant voluntarily agreed to settle the case on her own and no one forced her to enter into a compromise agreement.<sup>15</sup>

#### *The Judicial Integrity Board (JIB) Recommendation*

In its November 9, 2021 Report and Recommendation,<sup>16</sup> the JIB recommended the following:

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<sup>11</sup> *Rollo*, p. 4.

<sup>12</sup> *Id.* at 5-7.

<sup>13</sup> *Id.* at 40-42.

<sup>14</sup> *Id.* at 43.

<sup>15</sup> *Id.* at 41.

<sup>16</sup> *Id.* at 61-68; penned by Justice Rodolfo A. Ponferrada (ret.), with the concurrence of Justices Romeo J. Callejo, Sr. (ret.), Angelina Sandoval-Gutierrez (ret.), and Sesinando E. Villon (ret.).

WHEREFORE, it is respectfully **RECOMMENDED** that:

1. The administrative complaint against Hon. Mariam G. Bien, Presiding Judge, Branch 153, Regional Trial Court, Taguig City, be **RE-DOCKETED** as a regular administrative matter;
2. Respondent be found **GUILTY** of undue delay in rendering a decision or order, and be meted the penalty of **FINE** in the amount of **₱2,000.00**; and
3. The charges of incompetence and ignorance of the Rules of Court be **DISMISSED**.<sup>17</sup>

The JIB held that the denial of complainant's application for writ of replevin is judicial in nature and beyond the realm of disciplinary proceedings. In administrative cases, the complainants bear the burden of proving the averments of their complaint by substantial evidence, else the presumption that respondents regularly performed their duties shall prevail.

However, the JIB found that respondent unjustifiably failed to rule on the motion for reconsideration within the reglementary period. Sec. 4, Rule 37 of the Rules of Court states that a motion for reconsideration shall be resolved within 30 days from the time it is submitted for resolution. The records show that it actually took respondent 84 days to resolve or act on the motion, which is beyond the reglementary period provided in the Rules of Court. Hence, there was undue delay on respondent's part to resolve the motion for reconsideration. The JIB recommended that respondent be found administratively liable for undue delay in rendering a decision or order, and be meted the penalty of fine in the amount of ₱2,000.00; and that the charges of incompetence and ignorance of the rules be dismissed.

### **The Court's Ruling**

The Court partially adopts the report and recommendation of the JIB.

As mentioned by the JIB, the complaint charging respondent with gross ignorance of the law, incompetence, and unreasonable delay is premised on the following acts: (1) respondent's denial of complainant's application for a writ of replevin, and (2) respondent's failure to rule on complainant's motion for reconsideration within the reglementary period.

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<sup>17</sup> Id. at 67.

*Gross ignorance of the law;  
incompetence*

On the first charge of gross ignorance of the law and incompetence, respondent's action of denying the application for a writ of replevin is essentially judicial in nature. It has been continuously held by the Court that matters of judicial adjudication are not subject of administrative complaints. The proper recourse by a party aggrieved by a decision or order of a judge is to appeal to the proper court.<sup>18</sup>

In *Mendoza v. Afable*,<sup>19</sup> the Court explained:

[A]n administrative complaint is not the appropriate remedy for every irregular or erroneous order or decision issued by a judge where a judicial remedy is available, such as a motion for reconsideration, or an appeal. For, obviously, if subsequent developments prove the judge's challenged act to be correct, there would be no occasion to proceed against him at all. Besides, to hold a judge administratively accountable for every erroneous ruling or decision he renders, assuming he has erred, would be nothing short of harassment and would make his position doubly unbearable. To hold otherwise would be to render judicial office untenable, for no one called upon to try facts or interpret the law in the process of administering justice can be infallible in his judgment. **It is only where the error is so gross, deliberate and malicious, or incurred with evident bad faith that administrative sanctions may be imposed against the erring judge.**<sup>20</sup> (emphasis supplied)

Similarly, in the case of *Tamondong v. Judge Pasal*,<sup>21</sup> the Court declared:

[A]n administrative complaint is not the appropriate remedy for every act of a judge deemed aberrant or irregular where a judicial remedy exists and is available. The acts of a judge in his judicial capacity are not subject to disciplinary action. A judge cannot be civilly, criminally, or administratively liable for his official acts, no matter how, provided he acts in good faith.<sup>22</sup>

Here, complainant alleged that respondent should have exercised wisdom and leniency in resolving her application for a writ of replevin given the damage it would cause her. However, complainant's opinion on a matter, which is in the full discretion of a judge, does not bear any weight in determining a finding that respondent is administratively liable in the absence of any proof that such alleged error was deliberate, malicious, or incurred with evident bad faith. Neither did complainant allege that respondent acted with fraud, dishonesty, bias or partiality.

<sup>18</sup> *Philippine Geriatrics Foundation, Inc. v. Judge Layosa*, 416 Phil. 668, 674 (2001).

<sup>19</sup> 441 Phil. 694 (2002).

<sup>20</sup> *Id.* at 701.

<sup>21</sup> 820 Phil. 220 (2017).

<sup>22</sup> *Id.* at 230.

Complainant has the burden of proving by substantial evidence the allegations in the complaint,<sup>23</sup> and she failed to prove the charges of gross ignorance of the law and incompetence against respondent in denying the application for a writ of replevin. Further, the presumption of regularity in the performance of a judge's functions is to respondent's favor. It is incumbent upon complainant to prove that respondent judge was manifestly partial against her. Bare allegations do not suffice<sup>24</sup> and neither do mere suspicions nor conjectures.<sup>25</sup>

In this case, respondent strictly relied on Sec. 2, Rule 60 of the Rules of Court, specifically, complainant's failure to attach an affidavit of merit, in denying complainant's application for a writ of replevin. This was also admitted by complainant – that she failed, through inadvertence, to attach the required affidavit of merit in her complaint.<sup>26</sup> Hence, there is no proof of such patent error, bad faith or malice in respondent's initial denial of complainant's application for a writ of replevin. Notably, judges may not be held administratively liable for every alleged erroneous decision they make, for no judge is infallible.<sup>27</sup>

*Undue delay in  
resolving a motion*

In the second charge of unreasonable delay, the Court finds that respondent may be held administratively liable for failure to resolve the motion for reconsideration within the required period.

Sec. 5, Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary<sup>28</sup> mandates that “[j]udges shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness.” In pursuit of this aim, the Court, through the Rules of Court and other issuances, has fixed reglementary periods for acting on cases and matters. Under Sec. 4, Rule 37 of the Rules of Court, it provides that:

Sec. 4. *Resolution of motion.* – A motion for new trial or reconsideration shall be resolved within thirty (30) days from the time it is submitted for resolution.

Respondent admits that there was a delay in resolving the motion for reconsideration. In this case, complainant filed a motion for reconsideration

<sup>23</sup> *Baysa v. Santos*, G.R. No. 254328, December 2, 2021.

<sup>24</sup> *Robles v. Baloloy*, 549 Phil. 5, 10 (2007).

<sup>25</sup> *People v. Maing*, 387 Phil. 770, 778 (2000).

<sup>26</sup> *Rollo*, p. 20.

<sup>27</sup> *Philippine Geriatrics Foundation, Inc. v. Judge Layosa*, supra.

<sup>28</sup> A.M. No. 03-05-01-SC, June 1, 2004.

dated September 22, 2017. The said motion for reconsideration was deemed submitted for resolution on September 29, 2017. However, respondent issued the Order granting the motion for reconsideration only on December 22, 2017, or after 84 days, or almost three months after the submission of said motion for resolution. Notably, respondent did not offer any acceptable explanation for the delay. She merely claims that she has a heavy workload.<sup>29</sup> It is, therefore, undeniable that there was undue delay on her part in resolving said motion for reconsideration.

Consequently, complainant suffered from the delay in the disposition and resolution of her motion for reconsideration, which ultimately tainted the image of the Judiciary. “Delay in case disposition is a major culprit in the erosion of public faith and confidence in the judiciary and the lowering of its standards.”<sup>30</sup> Hence, respondent’s unexplained delay in resolving the motion for reconsideration is unwarranted.

“Every judge should decide cases with dispatch and should be careful, punctual, and observant in the performance of his [or her] functions for delay in the disposition of cases erodes the faith and confidence of the people in the Judiciary, lowers its standards, and brings it into disrepute.”<sup>31</sup> Thus, the inexcusable delay warrants the imposition of an administrative sanction against respondent.

While the Court is aware of the heavy caseload of trial courts, and has allowed reasonable extensions of time needed to decide cases or resolve pending incidents therein, such extensions must first be requested from the Court. A judge is in no position to choose by himself or herself to prolong the period for deciding cases beyond that authorized by law.<sup>32</sup>

### *Proper penalty*

In resolving administrative cases against judges or justices of the lower courts, Rule 140 of the Rules of Court elucidates as to the charges and the imposable penalties.<sup>33</sup>

In *Tamondong v. Judge Pasal*,<sup>34</sup> the Court found therein respondent judge guilty of undue delay in the resolution of a motion for reconsideration and imposed a penalty of fine in the amount of ₱2,000.00 for his infraction.

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<sup>29</sup> *Rollo*, p. 41.

<sup>30</sup> *Re: Evaluation of Administrative Liability of Judge Lubao*, 785 Phil. 14, 27 (2016).

<sup>31</sup> *Re: Cases Submitted for Decision before Judge Herrera, RTC, Branch 24, Biñan, Laguna*, 647 Phil. 311, 321 (2010), citing *Report on the Judicial Audit Conducted in RTC, Branch 22, Kabacan, North Cotabato*, 468 Phil. 338, 344 (2004).

<sup>32</sup> *Re: Cases Submitted for Decision before Judge Baluma*, 717 Phil. 11, 17 (2013).

<sup>33</sup> *Boston Finance and Investment Corp. v. Gonzalez*, 841 Phil. 701, 721 (2018).

<sup>34</sup> *Supra* note 21.

On the other hand, in *Salud v. Judge Alumbres*,<sup>35</sup> undue delay in rendering a decision or order, or in transmitting the records of a case was considered a less serious charge under Rule 140 of the Rules of Court.

On February 22, 2022, the Court amended Rule 140 of the Rules of Court.<sup>36</sup> Sec. 24 thereof provides that it “shall be applied to all pending and future administrative cases x x x.” By expressly stating that these amendments will apply to “all pending and future administrative cases,” the Court effectively abandons the ruling in *Dela Rama v. De Leon*,<sup>37</sup> which stated that “if the application of Rule 140, as amended[,] would be prejudicial to the employee, then the framework of rules prevailing at the time of the commission of the offense should apply.” It bears noting that no vested rights are impaired by increasing the impossible periods of suspension or fines, or by making Rule 140 applicable to court personnel. Moreover, the Court may, in its discretion, make the necessary changes in this regard pursuant to its constitutional power to exercise administrative supervision and to discipline justices and judges of the lower courts, as well as all court personnel.<sup>38</sup>

Accordingly, the administrative offense of “undue delay in rendering a decision or order, or in transmitting the records of the case,” which is technically a form of negligence, may now be subsumed under either “gross neglect of duty” under the provision on serious charges, or “simple neglect of duty” under this provision, depending on the seriousness thereof, pursuant to case law on gross and simple neglect of duty.<sup>39</sup>

The Court explained neglect of duty in *Re: Complaint of Aero Engr. Reci*.<sup>40</sup>

Dereliction of duty may be classified as gross or simple neglect of duty or negligence. Gross neglect of duty or gross negligence “refers to negligence characterized by the want of even slight care, or by acting or omitting to act in a situation where there is a duty to act, not inadvertently but [willfully] and intentionally, with a conscious indifference to the consequences, insofar as other persons may be affected. It is the omission of that care that even inattentive and thoughtless men never fail to give to their own property.” It denotes a flagrant and culpable refusal or unwillingness of a person to perform a duty. In cases involving public officials, gross negligence occurs when a breach of duty is flagrant and palpable. In contrast, simple neglect of duty means the failure of an

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<sup>35</sup> 452 Phil. 506 (2003).

<sup>36</sup> Further Amendments to Rule 140 of the Rules of Court, A.M. No. 21-08-09-SC.

<sup>37</sup> A.M. No. P-14-3240, March 2, 2021.

<sup>38</sup> See Notes of Section 24, Rule 140 of the Rules of Court, as amended by A.M. No. 21-08-09-SC, February 22, 2022.

<sup>39</sup> See Rules of Court, Rule 140, Sec. 15, as amended by A.M. No. 21-08-09-SC, February 22, 2022.

<sup>40</sup> 805 Phil. 290 (2017).

employee or official to give proper attention to a task expected of him or her, signifying a “disregard of a duty resulting from carelessness or indifference.”<sup>41</sup>

The Court finds respondent’s undue delay in resolving the motion for reconsideration as simple neglect of duty, a less serious offense, because it was done inadvertently and not willfully or intentionally.

Accordingly, Sec. 17, Rule 140 of the Rules of Court, as amended, provides the sanctions for a less serious charge:

*Sec. 17. Sanctions. –*

x x x x

- (2) If the respondent is guilty of a less serious charge, any of the following sanctions shall be imposed:
  - (a) Suspension from office without salary and other benefits for not less than one (1) month nor more than six (6) months; or
  - (b) A fine of more than ₱35,000.00 but not exceeding ₱100,000.00.

Further, Sec. 19, Rule 140, as amended, provides that in determining the appropriate penalty to be imposed, the Court may, in its discretion, appreciate the mitigating circumstances, such as:

*Sec. 19. Modifying Circumstances. – x x x*

(1) Mitigating Circumstances

- (a) First offense;
- (b) Length of service of at least ten (10) years with no previous disciplinary record where respondent was meted with an administrative penalty;
- (c) Exemplary performance;
- (d) Humanitarian considerations; and
- (e) Other analogous circumstances.

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<sup>41</sup> Id. at 292.

Additionally, Sec. 20 of the same Rule, provides the manner of imposing the mitigating circumstances:

*Sec. 20. Manner of Imposition.* – x x x

If one (1) or more mitigating circumstances and no aggravating circumstances are present, the Supreme Court may impose the penalties of suspension or fine for a period or **amount not less than half of the minimum prescribed under this Rule.** (emphasis supplied)

In this case, although respondent committed simple neglect of duty, which is a less serious charge, there are several mitigating circumstances that may be appreciated in her favor, to wit: respondent's eight years of continuous service to the Judiciary;<sup>42</sup> the absence of bad faith or malice on her part; and the lack of any record of previous administrative sanctions against her.

As the Court held in *Office of the Administrator v. Judge Teves, Sr.*:<sup>43</sup>

The honor and integrity of the judicial system is measured not only by the fairness and correctness of decisions rendered, but also by the efficiency with which disputes are resolved. Thus, judges must perform their official duties with utmost diligence if public confidence in the judiciary is to be preserved. There is no excuse for mediocrity in the performance of judicial functions. The position of judge exacts nothing less than faithful observance of the law and the Constitution in the discharge of official duties.<sup>44</sup>

**WHEREFORE**, the Court finds Judge Mariam G. Bien, Presiding Judge of the Regional Trial Court, Taguig City, Branch 153, administratively **GUILTY** of simple neglect of duty. She is **ORDERED** to pay a **FINE** in the amount of ₱17,500.00 and is **STERNLY WARNED** that a repetition of the same or similar acts in the future shall definitely be dealt with more severely.

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<sup>42</sup> *Rollo*, p. 66.

<sup>43</sup> A.M. No. RTJ-21-2606, February 9, 2021.

<sup>44</sup> *Id.*

**SO ORDERED.”** *Marquez, J., no part, former Court Administrator; Dimaampao, J., designated Additional Member per Raffle dated August 17, 2022.*

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court  
9/27/22

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
**133-II**  
SEP 27 2022

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Complainant  
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Hon. Mariam G. Bien  
Respondent – Presiding Judge  
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The Hon. Executive Judge  
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Hon. Raul B. Villanueva (x)  
Court Administrator  
Hon. Jenny Lind R. Aldecoa-Delorino (x)  
Hon. Leo Tolentino Madrazo (x)  
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Hon. Lilian Barribal-Co (x)  
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