AURORA E. BALAJEDEONG, COMPLAINANT, VS. JUDGE DEOGRACIAS K. DEL ROSARIO, MCTC, PATNONGON, ANTIQUE, RESPONDENT.

A.M. No. MTJ-07-1662 (Formerly OCA IPI No. 06-1858-P). June 08, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This is an administrative complaint[1] filed by Aurora E. Balajedeong (Balajedeong), against Judge Deogracias K. Del Rosario (Judge Del Rosario), Presiding Judge of the Municipal Circuit Trial Court (MCTC), Patnongon, Antique, for Grave Misconduct; Conduct Unbecoming a Judge, and Delay in the Disposition of a Case, relative to Civil Case No. 367 entitled, "Paterno Colago v. Sps. Willy and Salvacion Odi," pending before said court.

Complainant Balajedeong is the attorney-in-fact of Paterno Colago, the plaintiff in Civil Case No. 367, filed against the Spouses Odi for Forcible Entry with Prayer for Issuance of a Temporary Restraining Order before the MCTC, Patnongon, Antique, presided over by respondent Judge Del Rosario. She narrated that after a preliminary conference was held on 12 May 2003, the parties were ordered by respondent Judge Del Rosario to submit their respective position papers within 10 days. Colago, through his representative and herein complainant Balajedeong, allegedly filed his position paper on 24 June 2003, while Spouses Odi failed to do so. On 13 February 2004, Colago's counsel filed a Motion for Early Decision, but despite said motion, respondent Judge Del Rosario never entertained his plea.

In his Comment[2] dated 26 July 2006, respondent Judge Del Rosario claims that Spouses Odi submitted their memorandum on 2 June 2003, while Colago through his representative and herein complainant Balajedeong, submitted his position paper on 30 June 2003. Respondent Judge Del Rosario admits that the delay in the disposition of the subject case is due mainly to his failing health as he claims that sometime in July 2003 and September 2003, he had been hospitalized due to heart ailment and was advised to undergo by-pass operation. Thereafter, he was hospitalized several times more. Respondent Judge Del Rosario further states that there was a time when he was assigned as Presiding Judge of the 4th MCTC, Barbaza, Antique where he reported twice a week to conduct trial and preliminary examination. Respondent Judge Del Rosario further informs this Court that Civil Case No. 367, subject matter of this instant administrative complaint, was already decided on 15 June 2006.

On 24 November 2006, the Office of the Court Administrator (OCA) submitted its report,[3] recommending that -

> This instant administrative complaint be RE-DOCKETED as a regular administrative matter, and respondent Judge, in view of the previous cases where he was sanctioned to pay fines, be penalized to pay a FINE in the amount of THIRTY THOUSAND PESOS (P30,000.00) with a stern WARNING that a repetition of the same or similar offense will be dealt with even more severely.

On 15 January 2007, we required[4] the parties herein to manifest within 10 days from notice if they were willing to submit the matter for resolution based on the pleadings filed.

On 16 February 2007, complainant Balajedeong submitted her manifestation[5] stating that she was submitting the case for resolution based on the pleadings filed.

Respondent Judge Del Rosario failed to file his manifestation despite notice sent to and received by him.

Resultantly, the case is submitted for decision based on the pleadings filed.

We agree with the recommendation of the Court Administrator except in the penalty imposed.

As a general principle, rules prescribing the time within which certain acts must be done, or certain proceedings taken, are considered absolutely indispensable to the prevention of needless delays and the orderly and speedy discharge of judicial business. By their very nature, these rules are regarded as mandatory.[6]

The office of the judge exacts nothing less than faithful observance of the Constitution and the law in the discharge of official duties.[7] Section 15 (1), Article VIII of the Constitution, mandates that cases or matters filed with the lower courts must be decided or resolved within three months from the date they are submitted for decision or resolution. Moreover, Rule 3.05, Canon 3 of the Code of Judicial Conduct, directs judges to "dispose of the court's business promptly and decide cases within the required periods." Judges must closely adhere to the Code of Judicial Conduct in order to preserve the integrity, competence, and independence of the judiciary and make the administration of justice more efficient.[8] Time and again, we have stressed the need to strictly observe this duty so as not to negate our efforts to minimize, if not totally eradicate, the twin problems of congestion and delay that have long plagued our courts. Finally, Canons 6 and 7 of the Canons of Judicial Ethics exhort judges to be prompt and punctual in the disposition and resolution of cases and matters pending before their courts, to wit:

> - PROMPTNESS
>
> He should be prompt in disposing of all matters submitted to him, remembering that justice delayed is often justice denied.
>
> - PUNCTUALITY
>
> He should be punctual in the performance of his judicial duties, recognizing that the time of litigants, witnesses, and attorneys is of value and that if the judge is unpunctual in his habits, he sets a bad example to the bar and tends to create dissatisfaction with the administration of justice.

Also relevant is Administrative Circular No. 1 dated 28 January 1988, which requires all magistrates to observe scrupulously the periods prescribed in Article VIII, Section 15, of the Constitution, and to act promptly on all motions and interlocutory matters pending before their courts.

With respect to cases falling under the Rules on Summary Procedure, first-level courts are only allowed 30 days following the receipt of the last affidavit and position paper, or the expiration of the period for filing the same, within which to render judgment.[9]

Section 10 of the Rules on Summary Procedure explicitly provides:

> 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.

Clearly, respondent Judge Del Rosario failed to decide the aforementioned case within the thirty-day period prescribed by the Revised Rules on Summary Procedure. Herein complainant Balajedeong, on behalf of her principal Colago, and the Spouses Odi, parties in Civil Case No. 357, allegedly filed their position papers in June 2003; thus, respondent Judge Del Rosario had thirty days thereafter to render a decision. But the decision was rendered only on 15 June 2006 or almost three years later. Respondent Judge Del Rosario's act is contrary to the rationale behind the Rules on Summary Procedure which was promulgated for the purpose of achieving "an expeditious and inexpensive determination of cases."[10] For this reason, respondent Judge Del Rosario should be

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administratively sanctioned. As held in Sanchez v. Vestil[11]:

> This Court has constantly impressed upon judges the need to decide cases promptly and expeditiously, for it cannot be gainsaid that justice delayed is justice denied. Delay in the disposition of cases undermines the people's faith and confidence in the judiciary. Hence, judges are enjoined to decide cases with dispatch. Their failure to do so constitute gross inefficiency and warrants the imposition of administrative sanction on them.

Indeed, we have consistently impressed upon judges the need to decide cases promptly and expeditiously on the principle that justice delayed is justice denied. Failure to resolve cases submitted for decision within the period fixed by law constitutes a serious violation of the constitutional right of the parties to a speedy disposition of their cases.[12]

We cannot overstress this policy on prompt disposition or resolution of cases. 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.[13] Failure to decide cases within the reglementary period, without strong and justifiable reason, constitutes gross inefficiency warranting the imposition of administrative sanction on the defaulting judge.[14]

Respondent Judge Del Rosario ascribes the delay in the resolution of Civil Case No. 367 to his failing health, as he was hospitalized several times due to heart ailment. Even if he was stricken by an illness which hampered the due performance of his duties, still it was incumbent upon respondent Judge Del Rosario to inform this Court of his inability to seasonably decide the cases assigned to him. His illness should not be an excuse for his failure to render the corresponding decision or resolution within the prescribed period. While we sympathize with his woes, the demands of public service cannot abide by his illness.[15] In case of poor health, the Judge concerned needs only to ask this Court for an extension of time to decide cases, as soon as it becomes clear to him that there would be delay in his disposition of his cases.[16] We note that respondent Judge Del Rosario made no such request. Also, if his health problems had indeed severely impaired his ability to decide cases, respondent Judge Del Rosario could have retired voluntarily instead of remaining at his post to the detriment of the litigants and the public.

Respondent Judge Del Rosario also presented as an excuse to the delay in deciding Civil Case No. 367 the additional work given to him when he was assigned as Presiding Judge of the 4th MCTC, Barbaza, Antique, where he reported twice a week to conduct trials and preliminary examinations. This will not exonerate him. His failure to decide the case on time cannot be ignored. As we ruled in Española v. Panay,[17] if the case load of the judge prevents the disposition of cases within the reglementary periods, again, he should ask this Court for a reasonable extension of time to dispose of the cases involved. This is to avoid or dispel any suspicion that something sinister or corrupt is going on. The records of this administrative matter do not show that any attempt was made by respondent Judge Del Rosario to make such a request. Instead, he preferred to keep the case pending, enshrouding the same in his silence.

Respondent Judge Del Rosario should have known that if his caseload, additional assignments or designations, health reasons or other factors prevented the timely disposition of his pending cases, all he had to do was to simply ask this Court for a reasonable extension of time to dispose of his cases. The Court, cognizant of the heavy case load of some judges and mindful of the difficulties encountered by them in the disposition thereof, is almost always disposed to grant such requests on meritorious grounds.[18] But for all his excuses, respondent Judge Del Rosario failed to file any motion for extension despite the availability of this remedy.

It must be noted also that respondent Judge Del Rosario was already penalized for his first offense involving undue delay in A.M. No. MTJ-96-1091. He should have known better than to simply let the reglementary period pass by again in another case.

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All told, we find respondent Judge Del Rosario guilty of undue delay in rendering a decision in Civil Case No. 367 which, under Section 9(1), Rule 140 of the Revised Rules of Court, is classified as a less serious charge. Under Section 11(B) of the same Rule, the penalty for such charge is suspension from office without salary and other benefits for not less than one nor more than three months, or a fine of more than P10,000.00 but not exceeding P20,000.00.

In the Report on the Judicial Audit Conducted in the RTC, Branches 29 and 59, Toledo City,[19] the Court observed the following factors in the determination of the proper penalty for failure to decide a case on time:

> We have always considered the failure of a judge to decide a case within ninety (90) days as gross inefficiency and imposed either fine or suspension from service without pay for such. The fines imposed vary in each case, depending chiefly on the number of cases not decided within the reglementary period and other factors, to wit: the presence of aggravating or mitigating circumstances- the damage suffered by the parties as a result of the delay, the health and age of the judge, etc. x x x.

As may be gleaned from the case above-quoted, several factors shall be considered in imposing the proper penalty, such as: the presence of aggravating or mitigating circumstances, the damage suffered by the parties as a result of the delay, the health and age of the judge, etc.

In the present case, the delay for which respondent Judge Del Rosario is being found liable pertains to only one case, Civil Case No. 367. There are the mitigating circumstances of his admission of his fault to decide the case on time, and his failing health. While we recognize respondent Judge Del Rosario's heavy case load and his poor health, such factors cannot exonerate him from his administrative liability. They can only serve to mitigate the imposable penalty.

As heretofore cited, records show that he was previously penalized in A.M. No. MTJ-96-1091,[20] and was fined P8,000.00 with warning, for not deciding a criminal case despite the lapse of three years, despite his reason for the inaction being that he personally believed that he could not decide a case which was heard by another judge.

In A.M. No. MTJ-03-1515-MTJ,[21] respondent Judge Del Rosario was found administratively liable for his unjustified failure to comment on an administrative complaint against him, and was fined P21,000.00. In A.M. No. MTJ-94-949,[22] he was fined P5,000.00 with warning for Gross Misconduct and Negligence for his refusal to comply with the directives of the OCA and of the Commission on Audit.

In the present case, the fine of P30,000.00 recommended by the OCA is, to our mind, too severe. We find the amount of P20,000.00 reasonable under the premises.

As we have often stressed, the judge is the visible representation of the law and, more importantly, of justice. Thus, he must be the first to abide by the law and weave an example for the others to follow. He should be studiously careful to avoid committing even the slightest infraction of the Rules.[23]

WHEREFORE, Judge Deogracias K. Del Rosario is found guilty of undue delay in the disposition of Civil Case No. 367 and is hereby ordered to pay a FINE of Twenty Thousand (P20,000.00) Pesos. He is warned that a repetition of the same or similar act shall be dealt with more severely. Let a copy of this decision be attached to his personal records. The Court Administrator is directed to furnish all concerned copies of this Resolution.
SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, and Nachura, JJ., concur.

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[1] Rollo, pp. 4-5.

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[2] Id. at 15.

[3] Id. at 1-3.

[4] Id. at 21.

[5] Id. at 22.

[6] Gachon v. Devera, Jr., G.R. No. 116695, 20 June 1997, 274 SCRA 540, 548-549, citing Cf. Valdez v. Ocumen, 106 Phil. 929, 933 (1960) and Alvero v. De la Rosa, 76 Phil. 428, 434 (1946).

[7] Re: Report on the Judicial Audit and Physical Inventory of the Cases in RTC-Br. 138, Makati City, 325 Phil. 111, 118 (1996).

[8] Office of the Court Administrator v. Javellana, A.M. No. RTJ-02-1737, 9 September 2004, 438 SCRA 1, 14.

[9] Section 10, Revised Rules on Summary Procedure.

[10] Gachon v. Devera, Jr., supra note 6 at 549.

[11] A.M. No. RTJ-08-1419, 13 October 1998, 298 SCRA 1, 17; Office of the Court Administrator v. Judge Butalid, 355 Phil. 337, 349 (1998); Atty. Ng v. Judge Ulibari, 355 Phil. 76, 84-85 (1998); Grefaldeo v. Judge Lacson, 355 Phil. 266, 272 (1998).

[13] Re: Report of Deputy Court Administrator Bernardo T. Ponferada Re: Judicial Audit Conducted in the RTC, Branch 26, Argao, Cebu, A.M. No. 00-4-09-SC, 23 February 2005, 452 SCRA 125, 133.

[14] Celino v. Judge Abrogar, 315 Phil. 305, 312 (1995).

[15] Office of the Court Administrator v. Butalid, supra note 11 at 350.

[16] Office of the Court Administrator v. Quizon, 427 Phil. 63, 76 (2002).

[17] A.M. No. RTJ-95-1325, 4 October 1995, 248 SCRA 684, 687, citing Cruz v. Basa, A.M. No. MTJ-91- 598, 9 February 1993, 218 SCRA 551, 557.

[18] Gonzalez-Decano v. Siapno, A.M. No. MTJ-00-1279, 1 March 2001, 353 SCRA 269, 278.

[19] 354 Phil. 8, 21 (1998).

[20] Navarro v. Judge Del Rosario, 337 Phil. 1, 6 (1997).

[21] Imbang v. Del Rosario, 19 November 2004, 443 SCRA 79.

[22] Office of the Court Administrator v. Del Rosario, 13 December 1994, 239 SCRA 135.

[23] Castillo v. Cortes, A.M. No. RTJ-93-1082, 25 July 1994, 234 SCRA 398.

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