

LETTER DATED NOVEMBER 12, 2004 OF JUDGE ADOLFO R. MALINGAN, ACTING PRESIDING JUDGE, MUNICIPAL CIRCUIT TRIAL COURT, TUBA-SABLAN, BENGUET, MOUNTAIN PROVINCE

A.M. NO. MTJ-05-1586. October 20, 2005

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

By letter of July 27, 2004[1] addressed to Court Administrator Justice Presbitero J. Velasco, Jr. and received at the Office of Deputy Court Administrator Jose P. Perez on September 13, 2004,[2] Michael Kiwas of Km. 10, Asin Road, Tadiangan, Tuba, Benguet, private complainant in Criminal Case Nos. 2761 and 2762, both entitled "People v. Jerry Umali," for Grave Slander by Deed and for Grave Scandal, respectively which were jointly heard by then Presiding Judge Tomas A. Tolete of the Municipal Circuit Trial Court (MCTC) of Tuba-Sablan, Tuba, Benguet, complained that despite the submission of the cases for decision by order of the trial court dated November 15, 2002[3] photocopy of which he attached to his letter, the cases have remained undecided before and even after the compulsory retirement of Judge Tolete in March 2004.

Complainant thus requested the Office of the Court Administrator (OCA) to take the necessary steps toward the decision of the cases.

Deputy Court Administrator Perez referred the letter, by 1st Indorsement dated October 27, 2004,[4] to Judge Adolfo R. Malingan, Acting Presiding Judge of the MCTC Tuba-Sablan, for appropriate action and for report of action taken within fifteen (15) days from receipt thereof.

By letter of November 12, 2004[5] to the Court Administrator, Judge Malingan informed that Judge Tolete did not conduct an inventory of cases pending and submitted for decision before his retirement; and that an initial inventory of the cases was conducted on his order and it was discovered that "there were other records of case submitted for decision missing in the files of the [c]ourt [one of which is that of] the two (2) cases' subject of Kiwas" letter.

In the same letter, Judge Malingan informed that it was only in late October 2004 that he succeeded in contacting retired Judge Tolete during which "it was found out that indeed, those missing records of cases in the court's file were brought home" by Judge Tolete "when he started deciding those cases before he retired." Judge Malingan hastened to manifest as follows:

[A]s earlier verbally instructed by the Honorable Court Administrator in Legaspi, the undersigned Acting Presiding Judge is respectfully requesting Your Honor to give an extension of time for the undersigned to decide those cases which are left by the former Presiding Judge undecided before he retired. These cases had already passed the mandatory period to decide said cases long before the former Judge retired. Considering the voluminous records of these cases and the fact that the undersigned is entirely unfamiliar with the proceedings in all these cases, he needs more time to read the records and the Transcript of Stenographic Notes (TSN) of all the proceedings before he could decide these cases. Furthermore, his schedule at the MCTC, Tuba- Sablan is

only three (3) days a week because he has to attend to the cases in the Court of his regular station aside from those inhibition cases he is handling in two (2) other Courts-MTC, La Trinidad, Benguet (7 cases) and MTC, Itogon, Benguet (6 cases).[6] (Emphasis and underscoring supplied)

And the judge attached to his letter two lists,[7] prepared on November 11, 2004 by the court's Clerk of Court II, of pending criminal and civil cases submitted for decision "during the time of [Judge Tolete] as a result of the last inventory of cases." The lists show that Judge Tolete left undecided 14 civil cases[8] and 21 criminal cases[9] including the two subject of complainant's letter and another case against complainant, Criminal Case No. 2757, for Grave Threats.

In their Report and Recommendation dated January 25, 2005,[10] Court Administrator Justice Velasco and Deputy Court Administrator Perez confirmed that Judge Tolete compulsorily retired on March 7, 2004. And they stated that "the monthly report of cases submitted by the Branch Clerk of the [MCTC Tuba-Sablan] does not reflect with accuracy the list of cases submitted for decision and left undecided by Judge Tolete; a verification with the Retirement Division of the OCA showed that Judge Tolete has not yet processed his clearance for his retirement; and a verification with the Docket and Clearance Division of the OCA showed that Judge Tolete has no pending administrative case.

The OCA came up with the following observations:

The retirement of Judge Tolete from the service does not militate against the imposition of proper penalty for acts committed by the latter during his incumbency. As held in the cases of *Tuliao v. Ramos*, 348 Phil. 404 [1998]; *Office of the Court Administrator v. Diaz*, 363 Phil. 580 [1999]; *Perez v. Abiera*, 64 SCRA 302 [1975]; *Secretary of Justice v. Marcos*, 76 SCRA 301 [1977]; *Pesole v. Rodriguez*, 81 SCRA 208 [1978]; *Zarate v. Judge Romanillos*, citing *People v. Valenzuela*, 220 Phil. 385 [1985] and *Perez v. Abiera*, 64 SCRA 302 [1975], "x x x , the cessation from the office of a respondent Judge either because of resignation, retirement or some other similar cause does not per se warrant the dismissal of an administrative complaint which was filed against him while still in the service. Each case is to be resolved in the context of the circumstances present thereat."

In the case of *Perez vs. Abiera* (A.C. No. 223, 11 June 1975, 64 SCRA 302, 307) it was stated that "[i]f only for reasons of public policy, this Court must assert and maintain its jurisdiction over members of the judiciary and other officials under its supervision and control for acts performed in office which are inimical to the service and prejudicial to the interests of litigants and the general public. If innocent, respondent official merits vindication of his name and integrity as he leaves the government which he served well and faithfully; if guilty, he deserves to receive the corresponding censure and a penalty proper and imposable under the situation."

In the instant case Judge Tolete compulsorily retired from the government service without deciding forty-five (45) (sic) cases wherein the mandatory period for decision had already elapsed. The present acting presiding judge is now saddled with these cases which he has to study one by one being unfamiliar with them, as he was not the one who conducted the trial.

The mandatory period for deciding cases is not subject to the discretion of judges. As this Court Held in the case of *Dorcas G. Petallar vs. Judge Juanillo M. Pullos*, MCTC, San Francisco, Surigao del Norte, A.M. No. MTJ-03-1484, January 15, 2004:

We cannot overemphasize the Court's policy on prompt resolution of disputes. Justice delayed is justice denied. Failure to resolve cases submitted for decision within the period fixed by law constituted a serious violation of Article III, Section 16 of the Constitution."

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. This, 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."

x x x[11](Citations omitted; emphasis and underscoring supplied)

The OCA thus recommended as follows:

1. Judge Tolete be FINED IN THE AMOUNT OF FIFTY THOUSAND PESOS (P50,000.00) to be deducted from his retirement benefits.
2. That the Branch Clerk of Court be ORDERED to reflect the correct number of cases left undecided by Judge Tolete in their monthly Report of cases; and
3. Judge Adolfo R. Malingan, Acting Presiding Judge, Municipal Circuit Trial Court, Tuba-Sablan, Benguet, Mountain Province be given an extension of one (1) year within which to decide all of the cases which were submitted for decision but left undecided by Judge Tolete upon the latter's retirement. (Emphasis in the original)[12]

This Court finds the OCA Report and Recommendation well-taken.

The cases cited above by the OCA which fault judges even after they have retired were filed before the retirement of the therein respondents-judges.

The July 27, 2004 letter-complaint subject of the present Resolution was received by the Office of the Deputy Court Administrator on September 13, 2004 or after Judge Tolete had retired on March 7, 2004. How he retired without submitting a "[l]ist of cases pending decision or resolution indicating the date it was submitted and whether said cases are current or inherited AND list of cases pending trial, duly certified by the Branch Clerk of Court (3 copies)," one of the requirements to be accomplished along with the application for retirement of judges, puzzles the Court.

In A.M. No. 98-11-367-RTC, May 28, 2002, "RE: CASES LEFT UNDECIDED BY UNDERSIGNED JUDGE HUSSIN U. AMIN," Judge Amin, Presiding Judge of Branch 3 of the Regional Trial Court of Jolo, Sulu, was considered automatically resigned as judge effective March 27, 1998, he having filed his certificate of candidacy for Representative of the First District of Sulu in the May 11, 1998 elections.

In a letter of May 14, 1998, the OIC of Branch 3 of the Jolo RTC, Jurata B. Igasan-Daud, reported that, among other things, Judge Amin left undecided a criminal case which had been submitted for decision on August 1997. The OCA, on the other hand, reported that in Branch 4 of the RTC Sulu in Parang to which Judge Amin was designated as Acting Presiding Judge in 1995, he had failed to act on 70 criminal cases and 17 civil cases.

When asked to explain his failure to decide the criminal case, Judge Amin proffered that he was under the impression that he had left no undecided case as he was issued a clearance by the Officer-in-Charge (OIC) of the trial court. At any rate, he advanced that he was preoccupied with his political campaign and was without malice or intention to cause prejudice to the parties to the case; and while he wanted to do something about the case, his election as Representative made it impossible for him to do so.

Respecting the cases pending in RTC Parang, Judge Amin invited attention to their status, as reported by OIC Ajan N. Sarahan. The report showed that one special proceeding lodged in Branch 3 of the RTC Jolo was not decided by him within the 90-day reglementary period.

The OCA thus recommended that, among other things, Judge Amin be fined the amount of Five Thousand (P5,000.00) Pesos deductible from his terminal leave.

This Court, passing on Judge Amin's explanation, declared:

Respondent's explanation is that he was unaware of the fact that Criminal Case No. 494-3, in the RTC, Branch 3, Jolo, Sulu had not been decided because he relied on the clearance issued to him by OIC Jurata B. Igasan-Daud. As Presiding Judge, however, respondent should know more than anyone else the status of his cases. He cannot leave solely to his staff the responsibility for the management of cases. Respondent further pleads excusable negligence, claiming that his campaign for the congressional seat in the First District of Sulu took much of his time and that, human as he is, he easily forgot things he should do, including the important duty to decide cases within the period required by law. (Citations omitted),

x x x

The Court accepts this explanation in extenuation of respondent's responsibility as judge. Needless to say, by this we do not mean to say that judicial duties should be sacrificed for the pursuit of elective office. We take into account in this case that actually only three cases had been left undecided beyond the 90-day reglementary period at the time respondent resigned on March 27, 1998 and that with respect to those case in which he failed to take interlocutory action, no particular prejudice to the parties has been shown. (Underscoring supplied)

This Court thus admonished Judge Amin to be more careful in the discharge of judicial functions "since it is possible that he may return to the judiciary after his services in the legislative department."

In the case of Judge Tolete, it has been clearly established that before he retired, he left 14 civil cases and 21 criminal cases undecided beyond the 90-day reglementary period. The discovery of his failure to decide cases within the reglementary period after his retirement notwithstanding, since it is informed by the OCA that he "has not yet processed his clearance for his retirement papers," he must be faulted. To hold otherwise would put premium to gross inefficiency of a judge and negligence or possible collusion with those in charge of processing applications for retirement of judges in skipping on the submission of the required list of pending decisions, among others.

Undue delay in rendering a decision is a less serious charge^[13] punishable by any of the following:

1. Suspension from office without salary and other benefits for less than one (1) nor more than three (3) months, or
2. A fine more than P10,000.00 but not exceeding P20,000.00.^[14]

Judge Tolete, having compulsory retired from service on March 7, 2004, a fine of P20,000.00 to be deducted from her retirement benefits is in order.

WHEREFORE, this Court issues the following orders:

1. Judge Tolete is FINED IN THE AMOUNT OF TWENTY THOUSAND PESOS (P20,000.00) to be deducted from his retirement benefits.
2. The Branch Clerk of Court of Municipal Trial Court of Tuba-Sablan, Benguet is ORDERED to reflect the correct number of cases left undecided by Judge Tolete in the monthly Report of cases; and
3. Judge Adolfo R. Malingan, Acting Presiding Judge, Municipal Circuit Trial Court, Tuba-Sablan, Benguet, Mountain Province is given an extension of one (1) year within which to decide all the cases which were submitted for decision but left undecided by Judge Tolete upon the latter's retirement.

SO ORDERED.

Panganiban, (Chairman), Sandoval-Gutierrez, Corona, and Garcia, JJ., concur.

[1]Rollo at 15.

[2]Ibid.

[3]Ibid. at 16.

[4] Ibid. at 14.

[5] Ibid. at 7-8.

[6] Rollo at 8.

[7] Id. at 9-12.

[8]The civil cases listed in Nos. 9, 13, 17, 18 and 19 in the inventory appear to have been submitted for decision after Judge Tolete's retirement.

[9] The criminal cases listed in nos. 14, 19 and 22 in the inventory appear to have been submitted for decision after Judge Tolete's retirement.

[10]Id. at 1-6.

[11] Rollo at 4-5.

[12]Id. at 6.

[13]Rule 140, Section 9(1) as amended by A.M. No. 01-8-10-SC effective October 1, 2001.

[14] Id. at Section 11B.

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