

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
JUDGE MARCELINO L. SAYO JR., REGIONAL TRIAL COURT, BRANCH
45, MANILA, RESPONDENT.**

A.M. No. RTJ-00-1587. May 07, 2002

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Judges are expected to abide strictly by the Code of Judicial Conduct. They must avoid impropriety and even the appearance of impropriety. Also administratively sanctionable are delays in the resolution of cases beyond the constitutional limits.

The Case and the Facts

This administrative case were commenced by two letters of complaint addressed to the Chief Justice. In those letters, Judge Marcelino L. Sayo Jr. of the Regional Trial Court (RTC) of Manila, Branch 45, was charged with gross misconduct, incompetence, corrupt practices, immorality, undue delay in rendering a decision, making untruthful statements in his Certificates of Service, and habitual tardiness.

The first letter,[1] dated November 19, 1999, was signed and sworn to by Bella Balaguer-Fabro, court interpreter in respondent's sala. The relevant portions of the letter read thus:

"I would like to seek Your Honor's kind intervention concerning my sad experience in the hands of Judge Marcelino Sayo, Jr., the Presiding Judge of Branch 45, RTC, Manila. I was detailed/reassigned by Judge Sayo to the Office of the Clerk of Court without any valid reason and was given one month to look for another job. To date, I am the fifth employee who was forced to leave Branch 45 since his appointment as Presiding Judge of Branch 45 on November 18, 1996.

x x x x x x x x

"My predicament started on October 19, 1999 at around 11:00 o'clock in the morning, when I was summoned by Judge Sayo, Jr. in his chamber and demanded for my transfer to another office or Branch of this Court, because of the following reasons, to wit:

- 'Kasi nadi-disturb ako kapag nakikita kita.'
- 'Hindi ako palagay sa iyo.'
- 'Pino-provoke mo ako. Nakikipag-usap ka kay Marissa (a former Court Stenographer whom he also demanded [to] transfer to another sala) at kay Cita (Utility Worker of Branch 45 whom he detailed to the Office of the Clerk of Court).'
- 'Siguro dahil sa kamukha mo si Marissa.'
- 'Nagsindi ka pa ng kandila, pwede ka namang magsindi sa bahay mo,' or words to that effect.'

“I reasoned out and explained my side but to no avail and instead he told me to look for another Branch/ office to transfer or else ‘magugulat ka na lang.’

“On the following day, October 20, 1999, I was not allowed to perform my duties as Court Interpreter and instead tasked the Legal Researcher to act as Court Interpreter during the hearing. Thereafter, I was again summoned to his chamber and informed me that he is going to detail me to the office of the Clerk of Court.

“On October 21, 1999, I was not allowed to perform my duties as Court Interpreter and was again summoned to his chamber and ordered me against my will to receive the copy of a Detail Order dated October 21, 1999, saying ‘wala akong magagawa, mas mabuti na ito.’ He immediately summoned the Legal Researcher, Mr. Juanito Roxas, and the Branch Clerk, Atty. Maricar Lilibeth P. Berco-Cabarriban, and furiously told us, ‘nakikita ninyo ba, nanginginig ako sa galit, baka atakihin ako sa puso dito. Inuulit ko, kapag hindi ka nag-transfer, mapipilitan akong gumawa ng paraan para mabakante ang puwesto mo at ng makakuha ako ng iba. Huwag ninyo akong subukan, dahil ginagawa ko ang sinasabi ko. Hindi ako katulad ng iba diyan. Hindi ko na hihintayin na ma-promote ako at kahit ma-promote ako sisiguraduhin ko na mawawala ka dito.’

“After the hearing, Judge Sayo, upon passing by my table on his way out, gave me a sarcastic look and asked me, ‘O, bakit . . .?’ I answered him, ‘nag-aayos pa ho ako ng gamit ko.’

“Since then, I have been deeply troubled by the way he treated me and the manner by which he forced me to leave Branch 45, which I have served diligently for the last 13 years. I have since been suffering from mental anguish and sleepless nights thinking that my reputation and good moral standing in said office has been besmirched considering that the public perception of employees being detailed to another Branch/Department poses a question on a person’s ability and competence.

x x x x x x x x.”[2]

The second letter,[3] dated November 23, 1999, was authored by Juanito Roxas, court legal researcher; Eufracio B. Pilipiña, sheriff IV; Merlita M. Decena, court stenographer III; Lina Norma S. Galicinao, court stenographer III; and Christine Salvador, clerk III. It reads as follows:

“We, the undersigned employees of Branch 45, RTC Manila under Presiding Judge Marcelino L. Sayo, Jr., would like to bring to your honor’s attention our deep concern over the abnormal situations existing in the said branch. In sum, we cite the following instances besetting or causing the continuing demoralization of court employees in Branch 45.

‘a.

Judge Sayo was appointed as Presiding Judge of Branch 45 only on November 18, 1996; yet this very short period since his appointment, five employees in the said branch were either detailed or transferred to another branch or office without any apparent reason, to wit:

a.

Rosa Tess O. Lagmay;

b.

Alejo P. Lagmay, Jr.;

c.

Carmen L. Bolabog;

d.

Marissa D. Macalintal;

d.

Marissa D. Macalintal;

‘The spouses Rosa Tess O. Lagmay and Alejo P. Lagmay, Jr. were forced to leave in May 1997, and are now connected with RTC, Bicol. Ms. Carmen L. Bolabog was detailed to the Office of the Clerk of Court in December 1997. Ms. Marissa D. Macalintal was forced to leave in September 1999. Ms. Bella Balaguer-Fabro was detailed to the Office of the Clerk of Court last October 1999. We were greatly surprised and alarmed at witnessing the manner they were forced to transfer, especially Ms. Balaguer who had been consistently given a Very Satisfactory rating since her appointment to office in September 1986. To our minds, an employee’s laudable performance and length of service do not guarantee his stay in office under Judge Sayo. As a result of the manpower shortage, the remaining employees of Branch 45 have to perform additional functions.

‘b.

The Branch Clerk of Court of Branch 45, Atty. Maricar Lilibeth P. Berco-Cabarriban, was forced by Judge Sayo to take a leave of absence prior to her transfer to another office effective November 19, 1999. Is he hiding something?

x x x x x x x x

“It is noteworthy to state that under Republic Act No. 6713, otherwise known as the ‘CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES’, ‘Public officials and employees shall remain true to the people at all times. They must act with justness and sincerity and shall not discriminate against anyone, especially the poor and the under-privileged.’

“In this regard, we, the poor and under-privileged court employees respectfully ask your honor to kindly intercede for us in the crusade against a powerful Goliath in the judiciary, who put the fate of the lowly court employees practically at his mercy. In line with the policy of the government to promote a high standard of ethics in public service, it is high time to get rid of abusive court officials and protect the employees against any form of harassment.” (Emphasis in the original)

x x x x x x x x”[4]

These two letters were referred to then Court Administrator Alfredo L. Benipayo for appropriate action.

The Court Administrator summoned and questioned the letter writers to determine whether they were indeed the signatories.[5] They later executed affidavits attesting to the incidents aforementioned.[6]

On October 29, 1999, the Chief Justice received a similar letter from a “concerned employee” of Branch 45. The anonymous letter reads thus:[7]

“Please allow me to take a few minutes of your precious time to reveal the growing problems of litigants and employees of the Regional Trial Court of Manila, Branch 45 concerning Judge Marcelino L. Sayo, Jr.

“The gross incompetence of Judge Sayo, his lia[i]son with Ms. Imelda I. Caling whom he brought with him to Branch 45, and his corrupt practices have caused alarm to many. Although former Utility Worker of MeTC Caloocan, Ms. Caling lost her item as Clerk II with Branch 45 due to the Civil Service Commission’s discovery o[f] the falsification of her eligibility, Judge Sayo makes her report regularly to Branch 45. They spend hours locked-up inside the chambers.

“Judge Sayo’s incompetence is demonstrated by his failure to decide cases way beyond the prescribed period and his habitual tardiness (almost past 10:00 a.m.) in coming to court. Thus, he manages to falsify his certificates of service. Hereinbelow is a list of cases which have remained undecided despite the lapse of the required period.

CASE NO.

TITLE

DATE SUBMITTED

1. 93-121006 Pp. v. Danilo S. So Dec. 1996
2. 94-137594 Pp. v. Lino Renato J. Logarta Jan. 1997
3. 93-130438 Pp. v. Maximo Cotoner, et. al. Jan. 1997
4. 94-138300 Pp. v. Ronnie S. Salvo Aug. 3, 1997
5. 94-136783 Pp. v. Dolores M. Galeos, et. al. Nov. 6, 1997
6. 97-157724 Pp. v. Emerson J. Tablante May 14, 1998
7. 97-159547 Pp. v. Jun K. Nabua May 20, 1998
8. 93-123307 Pp. v. Diosdada P. Ogtohan June 18, 1998
9. 96-147073 Pp. v. Sonny F. Aguilar June 18, 1998
10. 96-148429 Pp. v. Carlos Malonzo July 10, 1998
11. 94-135745 Pp. v. Jerry D. Lopez July 15, 1998
12. 94-132812 Pp. v. Tamano B. Udasan July 16, 1998
13. 96-150251 Pp. v. Richard C. Ortega July 16, 1998
14. 94-138624 Pp. v. Julie Jimenez, et. al. July 31, 1998
15. 95- 14668 Pp. v. Apolinario E. Santiniana Aug. 12, 1998
16. 94-135021 & 22 Pp. v. Elsie D. Cudal Aug. 21, 1998

17. 94-136446 Pp. v. Renato S. Panganiban Aug. 21, 1998
18. 95-146317 Pp. v. Raymundo P. Pangilinan Dec. 2, 1998
19. 98-166551 Pp. v. Maria C. Soledad April 14, 1999
20. 92-106094 Pp. v. Vincent T. Ching April 14, 1998
21. 93-124493 & 94 Pp. v. Ivan S. So, et. al. April 14, 1998
22. 95-146148 Pp. v. Emmie B. Dunuan, et. al. May 5, 1999
23. 92-112739 Pp. v. Gobenciong July 1, 1999

“But the above list is not inclusive. There is still a great number of unresolved ones for both criminal and civil cases.

“In order that your Honor may verify the truth of my contentions, a team to conduct surprise audit of the records of the cases may be sent to Branch 45.

“The promotion of Judge Sayo from MeTC Caloocan to RTC Manila serves as a big puzzle to many lawyers and court personnel because even as MeTC Judge, he is known as corrupt, immoral and incompetent.

“I fervently pray that you will act on this letter the soonest.

“Respectfully yours,

“CONCERNED EMPLOYEE”

Audit of Branch 45

On November 18, 1999, Court Administrator Benipayo sent an audit team to Branch 45 of the RTC of Manila to conduct a judicial audit and to inspect the records of cases submitted for decision. Thereafter, the court administrator submitted the following recommendations, which the Court approved:

“1. Judge Marcelino Sayo be DIRECTED to EXPLAIN within ten (10) days from notice why no administrative sanction shall be imposed on him for [his] failure to decide/resolve the following cases:

A. Criminal Cases:

a)

94-137594 entitled ‘People vs. Lino Renato Logarta’ for Violation of R.A. 6425. Submitted for decision on December 4, 1996;

b)

96-148413 entitled ‘People vs. Oscar Adora’ for Malversation of Public Property. Submitted for resolution on September 26, 1997;

c)

96-148428 entitled ‘People vs. Ernesto Posada’ for Violation of R.A. 6425. Submitted for resolution on April 24, 1998;

d)

94-135745 entitled 'People vs. Jerry Lopez' for Violation of PD 1866. Submitted for decision on July 15, 1998;

e)

94-132812 entitled 'People vs. Tamano Udasan' for Violation of R.A. 6425. Submitted for decision on July 16, 1998;

f)

96-150251 entitled 'People vs. Richard Ortega' for Violation of PD 532. Submitted for resolution on July 16, 1998;

g)

94-136446 entitled 'People vs. Renato Panganiban' for Violation of R.A. 6425. Submitted for decision on August 21, 1998;

h)

95-146317 entitled 'People vs. Raymundo Pangilinan' for Murder. Submitted for decision on December 2, 1998;

i)

94-138624 entitled 'People vs. Julie Jimenez, et. al.' for Qualified Theft. Submitted for decision on January 20, 1999;

j)

93-125019 entitled 'People vs. Dario Espina' for Violation of B.P. 22. Submitted for decision on January 27, 1999;

k)

97-159547 entitled 'People vs. Juan Nabua' for Violation of R.A. 6425. Submitted for decision on January 28, 1999;

l)

92-106093-94 entitled 'People vs. Anthony Santos' for Violation of R.A. 6425. Submitted for decision on April 14, 1999;

m)

93-124493-94 entitled 'People vs. Ivan So' for Violation of R.A. 6425. Submitted for decision on April 14, 1999;

n)

92-106024 entitled 'People vs. Vicente T. Ching' for Violation of R.A. 6425. Submitted for decision on April 14, 1999, as reflected in the Inventory of criminal cases but records were not presented for inspection;

o)

95-146148 entitled 'People vs. Emmie B. Dunuan' for Violation of R.A. 6425. Submitted for decision on May 5, 1999.

B. Civil Cases:

a)

98-88814 entitled 'Anunsacion M. Boltron, Jr. vs. Fe Tudlasan'. Submitted for decision on July 1, 1999;

b)

96-80205 entitled 'Landcom Realty vs. Pedro Picar & John Does'. Submitted for decision on February 2, 1999;

c)

98-89416 entitled 'Eduardo E. Garcia vs. Andres V. Sanches'. Submitted for decision on August 25, 1998;

d)

97-86684 entitled 'Union Bank of the Philippines vs. Hon. Judge Tranquil Salvador, et. al.'. Submitted for decision on November 4, 1998;

e)

97-85851 entitled 'M.A. Santander Construction, Inc. vs. Ybanag Cadet Construction, Inc.'. Submitted for decision on July 21, 1998;

f)

88-45926 entitled 'Francisco Veloso vs. Aglaloma B. Escario, et. al.'. Submitted for resolution on April 6, 1999;

g)

94-72153 entitled 'Pacencia Miral vs. Doy Apolonio'. Submitted for decision on January 5, 1999;

g)

94-72153 entitled 'Pacencia Miral vs. Doy Apolonio'. Submitted for decision on January 5, 1999;

"2. Falsely certifying that he had decided and resolved all cases or incidents within three (3) months from date of submission in his Certificates of Service;

"3. INFORM the Honorable Court through the Office of the Court Administrator within ten (10) days from notice, the present status of the following cases and why they were not presented for inspection to the Judicial Audit Team:

92-106024

96-153626

98-162983

98-169063

92-112732

96-153631

98-163192

98-169064

92-112739

96-153632

98-163308

98-169205

92-121006

96-153634

98-16332

98-169486

93-119431

96-153638

98-163398

98-169487

93-120568

96-153639

98-163531
98-169488
93-120851
96-153645
98-163645
98-169489
93-123307
96-153649
98-163754
98-169490
93-129825
96-154129
98-164196
98-169491
94-136205
97-125019
98-164197
98-169492
94-137904
97-154851
98-164411
98-169494
94-138300
97-155062
98-164573
98-169495
94-138624
97-155063
98-164631
98-169497
94-139045

97-155246
98-164632
98-169914
94-139243
97-156104
98-164758
98-176684
95-140991
97-157200
98-165004
99-170095
95-145618
97-157649
98-165070
99-170096
95-146307
97-157650
98-165093
99-170207
95-146308
97-157651
98-165148
99-170333
95-146799
97-157812
98-166060
99-170402
96-148023
97-157864
98-166287
99-170403

96-148034
97-15813
98-166970
99-170500
96-148037
97-158117
98-167344
99-170600
96-178141
97-158413
98-167470
99-170687
96-148324
97-158916
98-167479
99-171058
96-148325
97-158970
98-167535
99-171464
96-148429
97-159139
98-167794
99-171194
96-148500
97-160050
98-168236
99-171615
96-148501
97-160337
98-168332

99-171666

96-148502

97-160418

98-168496

99-171864

96-148503

97-161006

98-168513

99-171973

96-148504

97-161731

98-168655

99-172455

96-149366

97-162017

98-168730

96-150954

98-158379

98-168789

96-151868

98-162401

98-168912

96-152123

98-162501

98-168948

96-153625

98-16299143

98-169015

“4. EXPLAIN within ten (10) days from notice why he is allowing Ms. Imelda Caling who is not a court employee to have access to court records and [to stay] in his chambers;

“5. DECIDE the aforesaid undecided cases beyond the reglementary period within sixty (60) days from notice

and submit a report of compliance with this directive within ten (10) days from promulgation or rendition of decision;

“6. Judge Marcelino Sayo and his former Clerk of Court Maricar P. Berco – Cabariban, now Clerk of Court, RTC, Branch 20, Imus, Cavite, be DIRECTED to EXPLAIN within ten (10) days from notice why no administrative sanction shall be imposed on them for submitting falsified Monthly Report of Cases.”[8]

Explanations of the
Clerk of Court and
Respondent

In her explanation dated March 24, 2000, Atty. Maricar P. Berco-Cabarriban stated that a few months after her appointment as clerk of court in respondent’s sala, she noticed that their branch would always be delayed in the submission of its monthly reports. She began to suspect that something irregular was going on. Her suspicions were later confirmed by Juanito Roxas, the court’s legal researcher, who stated in his affidavit dated January 3, 2000:

“Judge Sayo also manipulates the preparation of Branch 45’s monthly reports. He would direct me to remove from the current month’s report the cases previously reported as submitted for decision notwithstanding the fact that these have not yet been decided despite the lapse of the reglementary period. This is his express order which is also known to Atty. Berco as I told her about it. Judge Sayo also gives me specific directions as to which cases should be included in the report and which should be excluded or removed.”[9]

Atty. Berco-Cabarriban likewise revealed that, during the judicial audit, she was prevented by respondent from talking with the members of the team. Juanito Roxas was, instead, designated as the official spokesperson of Branch 45. To further ensure her silence, she was ordered to take a leave of absence during the duration of the audit. She added that her transfer to another court in Imus, Cavite, was brought about by the fact that she could no longer tolerate respondent’s abuses and harassment.

In his explanation dated March 31, 2000, respondent stated that draft decisions on ten (10) criminal cases and one (1) civil case listed in the OCA Report had already been prepared. However, he failed to finalize or sign them because of the following obstacles:

“(a)

I studied each and every case thoroughly and repeatedly especially during my first three (3) years as an RTC Judge, having assumed the position on November 18, 1996;

“(b)

I have many ailments such as hypertension, diabetes, high blood levels of cholesterol and uric acid, and I have prostate gland disease; and,

“(c)

the repeatedly antagonistic and distracting attitude and actions of the employees in my Branch of the Court, such as Atty Maricar Berco (former Branch Clerk), Juanito R. Roxas (Legal Researcher), Bella Fabro (Interpreter), Christina Ursula Salvador (Clerk III), and Merle Decena, Norma Galicinao and Marissa Macalintal (Stenographers), made me lose concentration and focus on my work. Very often, it is only when they leave the office in the afternoons that I could concentrate on my work. It usually took me up to 8 pm or 9

pm almost daily to study my cases and the applicable jurisprudence and work on my decisions and orders.”[10]

Respondent further explained that Criminal Case No. 93-124493 was delayed by the incomplete copies of the Exhibits attached to the written Formal Offer of Evidence of the accused; Criminal Case No. 92-106024 was a case of Branch 32 of RTC Manila; and in Civil Case No. 96-80205, he was waiting for the correct motion to be filed to remand the case records to the court of origin.

With respect to the other cases listed as having been deemed submitted for decision beyond the reglementary 90-day period, respondent offered an explanation. He was supposedly unaware that there were pending incidents to be decided or resolved in those cases, since neither Berco-Cabarriban nor Roxas presented the case records to him.

Respondent justified his alleged falsification of his Certificate of Service as follows:

“I did not intentionally falsely certify in my Certificate of Service that I had decided and resolved all cases or incidents within three (3) months from date of submission as I honestly believed that when there was already a draft, the case was already decided or resolved. As to the case records not presented nor brought to my attention by either Atty. Berco (Cabarriban) or Mr. Roxas, I was not aware or did not realize that there were pending incidents to be decided or resolved.”[11]

With respect to the cases with unverified status as stated in the OCA Report, respondent pointed out that there were no more undecided or unresolved pending incidents in those proceedings. Adding that he was not aware that the judicial audit team was looking for the records of the cases, he explained:

“x x x. Had the Judicial Team asked or inquired from me, I would have helped find and present the said records to them. The Judicial Team dealt only with the employees of Branch 45, especially Atty. Berco (Cabarriban) and Mr. Roxas who was expected to know where to find the records. In fact, Atty. Berco (Cabarriban) and Mr. Roxas have failed to present to me for action many of the case records, just like what they did to the Honorable Supreme Court Judicial Audit Team.

“I also have the impression that some of the employees of Branch 45 are hiding some records from me. A few weeks after the audit of cases in Branch 45 by the Judicial Audit Team, this Court received a phone call reportedly from Atty. Cunanan of the Team and was verifying about a certain missing case record. When Atty. Maricar Berco, Christina Ursula Salvador, Merle Decena, and Norma Galicinao found out that another employee of Branch 45, Marcelina Sandoval reported to me the matter about the missing case record, they all got very angry at her and confronted her as to why she reported it to me.”[12]

Regarding Imelda Caling, respondent claimed that she had been working as his assistant and confidential secretary since 1987, during his days as Metropolitan Trial Court judge in Caloocan City. He said:

“x x x x x x x x x x

“She worked briefly with [the] position of Clerk III in Branch 45, RTC, Manila until we received a directive from the Honorable Supreme Court for her to reassume her former position (Utility Worker I) in Branch 50 of the Metropolitan Trial Court of Caloocan City. She decided to resign and continued to work for me.

“Since I have trust and confidence in her, I dictate to her and have her type all my decisions and important orders in controversial cases. I have been doing this to safeguard the confidentiality of said decisions and orders which only c[o]me out of my chambers when they are to be mailed or promulgated. Being my confidential secretary, she naturally has access to the records which are under study. As confidential secretary, I pay her a monthly salary of P8,000.00 which I take out of my own salary. She knows how and often takes and monitors my blood pressure in the office as she had been a nursing student before.”[13]

Court Administrator's Recommendation

Finding merit in the charges against respondent judge, the court administrator recommended the following:

“(1)The Clerk of Court of the Regional Trial Court, Manila be directed to recall the detail of Mrs. Caling to Branch 45, RTC Manila;

(2) Judge Marcelino Sayo, Jr., be directed to observe strictly Administrative Circular No. 3-99 dated January 15, 1999;

(3) Judge Marcelino Sayo, Jr., be penalized to pay a fine of P50,000.00 for grave misconduct and oppression with a warning that repetition of the same or similar offense shall be dealt with more severely; and

(4) That Judge Marcelino Sayo, Jr., be detailed to another Branch of the Regional Trial Court in Manila.”[14]

This Court's Ruling

We agree with the court administrator's recommendations, but with some modifications in the penalty, consistent with newly amended Rule 140 of the Rules of Court.

The Code of Judicial Conduct[15] requires a judge to dispose of the court's business promptly by deciding cases and matters within the required period of ninety (90) days from the date of their submission for decision, as mandated by the Constitution.[16]

No Excuse for Delay

Verily, it is the sworn duty of judges to administer justice without undue delay under the time-honored precept that justice delayed is justice denied. The present clogged dockets on all levels of our judicial system cannot be cleared, unless each and every magistrate earnestly, painstakingly and faithfully complies with the mandate of the law.[17]

Judges should act with dispatch in resolving pending incidents, so as not to frustrate and delay the satisfaction of a judgment. Their inaction or procrastination to act one way or another gives room for suspicion that they are biased. As dispensers of justice, they should act in such a manner as to avoid suspicion, so that faith in the administration of justice may be preserved. Delay in resolving motions and incidents within the reglementary period of 90 days fixed by the Constitution and the law cannot be excused or condoned.[18]

In his defense, His Honor explains that he studies each and every case thoroughly and repeatedly. He adds that his several ailments and the antagonistic attitude of his staff contribute to the delay in deciding the cases before him.

This explanation is not acceptable. As a member of the judiciary, he must display diligence and competence despite illness and other adversities. The Code of Judicial Conduct admonishes judges to remain faithful to the law and to be professionally competent.[19] Hence, they should live up to their oath of office and keep up with developments in law and jurisprudence.[20]

Respondent assumed his position in November 1996 as presiding judge of Branch 45. Prior to that, he had served as a metropolitan trial court judge in Caloocan City. Thus, he is not a neophyte in the judiciary. Surely, judges who have served as members of the judiciary for several years should have no trouble disposing of the court's business and deciding cases promptly within the required period. If they cannot do so, they should seek extensions from this Court to avoid administrative liability. Any delay in the resolution of a case is ultimately a delay of justice and, thus, a denial thereof.[21]

Furthermore, the multiple ailments claimed by respondent have not been proven. As stated in the OCA Report, he never presented any record of his diagnosed ailments. If indeed these ailments were of such serious nature as would prevent him from performing his duties, he should retire from the service so as not to prejudice the litigants' right to a speedy trial.[22]

Staff's Inefficiency

Not Acceptable

Likewise, respondent cannot use the alleged inefficiency and antagonistic attitude of his staff towards him as a defense. The Code of Judicial Conduct requires a judge to organize and supervise the court personnel to ensure the prompt and efficient dispatch of business, as well as to observe high standards of public service and fidelity at all times.[23] The inability of respondent to control and discipline his staff demonstrates his weakness in administrative supervision, an undesirable trait frowned upon by this Court.

Judges should manage their courts with a view to a prompt and convenient disposition of their business. They should not tolerate abuse, indifference or neglect by clerks, sheriffs and other officers of the court.[24] This is because the slightest semblance of impropriety on the part of judicial employees in the performance of their official duties stirs ripples of public suspicion and public distrust of judicial administrators.[25] In the present case, instead of just forcing members of his staff to transfer to other courts or offices without informing them of the just causes of their transfer, respondent should have used the proper venues and procedures for instilling discipline among them.

Implausible is the explanation of respondent that he was unaware of pending incidents to be decided or resolved with respect to Criminal Case Nos. 96-148413, 96-148428, 94-135745, 94-132812 and 97-159547; and Civil Case Nos. 98-89416, 97-86684, 88-45926 and 98-87200, because the records of these cases had allegedly not been presented to him by Atty. Berco-Cabarriban and the court's legal researcher, Juanito Roxas.

Considering that they are mandated to submit certificates of service every month, judges ought to know the cases submitted to them for decision. Elementary court management practice requires them to keep their own records and notes of the cases before them, particularly those pending for more than ninety (90) days, so that they can act on them promptly and without delay. They cannot take refuge behind the inefficiency of the court personnel. Proper court management for the effective discharge of their official functions is their direct responsibility.[26]

Falsification of

Certificates of Service

With respect to the falsification by respondent of his Certificates of Service and manipulation of his monthly reports, he allegedly thought the cases in question had been finished because there were already draft decisions. This explanation is not acceptable.

It is not enough for judges to just pen the draft of a decision. They can readily change, alter, revise, or modify it while under their personal control and custody. It is the filing of the decision with the clerk of court -- not merely its writing and signing -- that is the essential act that constitutes its rendition and gives it validity and binding effect.[27]

This Court has held in numerous cases that judges are expected to be more diligent and vigilant in attending to cases submitted for decision, as well as in preparing their monthly certificates of service, by verifying every now and then whether there are cases pending decision for more than ninety days. Indeed, they are accountable for any error or falsification in their certificates. Respondent cannot be excused by the fact that the case records were not presented to him by his clerk of court or legal researcher, since he need not have been reminded by his

subordinates of his deadlines and responsibilities. Court employees are not the guardians of a judge's responsibilities.[28]

Moreover, his falsification of his Certificate of Service amounted to serious misconduct. Being a grave and willful transgression committed by an officer of the judiciary, the Court cannot treat it lightly as a trifling matter.

Impropriety and Appearance of Impropriety

This Court cannot accept the explanation of respondent judge regarding the constant presence of Imelda Caling in his chambers. We agree with the OCA's point that allowing any person who is not a regular court employee to type decisions and to have access to court records should not be tolerated. Said the court administrator:

"x x x. Court records are public documents which must be handled only by persons who could be held accountable if anything happens to the records, such as loss or destruction. Respondent circumvented the resolution of the Third Division of the Supreme Court which directed Imelda Caling to DISCONTINUE reporting to Branch 45, RTC Manila by allowing her to be detailed in his court after she was appointed Utility Worker I in the Office of the City Sheriff. x x x.

x x x x x x x x

"Another scenario that could happen if Ms. Caling would again be allowed to handle court records and type decisions is the probability that the decisions may be sold to the highest bidders. Ms. Caling's loyalty is not to the court but to respondent who appears helpless without her. She has no security of tenure to protect because she is not a regular employee of the court."[29]

Furthermore, Caling who was neither a relative nor a court employee was constantly present in respondent's closed chambers, thus, inevitably inviting doubts about His Honor's propriety and moral integrity. The Code of Judicial Conduct mandates judges to behave at all times in such a manner as to promote public confidence in the integrity and impartiality of the judiciary.[30] They must avoid all impropriety and even the appearance of impropriety.

Being the subject of constant public scrutiny, members of the bench should freely and willingly accept behavioral restrictions that may be viewed by ordinary citizens as burdensome.[31] Their personal and official actuations must be above reproach and suspicion. The faith and confidence of the public in the administration of justice cannot be maintained if those who dispense it obtusely continue to affront public decency. In the judiciary, moral integrity is more than a cardinal virtue; it is a necessity.[32]

Habitual Tardiness

With respect to respondent judge's habitual tardiness, this Court has held that punctuality in the holding of scheduled hearings is imperative. Trial judges should strictly observe the requirement of at least eight hours of service a day, six hours of which should be devoted to trial -- specifically from 8:30 a.m. to 12:00 noon and from 2:00 p.m. to 4:30 p.m. -- as required by paragraph 5 of the Interim Rules issued by the Supreme Court on January 11, 1983, pursuant to Section 13 of BP 129.[33]

Penalty

As can be gleaned from the above discussion, respondent judge committed gross misconduct constituting violations of the Code of Judicial Conduct, a serious charge under Rule 140 of the Rules of Court; as well as inefficiency and undue delay in rendering decisions and making untruthful statements in his Certificate of Service -- all less serious charges under the said Rule.

Section 11 of Rule 140 provides the sanctions for an erring judge guilty of a serious charge or a less serious charge, as follows:

“SEC. 11. Sanctions. – A. If the respondent is guilty of a serious charge, any of the following sanctions may be imposed:

‘1. Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations. Provided, however, that the forfeiture of benefits shall in no case include accrued leave credits;

‘2. Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or

‘3. A fine of more than P20,000.00 but not exceeding P40,000.00.’

“B. If the respondent is guilty of a less serious charge, any of the following sanctions shall be imposed:

‘1. Suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months; or

‘2 A fine of more than P10,000.00 but not exceeding P20,000.00.

“x x x x x x x x”

WHEREFORE, Judge Marcelino L. Sayo, Jr. is hereby found GUILTY of gross misconduct, inefficiency and delay in the rendition of judgments and making untruthful statements in his Certificate of Service. He is ordered SUSPENDED from office without salary and other benefits for six (6) months, effective upon his receipt of this Decision. He is WARNED that similar acts in the future will be dealt with more severely.

SO ORDERED.

Melo, (Chairman), Vitug, Sandoval-Gutierrez, and Carpio, JJ., concur.

[1] Rollo, Vol. I, pp. 11-14.

[2] Ibid., pp. 11-12.

[3] Rollo, pp. 16-17.

[4] Id.

[5] Memorandum of the Court Administrator, dated January 13, 2000, id., p. 2.

[6] Rollo, Vol. I, pp. 18-34.

[7] Rollo, Vol. II, p. 289.

[8] See “Memorandum for Chief Justice Hilario G. Davide Jr., Re: Report on the Alleged Gross Incompetence of Judge Marcelino Sayo Jr., RTC Branch 45, Manila,” dated January 6, 2000, and submitted by the OCA, pp. 8-11; rollo, Vol. II, pp. 163-166.

[9] Rollo, Vol. I, p. 68.

[10] Rollo, Vol. II, page 202.

- [11] Ibid., p. 203.
- [12] Id., p. 204.
- [13] Id., p. 205.
- [14] OCA Report dated April 27, 2000, pp. 41-42.
- [15] Rule 3.05, Canon 3.
- [16] §15(1), Article VIII, 1987 Constitution.
- [17] *Castro v. Malazo*, 99 SCRA 164, August 21, 1980.
- [18] *Luna v. Judge Balonso*, AM No. R-268-MTJ, May 5, 1987, En Banc Minute Resolution.
- [19] Rule 3.01, Canon 3.
- [20] Paras, *Rules of Court Annotated*, 1st ed., 1992, Vol. 5, p. 154.
- [21] *Seña v. Villarin*, 328 SCRA 644, March 22, 2000.
- [22] Report of the Court Administrator, p. 33.
- [23] Rule 3.09, Canon 3.
- [24] *Ramirez v. Corpuz-Macandog*, 144 SCRA 462, September 26, 1986.
- [25] *Buenaventura v. Benedicto*, 38 SCRA 71, March 27, 1971.
- [26] *Nidua v. Lazaro*, 174 SCRA 581, June 29, 1989.
- [27] *Castro v. Malazo*, *supra*.
- [28] *Secretary of Justice v. Legaspi*, 107 SCRA 233, September 10, 1981.
- [29] April 27, 2001 Report of the Office of the Court Administrator, p. 26.
- [30] Rule 2.01, Canon 2.
- [31] Paras, *Rules of Court Annotated*, *supra*, p. 153.
- [32] *Dy Teban Hardware & Auto Supply Co. v. Tapucar*, 102 SCRA 492, January 31, 1981.
- [33] Circular No. 13, dated July 1, 1987.

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