

OFFICE OF THE COURT ADMINISTRATOR, PETITIONER, VS. JUDGE NAPOLEON V. DILAG (RET.), RESPONDENT.

A.M. NO. RTJ-05-1914 (FORMERLY ADM. MATTER NO. OCA IPI NO. 02-4-249-RTC).. September 30, 2005

Ponente: PUNO, J.

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PUNO, J.:

The administrative case at bar arose from the judicial audit and inventory of pending cases conducted by the Office of the Court Administrator (OCA) in Branch 15 of the Regional Trial Court of Naic, Cavite from March 4 to 8, 2002.[1] Respondent was the presiding judge of the court until his compulsory retirement on March 13, 2002.

The judicial audit revealed the following findings:

The court presided by the respondent had 468[2] pending cases at the time of investigation. Of these cases, respondent judge failed to decide eleven (11) civil cases within the ninety-day period; failed to resolve despite the lapse of considerable length of time several motions and incidents[3] in three (3) criminal cases and thirty-seven (37) civil cases; failed to take initial action in six (6) criminal cases since these cases were filed; failed to take further action in thirty-one (31) civil cases; and, failed to proceed with the case for the reception of plaintiff's evidence ex-parte in twenty-eight (28) civil cases. The team also found that some of the Orders prepared by respondent judge were only signed after the lapse of three to five months.[4]

In view of these findings, Deputy Court Administrator (DCA) Jose P. Perez issued a Memorandum[5] dated April 17, 2002 to then Acting Chief Justice Josue N. Bellosillo. DCA Perez recommended that respondent judge be directed to submit an explanation and that the Fiscal Management Office of the OCA be authorized to withhold the amount of Fifty Thousand Pesos (P50,000.00) from respondent judge's retirement benefits pending the resolution by the Court of the administrative matter.[6] DCA Perez further recommended that Court Stenographers Anita H. Dumalag[7] (Dumalag) and Leonora A. Santiago (Santiago) be directed to explain their failure to comply with the existing rules and circulars relative to the preparation of orders and transcription of stenographic notes.

The administrative case was docketed as A.M. No. OCA IPI No. 02-4-249-RTC. In a Resolution[8] dated July 15, 2002, the Court's Third Division adopted the recommendations of DCA Perez and directed respondent judge and Court Stenographers Dumalag and Santiago to explain their respective acts of dereliction. Respondent judge was further directed to take immediate action and decide within ninety (90) days the unresolved cases and act with dispatch on the pending motions and incidents. The Court also authorized the Fiscal Management Office of the OCA to withhold the amount of Fifty Thousand Pesos (P50,000.00) from whatever retirement benefits respondent judge was entitled to receive pending the resolution of this administrative matter.

Santiago and Dumalag complied with the directive of the Court. In a letter[9] dated August 5, 2002, Santiago explained the causes of the delay in the transcription of stenographic notes and the preparation of court orders.

Dumalag informed the Third Division on August 30, 2002 that she had already complied with its Resolution.[10] Two other officials of the same court, Evelyn S. Alcantara and Ranilo S. Solis, wrote the court on August 29, 2002 stating that they have completed the entries in the criminal and docket books of the court.[11]

The Third Division referred the letters to the OCA for evaluation, report and recommendation.[12] The OCA found that the court personnel concerned had fully complied with the directives given them pursuant to the Resolution. In a Memorandum[13] dated January 27, 2005, the OCA closed and terminated the investigation on Dumalag, Santiago, Alcantara and Solis and admonished them to be more vigilant and circumspect in the performance of their duties in order to avoid the appearance of any impropriety.[14] As to respondent judge who failed to explain despite receipt of the Resolution, the OCA recommended that he be held liable for gross inefficiency and fined in the amount of Twenty Thousand Pesos (P20,000.00).

In a Resolution dated April 25, 2005, the Court considered the case terminated with respect to Santiago and Dumalag and re-docketed the case as a regular administrative matter against respondent judge. It referred the case to Court of Appeals Justice Martin S. Villarama for investigation, report and recommendation.[15]

On May 19, 2005, the Investigating Justice-Designate directed respondent judge to appear on June 8, 2005 to testify and adduce evidence in his behalf.[16] Respondent judge appeared but requested for a ten-day extension to submit his written explanation.[17]

In a letter dated June 17, 2005, respondent judge requested for another thirty-day extension to file an answer. He reasoned that he might have lost or misplaced the documents pertaining to the administrative case and asked the office of the Investigating Justice-Designate to furnish him copies thereof.[18] The Investigating Justice-Designate sent respondent judge a copy of the Report on the Judicial Audit and granted respondent judge's request for an extension up to July 4, 2005.[19]

In another letter dated July 14, 2005, respondent judge informed the Investigating Justice-Designate that he needed to make a research and inventory of the recorded unresolved cases to be able to answer intelligently about their status. He requested for another extension until August 12, 2005.[20] He explained that he had to travel everyday from Metro Manila to Naic, Cavite for his research. The request was denied on July 18, 2005.[21]

The Investigating Justice-Designate found respondent judge liable for gross inefficiency and recommended a fine of Fifty Thousand Pesos (P50,000.00) as penalty.[22]

We agree with the findings of the Investigating Justice-Designate and the OCA but modify the penalty imposed.

Article VIII, Section 15(1) of the Constitution mandates lower court judges to decide a case within the reglementary period of ninety (90) days. The Code of Judicial Conduct under Rule 3.05 of Canon 3 likewise enunciates that judges should administer justice without delay and directs every judge to dispose of the court's business promptly within the period prescribed by law. Rules prescribing the time within which certain acts must be done are indispensable to prevent needless delays in the orderly and speedy disposition of cases. Thus, the ninety-day period is mandatory.[23]

The Court has consistently emphasized strict observance of this rule in order to minimize the twin problems of congestion and delay that have long plagued our courts.[24] Any delay in the administration of justice, no matter how brief, deprives the litigant of his right to a speedy disposition of his case. Not only does it magnify the cost of seeking justice. It undermines the people's faith and confidence in the judiciary, lowers its standards and brings it to disrepute.

The Court is not oblivious to the heavy caseloads of judges. In view of these constraints, we allow reasonable

extensions of time within which to resolve cases. If the caseload of the judge prevents the disposition of cases within the reglementary period, he should inform the Supreme Court of the reasons for the delay and ask 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.[25] Judges cannot, by themselves, extend the period for deciding cases beyond the mandatory ninety-day period. A judge who stalls the disposition of a case beyond the mandatory period without the Court's permission is liable for gross inefficiency and must be administratively sanctioned.

In the case at bar, not once did respondent judge file a motion for extension of time to resolve his cases beyond the ninety-day period. His conduct was compounded by the fact that the only excuse he proffered was the delay of Court Stenographer Santiago in typing the Orders and transcribing the stenographic notes. Worse, as found by the audit team of the OCA, even after Santiago had submitted the typewritten Orders and transcript of stenographic notes, respondent judge was still not able to resolve the subject cases within the reglementary period. To be sure, delay in the transcription of cases does not absolve a judge from compliance with the rules. Judges are required to take down notes and to proceed in the preparation of decisions even without the transcripts. The three-month reglementary period continues to run – with or without the transcripts or memoranda. Thus, their absence or the delay in their transcription cannot excuse respondent judge's failure to decide the cases within the ninety-day period.[26]

Not only that. Respondent judge also did not submit any written explanation, answer or comment in the instant administrative case. His reasons that he lost his copy of the Judicial Audit Report, had forgotten about the subject cases and had to travel to Naic, Cavite to research on their status do not mitigate his liability. He asked for, and was twice granted, reasonable extensions to file an answer or comment. His indifference is apparent for he did not submit even a brief manifestation or provisional explanation despite the directive in the Resolution of the Court's Third Division. To date, he has not tendered an answer. Nor has he proffered any explanation for his delay.

The Investigating Justice-Designate observes that respondent judge appears to demonstrate a propensity to delay and wantonly disregard the basic duties of his office and to observe such diligence, candor and faithfulness to the ideals of his noble calling. As stated in the Report and Recommendation, viz.:

x x x If indeed Judge Dilag felt he had not transgressed any rule in disobeying the highest court of the land when it asked him to explain the backlog of cases in his sala, with much less reason should this Investigating Justice expect that he will not definitely extend at his convenience the period for him to finally submit an answer or comment in this proceeding. He had been previously apprised of the findings of the OCA investigation and audit team, but claimed that he lost his copies thereof. Now, after a long silence and without even the courtesy of filing a manifestation with the Supreme Court or OCA x x x, Judge Dilag seeks to further drag this investigation with repeated motions for extension.[27]

Under Section 9(1), Rule 140, as amended by A.M. No. 01-8-10-SC,[28] of the Revised Rules of Court, undue delay in rendering a decision or order is classified as a less serious charge for which the penalty 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 but not exceeding P20,000.[29]

In the Report on the Judicial Audit Conducted in the RTC, Branches 29 and 59, Toledo City,[30] the Court stated some factors to be considered 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.[31]

In the case at bar, respondent judge failed to decide eleven (11) civil cases within the ninety-day period. He also failed to resolve, despite the lapse of considerable length of time, several motions and incidents[32] in three (3) criminal cases and thirty-seven (37) civil cases. The Investigating Justice finds it a serious cause of concern that respondent judge failed to take initial action in six (6) criminal cases since the cases were filed, thus violating the constitutional right of the accused to a speedy trial.[33] He also failed to take further action in thirty-one (31) civil cases and did not proceed with the case for the reception of plaintiff's evidence ex-parte in twenty-eight (28) civil cases.

While respondent judge may be of age, having retired in 2002, he is not excused from performing the duties incumbent upon him. He is beholden to the public and is expected to live up to the exacting standards of his exalted office.[34] For his gross inefficiency, we impose a fine of Fifteen Thousand Pesos (P15,000.00), taking into consideration the mitigating circumstance that it was respondent judge's first offense. However, the gravity of his dereliction is aggravated by his failure to submit an answer or explanation in the case at bar despite the repeated extensions granted to him. Respondent judge is thus imposed an additional fine of Five Thousand Pesos (P5,000.00) for showing no less than an utter unmindfulness of the directive of this Court.

IN VIEW WHEREOF, Retired Judge Napoleon V. Dilag of Branch 15 of the Regional Trial Court of Naic, Cavite is found GUILTY of GROSS INEFFICIENCY. He is fined in the amount of Twenty Thousand Pesos (P20,000.00) to be deducted from the amount previously ordered withheld from his retirement benefits. The Fiscal Management Office of the OCA is ordered to release to respondent judge the remaining amount of Thirty Thousand Pesos (P30,000.00) upon the finality of this Decision, unless he has other pending cases.

SO ORDERED.

Austria-Martinez, Callejo, Sr., Tinga, and Chico-Nazario, JJ., concur.

[1] Rollo, 4.

[2] 182 criminal cases and 286 civil cases.

[3] Demurrer to Evidence, Motions to Dismiss, Motion for Re-examination, Motions for Reconsideration, etc.

[4] Rollo, 13.

[5] Id. at 1.

[6] Id. at 1-3.

[7] Also spelled as Dumalang in some parts of the Rollo.

[8] Rollo, 18.

[9] Id. at 24-25.

[10] Id. at 28-29.

[11] Id. at 26. This was certified by the OIC-Clerk of Court Anita H. Dumalag.

[12] Id. at 89.

[13] Id. at 92-94.

[14] Id. at 93-94.

[15] Id. at 140.

[16] Id. at 151.

[17] Id. at 152.

[18] Id. at 153.

[19] Id. at 155.

[20] Id. at 156.

[21] Ibid.

[22] Report and Recommendation, 21; Rollo, unpagged.

[23] *Gachon v. Devera, Jr.*, 274 SCRA 540 (1997), citing *Cf. Valdez v. Ocumen, et al.*, 106 Phil. 929, 933 (1960) and *Alvero v. De la Rosa*, 76 Phil. 428, 434 (1946).

[24] *Salud v. Alumbres*, A.M. No. RTJ-00-1594, 404 SCRA 411 (2003).

[25] *Arcenas v. Judge Avelino*, A.M. No. MTJ-05-1583 (Formerly OCA-IPI- No. 04-1587-MTJ), March 11, 2005, citing *Espanola v. Panay*, A.M. No. RTJ-95-1325, 248 SCRA 684 (1995), citing *Cruz v. Basa*, A.M. No. MTJ-91-598, 219 SCRA 551 (1993).

[26] Re: Report On The Judicial Audit Conducted In The RTC, Branch 69, Silay City, Judge Graciano H. Arinday, Jr., A.M. No. 99-5-162-RTC, 357 SCRA 798 (2001), citing *Arnulfo B. Tauro v. Judge Angel V. Colet*, Regional Trial Court of Manila, Branch 8, 306 SCRA 340, 341 (1999).

[27] Report and Recommendation, 17; Rollo, unpagged.

[28] Re: Amendment to Rule 140 of the Rules of Court on the Discipline of Judges and Justices which took effect on October 1, 2001.

[29] Section 11, Rule 140, Rules of Court, as amended by A.M. No. 01-8-10-SC.

[30] A.M. No. 97-9-278-RTC, 292 SCRA 8 (1998).

[31] Ibid.

[32] *Supra* Note 3.

[33] Report and Recommendation, 19; Rollo, unpagged.

[34] *Belleza v. Judge Cobarde*, A. M. No. RTJ-04-1867, February 17, 2005.

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