

CLEMENCIO C. SABITSANA, JR., COMPLAINANT, VS. JUDGE ADRIANO R. VILLAMOR, RTC, BRANCH 16, NAVAL, LEYTE, RESPONDENT.*A.M. No. RTJ-90-474. October 04, 1991*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/50690dc133ca/>**PER CURIAM:**

In an Affidavit-Complaint, dated 7 March 1990, Atty. Clemencio Sabitsana, Jr., a practicing lawyer in Naval, Biliran Subprovince, Leyte, charged respondent, Judge Adriano R. Villamor of the Regional Trial Court, Branch 16, Naval, Leyte, with falsification of his monthly Certificates of Service by making it appear that he had resolved all cases submitted for decision within the ninety-day period required by the Judiciary Act of 1948, Section 5, when actually he had fifteen (15) cases undecided from five (5) years back or from March, 1985.

On 7 August 1990, the Court directed Deputy Court Administrator Juanito A. Bernad to make an on-the-spot audit of the cases pending in the sala of Respondent Judge. On 2 October 1990, Deputy Court Administrator Bernad reported that there were, indeed, eighty seven (87) cases undecided beyond the ninety (90)-day reglementary period as of 3 July 1990, consisting of six (6) criminal cases with prisoners, 36 criminal cases without prisoners, and forty-five (45) civil cases. Worse, the records of two (2) criminal cases and twelve (12) civil cases were missing. While the records of six (6) criminal cases were not in the Court but acknowledged by Respondent Judge to have been in his possession.

Deputy Court Administrator Bernad also noted the dismal state of the Courthouse of the RTC, Branch 16, which he described as "bereft of any dignity as a court of law" showing "a lack of financial and moral support of the local authorities," and observed that the Municipal Court was even better housed.

On 31 October 1990, Complainant further furnished the Court with an Affidavit of Judge Dulcissimo Pitao of the Municipal Trial Court of Maripipi, Leyte, stating that Respondent had intervened for the accused in Criminal Case No. 959 then pending with the said Municipal Court. We considered the foregoing as a supplemental charge of undue interest in a pending criminal case.

On 23 November 1990, Complainant again brought to the attention of the Court seven (7) additional cases submitted for decision, at the earliest since April 1986, still unresolved by Respondent (p. 44, Rollo), even though the transcripts were ready as early as 1984 in one (1) case.

In his Comment filed on 20 December 1990, Respondent claimed that the Complaint was more for harassment and vengeance, otherwise, Complainant would not have filed a criminal case against him for Falsification under Article 171 (4) of the Revised Penal Code before the Ombudsman, based on the same facts alleged in his Complaint before this Court. Respondent further claimed that he had not violated the 90-day rule since 1 February 1990 when the Court required the adoption of the continuous trial system. He did not deny, however, that before said date, there were other cases not decided within the 90-day rule, including those listed in the Complaint allegedly because the transcripts were incomplete. He added that he had no hand in the preparation of his monthly reports of pending cases; that after he had ordered the person-in-charge of preparing the Certificates of Service to explain why she had made it appear that said cases were decided within ninety (90) days from its submission

when actually they were not, she stated that he had nothing to do with the preparation of the monthly report except to sign after she had prepared them.

On 18 April 1991, acting upon a second Report from Deputy Court Administrator Bernad, the Court Resolved: (1) to refer the supplemental charge regarding undue interest in a particular criminal case to Associate Justice Fermin A. Martin, Jr., of the Court of Appeals for investigation, report and recommendation; (2) to order Respondent to decide with dispatch cases still unresolved beyond the 90-day-period; and (3) to inform the Court immediately regarding steps he had taken to retrieve lost records and to personally put his records in order.

To date, Respondent has been unheard from on those directives.

On 12 July 1991, Complainant followed up with another letter complaint stating that the seven cases mentioned in his letter of 23 November 1990 remained undecided, adding that five (5) cases handled by him were unresolved since January 1987, not to speak of cases handled by other lawyers.

Judging from the Deputy Court Administrator's two Reports, there is validity to Complainant's charge that Respondent had failed to decide cases within the 90-day reglementary period notwithstanding "Second Ex-parte Motions to Decide Case" filed by Complainant (Annexes A to L, Complaint), and that Respondent had falsified his Certificates of Service for 2 September 1986, 3 October 1987, 3 October 1988, 3 November 1989, and 1 March 1990 (Annexes N to R, Complaint). Respondent's defense that incomplete transcripts of stenographic notes dissuaded him from deciding those cases for fear of "rendering an injustice" is controverted by his own stenographic reporter who stated that the transcripts in some of those cases were ready as far back as 1984 (Comment, Annex "2").

Respondent, however, shifts the blame on his Clerk of Court, Atty. Rogelio Jacobo, who, he claims, was inefficient in the management of Court records. Respondent forgets, however, that he sits not only to judge litigated cases with the least possible delay but that his responsibilities include being an effective manager of the Court and its personnel. Canon 3, Rule 3.08, of the Code of Judicial Conduct, provides:

"A judge should diligently discharge administrative responsibilities, maintain professional competence in court management, and facilitate the performance of the administrative functions of other judges and court personnel."

Also expected of a Judge under Rule 3.09 is that:

"A judge should organize and supervise the court personnel to ensure the prompt and efficient dispatch of business, and require at all times the observance of high standards of public service and fidelity."

As we held in *Secretary of Justice v. Legaspi* (A.M. No. 997-CFI, 10 September 1981, 107 SCRA 234):

"Respondent, as the incumbent judge, ought to know the cases submitted to him for decision, particularly those pending for more than ninety days. As a matter of fact, he is supposed to keep his own record of cases submitted for decision so that he could act on them promptly and without delay, mindful of the mandate in Section 5 of Republic Act No. 296, also known as the Judiciary Act of 1948 . . . It is expected that he should be more diligent and more vigilant in attending to cases submitted for decision as well as in the preparation of his monthly certificates of service by verifying every now and then whether there are cases pending decision for more than ninety days; because he could be held accountable for any error or falsification in his certificates. Thus, respondent cannot now escape liability for falsification of his certificates of service with the lame excuse that he has no knowledge of those cases pending decision for more than ninety days at the time he submitted his certificates of service. Nor could he give the excuse that his attention was not called to the cases pending decision ninety days because he need not be reminded of his deadlines by a subordinate court employee like the clerk of court. Court employees are not the guardians of a judge's responsibilities."

In *Nidua v. Lazaro* (A.M. No. R-465 MTJ, 29 June 1989, 174 SCRA 581), we maintained:

"It is incumbent upon him to devise an efficient recording and filing system in his Court so that no disorderliness can affect the flow of cases and their speedy disposition, particularly those submitted for decision. A judge cannot take refuge behind the inefficiency or mismanagement by Court personnel. Proper and efficient court management is as much his responsibility. He is the one directly responsible for the proper discharge of his official functions."

And in *Cipriano v. Judge Villamor* (A.M. No. RTJ-88-207, 22 June 1989, en banc, Minute Resolution) we ruled,

"The Supreme Court cannot countenance such undue delay of a judge especially now when there is an all-out effort to minimize, if not totally eradicate, the problems of congestion and delay long plaguing our courts. Thus, judges are called upon to exercise the utmost diligence and dedication in the performance of their duties. It is a measure of a judge's competence as an administrator that he is capable of delegating to his personnel those tasks which properly pertain to them, maintaining, likewise, their trust and confidence in him"

A member of the bench can not pay mere lip service to the 90-day requirement, but should, in fact, persevere in its implementation. The Certificate of Service is not merely a means to one's paycheck, but an instrument by which the Courts can fulfill the Constitutional mandate of the people's right to a speedy disposition of cases.

"The people's faith in the administration of justice, especially those who belong to the low income group, would be greatly impaired if decisions are long in coming, more so from trial courts which unlike collegiate tribunals where there is a need for extended deliberation, could be expected to act with dispatch" (*Magdamo v. Pahimulin*, Adm. Mat. No. 662-MJ, 30 September 1976, 73 SCRA 110).

Additionally, we have to hold respondent inexcusably negligent for failure to account for the records of twelve (12) civil and two (2) criminal cases.

"A judge is expected to ensure that the records of the cases assigned to his sala are intact. There is no justification for missing records save fortuitous events. The loss of not one but eight records is indicative of gross misconduct and inexcusable negligence unbecoming of a judge. For true professionalism in the bench to exist, judges whose acts demoralize the ethical standards of a judicial office and whose acts demonstrate unfitness and unworthiness of the prestige and prerequisite attached to said office must be weeded out" (*Longboan v. Polig*, Adm. Mat. No. 704-RTJ, 14 June 1990, 186 SCRA 557).

We come now to the supplemental charge of undue interest in a pending criminal case, subject of the Investigative Report submitted on 9 August 1991 by Justice Fermin A. Martin, who found the imputation sufficiently substantiated, and has recommended the imposition of a fine of P10,000.00.

From that Report, we gather that on 16 July 1987, Respondent, as Executive Judge of the Regional Trial Court, Branch XVI, Naval, Biliran Subprovince, Leyte, designated Judge Dulcissimo Pitao, of the Municipal Trial Court of Maripipi, Leyte, as Acting Judge of the Municipal Circuit Trial Court of Biliran-Cabucgayon, Leyte, which was then vacant, with the directive to allocate two (2) session days a week in his additional sala.

On 19 August 1987, while Judge Pitao was at his residence at Naval, Biliran Subprovince, Leyte, he received a note hand carried by a woman, whom he came to know later as the wife of Guillermo Lipango, the accused in Criminal Case No. 959, which had long been pending trial in the 4th MCTC of Biliran-Cabucgayon, Leyte.

The note (Exhibit "A"), written on Respondent's letterhead, reads:

"Aug. 19, 1987

"Dear Tete,

"The bearer is the wife of Guillermo Lipango who has a long pending theft case. If you have jurisdiction hear and decide. If none, remand it to RTC.

"Take care because I learned Big Man Egane is taking much interest because accused is competing with his fishing but only in a small scale. Okay? Thanks.

Sincerely,

Ading."

Sometime later, Judge Pitao sought respondent, as the Executive Judge, regarding his application for leave of absence which had to be coursed through the latter. During their conversation, respondent mentioned the case of "People v. Lipango," asked Judge Pitao whether the latter had received the note, and again warned the latter about a certain "Big Man Egane," who was backing the complainant therein and that he (Judge Pitao) better acquit the accused (Tsn., 15 July 1991, pp. 13-14).

On 25 August 1988, after hearing the case, Judge Pitao rendered his decision convicting the accused, Guillermo Lipango, of the crime of Theft (Exhibit "C") "because the evidence against the accused was very strong" (ibid., p. 14).

On 16 November 1988, when Judge Pitao went to the boarding house of Respondent to invite the latter to a birthday party, and while they were walking together, Judge Pitao confided to Respondent that he had convicted Lipango "because he could not in conscience acquit him" (ibid., p. 17). Irked, Respondent directed Judge Pitao to forward the records to the former's Court (ibid., p. 18).

On 23 November 1988, the records of Criminal Case No. 959 were elevated to the RTC, Leyte, Branch XVI, over which Respondent presides, but the case was actually docketed thereat on 5 December 1988.

From 1 to 3 December 1988, Judge Pitao attended the National Convention of Lawyers in Cebu City. Upon his return, he learned that Judge Meljohn de la Peña had been designated as Acting Judge of the 4th MCTC Biliran-Cabucgayon, Leyte, and that his designation had been revoked effective 30 November 1988 (ibid., pp. 18-19).

On 9 December 1988, Respondent promulgated his decision acquitting accused-appellant Guillermo Lipango of the crime charged (Exhibit "F"). This, despite the fact that the records of the case disclosed that no notice had been sent to the parties of the receipt of the entire record to enable them to submit their respective memoranda.

For his part, Respondent opted to rely on his six (6)-page Comment, dated 19 December 1990 (Exh. H, pp. 78-83, Rollo), as his testimony-in-chief. As correctly observed by the Investigating Justice, said Comment contains nothing more than a denial of the charge of falsification and an attribution of ill motive to the Complainant. He then determined that Respondent is deemed not to have denied:

"1) that he sent the handwritten note dated August 19, 1987 (Exhibit "A") to Judge Dulcisimo Pitao through the wife of the accused Guillermo Lipango;

2) that when Judge Pitao brought his application for leave of absence to respondent as Executive Judge, respondent took up the matter of the note he sent and the theft case against accused Guillermo Lipango which was pending trial before Judge Pitao and even hurried the remark "better acquit him"; and,

3) that he decided the appealed criminal case and acquitted the appellant Guillermo Lipango although the record of the case disclosed that no notice had been sent yet by the branch clerk of court to the parties of the receipt of the entire record to enable the parties to submit memoranda pursuant to Rule 21 of the Interim Rules and Guidelines."

Accordingly, the Investigating Justice came up with the following apt observations and findings:

"In sending his handwritten note (Exhibit "A") to Judge Pitao, and through the wife of the accused Guillermo Lipango, respondent failed to exercise due care. It is true that the contents of the letter may not have directly exhorted the addressee to decide the case in favor of one party but to have the wife of the very accused deliver the letter to the municipal judge who will decide the case and over whom he (respondent) exercised supervision and wielded a degree of moral ascendancy as Executive Judge was simply a big letdown in the required circumspection and high ideals expected of a judge. It is a truism that a judge's official conduct and his behavior in the performance of judicial duties should be free from the appearance of impropriety (*Aleza v. Reyes*, 131 SCRA 445, 453).

Moreover, respondent Judge, while cautioning Judge Pitao to watch out and exercise care in handling the case supposedly on account of the interest of persons not parties to the case, made a side remark for the acquittal of the accused. Such a statement, which was not denied, was highly improper and was apt to create the impression that he was for the exoneration of the accused Guillermo Lipango. It tended to influence the trial judge who was going to decide the case and thus did violence to the lofty principle that "the office of a judge exists for one solemn end: to promote justice by administering it fairly and impartially" (*Gonzales-Austria v. Abaya*, 176 SCRA 634, 646)."

Cardinal is the rule that a Judge should avoid impropriety and the appearance of impropriety in all activities. The Canons mince no words in mandating that a Judge shall refrain from influencing in any manner the outcome of litigation or dispute pending before another Court (Canon 2, Rule 2.04). Interference by members of the bench in pending suits with the end in view of influencing the course or the result of litigation does not only subvert the independence of the judiciary but also undermines the people's faith in its integrity and impartiality (Commentaries on the Code of Judicial Conduct). On this point, *Impao v. Makilala* (A.M. No. MTJ-88-184, 13 October 1989, 178 SCRA 541) expounds:

"It is an important judicial norm that a judge's private as well as official conduct must at all times be free from the appearance of impropriety [*Luque v. Kayanan*, G.R. No. L-26826, August 29, 1969, 29 SCRA 165; x x x]. As held by this Court in the case of *De la Paz v. Inutan*, Adm. Mat. No. 201 MJ, June 30, 1975, 64 SCRA 540: . . . The judge is the visible representation of the law and, more importantly, of justice. From him, the people draw their will and awareness to obey the law. They see in him an intermediary of justice between two conflicting interests, specially in the station of municipal judges, like respondent Judge, who have that close and direct contact with the people before anybody else in the judiciary. Thus, for the judge to return that regard, he must be the first to abide by the law and weave an example for the others to follow."

The Investigating Justice gave one final and pointed observation on respondent's culpability, thus:

"The clincher though came when respondent Judge decided the same case which was appealed to his branch although he knew that no notice had been sent yet by the branch clerk of court to the parties of the receipt of the entire record to enable the prosecution and the defense to submit memoranda pursuant to Rule 21 of the Interim Rules and Guidelines. Respondent's excuse was that under the rules, it was (and still is) the duty of the clerk of court to notify the parties of the fact that the original record of the case, together with the transcripts and exhibits, had been received (Rule 21, paragraph c, Interim Rules and Guidelines). Respondent overlooked, however, that the same rule provides that the RTC judge shall decide the case on the basis of the entire record of the proceedings had in the court of origin and such memoranda and/or briefs, as may have been filed (paragraph D, Rule 21, *ibid*)."

Whether or not the accused deserved the acquittal, in point of fact, is of no moment as Respondent's mere act of interference in a criminal case seals his fate. In administrative proceedings such as this, mere preponderance of evidence suffices to establish the charges (*The Court Administrator v. Hermoso, et al.*, A.M. No. R-97-RTJ, 28 May 1987, 150 SCRA 269).

Upon the facts and the evidence, we can not but hold respondent guilty (1) of having made untruthful statements in his Certificates of Service, of inexcusable negligence and gross inefficiency in connection with missing records in his Sala, and of utter indifference to the directives of this Court; and (2) of serious misconduct for undue interest in a pending criminal case before a lower Court over which he exercised supervision, all in violation of the Code of Judicial Conduct. The dilapidated condition of the Courthouse of the RTC, Branch 16, also betrays a lack of management capabilities desired of a Presiding Judge and an insensitiveness to the needs of a Court of justice worthy of its name. All told, we find him unfit to continue with his membership in the Bench.

WHEREFORE, the Court RESOLVED to DISMISS respondent Judge Adriano R. Villamor, Jr. of the Regional Trial Court, Branch 16, Naval, Leyte, from the service, with forfeiture of all his accrued retirement benefits, leave and other privileges, if any, and with prejudice to re-employment in any branch, agency or instrumentality of the government, including government-owned or controlled corporations.

Let a copy of this Decision be spread in his personal record.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Padilla, Bidin, Sarmiento, Grino-Aquino, Medialdea, Regalado, and Davide, Jr., JJ., concur.

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