

REPORT ON THE JUDICIAL AUDIT CONDUCTED IN THE MUNICIPAL TRIAL COURT OF TAMBULIG AND THE 11TH MUNICIPAL CIRCUIT TRIAL COURT OF MAHAYAG-DUMINGAG-JOSEFINA, BOTH IN ZAMBOANGA DEL SUR.

A.M. MTJ-05-1573. October 12, 2005

Ponente: DAVIDE, JR., C.J.

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DAVIDE, JR., C.J.:

This administrative case is an offshoot of the judicial audit conducted in March 2004 in the Municipal Trial Court (MTC) of Tambulig and the 11[th] Municipal Circuit Trial Court (MCTC) of Mahayag-Dumingag-Josefina, both in Zamboanga del Sur, in anticipation of the compulsory retirement of the Acting Presiding Judge thereof, herein respondent Judge Ricardo L. Salvanera. The respondent was the Presiding Judge of the 6th MCTC of Bonifacio-Don Mariano Marcos, Misamis Occidental, who compulsorily retired on 3 April 2004.

According to the Audit Team's Report, the MTC of Tambulig had, as of the date of audit, a total caseload of 77 cases consisting of 61 criminal cases and 16 civil cases. Judge Salvanera did not take initial action on 6 criminal cases; and due to the failure to arrest the accused, he ordered archived 9 criminal cases cognizable by the Regional Trial Court. Moreover, he did not yet decide Criminal Case No. 1926, which was submitted for decision on 7 March 2001. Neither did he resolve the motion to quash the Informations in Criminal Cases Nos. 2131, 2132, and 2133, which was considered submitted for resolution on 6 February 2003. He took no further actions on 49 other cases despite the lapse of a considerable length of time. The Report further disclosed that Judge Salvanera dismissed criminal cases because of the retraction or failure of the prosecution witnesses to appear in court, but without forwarding the records of these criminal cases to the Office of the Provincial Prosecutor for appropriate action. He also ordered the dismissal of Criminal Case No. 2073, for Reckless Imprudence Resulting to Double Homicide, based on the affidavit of desistance executed by one Capistrano Minoza, who was neither a party nor a witness in that case.

The Audit Team had to painstakingly determine the cases pending as of 31 December 2001 and all the cases that were filed and disposed of since January 2002 because the required Monthly Report of Cases from January 2002 to March 2003 and the Docket Inventory of Reports for the semesters July-December 2001, January-June 2002, and July-December 2002 were not accomplished or submitted by the former Clerk of Court. These reports were very essential in conducting judicial audit.

As for the 11[th] MCTC of Mahayag-Dumingag-Josefina, the Audit Team found that the court had a caseload of 82 cases as of 24 March 2004 consisting of 61 criminal cases and 21 civil cases. Judge Salvanera took no further actions on 60 cases despite the lapse of a considerable length of time. He did not decide yet Civil Case No. 183-M, which was considered submitted for decision based on the plaintiff's evidence because the defendant was declared in default for his failure to appear at the scheduled hearing. Neither did he resolve the pending motion to dismiss in Civil Case No. 184-M, which was submitted for resolution on 1 October 2002, as well as the motion to

suspend the proceedings due to prejudicial question in Criminal Case No. 4473-J, which was deemed submitted for resolution on 10 December 2003. Moreover, Judge Salvanera ordered the dismissal of ten criminal cases after conducting a preliminary investigation, but did not forward these cases to the Office of the Provincial Prosecutor in Pagadian City for appropriate action. He dismissed Criminal Case No. 4633 for Rape, based on a compromise agreement wherein the accused would pay the private complainant P18,000 upon the execution of the agreement and P17,000 on or before April 2004. As of audit date, the court had not yet submitted Docket Inventory Reports for the semesters July-December 2002, January-June 2003, and July-December 2003.

For his part, retired Judge Salvanera submitted a written explanation dated 26 July 2004, informing the Court that his failure to decide cases and resolve motions could be attributed to heavy workload, lack of material time, and health reasons. He had to attend to the sessions of all the three courts of which he was the presiding or acting judge. He dismissed Criminal Case No. 2073 based on the affidavit of desistance executed by Capistrano Minoza, who was not a party to the case, because the witnesses failed to appear and lost interest in prosecuting the case. Capistrano Minoza is related to the parties, and the victims were the stepdaughter and the wife of the accused. Relying on Administrative Circular No. 7-A-92, he ordered archived some criminal cases, and furnished the Office of the Provincial Prosecutor with copies of the order.

As to Civil Case No. 183-M in the 11th MCTC of Mahayag-Dumingag-Josefina, he already decided it on 25 March 2004. Criminal Case No. 4473-J was still unresolved because the parties had not yet submitted their respective memoranda as required in his order dated 20 November 2003. The motion to dismiss Civil Case No. 184-M was unresolved for the reason that during the incumbency of late Judge Celestino Dicon, the court received a motion for early resolution on 15 October 2002, which was not set for hearing. He issued an order on 21 January 2004 dismissing Criminal Case No. 4633 for Rape based on the Compromise Agreement between the victim and her mother and the accused, and forwarded the records of the case to the Provincial Prosecutor on 22 July 2004. The records of the other criminal cases that he dismissed after preliminary investigation were forwarded to the Office of the Provincial Prosecutor.

Finding the explanation of Judge Salvanera unsatisfactory, the Office of the Court Administrator (OCA) recommended that the Report on the Judicial Audit be re-docketed as a regular administrative matter; that Judge Salvanera be held guilty of gross inefficiency for delay in rendering decisions and of gross ignorance of the law; and that he be fined in the amount of P40,000 to be deducted from his retirement benefits.

The office of a judge exists for one solemn end - to promote the ends of justice by administering it speedily and impartially. The judge as the person presiding over that court is the visible representation of the law and justice. These are self-evident dogmas which do not even have to be emphasized but which we always advert to when some members of the Judiciary commit legal missteps or stray from the axioms of judicial ethics.[1]

Indeed, Judge Salvanera was utterly remiss in the performance of his duties. His additional work assignments as the Acting Presiding Judge of two other courts do not entirely exonerate him from liability for gross inefficiency. It was incumbent upon him to inform the Court of his inability to seasonably decide the cases. If health reasons, heavy workload, and lack of material time prevented him from deciding the cases and resolving the pending motions within the prescribed period, he should have requested the Court before the expiration of the prescribed period an extension of such period. The records show that he, in fact, failed to file any request for an extension of time to dispose of cases despite the availability of this remedy. Without an extension granted by the Court, his failure to decide a case within the prescribed period constituted gross inefficiency that merits administrative sanctions.[2]

This Court does not find meritorious respondent's justification that he failed to resolve Criminal Case No. 4473-J

because the parties did not comply with his order to submit their respective memoranda. Under Administrative Circular No. 28 issued on 3 July 1989, in case a memorandum is required, the case shall be deemed submitted for decision upon the filing of the last memorandum or the expiration of the period to do so, whichever is earlier. Hence, when the parties failed to file the required memorandum, the case should have been considered submitted for decision upon the expiration of the period for filing, and the respondent should have disposed of the case within three months therefrom without waiting anymore for the memorandum.

Neither is his explanation to act on the motion to dismiss Civil Case No. 184-M acceptable. That he just inherited such case from the previous judge is not a good justification; health reason is, but, as stated earlier, he should have asked for an extension of time within which to resolve such motion.

Judges must keep in mind that any unreasonable delay in the disposition of cases erodes the faith and confidence of our people in the Judiciary, lowers its standards, and brings it into disrepute.[3] It also violates the constitutional right of the parties to a speedy disposition of their cases.[4] Thus, Canon 3, Rule 3.05 of the Code of Judicial Conduct and Administrative Circulars Nos. 13-87 and 3-99 require judges to dispose of the court's business promptly and decide cases within the period specified in Section 15, Article VIII of the Constitution, that is, within three months from the filing of the last pleading, brief, or memoranda. This mandate has been held by this Court to apply also to motions or interlocutory matters or incidents pending before a judge.

It must be underscored that the prompt disposition of the court's business is attained through proper and efficient court management.[5] To be able to follow the time limit set for deciding cases and resolving motions, judges should at all times remain in full control of the proceedings in their sala and adopt an efficient system of record management. Thus, Administrative Circular No. 10-94, reiterating Administrative Circular No. 1 issued on 28 January 1988, requires all trial judges to conduct a physical inventory of cases at the time of their assumption of office and every semester thereafter on the 30th of June and 31st of December of the year. To ensure compliance with these Administrative Circulars, the Court issued Administrative Circular No. 17-94 authorizing trial judges to devote one week at the end of each semester for the audit and inventory during which period trials need not be scheduled.[6] It is evident that Judge Salvanera failed in this regard. There was no physical inventory of the cases in both the MTC of Tambulig and 11th MCTC of Mahayag-Dumingag-Josefina. Also, it does not appear that Judge Salvanera made a periodic review of the archived cases as required in Administrative Circular No. 7-92. All these, coupled with his failure to take initial or further actions on several cases, constituted gross inefficiency.

Furthermore, Judge Salvanera clearly demonstrated gross ignorance of the law when he dismissed Criminal Case No. 4633 for rape on the strength of a compromise agreement between the offended party, her mother, and the accused. Article 2035 of the Civil Code is clear that there may be a compromise upon the civil liability arising from an offense, but such compromise shall not extinguish the public action for the imposition of the legal penalty. In cases of rape, though, the marriage of the offender with the offended party shall extinguish the criminal action or remit the penalty already imposed.[7] However, in Criminal Case No. 4633 for rape before the respondent judge, the compromise consisted not in marriage but in monetary consideration. Thus, the dismissal of the case anchored on such compromise agreement showed an utter lack of familiarity with a basic law.

Also strange is the dismissal by the respondent judge of Criminal Case No. 2073, for Reckless Imprudence Resulting to Double Homicide, based on the affidavit of desistance executed by Capistrano Minoza, who was not a party or witness in the case. Affidavits of desistance are generally unreliable and are looked upon with considerable disfavor by the Court,[8] for they can be easily secured for financial considerations.[9] More so if they come from one who is neither an offended party nor a witness, such as in the subject criminal case. Significantly, there is no showing that the prosecution or the accused filed a motion to dismiss the case. In one case,[10] the Court considered as grave misconduct the act of a judge in dismissing a criminal case on the ground

of the supposed desistance of the private complainant even without any motion to dismiss on the part of the prosecution.

Moreover, in Civil Case No. 183-M, Judge Salvanera rendered a one-page decision dated 25 March 2004 without stating the facts and the law on which it was based in violation of Section 14, Article VIII of the Constitution, which provides: "No decision shall be rendered by any court without expressing clearly and distinctly the facts and the law on which it is based." Section 1, Rule 36 of the Rules of Court also requires that a judgment or final order determining the merits of the case "shall be in writing personally and directly prepared by the judge, stating clearly and distinctly the facts and the law on which it is based, signed by him, and filed with the clerk of court." This requirement is an assurance to the parties that, in reaching judgment, the judge did so through the processes of legal reasoning. A decision that does not clearly and distinctly state the facts and the law on which it is based leaves the parties in the dark as to how it was reached. It is precisely prejudicial to the losing party, who is unable to pinpoint the possible errors of the court for review by a higher tribunal.[11]

All told, the Court finds respondent Judge Salvanera guilty of gross inefficiency, gross ignorance of the law, and violations of pertinent administrative circulars of the Court, which merit disciplinary sanction.

However, in a letter received by the Court on 29 September 2005, respondent's daughter Mercia S. Velez asked for the dismissal of the administrative case against his father and the release of the amount of P50,000 withheld from his retirement benefits. She attached to the letter a certificate showing that Judge Salvanera died on 20 August 2005.

This is not the first time that a respondent in an administrative case dies during the pendency thereof. In some cases, the death occurred either before the respondent could submit a comment on the complaint,[12] before an investigation could be conducted, or before the investigating judge or the OCA could make a finding on the culpability of the respondent.[13] In *Apiag v. Cantero*,[14] the investigation against the respondent judge for gross misconduct had already been terminated, and the investigating judge and the OCA had already made a finding on the charge and recommended respondent's suspension and dismissal from the service, respectively; but the respondent died while his case was being deliberated upon by the Court. In all these instances, the Court ordered the dismissal of the cases and did not see it fit to impose a penalty on the respondents.

Similarly, in view of the death of respondent Judge Salvanera, this Court finds it inappropriate to impose a sanction upon him and must forthwith dismiss this case. Consequently, there being no more impediment for the release of the entire compulsory retirement benefits of the respondent, the amount of P50,000 which was withheld pursuant to the Court's Resolution of 31 January 2005 in A.M. No. 11775-Ret. must be released to the respondent's rightful heirs.

WHEREFORE, this administrative case against retired Judge Ricardo L. Salvanera is DISMISSED. The Financial Management Office, OCA, is DIRECTED to release the amount of P50,000 withheld from his retirement benefits to his legal heirs upon presentation of proper documents.

SO ORDERED.

Quisumbing, Ynares-Santiago, Carpio, and Azcuna, JJ., concur.

[1] *Fernandez v. Hamoy*, A.M. No. RTJ-04-1821, 12 August 2004, 436 SCRA 186, 191-192.

[2] *Golangco v. Villanueva*, A.M. No. RTJ-01-1649, 11 July 2002, 384 SCRA 305, 309; *Office of the Court Administrator v. Javellana*, A. M. No. RTJ-02-1737, 9 September 2004, 438 SCRA 1.

- [3] Office of the Court Administrator v. Quilala, A.M. No. MTJ-01-1341, 15 February 2001, 351 SCRA 597.
- [4] Floresta v. Ubiadas, A.M. No. RTJ-03-1774, 27 May 2004, 429 SCRA 270.
- [5] Rule 3.09, Canon 3, Code of Judicial Conduct.
- [6] Manzon v. Perello, A.M. No. RTJ 02-1686, 7 May 2004, 428 SCRA 355, 359.
- [7] Article 344, last paragraph, Revised Penal Code.
- [8] People v. Gonzales, G.R. No. 133859, 24 August 2000, 338 SCRA 678; People v. Remudo, G.R. No. 127905, 30 August 2001, 364 SCRA 61.
- [9] People v. Bermudez, G.R. No. 129033, 25 June 1999, 309 SCRA 124; People v. Bertulfo, G.R. No. 143790, 7 May 2002, 381 SCRA 762.
- [10] Re: Report on the Judicial Audit Conducted in the RTC, Branch 60, Barili, Cebu, A.M. Nos. 04-7-373-RTC and 04-7-374-RTC, 17 December 2004, 447 SCRA 246.
- [11] See Yao v. Court of Appeals, G.R. No. 132428, 24 October 2000, 344 SCRA 202, 219.
- [12] Report on the Judicial Audit Conducted in the Regional Trial Court, Branch 1, Bangued, Abra, A.M. No. 97-9-283-RTC, 31 May 2000, 332 SCRA 273.
- [13] Camsa v. Rendon, A.M. No. MTJ-02-1395, 19 February 2002, 377 SCRA 271.
- [14] A.M. No. MTJ-95-1070, 12 February 1997, 268 SCRA 47.

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