

FELIXBERTO M. LONGBOAN, COMPLAINANT, VS. HON. EMILIO L. POLIG, RESPONDENT.*Adm. No. R-704-RTJ. June 14, 1990*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/9813866ca85e/>**PER CURIAM:**

A letter-complaint was addressed to the Court Administrator on July 18, 1986 charging the respondent judge with gross negligence of duty or abuse of authority for his failure to apprise complainant of the status of Civil Case No. 641 despite the former's registered letters requesting the status.

Civil Case No. 641 involved a dispute for collection of a sum of money between the complainant as plaintiff and one Arsenio Cunaden as defendant. The complainant obtained a favorable judgment from Municipal Circuit Judge Flora M. Tel-equen of the 2nd Municipal Circuit Court of Bauko - Sibangan, Mountain Province on October 26, 1981. It was on appeal when the matter subject of the letter-complaint came about.

It appears that on February 20, 1984, the complainant was informed by Regional Trial Court Judge Nicasio A. Baguilat that respondent judge, his predecessor, was in possession of the records of Civil Case No. 641 considering that the appeal thereto had been perfected prior to respondent judge's transfer to the Regional Trial Court, Branch 14 at Lagawe, Ifugao. On August 8, 1984, Judge Baguilat's Clerk of Court certified, among others, that Civil Case No. 641 was among the cases retained by respondent judge and that as of the said date no decision therein had been received from the said judge.

Meanwhile, the complainant had sent five registered letters inquiring about the status of Civil Case No. 641. Due to respondent Judge's failure to make any reply as requested, the Office of the Court Administrator sent respondent judge three tracers dated August 12, 1985, April 15, 1986 and June 23, 1986, respectively in relation to the records of Civil Case No. 641. Still, the respondent judge made no reply.

In our resolution dated September 9, 1986, we ordered the respondent judge to: (a) show cause why no disciplinary or administrative action should be taken against him, and (b) comply with the inquiry within ten (10) days from notice thereof with a warning that failure still to do so would be dealt with accordingly.

In our resolution dated July 31, 1987, we suspended the respondent judge "immediately and continuing until further orders" for his willful disobedience and disregard of our previous resolution. The respondent judge was further ordered to show cause and comply with complainant's inquiry with a warning that failure to do so would be dealt with more severely.

On May 30, 1989, we resolved to dispatch an audit team headed by Deputy Court Administrator Juanito A. Bernad to conduct a physical inventory of the cases pending in the respondent judge's sala on the basis of the communication from Judge Baguilat informing the Office of the Court Administrator that Civil Case No. 641 had already been decided by him and that he could not decide the other cases pending before the respondent judge's former sala because the records thereof could not be located and the respondent judge could not be contacted.

On June 1, 1989, a manifestation from the respondent judge with prayer for the lifting of his suspension and

reinstatement to his office was received by us stating that the respondent judge was unable to submit his comment within the time allotted because the record of Civil Case No. 641 was somehow mislaid on account of his transfer to Lagawe, Ifugao; that while in the process of locating the said record, we suspended respondent judge; that eventually the said record was found inadvertently mixed up with the disposed and archived cases and upon discovery, respondent judge immediately transmitted the same to Judge Baguilat's sala for disposition since he was under suspension; that Civil Case No. 641 had already been decided by the Regional Trial Court of Bontoc, Mountain Province; that respondent judge failed to ask for extension of time to make and submit his comment to our show-cause resolution due to "awful shock and anxiety at the thought that the record of the said case may have been lost beyond recovery"; that it took respondent judge a long time to plead for the lifting of his suspension due to "self-reproach and disgust of himself for his omission"; and that upon realizing that he still has to support two boys in high school and two boys in college and considering the present high cost of living, respondent judge deemed his two-year suspension as enough punishment for his omission, thus, resumption of his judicial functions should be ordered.

On June 27, 1989, Deputy Court Administrator Juanito A. Bernad conducted the physical inventory of the cases pending before respondent judge's sala. In a memorandum dated July 4, 1989, Deputy Court Administrator Bernad reported that all the cases inventoried were accounted for except four (4) criminal cases where the accused are not under detention and four (4) civil cases which remained missing as of June 29, 1989.

On July 6, 1989, we resolved to refer the instant case for investigation and recommendation to Associate Justice Jesus Elbinias of the Court of Appeals.

After hearing, the investigating officer recommended the lifting of respondent judge's suspension and the resumption of his official duties. A fine equivalent to two month's pay to be paid through equitable salary deductions was further recommended. As to the missing cases, the investigating officer stated that:

"With regard to the missing four (4) criminal cases without prisoners and four (4) civil cases referred to by Deputy Court Administrator Bernad in his memorandum for the Chief Justice, it is my view that this is a matter entirely outside the scope of the administrative complaint under inquiry. While the instant case is privately initiated in the sense that a member of the public instituted it, in the matter of the missing cases without the parties involved in them having as yet initiated any action, I believe the decision of whether or not to require respondent Judge to account for them lies with the Honorable Supreme Court or Office of the Court Administrator."

After a careful perusal of the records of the instant administrative case coupled with painstaking deliberations, we are convinced that the respondent judge's continued silence as to the status of Civil Case No. 641 despite repeated written queries from one of the parties, his failure to reply to the tracers of the Office of the Court Administrator, and his willful disobedience and disregard to our show-cause resolutions constituted grave and serious misconduct affecting his fitness and the worthiness of the honor and integrity attached to his office. Once again, we hold with great emphasis that:

"xxx The judge is the visible representation of the law and of justice. From him, the people draw their will and awareness to obey the law xxx" (see *Cali A. Impao, et al. v. Judge Jacosalem D. Makilala*, A.M. No. MTJ 88-184, October 13, 1989; *Atty. David G. Ompoc, Jr. v. Judge Norito E. Torres*, A.M. No. MTJ 86-11, September 27, 1989)

How can the respondent judge expect others to respect the law when he himself cannot obey orders as simple as the show-cause resolution?

Moreover, it is not enough that the complaining litigant was eventually appeased by the turn of circumstances.

What is more important is whether or not in the course of the judicial process, judicial norms have been maintained. It is with this end in view that we stress diligence and efficiency attendant to the discharge of a judge's function in the present Code of Judicial Conduct. Canon 3, Rule 3.08, of the said Code provides that:

“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.”

In the instant case, respondent judge even impeded the speedy disposition of cases by his successor on account of missing records of cases. This fact reflects an inefficient and disorderly system in the recording of cases assigned to his sala. Although blame can also be conveniently laid on the court personnel's mismanagement of the records of cases, proper and efficient court management is as much the judge's responsibility for the Court personnel are not the guardians of a Judge's responsibilities. (See *Sec. of Justice v. Legaspi*, 107 SCRA 233 [1981])

With respect to the inventoried four (4) criminal cases without prisoners and four (4) civil cases missing, we find no justification for the failure to present them to the Deputy Court Administrator when required and their absence from the place where court records are stored. A judge is expected to ensure that the records of 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 prerequisites attached to said office must be weeded out.

Lastly, the report on the physical inventory of the records of the cases in RTC, Branch 14, Lagawe, Ifugao, which was respondent judge's last assignment before his suspension revealed that a total of 35 cases submitted for decision have remained unresolved beyond the 90-day reglementary period. We have consistently held that failure to decide a case within the required period is not excusable and constitutes gross inefficiency. (*Ubarra v. Tecson*, 134 SCRA 4 [1985]; *De Leon v. Castro*, 104 SCRA 241 [1981]; and *In re: Judge Jose F. Madara*, 104 SCRA 245 [1981]).

In sum, the Court finds respondent judge guilty of inexcusable negligence, gross inefficiency and grave and serious misconduct in the discharge of his functions.

ACCORDINGLY, the COURT RESOLVED to DISMISS RESPONDENT JUDGE 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.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Cortes, Medialdea, and Regalado, JJ., concur.
Griño-Aquino, J., on leave.

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