

REQUEST OF PETER RISTIG FOR ASSISTANCE REGARDING THE DELAY IN THE PROCEEDINGS OF CRIMINAL CASE NO. 95227-R ENTITLED “PEOPLE OF THE PHILIPPINES VERSUS HENRY UY” PENDING AT MTCC, ...

A.M. No. 02-5-107-MTCC. December 09, 2004

Ponente: GARCIA, J.

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GARCIA, J.:

This administrative matter was initiated by way of letters[1] sent to the Office of the Court Administrator (OCA) by Mr. Peter Ristig, a German national complaining about the delay in the resolution of a criminal case of which he is the private offended party: Criminal Case No. 95227-R entitled “People v. Henry Uy” for violation of BP 22 pending with MTCC, Branch 6, Cebu City presided over by Judge Donato Sotero A. Navarro.

According to Ristig, he filed the case on 08 December 1998 and it was raffled to Branch 6 on 02 February 1999. Pre-trial conference was held on 12 August 1999 but it was only on 14 August 2000 that the first hearing was conducted. Ristig likewise furnished the Supreme Court copies of his letter[2] to President Gloria Macapagal-Arroyo, through Deputy Executive Secretary for Legal Affairs Jose T. Tale, asking money from the President for the financial losses he allegedly suffered because of how Judge Navarro conducted the proceedings in his case. Ristig particularly complained of Judge Navarro’s order resetting the 07 February 2001 hearing of the case to 13 August 2001, or six (6) months later. Said hearing was, however, further re-scheduled to 26 June and 03 July 2002, or after ten (10) months from the last setting.

The complaint was referred by the then Court Administrator Alfredo L. Benipayo to Judge Navarro for his comment.[3] On 20 March 2001, Judge Navarro submitted the desired comment,[4] therein explaining that the criminal cases in his sala had to be calendared six (6) months apart because of the lack of public prosecutors and a congested criminal docket. The judge added that the public prosecutor who was assigned to his court appeared only twice a week or eight (8) days in a month, such that he could only schedule fifteen (15) cases per day to give the court and counsels ample time to examine the witnesses. He further alleged that Ristig and his counsel also contributed to the delay in the prosecution of the subject criminal case with their failure to make their formal offer of exhibits after their manifestation that they would no longer present any other witness.

On 12 December 2001, Deputy Court Administrator Zenaida N. Elepaño directed Executive Judge Galicano C. Arriesgado, RTC, Cebu City to look into the grievance of Ristig and to see whether this is an isolated incident or whether the situation is general in the sala of Judge Navarro and/or in the other MTCC branches[5].

In response[6], Executive Judge Arriesgado informed Deputy Court Administrator Elepaño that only MTCC Branches 6 and 8 in Cebu City calendared their cases six (6) months apart due to the lack of public prosecutors and congested court dockets.

The OCA submitted to this Court its initial report dated 02 May 2002,[7] therein stating that the lack and/or

unavailability of public prosecutors may be considered a valid reason for the delay of Judge Navarro in the resolution of the case of Ristig and the other criminal cases pending in his court. The OCA added that with the issuance of En Banc Resolution dated 10 April 2002 in AM No. 02-2-07-SC, amending Section 5, Rule 110 of the Revised Rules of Criminal Procedure, the unnecessary delay in the trial of criminal cases caused by the lack and/or unavailability of public prosecutors will be remedied since private prosecutors may now be authorized in writing by the Chief of the Prosecution Office or the Regional State Prosecutor to prosecute the case subject to the approval of the court. Continuing, the OCA stated in the same report that upon verification with the Court Management Office, it was discovered that Judge Navarro had not submitted his Semestral Inventory of Cases for the whole year of 2001, Monthly Report of Cases for January, February and March 2002, as well as his Monthly Certificates of Service since his assumption to office on 13 December 1999.

The OCA thus recommended that Judge Navarro be directed to hear Criminal Case No. 95227-R with utmost dispatch, strictly comply with the amendment to Section 5 Rule 110 of the Revised Rules of Criminal Procedure, and explain within thirty (30) days from notice why he failed to submit the aforesated reports.

In a Resolution dated 14 August 2002,[8] this Court resolved to adopt the OCA's recommendations, and accordingly directed Judge Navarro to:

“(a) HEAR Criminal Case No. 95227-R entitled ‘People vs. Henry Uy’ with utmost dispatch;

(b) STRICTLY COMPLY with the amendment to Sec. 5, Rule 110 of the Revised Rules of Criminal Procedure as contained in the En Banc Resolution dated April 10, 2002 of this Court in A.M. No. 02-2-07-SC; and

(c) EXPLAIN within thirty (30) days from notice why he failed to and continues to fail to submit: (1) his monthly certificate of service since the date of his assumption to duty up to the present; (2) his semestral inventory of cases for January to June 2001 and July to December 2001; and (3) his monthly report of cases for January, February and March 2002.”

Then, on 27 May 2003, the OCA again received another letter[9] from Ristig, this time informing that Judge Navarro had not yet resolved Criminal Case No. 95227-R despite the earlier directive of this Court.

On 26 September 2003, the OCA received from Judge Navarro a Manifestation[10] dated 28 April 2003. Therein, Judge Navarro stated that he had already decided Criminal Case No. 95227-R on 28 April 2003 without the stenographic notes having been transcribed and without receiving the evidence of the accused, “as circumstances seem to have conspired to cause further delay in the proceedings”, copy of which decision[11] is attached to said Manifestation. In the same Manifestation, the judge further explained that the resolution of Criminal Case No. 95227-R was delayed due to the failure of the private prosecutor to make a formal offer of exhibits despite his directive to do so, and that he discovered later that his former court interpreter had mishandled the prosecution's Formal Offer of Exhibits.

As regards this Court's directive to strictly comply with the amendment to Section 5, Rule 110 of the Rules of Court, Judge Navarro manifested that he had prepared a pro-forma order for the purpose and had been openly calling on private prosecutors to obtain the necessary authorization in line with the said amendment, but that there had been “surprisingly only few takers”.

In the matter of the delay in the submission of the Semestral Inventory and Monthly Report of Cases, Judge Navarro attributed the same to his former clerk of court who had resisted his efforts to put these in order. He alleged that his new clerk of court, Atty. Joje Zamora-Decal, discovered that 1,334 cases had been concealed from him and were not included in the initial inventory of cases, which explains why his court's Monthly Report of

Cases for December 2001[12] showed a total caseload of only 2,322 cases while that of January 2002[13] reflected a total of 3,656 cases.

Anent his monthly certificates of service, Judge Navarro offered the following explanations in his Manifestation:

“The undersigned has already submitted his complete monthly certificates of service. He was simply deathly afraid to submit them earlier from assumption of service as he had become aware that with the passage of the Speedy Trial Act, several more periods other than the periods within which to render judgments now to be complied with. As the Speedy Trial Act requires also that judges ask for extensions for these periods, it was, at the time he assumed office, impossible for him to do so, considering the mess as described earlier his inventory of cases was in. Undersigned felt it prudent to wait until he had a more correct inventory and accurate monthly reports before he could submit his certificates of service. Again, the undersigned wishes to point out the improvement in the accuracy of the undersigned’s physical inventory as stated earlier. The Most Honorable Court may also take note of the fact that Monthly Reports of his Court are now submitted on a monthly basis, as compared to the earlier practice of the undersigned’s staff to submit them only every semester. The Most Honorable Court may even take note of the fact that the undersigned’s case flow system allows him to act on aged inherited cases as well as current cases so that the oldest cases have been disappearing from his docket although admittedly, for their sheer number, not always within the periods required. Other judges simply act on the current cases, or, as the undersigned believes a recent inventory of another Court reveals, simply let a significant number of their cases ‘disappear’ just as they used to do in the undersigned’s Court, thus allowing them to window-dress their monthly reports and docket inventory”.

By way of concluding his Manifestation, Judge Navarro proudly claimed that he had been cited as the MTCC judge in Cebu with the highest number of disposals for the last quarter of 2002, averaging at least thirty (30) actual decisions every month, adding that his monthly report of cases and Semestral Inventory are now submitted on time, and that his court docket inventory is now accurate.

In her report to the Court dated 10 October 2003,[14] which report bears the approval of the Court Administrator, Deputy Court Administrator Elepaño pertinently states:

“In accordance with the Court’ (sic) Resolution of 25 June 2003, this Office verified the compliance by Judge Navarro with the Resolution of the Court of 14 August 2002 and obtained the following information from CMO and OAS, OCA:

- Judge Navarro has decided Criminal Case No. 95227-R on 28 April 2003 and copy of his decision thereon was furnished this Office on 27 May 2003;

- While Judge Navarro has not submitted his Explanation for his failure to submit his Certificates of Service and required reports, he nevertheless submitted the following:

a) On 27 June 2003, his Monthly Certificates of Service for the period December 13, 1999 to May 2003. Those for June to July 2003, on 02 September 2003;

b) On 15 April 2002, the Semestral Inventory of Cases for the 1st and 2nd Semester of 2001; that for 1st Semester 2002 on 05 November 2002, and for 2nd Semester 2002, on 10 March 2003;

c) his Monthly Report of Cases for January, February, March 2002 on 13 May 2002; and

d) Monthly Report of Cases from April 2002 to August 2003, on the following dates:

(1) April to October 2002 on 14 August, 06 September, 08 October, 14 October, 23 October, 07 November and 04 December 2002 respectively;

(2) November and December 2002 on 07 and 29 January 2003; and

(3) January to July 2003 on 10 March, 27 March, 09 May, 24 May, 03 July, 29 July and 04 September 2003 respectively.”,

and accordingly recommends the following courses of action:

“(a) The administrative complaint of Peter Ristig against Judge Donato Sotero A. Navarro, MTCC, Branch 6, Cebu City be DISMISSED for lack of merit; and

(a) Judge Donato Sotero A. Navarro be held liable for Gross Misconduct in Office and be correspondingly FINED in the amount of P21,000.00 with a stern warning that a repetition of the same offense shall be dealt with more severely.”[15]

We agree with the Office of the Court Administrator’s recommendations, but with same modification on the penalty imposed, in line with the amendments to Rule 140 of the Rules of Court.

We find Judge Navarro’s explanation on the delay in the resolution of Criminal Case No. 95227-R satisfactory. Judge Navarro was appointed presiding judge of MTCC, Branch 6, Cebu City in November 1999 and assumed judicial functions thereat only in February 2000, long after the filing of the said criminal case on 08 December 1998. He inherited a total of 2,322 cases, some of which were already submitted for decision since 1993. Such heavy caseload of a judge can certainly prevent the disposition of cases within the reglementary period. In any event, the particular criminal case complained of by Ristig has been resolved by Judge Navarro on 28 April 2003.

Besides, the lack or unavailability of public prosecutors, which is clearly beyond the control of Judge Navarro, is also a valid reason for the delay in the prosecution of cases, not only that of Ristig, but also those of others, albeit we may add that with the amendment to Section 5, Rule 110 of the Revised Rules of Criminal Procedure, such unnecessary delays in the trial of criminal cases caused by the lack or unavailability of public prosecutors can now be avoided since private prosecutors may now be authorized in writing by the Chief of the Prosecution Office or the Regional State Prosecutor to prosecute the case subject to the approval of the court. Thus, Section 5, Rule 110, as amended, presently reads:

“Section 5. Who must prosecute criminal actions. – All criminal actions either commenced by complaint or by information shall be prosecuted under the direction and control of a public prosecutor. In case of heavy work schedule of a public prosecutor or in the event of lack of public prosecutors, the private prosecutor may be authorized in writing by the Chief of the Prosecution Office or the Regional State Prosecutor to prosecute the case subject to the approval of the court. Once so authorized to prosecute the criminal action, the private prosecutor shall continue to prosecute the case up to the end of the trial even in the absence of a public prosecutor, unless the authority is revoked or otherwise withdrawn.”

Moreover, we have consistently stressed that whenever circumstances do arise that could render judges incapable of seasonably acting on and deciding a case, all that a judge should do is to request from the Court, and justify to it, an extension of time to resolve or decide the pending matter. The Court would almost always grant said request, aware as it is of the caseload of judges and mindful of the numerous difficulties which a judge may encounter in the timely disposition of cases.[16]

Nonetheless, cognizant of the number of cases inherited by Judge Navarro, and the fact that a bulk thereof was initially concealed from him by his former clerk of court, we feel that the judge’s delay in the disposition of subject criminal case (Crim. Case No. 95227-R) is understandable.

With respect to the delay in the submission of the Monthly Report of Cases and Semestral Docket Inventory, circumstances also justify Judge Navarro’s failure to submit them on time. Evidently, there was an apparent attempt on the part of his former clerk of court to thwart his efforts to streamline the inventory of his cases and

make an accurate report thereon to this Court. There were about 1,334 cases later found to have been concealed from the judge and excluded in the initial inventory submitted when he assumed office. This explains why his Monthly Report of Cases for December 2001 showed a total caseload of 2,322 cases only when it should have reflected 3,656 cases.[17] At any rate, records of the Statistical Reports Division, CMO, OCA show that the Monthly Report of Cases of Judge Navarro's court from April 2002 to present as well as its Semestral Docket Inventory for 2002 were already submitted.[18]

Nonetheless, we take this occasion to stress on Judge Navarro and those similarly situated that 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 at all times the high standards of public service and fidelity.[19] Delay in the administration of justice is the most common cause of complaint and a judge should endeavor to avoid it. Truly, it behooves upon Judge Navarro to manage his court with a view to the prompt and convenient disposition of its business, and to be intolerable of the indifference or neglect by his clerks, sheriffs and other officers of the court.[20] This is, as it should be. For, the slightest semblance of impropriety on the part of the employees of the court in the performance of their official duties stirs ripples of public suspicion and public distrust of judicial administrators. And the slightest breach of duty by and the slightest irregularity in the conduct of court officers and employees detract from the dignity of courts and erode the people's faith in the judiciary.[21]

With respect to Judge Navarro's failure to submit his monthly Certificate of Service from the time he assumed office in December 1999 to May 2003, his explanation that he felt it prudent to wait until he had a more correct inventory and accurate monthly reports before he could submit his certificates of service, is, to say the least, flimsy and not acceptable.

Under Section 5 of the Judiciary Act of 1948, judges should submit a monthly certificate of service, without which no application for leave shall be granted and no salary shall be paid to them. This was reiterated in the Court's Circulars No. 10-98 dated 02 February 1998 and No. 7-2003 dated 09 January 2003, requiring judges to submit such certificate immediately after the last day of each month.

Regrettably, Judge Navarro disregarded this command. He did not submit his certificates of service for more than three (3) years on the shallow excuse that he felt it prudent to wait until he had a more accurate inventory and report of cases rather than "window-dress" his certificates and reports. But the records show that he did not submit any leave application for his absences indicated in the Certificates of Service he just submitted, i.e. July 19, August 31, September 21, November 20, 2000; March 16-22, April 10-11, June 18-20, August 27, 2001; March 18-21, 24, 25, and July 7, 8, 30, 2003.[22] And in all those years, he collected his salaries and benefits in full. It was only on 27 June 2003 that he submitted all his certificates of service and only after he was made to explain for such failure.

As we held in *Sabitsana, Jr. vs. Villamor*, [23] the Certificate of Service is an instrument essential to the fulfillment by the courts of their duty to speedily dispose of their cases as mandated by the Constitution. It also serves as the record of attendance and absence of a judge at his workstation during the prescribed working hours.[24]

For sure, this Court has held in numerous cases that judges are expected to be more diligent in preparing their monthly certificates of service, by verifying every now and then the status of the cases pending before their sala. They cannot be excused by the acts of their subordinates as court employees are not the guardians of a judge's responsibility.[25]

Worse, even as this Court, in its Resolution of 14 August 2002, directed Judge Navarro to "EXPLAIN within thirty (30) days from notice why he failed to and continues to fail to submit: (1) his monthly certificate of service

since the date of his assumption to duty up to the present; (2) his semestral inventory of cases for January to June 2001 and July to December 2001; and (3) his monthly report of cases for January, February and March 2002”, it took him more than a year later, or on 26 September 2003, when he submitted his Manifestation whereunder he proffered the desired explanation, not to mention the fact that he did so only after he was reminded by the OCA to do so.

Judge Navarro’s delay in the submission of his certificate of service and disregard of the directive of this Court as embodied in its Resolution of 14 August 2002, warrant disciplinary sanction. His conduct in the premises constitutes less serious charges under Section 9 of Rule 140 of the Rules of Court (as amended by A.M. No. 01-8-10-SC on 11 September 2001) for which a judge may be suspended from office without salary and other benefits for not less than one (1) nor more than three (3) months, or fined in the amount of more than P10,000.00 but not exceeding P20,000.00[26] depending upon the circumstances in each case.

However, given the circumstance that this is Judge Navarro’s first offense, and consistent with Section 9, Rule 140 of the Rules of Court, which classifies Judge Navarro’s infraction in the category of “less serious charges”, we hereby RESOLVED to reduce, as we hereby reduce, OCA’s recommended fine of P21,000.00 to only P15,000.00, with a stern warning that a repetition of the same infractions in the future will be dealt with more severely.

WHEREFORE, Judge Donato Sotero A. Navarro of the Municipal Trial Court of Cebu City, Branch 6, is meted with a FINE of P15,000.00, with a STERN WARNING that a repetition of the same or similar acts will be dealt with more severely.

SO ORDERED.

Panganiban, (Chairman), Sandoval-Gutierrez, and Carpio-Morales, JJ., concur.
Corona, J., on leave.

[1] Rollo, pp. 7 and 16.

[2] Id., pp. 8-10.

[3] Id., p. 21.

[4] Id., pp. 39-43.

[5] Id., p. 48.

[6] Id., pp. 71 and 74-75.

[7] Id., p. 1.

[8] Id., pp. 87-88.

[9] Id., pp. 89-90.

[10] Id., pp. 101-120.

[11] Id., pp. 111-113.

[12] Id., p. 118.

[13] Id., p. 119.

[14] Id., pp. 124-129.

[15] Id., p. 129.

[16] Request for Assistance Relative to Special Proceedings No. 28 Pending at RTC Br. 55, Negros Occ. by Judge Jose Y. Aguirre, Jr., 355 SCRA 62 [2001], citing Report on the Judicial Audit conducted in Municipal Trial Court, Sibulan, Negros Oriental, 347 Phil 139 [1997].

[17] As indicated in the January 2002 Monthly Report of Cases, Rollo, p. 119.

[18] OCA Report dated 10 October 2003, Rollo, p. 128.

[19] Rule 3.09, Canon 3.

[20] Ramirez vs. Corpuz-Macandog, 228 Phil. 436 [1986].

[21] Buenaventura vs. Benedicto, 148 Phil. 63 [1971].

[22] OCA Report dated 10 October 2003, Rollo, p. 128.

[23] 202 SCRA 435 [1991].

[24] Supreme Court Circular No. 10-98, 02 February 1998.

[25] Office of the Court Administrator vs. Sayo, Jr., 431 Phil. 413 [2002], citing Secretary of Justice vs. Legaspi, 194 Phil. 220 [1981].

[26] Section 11 (B), Rule 140 of the Rules of Court (as amended by A.M. No. 01-8-10-SC on 11 September 2001).

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