

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
JUDGE JESUS M. BARROSO, JR. (RET.) AND PEDRITO A. CUNANAN,
RESPONDENTS.***A.M. No. RTJ-04-1874 (FORMERLY A.M. NO. 03-8-473-RTC[1]). October 18, 2004*

Ponente: PUNO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-m-no-03-8-473/>**PUNO, J.:**

This treats of the Report[2] submitted by Deputy Court Administrator Christopher O. Lock on the judicial audit and physical inventory of cases conducted in the Regional Trial Court (RTC) of Bukidnon, Branch 10, Malaybalay City, from July 21 to 23, 2003. The court was then presided by Hon. Jesus M. Barroso, Jr., who compulsorily retired on August 20, 2003.

The audit team[3] found that said court had six hundred sixty-three (663) pending cases[4] as of July 23, 2003, twenty-eight (28) cases of which were not yet initially acted upon since they were raffled or reassigned to the said branch, viz: Criminal Cases Nos. 12912 and 13123, and Civil Cases Nos. 2939, 3074, 3097, 3260, 3272, 3273, 3277, SCA-319, SCA-340, SP-2390, SP-2545, SP-2617, SP-2642, SP-2671, SP-2680, MISC-541, MISC-666, MISC-668, MISC-692, MISC-701, MISC-705, MISC-708, MISC-709, MISC-712, PR-88-01 and PR-95-01. Forty-seven (47) of the pending cases were also not further acted upon or had no further settings in the court calendar despite the lapse of a considerable length of time, viz: Criminal Cases Nos. 8434, 9801, 9914, 10325, 10326, 10327, 10328, 10329, 10330, 10527, 10966, 11065, 11473, 11499, 11693, 12608, 12612, 12626 and 12999, and Civil Cases Nos. 2698, 2730, 2738, 2739, 2882, 2923, 2927, 2983, 2999, 3028, 3025, 3041, 2092, 3136, 3168, 3171, 3187, 3198, 3232, 3235, 3258, SCA-82, SCA-304, SCA-308, SCA-328, SP-2459, SP-2663 and MISC-601.[5]

The following thirteen (13) cases have been submitted for decision:

Case No.

Date Submitted

Due Date of Decision

Criminal

9676

07/18/03

10/16/03

9678

06/29/03

09/27/03

Civil/Others

2716

03/21/03

06/19/03

2727

02/21/00

05/21/00

2887

02/09/03

05/10/03

3001

03/05/03

06/03/03

3157

01/21/03/

04/21/03

3257

04/28/03

07/27/03

SCA - 310

07/09/02

10/07/02

SCA - 311

08/29/02

11/27/02

SCA - 312

10/03/02

01/02/03

SCA - 312

10/03/02

01/02/03

SCA - 325

06/24/03

09/22/03

SP - 2646

06/14/03

09/12/03[6]

Seven (7) cases have pending motions that needed to be resolved, viz:

Case no.

Date Submitted

Due Date of Resolution

Kind of Motion

Criminal

10277

09/19/02

12/18/02

Motion to suspend proceedings due to prejudicial question

Civil/Others

2843

10/11/02

01/09/03

Motion for Reconsideration of the Order dated 9/20/02 dismissing the appeal

2937

03/30/00

06/28/00

Omnibus Motion to Dismiss

3022

07/21/03

10/19/03

3193

07/11/03

10/09/03

Motion to Dismiss

3264

07/16/03

10/14/03

Motion for Extension of time to file appeal memo

MISC - 587

07/04/03

10/02/03

---[7]

It was further discovered that one hundred six (106) criminal cases with warrants of arrest and eight (8) civil cases with summons may be archived in accordance with Administrative Circular No. 7-A-92.[8] It was also found that summonses were not immediately issued by Pedrito A. Cunanan, Legal Researcher and Acting Clerk of Court of the said court, with respect to these five (5) civil cases with summons, to wit:

Civil Case No.

Nature

Date Filed

Date of Summons

3104 Annulment of Writ of Attachment

09/12/01

07/11/03

3162 Collection of Sum of Money

05/21/02

09/10/02

3251 Support w/ Support Pendente Lite

03/13/03

05/22/03

3255 Partition

03/20/03

05/22/03

SCA -342 Interpleader

05/27/03

07/16/03[9]

It also appears that Acting Clerk of Court Cunanan was designated to receive ex parte evidence in fourteen (14) civil cases even if he was not yet a member of the bar, in violation of Section 9, Rule 30 of the Rules of Court. Writs were issued in 2 cases which were not yet returned at the time the audit was conducted. Furthermore, the team noted that said court did not have docket books for criminal cases and other cases which are separate from the general docket books maintained by the Office of the Clerk of Court of the RTC of Bukidnon, Malaybalay City. A random examination of the records of dismissed cases due to the failure of plaintiffs to prosecute and archived cases due to the accused's non-apprehension also showed that private complainants were not directly furnished with copies of the orders of dismissal or archival.[10]

In our Resolution dated September 17, 2003, we ordered Judge Barroso to explain his failure to render decisions in eight (8) cases and to resolve the motions pending in three (3) cases. We also withheld the amount of P50,000.00 from his retirement benefits to answer for any administrative sanction that may be imposed on him. We directed the designated Acting Presiding Judge of the said court to render decisions or resolutions in cases which may have been left undecided or unresolved by Judge Barroso and to take appropriate action on cases for archival and those cases which were not further acted upon despite the lapse of a considerable length of time. We also directed Acting Clerk of Court Cunanan to immediately cease and desist from further conducting ex parte reception of evidence and to explain why no administrative sanction should be imposed on him for his failure to take initial action on twenty-eight (28) cases and to immediately issue summons in five (5) cases. We ordered him to keep the prescribed docket books for criminal cases and civil/other cases which are separate from those kept in the Office of the Clerk of Court, RTC, Malaybalay City. We also directed him to furnish private complainants with copies of orders dismissing or archiving their cases.

In his First Indorsement dated November 7, 2003, Judge Barroso gave the following explanation for his failure to: (a) decide Civil Cases Nos. 2716, 2727, 2887, 3001, 3157, SCA-310, SCA-311 and SCA-312; and (b) resolve the motions in Criminal Case No. 10277 and Civil Cases Nos. 2843 and 2937, within the mandatory period, viz:

Cases No.

Explanation

A) Civil Cases:

[1] 2716

- submitted for resolution as of March 2003 and was decided on July 28, 2003;

[2] 2727

- Submitted for resolution as of February 2003 and was decided on August 4, 2003;

[3] 2887

- Submitted for resolution as of April 2003 and was decided on July 31, 2003;

[4] 3001

- Submitted for resolution as of April 2003 and was decided on August 8, 2003;

[5] 3157

- Still undecided for having been overlooked;

B) Special Civil Actions:

[1] 310

- Originally raffled to RTC Branch 9, on May 30, 2002 and was subsequently transferred to this Branch in exchange of another case;

[2] 311

- Overlooked;

[3] 312

- Originally filed to (sic) RTC Branch 9 on August 8, 2002 and subsequently transferred to this branch in exchange of another case;

C) Motions

[1] Crim. Case No. 10277 - As early as July 23, 2003 the Motion to Suspend Proceeding

was resolved notwithstanding that movant did not pursue his urgent motion;

[2] Civil Case No. 2843 - Appellee failed to file Motion to Dismiss the Appeal, hence, the

case was belatedly dismissed by the Court;

[3] Civil Case No. 2937 - The same wa overlooked. [11]

Judge Barroso also declared that "[t]he above shortcomings were committed due to the fact that there were also undecided cases in RTC Branch 8, as Acting Judge that [he had] to meet within the mandatory period." [12]

On the other hand, Acting Clerk of Court Cunanan informed this Court that he has desisted from further conducting ex parte reception of evidence. He also stated that their branch has made separate the recording of docket books for criminal and civil/other cases pursuant to Section 8, Rule 136 of the Rules of Court. He also explained the reasons for his failure to take immediate initial action upon receipt of the records of the following twenty-eight (28) cases and to issue summons upon his receipt of the following five (5) cases, to wit:

Ordinary Civil Cases:

2939 - [T]he record was transferred from RTC 9 to this brnch on Feb. 2, 2001 and on June 22, 2001, undersigned issued Notice of continued hearing/trial on July 20, 27 for plaintiff and August 10 and 17, 2001 for the defendants. Since then the case has been scheduled for continues (sic) hearing on several dates;

3074 - unresolved, an appealed case;

3097 - just recently transferred to this branch and received on April 14, 2003 from RTC 9, still for pre-trial;

3260 - summons and complaint were served defendants thru RTC, mandaluyong, Metro Manila;

3277 - summons and complaint duly served to respondents as of Sept. 4, 03 but no movement from plaintiff;

Special CA Cases

319 - [T]he case was transferred from RTC 9 to this branch on Jan. 8, 2003 and there was already previous hearings conducted by the former court;

340 - summons served as of August 25, 2003;

Special Proceeding Cases

Except for 2617 and 2671 which were decided earlier, the rest are due for hearing as soon as the availability of the Regular or Acting presiding judge in this Branch.

Misc. Cases

Other than 708 and 709 already decided, the rest are due for trial/hearing as soon as the availability of the Acting or Regular Prosiding Judge of this Court.

For failure to issue summons:

Except for Civil Cases 3251 and 3255 of which corresponding summons[es] were issued as of May 2003, summons[es] for 3104 and 3162 just recently issued.

SCA 324 - summons returned unserved as of September 9, 2003.[13]

Cunanan apologized for his shortcomings. He stated that he was then preparing for the 2003 Bar Examinations but could not go on leave due to the intended retirement of Judge Barroso, hence, some oversight with respect to some records in question.[14]

We find Judge Barroso and Acting Clerk of Court Cunanan remiss in their duties.

The Constitution mandates that cases or matters filed with the lower courts must be decided or resolved within three (3) months from the date they are submitted for decision or resolution.[15] In the case at bar, Judge Barroso admitted that he failed to render his decision in Civil Case No. 3157 for having "overlooked" the same. His decisions in Civil Cases Nos. 2716, 2727, 2887, 3001, SCA-311, SCA-310, and SCA-312, and his resolution in Criminal Case No. 10277, were all rendered or resolved beyond the prescribed period of three months. He also admitted to having "overlooked" the Omnibus Motion to Dismiss pending with Civil Case No. 2937, thus, leaving it unresolved for more than three (3) years from its submission for decision. The motion pending in Civil Case No. 2843 was also left unresolved.[16]

We have ruled that the mere fact that a judge was sitting as acting judge in another sala is not sufficient to exonerate him from liability for delay in rendering decisions and resolving motions.[17] This is not to turn a blind eye on the plight of our judges. As we stressed in several decisions, if it becomes unavoidable for a judge to render a decision or resolve a matter beyond the mandatory period, he may seek additional time by simply filing a request for such extension seasonably and with good reasons. Judge Barroso, however, did not make use of this remedy. Rule 3.05, Canon 3 of the Code of Judicial Conduct directs judges to "dispose of the court's business promptly and decide cases within the required periods." [18] The heavy load in Judge Barroso's sala, though

unfortunate, cannot exempt him from due observance of the rules.

Cunanan is also remiss in his duties. Clerks of court are charged with the duty of issuing writs and processes incident to pending cases before the court.[19] It is their duty to forthwith issue the corresponding summons to the defendants upon the filing of the complaint and payment of the requisite legal fees. [20] Their office being the hub of activities, they are expected to be assiduous in performing official duties and in supervising and managing their respective court's dockets.[21]

In the case at bar, Cunanan did not explain why it took him more than four (4) months to act on Civil Case No. 2939 after the records of the case were transferred to their branch. He also failed to explain why he did not immediately act upon Civil Cases Nos. 3074, 3097, and SCA-319 upon receipt of their respective records. Furthermore, summonses in Civil Cases Nos. 3260, 3277, and SCA-340 were served only more than one month after the judicial audit was conducted. Again, Cunanan did not explain why he did not immediately issue summonses in Civil Cases Nos. 3104, 3162, 3251, 3255, and SCA-342.

Cunanan's excuse that he was preparing for the 2003 Bar Examinations is unavailing. It is noteworthy that Civil Case No. 3104 was filed as early as September 12, 2001, but summons was issued only on July 11, 2003, or after more than one year. There is nothing herculean in the task of issuing summons. It is a ministerial duty which can be discharged by filling in of entries pro forma. Service of summons on the defendant is significant for the court to acquire jurisdiction over his or her person. It puts the case into motion after the complaint or information has been filed and the corresponding fees paid. As an aspiring member of the bar, he must be well aware that justice demands the prompt disposition of cases filed in court. He was less than zealous in the prompt issuance of summons.

Under Sections 9 and 11(B), Rule 140 of the Rules of Court,[22] we classified undue delay in rendering a decision or order as a less serious charge, for which any of the following sanctions shall be imposed: (a) suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months; or (b) a fine of more than P10,000.00 but not more than P20,000.00. Considering the number of cases which the respondent judge failed to decide on time but mitigated by his length of service and the absence of any showing that he was a habitual offender, we find the amount of P15,000.00 as a suitable fine to impose on respondent judge.

As regards the respondent clerk of court, we find him liable for simple neglect of duty. Section 23, Rule XIV of the Omnibus Civil Service Rules and Regulations classifies this offense as less grave with a corresponding penalty of suspension for one (1) month and one (1) day to six (6) months for the first offense, and dismissal from service for the second offense. Considering the circumstances of the present case and that this is respondent Cunanan's first offense, we find the penalty of suspension for one (1) month and one (1) day as sufficient.

IN VIEW WHEREOF, we hold retired Judge Jesus M. Barroso, Jr., administratively liable for undue delay in rendering decisions or orders and he is ordered to pay a fine of Fifteen Thousand Pesos (P15,000.00), to be deducted from the P50,000.00 retirement benefits withheld from him pursuant to our Resolution dated September 17, 2003. The remainder of the withheld amount is ordered released to him. We further hold respondent Pedrito A. Cunanan administratively liable of simple neglect of duty, for which he is suspended for one (1) month and one (1) day, with a stern warning that a repetition of the same or similar acts will be dealt with more severely in the future.

SO ORDERED.

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

[1] Re: Report on the Judicial Audit Conducted in the RTC, Branch 10, Malaybalay, Bukidnon.

[2] Dated August 8, 2003.

[3] Headed by Atty. Marina B. Ching.

[4] 442 criminal cases, 221 civil/other cases.

[5] Memorandum for Hon. Christopher O. Lock, Deputy Court Administrator dated August 8, 2003, Re: Report on the Judicial Audit Conducted in the RTC, Br. 10, Malaybalay City, pp. 4-5.

[6] Id. at 2-3.

[7] Id. at 3.

[8] Guidelines in the Archiving of Cases, June 21, 1993.

[9] Memorandum for Hon. Christopher O. Lock, Deputy Court Administrator dated August 8, 2003, Re: Report on the Judicial Audit Conducted in the RTC, Br. 10, Malaybalay City, p. 4.

[10] Supra note 4.

[11] 1st Indorsement dated November 7, 2003 of Retired Judge Jesus M. Barroso, Jr.

[12] Id. at 2.

[13] 1st Indorsement dated November 27, 2003 of Clerk of Court Pedrito A. Cunanan.

[14] Id. at 2.

[15] Section 15(1), Article VIII, Constitution.

[16] Supra note 14.

[17] Lotino vs. Hernandez, 333 SCRA 1 (2000).

[18] Section 5, Canon 6 of the "New Code of Judicial Conduct for the Philippine Judiciary" (A.M. No. 03-05-01-SC) which took effect on June 1, 2004, similarly directs judges to "perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness."

[19] Rule 36, Section 4.

[20] Rule 14, Section 1.

[21] Bautista vs. Mendoza, 362 SCRA 397 (2001).

[22] As amended by our En Banc Resolution in A.M. No. 01-8-10-SC dated September 11, 2001 (Re: Proposed Amendment to Rule 140 of the Rules of Court Regarding the Discipline of Justices and Judges).

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