

RE: REPORT ON THE JUDICIAL AUDIT CONDUCTED AT THE METROPOLITAN TRIAL COURT, BRANCH 55, MALABON CITY.

A.M. NO. 08-3-73-METC. July 31, 2009

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

From July 12 to 19, 2007, the audit team of the Office of the Court Administrator (OCA) conducted a judicial audit and physical inventory of cases pending before Branch 55 of the Metropolitan Trial Court (MeTC) of Malabon City in light of the compulsory retirement of its presiding judge, the Honorable Judge Francisco S. Lindo, on July 24, 2007.

The OCA reported in its Memorandum[1] dated March 17, 2008 that the sala of Judge Lindo has a total caseload of 2,052 cases, consisting of 1,970 criminal and 82 civil cases. They are classified as follows:

STATUS/STAGES OF PROCEEDING

CRIMINAL CASES

CIVIL CASES

TOTAL

Submitted for Decision

15

8

23

With Pending Incidents Submitted for Resolution

4

3

7

No Further Action/Unacted Upon for Considerable Length of Time

1,229

29

1,258

No Action Taken Since Filing

21

-

21

With Warrant of Arrest/Summons

67

8

75

For Arraignment

72

-

72

For Setting

28

-

28

For Preliminary Conference/Pre-Trial

138

16

154

For Compliance

-

6

6

With Pending Motions

-

2

2

With Court Order for Compliance

24

-

24

On Trial/For Initial Trial

371

9

380

Suspended Proceedings

1

1

2

TOTAL

1,970

82

2,052

Of the 23 cases submitted for decision, 22 cases, 19 of which were inherited cases, remained undecided despite the lapse of the reglementary period;^[2] 7 cases with pending incidents were still awaiting resolution;^[3] 1,258 cases were not acted upon for a considerable length of time;^[4] while no action had been taken by the court in 21 cases since their filing therein.^[5]

Reconciliation of the audited records with the court records revealed that 175 criminal cases were not presented to the audit team for examination, while 270 criminal cases were not reported/reflected in the docket inventory for the years 2006 and 2007.^[6]

In a Resolution^[7] dated April 22, 2008, the Court, acting on the memorandum submitted by OCA, resolved, among others to:

- DIRECT Hon. Francisco S. Lindo, former Presiding Judge, Metropolitan Trial Court, Branch 55, Malabon City to EXPLAIN in writing within fifteen (15) days from notice why no administrative sanction shall be imposed on him for

1.1

failure to report to this Court, through the Office of the Court Administrator, about the following nineteen (19) inherited cases which were allegedly discovered sometime in 2002 or to decide them considering that these cases were submitted for decision way back in the 80's, to wit: Criminal Case Nos. 525-81 & 525-82, 54839, 634-84, 777-84, 909-84, 974-84, 1025-85, 1023-85, 2122-86, 2223-86, 2256-86 & 2249-87; and Civil Case Nos. 529-86, 621-86, 755-87, 767-87, 774-87 & 819-88;

1.2

failure to decide within the reglementary period the following three (3) cases which were submitted for his decision, to wit: Criminal Case Nos. 360-90 and 361-90; and Civil Case No. 1870-98;

1.3

failure to resolve within the reglementary period the following seven (7) cases with pending incident or matter for his resolution, to wit: Criminal Case Nos. 7305-98, 7818-98, JL00-577 & JL00-578; and Civil Case Nos. JL00-258, JL00-259 & JL00-272;

1.4

failure to act on the one thousand two hundred twenty-nine (1,229) criminal cases and twenty-nine (29) civil cases, as enumerated in Annex "A" of the audit report, despite the lapse of a considerable length of time;

1.5

failure to act on the following twenty-one (21) criminal cases which have not been set in court calendar despite the lapse of a considerable period of time from date of filing, to wit: Criminal Case Nos. JL00-5822 to JL00-5831, JL00-5963 to JL00-5967, JL00-5934, JL00-7247, JL00-7248, JL00-7571, JL00-7572, JL00-7573; and

1.6

failure to reflect, in all the Monthly Report of Cases he filed with this Office, the nineteen (19) inherited cases submitted for decision as well as Criminal Case Nos. 360-91 and 361-91 submitted for his decision on October 17, 1994 and Civil Case No. 1870-98 submitted for his decision on August 10, 1999.

- DIRECT Ms. Edrine T. Borgonia, Court Legal Researcher and Officer-in-Charge, MeTC, Branch 55, Malabon City to

1.1

EXPLAIN within fifteen (15) days from notice why no administrative sanction shall be imposed upon her for

1.1.1

failure to set in the court calendar the following twenty-one (21) criminal cases despite the lapse of considerable period of time, with further directive for her to immediately include them in the court calendar, to wit: Criminal Case Nos. JL00-5822 to JL00-5831, JL00-5963 to JL00-5967, JL00-5934, JL00-7247, JL00-7248, JL00-7571, JL00-7572, JL00-7573;

1.1.2

failure to present to the audit team for examination the following one hundred seventy-five (175) criminal cases:

3621-96

JL00-5214

JL00-6683

JL00-9034

6719-97

JL00-5235

JL00-6817

JL00-9046

7354-98

JL00-5242

JL00-6818

JL00-9081

9830-00

JL00-5249

JL00-6853

JL00-9090

9641-00

JL00-5391

JL00-6869

JL00-9091

8242-99

JL00-5437

JL00-6939 to

JL00-9094

8457-99

JL00-5446

JL00-6946

JL00-9101

8458-99

JL00-5461

JL00-7074

JL00-9109

8459-99

JL00-5483

JL00-7711

JL00-9119

8460-99

JL00-5489

JL00-7882

JL00-9138 to

8490-99

JL00-5681

JL00-7910

JL00-9140

JL00-087

JL00-5777

JL00-7946

JL00-9150

JL00-117

JL00-6022

JL00-7947

JL00-9156

JL00-758

JL00-6271 to

JL00-7952

JL00-9174

JL00-940

JL00-6278

JL00-8094

JL00-9177

JL00-947

JL00-6336

JL00-8210

JL00-9211

JL00-948

JL00-6337

JL00-8226

JL00-9222

JL00-1079

JL00-6343

JL00-8227

JL00-9238 to

JL00-1517

JL00-6360

JL00-8229

JL00-9241

JL00-1666

JL00-6367

JL00-8237

JL00-9247

JL00-2643

JL00-6378

JL00-8287

JL00-9248

JL00-2779

JL00-6490

JL00-8488

JL00-9414

JL00-3058

JL00-6512

JL00-8558 to

JL00-9467

JL00-3220

JL00-6521

JL00-8584

JL00-9494 to

JL00-3221

JL00-6533

JL00-8776

JL00-9499

JL00-3269

JL00-6564

JL00-8781

JL00-9742

JL00-3564

JL00-6574

JL00-8822

JL00-9755

JL00-3785

JL00-6575

JL00-8862 to

JL00-9770

JL00-4088 to

JL00-6631

JL00-8867

JL00-9938

JL00-4090

JL00-6670

JL00-9001

JL00-4198

JL00-6674

JL00-9028

JL00-4211

JL00-6698

JL00-9030

1.1.3

failure to include the following cases in the semestral docket inventory for the years 2006 and 2007:

525-81

8199-99

JL00-2584 to

JL00-9056 to

525-82

8231-99

JL00-2588

JL00-9061

54839

8298-99

JL00-2778

JL00-9073

634-84

8638-99

JL00-2825 to

JL00-9095

777-84

8846-99

JL00-2874

JL00-5822 to

909-84

9001-99

JL00-2892 to

JL00-5828

974-84

9002-99

JL00-2917

JL00-9146

1023-85

9182-99

JL00-3109

JL00-9179

1025-85

9287-99 to

JL00-3241

JL00-9277 to

2122-86

9295-99

JL00-3322

JL00-9280

2223-86

9395-99

JL00-3446

JL00-9281 to

2256-86

9579-99

JL00-3620

JL00-9304

2249-87

9599-99

JL00-3621

JL00-9370

253-90

9600-99

JL00-3622

JL00-9536

360-91

9697-00

JL00-3860 to

JL00-9540

361-91

9739-00

JL00-3869

JL00-9580

402-91

9839-00 to

JL00-4328

JL00-9581

1029-94
9845-00
JL00-4685
JL00-9582
1541-94
9986-00
JL00-5246
JL00-9605
2584-95 to
10016-00
JL00-5417
JL00-9632
2587-95
10273-00
JL00-5622
JL00-9709
2661-95 to
JL00-275
JL00-5749
JL00-9742
2669-95
JL00-311
JL00-5967
JL00-9886
3998-96
JL00-767
JL00-6677 &
JL00-9887
4000-96
JL00-893 to
JL00-4821

8102

6639-97

JL00-899

JL00-7133

8242

6847-97

JL00-900 to

JL00-7456

8243

6976-98

JL00-904

JL00-7562

6934

7203-98

JL00-1101

JL00-9014

7305-98

JL00-1829

JL00-9015

7426-98

JL00-2020

JL00-9016

7818-98

JL00-2033

1.2

SUBMIT within thirty (30) days from notice a written report, duly noted by the Acting Presiding Judge, on the status of the one hundred seventy-five (175) criminal cases enumerated in Item [2.1.1.2] above;

1.3

IMPLEMENT a systematic records management; and

1.4

FILE ON TIME the Monthly Report of Cases and the Semestral Docket Inventory of Cases following strictly the prescribed format therefor.[8]

X X X X

In the same Resolution, this Court directed Judge Edward D. Pacis, the designated acting presiding judge in that court,[9]to decide within 90 days from receipt of notice the 19[10] inherited cases of Judge Lindo and the 4[11] cases submitted for decision but were left undecided; to resolve the pending incidents in the 7[12] cases mentioned in paragraph 1.3 of the subject resolution within 90 days; and to act with dispatch on the 1,229 criminal cases and 29 civil cases which have not been acted upon for a considerable length of time.[13]

In compliance with this Court's Resolution of April 22, 2008, Judge Lindo and Court Legal Researcher and Officer-In-Charge Edrine Borgonia submitted their respective explanations.

In his Explanation[14] dated July 1, 2008, Judge Lindo admitted that he inherited the 19 cases mentioned in this Court's Resolution of April 22, 2008 from Branch 56 of the Malabon MeTC. However, he pointed out that even after a thorough inquiry from his court personnel, no one can say for sure when these cases were turned over to their branch; consequently, they were left undecided. He added that since these cases were not included in the monthly report, the same were not referred to him by the OCA. Hence, he does not know what action should be taken thereon.[15] He also faults the absence of an updated docket inventory which could have helped him in scheduling his work on priority cases for resolution/decision.[16]

As to the three other cases mentioned in Paragraph 1.2 of the subject Resolution, Judge Lindo presented a copy of the decisions[17] rendered therein which show that said cases have been disposed of, belying the allegation that such cases have not yet been decided.

With regard to the 7 cases alluded to in Paragraph 1.3 of the subject Resolution, he stated that Criminal Case Nos. JL00-577, JL00-578, and 7305-98 were all dismissed. The first two cases were set for preliminary investigation upon motion of the accused, but subsequently dismissed upon the recommendation of the State Prosecutor. Criminal Case No. 7305-98 on the other hand, was dismissed on the ground of prescription of offense. As regards Civil Case Nos. JL00-258, JL00-259, and JL00-272, he clarified that such cases were not resolved by mere oversight. He explained that plaintiff's failure to inform the court that the defendants therein had received a copy of the Motion to Render Summary Judgment filed by the former, prevented the court from acting upon the said cases.[18] With regard to Criminal Case No. 7818-98, Judge Lindo reasoned that he was not able to decide the case because the accused has not presented any proof that he furnished the public and private prosecutors a copy of his motion for reconsideration. Also, the accused has not informed the court of the name of his new counsel of record.[19]

As to Paragraph 1.4 of the subject Resolution, Judge Lindo claimed that appropriate actions were taken on all of the 1,258 cases mentioned in Annex "A" of the subject Resolution as can be seen in the status remark column in Annex "A" itself.[20] To further bolster his contention that said cases were sufficiently acted upon, he recounted the action he had taken thereon, viz:

Criminal Case Nos. 14610, 6975-98, 7130-98, 7156-98, 7372-98, 7875-98, 8368-99, 8724-99, JL00-711, JL00-795, JL00-992, JL00-1049, JL00-1078, JL00-1080, JL00-1090, JL00-1097, JL00-1138, JL00-1176 & JL00-1177, JL00-1197, JL00-1226, JL00-1223, JL00-1236, JL00-1294, JL00-1282, JL00-1313 to JL00-1315, JL00-1321, JL00-1535, JL00-1604, JL00-1690, JL00-1695 & JL00-1696, JL00-1800 to JL00-1802, JL00-1872, JL00-1871, JL00-1886, JL00-1942, JL00-1964, JL00-2438, JL00-2458, JL00-2459, JL00-2451, JL00-2483, JL00-2509, JL00-2593 to JL00-259[4], JL00-3018, JL00-3033, JL00-3037, JL00-3061 & JL00-3076, JL00-3080 & JL00-3081, JL00-3099, JL00-3108, JL00-3136, JL00-3135, JL00-3134, JL00-3168, JL00-3259, JL00-3256, JL00-3316 & JL00-3317, JL00-3359, JL00-3392, JL00-4100 to JL00-4101, JL00-4117, JL00-4128, JL00-4155 to JL00-4157, JL00-4171, JL00-4168, JL00-4166, JL00- 4201, JL00-4286, JL00-4448, JL00-4460, JL00-4803 to JL00-4806, JL00-4530, JL00-1564, JL00-4681, JL00-4795, JL00-4879,

JL00-4958, JL00-4926, JL00-4968, JL00-4972, JL00-4999, JL00-5020, JL00-5075, JL00-5552, JL00-5188, JL00-5543 & JL00-5544, JL00-5580 to JL00-5588, JL00-5951 to JL00-5962, JL00-5652, JL00-5680, JL00-5790, JL00-6411, JL00-5917, JL00-6032, JL00-6033, JL00-6089, JL00-5931 to JL00-6496, JL00-6497 to JL00-6506, JL00-6566, JL00-6456, JL00-6489, JL00-6535, JL00-6655, JL00-6918 to JL00-6920, JL00-6870, JL00-7243 & JL00-7244, JL00-6968 to JL00-6970, JL00-6976 to JL00-6977, JL00-6997, JL00-7310 & JL00-7311, JL00-7610 & JL00-7611, JL00-7524 & JL00-7525, JL00-8060, JL00-8100 to JL00-8101, JL00-8145, JL00-8415, JL00-8428 & JL00-8429, JL00-8778, JL00-8732 to JL00-8733, JL00-8796, JL00-8814, JL00-9410 to JL00-9413, JL00-9365, JL00-9515: Archived;

Criminal Case Nos. 7103-98 & 7104-98, 7425-98 to 7427-98, 8204-98, 8579-99, JL00-1051, JL00-1064, JL00-1091, JL00-1098, JL00-1114, JL00-1142, JL00-1153, JL00-1215 & JL00-1216, JL00-1281, JL00-1565, JL00-1811, JL00-1908, JL00-2989, JL00-3384, JL00-3369 to JL00-3371, JL00-3031, JL00-3085, JL00-3306, JL00-3373, JL00-3698 & JL00-3699, JL00-3883, JL00-3984 & JL00-3985, JL00-4187 to JL00-4190, JL00-4347, JL00-4362, JL00-4959 to JL00-4962, JL00-4808 to JL00-4811, JL00-4875, JL00-5131 to JL00-5134, JL00-5537 & JL00-5538, JL00-5669 to JL00-5677, JL00-5000, JL00-5002, JL00-5088 to JL00-5095, JL00-5077, JL00-5207, JL00-5210, JL00-5211, JL00-5213, JL00-5386, JL00-5603, JL00-5615, JL00-5633 & JL00-5634, JL00-5981 to JL00-5983, JL00-5931, JL00-6030, JL00-6086 to JL00-6088, JL00-6097, JL00-6136 to JL00-6138, JL00-6738, JL00-6375, JL00-6548, JL00-6579, JL00-6571, JL00-6584, JL00-6935, JL00-6962, JL00-7060, JL00-7374 to JL00-7387, JL00-7186, JL00-7308, JL00-7370 to JL00-7371, JL00-7463, JL00-7413, JL00-7424 & JL00-7425, JL00-7442, JL00-7444, JL00-7449, JL00-7481, JL00-7502, JL00-7516, JL00-7638, JL00-7671, JL00-7679 to JL00-7680, JL00-7695, JL00-7811, JL00-7873, JL00-7895, JL00-7927, JL00-7928, JL00-8216 & JL00-8217, JL00-8318, JL00-8345, JL00-8348, JL00-8385, JL00-8387, JL00-8448, JL00-8493, JL00-8501, JL00-8594 & JL00-8595, JL00-8601, JL00-8700, JL00-8786 to JL00-8787, JL00-8844, JL00-8883, JL00-8971, JL00-9337, JL00-9338, JL00-9466, and JL00-9500: Accused have standing warrants for their arrest, cases not archived;

Criminal Case Nos. 050-92, 1332-94 to 1335-94, 1439-94, 2050-95 to 2053-95, 7364-98 & 7365-98, JL00-535, JL00-696 to JL00-704, JL00-730, JL00-946, JL00-1038, JL00-2061, JL00-3950 & JL00-3951, JL00-4877, JL00-5163, JL00-5241, JL00-5445, JL00-6124, JL00-6404, JL00-6349, JL00-6352, JL00-7271, JL00-7584, and JL00-9072: Dismissed provisionally or otherwise;

Criminal Case Nos. 8898-99 & 8899-99: Settled amicably;

Criminal Case Nos. JL00-892, JL00-1875, JL00-1890, JL00-2927, JL00-3555, and JL00-8815: Accused were directed to submit their counter-affidavits but failed to comply with the court's order;

Criminal Case No. 8204-98: On April 16, 1999, the public prosecutor asked for ten (10) days to file the necessary pleading;

Criminal Case Nos. JL00-759, JL00-5323, and JL00-7825: Arraignment and Pre-trial set on May 4, 2001, January 28, 2008, and March 28, 2006, respectively;

Criminal Case No. JL00-1465: Accused ordered confined at the National Center for Mental Health. Pre-trial suspended in the meantime;

Criminal Case Nos. JL00-2736 to JL00-2741: Trial in absentia;

Criminal Case No. JL00-3384: Accused out on bail;

Criminal Case Nos. JL00-6022 & JL00-6677, JL00-6111, and JL00-6223: On going trial;

Criminal Case No. JL00-4970: Case referred to mediation;

Criminal Case Nos. JL00-5247 to JL00-5248: Pending motion for consolidation of cases;

Criminal Case No. JL00-5245: Prosecution ordered to file manifestation whether it will pursue prosecution of the case;

Criminal Case No. JL00-5631: Accused arraigned on May 21, 2008;

Criminal Case Nos. JL00-7468 & JL00-7469: Cases were ordered revived on July 5, 2004; to be included in the next raffle of cases;

Criminal Case Nos. JL00-7717, JL00-8961, and JL00-8993 to JL00-8995: Initial trial set on January 6, 2007, September 10, 2007, and June 22, 2007, respectively; cases to be heard by acting presiding judge;

Criminal Case Nos. JL00-7858 & JL00-7859: Set for hearing on January 9, 2008, with threat of dismissal should parties fail to appear;

Criminal Case No. JL00-7935: Denied the affidavit of the witnesses for the accused for being filed out of time;

Criminal Case No. JL00-8057: Continuation of trial set on August 15, 2007; case to be handled by the acting presiding judge;

Civil Case Nos. 1641-96, 1846-98, JL00-398: Dismissed provisionally or otherwise;

Civil Case No. 2022-99: Certiorari proceeding is pending before Branch 74 of Malabon Regional Trial Court;

Civil Case No. JL00-037: Summons was issued; no answer was filed by defendants;

Civil Case Nos. JL00-218, JL00-242, JL00-329, JL00-331, JL00-351, JL00-647, JL00-779, JL00-836, JL00-855, JL00-879, LRC-034-00: Archived;

Civil Case No. JL00-297, JL00-298, and JL00-300: To date, no answer has yet been filed. Plaintiff, on the other hand, refused several times to heed the court's invitation to submit true copies or duplicate original of actionable documents resulting to the non-disposition of the case;

Civil Case No. JL00-725: Plaintiff given five (5) days from receipt of July 19, 2007 Order to prosecute the case. Compliance therewith was not reported to him by reason of his compulsory retirement;

Civil Case No. JL00-873: Plaintiff's Motion for Bill of Particulars is pending resolution;

Civil Case No. JL00-218: Kapisanang Pangkaunlaran ng Kababaihang Potrero v. T. Baeza: No return of summons dated May 30, 2002;

Civil Case No. 508-85: One of the nineteen (19) inherited cases. Not resolved for the reason stated above;

Civil Case No. 1735-97: On appeal before the Regional Trial Court of Malabon;

Civil Case No. JL00-774: Summonses duly served on the defendants. No further action was done by the court due to lack of manifestation by either party in this case.[21]

Judge Lindo enumerated some 800[22]cases whose particulars he could not give. He explained that because said cases had been distributed to the acting presiding judge and two other assisting judges for proper disposition, it was no longer possible for him to verify the status of the said cases. Nevertheless, he contended that the audit report shows what action had been taken therein; hence, he need not elaborate.[23]

As regards Paragraph 1.5 of the subject Resolution, Judge Lindo disclaimed that the cases referred to therein have neither been acted upon nor set in the court calendar. In fact, he stated, in Criminal Case Nos. JL00-5822 to JL00-5831, JL00-5963 to JL00-5967, JL00-7246 to JL00-7248 the accused therein were directed to appear before the court and file their respective counter-affidavits, except that they did not comply with the court's order. The

accused in Criminal Case Nos. JL00-5933 to JL00-5934, on the other hand, has a standing warrant of arrest, while in Criminal Case Nos. JL00-7571 to JL00-7573, a copy of the complaint was served on the accused.[24]

As regards Paragraph 1.6 of the subject Resolution asking him to explain his failure to reflect the cases mentioned therein in all the Monthly Report of Cases he filed with the OCA, he proffered the same explanations he gave to discount the allegations in Paragraph 1.1 and 1.2 of the same Resolution.[25]

For her part, Ms. Borgonia, in a Letter[26] dated June 12, 2008, explained that the 21 cases adverted to in Paragraph 2.1.1.1 of the subject Resolution could not be included in the court calendar inasmuch as the last order issued by Judge Lindo in 19[27] of the said cases was for the accused to file their counter-affidavits, while the trial in Criminal Case Nos. JL00-5933 & JL00-5934[28] were suspended pending the arrest of the accused therein. According to her, she cannot at her own discretion calendar the said cases at once as she has to wait for the instruction of Judge Lindo as to what the court would deem appropriate or necessary for these cases under the given situation, that is, whether to set the case for hearing or issue warrants against the accused for their non-compliance with his earlier order. These notwithstanding, all these cases have been disposed of after clarificatory hearings were conducted by Judge Pacis.[29]

In refutation of the allegations in Paragraph 2.1.1.2 of the subject Resolution, Ms. Borgonia attached to her letter photocopies[30] of the cover pages and/or front pages of the cases mentioned therein, except for the criminal cases that will be mentioned hereafter. Said cover and front pages show that they were signed and dated by a member of the audit team on the day such cases were examined by the audit team - proof that the same were presented to the latter, contrary to what was claimed.[31] She added that only Criminal Case Nos. JL00-9494 to 9499 and JL00-9938 were not presented because said cases have been transferred and raffled to Branch 56.[32]

As for Criminal Case Nos. JL00-3220, JL00-9755, JL00-8862 to JL00-8867, JL00-9094, JL00-9238 to JL00-9241, JL00-9101, JL00-9090, JL00-9091, JL00-9081, JL00-8781, JL00-8776 and JL00-8488, Ms. Borgonia explained that these cases were already archived or otherwise disposed of either because a compromise agreement had been reached, the accused had been sentenced or the case had been dismissed. It is for these reasons that she no longer presented the cases to the audit team.[33]

As to Criminal Case Nos. JL00-947 & 948, JL00-3058, JL00-3564, JL00-8558 to JL00-8584, JL00-9770, JL00-7882, JL00-6818, JL00-7074, and JL00-4088 to JL00-4090,[34] Ms. Borgonia claimed that they were likewise presented to the audit team although the cover pages do not bear the signature of any member of the team. She claimed that the team only initialed the "cover of the first lower docket number of inter related bundled cases as they were jointly or simultaneously tried and for easy access of the records."

Additionally, Ms. Borgonia admitted not presenting to the audit team Criminal Case Nos. JL00-6939 to JL00-6946, 6719-97, JL00-3221, JL00-7952, JL00-4211, 9641-00, 8457-99 to 8460-99, JL00-7947, JL00-1517, 9830-00, 8490-00, JL00-940, JL00-6631, 7354-98 and JL00-3785. However, she submits that such omission was merely through inadvertence "as these cases were included, attached or otherwise to the other bundled cases already signed or audited by the team." [35]

To belie the allegation in Paragraph 2.1.1.3 of the subject Resolution that she failed to include the cases mentioned therein in the semestral docket inventory for the years 2006 and 2007, Ms. Borgonia attached as Annexes to her letter the pertinent pages of the said inventory as proof that such cases were accounted for.[36] As for the cases not included therein, she explained such omission in this wise:

She presumed that Case Nos. 525-81, 909-84, 2223-86, 361-91, 525-82, 974-84, 2256-86, 54839, 1023-85, 2249-87, 634-84, 1025-85, 253-90, 777-84, 2122-86 and 360-91 were included in the July to December 2007

inventory report inasmuch as they were included in the monthly report of July 2007. While Ms. Borgonia admitted failing to double check the final copy of the inventory report, she begged for indulgence for such lapse by reason of the many tasks that she has to attend to, being simultaneously the court's Court Legal Researcher and Officer-in-Charge.[37]

The cases that follow were archived in the year 1997, 2004, 2005 or 2007; for that reason, they were no longer included in the inventory report.

2584-95 to 2587-95, 2661-95 to 2669-95, 6639-97, 6847-97, 7203-98, 7426-98, 8199-99, 8231-99, 88[4]6-99, 9182-99, 9579-99, 9599-99, 9600-99, 9697-00, 9739-00, 9839-00 to 9845-00, 9986-00, 10016-00, 10273-00, JL00-893 to 899, JL00-900 to 904, JL00-1829, JL00-2020, JL00-2033, and JL00-2778.[38]

Aside from the cases that were archived, those that were decided, dismissed, terminated, or suspended were likewise not included in the inventory. These cases are:

3998-96, 4000-96, 7818-98, 8298-99, 9395-99, JL00-275, JL00-311, JL00-2584 to 2588, JL00-2825 to 2874, JL00-2892 to 2917, JL00-3109, JL00-3446, JL00-4328, JL00-4821, 9001-99, 9002-99, JL00-9277 to 9280, and JL00-9281 to 93[04].[39]

As for Case Nos. 402-91, 1029-94, 1541-94, 7305-98, JL00-3860 to 3869, JL00-5622, JL00-5749, JL00-7133, JL00-767, JL00-4685 and JL00-5417, Ms. Borgonia acknowledged her failure to include said cases in the inventory report, but explained that the omission was not intentional as she "believe(d) in good faith that she has encoded and included all the voluminous cases pending and that the same were all presented to the judicial audit." [40]

As for Criminal Case Nos. 8102, 8242, 8243 and 6934, she submits that they do not exist in the docket of criminal cases as an official court record; hence, not reflected in the inventory report.[41]

Finally, in compliance with Paragraph 2.1.2 of the subject Resolution, Ms. Borgonia submitted the status of the 175 criminal cases enumerated in Paragraph 2.1.1.2, duly noted by Judge Pacis, on June 27, 2008.[42]

Through a Letter[43] dated June 18, 2008, Judge Pacis informed this Court of his progress in regard to the cases enumerated in our Resolution of April 22, 2008 which were referred to him for proper disposition. He reported that out of the cases that were not acted upon since 1981, only five (5) are left for decision. Of the cases referred to in Paragraph 3.3.4 of the subject Resolution, 28 civil cases were already decided, while only 116 criminal cases remain pending for trial. For ready reference, he submitted together with his letter a copy of the monthly report bearing the actions he has taken on the cases mentioned in the said paragraph.[44]

After a careful perusal of the explanations proffered by Judge Lindo and Ms. Borgonia, it is our considered view that both have been remiss in the dispensation of their duties and must be dealt with accordingly.

First off, Judge Lindo miserably failed to justify why the 19 inherited cases were left undecided considering that they were submitted for decision way back in the 80's. Even if it were true that his staff was remiss in preparing the docket inventory resulting to his failure to decide these cases, he cannot hide behind his staff's averred incompetence or negligence to escape responsibility for his own lapses. Judges and branch clerks of court should conduct personally a physical inventory of the pending cases in their courts and examine personally the records of each case at the time of their assumption to office, and every semester thereafter on 30 June and 31 December. Judges ought to know which cases are submitted for decision and they are expected to keep their own record of cases so that they may act on them promptly.[45] Proper and efficient court management is the responsibility of the judge. He is the one directly responsible for the proper discharge of his official functions. A judge cannot simply take refuge behind the inefficiency or mismanagement of his court personnel, for the latter are not the

guardians of the former's responsibility.[46] Taking into account that these cases were discovered sometime in 2000, as admitted by Judge Lindo,[47] he should have decided these cases with dispatch. If he had doubts as to what should be done to these cases, he should have asked the OCA for a directive as regards the same. Instead, he chose not to do anything about the matter, and for that, he must be held administratively liable.

A thorough review of the evidence presented by Judge Lindo reveals that he failed to disprove the allegations in Paragraphs 1.2 and 1.3 of our Resolution. His Explanation, no less, stated that Civil Case No. 1870-98 was submitted for decision on August 10, 1999, while a copy of the decision[48] he rendered therein and which he furnished us shows that the same was decided only on July 18, 2007, clearly way beyond the 90-day reglementary period. While Judge Lindo tried to persuade us that Criminal Case Nos. 360-90 and 360-91 were already decided by a former judge of that court, suffice it to say that the evidence[49] he presented failed to prove his contention, in that, what were presented were mere handwritten excerpts of the alleged decisions. We also do not find meritorious the reasons Judge Lindo gave for failing to resolve Civil Case Nos. JL00-258, JL00-253 and JL00-272 and Criminal Case No. 7818-98.

No less than the Constitution mandates that all cases or matters must be decided or resolved within twenty-four months from date of submission to the Supreme Court, and, unless reduced by the Supreme Court, twelve months for all lower collegiate courts, and three months for all lower courts. In implementing this constitutional mandate, Section 5, Canon 6 of the New Code of Judicial Conduct exhorts in the section on "Competence and Diligence" that judges shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness.[50] Failure to decide cases within the reglementary period, without strong and justifiable reason, constitutes gross inefficiency warranting the imposition of an administrative sanction on the defaulting judge.[51]

Furthermore, Judge Lindo wants to impress upon this Court that he has acted upon the cases referred to in our Resolution. His own Explanation, however, belies his contention. As can be gleaned from his compliance, the last action he has taken on a number of cases enumerated in Paragraphs 1.4 and 1.5 of our Resolution dates as far back as the late 90's and the early 2000's. It was only when Judge Pacis took over that such cases were dismissed, archived, or tried. A judge could not be said to have discharged his duties by the mere fact that he had given out one order in a certain case. What is asked of a judge is to continually act on all the cases pending before his court until their final disposition. He cannot just sit in complacency. The summary he gave as to the actions he had taken on the subject cases reveals his propensity for not monitoring the progress of the cases pending before him, thereby failing to act on them appropriately.

Delay in the disposition of cases not only deprives litigants of their right to speedy disposition of their cases, but also tarnishes the image of the judiciary. Procrastination among members of the judiciary in rendering decisions and taking appropriate actions on the cases before them not only causes great injustice to the parties involved but also invites suspicion of ulterior motives on the part of the judge, in addition to the fact that it erodes the faith and confidence of our people in the judiciary, lowers its standards and brings it into disrepute.[52]

Judge Lindo also failed to justify why he did not include in his monthly report the cases we referred to in our Resolution. Administrative Circular No. 4-2004 specifically enjoins presiding judges to reflect in their monthly report of cases all cases assigned to them for hearing and those submitted to them for decision. Failure to do so warrants the withholding of their salaries, without prejudice to whatever administrative sanctions this Court may impose on them or criminal action which may be filed against them. As the master of his court, Judge Lindo must know the pending cases before his court and which ones are submitted for decision, and thereby reflect the same in his monthly report. It should be emphasized that the responsibility of making physical inventory of cases primarily rests on the presiding judge.[53] Thus, he cannot use as an excuse for his non-compliance with the

Administrative Circular the absence of an updated docket inventory in his court, or his lack of awareness of when these cases were turned over to his court. This stance all the more shows his incompetence in managing the affairs of his sala. The explanation Judge Lindo gave for not including Criminal Case Nos. 360-90 and 360-91 in his monthly inventory cannot also be given credence for the reason stated earlier.

All told, we find Judge Lindo liable for simple misconduct for his failure to act on and reflect in his monthly report the cases referred to in our Resolution. He is likewise found liable for gross inefficiency for his undue delay in deciding and/or resolving the cases adverted to therein.

Simple misconduct is a transgression of some established rule of action, an unlawful behavior, or negligence committed by a public officer. It is a less serious offense punishable by suspension from office without salary or other benefits for not less than one month nor more than three months or a fine of more than P10,000.00 but not exceeding P20,000.00.[54] Undue delay in rendering a decision or order is likewise considered a less serious charge, punishable by the same penalty prescribed for simple misconduct.[55]

As to Ms. Borgonia, the justification she gave for her failure to schedule in the court calendar the 21 cases we referred to does not persuade us. Branch clerks of court are administrative assistants of presiding judges. Their duty is to assist in the management of the calendar of the court and all other matters not involving the exercise of discretion or judgment of judges. Clerks of court must diligently supervise and manage court dockets and records. While clerks of court are not guardians of a judge's responsibility, they are expected to assist in the speedy disposition of cases.[56] As an administrative assistant, it is the duty of Ms. Borgonia, the acting clerk of court, to bring to the attention of the presiding judge cases that necessitate further action from the latter. Judges cannot be expected to memorize the movement of each and every case. It is for this reason that cases need to be calendared--for the judge to make the appropriate action that has to be done therein.

While we note that Ms. Borgonia painstakingly explained away her supposed negligence in preparing the case inventory and failure to present to the audit team cases before the subject court for examination, and submitted pertinent proof to give credence to her asseverations, we cannot brush aside the report of the audit team that the records in said court were in disarray, which shows lack of proper recordkeeping.[57] Additionally, we gathered that as of audit date, the latest semestral docket inventory of Branch 55 was for the second semester of 2005.[58] Its docket inventory for the years 2006 and 2007 was submitted only on February 8, 2008.[59]

We take as opportune this time to remind Ms. Borgonia, the acting branch clerk of court, to be circumspect in her endeavors. Branch clerks of court must realize that their administrative functions are vital to the prompt and proper administration of justice. They are charged with the efficient recording, filing and management of court records, besides having administrative supervision over court personnel. They play a key role in the complement of the court and cannot be permitted to slacken on their jobs under one pretext or another. They must be assiduous in performing their official duties and in supervising and managing court dockets and records.[60] On their shoulders, as much as those of judges, rest the responsibility of closely following development of cases, such that delay in the disposition of cases is kept to a minimum.[61]

All the foregoing discussion shows Ms. Borgonia's lack of diligence in her administrative functions. Thus, we find her administratively liable for simple neglect of duty.

Simple neglect of duty is defined as the failure to give proper attention to a task expected of an employee resulting from either carelessness or indifference.[62] It is a less grave offense punishable by suspension for one month and one day to six months for the first offense.[63] However, we deem it appropriate to convert her penalty to the payment of a fine to enable her to continue discharging her duties.[64]

WHEREFORE, retired Judge Francisco S. Lindo, former Presiding Judge of the Metropolitan Trial Court of Malabon City, Branch 55, is found GUILTY of simple misconduct and undue delay in rendering a decision. He is FINED in the amount of Twenty Thousand Pesos (P20,000.00) in accordance with Section 11, Rule 140 of the Revised Rules of Court, as amended, to be deducted from the One Hundred Thousand Pesos (P100,000.00) we ordered withheld from his retirement benefits pursuant to our Resolution dated April 22, 2008. The Chief of the Financial Management Office, Office of the Court Administrator is DIRECTED to immediately release to retired Judge Francisco S. Lindo the remaining Eighty Thousand Pesos (P80,000.00).

Ms. Edrine T. Borgonia, Court Legal Researcher and Officer-in-Charge of the same court, is found GUILTY of simple neglect of duty and is FINED in the amount equivalent to one (1) month salary. She is sternly WARNED that a repetition of the same or similar offense shall be dealt with more severely. Ms. Borgonia is likewise DIRECTED to immediately implement a systematic records management to aid the court in the proper monitoring of cases, and report to this Court what she has done in this regard, within thirty (30) days from notice.

SO ORDERED.

Carpio Morales, Chico-Nazario,[*] Leonardo-De Castro,**] and Peralta,[***]JJ., concur.

[*] Designated member of the Second Division per Special Order No. 658.

[**] Designated member of the Second Division per Special Order No. 635.

[***] Designated member of the Second Division per Special Order No. 664.

[1] Rollo, pp. 1-16.

[2] Id. at 3-4.

[3] Id. at 5-6.

[4] Id. at 6.

[5] Id. at 7.

[6] Id. at 9-10.

[7] Id. at 55-59.

[8] Id. at 55-58.

[9] Per Administrative Order No. 75-2008.

[10] Criminal Case Nos. 525-81 & 525-82, 54839, 634-84, 777-84, 909-84, 974-84, 1025-85, 1023-85, 2122-86, 2223-86, 2256-86 & 2249-87; and Civil Case Nos. 529-86, 621-86, 755-87, 767-87, 774-87 & 819-88.

[11] Criminal Case Nos. 360-90 and 361-90; and Civil Case Nos. 1870-98 and JL00-830.

[12] Criminal Case Nos. 7305-98, 7818-98, JL00-577 & JL00-578; and Civil Case Nos. JL00-258, JL00-259 & JL00-272.

[13] Rollo, p. 58.

[14] Id. at 194-266.

[15] Id. at 196.

[16] Id. at 197.

[17] Id. at 277-282. Annexes "6", "7" and "8" (Lindo).

[18] Id. at 198-200.

[19] Id. at 199.

[20] Id. at 200.

[21] Id. at 201-253.

[22] Id. at 253-264.

[23] Id. at 201.

[24] Id. at 264-265.

[25] Id. at 265-266.

[26] Id. at 76-77.

[27] Id. at 85-87, 89.

[28] Id. at 88.

[29] Id. at 77-78, 90-93.

[30] Id. at 94-185.

[31] Id. at 77.

[32] Id. at 290, 313 and 315. (Annexes "L" and "M").

[33] Id. at 289, 295-312. (Annexes "A", "B", "C" to "C-2", "D", "E" to "E-2", "F", "G", "H", "I", "J" and "K").

[34] Id. at 289.

[35] Id. at 290.

[36] Id. at 365-418. (Annexes "XX", "YY", "ZZ", "AAA", "BBB", "CCC", "DDD", "EEE", "FFF", "GGG", "HHH", "III", "JJJ", "KKK", "LLL", "MMM", "NNN", "OOO", "PPP", "QQQ", "RRR", "SSS", "TTT", "UUU", "VVV", "WWW", "XXX", "YYY", "ZZZ", "AAAA", "BBBB", "CCCC", "DDDD", "EEEE", "FFFF", "GGGG", "HHHH", "IIII", "JJJJ", "KKKK", "LLLL", "MMMM", "NNNN", "OOOO", "PPPP", "QQQQ", "RRRR", "SSSS", "TTTT", "UUUU", "VVVV", "WWWW", "XXXX" and "YYYY").

[37] Id. at 290-291.

[38] Id. at 291, 316-338. (Annexes "O", "P", "Q", "R", "S", "T", "U", "V", "W", "X", "Y", "Z", "AA", "BB", "CC", "DD", "EE", "FF", "GG", "HH", "II", "JJ", "KK" and "KK1").

[39] Id. at 291-292, 339-364. (Annexes "LL" to "LL-3", "MM" to "MM-4", "NN", "OO", "PP", "QQ", "RR" to "RR-1", "SS", "TT", "UU" to "UU-5", "VV", "WW").

[40] Id. at 293.

[41] Id.

[42] Id. at 285-288.

[43] Id. at 650-651.

[44] Id. at 653-666.

[45] Office of the Court Administrator v. Trocino, A.M. No. RTJ-05-1936, May 29, 2007, 523 SCRA 262, 272.

[46] Report on the Judicial Audit Conducted in the MTCC-Brs. 1, 2 & 3, Mandaue City, A.M. No. 02-8-188-MTCC, July 17, 2003, 406 SCRA 285, 296.

[47] Rollo, p. 7.

[48] Id. at 279-282. Annex "8" (Lindo).

[49] Annexes "6" and "7" (Lindo).

[50] Office of the Court Administrator v. Reyes, A.M. No. RTJ-05-1892, January 24, 2008, 542 SCRA 330, 337.

[51] Re: Judicial Audit Conducted in the Regional Trial Court, Branch 6, Tacloban City, A.M. No. RTJ-09-2171, March 17, 2009, p. 8.

[52] Report on the Judicial Audit Conducted in the MTCC-Brs. 1, 2 & 3, Mandaue City, supra note 46, at 293-294. See also Re: Report on the Judicial Audit Conducted in the Regional Trial Court, Branches 3, 5, 7, 60 and 61, Baguio City, A.M. No. 02-9-568-RTC, February 11, 2004, 422 SCRA 408, 416.

[53] Re: Cases Left Undecided by Retired Judge Antonio E. Arbis, RTC Branch 48, Bacolod City, A.M. No. 99-1-01-RTC, January 20, 2003, 395 SCRA 398, 402.

[54] China Banking Corporation v. Janolo, Jr., A.M. No. RTJ-07-2035, June 12, 2008, 554 SCRA 295, 302.

[55] Rules of Court, Rule 140.

SEC. 9. Less Serious Charges. – Less serious charges include:

- Undue delay in rendering a decision or order, or in transmitting the records of a case;
- Frequent and unjustified absences without leave or habitual tardiness;
- Unauthorized practice of law;
- Violation of Supreme Court rules, directives, and circulars;
- Receiving additional or double compensation unless specifically authorized by law;
- Untruthful statements in the certificate of service; and
- Simple Misconduct.

x x x x

SEC. 11. Sanctions. – A. If the respondent is guilty of a serious charge, any of the following sanctions may be imposed:

- Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations. Provided, however, That the forfeiture of benefits shall in no case include accrued leave credits;
- Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6)

months; or

- A fine of more than P20,000.00 but not exceeding P40,000.00.

B. If the respondent is guilty of a less serious charge, any of the following sanctions shall be imposed:

- Suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months; or

- A fine of more than P10,000.00 but not exceeding P20,000.00.

C. If the respondent is guilty of a light charge, any of the following sanctions shall be imposed:

- A fine of not less than P1,000.00 but not exceeding P10,000.00; and/or

- Censure;

- Reprimand;

- Admonition with warning.

[56] Bernaldez v. Avelino, A.M. No. MTJ-07-1672, July 9, 2007, 527 SCRA 11, 21-22.

[57] Rollo, p. 7.

[58] Id. at 8.

[59] Id.

[60] Re: Report on the Judicial Audit Conducted in RTC, Br. 27, Naga City, A.M. No. 96-11-402-RTC, August 21, 1997, 278 SCRA 8, 16-17.

[61] See Re: Report on the Judicial Audit Conducted at the Municipal Trial Court in Cities (Branch 1), Surigao City, A.M. No. P-04-1835, January 11, 2005, 448 SCRA 13, 23.

[62] Sesbreño v. Gako, Jr., A.M. No. RTJ-08-2144, November 3, 2008, p. 5; Becina v. Vivero, A.M. No. P-04-1797, March 25, 2004, 426 SCRA 261, 264.

[63] Uniform Rules on Administrative Cases in the Civil Service, Section 52 (B) (1).

[64] Sesbreño, v. Gako, Jr., supra at 7; Tiu v. Dela Cruz, A.M. No. P-06-2288, June 15, 2007, 524 SCRA 630, 640.

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