

RE: REPORT ON THE JUDICIAL AUDIT AND PHYSICAL INVENTORY OF THE RECORDS OF CASES IN THE REGIONAL TRIAL COURT, BRANCH 43, ROXAS, MINDORO ORIENTAL.

A.M. No. 93-9-1249-RTC. September 22, 1994

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PER CURIAM:

Following the dismissal of an administrative complaint (A.M. No. RTJ-91-776) against respondent Judge Vicente P. Leido, Jr., the presiding judge of Branch 43 of the Regional Trial Court, Roxas, Oriental Mindoro, complainant therein, Jeremy Cataloctocan, filed a manifestation, asking the Court to conduct an investigation on certain anomalies and irregularities allegedly committed by said respondent.

In a Resolution dated June 1, 1993, the Court resolved, inter alia, "to direct the Office of the Court Administrator [(OCA)] to look into the reported anomalies which are serious, allegedly committed by respondent Judge."

From July 29 to July 30, 1993, an OCA team conducted a judicial audit and inventory of the records of the cases assigned to respondent's sala. Upon conclusion of the audit, the OCA recommended that the report of the audit team dated August 17, 1993 be docketed as a separate administrative matter, and that respondent be required to comment on the report.

In a Resolution dated September 9, 1993, the Court required respondent to submit his comment and directed that the audit report be docketed as A.M. No. 93-9-1249-RTC. Respondent filed his comment on December 13, 1993.

I

As pointed out by the OCA audit report, respondent falsified his Certificates of Service for the following months: May 1991; September 1991; March 1992; April 1992; and October 1992. His Certificates of Service for these months show that he certified "that all special proceedings, applications, petitions, motions, and all civil and criminal cases which have been under submission for decision or determination for a period of ninety (90) days or more have been determined and decided [by him] on or before [the last day of that month]." In truth, in these months, respondent had cases left unresolved beyond the 90-day period.

The Certificate of Service is an instrument essential to the fulfillment by the courts of their duty to dispose of speedily their cases as mandated by the Constitution (*Sabitsana, Jr. v. Villamor*, 202 SCRA 435 [1991]). A judge who fails to decide cases within the required period and continues to collect his salaries upon his certification that he has no pending matters to resolve, transgresses the constitutional right of the people to a speedy disposition of cases (*Magdamo v. Pahimulin*, 73 SCRA 110 [1976]).

II

The OCA audit team found that as of the time of the audit, there were twelve criminal cases and fourteen civil cases which respondent had not acted upon for more than three years.

The criminal cases were: Criminal Cases Nos. R-2813, R-2814, R-2815 and R-2816 filed on February 23, 1983; Criminal Case No. R-286 filed on March 17, 1986; Criminal Case No. R--165 filed on October 1, 1986; Criminal Case No. R-204 filed on October 1, 1987; Criminal Case No. R-213 filed on February 3, 1988; Criminal Case No. R-303 filed on June 19, 1989; Criminal Case No. R-344 filed on July 18, 1989; and Criminal Case No. R-315 filed on August 23, 1989.

The civil cases were: Civil Case No. C-665 for recovery of possession with preliminary injunction, filed on April 21, 1982; Civil Case No. C-30 for breach of contract with damages, filed on May 29, 1984; Civil Case No. C-46 for damages with preliminary injunction, filed on December 12, 1974; Civil Case No. C-65 for declaration of nullity and cancellation of title, filed on January 15, 1985; Civil Case No. C-86 for recovery of possession and damages, filed on January 9, 1986; Civil Case No. C-91 for damages, filed on June 18, 1986; Civil Case No. C-93 for recovery of possession, filed on July 1, 1986; Civil Case No. C-92 for adoption, filed on July 2, 1986; Civil Case No. C-99 for illegal detainer with preliminary injunction, filed on June 13, 1987; Civil Case No. C-100 for recovery of possession with preliminary injunction and damages, filed on May 26, 1987; Civil Case No. C-109 for specific performance, filed on March 1, 1988; Civil Case No. C-119 for damages, filed on January 19, 1989; Civil Case No. C-120 for ejectment with damages, filed on February 22, 1989; and Civil Case No. C-126 for annulment and rescission of contract with damages, filed on July 5, 1989.

Respondent, in his comment, gave various reasons for his inaction on the cases, such as failure of the complainants to appear, escape of the accused, missing exhibits and transcripts, the parties' disinterest to pursue their case, and loss of records resulting from the transfer of the court office from the old to the new municipal building.

We have considered the following factors as mitigating the liability of a judge charged with unreasonable delay in the resolution of cases: his illness, his detail in another court, the docket congestion of his court, and the lack of necessary personnel (*Diputado-Baguio v. Judge Torres*, 211 SCRA 1 [1992]). The circumstances enumerated by respondent, rather than mitigate his liability, highlight his dereliction of duty.

In *Longbian v. Polig* (186 SCRA 557 [1990]), therein respondent judge was found liable for gross misconduct and inexcusable negligence unbecoming of a judge because of the loss of eight records. We had occasion to state that 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. Although blame can conveniently be laid on the court personnel's inefficiency, proper court management is as much the judge's responsibility, for "court personnel are not the guardians of a judge's responsibilities."

The loss of records during the transfer of records from the old to the new municipal building is not a fortuitous event. Respondent should have had the foresight to anticipate the problems attendant to such transfer and should have taken the necessary precautions to ensure that no records were lost during such transfer.

Anent the criminal cases where the complainants failed to appear or where the accused could not be arrested, and the civil cases where the parties had expressed their disinterest to pursue their cause of action, respondent should have taken proper and definitive action thereon, with the view of disposing of these cases. As pointed out in Administrative Circular No. 1, dated January 28, 1988:

"The reduction of case loads would be an efficacious design to strengthen public confidence in the courts. All efforts should be exerted so that case disposals should exceed case inputs. Whenever obstacles present themselves which delay case disposition, the Presiding Judge should immediately call the attention of the Supreme Court through the Court Administrator where the situation requires remedies beyond the control or capacity of the judges."

As found by the OCA team, records further showed that during the first half of 1993 respondent had decided or resolved a total of only 25 cases - 5 in January, 3 in February, 9 in March, 2 in April, 3 in May and 3 in June - out of a total case load of 177 as of March 31 and 184 as of June 30, 1993.

We cannot countenance the unreasonable delay of respondent in acting on the cases pending before his court and his disappointing output. His actuations hinder the Supreme Court's efforts to eradicate docket congestion and delay, which efforts include revising the Rules of Court, implementing new procedures like continuous trial, and monitoring the performance of judges and court personnel. The impartial and expeditious administration of justice is jeopardized when litigants have to wait years before their controversies are resolved (Barrameda Caparrosa-Salva, A.M. No. MTJ 88-144, September 11, 1989, En Banc Minute Resolution).

III

The OCA audit report further showed that in four criminal cases for murder, Criminal Cases Nos. R-473, R-487, R-520, and R-548, respondent granted the applications for admission to bail of accused therein without hearing.

Respondent denied granting bail to the accused in Criminal Case No. R-487. He said that the accused in said case never filed an application for admission to bail and in fact he was in custody.

Respondent claimed that in Criminal Case No. R-473, he granted the accused's application to bail because the prosecutor's opposition was based merely on the affidavit of the defense witnesses.

He admitted that he granted the bail application of the accused in Criminal Case No. R-548 but he did not proffer any justification for granting the same without any hearing.

He also asserted that in Criminal Case No. R-520, the prosecution did not interpose any objection to the accused's application for admission to bail. Thus, he alleged that he granted the application on the date of the hearing of the application.

While we may accept respondent's explanations regarding Criminal Cases Nos. R-487 and R-520 (See *Heirs of Cesar Evangelista v. Judge Saguyod*, A.M. No. 93-1015, April 18, 1994, First Division Minute Resolution), we do not find satisfactory his explanations regarding Criminal Cases Nos. R-473 and R-548.

Respondent cannot grant an application for admission to bail in a capital offense without hearing, on the ground that the opposition thereto was based merely on the affidavit of the defense witnesses (See *Medina v. De Guia*, 219 SCRA 153 [1993], in connection with A.M. No. RTJ-89-306). The hearing is precisely to give the prosecution the opportunity to present these witnesses in court to affirm the contents of their affidavits. By granting the bail application on such a flimsy reason, respondent effectively denied the prosecution the opportunity to be heard and to establish that the evidence of the accused's guilt was strong.

His failure to conduct the hearing required is inexcusable and reflects either gross ignorance of the law or a cavalier disregard of its requirements (*Pico v. Combong, Jr.*, 215 SCRA 421 [1992]), thus, warranting severe sanction.

IV

The OCA team also found that six cases remained unresolved beyond the 90-day period for deciding cases namely: Criminal Case No. R-365 as of February 20, 1983; Criminal Case No. R-368 as of May 22, 1991; Criminal Case No. R-315 as of September 11, 1991; Criminal Case No. R-415 as of March 25, 1992; Criminal Case No. R-331 as of April 29, 1992; and Civil Case No. C-193 as of October 13, 1992.

Respondent in his comment asserted that the proceedings in Criminal Case No. R-365, a murder case, was suspended because the parties entered into a compromise agreement, but that the complainant therein later expressed his desire to continue with the case when the accused did not comply with the terms of the compromise.

There is no such thing as an amicable settlement in a murder case. It is a matter of public interest that every crime must be prosecuted; thus, except where specifically permitted by law and murder is not one of them - a criminal action may not be a subject of a compromise (U.S. v. Leano, 6 Phil. 368 [1906]; Ching v. Gerona, A.M. No. RTJ-88-252, November 24, 1988, En Banc Minute Resolution).

Respondent further alleged that the exhibits and/or transcript of stenographic notes in Criminal Cases Nos. R--315, R-415, and R-331 were missing. We have held that with or without the transcribed stenographic notes, the 90-day period for deciding cases should be adhered to (Balagot v. Opinion 195 SCRA 429 [1991], citing Lawan v. Moleta, 90 SCRA 579 [1979]). As to the missing exhibits, respondent should have taken steps towards the reconstitution of these.

Respondent also alleged that in Criminal Case No. R--368, the defense, upon the recapture of the accused therein, moved for a re-presentation of evidence by the prosecution. This does not explain respondent's inaction since May 22, 1991, when the 90-day period for deciding this case expired. He does not explain why he has not taken action on the defense's request or why he has not calendared the case for further proceedings.

Respondent asserts that jurisdiction over Civil Case No. C-193 was with the agrarian court and not the regular court. He however does not state what action he has taken on the case.

We have consistently held that failure to decide a case within the 90-day reglementary period is not excusable and constitutes inefficiency (Longboan v. Polig, supra). We have excused a judges' failure to decide a case within the required period, but only where such failure is due to circumstances beyond his control (Bendesula v. Laya, 58 SCRA 16 [1974]). It is not so in the instant case.

V

An examination of the trial court calendar showed that respondent conducted infrequent court sessions and on those day he did, he was tardy.

Respondent, in an attempt to explain his actuations, asserted that he held court sessions only three times a week because there were no practicing lawyers based in Roxas, Oriental Mindoro, and because no lawyer based in other towns would agree to have a case scheduled for hearing on a Monday or Friday due to the distance of Roxas. He said that the reason he went to court late was that the lawyers who appeared in his court themselves came late.

We cannot accept respondent's reasoning.

Administrative Circular No. 13 dated July 1, 1987 requires the following of trial court judges:

"Punctuality and strict observance of office hours. - Punctuality in the holding of scheduled hearings is an imperative. Trial judges should strictly observe the requirement of at least eight hours of service a day, five hours of which should be devoted to trial, specifically from 8:30 a.m. to 12:00 noon and from 2:00 to 4:30 p.m. as required by par. 5 of the Interim Rules issued by the Supreme Court on January 11, 1988, pursuant to Sec. 16 of B.P. 129."

In In Re: Echiverri, (67 SCRA 467 [1975]), we stated that "[j]udges are duty bound to comply with the above [service requirement] to insure the maximum efficiency of the trial courts for a speedy administration of justice. Daily trials at a minimum of five hours per working day of the week will enable the judge to calendar as many cases as possible and to dispose with regular dispatch the increasing number of litigations pending with the court."

Respondent has shown that he is incapable of complying with the duties of his office (*Medina v. De Guia*, supra, in connection with A.M. No. RTJ-91-681). He is not at the mercy of lawyers and the parties. It is not the convenience of those appearing before his court which should be the primordial consideration of a judge. It is the administration of justice which must be his foremost concern.

Furthermore, we note that in 1962, respondent was fined an amount equivalent to two-months' salary for tardiness.

VI

Respondent has failed to live up to the honor of his position. His transgressions, taken in their totality, warrant the extreme sanction of dismissal from the service (*Felongco v. Dictado*, A.M. No. RTJ-86-50, A.M. No. RTJ-88-222, A.M. No. RTJ-88-224, A.M. No. RTJ-89-320, A.M. No. RTJ-89-389, 223 SCRA 696 [1993]; *Garciano v. Sebastian*, A.M. No. RTJ-88-160, A.M. No. RTJ-88-244, A.M. No. RTJ-89-322, A.M. No. RTJ-89-344, A.M. No. RTJ-90-416, A.M. No. RTJ-92-661, A.M. No. RTJ-89-4-371, March 30, 1994).

VII

In sum, we find respondent liable for (1) falsification of his Certificates of Service for the months of May and September, 1991, and March, April and October, 1992; (2) failure to act on the various cases assigned to his sala with dispatch, in violation of Rule 1.02 of Canon 1 of the Code of Judicial Conduct; (3) granting bail to the accused held for capital offense in Criminal Cases Nos. R-473 and R-548; (4) failure to decide Criminal Cases Nos. R-315, R--415, R-331 and Civil Case No. C-193 within the 90-day period; (5) failure to observe working hours as required by Administrative Circular No. 13 dated July 1, 1987; and (6) gross misconduct and inexcusable negligence in connection with the loss of court records.

WHEREFORE, respondent is DISMISSED from the service.

SO ORDERED.

Narvasa, C.J., Feliciano, Padilla, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Quiason, Puno, Vitug, Kapunan, and Mendoza, JJ., concur.

Cruz, J., no part.

Bidin, J., on leave.

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