

REPORT ON THE JUDICIAL AUDIT CONDUCTED IN THE REGIONAL TRIAL COURT, BRANCH 27, OF LAPU-LAPU CITY, PRESIDED OVER BY JUDGE TEODORO K. RISOS

A.M. No. 97-9-282-RTC. April 22, 1998

Ponente: REGALADO, J.

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REGALADO, J.:

In view of the compulsory retirement of Judge Teodoro K. Risos on December 12, 1997, a judicial audit was conducted at the Regional Trial Court, Branch 27, Lapu-Lapu City on all pending cases therein, including those submitted for decision. Acting on the Report of Judicial Audit Team dated August 27, 1997, the Court En Banc resolved on October 7, 1997, among others, to: (a) direct Judge Risos to : (1) render his decision in criminal cases[1] and civil cases[2] already submitted for decision and submit proof of such disposal; (2) explain why no court action should be taken against him for his failure to decide some cases within the 90-day period; (3) explain why no court action was taken for a considerable length of time in some criminal cases[3] and civil cases[4] pending before his court; (b) require Atty. Annie Christine B. Patalinghug, Branch Clerk of Court, Regional Trial Court, Branch 27, Lapu-Lapu City (b-1) to explain: (aa) why no Certificates of Arraignments and Minutes of the Hearing are attached to the records of some cases; (bb) why the docket books are not updated and (b-2) direct her to devise an effective system in the management of court records; and meanwhile (c) the Financial Management Office of the Office of the Court Administrator is directed to withhold the sum of One Hundred Thousand Pesos (P100,000.00) from the retirement benefits which may be due to Judge Risos to answer for whatever administrative liabilities may be imposed upon him should he fail to satisfactorily explain the delay in the resolution and the inaction in some cases pending in his sala.

Judge Risos, in compliance with said resolution, filed his First Indorsement dated November 20, 1997, and submitted the following information and explanation to this Court, to wit: (1) All the criminal and civil cases enumerated in Directive No. 1 of the Resolution have already been disposed of, as evidence by accompanying copies of the corresponding decisions; (2) The reason why some cases were decided beyond the 90-day period was due to: (a) the pressure of work, being the Executive Judge of the RTC of Lapu-Lapu City, (b) the fact that he had to slow down his work after his second heart attack, (c) slow turnout of transcripts, (d) the destruction of his notes taken down during the hearing of said cases when a portion of the roofing of the dilapidated building where Branch 27 is being housed was removed by the last typhoon which hit Cebu, and (e) preference was given to the disposition of cases involving detention prisoners; (3) It is not correct that no action was taken for a considerable length of time in the criminal, civil and cadastral cases mentioned in Directive No. 3 of the resolution. He reasoned out that all the criminal cases mentioned there have already been disposed of, except Criminal Case No. 517. It was one of the 89 inherited cases heard and submitted for decision before the late Judge Ceferino Dulay, and the testimony of the accused and his witnesses were not transcribed by the stenographer who died, hence a retaking has been ordered. Some of the civil and cadastral cases mentioned have been disposed of and/or are still awaiting the Land Registration Authority (LRA) report.

A judicious examination of the records shows that out of the ten (10) criminal cases reported to have been pending decisions beyond the 90-day period required, Judge Risos was able to decide eight (8) criminal cases before he retired. With regard to the other two (2) criminal cases, Criminal Case No. 01234 should not have included in the list as it was submitted for decision only on July 1, 1997, hence still within the required period. In fact, it was decided by Judge Risos on August 14, 1997. Criminal Case No. 01234 should not have been included in the list as it was submitted for decision only on July 1, 1997, hence still within the required period. In fact, it was decided by Judge Risos on August 14, 1997. Criminal Case No. 012139 was archived because the accused is presently at large.

Regarding the six (6) civil cases reported to have been pending decision beyond the required period, Judge Risos was able to decide four (4) of them before he retired. Civil Case No. 2715-L was still set for hearing on January 30, 1998, and Civil Case No. 2976-L was reraffled to the newly created Branch 54.

As to the cadastral cases, Judge Risos was able to act on those cases which were reported to have remained unacted upon although after the lapse of a considerable length of time, with the exception of those cases awaiting the LRA reports. Furthermore, Criminal Case No. 018085 and ASA VII-05-1147 were inadvertently reported by the auditing team, as there were no such cases in his sala.

The Office of the Court Administrator (OCA) noted that although Judge Risos was able to decide those cases that had long been submitted for decision beyond the 90-day period, as well as several other cases which were submitted for decision but still within the prescribed period, he failed to present any proof that they were duly filed with the Clerk of Court as required by Section 1, Rule 36 of the 1997 Rules of Civil Procedure.[5] No registry receipts nor any evidence were attached to show that copies of the decisions were duly served upon the parties either personally or by registered mail as required by Section 9, Rule 23.[6] His judgments in the criminal cases likewise failed to indicate whether they had already been promulgated. Evidently, it is not enough that judges write their decisions; it is also just as important that they promulgate and make them known to all parties concerned.[7]

On January 28, 1998. A verification call was made by the OCA with the new OIC-Clerk of Court, Dolores P. Lagrimas. She informed the said office that the decisions were duly filed with the Clerk of Court, that the parties were duly served with copies of the decisions, and that the judgments in the criminal cases had already been promulgated. She further explained that the inclusion of two (2) non-existing cases in the list was due to typographical errors in the case numbers because the resolution of this Court merely enumerated the case numbers without specifying the titles of the cases.

Although Judge Risos was able to decide practically all the criminal and civil cases enumerated in Directive No. 1 of the Resolution dated October 7, 1997, the records nonetheless reveal that they were decided beyond the 90-day period. This Court has consistently impressed upon judges the need to decide cases promptly and expeditiously, pursuant to Rule 3.05, Canon 3 of the Code of Judicial Conduct and Section 15(1) and (2), Article VIII of the Constitution. This requirement is designed to prevent delay in the administration of justice for, obviously, justice delayed is justice denied; and delay in the disposition of cases erodes the faith and confidence of our people in the judiciary, lowers its standards and brings it into disrepute.[8] Judges are repeatedly reminded that failure to decide cases within the required period is not excusable and constitutes gross inefficiency[9] which is a ground for administrative sanction against the defaulting judge.[10]

The Court cannot consider the slow turnout of transcripts as a valid excuse for delay in rendering judgment in a case. It is an established rule and directive that with or without the transcript of stenographic notes, the 90-day period for deciding cases should be observed by all judges.[11] If a heavy caseload and his duties as an executive

judge prevented him from deciding cases within the reglementary period, Judge Risos should have asked this Court for the reasonable extension of time to decide the cases involved[12] However, it appears of record that there was no attempt whatsoever on the part of respondent judge to inform this Court of his alleged predicament and to make such request.

Neither can the destruction of his notes during the last typhoon which hit Cebu be considered as a valid defense for the delay because it likewise appears on record that, except for Criminal Case No. 012167 which was submitted for decision last January 14, 1997, those cases had long been pending decisions for years, dating way back to 1988 (Criminal Case No. 0530), 1990 (Criminal Case No. 0595), 1991 (Criminal Case No. 01184), 1992 (Criminal Case No. 40119-L), 1995 (Criminal Case Nos. 0156 and 012181, and Civil Case No. 2359-L), and 1996 (Civil Cases Nos. 4174-L and 2411-L).

Arguably, the liability of respondent judge for his failure to decide cases within the 90-day period may be tempered by the fact that he had to slow down on his work after he had his second heart attack. This is confirmed by the OCA in its findings and recommendation which we approve with modification. Withal, while we are inclined to adopt a liberal and understanding attitude towards respondent judge, the indelible fact remains that his default in deciding said cases had lasted for so many years to prejudice of the litigants concerned, and to whose plight he appears to have been indifferent as shown by his inaction.

Parenthetically, Atty. Annie Christine B. Patalinghug, Branch Clerk of Court, failed to comply with the requirements and duties imposed on her in the aforesaid resolution. A verification was made with the OCA and it turned out that Atty. Patalinghug had resigned from office effective January 26, 1998, thus mooted the directives in the Court's resolution insofar as she was concerned and rendering the same unenforceable against her.

With respect to Judge Risos, however, the Court cannot escape the fact that he failed to decide twelve (12) cases within the 90-day period for reasons not completely exculpatory. His liability will have to be assessed in line and consistent with our decisional precedents in similar cases.[13] Thus, in the cited case of *Re: Judge Danilo M. Tenerife*, the failure of a judge to decide even a single case within the 90-day period was considered gross inefficiency warranting the imposition of a fine ranging from P5,000.00 to the equivalent of one month's salary. In the instant case, after considering the facts at hand and the extenuating circumstance of failing health in favor of respondent judge, the Court deems it proper that a fine P10,000.00 be imposed.

WHEREFORE, respondent Judge Teodoro K. Risos is hereby declared guilty of GROSS INEFFICIENCY and is ORDERED to pay a fine of TEN THOUSAND PESOS (P10,000.00), to be deducted from the retirement benefits due and payable to him.

SO ORDERED

Melo, Puno, Mendoza, and Martinez, JJ. concur

[1] Criminal Cases Nos. 0661, 012324, 01065, 0156, 0530, 012181, 01184, 0595 and 012139.

[2] Civil Cases Nos. 4174-L, 2359-L, 2715-L, 4019-L, 2411-L, 29 76-L, 4412-L, 2572-L, 4386-L, 2646-L, 321-L, 2203-L, 4322-L and 1629-L. The original OCA report also mentioned Civil Case No. 4439-L but this was eliminated in the final OCA report and recommendation.

[3] Criminal cases Nos. 517, 013440, 0381, 0926, 01195, 0411, 012146 and 018085.

[4] Civil Cases Nos. 4247-L, 2395-L, 2367-L, 2812-L, 4160-L, 4550-L, 4470-L, 4475-L, 4442-L, 4362-L, 4377-L, 4394-L, 2581-L, 268-L, 2799-L, 4641-L, 2995-L, 3025-L, 3031-L, 3090-L, 3042-L, 2520-L, 4669-L,

4649-L, 4693-L, 4654-L, 4605-L, 4602-L, 2507-L, ASA-VII-05-1147, 2177-L, 2396-L, 4037-L, 2487-L, 2260-L, 2059-L, 2845-L, 4299-L, 4078-L, 4054-L, 4604-L, 4522-L, 2589-L, CAD Case No. 17, LRC Rec. No. 946, Lot Nos. 1741 and 1810, CAD Case No. 20, LRC Rec. No. 1004, Lot Nos. 4563, 4565-66, 4591, 4592, 4595, 4597-98, 4600-602 and 4604-06, CAD Case No. 20 LRC Rec. No.1004, Lot No. 4354, CAD Case No. 20 LRC Rec. No.1004, Lot No. 4998, CAD Case No. 20 LRC Rec. No.1008, Lot No. 3019, CAD Case No. 21 LRC Rec. No.1008, Lot No. 5545, CAD Case No. 21 LRC Rec. No.1008, Lot No. 5252, CAD Case No. 22 LRC Rec. No.1018, Lot No. 6233, CAD Case No. 22 LRC Rec. No.1081, Lot No. 6391, CAD Case No. 22 LRC Rec. No.1018, Lot No. 6025, 6073, 6060 and 6132, CAD Case No. 22 LRC Rec. No.1018, Lot Nos. 6669, 6671 and 6672, CAD Case No. 22 LRC Rec. No.1018, Lot No. 6354, CAD Case No. 19 LRC Rec. No.1003, Lot Nos. 2036 and 2042, CAD Case No. 19, LRC Rec. No.1003, Lot No. 2843, CAD Case No. 19, LRC Rec. No.1003, Lot No. 2948, Lot no. 5350, Lot No. 5511, Lot No. 5138, CAD Case No. 21, LRC Rec. No.1008, Lot No. 5619, CAD Case No. 19, LRC Rec. No.1003, Lot No. 2044, CAD Case No. 15, Lot No. 3757, Lot No. 3389, Lot Nos. 3430, 3023 and 3176, CAD Case No. 2, LRC Rec. No.1018, Lot Nos. 6433, 6482 and 6514, CAD Case No. 17 LRC Rec. No.946, Lot No. 1793, and Lot No. 3013.

[5] Section 1, Rule 36 provides that a judgment or final order determining the merits of the case shall be in writing personally and directly prepared by the judge, stating clearly and distinctly the facts and law on which it is based, signed by him, and filed with the clerk of court.

[6] Section 9, Rule 23 requires that judgments, final orders or resolutions shall be served either personally or by registered mail. When a party summoned by publication has failed to appear in the action, judgments, final orders or resolutions against him shall be served upon him also by publication at the expense of the prevailing party.

[7] Centrum Agri-business Realty Corporation vs. Katalbas-Moscardon, A.M. No. RTJ-92-880, August 11, 1995, 247 SCRA 145.

[8] Report on the Audit and Inventory of Cases in the RTC, Branch 11, Balayan, Batangas, A.M. No. 93-11-1311-RTC, July 26, 1994, 234 SCRA 502.

[9] Re: Partial Report on the Audit and Inventory of cases in the RTC, Branches 7 and 8, Tanuan, Batangas, Judge Liberato C. Cortes, Presiding Judge Branch 8, A.M. No. 94-6-189-RTC, March 7, 1995, 242 SCRA 167.

[10] Alfonso-Cortes vs. Maglalang, A.M. No. RTJ-88-170, November 8, 1993, 227 SCRA 482.

[11] Re: Report on the Judicial Audit Conducted in the RTC, Branches 61, 134 and 147, Makati, Metro Manila, A.M. No. 93-2-1001-RTC, and companion case, September 5, 1995, 248 SCRA 5.

[12] Española vs. Panay, etc., A.M. No. RTJ-95-1325, October 4, 1995, 248 SCRA 684.

[13] Re: Judge Danilo M. Tenerife, A.M. No. 94-5-42-MTC. March 20, 1996, 255 SCRA 184; Re: Report on the Judicial Audit and Physical Inventory of the Records of Cases in MTCC, Branch 2, Batangas City, A.M. No. 94-10-96-MTCC, September 5, 1995, 248 SCRA 36; Castillo vs. Cortes, A.M. No. RTJ-93-1082, July 25, 1994, 234 SCRA 398; Re: Letter of Mr. Octavio Kalalo, A.M. No. 93-7-1158-RTC, March 24, 1994, 231 SCRA 403; Adriano vs. Sto. Domingo, RTJ-90-583, October 4, 1991, 202 SCRA 446; In Re Madara, A.M. No. 2351-CFI, April 27, 1981, 104 SCRA 245.

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