

**RE: CASES LEFT UNDECIDED BY JUDGE SERGIO D. MABUNAY, RTC,
BRANCH 24, MANILA.***A.M. No. 98-3-114-RTC. July 22, 1998*

Ponente: BELLOSILLO, J.

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JUDGE SERGIO D. MABUNAY who retired on 12 March 1998 as Presiding Judge of the Regional Trial Court, Branch 24, Manila, upon reaching his compulsory retirement age, is recommended by the Court Administrator to be fined P50,000.00 “for failure to decide 2 cases submitted for decision before him in the RTC, Branch 8, Tacloban City, and 13 criminal cases submitted for decision before him in the RTC, Branch 10, Abuyog, Leyte,” which “shall be deducted from the proceeds of the retirement benefits of Judge Mabunay.”

A word of caution at the outset: We should not be too hasty in condemning our judges, much less in imposing on them unreasonable, if not unwarranted, sanctions. They merit the respect and concern of the Court, especially those who are retiring from the bench after having creditably served for a good number of years. Like any Member of this Court, they too deserve a peaceful and happy retirement from the service without misgivings or any taint of dishonor or disgrace. This much we owe them as they leave the rough and tumble of the judicial profession hoping to cross the threshold of a new life of comfort and ease, which they deserve, unless by their own misdeeds they relinquish this great privilege. Hence, we must thoroughly scrutinize the charge as well as the evidence before we ever condemn.

The records show that on 27 January 1998 or shortly before his compulsory retirement on 12 March 1998, his 70th birthday, respondent was confronted with a Monthly Report of Cases by the Office of the Court Administrator coming from RTC-Br. 8, Tacloban City, indicating that there were five (5) cases submitted for decision before him (respondent) when he was still assigned there from 1 August 1985 to 5 November 1986, the date he was transferred to RTC-Br. 24, Manila, which remained undecided. Consequently, on 17 February 1998 respondent Judge received a Memorandum from the Office of the Court Administrator directing him to decide the cases immediately and for the Clerk of Court of RTC-Br. 8, Tacloban City, to transmit the records to him in his station in Manila. Judge Mabunay received the records on 28 February 1998 or twelve (12) days before his compulsory retirement.

Complying with the directive the Court Administrator, Judge Mabunay immediately decided three (3) of the five (5) cases forwarded to him. He could not decide the remaining two (2) cases as the pertinent stenographic notes were not attached to the records and he had no notes on the testimonies of the witnesses since they were heard by other judges. These two (2) remaining cases were filed as early as 1970 and 1976 and heard successively by other judges, namely, Judges Gregorio Collantes and Jesus Borromeo in 1975, Judge Jose Arro in 1978, and Judges Auxencio Dacuycuy and Fortunato Cuna in 1984.

After respondent retired, the Office of the Court Administrator also found that in addition to the five (5) cases adverted to there were thirteen (13) other cases which were submitted for decision when respondent was still

Presiding Judge of RTC-Br. 10, Abuyog, Leyte, but which also remained undecided.

For failure to decide those cases before he retired, the Court Administrator recommended that respondent Judge Sergio D. Mabunay be fined P50,000.00 the amount to be deducted from his retirement benefits.

We cannot agree with the recommendation of the Court Administrator. There is no sound and valid basis for it. First of all, these thirteen (13) other cases were never forwarded to respondent Judge for decision during his incumbency, except the five (5) cases that came from RTC-Br. 8, Tacloban City, the records of which he received only on 28 February 1998, or twelve (12) days before he retired. According to respondent, he immediately decided three (3) of the five (5) cases where the records were complete but returned the remaining two (2) where there were no stenographic notes, referring to Civil Case No. 5131, "Heirs of Quintin and Maxima Montezon v. Benigno Daa, et al." for recovery of real property, and Crim. Case No. 2405, "People v. Julita Dapuran," for estafa, and where he had no notes because these cases were not heard by him but by other judges.

Copies of the decisions he rendered in the three (3) cases, together with the corresponding records, referring to Civil Case No. 6720, "Nilda T. Reyes v. Tacloban Coca-Cola Bottling Co., Inc.," for damages; Crim. Case No. 4544, "People v. Rustico Aya-Ay," for robbery in bond; and Crim. Case No. 5628, "People v. Francisco Fernandez, et al.," for murder, were immediately sent by respondent on 8 March 1998 to Atty. Irene I. Pontejos-Cordeta, Clerk of Court, RTC-Br. 8, Tacloban City, for promulgation. He also returned the records of the two (2) undecided cases to the court of origin as they were not ready for decision.

As regards the thirteen (13) cases supposedly submitted for decision when respondent was still the Presiding Judge of RTC-Br. 10, Abuyog, Leyte, the records show that they were never referred to him for decision after he left that station, much less did the Office of the Court Administrator ask him to decide those cases until his compulsory retirement.

Under the circumstances, we cannot see the rationale for holding respondent judge administratively liable, and worse, for imposing upon him a fine of P50,000.00 as recommended by the Court Administrator.

Basically, a case once raffled to a branch belongs to that branch unless reraffled or otherwise transferred to another branch in accordance with established procedure. When the Presiding Judge of that branch to which a case has been raffled or assigned is transferred to another station, he leaves behind all the cases he tried with the branch to which they belong. He does not take these cases with him even if he tried them and the same were submitted to him for decision. The judge who takes over this branch inherits all these cases and assumes full responsibility for them. He may decide them as they are his cases, unless any of the parties moves that his case be decided by the judge who substantially heard the evidence and before whom the case was submitted for decision. If a party therefore so desires, he may simply address his request or motion to the incumbent Presiding Judge who shall then endorse the request to the Office of the Court Administrator so that the latter may in turn endorse the matter to the judge who substantially heard the evidence and before whom the case was submitted for decision. This will avoid the "renvoi" of records and the possibility of an irritant between the judges concerned, as one may question the authority of the other to transfer the case to the former. If coursed through the Office of the Court Administrator, the judge who is asked to decide the case is not expected to complain, otherwise, he may be liable for insubordination and his judicial profile may be adversely affected. Upon direction of the Court Administrator, or any of his Deputy Court Administrators acting in his behalf, the judge before whom a particular case was earlier submitted for decision may be compelled to decide the case accordingly.

We take this opportunity to remind trial judges that once they act as presiding judges or otherwise designated as acting/assisting judges in branches other than their own, cases substantially heard by them and submitted to them for decision, unless they are promoted to higher positions in the judicial ladder, may be decided by them wherever

they may be if so requested by any of the parties and endorsed by the incumbent Presiding Judges through the Office of the Court Administrator. The following procedure may be followed: First, the Judge who takes over the branch must immediately make an inventory of the cases submitted for decision left behind by the previous judge (unless the latter has in the meantime been promoted to a higher court). Second, the succeeding judge must then inform the parties that the previous judge who heard the case, at least substantially, and before whom it was submitted for decision, may be required to decide the case. In this event, and upon request of any of the parties, the succeeding judge may request the Court Administrator to formally endorse the case for decision to the judge before whom it was previously submitted for decision. Third, after the judge who previously heard the case is through with his decision, he should send back the records together with his decision to the branch to which the case properly belongs, by registered mail or by personal delivery, whichever is more feasible, for recording and promulgation, with notice of such fact to the Court Administrator.

Since the primary responsibility over a case belongs to the presiding judge of the branch to which it has been raffled or assigned, he may also decide the case to the exclusion of any other judge provided that all the parties agree in writing that all incumbent presiding judge should decide the same, or unless the judge who substantially heard the case and before whom it was submitted for decision has in the meantime died, retired or for any reason has left the service, or has become disabled, disqualified, or otherwise incapacitated to decide the case.

The Presiding Judge who has been transferred to another station cannot, on his own, take with him to his new station any case submitted for decision without first securing formal authority from the Court Administrator. This is to minimize, if not totally avoid, a situation of “case-grabbing.” In the same vein, when the Presiding Judge before whom a case was submitted for decision has already retired from the service, the judge assigned to the branch to take over the case submitted for decision must automatically assume the responsibility of deciding the case.

In the instant administrative matter, it may be noted that more than ten (10) years had lapsed after Judge Mabunay left Tacloban City and Abuyog, Leyte, without the cases in question being referred to him for decision. It was not until less than a month before his compulsory retirement that he was directed to decide them. Quite admirably, he readily decided three (3) of the five (5) cases referred to him for decision in record time. Perhaps he could have decided the remaining two (2) cases if not for the transcripts of stenographic notes that were missing. Understandably, he had no notes of the proceedings in the last two (2) cases because he was not the one who heard them. Besides, one was filed in 1970 and the other in 1976, or long before he became presiding judge of the RTC-Br. 8 of Tacloban City. And, as earlier adverted to, those cases were substantially heard by five (5) other judges who preceded him, all of whom have reportedly long retired, and respondent Judge presided only in two (2) hearings of those cases in October 1985. Under the circumstances, we can hardly say that Judge Mabunay did not do what was humanly possible for him to accomplish within his allotted time frame.

Adverting again to the report of the Court Administrator of 20 March 1998 that Judge Mabunay left thirteen (13) criminal cases submitted for decision when he was Presiding Judge of the RTC-Br. 10, Abuyog, Leyte, admittedly, those cases were never brought to his attention after he left Abuyog, Leyte, more than ten (10) years ago, until after he retired on 12 March 1998. Since these cases were never referred to him, he was not expected to decide them. First of all, conformably with the guidelines herein set out, respondent Judge could not have brought this cases with him on his own initiative at the time he left Abuyog, Leyte, as he might be suspected of being personally interested in them. Certainly, it is now unfair and unjust – after he has already compulsory retired from the judiciary – to impose a fine on him of P50,000.00 simply because he has not decided those cases which, in fact, were never referred to him for decision until he retired. They were only mentioned in the Recommendation of the Court Administrator of 20 March 1998 after respondent’s compulsory retirement on 12 March 1998.

WHEREFORE, JUDGE SERGIO D. MABUNAY is ABSOLVED from any administrative liability and further RELIEVED of the obligation to decide subject cases. Consequently, he is ALLOWED to retire and to receive in full the retirement benefits he deserves under the law.

Correspondingly, the Office of the Court Administrator should now direct the incumbent Presiding Judge of RTC-Br. 8, Tacloban City, to DECIDE the two (2) remaining cases of the five (5) cases originally referred to respondent from that branch, and the incumbent Presiding Judge of RTC-Br. 10, Abuyog, Leyte, to DECIDE also the subject thirteen (13) criminal cases from that branch without further delay.

SO ORDERED.

Narvasa, C.J., Regalado, Davide, Jr., Romero, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Martinez, Quisumbing, and Purisima, JJ., concur.

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