

JUDGE DOLORES L. ESPAÑOL, RTC, BRANCH 90, DASMARIÑAS, CAVITE, COMPLAINANT, VS. JUDGE LORINDA B. TOLEDO-MUPAS, MTC, DASMARIÑAS CAVITE, RESPONDENT.

A.M. No. MTJ-03-1462 (formerly OCA IPI No. 02-1515-RTJ). February 11, 2010

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PER CURIAM:

This treats of the Urgent Omnibus Motion, which is admitted by respondent Judge as a Second Motion for Reconsideration, dated October 22, 2008, urging the Court to reconsider its Decision dated April 19, 2007 and its Resolution of August 19, 2008. The questioned Decision found her guilty of gross ignorance of the law and imposed upon her the penalty of dismissal from the service with forfeiture of all benefits due her, excluding her accrued leave benefits, and with perpetual disqualification from reinstatement or appointment to any public service including government-owned or controlled corporations. The assailed Resolution denied her Motion for Reconsideration.

Respondent begs the Court for compassion arguing that her act of issuing the "Detention Pending Investigation" Orders were not motivated by bad faith, dishonesty, or some other similar motive, and claiming that the penalty of dismissal is too harsh.

The Court is not persuaded.

On three separate occasions prior to the present case, respondent was found guilty of gross ignorance of the law.[1] Aside from that, she was also adjudged guilty of incompetence and gross misconduct in the said cases. As it is, the instant case finding her guilty, for the fourth time, of gross ignorance of the law would prove her incorrigibility and unfitness as a judge and, as such, would warrant her dismissal from the service.

Considering the circumstances of the present case, with more reason should this Court now impose the penalty of dismissal on respondent considering that, aside from this Court's Decisions finding her guilty of gross ignorance in four different instances, the Office of the Court Administrator (OCA), in its Report on the Judicial Audit Conducted at the MTC, Dasmarinas, Cavite, not only found that respondent has again exhibited her gross ignorance of the law, but was also guilty of committing other serious offenses.

With respect to these findings, the respondent either offered flimsy defenses or no excuse at all.

First, as to the finding that respondent was found guilty of failing to act on motions for execution filed by the prevailing parties in cases which have already become final and executory, suffice it to say that in this Court's Decision of April 19, 2007, it was already held that the respondent "failed to explain why there were motions for execution of decided cases which she had not acted upon for a considerably long time." This renders her guilty of gross inefficiency.[2]

Second, the OCA found that respondent failed to forward to the Office of the Provincial Prosecutor (OPP) of Cavite the records of at least 370 cases which she dismissed after preliminary investigation. Respondent justified such omission on the pretext that her clerk of court and other court personnel secured photocopies of the cases for

their own file in order to help litigants who made queries regarding their cases. She even claimed that the expenses for the photocopying were defrayed by the court personnel.

Respondent's excuse is specious.

Section 5, Rule 112[3] of the Rules on Criminal Procedure explicitly states that within ten (10) days after the conclusion of the preliminary investigation, an investigating judge shall transmit to the provincial or city prosecutor for appropriate action her resolution of the case together with the records thereof. Hence, an investigating judge, after conducting a preliminary investigation, shall perform her ministerial duty which is to transmit within ten days after the conclusion thereof, the resolution of the case together with the entire records to the Provincial Prosecutor, regardless of her belief or opinion that the crime committed, after conducting the preliminary investigation, falls within the original jurisdiction of her court.

Most of the cases which respondent failed to transmit to the OPP were found to be within the jurisdiction of the RTC and were decided as early as January 2000. It is difficult to believe that respondent was not aware of these facts. Worse, some of these cases are drug-related and were dismissed as early as July 2000. Respondent should have been prompted by the gravity of these offenses to forward the records of the cases within the required period to the OPP for appropriate action. Undoubtedly, the parties adversely affected by the dismissal of the complaints after preliminary investigation were denied the statutory right of review that should have been conducted by the provincial prosecutor.

Respondent judge claims that the failure to promptly transmit the resolution and records of the cases which she dismissed after preliminary investigation is not her fault but that of her clerk of court. However, it remains the duty of a judge to devise an efficient recording and filing system in their courts to enable them to monitor the flow of cases and to manage their speedy and timely disposition.[4] If respondent was diligent in the performance of her obligations and responsibilities, the records of cases which were not forwarded to the OPP would not have reached an alarming number. She should have taken corrective measures to promptly address this problem.

Her unjustifiable failure to forward to the OPP the cases which she dismissed after preliminary investigation shows that there is more than meets the eye than what she portrays as simple unawareness. Her supposed omission or oversight which remained uncorrected for a period which spanned as long as seven years smacks of malice and bad faith rather than pure and plain ignorance. Hence, she is liable for gross misconduct and conduct prejudicial to the best interest of the service.

Third, respondent neither denied nor refuted the charge that she was able to draw her salaries by submitting fraudulent certificates of service to the effect that she had no undecided cases. Falsification of one's certificate of service, renders a public officer not only administratively liable for serious misconduct under Section 1, Rule 140 of the Rules of Court but also criminally liable under Articles 174[5] and 175[6] of the Revised Penal Code.[7]

Fourth, with respect to cases reported by the OCA which remain undecided even beyond the reglementary period, it appears that in most of these cases, thirty (30) days had elapsed from the date of submission of the case for decision. Respondent insists that the reckoning period should be ninety (90) days as provided under the Constitution. However, the cases enumerated by the OCA appear to fall under the Rules on Summary Procedure, where the required period to decide the same is thirty (30) days.[8] Otherwise, the OCA would not have reported that the decisions in these cases are already overdue.

In her desperate attempt to vindicate herself with respect to supposed decisions of cases which were found to have gone beyond the ninety (90) day reglementary period, respondent tried to mislead the Court in her Comment and Supplemental Comment by arguing that since she has not yet issued an Order declaring the cases as submitted for

decision, the same are not yet ready for judicial determination such that the ninety (90) day reglementary period in deciding the said cases does not yet run. She also contended that in determining the period for the decision in the subject cases to become due, the OCA "failed to show whether other pleading[s] have yet to be filed by the parties after the cases [were] deemed submitted for decision."

Respondent's arguments have again exposed her gross ignorance of the law and mires her even more into a deeper hole from which there was neither reprieve nor escape. Respondent should be aware of the basic rule that once a case is submitted for decision, no further pleadings are required to be filed. Moreover, there is no need to issue an order declaring a case to be submitted for decision in order that the ninety (90) day period in deciding the same shall begin to run.

Failure to promptly decide cases in accordance with the Constitution or the Rules of Court constitutes gross inefficiency.[9]

Fifth, respondent also failed to refute the findings of the OCA that the court records in her sala were in disarray which compromises their confidentiality and integrity. Records of cases are necessarily confidential, and to preserve their integrity and confidentiality, access thereto ought to be limited only to the judge, the parties or their counsel and the appropriate court personnel in charge of the custody thereof.[10]

Sixth, in the Court's Decision in the present case, it was noted that respondent judge continued with the practice of issuing documents denominated "Detention Pending Investigation of the Case" even after her attention had been called. Worse, she remained insistent in her erroneous belief that the document was an implied waiver of the rights of the accused under Art. 125 of the Revised Penal Code.

This tenacious adherence to a wrong procedure made her unfit to discharge his judicial office.[11] As the Court held in the case of *Zuno, Sr. v. Dizon*,[12] "xxx more than mere ignorance of applicable laws and jurisprudence, [the respondent judge's] intransigence and persistence in error will make people lose their faith in him as an administrator of justice. Having lost his right to be addressed by the respectful appellation of 'Honorable Judge,' he has likewise lost his right to continue in the judicial service."

Lastly, the respondent insists that the report of the OCA did not reflect the true and factual circumstances involved in the cases which were pending and decided by the MTC, Dasmarinas, Cavite while she was its Presiding Judge. However, respondent failed to present substantial and convincing evidence to refute the charges made by the OCA.

All told, the respondent judge failed to live up to the exacting standards of her office. The magnitude of her transgressions, taken collectively, casts a heavy shadow on respondent's moral, intellectual and attitudinal competence and rendered her unfit to don the judicial robe and to perform the functions of a magistrate.

In the fairly recent case of *Republic v. Caguioa*,[13] this Court did not hesitate to impose the penalty of dismissal on the erring respondent-judge who was found guilty of several counts of gross ignorance of the law.

In *Re: Report on the Judicial Audit Conducted in the Regional Trial Court, Branch 4, Dolores, Eastern Samar*,[14] the Court, noting that the respondent judge was found guilty of gross inefficiency in an earlier case, and of gross ignorance of the law in two other cases, again adjudged him guilty of gross ignorance of the law for the third time. The Court held that, taken altogether, the infractions committed by the respondent judge warranted the imposition of the penalty of dismissal.

In the case before us, one member of the Court wrote a separate concurring opinion holding that rigid retraining can cure gross ignorance of the law. However, in the absence of any program devised by the Court which takes

into account individuals who cannot accept the possibility that they could be wrong, the concurring justice opined that it is unwise to return respondent judge to the service. The concurring justice also submitted that instead of treating respondent's length of service as a mitigating factor, the same should instead be taken against her on the ground that years in service should have crafted expertise, not deterioration.

On the other hand, four members of the Court concurred as to the findings of gross ignorance of the law but dissented as to the penalty of dismissal, opting to impose the penalty of suspension without salaries, and other benefits for a period of three (3) years, and a fine of P40,000.00 with a very stern warning that a commission in the future of the same or similar infraction shall be dealt with more severely, on the ground that her infractions did not involve dishonesty, corruption, or moral depravity, and because she had served the judiciary for thirteen (13) years.

WHEREFORE, the Urgent Omnibus Motion dated October 22, 2008 is hereby DENIED there being no compelling reason to warrant a reconsideration of this Court's Decision dated April 19, 2007 and its Resolution dated August 19, 2008.

SO ORDERED.

Puno, C.J., Carpio, Corona, Carpio Morales, Velasco, Jr., Nachura, Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Abad, Villarama, and Mendoza, JJ., concur.
Perez, J., no part.

[1] Espanol v. Mupas, A.M. No. MTJ-01-1348, November 11, 2004, 442 SCRA 13; Loss of Court Exhibits at MTC-Dasmarinas, Cavite, A.M. No. MTJ-03-1491, June 8, 2005, 459 SCRA 313; Bitoon v. Toledo-Mupas, A.M. No. MTJ-05-1598, August 9, 2005, 466 SCRA 17.

[2] Dee C. Chuan & Sons, Inc. v. Peralta, A.M. No. RTJ-05-1917, April 16, 2009, 585 SCRA 93, 98.

[3] SEC. 5. Resolution of investigating judge and its review.- Within ten (10) days after the preliminary investigation, the investigating judge shall transmit the resolution of the case to the provincial or city prosecutor, or to the Ombudsman or his deputy in cases of offenses cognizable by the Sandiganbayan in the exercise of its original jurisdiction, for appropriate action. The resolution shall state the findings of facts and the law supporting his action, together with the record of the case which shall include: (a) the warrant, if the arrest is by virtue of a warrant; (b) the affidavits, counter-affidavits and other supporting evidence of the parties; (c) the undertaking or bail of the accused and the order for his release; (d) the transcripts of the proceedings during the preliminary investigation; and (e) the order of cancellation of his bail bond, if the resolution is for the dismissal of the complaint.

[4] Torrevillas v. Navidad, A.M. No. RTJ-06-1976, April 29, 2009, 587 SCRA 39, 58; Heirs of Spouses Olorga v. Beldia, Jr., A.M. No. RTJ-08-2137, February 10, 2009, 578 SCRA 191, 206; Rules 1.01 and 1.02 of the Code of Judicial Conduct provide that a judge should be the embodiment of competence, integrity and independence and is mandated to administer justice impartially and without delay.

[5] Art. 174. False medical certificates, false certificates of merits or service, etc. - The penalties of arresto mayor in its maximum period to prision correccional in its minimum period and a fine not to exceed 1,000 pesos shall be imposed upon:

- Any physician or surgeon who, in connection, with the practice of his profession, shall issue a false certificate; and

- Any public officer who shall issue a false certificate of merit or service, good conduct or similar circumstances.

The penalty of *arresto mayor* shall be imposed upon any private person who shall falsify a certificate falling within the classes mentioned in the two preceding subdivisions.

[6] Art. 175. Using false certificates. - The penalty of *arresto menor* shall be imposed upon any one who shall knowingly use any of the false certificates mentioned in the next preceding article.

[7] Re: Report on the Judicial Audit Conducted in the Regional Trial Court Branches 61, 134 and 147, Makati, Metro Manila, A.M. No. 93-2-1001-RTC. September 5, 1995, 248 SCRA 5, 31; *Bolalin v. Occiano*, A.M. No. MTJ-96-1104, January 14, 1997, 266 SCRA 203, 210.

Respondent is also liable for violation of Rule 3.09 of the Code of Judicial Conduct which requires a judge to observe at all times the observance of high standards of public service and fidelity.

Moreover, this Court has held in *Office of the Court Administrator v. Trocino* (A.M. No. RTJ-05-1936, May 29, 2007, 523 SCRA 262, 273) that 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 litigants to a speedy disposition of their cases.

[8] Section 10 of the Rules on Summary Procedure provides:

SEC.10. Rendition of judgment. - Within thirty (30) days after receipt of the last affidavits and position papers, or the expiration of the period for filing the same, the court shall render judgment.

[9] *Balajedeong v. del Rosario*, A.M. No. MTJ-07-1662, June 8, 2007, 524 SCRA 13, 20 citing *Sanchez v. Vestil*, A.M. No. RTJ-08-1419, October 13, 1998, 298 SCRA 1, 17.

Rule 3.05 of the Code of Judicial Conduct admonishes all judges to dispose of the court's business promptly and decide cases within the period fixed by law. Rule 3.01 compels them to be faithful to the law and prompts them to maintain professional competence.

[10] *Anonymous v. Velarde-Laolao*, A.M. No. P-07-2404, December 13, 2007, 540 SCRA 42, 58-59. The Code of Judicial Conduct further provides that:

Rule 3.08. A judge should diligently discharge administrative responsibilities, maintain professional competence in court management and facilitate the performance of the administrative functions of other judges and court personnel.

Rule 3.09. A judge should organize and supervise the court personnel to ensure the prompt and efficient dispatch of business and require at all times the observance of high standards of public service and fidelity.

[11] *Cantela v. Almoradie*, A.M. No. MTJ-93-749, February 7, 1994, 229 SCRA 712, 717.

[12] A.M. No. RTJ-91-752, June 23, 1993, 223 SCRA 584, 604.

[13] A.M. Nos. RTJ-07-2063, 07-2064, 07-2066, June 26, 2009.

[14] A.M. No. 06-6-340-RTC, October 17, 2007, 536 SCRA 313, 335.

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