

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. JUDGE HARUN B. ISMAEL, RESPONDENT.

A.M. No. RTJ-07-2045. January 19, 2010

Ponente: CORONA, J.

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CORONA, J.:

On April 25 to May 14, 2005, a judicial audit was conducted in the Regional Trial Court (RTC) of Pagadian, Zamboanga del Sur, Branch 22, presided over by respondent Judge Harun B. Ismael.

The judicial audit resulted in the issuance of a memorandum dated June 9, 2005 by the Office of Court Administrator (OCA)[1] directing respondent to explain his failure to decide and act on current and inherited cases, as well as to resolve incidents in various cases pending before him, within the reglementary period provided by law.[2] Respondent was likewise directed to inform the OCA if cases already submitted for decision or resolution had in fact been decided or resolved within the reglementary period.[3]

Consequently, respondent was ordered to immediately cease hearing cases in his sala and confine himself to deciding or resolving cases submitted for decision or resolution. In respondent's stead, Judge Edilberto G. Absin was directed to handle active cases, other than cases submitted for decision, until respondent could comply with the directives or until he retired.

The OCA likewise directed Atty. Insor A. Pantaran to explain the results of the audit, as was required of respondent. Atty. Pantaran was the clerk of court of the RTC of Pagadian, Zamboanga del Sur, Branch 22 during respondent's tenure. Atty. Pantaran complied with the June 9, 2005 memorandum in a letter dated May 19, 2006.[4]

In its memorandum dated February 26, 2007,[5] the OCA noted that respondent failed to fully comply with its directives in the June 9, 2005 memorandum. Neither did he ask for extensions of time within which to comply with the subject directives.

On examination of Atty. Pantaran's May 19, 2006 letter/compliance, the OCA found that respondent had partially complied with the directives of the June 9, 2005 memorandum, having already decided or resolved some of the cases he was directed to act on. Nonetheless, the OCA established that respondent committed gross inefficiency when he unduly delayed actions in a huge number of cases. The OCA recommended that respondent be fined P20,000. Furthermore, the OCA recommended that Judge Absin be directed to decide and resolve the cases pending in respondent's sala. The OCA likewise directed the designation of Judge Loreto C. Quinto[6] as assisting judge.

The factual findings of the OCA are well-taken. However, we vary the penalty imposed in the light of the circumstances of the case.

It is settled that failure to decide or resolve cases within the reglementary period constitutes gross inefficiency[7] and is not excusable. It is a less serious charge[8] and is punishable by either suspension from office without

salaries and benefits for not less than one month but not more than three months, or a fine of more than P10,000 but not exceeding P20,000.[9]

The New Code of Judicial Conduct requires that a judge shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness.[10] Rule 3.05, Canon 3 of the Code[11] admonishes all judges to dispose of the court's business promptly and decide cases[12] within the period specified in Section 15 (1) and (2), Article VIII of the Constitution.[13]

We emphasize that the administration of justice is a joint responsibility of the judge and the lawyer.[14] As aptly held in *Salvador v. Judge Limsiaco*: [15]

A judge's foremost consideration is the administration of justice. Thus, he should follow the time limit set for deciding cases. xxx Failure to comply within the mandated period constitutes a serious violation of the constitutional right of the parties to a speedy disposition of their cases. It also undermines the people's faith and confidence in the judiciary, lowers its standards and brings it to disrepute. Decision making, among other duties, is the most important duty of a member of the bench. (citations omitted)

Pursuant to A.M. No. 02-9-02-SC,[16] this administrative case against respondent shall also be considered as a disciplinary proceeding against him as a member of the bar.[17] Violation of the basic tenets of judicial conduct embodied in the New Code of Judicial Conduct for the Philippine Judiciary and the Code of Judicial Conduct constitutes a breach of Canons 1[18] and 12[19] as well as Rules 1.03[20] and 12.04[21] of the Code of Professional Responsibility (CPR).

WHEREFORE, respondent Judge Harun B. Ismael is hereby found GUILTY of gross inefficiency and violation of Section 5, Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary for which he is FINED in the amount of P20,000.

Respondent is likewise found GUILTY of violation of Canons 1 and 12 as well as Rules 1.03, 10.03 and 12.04 of the Code of Professional Responsibility for which he is FINED in the amount of P10,000.

Let a copy of his resolution be attached to the personal records of respondent in the Office of Administrative Services, the Office of the Court Administrator and the Office of the Bar Confidant.

SO ORDERED.

Velasco, Jr., Nachura, Peralta and Mendoza, JJ., concur.

[1] In the same memorandum, the OCA required respondent to explain why cases submitted for decision were not included in the latest inventory of active cases of the court (July to December 2004) but were listed in its latest monthly report (March 2005) as submitted for decision. Moreover, an explanation was sought with respect to his failure to inform the OCA why some civil cases included in the latest inventory of active cases were not presented to the audit team when requested to do so. Corollary to this, he was asked to explain why Guidelines and Instructions No. 8 of Administrative Circular No 4-2004 (Revised Forms, Rules, Guidelines and Instructions in Accomplishing the Monthly Report of Cases.) should not apply to him. Rollo, pp. 3-4.

[2] The current cases were Criminal Case Nos. 2674, 3214, 4389, 4741, 9364, 9469 and 9360 and Civil Case Nos. 2395, 2638, 3075, 3138, 3335, 3337, 3702, 3881, 3888, 3893, 3985, 4414, 4774, SCA 2962, SCA 4848, SP 423, SP 1314, SP 1955, SP 2074, SP4027, SP 4062, SP 4303, SP 4333 and SP 5561. The inherited cases were Criminal Case Nos. 3389, 8037, 9690 and Civil Case Nos. 1265, 1108, SP 1329, 3315. The following were not yet submitted for decision or resolution but required respondent's action on various motions or manifestations:

Criminal Case Nos. 4358, 5803, 5804, 7007 and Civil Case Nos. 1713, 1984, 2056, 2215, 2283, 2948, 4028, 5006, SCA 3974, SP 3981, SCA 4045, SCA 4164. Rollo, pp. 1-2.

[3] The cases submitted for decision were Civil Case Nos. 3218, SCA 2962, SP 4492, SP 5004, SP 5205, SP 5207, SP 5795 and SP 5547. The cases submitted for resolution were Criminal Case Nos. 0425, 0453, 0876, 4383, 7410, 7602, 7652 and 7654 and Civil Case No. 1833. Id.

[4] Id., pp. 4-10. The OCA deemed Atty. Pantaran's compliance as sufficient and recommended that the case against him be considered closed and terminated.

[5] Id., pp. 1-19.

[6] Presiding Judge of the RTC of Molave, Zamboanga del Sur, Branch 23.

[7] Arcenas v. Judge Avelino, A.M. No. MTJ-06-1642, 15 June 2007, 524 SCRA 618, 622.

[8] Section 9, Re: Proposed Amendment to Rule 140 of the Rules of Court Re: Discipline of Justices and Judges, A.M. No. 01-8-10-SC.

[9] Sec. 11, id.

[10] Section 5, Canon 6, id.

[11] The New Code of Judicial Conduct for the Philippine Judiciary (A.M. No. 03-05-01-SC) provides:

"This Code, which shall hereafter be referred to as the New Code of Judicial Conduct for the Philippine Judiciary, supersedes the Canons of Judicial Ethics and the Code of Judicial Conduct heretofore applied in the Philippines to the extent that the provisions or concepts therein are embodied in this Code: Provided, however, that in case of deficiency or absence of specific provisions in this New Code, the Canons of Judicial Ethics and the Code of Judicial Conduct shall be applicable in a suppletory character."

[12] Code of Judicial Conduct (1989).

[13] Acuzar v Ocampo, A.M. No. MTJ-02-1396, 15 March 2004, 425 SCRA 464, 469. Section 15 (1)

and (2) of the Constitution provides:

"Section 15. (1) All cases or matters filed after the effectivity of this Constitution must be decided or resolved within twenty-four months from date of submission for the Supreme Court, and, unless reduced by the Supreme Court, twelve months for all lower collegiate courts, and three months for all lower courts.

"(2) A case or matter shall be deemed submitted for decision or resolution upon the filing of the last pleading, brief, memorandum required by the Rules of Court or by the court itself."

[14] Agpalo, Ruben E., LEGAL AND JUDICIAL ETHICS, 544 (7th ed., 2002) Rex Bookstore, Inc.

[15] A.M. No. MTJ-08-1695, 16 April 2008. 551 SCRA 373, 376-377.

[16] Re: Automatic Conversion of Some Administrative Cases Against Justices of the Court of Appeals

and the Sandiganbayan, Judges of Regular and Special Courts, and Court Officials Who Are Lawyers as Disciplinary Proceedings Against Them Both as Officials and as Members of the Philippine Bar. Dated September 17, 2002.

[17] De la Cruz (A Concerned Citizen of Legazpi City) v. Judge Carretas, A.M. No. RTJ-07-2043, 5 September 2007, 532 SCRA 218, 232.

[18] CANON 1 - A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND FOR LEGAL PROCESSES.

[19] CANON 12 - A LAWYER SHALL EXERT EVERY EFFORT AND CONSIDER IT HIS DUTY TO ASSIST IN THE SPEEDY AND EFFICIENT ADMINISTRATION OF JUSTICE.

[20] Rule 1.03 - A lawyer shall not, for any corrupt motive or interest, encourage any suit or proceeding or delay any man's cause.

[21] Rule 12.04 - A lawyer shall not unduly delay a case, impede the execution of a judgment or misuse court processes.

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