

ATTY. RAUL A. SANCHEZ, COMPLAINANT, VS. JUDGE AUGUSTINE A. VESTIL, REGIONAL TRIAL COURT OF MANDAUE CITY, BRANCH 56, RESPONDENT.

A.M. No. RTJ-98-1419. October 13, 1998

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Justice delayed is justice denied. This oft-repeated adage requires the expeditious resolution of disputes. Hence, judges are mandated to decide cases seasonably. Judges who cannot comply with such mandate should ask for additional time, explaining in their request the reasons for the delay.

The Case

In a complaint dated July 3, 1996, Atty Raul A. Sanchez charged Presiding Judge Augustine A. Vestil of the Regional Trial Court of Mandaue City, Branch 56, with (1) grave misconduct, (2) graft, (3) gross ignorance of the law and (4) falsification of his certificate of service in relation to Special Proceedings No. MAN 185 entitled "Intestate Estate Proceedings of the Deceased Jose D. Sanchez," allegedly committed as follows:

"1. GRAVE MISCONDUCT IN PERFORMANCE OF HIS OFFICIAL DUTIES AND VIOLATION OF JUDICIAL ETHICS.

"The respondent committed grave misconduct in the performance of his duties by showing partiality in granting Roquita A. Sanchez the authority to mortgage the property with an area of 8,742 Square Meters, despite the fact that in the compromise agreement entered into by the parties, it was specifically agreed to sell the said property within the earliest possible time and proceeds thereof will be equally divided by the parties less expenses and agent[']s commission.

"He violated Judicial Ethical Standard, by allowing his private car to be used by Roquita A. Sanchez a litigant in the case, in the transaction of sale of property.

2. GRAFT CHARGES.

"By receiving monetary considerations and accepting foods offered to him by Roquita A. Sanchez.

3. GROSS IGNORANCE OF LAW, RENDERING UNJUST INTERLOCUTORY ORDER D[E]PRIVING PARTY A DAY IN COURT.

"The respondent is guilty of gross ignorance of law by authorizing Roquita A. Sanchez, in behalf of her minor children, to mortgage property in the intestate/testate proceedings of Jose D. Sanchez when the same should be heard in Guardianship proceedings.

"The respondent is guilty of rendering unjust interlocutory order in granting Roquita A. Sanchez the authority to mortgage the property when the same should have been sold and depriving Teogenes P. Sanchez a day in court by failing to give notice of the motion and copy of order granting the same.

IV.FALSIFICATION OF CERTIFICATE OF SERVICE.

"The respondent had falsified his monthly certificate of service submitted to this Honorable Court by stating that he has no pending case submitted for decision or resolution that has gone beyond the NINETY (90) day period allowed by law. The truth of the matter being that there are several if not numerous not only civil but also criminal cases which the respondent ha[s] failed to resolve within the NINETY (90) days period. In fact some of them have been submitted for resolution more than a year ago yet until [the] present the presiding judge has not acted upon it.

"An example is the case of Ariston Perez vs. Marcelino Perez, et al., docketed as Civil Case No. MAN-796. The last pleading filed was on April 27, 1995 which is an opposition to plaintiff's motion for reconsideration. Until at present the same has not been acted upon. Photocopy of the pleading hereto attached and made an integral part of this complaint as Annex 'O'.

"Aside from the above-mentioned case, so far as known to this representation, the following are criminal cases submitted to the court for decision which has gone beyond the NINETY (90) day reglementary period:

P.P. vs. Gerry Ando - Crim Case No. DU-2259
P.P. vs. Maximo Mora - Crim. Case No. DU-3754
P.P. vs. Rudy Atis - Crim. Case No. DU-3085
P.P. vs. Arturo Macasero - Crim. Case No. DU3096
P.P. vs. Allan Ariza - Crim. Case No. D[U]-1907
P.P. vs. Jorgie Blanco, et al. - Crim. Case No. DU-876 & 877
P.P. vs. Simeon Cagang - Crim. Case No. DU-3629
P.P. vs. Jose Bontuyan - Crim. Case No. 2322 & 2333
P.P. vs. Primo Salundaga - Crim. Case No. DU-1056"[1]

On October 28, 1996, respondent filed his Comment, praying that the Complaint be dismissed and specifically denying the allegations therein, viz:

"I. Alleged Grave Misconduct.

"Complainants claim that respondent allegedly committed grave misconduct by showing partiality in granting Roquita Sanchez authority to mortgage the property with an area of 8,742 square meters, (located in Li-ong, Mandaue City).

"This charge is a malicious lie, a distortion of facts and is without basis in fact because:

'a. What was authorized to be mortgaged was ANOTHER lot, only One Thousand Four Hundred Thirty Nine (1,439) square meters located in Paknaan (NOT Li-ong) Mandaue City.

x x x x

'There is no evidence whatsoever that respondent allowed Roquita Sanchez to use his (Respondent's) private car. In fact, in his Supplemental Motion to Inhibit, Complainant stated that he was allegedly merely 'told' or was 'informed'.

"II. Alleged Graft Charges

"There is absolutely no proof whatsoever that respondent received monetary consideration nor accepted foods offered by Roquita Sanchez.

"In fact, in his Supplemental Motion to Inhibit, Complainant himself stated (under oath) that he was merely 'informed' (HEAR-SAY) about the alleged offering of food.

"With respect to the baseless and cruel charge of monetary consideration, this has been explained and

unmasked as maliciously false (please refer to our Annex '1').

"III. Alleged Gross Ignorance of Law, etc.

"This is a repetition of charges herein before already discussed. (Please see page 5 of this comment and the order of denying the motion to inhibit hereto attached as annex '2').

"IV. Falsification of Certificate of Service.

"This again is a distortion of facts. The truth is, and as hereinbefore already stated, almost seven hundred (700) cases most of which had been substantially heard by other judges were unloaded to Branch 56 from Branch[es] 55 and 28. Some of these cases were filed YEARS before respondent assumed office. As a consequence, some transcripts of records were no longer available. Worse, some stenographers could no longer be found. Which is precisely why in the Certificate of Service, there is always that portion which states 'except voluminous inherited cases which were substantially heard by another judge and require further study by the respondent or where stenographic notes have not been transcribed.'

"Clearly, therefore, the Certificate of Service does NOT contain any falsified statement. The cases enumerated in the Complaint were filed BEFORE respondent's assumption to duty. Despite this however, one, DU-3629 entitled People versus Simeon Cagang, has already been resolved while the rest are under study.

"In this connection, respondent would like to respectfully inform this Honorable Supreme Court that he has been exerting utmost efforts reducing his case load which at one time reaches more than one thousand one hundred (1,100) cases including the almost seven hundred (700) unloaded to him in 1993. Almost EVERY SATURDAY and during some holidays, respondent with two or three of this staff have been reporting for work at no additional compensation.

"But with schedules or trial reaching sometimes as many as eighteen (18) cases a day and averaging around eight (8), it simply is beyond human capability and endurance to cope with cases substantially heard by other judges, oftentimes WITHOUT transcripts of testimonial evidence.

"Nonetheless, Branch 56 is doing its best, which probably explains why from a high of more than one hundred thousand one hundred cases we now have barely seven hundred."[2]

In a Resolution dated July 30, 1997, this Court referred the Complaint to Justice Consuelo Y. Santiago of the Court of Appeals for investigation, report and recommendation. The Court also directed the Office of the Court Administrator to send a team to conduct a judicial audit of cases pending before the sale of respondent.

After the judicial audit was conducted, the Court, in its Resolution dated December 3, 1997,[3] adopted the following recommendations of the OCA and directed respondent (1) "to concentrate meanwhile in deciding with dispatch" those cases which have remained unresolved beyond the constitutionality prescribed ninety days and (2) to explain within ten days from notice the reason for the delay in the resolution of said cases. The Court further directed the Fiscal Management and Budget Office of the OCA to withhold the salary of respondent "until he has decided the said cases and has submitted copies of the decision" to the Office of the Court Administrator.

Report and Recommendations

In her Report dated July 27, 1998,[4] Justice Santiago stated:

"In the crux of the controversy is the Order of respondent Judge dated December 5, 1995 in Sp. Proc. No. 185-MAN, the full text of which reads as follows:

'Order

Forming part of the records of this case is an Ex Parte Motion for Authority to Mortgage Property filed by Roquita Sanchez

Considering the reasons set forth in the Motion and finding the same to be impressed with merit, the same is granted.

Accordingly, herein movant is hereby granted the authority for and in behalf of her minor children to mortgage/encumber the lot situated at Paknaan, Mandaue City under administration.

Notify counsel and parties.

SO ORDERED.

Given this 5th day of December 1995 at Mandaue City, Philippines.' (id., p. 29; Exh. H).'

"The aforequoted Order failed to indicate which property in Paknaan, Mandaue City, Roquita was authorized to mortgage. A circumspect scrutiny of the provisions of the Compromise Agreement entered into by Roquita and Teogenes on March 2, 1995 speaks of two (2) parcels of land situated in the same locality; a lot with an area of 1,439 square meters and another with a bigger area of 8,742 square meters. Both lots appear to have been denominated in Roquita's favor, except that the bigger parcel was to be disposed of immediately, with the proceeds thereof divided equally between Roquita and Teogenes. The complainant, moreover, charged that he had not been furnished with a copy of the December 5, 1995 Order which granted Roquita authority to mortgage the property (id., p. 10; Exh. P). Respondent Judge failed to controvert this charge.

"It needs [to] be stressed in this regard that the judge hearing or taking cognizance of an ex parte motion is duty bound to make known to all parties whatever action has been taken thereon. It is not enough that a judge issues orders or pens his decision[;] it is also important to promulgate and make them known to all concerned at the earliest possible time and within the mandated period (*Nidua v. Lazaro*, 174 SCRA 58 [1989], citing *Mangulabnan v. Judge Tecson*, 101 SCRA 810 [1980]; *Centrum Agri-Business Realty Corp. v. Katalbas-Moscardon*, 247 SCRA 145 [1995])

"Furthermore, after the motion for inhibition and the supplemental thereof were filed where it was alleged, among others, that complainant and Teogenes were not duly notified of what action he took on Roquita's ex parte motion, it was respondent Judge duty to ascertain whether or not a copy of the Order dated December 5, 1995 was indeed sent to complainant or Teogenes, the latter being the duly appointed administrator of the estate who, therefore, had every right to be notified of the said order.

"Judges should verify if notices of court hearings have been sent and received by the parties (*Fernandez v. Imbing*, 260 SCRA 536 [1996]). A judge is liable for culpable negligence if he did not ascertain the facts before reaching conclusions and issuing orders. It is, in fact, routinary in every hearing that the judge confirms in open court whether notices were duly served on all parties (*Tabao v. Butalid*, 262 SCRA 559 [1996]).

"Along the same vein, judges have been tasked with drawing up their decision and resolutions with due care and to make certain that they truly and accurately reflect their conclusions and final dispositions (*Saballa v. NLRC*, 260 SCRA 697 [1996]). As a judge, who is called upon to administer the law and apply it to the facts, respondent should be studious of the principles of law and diligent in endeavoring to ascertain the facts (*Del Callar v. Salvador*, 268 SCRA 320 [1997], citing Canon 4, Canons of Judicial Ethics and Rule 3.02, Code of Judicial Conduct) before granting motions[,] much more so ex parte ones as in this case.

"Certainly a judge sitting in a case is not a mere hearing officer and must look beyond the allegations of the parties (*Marciano v. Sebastian*, 231 SCRA 558 [1994]). Indeed, a person presiding over a court of law must not only apply the law but must also live and abide by it and render justice at all times without resorting to shortcuts which are unwarranted or uncalled for (*Ortiz v. Palaypon*, 234 SCRA 391 [1994]). Thus, Rule 3.02, Canon 3 of the Code of Judicial Ethics states in no uncertain terms that:

'In every case, a judge shall endeavor diligently to ascertain the facts and the applicable law unswayed by partisan interests, public opinion or fear of criticism.'

"The Code of Judicial Conduct provides that:

‘Canon I

Rule 1.01: A Judge should be the embodiment of competence, integrity and independence.

Canon II

Rule 2.00: A Judge should avoid impropriety and the appearance of impropriety in all activities.

Rule 2.01: A Judge should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary.

Rule 2.03: A Judge shall not allow family, social or other relationship to influence judicial conduct or judgment. [T]he prestige of judicial office shall not be used or lent to advance the private interest of others nor convey or permit others to convey the impressions that they are in a special positions to influence the judge.’

x x x x x x x x

"All told, the acts of respondent judge leave much to be desired and do not measure up to the exacting standards demanded by his office viewed in the peculiar factual context of this case much more so vis-a-viz the strong-handed manner in which he dealt with the move for this inhibition in his Order of May 23, 1996 wherein he denied the motion ‘with the warning to Raul Sanchez, as an officer of the Court, that the Court will not hesitate to use its contempt powers to uphold and defend its dignity’ (rollo, p. 41) instead of exercising that becoming degree of humble self-examination expected of a member of the bench whose impartiality and integrity ha[ve] been placed under serious inquiry, for a judge is bound never to consider lightly a motion for his inhibition that questions or puts to doubt, however, insignificant, his supposed predilection [in] a case (Albos v. Alaba, 231 SCRA 68 [1994]). And while a magistrate is given a wide latitude of discretion in the resolution of cases pending before him. He is not a depository of arbitrary power but a judge under the sanction of law who must never for a moment act like a petty tyrant or provide any opportunity to be perceived as such through the abuse or misuse of the compulsory processes of the law (Caamic v. Galapon, Jr., 237 SCRA 390 [1994]; Mangalindan v. Court of Appeals, 246 SCRA 105 [1995])

"Anent the charge that respondent judge falsified his certificate of service attesting that he has no pending cases submitted for decision or resolution beyond the 90-day period set down by law, it bears stressing that a judge should always be the embodiment of competence, integrity and independence and should administer justice impartially and without delay (Rule 1.01 and 1.02, Code of Judicial Ethics; Cantela v. Almoradie, 229 SCRA 712 [1994]). x x x

xxx xxx xxx

"xxx A judge who fails to decide cases within the reglementary 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 the speedy disposition of their cases (Re: Report on the judicial Audit and Physical Inventory of the Record of Cases in the RTC, Br. 43, Roxas, Mindoro Oriental, supra) and if he falsifies his certificate of service, he is not only administratively liable for serious misconduct under the Rules of Court but is also criminally liable under the Revised Penal Code (Re: Report on the Judicial Audit Conducted in the RTC, Branches 61, 134 and 147, Makati, Metro Manila, supra).

"The 'Report on Audit and Physical Inventory of the Records of Cases in the Regional Trial Court, Branch 56, Mandaue City' dated November 12, 1997 submitted by the Judicial Audit Team of the OCA pursuant to the resolution of the Supreme Court dated December 3, 1997 (Rollo, pp. 220-222) discloses, among others, that RTC, Branch 56, Mandaue City presided by respondent judge has a case load of more than [e]ight [h]undred (800) cases (Report, p. 19 with the status of the cases thereat broken down as follows:

'Case Status of Cases Proceedings

Criminal Cases Civil

Submitted for Decision within & beyond ninety (90) days

59

70

ON pre-TRIAL/trial/PENDING

206

236

Without Court Order for Compliance

8

26

With Warrants/Summons

40

18

Unacted upon for a considerable length of time

24

130

DEcided/Promulgated during the Month of Audit

6

3

Archived/Dismissed/Withdrawn and/or Consolidated with another Branch (Report p.1)'

17

14

"The said Report made an even more thorough and detailed inventory of the said Branch's case load including therein the case's dated of submission, to wit:

'1.) Cases Submitted For Decision Beyond 90-Day Period:

a.] Criminal Cases 54

b.] Civil Case 34

c.] Land Registration Cases 26

2.) Cases Submitted For Decision Within 90-day Period

a.] Criminal Cases 5

b.] Civil Cases 5

c.] Land Registration Cases 5

3.) Cases Unacted Upon

a.] Criminal Cases 24

b.] Civil Cases 130

(Report, pp. 2-19)'

which belie[s] any claim, much less any certification that respondent judge does not have cases submitted for decision that has gone beyond the ninety (90) day reglementary period. Furthermore, a circumspect scrutiny of the records of this administrative matter do[es] not show that respondent judge made any attempt to request for a reasonable extension of time to dispose of, if not at least cut down on his backlog of cases. Instead, he preferred to keep the actual status of his case load shrouded in silence and belatedly made such a request in his Manifestation and Motion of February 6, 1998 (Rollo, p. 212) upon receipt of the Supreme Court Resolution dated December 3, 1997 (id., pp. 213-214) lamely explaining in said manifestation:

'That because most if not all of the cases adverted to were however TURNED OVER or INHERITED cases from Branch[es] 28 and 55 of this Court most of which were already in the terminal stage with only one or two last witnesses testifying before the undersigned, stenographic transcript transcripts of the testimonies of previous witnesses were not available; xxx'

"Suffice it to state that such an excuse is hardly a defense against the act of submitting a false certificate of service indicating that the person submitting the same had no cases pending beyond the reglementary ninety (90) day period (Abad v. Belen, 240 SCRA 733 [1995]). Thus, it was held in the recent case of Office of the Court Administrator v. Panganiban (A.M. No. RTJ-96-1350, 18 August 1997, 277 SCRA 499) that

'[T]he act of a judge in stating in her certificates of service that she had no case submitted for decision within the 90 days preceding the submission of her certificate in the honest belief that the salary which she collected 'had been justly earned notwithstanding the fact that there are substantial cases remaining for decision' constitutes serious misconduct.'

and neither good faith nor a long unblemished and above-average service in the judiciary can fully justify the erring judge's lapses (Office of the Court Administrator v. Panganiban, supra).

"It also needs be pointed out in this regard that with or without the transcribed stenographic notes, the ninety (90) day period for deciding cases should be adhered to (Re: Report on the Judicial Audit and Inventory of the Record of Cases in the Regional Trial Court, Branch 43, Roxas, Mindoro Oriental, supra). The delay in the transcription of the stenographic notes by a stenographer reporter under the judge's supervision and control cannot be considered a valid reason for the delay in rendering judgment in a case. Precisely judges are directed to take down notes of salient portions of the hearings and proceed with the preparation of decisions without waiting for the transcribed stenographic notes (Re: Judge Danilo M. Tenerife, supra).

"While complainant did not adduce the questioned certificates of service which would support his charge that respondent judge indeed falsified the said documents, there is ample proof on record which would support the indictment. Be that as it may, even on the assumption that respondent judge did not falsify his certificate of service as alleged, this fact alone will not absolve him from liability because the factual landscape of this case is replete with evidence, in the very least, of gross inefficiency and neglect of duty. It must be borne in mind [in] this regard that a case has to be decided within ninety (90) days from its submission otherwise the judge would be guilty of gross inefficiency and neglect of duty (Ubarra v. Mapalad, 220 SCRA 224 [1993]. As stated earlier, the Supreme [C]ourt has consistently held that the failure of a judge to decide a case within the required period is not excusable and constitutes gross inefficiency and the non-observance of said rule is a ground for administrative sanction against the defaulting judge (Lambino v. De Vera, A.M. No. MTJ-94-1017, 7 July 1997, 275 SCRA 60, citing In Re Judge Madara, 104 SCRA 245 [1981]; Longboan v. Polig, 186 SCRA 557 [1990]; Sabado v. Cajigal, supra and Alfonso-Cortes v. Maglalang, supra).

"In previous cases, the Supreme [C]ourt considered the failure of a judge to decide even a single case within ninety (90) days gross inefficiency warranting the imposition of fines ranging from P5,000.00 (Castillo v. Cortes, 234 SCRA 398 [1994]; In Re Letter of Mr. Octavio Kalalo, supra); P10,000.00 (Adriano v. Sto. Domingo, 202 SCRA 446 [1991]; fine equal [to] one (1) month salary and reprimand (In Re: Judge Madara, supra); P20,000.00 for respondent judge's failure to decide three (3) criminal cases although the Supreme Court found four (4) mitigating circumstances (Baguio v. Torres, 211 SCRA 1 [1992])).

"In the case at bar, the magnitude of respondent judge's backlog redefines the meaning of gross inefficiency and neglect of duty and elevates the degree of his culpability to a much higher level than the aforecited cases."

Capping the foregoing, the investigating justice recommended that respondent be sanctioned thus:

"IN THE LIGHT OF THE FOREGOING, the undersigned recommends that respondent judge be fined in an amount equivalent to his salary for [o]ne (1) [y]ear with the stern warning that a repetition of similar acts of impropriety in the future will be dealt with more severely."[5]

The Court's Ruling

The Court concurs with Justice Santiago's conclusions and recommendation that respondent judge be sanctioned.

We reiterate that a "judge, as the person presiding over the court, is the visible representation of the law and justice,"[6] and that "[a] judge's official conduct should be free and untainted by the appearance of impropriety, and his or her personal behavior, not only upon the bench and in performance of judicial duties, but also in his or her everyday life, should be beyond reproach."[7] Evidently, the acts of herein respondent judge have not been consistent with the conduct expected of his stature and profession.

Gross Dereliction of Duty

Respondent judge is being charge with dereliction of duty for failing to resolve numerous civil and criminal cases within the period prescribed by law. He is also being called to account for falsely stating in his certificate of service that there were no cases submitted for decision or resolution beyond the reglementary period pending before his sala.

The Report on Audit and Physical Inventory of the Records of Cases in the Regional Trial Court, Branch 56, Mandaue City, submitted by the judicial audit team of the OCA, disclosed a thorough and detailed inventory of respondent's case load, as follows:

"1.) Cases Submitted For Decision Beyond 90-Day Period:

- a.] Criminal Cases 54
 - b.] Civil Cases 34
 - c.] Land Registration Cases 26
- [Total 114]

2.) Cases Submitted For Decision Within 90-Day Period:

- a.] Criminal Cases 5
- b.] Civil Cases 5
- c.] Land Registration Cases 5

3.) Cases Unacted Upon

- a.] Criminal Cases 24
- b.] Civil Cases 130"

Clearly, the foregoing shows that there are 114 cases before the sala of respondent judge which have not been resolved within the reglementary period.

In his defense, respondent judge states that almost seven hundred cases, most of which had been substantially heard by other judges, were unloaded to his branch. Consequently, some transcript, as well as the stenographers who had transcribed them, were no longer around. He adds that his certificate of service contained the following disclaimer: "except voluminous inherited cases which were substantially heard by another judge and require further study by the respondent or where stenographic notes have not been transcribed." For the same reason, he maintains that his certificate of service does not contain any falsified statement.

Furthermore, he informs the Court that despite the heavy workload, he has significantly reduced the number of cases in his sala to 700, which at one time was more than one thousand one hundred, by working almost every Saturday and on Holidays without additional compensation.

The arguments of respondent judge are not persuasive. While he claims that he did not falsify his certificate of service, the fact remains that he failed to decide 114 cases within the reglementary period and to report such fact faithfully. The rule is that the ninety-day period for deciding cases should be observed by all judges, unless they have been granted additional time.^[8] Failure of a judge to resolve a case within the prescribed period constitutes gross dereliction of duty. For this, respondent judge must be sanctioned.

We reiterate that judges, when burdened by heavy caseloads which prevent them from disposing their cases within the reglementary period, may ask for additional time. While the certificate of service of respondent judge contained a statement that there were cases before his sala that were still undecided beyond the reglementary period, he made no attempt to request an extension of time.

"This Court has constantly impressed upon judges the need to decide cases promptly and expeditiously, for it cannot be gainsaid that justice delayed is justice denied. Delay in the disposition of cases undermines the people's faith and confidence in the judiciary. Hence, judges are enjoined to decide cases with dispatch. Their failure to do so. Constitutes gross inefficiency and warrants the imposition of administrative sanction on them."^[9]

Furthermore, in *Office of the Court Administrator v. Judge Delia Panganiban*,^[10] we held:

"Neither good faith nor long, unblemished and above average service in the judiciary can fully justify respondent judge's lapses. The Court cannot countenance undue delay in the disposition of cases which is one of the causes of the loss of faith and confidence of our people in the judiciary and brings it into disrepute."

Grave Misconduct

Complainant alleges that respondent judge committed grave misconduct when he issued the order allowing Roquita Sanchez to mortgage "the lot situated in Paknaan." The records show that the ex parte "motion for authority to mortgage property" filed by Roquita Sanchez referred to either one of the properties in Paknaan that had been adjudicated to her in the project of partition. The judge, however, failed to specify which of these properties was covered by his Order. It should be noted that, in the project of partition, both properties had been designated to be in Paknaan.

It is true that the property subsequently mortgaged turned out to be situated in Liong-an, as evidenced by a certification issued by the Office of the City Assessor. But this does not change the fact that, based on the project of partition, the authority to mortgage included both properties. Thus, it is futile for respondent to asseverate that his Order pertained to the smaller property, which is not the subject of the compromise, since it is obvious that his Order was inaccurate and ambiguous. Having approved the compromise agreement himself, he should have been more careful in couching his subject Order such that it would have been ascertainable which property he was

referring to, considering that a mistake could prejudice the interest of the other parties. It is irrelevant that no prejudice actually resulted from the mortgage, the property having been eventually redeemed; what is significant is the misconduct attributable to the judge, which led to the filing of the instant administrative case.

In the performance of his duties, respondent judge obviously failed to observe due care, diligence, prudence and circumspection, which the law requires in the rendition of any public service.[11] "We reiterate the rule that although a judge may not always be subjected to disciplinary action for every erroneous order or decision he renders, that relative immunity is not license to be negligent or abusive and arbitrary in performing his adjudicatory prerogatives. If judges wantonly misuse the powers vested in them by the law, there will be not only confusion in the administration of justice but even also oppressive disregard of the basic requirements of due process." [12] This misuse of powers, coupled with the allegations that respondent had accepted favors from one of the parties (Roquita Sanchez), who benefited from his ambiguous order, led to the additional charge of graft against him.

In issuing the questioning Order, respondent judge also failed to furnish the other party, Teogenes Sanchez, a copy thereof. "It is not enough that judges write their decisions; it is also important to promulgate and make it known to all concerned. Otherwise, what good would a favorable decision be if the interested parties were kept in the dark about it? It would only be a tool for maneuvers on the part of the losing party or valuable commodity for sale by unscrupulous persons." [13]

The Penalty

In the Report on the Judicial Audit Conducted in RTC-Branches 29 and 59, Toledo City,[14] the Court observed the factors considered in the determination of the proper penalty for gross dereliction of duty:

"We have always considered the failure of a judge to decide a case within ninety (90) days as gross inefficiency and imposed either fine or suspension from service without pay for such. The fines imposed vary in each case, depending chiefly on the number of cases not decided within the reglementary period and other factors, to wit: the presence of aggravating or mitigating circumstances -- the damage suffered by the parties as a result of the delay, the health and age of the judge, etc. Thus, in one case,[15] we set the fine at ten thousand pesos (P10,000.00) for failure of a judge to decide 82 cases within the reglementary period, taking into consideration the mitigating circumstance that it was the judge's first offense. In another case,[16] the fine imposed was sixty thousand pesos (P60,000.00), for the judge had not decided about 25 or 27 cases. Still in other cases, the fines were variably set at fifteen thousand pesos (P15,000.00), for nineteen (19) cases left undecided, taking into consideration that it was the judge's first offense; [17] twenty thousand pesos (P20,000.00), for three (3) undecided criminal cases; [18] eight thousand pesos (P8,000.00), for not deciding a criminal case for three (3) years; [19] forty thousand pesos (P40,000.00), for not deciding 278 cases within the prescribed period, taking note of the judge's failing health and age; [20] and ten thousand pesos (P10,000.00), for belatedly rendering a judgment of acquittal in a murder case, after one and one-half years from the date the case was submitted for decision. [21] In another case, [22] suspension without pay for a period of six (6) months was imposed since, besides the judge's failure to timely decide an election protest for eight (8) months, the judge submitted false certificates of service and was found guilty of habitual absenteeism."

In the present case, respondent judge is guilty not only of gross dereliction of duty for his failure to resolve 114 cases within the reglementary period and to report such fact faithfully. He is also culpable for grave misconduct for issuing the aforesaid Order. Worse, the present case is not his first offense; in *PDCP Development Bank v. Vestil*, [23] he was fined P5,000 for interfering with proceedings of another court of coequal jurisdiction.

WHEREFORE Respondent Judge Augustine Vestil is **SUSPENDED** from office for one year without pay and **FINED** P50,000 for gross dereliction of duty and grave misconduct. This Decision is immediately executory, and respondent is hereby **ORDERED** to vacate his office and henceforth cease and desist from performing any

function or act in connection with such office, upon receipt hereof.

The Office of the Court Administrator is DIRECTED to evaluate the above-mentioned 114 cases which have remained undecided beyond the reglementary period, and to submit to this Court, within thirty days from notice, appropriate recommendations on the expeditious disposition thereof.

SO ORDERED.

Narvasa, CJ., Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Martinez, Quisumbing, Purisima, and Pardo, JJ., concur.

[1] Complaint, pp. 9-12; rollo, pp. 9-12.

[2] Respondent's Comment, pp. 11-14; rollo, pp. 157-160.

[3] Rollo, pp. 113-115.

[4] At pp. 10-21.

[5] Report and Recommendation, p. 21.

[6] Renato Ruperto v. Judge Tirso V. Banquerico, AM No. MTJ-98-1154, August 6, 1998, per Regalado, J.

[7] Panaganiban v. Guerrero, Jr., 242 SCRA 11 March 11, 1995, per Regalado, J.

[8] Balagot v. Opinion, 195 SCRA 429, March 20, 1991; Report on the Judicial Audit Conducted in the RTC, Branch 16 of Laoag City, Presided by Judge Luis B. Bello, Jr., 247 SCRA 519, August 23, 1995.

[9] Office of the Court Administrator v. Judge Walerico Butalid, AM No. RTJ-96-1337, August 5, 1998, per curiam. See also Atty. Nelson Ng v. Judge Leticia Ulibari, AM No. MTJ-98-881, August 3, 1998. Jocelyn Grefaldeo v. Judge Rica Lacson, AM No. MTJ-93-881, August 3, 1998.

[10] AM No. RTJ-96-1350, August 18, 1997, per Mendoza, J.

[11] Fernandez v. Imbing, 260 SCRA 586, August 21, 1996.

[12] Avelino and Asteria Daiz v. Judge Asadon, AM No. MTJ-98-1152, June 2, 1998, per Puno, J.

[13] Centrum Agri-Business Realty Corporation v. Katalbas-Moscardon, 247 SCRA 145, August 11, 1995, per curiam.

[14] AM No. 97-9-278-RTC, July 8, 1998 per Puno, J.

[15] Re: Judge Danilo M. Tenerife, AM No. 95-5-42-MTC, March 20, 1996, 225 SCRA 184.

[16] Re: Report of the Judicial Audit Conducted in the Regional Trial Court Branches, 61, 134 and 147, Makati, Metro, Manila, AM No. 93-2-1001-RTC, September 5, 1995, 248 SCRA 5

[17] Report on the Judicial Audit and Physical Inventory of the Records of Cases in MTCC-Br. 2, Batangas City, AM No. 94-10-96-MTCC, 248 SCRA 36, September 5, 1995.

[18] Baguio v. Torres, AM No. MTJ-90-490, 211 SCRA 1, July 3, 1992.

[19] Navarro v. Judge Del Rosario, AM No. MTJ-96-1091, 270 SCRA 264, March 21, 1997.

[20] Report on the Judicial Audit and Physical Inventory of the Cases in RTC-Br. 138, Makati City, AM No.

RTJ-94-4-156, 254 SCRA 644, March 13, 1996.

[21] Lopez v. Alon, AM No. 95-95-RTJ, 254 SCRA 166, February 28, 1996.

[22] Bolalin v. Judge Occiano, AM No. MTJ-96-1104, January 14, 1997, 266 SCRA 203.

[23] 264 SCRA 467, November 21, 1996.

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