

**MARISSA R. MONDALA, LEGAL RESEARCHER, REGIONAL TRIAL COURT, BRANCH 136, MAKATI CITY, COMPLAINANT, VS. JUDGE REBECCA R. MARIANO, REGIONAL TRIAL COURT, BRANCH 136, MAKATI CITY, RE...**

*A.M. NO. RTJ-06-2010. January 25, 2007*

Ponente: YNARES-SANTIAGO, J.

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**YNARES-SANTIAGO, J.:**

This is an administrative matter concerning the letter-complaint of Marissa R. Mondala, Legal Researcher of the Regional Trial Court of Makati City, Branch 136, against Presiding Judge Rebecca R. Mariano of the same court.[1]

In her letter, Mondala charged respondent judge with misrepresenting in her “Report of Pending Cases for January 2005” that she had already decided Civil Case No. 00-564 entitled “Amanet Inc. v. Eastern Telecommunications Philippines, Inc.” when in fact the case was still with Mondala for research and drafting of the decision.

In her Comment, Judge Mariano denied Mondala’s allegations and insisted that at the time she prepared the monthly report, a decision had actually been prepared in the Amanet case and it was mere “oversight” on her part, not misrepresentation, when she reported the status of the subject case as decided. Notwithstanding this, Judge Mariano subsequently prepared and signed “another decision” on the same case.[2]

To support her allegations, Judge Mariano attached a certification dated October 25, 2005 issued by Atty. Teodorico L. Diaz, present Branch 136 Clerk of Court, as well as the affidavits executed by Prosecutor Teodoro Rey S. Riel, Jr., former Branch 136 Clerk of Court; Elvira L. Tablate, Clerk-in-Charge of Civil Cases; and Ma. Theresa M. Belando, a Clerk detailed to Branch 136.[3]

In his affidavit, Atty. Riel claimed that he was the Clerk of Court of Branch 136 from April 1999 up to January 2005; that the Amanet case was among those reported as decided for the month of January 2005; that when the January 2005 report was being prepared, he was informed by the Clerk-in-Charge for Civil Cases that a decision had already been prepared and was due for printing in final form; that Judge Mariano instructed him “to include the said case in the list of cases decided for the month and to submit a copy of the decision later on since it was still to be printed in final form.”

Tablate, Clerk-in-Charge for Civil Cases, stated in her affidavit that when the January 2005 report was being prepared, the decision in the Amanet case had already been drafted and was due for printing in final form; that upon the instruction of Judge Mariano, Amanet was included in the list of cases decided for the month without attaching a copy thereof and with the intention of submitting the same at the soonest time; that after submission of the said report and when the draft decision was being printed in final form, the computer bogged down and the draft decision could no longer be retrieved.[4]

Belando alleged that she is the permanent employee of the local government of Makati City detailed to Branch 136; and that she re-typed the final draft of the Amanet case in the early part of 2005 upon Mondala's instructions.[5]

Atty. Diaz claimed that the Amanet case was one of the cases turned over to him by Mondala on August 13, 2005; that the Amanet case had been with Mondala for research since February 2005 while the latter served as Officer-in-Charge of Branch 136; that the case remained pending up to the time Mondala turned over the same to him on August 13, 2005.[6]

Judge Mariano averred that Mondala should have called her attention regarding the status of the subject case to enable her to address the situation; that Mondala's failure to inform her of the status of the case showed her inefficiency and unworthiness as a public servant.

Judge Mariano insisted that the "quarrel" between her and Mondala which transpired on August 22, 2005 prompted the latter to write the letter-complaint; that Mondala is a perennial latecomer, a habitual absentee, and negligent in the performance of her duties; that Mondala's disrespectful attitude and unprofessional conduct during the August 22, 2005 encounter prompted her to ask for Mondala's detail to the Office of the Clerk of Court of the Makati RTC.

The Office of the Court Administrator (OCA), through Deputy Court Administrator Zenaida N. Elepaño and Assistant Court Administrator Antonio H. Dujua, made the following recommendations, the dispositive portion of which states:

- That the instant case be converted into a regular administrative matter and that Judge Rebecca R. Mariano be found liable for misrepresenting that she decided Civil Case No. 00-564 entitled "Amanet Inc. vs. Eastern Telecommunications Philippines, Inc." sometime in January 2005 when such case had yet to be printed, signed by her, and filed with the Clerk of Court as of March 7, 2005, such misrepresentation partaking the nature of dishonesty, and be fined in the amount of P20,000.00;
- That Judge Mariano be directed to explain in writing within ten (10) days from notice why she should not be disciplined for her failure to decide the following cases within the 90-day reglementary period without any request for extension of time being filed by her, to wit:

Case No. Title Date Submitted For Decision Date Due Status as of Dec. 2004

#### CIVIL CASES

1. 96-1626 Philam Insurance Co. v. Marathon, Inc. June 29, 2004 Sept. 29, 2004 Pending Resolution
2. 91-980 Estate of Zulueta v. Augusto Camara June 30, 2004 Sept. 30, 2004
3. 02-546 BPI v. Milwaukee Builders, Inc. June 30, 2004 Sept. 30, 2004 - do -
4. 93-4083 Phil. Charter Ins. v. Swissair June 28, 2004 Sept. 28, 2004 - do -
5. 98-460 Export Industry v. Sps. Sy June 28, 2004 Sept. 28, 2004 - do -
6. 01-754 Philam v. Geologic June 25, 2004 Sept. 25, 2004 - do -
7. 00-564 Amanet v. Eastern June 18, 2004 Sept. 18, 2004 - do -
8. 01-810 Jasper Ong v. HBI Securities August 27, 2004 Nov. 27, 2004 - do -
9. M-5893 In Re: Guardianship of Minors Manguale Sept. 20, 2004 Dec. 20, 2004 - do -

#### CRIMINAL CASES

1. 01-2653 PP v. Simon Shamie, et al. June 25, 2004 Sept. 25, 2004 - do -
2. 01-2299 PP v. Lemuel Patungalan June 25, 2004 Sept. 25, 2004 - do -
3. 02-2787 PP v. Reynaldo Almerie June 23, 2004 Sept. 23, 2004 - do -
4. 03-049 PP v. Wilma Cabe June 18, 2004 Sept. 18, 2004 - do -
5. 02-1505 PP v. Alfredo Japon June 7, 2004 Sept. 7, 2004 - do -

and

- That the Office of the Court Administrator be authorized to constitute a team to conduct a judicial audit of Branch 136-RTC, Makati City, to enable the said Office to determine the true state of this court's docket.[7]

The issues in the instant case are: whether Judge Mariano is liable for misrepresentation when she included in the January 2005 monthly report the case of "Amanet Inc. v. Eastern Telecommunications Philippines, Inc." as among the decided cases; and whether respondent judge made inaccurate entries in the monthly reports and failed to decide the other cases within the 90-day reglementary period.

We agree with the findings of the OCA that Judge Mariano is liable for misrepresenting that she had decided the case of "Amanet Inc. v. Eastern Telecommunications Philippines, Inc." before it was drafted, printed and signed by her.

Granting arguendo, that Mondala was motivated by a desire for revenge and harassment due to her quarrel with Judge Mariano on August 22, 2005, this does not deny the fact that Judge Mariano included an undecided case in the list of decided cases in the January 2005 monthly report.

There is no merit in Judge Mariano's claim that the Amanet case was included in the list of decided cases because at the time of the preparation of the report, a decision had already been prepared and was due for printing in final form.

A decision in a civil case is rendered only upon the signing by the judge who penned the same and upon filing with the clerk of court. 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 the law on which it is based, signed by him, and filed with the clerk of court.[8] What constitutes rendition of judgment is not the mere pronouncement of the judgment in open court but the filing of the decision signed by the judge with the Clerk of Court.[9]

It is elementary that a draft of a decision does not operate as judgment on a case until the same is duly signed and delivered to the clerk for filing and promulgation.[10] Hence, rendition of judgment is not effected and completed until after the decision and judgment signed by the trial judge.

In *Echaus v. Court of Appeals*,[11] we held:

Time honored and of constant observance is the principle that no judgment, or order whether final or interlocutory, has juridical existence until and unless it is set down in writing, signed, and promulgated, i.e., delivered by the Judge to the Clerk of Court for filing, release to the parties and implementation, and that indeed, even after promulgation, it does not bind the parties until and unless notice thereof is duly served on them by any of the modes prescribed by law. x x x[12] (Emphasis supplied)

The fact that Judge Mariano had not yet decided the Amanet case in January 2005, is likewise pointed out in the affidavit of Tablate, Clerk-in-Charge for Civil Cases. The records, on the other hand, show that Judge Mariano submitted the January 2005 monthly report only on March 7, 2005,[13] which means that it was only then when

RTC-Branch 136 initiated the printing of the decision in the Amanet case.[14]

As correctly pointed out by the OCA, what the monthly report requires is a list of cases decided during the month covered and not a list of cases with prepared drafts. Moreover, the list of decided cases should pertain to those decided during the month for which the report is being submitted, the basis of which is the seventh paragraph of Administrative Circular No. 4-2004.[15]

Thus, Judge Mariano misrepresented herself regarding the date of the promulgation of the decision in the Amanet case. While the January 2005 monthly report of Branch 136 was submitted on March 7, 2005, the subject decision in the Amanet case had not yet been printed. Amanet had obviously not yet been decided in January 2005.

Judge Mariano is likewise guilty of other administrative transgressions.

The January 2005 monthly report of Branch 136 reveals that there were cases submitted for decision but remained undecided beyond the 90-day reglementary period without any request for extension of time within which to decide the same being submitted.[16]

The records show that Judge Mariano failed to request an extension of time to decide Civil Case Nos. 01-754 and M-5893 and Criminal Case Nos. 01-2653, 01-2299, 02-2787, 03-049 and 02-1505. Her request for extension of time to decide was only with respect to Civil Case Nos. 00-465, 00-594, 99-936, 96-1626, 91-980, 02-546, 93-4083, 00-1022, 01-810 and 98-960, which this Court granted by giving her additional 30 days from September 30, 2004 within which to decide these cases.[17]

Despite the extended period, Judge Mariano still failed to decide Civil Case Nos. 96-1626, 91-980 and 93-4083. The December 2005 Monthly Report submitted by Judge Mariano shows that these cases remained undecided for more than a year from the extended period.[18]

A number of other cases were decided more than a year from the time these were submitted for decision without any request for extension, as shown in the monthly reports for September, October and November 2005.[19] In the monthly report for July 2005, Civil Case No. M-5893 and Criminal Case No. 02-2787 did not have a status report and were not in the list of decided cases for the same month.[20]

No less than the Constitution mandates that all cases or matters must be decided or resolved within 24 months from date of submission for the Supreme Court, and, unless reduced by the Supreme Court, 12 months for all lower collegiate courts, and three months for all other lower courts.[21]

In implementing this constitutional mandate, Sec. 5, Canon 6 of the New Code of Judicial Conduct[22] exhorts in the section on “Competence and Diligence” that judges shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness.

Judges should therefore be prompt in the performance of their judicial duties for delay in the administration of justice is a common complaint. They are enjoined to strictly comply with the reglementary period of 90 days in disposing of a case submitted for decision.[23]

In Request of Judge Roberto S. Javellana for Extension of Time to Decide,[24] we held that decision-making, among others, is the primordial and most important duty of every member of the bench. Judges have a sworn duty to administer justice without undue delay, for justice delayed is justice denied. No less than the Constitution requires that a trial court judge shall resolve or decide cases within 3 months after they have been submitted for decision. In addition, the Code of Judicial Conduct exhorts Judges to dispose of the court’s business promptly and decide cases within the required period. A judge should not pay mere lip service to the 90-day reglementary period for deciding a case.[25]

A judge's failure to observe time prescription for the rendition of judgments in derogation of an otherwise speedy administration of justice constitutes a ground for administrative sanction. The Court is not unaware of, and certainly not without sympathy for, the heavy caseload of most judges. Thus, as it has so often stated on a number of occasions, all that a judge has to do is to request additional time to decide cases, and such requests, if meritorious, are almost invariably granted by the Court.[26]

It is desirable that a judge should at all times manifest fidelity to the trust reposed in him. An adequate grasp of the codal and statutory provisions, not to mention the Constitution, as well as legal doctrines, is necessary. That he should be impartial is likewise a truism. Of equal importance, however, is the promptness with which cases in his sala are disposed of. The people's faith in the administration of justice, especially those who belong to the low income group, would be greatly impaired if decisions are long in coming, more so from trial courts, which unlike collegiate tribunals where there is a need for extended deliberation, could be expected to act with dispatch. Unfortunately, it cannot be denied that delay still attends the performance of the judicial task. It could amount to serious inefficiency, arising either from lack of skill in the handling of authoritative legal materials or lack of a proper system in the handling of court business. For that matter, negligence, if reckless in character, could amount to serious inefficiency.[27]

Respondent judge in *Yu v. Serrano*[28] signed and submitted to this Court conflicting monthly reports of pending cases. When the attention of respondent Judge Serrano was called to the inconsistencies in his reports, he contended that he signed the same without reviewing them as he relied solely on the reports of pending cases prepared by his clerk of court. This fact, as well as the loss of the original copy of the decision in Criminal Case No. 3994 and the records thereof, show at the very least respondent Judge Serrano's gross neglect or inefficiency in the performance of his duties as municipal judge. As stated by the Court in the analogous case of *Tadiar v. Cases*,[29] "respondent could not use the clerk of court as the scapegoat for his remissness and slothfulness."

*Office of the Court Administrator v. Panganiban*[30] is likewise instructive:

Respondent's failure to decide cases constitutes a violation of Canon 3, Rule 3.05 of the Code of Judicial Conduct which requires judges to dispose of their court's business promptly and decide cases within the period specified in the Constitution, i.e., three (3) months or ninety (90) days from the filing of the last pleading, brief, or memorandum. This Canon is intended to implement the Constitution which makes it the duty of trial courts to decide cases within three months, even as it gives parties to a suit the right to the speedy disposition of their cases.

Respondent judge knew of the cases pending resolution. In fact, she had been reporting them to this Court in her monthly reports. Nonetheless, she stated 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 on the basis of such certificates "had been justly earned notwithstanding the fact that there are submitted cases remaining for decision." This of course constitutes misconduct under Rule 140, § 1 of the Rules of Court. As an officer of the court, she should conduct herself strictly in accordance with the highest standards of ethics.

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. Nor can the Court turn a blind eye to what might constitute gross misconduct because of the submission of false certificates of service.[31]

Under Supreme Court Administrative Circular No. 4-2004, the penalty for judges and clerks of court who are responsible for inaccurate entries in their monthly reports is to have their salaries withheld.[32] However, the

circumstances in the instant case warrant a penalty under the Rules of Court as the entries are not simply inaccurate or the result of mere oversight, but rather the product of a deliberate misrepresentation of the status of Amanet and other undecided cases. Respondent judge ought to be held administratively accountable for gross misconduct in intentionally concealing the truth, i.e., in misleading the Court regarding the date when she decided the Amanet case and for making inaccurate entries in her monthly reports, a breach of the trust and confidence reposed by this Court upon members of the Judiciary.

Under Sec. 1, Canon 2 of the New Code of Judicial Conduct, judges ought to ensure that not only is their conduct above reproach, but that it is perceived to be so in the view of a reasonable observer. Integrity is essential not only to the proper discharge of the judicial office but also to the personal demeanor of judges.[33]

In the instant case, respondent was guilty of intentional misrepresentation of her records resulting in a breach of trust and confidence, amounting to the serious charge of gross misconduct due to violations of the Canons of the Code of Judicial Conduct and provisions of Supreme Court Administrative Circular No. 4-2004; as well as of making untruthful statements in the monthly reports, as provided in Sec. 8, Rule 140 of the Rules of Court.[34] Taking into consideration the mitigating circumstances that this is her first infraction and that the records do not show any administrative case filed against her concerning the same or similar charges, the proper penalty for her acts of deliberate misrepresentation constituting gross misconduct is a fine of P40,000.00, with a stern warning that a commission of the same or a similar offense will be dealt with more severely in the future, in accordance with Sec. 11, Rule 140 of the Rules of Court.[35]

WHEREFORE, respondent Judge Rebecca R. Mariano of the Regional Trial Court of Makati City, Branch 136, is found guilty of the serious charge of gross misconduct due to violations of the Canons of the Code of Judicial Conduct and provisions of Supreme Court Administrative Circular No. 4-2004, as well as of making untruthful statements in the monthly reports; and ordered to pay a FINE in the amount of P40,000.00 directly to this Court, with a stern warning that a commission of the same or a similar offense will be dealt with more severely.

Let a copy of this resolution be attached to respondent Judge's personal record.

**SO ORDERED.**

CONSUELO YNARES-SANTIAGO

Associate Justice

**WE CONCUR:**

Puno C.J., Quisumbing, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, Chico-Nazario, Tinga, Garcia, and Velasco, Jr., JJ., concur.

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[1] Memorandum for Chief Justice Artemio V. Panganiban from Hon. Zenaida N. Elepaño, Deputy Court Administrator and Officer-in-Charge, Office of the Court Administrator, and Assistant Court Administrator Antonio H. Dujua, April 18, 2006.

[2] Id.

[3] Id.

[4] Id.

[5] Id.

[6] Id.

[7] Id.

[8] RULES OF COURT, Rule 36, Sec. 1.

[9] Sta. Maria v. Ubay, Adm. Matter No. 595-CFI, December 11, 1978, 87 SCRA 179, 186. See also Herrera, Oscar M., Remedial Law Vol. VII: Comments on the 1997 Rules of Civil Procedure As Amended (1997 ed.), p. 293.

[10] Lianga Bay Logging Co., Inc. v. Enage, G.R. No. L-30637, July 16, 1987, 152 SCRA 80, 91-92.

[11] G.R. No. 57343, July 23, 1990, 187 SCRA 672.

[12] Id. at 674.

[13] Supra note 1.

[14] Id.

[15] Id. Administrative Circular No. 4-2004 provides for the Revised Form, Rules, Guidelines and Instructions in Accomplishing the Monthly Report of Cases. Paragraph 7 states:

“7. The following shall be attached to the Form which shall not be submitted separately or in batches, to wit:

- List of cases that have been newly filed or newly raffled;
- List of cases that have been revived/reinstated or those received from other salas;
- List of cases that have already been decided or resolved, archived or transferred to other salas;
- x x x.” (Italics supplied).

[16] Id. See also Rollo, Annexes “B” and “B-2”. The January 2005 monthly report shows that Philam Insurance Co. v. Marathon, Inc., Civil Case No. 96-1626; Estate of Zulueta v. Augusto Camara, Civil Case No. 91-980; BPI v. Milwaukee Builders, Inc., Civil Case No. 02-546; Phil. Charter Ins. v. Swissair, Civil Case No. 93-4083; Export Industry v. Sps. Sy, Civil Case No. 98-460; Philam v. Geologicistic, Civil Case No. 01-754; Jasper Ong v. HBI Securities, Civil Case No. 01-810; In Re: Guardianship of Minors Manguale, Civil Case No. M-5893; People v. Simon Shamie, et al., Criminal Case No. 01-2653; People v. Lemuel Patuggalan, Criminal Case No. 01-2299; People v. Reynaldo Almerie, Criminal Case No. 02-2787; People v. Wilma Cabe, Criminal Case No. 03-049; and People v. Alfredo Japon, Criminal Case No. 02-1505 were the cases which remained undecided even beyond the 90-day reglementary period without any request for extension of time.

[17] Id. See also id. at Annexes “C” and “C-2”.

[18] Id. See also Id. at Annexes “D” and “D-1”. Philam Insurance Co. v. Marathon, Inc., Civil Case No. 96-1626; Estate of Zulueta v. Augusto Camara, Civil Case No. 91-980; and Phil. Charter Ins. v. Swissair, Civil Case No. 93-4083 were the three cases that were left undecided within the extended period.

[19] Id. See also Annexes “E”, “E-1”, “F”, “F-2”, “G” and “G-1”. Philam v. Geologicistic, Civil Case No. 01-754; People v. Simon Shamie, et al., Criminal Case No. 01-2653; People v. Lemuel Patuggalan, Criminal Case No. 01-2299; People v. Wilma Cabe, Criminal Case No. 03-049; and People v. Alfredo Japon, Criminal Case No. 02-1505 were the cases decided more than a year from the time these were submitted for decision without any request for extension having been filed.

[20] Id. See also Id. at Annexes “H” and “H-1”. In Re: Guardianship of Minors Manguale, Civil Case No. M-5893 and People v. Reynaldo Almerie, Criminal Case No. 02-2787 were not in the list of decided cases for the month of July 2005.

[21] CONSTITUTION, Art. VIII, Sec. 15.

[22] A.M. No. 03-05-01-SC.

[23] Escabillas v. Martinez, Adm. Matter No. 127-MJ, August 31, 1977, 78 SCRA 367.

[24] A.M. No. 01-6-314-RTC, June 19, 2003, 404 SCRA 373.

[25] Id. at 376-377.

[26] De Joya v. Diaz, A.M. No. MTJ-02-1450, September 23, 2003, 411 SCRA 408, 410-411.

[27] Vda. de Lapeña v. Collado, Adm. Matter No. 480-MJ, March 22, 1977, 76 SCRA 82, 85-86.

[28] 198 Phil. 831 (1982).

[29] Adm. Matter No. 89-MJ and Adm. Case No. 1192, October 21, 1974, 60 SCRA 215 (1974).

[30] 343 Phil. 276 (1997).

[31] Id. at 281-282.

[32] Admin. Circular No. 4-2004, par. no. 8.

[33] Id. at Canon 2.

[34] Sec. 8. Serious charges. – Serious charges include:

- Bribery, direct or indirect;
- Dishonesty and violations of the Anti-Graft and Corrupt Practices Law (R.A. No. 3019);
- Gross misconduct constituting violations of the Code of Judicial Conduct;

x x x x

[35] Sec. 11. Sanctions. – A. If the respondent is found culpable of a serious charge, any of the following sanctions may be imposed:

- Dismissal from the service, with forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office including a government-owned or controlled corporation. Provided, however, that the forfeiture of benefits shall in no case include accrued leave credits;
- Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or
- A fine of more than P20,000.00 but not more than P40,000.00.

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