

## EN BANC

**[ A.M. No. MTJ-17-1894 [Formerly OCA I.P.I. No. 11-2355-MTJ], April 04, 2017 ]**

**ROGER RAPSING, COMPLAINANT, VS. JUDGE CARIDAD M. WALSE-LUTERO, METROPOLITAN TRIAL COURT, BR. 34, QUEZON CITY [NOW PRESIDING JUDGE, REGIONAL TRIAL COURT, BR. 223, QUEZON CITY] AND CELESTINA D. ROTA, CLERK OF COURT III, METROPOLITAN TRIAL COURT, BR. 34, QUEZON CITY, RESPONDENTS.**

### R E S O L U T I O N

**LEONEN, J.:**

In the February 22, 2011 Amended Affidavit-Complaint,<sup>[1]</sup> Roger Rapsing (Rapsing) accused Presiding Judge Caridad M. Walse-Lutero (Judge Walse-Lutero) of Branch 34, Metropolitan Trial Court, Quezon City of undue delay in resolving two (2) motions filed by his counsel in Civil Case No. 06-35758, entitled *Roger Rapsing v. Spouses Eddie and Luzviminda Rapsing*, for Ejectment.

The motions were: (1) Manifestation with Motion to Withdraw Admission dated August 15, 2008 and filed on August 20, 2008;<sup>[2]</sup> and (2) Motion to Inhibit dated July 24, 2008 and filed on July 25, 2008.<sup>[3]</sup>

The Manifestation with Motion to Withdraw Admission arose from the January 17, 2008 Order of respondent Judge Walse-Lutero denying complainant's motion to correct the pre-trial order.<sup>[4]</sup> Complainant moved for reconsideration but this was denied by the respondent judge in an Order dated July 4, 2008, prompting complainant to file a Motion to Inhibit on July 25, 2008.<sup>[5]</sup>

During the hearing of the Motion to Inhibit on August 15, 2008, the matter of the denial of the motion to correct the pre-trial order was also discussed.<sup>[6]</sup> Respondent Judge Walse-Lutero informed complainant's counsel that the proper remedy to remove the supposed admission of his client as contained in the pre-trial order was to file a withdrawal of admission and not correction of the pre-trial order.<sup>[7]</sup> Consequently, it was agreed upon that the resolution of the motion to inhibit shall be held in abeyance pending the filing of the proper motion.<sup>[8]</sup> The Motion to Withdraw Admission was subsequently filed on August 20, 2008,<sup>[9]</sup> and was deemed submitted for resolution in the Order dated September 12, 2008.<sup>[10]</sup> Considering that the motion had remained unresolved for a considerable length of time, complainant argued that respondent Judge Walse-Lutero should be held liable for undue delay.<sup>[11]</sup>

Rapsing's Affidavit-Complaint was docketed as OCA I.P.I. No. 11-2355-MTJ. In First

Indorsement<sup>[12]</sup> dated April 8, 2011, Court Administrator Jose Midas P. Marquez referred the complaint to Judge Walse-Lutero for comment.

On April 18, 2012, the Office of the Court Administrator received respondent Judge Walse-Lutero's Comment.<sup>[13]</sup>

Judge Walse-Lutero denied delaying the resolution of the motions.<sup>[14]</sup> She explained that the Branch Clerk of Court failed to return the record of the case to her for the resolution of the motions.<sup>[15]</sup> Respondent averred that she discovered the unresolved motions only in March 2011, when her staff, upon coming from the Supreme Court, informed her of the present administrative complaint.<sup>[16]</sup>

Respondent added that Ms. Shernalyn Mallari-Carian (Carian), the Docket Clerk-in-Charge, reasoned her being new in her post when queried for failure to refer the record of Civil Case No. 06-35758 to respondent Judge Walse-Lutero.<sup>[17]</sup> Carian averred that the former Clerk-in-Charge turned over all the records of the civil cases to the Branch Clerk of Court Ms. Celestina Rota (Rota).<sup>[18]</sup> Carian pointed out that complainant had been following up the case with Rota.<sup>[19]</sup> For her part, Rota admitted that "even with the intermittent follow-up of the herein parties in this case, [she] failed to refer the case to [respondent Judge Walse-Lutero] for resolution of the pending incident due to the volume of civil cases also for decision."<sup>[20]</sup>

Judge Walse-Lutero further affirmed that "[u]pon receipt of the record, [she] discovered that it was badly damaged by rain water that leaked through [the court's] ceiling."<sup>[21]</sup> When she asked Rota why the latter did not inform her about the damage or ask the parties to replace the drenched documents, Rota merely shrugged and said, "[K]aya nga judge."<sup>[22]</sup> Nonetheless, Judge Walse-Lutero alleged that after the record was reconstituted, she promptly resolved all pending incidents and rendered her decision in the subject case.<sup>[23]</sup>

Respondent Judge Walse-Lutero revealed that with the 3,800 cases she inherited from the previous presiding judges, as well as the 80 to 130 cases that were raffled to her branch on a monthly basis, "it [was] impossible for [her] to monitor each and every case before [the] court."<sup>[24]</sup> Therefore, she "had to rely on [Rota] to inform [her] of cases that require[d] prompt action."<sup>[25]</sup> Unfortunately, Rota had been greatly remiss in the performance of her duties. For instance, when respondent Judge Walse-Lutero took over, she discovered that almost 200 cases with pending motions or submitted for decision were bundled with archived ones.<sup>[26]</sup> Respondent Judge Walse-Lutero consistently gave "unsatisfactory" ratings to Rota and once raised the issue of her incompetence before then Court Administrator Jose P. Perez.<sup>[27]</sup> Respondent Judge Walse-Lutero was advised by the Office of the Administrative Services of the Office of the Court Administrator to direct Rota "to explain why she should not be dropped from the service."<sup>[28]</sup> Respondent Judge Walse-Lutero did as instructed and Rota had the audacity to reply: "*Ibalato mo na sa akin itong rating judge.*"<sup>[29]</sup> Respondent Judge Walse-Lutero has since submitted several memoranda to the Office of the Court Administrator requesting to drop Rota from the rolls.<sup>[30]</sup>

Lastly, respondent Judge Walse-Lutero had to attend to her cancer stricken husband

and son from 2009 to 2011.<sup>[31]</sup> Despite this domestic concern, she claimed that she made every effort to bring down the court's caseload, which included virtually taking over Rota's workload.<sup>[32]</sup> The court's caseload when she first took over was 3,800 cases, which she lowered to 2,800 cases in her first year.<sup>[33]</sup> The court's caseload is now between 1,900 to 2,100 cases, depending on the number of cases raffled to the court every month.<sup>[34]</sup>

Considering Judge Walse-Lutero's explanation, particularly her averments regarding Rota's neglect, this Court resolved to furnish Rota with copies of the Affidavit-Complaint and of the Comment of Judge Walse-Lutero dated April 16, 2012.<sup>[35]</sup> This Court equally decided to require her to explain "why she should not be administratively held liable for gross neglect of duty."<sup>[36]</sup>

On February 29, 2016, the Office of the Court Administrator received Rota's comment.<sup>[37]</sup>

Rota attributed her "neglect/omission/lapse" to the high caseload of the court, particularly in criminal cases.<sup>[38]</sup> She added that the number of court personnel in her branch was not proportionate to the court's caseload.<sup>[39]</sup> This problem was allegedly aggravated by leaves of absence by court personnel due to personal sickness, sickness or death in the family, maternity leave, retirement, and "recall of the assisting/detailed clerk by the mother unit [Office of the Clerk of Court]."<sup>[40]</sup>

Rota also explained that the case record got wet during the Typhoon Ondoy through a leak in the roof.<sup>[41]</sup> She allegedly apologized for it, and rectified the damage by working on Saturdays.<sup>[42]</sup>

Finally, on the high volume of cases, Rota explained that while both civil and criminal cases were equally important, the court gave priority to criminal cases especially those involving detention prisoners.<sup>[43]</sup>

The Office of the Court Administrator, in its Memorandum<sup>[44]</sup> dated August 5, 2016, recommended the dismissal of the case against Judge Walse-Lutero, with a reminder for her "to be more meticulous and zealous in organizing and supervising the work of her subordinates."<sup>[45]</sup>

Regarding Rota, the Office of the Court Administrator recommended that Rapsing's complaint be docketed as a separate administrative matter against her for gross neglect of duty.<sup>[46]</sup> The Office of the Court Administrator found Rota negligent in her handling of the record of Civil Case No. 06-35758.<sup>[47]</sup> It also took into account the previous instances wherein Rota was sanctioned<sup>[48]</sup> for negligence in the performance of her duties, and Rota's indifference in complying with the Court's directives for her to file a comment.<sup>[49]</sup> However, considering Rota's 20 years in government service, the Office of the Court Administrator recommended her suspension for six (6) months instead of dismissal from service.<sup>[50]</sup>

We find Judge Walse-Lutero liable for neglecting her duty to resolve motions expeditiously. On the other hand, we agree with the findings of the Office of the

Court Administrator that Rota is guilty of gross neglect of duty.

## I

There was clearly an undue delay in resolving the two (2) motions. Judge Walse-Lutero, however, attributes the delay to the failure of the Branch Clerk of Court to refer to her the records of the ejectment case for resolution.

The Office of the Court Administrator found Judge Walse-Lutero's explanation sufficient to clear her from any administrative liability. We disagree.

While the Branch Clerk of Court was remiss in not calling respondent's attention to the pending incident in Civil Case No. 06-35758, this does not completely exculpate respondent from liability. As the presiding judge, it was respondent's responsibility to know which cases or motions were submitted for decision or resolution.<sup>[51]</sup> Judges are expected to closely follow the development of cases and in this respect, "to keep [their] own record of cases so that [they] may act on them promptly."<sup>[52]</sup>

In *RE: Report on the Judicial Audit Conducted at the Metropolitan Trial Court, Branch 55, Malabon City*,<sup>[53]</sup> this Court held that "[j]udges and branch clerks of court should conduct personally a physical inventory of the pending cases in their courts and examine personally the records of each case [not only] at the time of their assumption to office, [but] every semester thereafter on 30 June and 31 December."<sup>[54]</sup> "[T]he regular and continuing physical inventory of cases enable[s] the judge to keep abreast of the status of the pending cases and to be informed that everything in the court is in proper order."<sup>[55]</sup> Responsibility rests primarily on the judge and he or she "cannot take refuge behind the inefficiency or mismanagement of his personnel."<sup>[56]</sup>

In this case, the motions were submitted for resolution on September 12, 2008.<sup>[57]</sup> On March 17, 2010, Rapsing even filed a Manifestation and Motion informing the court about the two (2) pending motions, and praying for their resolution.<sup>[58]</sup> Had Judge Walse-Lutero been more circumspect in discharging her judicial duties, she would have discovered the pending incidents in the ejectment case. Instead, she found out about the unresolved motions only in March 2011 when she was apprised by the Office of the Court Administrator of the present administrative complaint.<sup>[59]</sup>

Respondent explained that she had worked hard to considerably reduce the caseload of her sala<sup>[60]</sup> and had endeavored to personally monitor all the cases in her court.<sup>[61]</sup> However, in 2009, she was usually on leave to look after her Stage 2A colon cancer-diagnosed husband.<sup>[62]</sup> This situation forced her to rely on her legal researcher and on Rota to update her on urgent matters.<sup>[63]</sup> Later on, she also had to care for her son who was diagnosed with Stage 2 Hodgkin's lymphoma in November 2010.<sup>[64]</sup>

While respondent's domestic concerns deserve some consideration from this Court, such circumstances could only mitigate her liability. Judges have the duty to administer justice without delay. Judge Walse-Lutero should bear in mind that those

charged with the task of dispensing justice carry a heavy burden of responsibility. [65] As a frontline official of the Judiciary, a trial judge should at all times maintain professional competence and observe the high standards of public service and fidelity. Her dedication to duty is the least she could do to sustain the public's trust and confidence not only in her but more importantly in the institution she represents. [66]

Had respondent Judge Walse-Lutero physically inventoried her cases on a semestral basis as prescribed, she could have discovered the unresolved pending incidents earlier, instead of two (2) years later. The resolution of two (2) fairly simple motions dragged on for more than two (2) years – thereby prolonging the resolution of the ejectment case – because of respondent's lapse.

In *Atty. de Jesus v. Judge Mendoza-Parker*, [67] the Court ruled that "[d]elay in the disposition of even one case [would] constitute gross inefficiency which this Court [would] not tolerate." [68]

Under Section 9 of Rule 140 of the Revised Rules of Court, "undue delay in rendering a decision or order, or in transmitting the records of a case" is a less serious charge. Section 11 of the same Rule provides for the applicable penalty, to wit:

SECTION 11. *Sanctions.* —

. . .

B. If the respondent is guilty of a less serious charge, any of the following sanctions shall be imposed:

1. Suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months; or
2. A fine of more than P10,000.00 but not exceeding P20,000.00.

In *Pichon v. Judge Rallos*, [69] the respondent was reprimanded "for his failure to seasonably decide" the criminal cases for estafa. [70] This Court took into account that respondent had "no record of previous administrative sanctions." [71]

Here, considering the reasons for the delay in the resolution of the motions, the absence of bad faith or malice on the part of respondent, and lack of any record of previous administrative sanctions against her, we consider it proper to admonish respondent Judge Walse-Lutero for her failure to act promptly on the complainant's motions.

## II

As regards Rota, we agree with the Office of the Court Administrator that she is liable for gross neglect of duty. By Rota's own admission, she failed to refer the case to Judge Walse-Lutero for resolution of the pending incidents "even with the