

SECOND DIVISION

[A.M. No. MTJ-08-1708 [formerly A.M. No. 08-5-149 -MTC] (Re: Judicial Audit of the MTCC, Br. 2, Roxas City, Capiz), March 25, 2009]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
PRESIDING JUDGE FILPIA D. DEL CASTILLO, MTC, MAAYON,
CAPIZ, RESPONDENT.**

D E C I S I O N

BRION, J.:

We pass upon this administrative case that the Office of the Court Administrator (OCA) of this Court filed against Presiding Judge Filpia D. Del Castillo (*Judge Del Castillo*), MTC, Maayon, Capiz. The case arose from the judicial audit of the MTCC, Branch 2, Roxas City, Maayon Capiz (with the Hon. Elias A. Conlu, now retired, then presiding) and involves a case she handled while she was Acting Presiding Judge of the branch.

The Antecedents

On July 14, 2008, the Court issued a Resolution with the following directives: "(1) *Docket the matter as a regular administrative case insofar as Presiding Judge Filpia D. Del Castillo, MTC, Maayon, Capiz, is concerned; (2) Require the parties to manifest whether they are willing to submit the matter for resolution on the basis of the pleadings filed, within ten (10) days from notice; and (3) Direct Judge Del Castillo to decide Criminal Case No. 97-10140 and to submit to the Court, through the Office of the Court Administrator, a certified true copy of her decision thereon with utmost dispatch.*"^[1]

The Resolution originated from the judicial audit conducted on March 18, 2008 of the MTCC, Branch 2, Roxas City, Capiz, with Judge Elias A. Conlu (*Judge Conlu*) then presiding. In the course of the audit, the status of the Criminal Case No. 97-10140^[2] (*subject criminal case*), came to the attention of the audit team who reported that it could not audit the case because the records were not with the court. To quote from the Audit Report:^[3]

. . . The team leader was informed that the aforementioned case was "borrowed" by **Judge Filpia D. Del Castillo**, Presiding Judge, MTC, Maayon, Capiz, apparently once an Acting Presiding Judge in the court, "and brought to the MTC, Maayon, Capiz. A demand was made on the Judge to return the records of the case but, as of the time of the audit, it did not "materialize." These (sic) fact is reported in the July to December 2007 Docket Inventory of the court as the "Judge to whom the case is assigned."

The Audit Report referred to *"data supplied by a previous audit team who audited the court sometime in 2006, (that) the trial of the case was handled by various Judges until 20 February 2003 when Judge Del Castillo `handled the case'."* The Audit Report then narrated that Judge Del Castillo, while still the Acting Presiding Judge of MTCC, Branch 2, appears to have issued an Order that reads:^[4]

x x x for non-compliance of defense to formally offer their exhibits, the same (was) deemed waived; (and) Prosecution was given 15 days from receipt to submit their Memorandum afterwhich (sic) the case was deemed submitted for decision, as soon as TSN (was) completed.

The OCA, in a Memorandum^[5] dated April 2, 2008, required Judge Del Castillo *"to inform the Office, within ten (10) days from notice, whether the Guidelines in Mabunay^[6] were observed by her, with respect to Criminal Case No. 97-10140, which is allegedly in her possession, belonging to the docket of the MTCC, Br. 2, Roxas City, Capiz, apparently submitted for decision (SFD) during the time that she was Acting Presiding Judge thereof."*

In her letter-compliance dated April 21, 2008, Judge Del Castillo stated that -

When the incumbent judge [referring to Judge Elias A. Conlu] assumed as the newly appointed Presiding Judge of MTCC, Branch 2, in Roxas City, Capiz, the undersigned presumed that he conducted the required inventory of all cases of said court. The case record of Criminal Case No. 97-10140-10 was forwarded to the undersigned for proper disposition, presumably for the issuance of its decision.

During the conduct of a Judicial Audit of the said Court by the Judicial Audit Team coming from the Supreme Court last 2006, the questioned criminal case record was turned over to the said Court by the undersigned.

Again, the undersigned presumed that its incumbent judge had again gone over the record of the said case, knowing fully well that he assumes full responsibility for all the records of cases belonging in his Court and that any case record coming out from his Court must be with his personal knowledge and consent.

After the said Judicial Audit, the said case record was given back to the undersigned, presumably with the knowledge and consent of its incumbent judge, supposedly for decision.

With all sincerity, the undersigned was still in a quandary whether the said case is actually submitted for decision before the undersigned, considering that the mandatory submission of the required memorandum has not been complied with and whether or not the Mabunay Case still rules under the present circumstances, considering its several amendments thereto (sic) in subsequent rulings laid down by the Supreme Court.

Judge Elias A. Conlu, in his letter of April 25, 2008 regarding the Judicial Audit of MTCC Branch 2, had this to say when asked to comment by the OCA:

As regards Crim. Case No. 97-10140 entitled *People of the Philippine vs. Lorenzo Cabantug y Alayon* for Reckless Imprudence Resulting in Physical Injuries and Damage to Property, the record has just been turned over to this Court by Judge Filpia del Castillo, without any action thereon since her last Order dated February 3, 2004. It appears that the good Judge does not know what to do with this case shown by her reply dated April 21, 2008 (copy attached for ready reference).

Judge Del Castillo submitted the administrative case on the basis of her submissions to the OCA.

The OCA Evaluation and Recommendation

In its Memorandum to the Court dated May 19, 2008, the OCA opined that Judge Del Castillo should be held liable for delay in deciding the criminal case.^[7] The OCA noted that the case was ordered submitted for decision in an order issued by Judge Del Castillo herself on February 3, 2004 when she was still Acting Presiding Judge of MTCC, Branch 2, of Roxas City, Capiz.

The case, according to the OCA, was still governed by the ordinary procedure so that Judge Castillo had 90 days from February 15, 2004 (the date the case was effectively deemed submitted for decision) to decide; at the most, the case should have been decided by April 15, 2004 (the end of the 90-day period); pursuant to *Mabunay*,^[8] Judge Conlu, who was appointed on February 9, 2004 and who took his oath of office on February 23, 2004, "*could not be expected to decide the case unless the parties decides (sic) otherwise since. . .he cannot still (sic) exercise his judicial functions at that time, but only his administrative functions.*" After assumption to office, a new judge cannot exercise his judicial functions until he has undergone an orientation seminar-workshop and an immersion program in accordance with the Court En Banc's Resolution dated July 20, 1999 in A.M. No. 99-7-07-SC, which provides:

E. Before undertaking the orientation seminar-workshop and while undergoing the immersion program, new and original appointees to the judiciary, although they have already taken his oath of office, cannot perform judicial functions. However, they may act on administrative matters.

The OCA's verification of Judge Conlu's 201 file showed that the judge finished his orientation seminar-workshop on March 12, 2004 and his immersion on April 23, 2004. Thus, OCA took the view that Judge Del Castillo still retained the obligation to decide the case. When she failed to decide within the reglementary period (*i.e.*, up to April 15, 2004), she was already liable for delay in rendering a decision on the case. She could not, at that point, invoke *Mabunay* and toss back the case to Judge Conlu for his decision, "*since the period within which she should have decided the cases had already elapsed (when Judge Conlu) assumed office.*"

The OCA recommended that the matter be docketed as a regular administrative case; that Judge Del Castillo be adjudged administratively liable and fined P10,000.00 for gross inefficiency; and that she be directed to decide Criminal Case No. 97-10140 with utmost dispatch.

Compliance with the Court's Resolution Issued on July 14, 2008

Judge Del Castillo complied with the July 14, 2008 Resolution of the Court through a Manifestation dated September 1, 2008 advising the Court that:

THAT with regards to Crim. Case No. 97-10140-10 pending before MTCC - Br. 2 in Roxas City, the same had already been ordered DISMISSED last 12 June 2008 when the undersigned assumed as Acting Presiding Judge of that Court, certified copy of which is hereto attached as ANNEX "A" for your perusal;

THAT said order dated 12 June 2008 was furnished the herein parties and counsels, as per Return made and attached hereto as "Annex "B;"

That no reconsideration to the said order was made, the same having become final and executory;

That the said order dated 12 June 2008 was released even before the Honorable Second Division issued the subject Resolution.

Judge Del Castillo prayed that the manifestation be considered as sufficient compliance with the Court's Resolution.

The Court's Ruling

For lack of material facts sufficient to conclude that Judge Del Castillo was in delay in deciding the subject criminal case, we can only find her liable for simple misconduct.

An undisputed fact in this case is that Judge Del Castillo acted on the subject criminal case on February 3, 2004. What she ordered is not in dispute and from this, the OCA concluded that the subject criminal case was deemed submitted for decision by February 15, 2004. In the interim, a new judge - Judge Conlu - was appointed on February 9, 2004 and took his oath of office on February 23, 2004. What remains unclear in the records is when Judge Conlu actually assumed office. The OCA assumed that he only did so after April 23, 2004 after he concluded his orientation seminar workshop and his orientation program. By that time, the subject criminal case, deemed submitted on February 15, 2004, should have been decided by Judge Del Castillo, given the 90-day period from submission for decision then given to judges to decide the cases before them. Thus, the OCA concluded that Judge Del Castillo was already in delay when Judge Conlu "*assumed*" office after April 23, 2004.

Basic in the OCA's thinking in making this conclusion is that Judge Conlu only assumed office when he had already finished his orientation-immersion programs when he could already perform his "*judicial*" functions. Lost to the OCA, however, is that A.M. No. 99-7-07-SC also provides that a new judge can already act on "*administrative matters*" even while undergoing the orientation-immersion programs. Had Judge Conlu done so, then he would have effectively assumed office when he began performing the duties of his office, even though they might only have been administrative in character. Without this piece of evidence, we cannot conclude that Judge Del Castillo had been in delay since the obligation to decide the