

## **SECOND DIVISION**

**[ A.M. No. 02-8-207-MTCC, July 27, 2009 ]**

### **RE: REPORT ON THE JUDICIAL AUDIT CONDUCTED IN THE MUNICIPAL TRIAL COURT IN CITIES, BRANCH 2, CAGAYAN DE ORO CITY**

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

##### **QUISUMBING, J.:**

This administrative matter stemmed from the August 19, 2002 Report<sup>[1]</sup> on the judicial audit and physical inventory of cases conducted by the Audit Team of the Court Management Office in the Municipal Trial Court in Cities (MTCC), Branch 2 of Cagayan de Oro City, now presided by Judge Eleuteria Badoles-Algodon.

The report disclosed that as of April 26, 2002, the trial court had a total case load of 1,654 cases, of which 155 cases have been submitted for decision. Of the 155 cases, 140 cases were already beyond the prescribed 90-day period to decide ordinary cases or the 30-day period to decide cases covered by summary procedure. There were also 10 cases with pending incidents for resolution which had not been acted upon and 428 cases had remained dormant for a considerable length of time either due to the trial court's failure to take action on the pending incidents thereon or its failure to set the case for hearing. Six (6) civil cases had also never been acted upon despite the assignment of the said cases to the trial court as early as August 1997 to October 1999. In 9 criminal cases, the trial court failed to issue writs of execution relative to its orders of confiscation of the bail bonds of accused who jumped bail. The trial court also failed to archive (1) 125 criminal cases where the accused were not arrested despite the lapse of more than 6 months since the issuance of the warrants of arrest, and (2) 35 civil cases where the defendants were not served summons despite the lapse of more than 6 months from the issuance of summons.

The report also showed that Judge Algodon relieved Mr. Alfredo B. Magno, Jr. (Mr. Magno) as Clerk of Court of MTCC, Branch 2, due to the latter's alleged incompetence and inefficiency. Apparently, Judge Algodon blamed Mr. Magno for the chaotic record management in the court. Judge Algodon alleged that during her initial inventory of cases, she found some records of pending cases missing and discovered them with the files of archived cases. She also discovered that some criminal cases which were supposed to have been long disposed of were not promulgated and were merely kept inside the filing cabinet. Judge Algodon further alleged that Mr. Magno failed to submit on time the reports on 46 cases which were subject of *ex-parte* proceedings. Finally, Judge Algodon revealed that some records of pending cases were found bundled together with the records of decided cases.

Overall, the audit team concluded that the loss or erroneous filing of some case records and the failure to act on certain cases raffled to the court were caused by

faulty records management. It appeared that Branch 2 did not maintain the prescribed docket books and instead used an ordinary logbook. The court merely relied on the case folders to determine the status of the cases. Consequently, the court personnel could not properly monitor the status of the cases pending before the court.

Upon the recommendation of the Office of the Court Administrator (OCA), the Court issued a Resolution<sup>[2]</sup> on September 11, 2002 directing Judge Algodon to: (1) inform the Court if decisions have already been rendered in 10 civil cases<sup>[3]</sup> and 5 criminal cases;<sup>[4]</sup> (2) submit a written explanation of the delay in the disposition of 24 civil<sup>[5]</sup> and 12 criminal cases<sup>[6]</sup> and to decide said cases within 45 days from notice; (3) resolve within 30 days from notice the pending incidents in Civil Case No. 99-Oct-858 as well as in 9 criminal cases;<sup>[7]</sup> (4) take appropriate actions within 60 days from notice on 41 civil<sup>[8]</sup> and 372 criminal cases<sup>[9]</sup> pending in her court; (5) issue the corresponding writs of execution, if warranted, for the forfeiture and confiscation of bail bonds in 8 criminal cases;<sup>[10]</sup> (6) issue orders archiving 35 civil<sup>[11]</sup> and 124 criminal cases<sup>[12]</sup>; (7) issue alias warrants of arrest in so far as criminal cases are concerned; (8) furnish Mr. Magno, a copy of his Feedback Report<sup>[13]</sup> dated April 30, 2002, within 3 days from notice; (9) decide the cases which were submitted for decision before Judge Gregorio D. Pantanosas, Jr., within 90 days from notice; and (10) inform the parties in those cases which were substantially tried by Judge Evelyn Gamotin-Nery that the latter may be required to decide the case, or inform both parties in each case that they may manifest in writing that she (Judge Algodon) should be the one to decide the same, within 90 days from receipt of said written manifestation.

The Court further directed Judge Gregorio D. Pantanosas, Jr., the former Presiding Judge of the MTCC, Branch 2, Cagayan de Oro City, to explain his failure to decide 14 civil<sup>[14]</sup> and 23 criminal cases<sup>[15]</sup> within the reglementary period prior to his appointment as Presiding Judge of the Regional Trial Court, Branch 20, Cagayan de Oro City. Likewise, Judge Evelyn Gamotin-Nery, Presiding Judge of the Municipal Circuit Trial Court of Opol-El Salvador, Misamis Oriental, was directed to explain her failure to decide 9 civil cases<sup>[16]</sup> and 39 criminal cases<sup>[17]</sup> within the reglementary period during her incumbency as the Acting Presiding Judge of the MTCC, Branch 2, Cagayan de Oro City.

In the same Resolution, the Court likewise directed Mr. Magno to submit: (1) a written explanation why no action was ever taken in 6 civil cases<sup>[18]</sup> raffled to MTCC, Branch 2, Cagayan de Oro City; (2) his comment on the Feedback Report dated April 30, 2002; and (3) a written explanation of his failure to make use of the official docket books during his incumbency as Clerk of Court of the same court. The Court also directed Ms. Helenita T. Gaccion, Acting Clerk of Court of the MTCC, Branch 2, Cagayan de Oro City to inform the Court if they are already using the official docket books for record purposes.

In her Compliance<sup>[19]</sup> dated October 15, 2002, Judge Algodon explained that she assumed office only on June 18, 2001. At the time of her assumption, court records were in disarray under the management of its former Clerk of Court, resulting in delay in the disposition of cases. It was only after the physical inventory and the

judicial audit -- that she herself requested -- that the

rendition of decisions was done. Judge Algodon also reported that 24 civil cases<sup>[20]</sup> have already been decided while 6 civil cases<sup>[21]</sup> were raffled to different branches; 8 criminal cases<sup>[22]</sup> were submitted for decision; and 4 alias warrants of arrests were already issued in 4 criminal cases<sup>[23]</sup> due to the failure of the accused to appear before the court. She claimed that almost all of the cases have been disposed of while others were submitted for decision with the assistance of the newly designated Clerk of Court.

Judge Pantanosas, Jr., for his part, explained that except for Criminal Cases Nos. 69690, 96-04-2454 and 96-04-2455, he was unaware of the cases cited in the Resolution since those cases were not accounted for by Mr. Magno. He claimed that it was only after the physical inventory conducted by Judge Algodon that he found out that there were several unrecorded cases kept by Mr. Magno. It appeared that those cases were allegedly found inside a box under Mr. Magno's table, his table's drawers and in the cabinet at the back of his table. Some records were also found in the archives section. He stressed that he left only 2 cases undecided due to lack of transcript of stenographic notes when he assumed his position as Presiding Judge of RTC, Branch 20.<sup>[24]</sup>

Judge Gamotin-Nery, on the other hand, reported that out of the 48 cases she allegedly failed to decide, 37 were already submitted for decision, 2 were ordered dismissed, 1 case was under *ex-parte* proceedings, 1 case was for amicable settlement, another was still for presentation of rebuttal evidence; and 3 cases were requested to be decided by Judge Algodon. She explained that during her incumbency as Acting Presiding Judge of MTCC, Branch 2, she was also the Judge Designate of Branch 4 of the same court. Thus, she had to attend to cases and concerns not only of her official station, the 7<sup>th</sup> MCTC of Opol-El Salvador, Misamis Oriental, but also of Branch 2 and Branch 4 of MTCC, Cagayan de Oro City. She asserted that there was no sufficient time to decide all those cases. Consequently, she requested that she be spared from deciding Criminal Cases Nos. 96-06-3663 to 96-06-3710 (9 cases involving the same parties) and Criminal Case No. 98-01-309. She also requested that she be spared from any sanction in the interest of justice and equity.<sup>[25]</sup>

Commenting on Judge Algodon's Feedback Report, Mr. Magno, for his part, admitted that he did not conduct any inventory of cases as he merely followed his predecessors who only submitted the court's monthly report of cases to the Supreme Court. He claimed that he had no knowledge of those cases which were inserted in the bundle of cases that were already subject for execution. He claimed that he only inherited said problem of the court. He likewise stated that the court had no docket book and that cases raffled to them were recorded only in their logbook. He further reported that Civil Case No. 97-Aug-681 was raffled to Branch 4 and was already decided on September 8, 1998. As to Civil Cases Nos. 98-Jan-034 and 99-Oct-872, he claimed that the records were in the possession of the Sheriff, inadvertently inserted among the cases with issued writs of execution. He added that Civil Case No. 98-June-576 was already set for trial, and Civil Cases Nos. 98-Nov-1331 and 99-May-1414 were not acted upon for insufficiency of bonds but were already dismissed on June 6, 2002.<sup>[26]</sup>

Lastly, Ms. Gaccion, in her Letter-Compliance<sup>[27]</sup> dated October 5, 2002, informed the Court that on May 1, 2002, MTCC, Branch 2 had started using the official docket book.

In a Resolution<sup>[28]</sup> dated November 25, 2002, the instant complaint was referred to the OCA for evaluation, report and recommendation. The OCA received the records only on September 6, 2007 and submitted its report on November 7, 2007.

In its Report,<sup>[29]</sup> the OCA recommended that: **(1)** Judge Algodon be directed to comply fully with the directives of the Resolution dated September 11, 2002 since she has yet to inform the Court of the actions taken on the directives and no copies of the orders, resolutions and decisions relative thereto were forwarded to the Court; **(2)** Judge Pantanosas, Jr. be fined in the amount of P50,000 to be deducted from whatever retirement benefits he is entitled to for failure to decide 36 cases submitted for decision; **(3)** Judge Gamotin-Nery be fined in the amount of P10,000 for failure to decide 10 cases submitted for decision with an admonition to be more diligent in the performance of her judicial duties; and **(4)** Mr. Magno be meted the penalty of fine in the amount of P20,000 and sternly warned instead of suspension from office in view of his health condition, and that Mr. Magno be directed to comment on his failure to turnover the confiscated firearms in Criminal Case No. 98-1770 and the fireworks in Criminal Case No. 99-02-484. The OCA further recommended that the matter as to Ms. Helenita T. Gaccion be considered closed and terminated. The OCA noted, however, that the alleged illness of Mr. Magno was unsupported by any medical certificate.

We agree with the findings and recommendations of the OCA except as to the recommended penalty.

We cannot overemphasize the Court's policy on prompt resolution of disputes. Indeed, justice delayed is justice denied. Failure to resolve cases submitted for decision within the period fixed by law constitutes a serious violation of Article III, Section 16<sup>[30]</sup> of the Constitution.

The honor and integrity of the judicial system is measured not only by the fairness and correctness of decisions rendered, but also by the efficiency with which disputes are resolved. Thus, judges must perform their official duties with utmost diligence if public confidence in the judiciary is to be preserved. There is no excuse for mediocrity in the performance of judicial functions. The position of judge exacts nothing less than faithful observance of the law and the Constitution in the discharge of official duties.<sup>[31]</sup>

Judge Pantanosas, Jr.'s explanation that the undecided cases were never brought to his attention during his incumbency<sup>[32]</sup> deserves scant consideration. Proper and efficient court management is the responsibility of the judge, and he is the one **directly responsible** for the proper discharge of his official functions.<sup>[33]</sup> It should be emphasized that the responsibility of making a physical inventory of cases primarily rests on the presiding judge. He ought to know the cases submitted to him for decision or resolution, and he is expected to keep his own record of cases so that he may act on them without undue delay. It is incumbent upon him to devise an

efficient recording and filing system in his court so that no disorderliness can affect the flow of cases and their speedy disposition.

A judge cannot take refuge behind the inefficiency or mismanagement of his court personnel since proper and efficient court management is his responsibility. Court personnel are not the guardians of a judge's responsibilities. The efficient administration of justice cannot accept as an excuse the shifting of the blame from one court personnel to another. A judge should be the master of his own domain and take responsibility for the mistakes of his subordinates.<sup>[34]</sup>

Likewise, Judge Gamotin-Nery's explanation fails to convince us. Being designated Acting Presiding Judge in another sala in addition to her original station is no excuse for respondent judge's delay in promptly deciding cases pending before her sala. In *Re: Report on the Judicial Audit of Cases in the RTC, Br. 35, Iriga City*,<sup>[35]</sup> we said that being designated Acting Presiding Judge in two other salas is insufficient reason to justify delay in deciding a case for he could have asked for an extension of the period within which to decide it.<sup>[36]</sup>

We are not unmindful of the burden of heavy caseloads heaped on the shoulders of every trial judge. But that cannot excuse them from doing their mandated duty to resolve cases with diligence and dispatch. Judges burdened with heavy caseloads should request the Court for an extension of the reglementary period within which to decide their cases if they think they cannot comply with their judicial duty.<sup>[37]</sup> Hence, under the circumstances, all that said judge needed to do was request for an extension of time since this Court has, almost invariably, been considerate with regard to such requests. She did not avail of such remedy.<sup>[38]</sup> A heavy caseload may excuse a judge's failure to decide cases within the reglementary period but not their failure to request an extension of time within which to decide the case on time.<sup>[39]</sup>

As to the liability of respondent clerk of court, it is undisputed that Mr. Magno was remiss in his duty and responsibility as clerk of court by failing to adopt a system of record management. His efficiency or inefficiency in the performance of his duties and responsibilities does not depend on how his predecessors performed theirs. As the custodian of the court's funds, revenues, records, properties and premises, clerks of court perform very delicate functions and are liable for any loss, shortage, destruction or impairment thereof. It is presumed that they have familiarized themselves with the various statutes and administrative circulars pertinent to their functions to effectively discharge their duties and responsibilities.<sup>[40]</sup> Thus, we are not inclined to be sympathetic to Mr. Magno because he cannot plead his lack of knowledge (or ignorance) as an excuse. He is presumed to know his functions and responsibilities.<sup>[41]</sup>

We stress that clerks of court are essential judicial officers who perform delicate administrative functions vital to the prompt and proper administration of justice. Their duty is, *inter alia*, to assist in the management of the calendar of the court and in all matters that do not involve the discretion or judgment properly belonging to the judge. They play a key role in the complement of the court, as their office is the hub of adjudicative and administrative orders, processes and concerns. As such, they are required to be persons of competence, honesty and probity; they cannot be