

## FIRST DIVISION

[ A.M. No. MTJ-02-1432, September 03, 2004 ]

**PROVINCIAL PROSECUTOR ROBERT M. VISBAL, COMPLAINANT,  
VS. JUDGE MARINO S. BUBAN, MUNICIPAL TRIAL COURT IN  
CITIES, BRANCH 1, TACLOBAN CITY, RESPONDENT.**

### *DECISION*

**YNARES-SANTIAGO, J.:**

In a sworn complaint,<sup>[1]</sup> Assistant Provincial Prosecutor Robert M. Visbal charged Judge Marino S. Buban, MTCC, Branch 1, Tacloban City with Violation of Rule 3.05,<sup>[2]</sup> Canon 3 of the Code of Judicial Conduct and/or Failure to Decide a Case Within the Reglementary Period, Gross Inefficiency, Misconduct, Bias and Partiality relative to Criminal Cases Nos. 98-07-19 and 98-07-20.<sup>[3]</sup>

Complainant avers that respondent Judge failed to decide Criminal Cases Nos. 98-07-19 and 98-07-20 within the 90-day period from submission of the parties's memoranda. Hence, complainant prays that respondent Judge be held administratively liable as well as criminally liable for Violation of Article 174<sup>[4]</sup> of the Revised Penal Code for his failure to disclose in his Certificates of Service from June 1999 that the subject cases were pending decision.

Complainant further alleges that respondent Judge displayed bias in favor of the accused in the above-mentioned criminal cases by his tolerance of the defense's late filing of pleadings and failure to appear in court despite due notice. He claims that respondent Judge harbored a grudge against him because his wife filed an administrative complaint against the latter.

In his Comment,<sup>[5]</sup> respondent Judge denied the allegations in the complaint. He alleged that the subject cases were originally pending before the sala of Judge Paulino A. Cabello but were subsequently transferred to him after Judge Cabello inhibited himself from hearing the cases. He explains that his inability to dispose of the cases within the prescribed period was due to the failure of his staff to bring the cases to him for proper action. It was only on December 1, 1999 that his attention was called regarding these two cases which had been submitted for decision.

However, after going over the memoranda of the parties and other pleadings, he found that the only way to determine the guilt or innocence of the accused is through a full-blown trial. Thus, he scheduled the cases for trial. He admits that he was unable to report the pendency of these two cases in his Certificate of Service because he was unaware that the period to decide them had already lapsed.

Respondent further averred that the administrative case<sup>[6]</sup> filed by complainant's wife against him was already dismissed by this Court in a Resolution dated August 11, 1997.<sup>[7]</sup> He notes that complainant has the propensity of filing administrative

cases against judges and fellow prosecutors, and he even filed an administrative complaint against Judge Cabello for inhibiting himself from hearing Criminal Cases Nos. 98-07-19 and 98-07-20.

On May 8, 2002, the complaint was docketed as a regular administrative matter and referred to the Executive Judge of the Regional Trial Court of Tacloban City for investigation, report and recommendation.

Executive Judge Leonardo B. Apita inhibited himself in a letter dated June 13, 2002<sup>[8]</sup> stating that he was related to respondent Judge within the 6th degree of affinity. Thus, the case was referred to Vice Executive Judge Salvador Y. Apurillo.

In his Report dated March 24, 2003,<sup>[9]</sup> Judge Apurillo concluded that respondent Judge indeed failed to resolve the cases within the reglementary period, but found that part of the blame was attributable to his staff. Since respondent has a caseload of more than 1,000 cases, it could really happen that some important matters may be overlooked. While many lawyers try to help out judges by filing motions for early resolution, this did not happen in the subject cases. If respondent Judge was to be faulted at all, it would be for his failure to devise a system to keep track of the cases pending before him and to efficiently manage his personnel. For his transgression, Judge Apurillo recommended that respondent Judge be "sternly reprimanded."

The Office of the Court Administrator (OCA) agreed with the factual findings of Judge Apurillo but recommended that respondent Judge be fined in the amount of Three Thousand Pesos (P3,000.00).

As per Resolution of the Court dated February 11, 2004,<sup>[10]</sup> both complainant<sup>[11]</sup> and respondent<sup>[12]</sup> manifested their willingness to submit the case for resolution on the basis of the pleadings filed.

The reasons adduced by respondent for his delay in rendering judgment in Criminal Cases Nos. 98-07-19 and 98-07-20 are not novel. A judge cannot take refuge behind the mistakes and inefficiency of his court personnel.<sup>[13]</sup> He is charged with the administrative responsibility of organizing and supervising them to secure the prompt and efficient dispatch of business, requiring at all times the observance of high standards of public service and fidelity.<sup>[14]</sup> Indeed, he is ultimately responsible for ensuring that court personnel perform their tasks and that the parties are promptly notified of his orders and decisions.<sup>[15]</sup> It is his duty to devise an efficient recording and filing system in his court to enable him to monitor the flow of cases and to manage their speedy and timely disposition.<sup>[16]</sup>

If respondent Judge could not decide the case within the reglementary period, all he had to do was to ask from this Court a reasonable extension of time to dispose of the case, which may have been granted.<sup>[17]</sup>

Rules 1.02 of Canon 1 and 3.05 of Canon 3 of the Code of Judicial Conduct state:

Rule 1.02. – A judge should administer justice impartially and **without delay**.

Rule 3.05. – A judge shall dispose of the court's business ***promptly*** and decide cases ***within the required periods***. (Emphasis and italics supplied)

In this connection, SC Administrative Circular No. 13-87 states, *inter alia*, that:

3. ***Judges shall observe scrupulously the periods prescribed by Article VIII, Section 15 of the Constitution for the adjudication and resolution of all cases or matters submitted in their courts.***

Thus, all cases or matters must be decided or resolved within twelve months from date of submission by all lower collegiate courts while all other lower courts are given a period of three months to do so. . . (Emphasis and italics supplied)

We find the penalty recommended by the OCA not commensurate to the misconduct committed by respondent.<sup>[18]</sup>

Section 7, Rule 140 of the Revised Rules of Court, as amended,<sup>[19]</sup> classifies administrative charges as serious, less serious or light. Undue delay in rendering a decision or order is subsumed under less serious charges under Section 9. Pursuant to Section 11 (B) of the same Rule, such offense is punishable by suspension from office without salary and other benefits for not less than one (1) month nor more than three (3) months or a fine of more than P10,000.00 but not exceeding P20,000.00. Therefore, the impossible penalty warranted in this case is a fine of P11,000.00.

The resolution of this case will not, however, be complete without passing upon complainant's unusual proclivity of filing several administrative cases against respondent. A verification with the Docket and Clearance Division of the OCA discloses that complainant prosecutor had so far filed the following administrative complaints against respondent Judge:

- 1) A.M. OCA-IPI No. 00-944-MTJ for Nepotism. Complaint dismissed on 18 February 2002;
- 2) A.M. OCA-IPI No. 02-1262-MTJ for Dishonesty and Gross Misconduct. Complaint dismissed on 9 July 2003;
- 3) A.M. OCA-IPI No. 02-1299-MTJ for Grave Misconduct, Malfeasance and Conduct Prejudicial to the Service. Complaint dismissed on 26 March 2003;
- 4) A.M. OCA-IPI No. 97-360-MTJ for Grave Abuse of Judicial Authority, Gross Ignorance of the Law and Serious Misconduct filed by Asuncion Baldonaza, wife of complainant. Complaint dismissed on 11 August 1997;
- 5) A.M. No. MTJ-03-1471 for Gross Inefficiency. Respondent was fined Eleven Thousand Pesos (P11,000.00) on 22 January 2003;
- 6) A.M. No. 02-1432 for alleged Failure to Decide Cases Within the Reglementary Period, Misconduct, Bias and Partiality. This is the case under evaluation.

Complainant's obsessive prosecutorial zeal in filing administrative charges is not limited to respondent Judge because a verification with the Docket and Clearance Division of the OCA reveals that said complainant has, to date, filed no less than 31 administrative cases, inclusive of the foregoing complaints against respondent, against MTC judges, RTC magistrates and other court personnel of Leyte, to wit:

**A. Against RTC Judges of Leyte:**

- 1) OCA-IPI No. 02-1615-RTJ for Grave Misconduct v. Judge Leonilo C. Apita, Branch 7, Tacloban City. Complaint Dismissed on 03 September 2003;
- 2) OCA-IPI No. 99-873-RTJ for Gross Ignorance of the Law, Grave Abuse of Authority and Acts Prejudicial to the Service v. Judge Leonilo C. Apita, Branch 7, Tacloban City. Complaint Dismissed on 01 January 2000;
- 3) OCA-IPI No. 03-1770-RTJ for Knowingly Rendering Unjust Judgment v. Judge Salvador Y. Apurillo, Branch 8, Tacloban City. Pending;
- 4) OCA-IPI No. 03-1656-RTJ for Knowingly Rendering Unjust Judgment v. Judge Salvador Y. Apurillo, Branch 8, Tacloban City. Complaint Dismissed on 06 August 2003;
- 5) OCA-IPI No. 00-967-RTJ for Failure to Decide Case within 90-day period v. Judge Pepe P. Domael, Branch 37, Naval-Biliran. Complaint Dismissed on 24 July 2000;
- 6) A.M. No. RTJ-93-1096 for Irregularity in Granting Bail v. Judge Getulio Francisco, Branch 6, Tacloban City. Complaint Dismissed on 11 January 1995;
- 7) A.M. No. RTJ-99-1490 for Falsification of Certificate of Service v. Judge Frisco T. Lilagan, Branch 34, Tacloban City. Fined P1,000.00 27 July 1999;
- 8) OCA-IPI No. 97-365-RTJ for Grave Misconduct, abuse of Judicial Authority and Oppression v. Judge Roberto A. Navidad, Branch 9, Tacloban City. Complaint Dismissed 11 March 2002;
- 9) A.M. No. RTJ-03-1744 for Violation of Canon 3.05, Code of Judicial Conduct and Failure to Decide Case within the Reglementary Period v. Judge Rogelio C. Sescon, Branch 9, Tacloban City. Fined P11,000.00 16 August 2003;
- 10) OCA-IPI No. 03-1879-RTJ for Undue Delay in Resolving Civil Case No. 2002-11236 v. Judge Roberto C. Sescon, Branch 9, Tacloban City. Pending;