

SECOND DIVISION

[A.M. No. RTJ-04-1874 (FORMERLY A.M. NO. 03-8-473-RTC[1]), October 18, 2004]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
JUDGE JESUS M. BARROSO, JR. (RET.) AND PEDRITO A.
CUNANAN, RESPONDENTS.**

D E C I S I O N

PUNO, J.:

This treats of the Report^[2] submitted by Deputy Court Administrator Christopher O. Lock on the judicial audit and physical inventory of cases conducted in the Regional Trial Court (RTC) of Bukidnon, Branch 10, Malaybalay City, from July 21 to 23, 2003. The court was then presided by Hon. Jesus M. Barroso, Jr., who compulsorily retired on August 20, 2003.

The audit team^[3] found that said court had six hundred sixty-three (663) pending cases^[4] as of July 23, 2003, twenty-eight (28) cases of which were not yet initially acted upon since they were raffled or reassigned to the said branch, viz: Criminal Cases Nos. 12912 and 13123, and Civil Cases Nos. 2939, 3074, 3097, 3260, 3272, 3273, 3277, SCA-319, SCA-340, SP-2390, SP-2545, SP-2617, SP-2642, SP-2671, SP-2680, MISC-541, MISC-666, MISC-668, MISC-692, MISC-701, MISC-705, MISC-708, MISC-709, MISC-712, PR-88-01 and PR-95-01. Forty-seven (47) of the pending cases were also not further acted upon or had no further settings in the court calendar despite the lapse of a considerable length of time, viz: Criminal Cases Nos. 8434, 9801, 9914, 10325, 10326, 10327, 10328, 10329, 10330, 10527, 10966, 11065, 11473, 11499, 11693, 12608, 12612, 12626 and 12999, and Civil Cases Nos. 2698, 2730, 2738, 2739, 2882, 2923, 2927, 2983, 2999, 3028, 3025, 3041, 2092, 3136, 3168, 3171, 3187, 3198, 3232, 3235, 3258, SCA-82, SCA-304, SCA-308, SCA-328, SP-2459, SP-2663 and MISC-601.^[5]

The following thirteen (13) cases have been submitted for decision:

Case No.	Date Submitted	Due Date of Decision
Criminal		
9676	07/18/03	10/16/03
9678	06/29/03	09/27/03
Civil/Others		
2716	03/21/03	06/19/03
2727	02/21/00	05/21/00
2887	02/09/03	05/10/03
3001	03/05/03	06/03/03

3157	01/21/03/	04/21/03
3257	04/28/03	07/27/03
SCA - 310	07/09/02	10/07/02
SCA - 311	08/29/02	11/27/02
SCA - 312	10/03/02	01/02/03
SCA - 312	10/03/02	01/02/03
SCA - 325	06/24/03	09/22/03
SP - 2646	06/14/03	09/12/03 ^[6]

Seven (7) cases have pending motions that needed to be resolved, viz:

Case no.	Date Submitted	Due Date of Resolution	Kind of Motion
Criminal			
10277	09/19/02	12/18/02	Motion to suspend proceedings due to prejudicial question
Civil/Others			
2843	10/11/02	01/09/03	Motion for Reconsideration of the Order dated 9/20/02 dismissing the appeal
2937	03/30/00	06/28/00	Omnibus Motion to Dismiss
3022	07/21/03	10/19/03	---
3193	07/11/03	10/09/03	Motion to Dismiss
3264	07/16/03	10/14/03	Motion for Extension of time to file appeal memo
MISC - 587	07/04/03	10/02/03	--- ^[7]

It was further discovered that one hundred six (106) criminal cases with warrants of arrest and eight (8) civil cases with summons may be archived in accordance with Administrative Circular No. 7-A-92.^[8] It was also found that summonses were not immediately issued by Pedrito A. Cunanan, Legal Researcher and Acting Clerk of Court of the said court, with respect to these five (5) civil cases with summons, to wit:

Civil Case No.	Nature	Date Filed	Date of Summons
3104	Annulment of Writ of Attachment	09/12/01	07/11/03

3162	Collection of Sum of Money	05/21/02	09/10/02
3251	Support w/ Support Pendente Lite	03/13/03	05/22/03
3255	Partition	03/20/03	05/22/03
SCA -342	Interpleader	05/27/03	07/16/03 ^[9]

It also appears that Acting Clerk of Court Cunanan was designated to receive ex parte evidence in fourteen (14) civil cases even if he was not yet a member of the bar, in violation of Section 9, Rule 30 of the Rules of Court. Writs were issued in 2 cases which were not yet returned at the time the audit was conducted. Furthermore, the team noted that said court did not have docket books for criminal cases and other cases which are separate from the general docket books maintained by the Office of the Clerk of Court of the RTC of Bukidnon, Malaybalay City. A random examination of the records of dismissed cases due to the failure of plaintiffs to prosecute and archived cases due to the accused's non-apprehension also showed that private complainants were not directly furnished with copies of the orders of dismissal or archival.^[10]

In our Resolution dated September 17, 2003, we ordered Judge Barroso to explain his failure to render decisions in eight (8) cases and to resolve the motions pending in three (3) cases. We also withheld the amount of P50,000.00 from his retirement benefits to answer for any administrative sanction that may be imposed on him. We directed the designated Acting Presiding Judge of the said court to render decisions or resolutions in cases which may have been left undecided or unresolved by Judge Barroso and to take appropriate action on cases for archival and those cases which were not further acted upon despite the lapse of a considerable length of time. We also directed Acting Clerk of Court Cunanan to immediately cease and desist from further conducting ex parte reception of evidence and to explain why no administrative sanction should be imposed on him for his failure to take initial action on twenty-eight (28) cases and to immediately issue summons in five (5) cases. We ordered him to keep the prescribed docket books for criminal cases and civil/other cases which are separate from those kept in the Office of the Clerk of Court, RTC, Malaybalay City. We also directed him to furnish private complainants with copies of orders dismissing or archiving their cases.

In his First Indorsement dated November 7, 2003, Judge Barroso gave the following explanation for his failure to: (a) decide Civil Cases Nos. 2716, 2727, 2887, 3001, 3157, SCA-310, SCA-311 and SCA-312; and (b) resolve the motions in Criminal Case No. 10277 and Civil Cases Nos. 2843 and 2937, within the mandatory period, viz:

Cases No.	Explanation
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A) Civil Cases:

- | | |
|----------|---|
| [1] 2716 | - submitted for resolution as of March 2003 and was decided on July 28, 2003; |
| [2] 2727 | - Submitted for resolution as of February 2003 and was decided on August 4, 2003; |
| [3] 2887 | - Submitted for resolution as of April 2003 and was decided on July 31, 2003; |

- [4] 3001 - Submitted for resolution as of April 2003 and was decided on August 8, 2003;
- [5] 3157 - Still undecided for having been overlooked;

B) Special Civil Actions:

- [1] 310 - Originally raffled to RTC Branch 9, on May 30, 2002 and was subsequently transferred to this Branch in exchange of another case;
- [2] 311 - Overlooked;
- [3] 312 - Originally filed to (sic) RTC Branch 9 on August 8, 2002 and subsequently transferred to this branch in exchange of another case;

C) Motions

- [1] Crim. Case No. 10277 - As early as July 23, 2003 the Motion to Suspend Proceeding was resolved notwithstanding that movant did not pursue his urgent motion;
- [2] Civil Case No. 2843 - Appellee failed to file Motion to Dismiss the Appeal, hence, the case was belatedly dismissed by the Court;

- [3] Civil Case No. 2937 - The same wa overlooked. [11]

Judge Barroso also declared that "[t]he above shortcomings were committed due to the fact that there were also undecided cases in RTC Branch 8, as Acting Judge that [he had] to meet within the mandatory period."[12]

On the other hand, Acting Clerk of Court Cunanan informed this Court that he has desisted from further conducting *ex parte* reception of evidence. He also stated that their branch has made separate the recording of docket books for criminal and civil/other cases pursuant to Section 8, Rule 136 of the Rules of Court. He also explained the reasons for his failure to take immediate initial action upon receipt of the records of the following twenty-eight (28) cases and to issue summons upon his receipt of the following five (5) cases, to wit:

Ordinary Civil Cases:

- 2939 - [T]he record was transferred from RTC 9 to this brnch on Feb. 2, 2001 and on June 22, 2001, undersigned issued Notice of continued hearing/trial on July 20, 27 for plaintiff and August 10 and 17, 2001 for the defendants.