

SECOND DIVISION

[A.M. No. 02-8-188-MTCC, July 17, 2003]

REPORT ON THE JUDICIAL AUDIT CONDUCTED IN THE MTCC- BRS. 1, 2 3, MANDAUE CITY

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

On January 15-21, 2002, the Office of the Court Administrator (OCA) conducted a judicial audit and physical inventory of cases in Branches 1, 2 and 3 of the Municipal Trial Court in Cities (MTCC) of Mandaue City, presided over by Judge Rogelio S. Lucmayon, Judge Carlos C. Fernando and Judge Wilfredo A. Dagatan, respectively.

On the basis of the report of the audit team,^[1] the Court issued a Resolution on October 2, 2002, directing:

a) Former Acting Presiding Judge Carlos C. Fernando, MTCC, Branch 1, Mandaue City, to:

1.) EXPLAIN immediately why no administrative sanction should be imposed on him for his failure to decide within the mandatory period, the following forty-eight (48) cases submitted for decision before him, to wit: Criminal Case Nos. 21639, 22588, 22963, 22610, 21186, 23963, 22327, 23175, 23085, 22577, 24622, 24501, 24502, 21971 to 21972, 21903, 22817, 24482 to 24489, 23776, 21538, 24801 to 24802, 23994 to 23996, 22930 to 22933, 23991 to 23993, and Civil Case Nos. 3289, 3780, 3787, LRC N-39, 3775, 3626, 3065, 3777 and 3756;^[2]

2.) APPRISE this Court, through the Office of the Court Administrator, why he failed to act for a considerable length of time on the following Criminal Case Nos. 24851 to 24853, 24914, 22392, 25562 to 25564, 24411, 24496, 24438, 25431, 25390, 25019 to 25030, 24369, 25286, 22203, 25362, 25331 to 25332, 19990, 25506 and 24528 and Civil Case Nos. 3947, 3989, 3953, 3960, 3843, LRA N-57, LRC N-31, 3820, 3523, 3785, 3768, 3782 to 3783;^[3]

3.) INFORM this Court, through the Office of the Court Administrator, whether he has rendered his decisions in Criminal Case Nos. 23977 to 23979, 21859, 22050, 25433, 22421, 22911, 24413, 23224, 25002, 22620 to 22621 and 23588 and Civil Case Nos. 3804, 3790 and 3812; and whether the pending incidents in the following cases have already been resolved, to wit: Criminal Case Nos. 23843 to 23846, 20898 and 18032 and Civil Case Nos. 2465, 3955 and 4034; and

4.) SUBMIT to this Court, through the Office of the Court Administrator,

within thirty (30) days from notice hereof, certified true copies of his decisions and resolutions in the aforementioned cases;

b) Judge Rogelio S. Lucmayon, MTCC, Branch 1, Mandaue City, to:

1.) TAKE IMMEDIATE ACTION on the following cases which have remained unacted upon for a considerable length of time: Criminal Case Nos. 24851 to 24853, 24914, 22392, 25562 to 25564, 24411, 24496, 24438, 25431, 25390, 25019 to 25030, 24369, 25286, 22203, 25362, 25331 to 25332, 19990, 25506, and 24528 and Civil Case Nos. 3947, 3989, 3953, 3960, 3843, LRA N-57, LRC N-31, 3820, 3523, 3785, 3782 and 3783 and on Civil Case No. 4027, where no action had been taken from the time it was filed;^[4]

2.) CAUSE, within twenty (20) days from notice, the completion of the transcript of stenographic notes in Criminal Case Nos. 21639, 22588, 22963, 22610, 21186, 23963, 23085, 22577, 21903, 23776, 21538, 25433, 22421 and 22911 and Civil Case No. LRC N-39 and DECIDE these cases upon completion of the transcript of stenographic notes;

3.) TAKE APPROPRIATE ACTION, pursuant to Administrative Circular No. 7-92-A, on the following cases: Criminal Case Nos. 17817 and Civil Case Nos. 3679, 3758, 3762, 3589, 3944, 3939, 3881, 3781, 3861, 3871, 3837, 3834, 3829, 3826, 3806, 3776, 3779, 3760 and 3840; and

4.) SUBMIT to this Court, through the Office of the Court Administrator, within thirty (30) days from notice hereof a report on his compliance with the foregoing directives, attaching thereto certified true copies of his orders in the abovementioned cases;

c) Ms. Paulita M. Soon, Clerk of Court, MTCC, Branch 1, Mandaue City, to EXPLAIN why she failed to take action on Civil Case No. 4027 since it was filed;

d) Judge Carlos C. Fernando, MTCC, Branch 2, Mandaue City, to:

1.) INFORM this Court, through the Office of the Court Administrator, whether the following cases, which had been submitted for decision, have been decided, submitting certified true copies of his decisions therein, and if not, to IMMEDIATELY DECIDE them, to wit: Criminal Case Nos. 21823 to 21824, 24630, 20221, 24082, 24116 to 24118, and Civil Case Nos. N-64, 3911 and 3815; and whether the pending incidents in the following cases have been resolved, furnishing this Court with certified true copies of his resolutions therein and if not, to IMMEDIATELY RESOLVE them, to wit: Criminal Case No. 24111 and Civil Case Nos. 3225 and 4938;

2.) EXPLAIN why he failed to act on the following cases despite the lapse of a considerable length of time: Criminal Case Nos. 25250 to 25258, 23964 to 23965, 25217 to 25222, 25124, 25180 to 25181, 25196, 25414 to 25417, 25505, 25521, 25554, 25565 to 25569, 25605 to

25606 and 25608 and Civil Case Nos. 3979, 3990, LRA N-41, 3961, 3865, 3877 and 3936, and TO TAKE IMMEDIATE ACTION on these cases;
[5]

3.) TAKE APPROPRIATE ACTION on the following cases pursuant to Administrative Circular No. 7-92-A: Criminal Case Nos. 24979 to 24980, 25317 to 25321, 25344 to 25361, 25483 to 25486, 25162, 25172, 25479 to 25482, 24845 and 25184 and Civil Case No. 3941; and

4.) SUBMIT to this Court, through the Office of the Court Administrator, within thirty (30) days from notice hereof, a report on his compliance with the foregoing directives, attaching thereto certified true copies of his orders in the foregoing cases;

e) Mr. Rudy R. Magale, Clerk of Court, MTCC, Branch 2, Mandaue City, to:

1.) EXPLAIN why he failed to transmit the records of Criminal Case No. 25301 (People vs. Francisco) to the Office of the City Prosecutor despite Order of the Court dated 1 August 2001; and

2.) IMMEDIATELY FORWARD the same to the Office of the City Prosecutor;

f) JUDGE WILFREDO A. DAGATAN, MTCC, Branch 3, Mandaue City, to:

1.) EXPLAIN immediately why no administrative sanction should be imposed upon him for his failure to decide, within the mandatory period, Criminal Cases Nos. 18631 and 18632 to 18634 and Civil Case No. LRC-42;

2.) INFORM this Court, through the Office of the Court Administrator, whether the following cases which had been submitted for decision, have been decided, submitting certified true copies of his decisions therein; and, if not, to IMMEDIATELY DECIDE them, to wit: Criminal Case Nos. 20194 to 20196, and 22768 and Civil Case Nos. 3904 and N-63; and whether the pending motion to declare defendant in default in Civil Case No. 3534 has been resolved, submitting to the Court a certified true copy of the resolution and if not, to IMMEDIATELY RESOLVE the same;

3.) EXPLAIN why he failed to act on the following cases despite the lapse of a considerable length of time: Criminal Case Nos. 15273, 15761 to 15763, 16498, 85289, 14354, 20257 to 20261, 20262 to 20269, 20034, 20036 to 20041, 23542, 24987 to 24989, 25043, 25077, 25088, 25097, 15765 to 15769, 15164, 16462, 16498, 10443 to 10449, 19419, 19420, 19657 to 19658, 23730, 13011 to 13012, 13274, 13315, 24846 to 24848, 25397 to 25402, 25498, 25527, 25202, 24778, 25033, 25263, 25498, 23663, 19453 and 19457, and Civil Case Nos. 3980, 3972, 3969, 3963, 3959, 3955, 3950, 3942, 3940, 3916, 3915, 3913, 3912, 3905, 3887, 3885, 3669, 3814, 3807, 3746, 3740, 3737, 3734, 3712, 3714, 3153, 3608, 3668, 3733, 3658, 2557, LRA 66966 (N-01), LRA N-05, LRC22, LRC 54, LRC 37, LRC N-65, LRC N-46, 3827, 3880, 3875, 3873,

3836, 3839, 3845, 3848, 3870, 3982, 3984, 3985, 3991, 4002 and 3994 and on Criminal Case Nos. 25988, 25966 and 25982 which had not been acted upon from the time they were filed;^[6] and TAKE IMMEDIATE ACTION on these cases;

4.) TAKE APPROPRIATE ACTION, pursuant to Administrative Circular No. 7-92-A, on the following cases: Criminal Case Nos. 24977, 25163 and 20573 and Civil Case No. 3792; and

5.) SUBMIT to this Court, through the Office of the Court Administrator, within thirty (30) days from notice hereof, a report on his compliance with the foregoing directives, attaching thereto certified true copies of his orders in the foregoing cases.

In his Comment, dated November 26, 2002, Judge Carlos C. Fernando explains:

He decided or resolved most of the cases enumerated in paragraphs (a)(1) and (a)(3) of the Court's Resolution, in connection with his capacity as the Acting Presiding Judge of Branch 1, long before he received the said Resolution. Some of those cases were decided or resolved by Judge Rogelio Lucmayon^[7] upon his assumption as the Presiding Judge of Branch 1 in March 2002.

As regards the cases mentioned in paragraphs (d)(1), (d)(2), and (d)(3) of the Court's Resolution, in relation to his capacity as the Presiding Judge of Branch 2, Judge Fernando claims that he had already decided the cases or the incidents therein resolved long before he received the Resolution.

Lastly, as regards Civil Case No. LRC N-41, which is a petition for registration of title, he contended that he had already issued an order for its archival on the ground of a pending incident filed in the Regional Trial Court, in accordance with Administrative Circular No. 7-A-92.

Judge Fernando adds that while he admits that he failed to decide several cases in Branch 1 within the prescribed period, he claims that any such delay was neither intended to favor any person or party nor did it result in undue benefit to anybody. He imputes his failure to decide or resolve the subject cases within the prescribed time to several factors, to wit: (a) sheer volume of works; (b) the physical and mental demands of the multiple jobs as the Presiding Judge of Branch 2 and Acting Presiding Judge of Branch 1, as well as, the Executive Judge; (c) the absence of the Branch Clerk of Court and the Legal Researcher of Branch 1; (d) the limited time that had to be divided between the two Branches and with his duties as the Executive Judge; and (e) other constraints or limitations inherent in the job of a judge.

In his Comment dated January 27, 2003, Judge Rogelio S. Lucmayon affirmed the allegations in the comment of Judge Fernando with respect to the cases. He claimed that immediate action had already been taken on the cases from the time he assumed office as Presiding Judge of MTCC, Branch 1, Mandaue City on February 21, 2002.

In his Comment, dated December 6, 2002, Judge Wilfredo A. Dagatan, informed the

Court, that the 11 cases submitted for decision were all decided as follows:

NO.	CASE NO.	DUE DATE OF DECISION	DATE OF DECISION
Criminal Cases			
1.	18631	11/31/01	9/25/02
2.-4.	18632-34	10/01/01	8/14/02
5.-7.	20194-96	2/19/02	5/06/02
8.	22768	3/11/02	7/22/02
Civil Cases			
1.	3904	2/26/02	8/09/02
2.	N-63	3/11/02	5/02/02
3.	LRC-42	5/23/01	8/01/02

However, Criminal Cases Nos. 18631 to 34 and 22768 (5 cases) were all decided beyond the 90-day reglementary period.

Judge Dagatan further informs this Court that the 130 cases unacted upon or without further settings despite the lapse of considerable length of time, as well as the cases not acted upon from the time they were filed, have all been acted upon, either decided, dismissed, or still pending.

As to the cases which the audit team advised to be archived, he explained that three of them, Criminal Case Nos. 24977, 25163 and 20573, have already been archived, while Civil Case No. 3792 had been ordered dismissed.

Branch Clerk of Court Rudy R. Magale, MTCC, (Branch 2) Mandaue City, explained that he failed to transmit the records of Criminal Case No. 25301 to the Office of the City Prosecutor (OCP) despite the Order of the lower court dated August 1, 2001 because he was of the belief that the OCP could make its re-investigation even without the court records, since said office keeps complete records of the case. What he did was to make a follow-up on the case every now and then. He apprised this Court that the said case was finally ordered dismissed in an order issued by Judge Fernando on July 8, 2002.

Branch Clerk of Court Paulita M. Soon died of breast cancer. In her behalf, OIC Clerk of Court Israel R. Sanchez informed this Court that Civil Case No. 4027 had been properly acted upon from the time of its filing. According to him, the records show that the said case had been filed on November 23, 2001, and summons issued on the same date. Per Sheriff's Report, summons was served on January 10, 2002, and the answer of the defendants therein filed on January 22, 2002. Pre-trial conference was set on February 27, 2002, after which scheduled trials on the merits were set.

After evaluating the records of cases in relation to the Audit Report, the Office of the Court Administrator (OCA), through Deputy Court Administrator (DCA) Zenaida N. Elepaño, made the following recommendations:

WHEREFORE, in view of the foregoing, it is most respectfully recommended that:

1. this case be RE-DOCKETED as a regular administrative matter;