

THIRD DIVISION

[A.M. No. 01-3-173-RTC, December 09, 2002]

**REPORT ON THE JUDICIAL AUDIT CONDUCTED IN THE
REGIONAL TRIAL COURT, BACOLOD CITY, BRANCH 46, THEN
PRESIDED BY JUDGE EMMA C. LABAYEN, RETIRED.**

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

On March 8, 2001, the Judicial Audit Team of the Office of the Court Administrator (OCA) submitted a Report on the audit conducted in the Regional Trial Court, Branch 46, Bacolod City, then presided by Judge Emma C. Labayen who retired compulsorily on January 26, 2000.

On the basis of the Report of the Judicial Audit Team, and upon the recommendation of Deputy Court Administrator Zenaida N. Elepaño, then Acting Court Administrator, this Court in a Resolution dated June 4, 2001, directed retired Judge Emma C. Labayen to *explain* within ten (10) days from notice why a portion of her retirement benefits should not be forfeited as a fine for her failure to: (a) decide within the reglementary period Civil Case Nos. 97-9787, 94-8237, 94-8189, 98-10200, and 00-11174; (b) resolve seasonably the pending incidents in Civil Case Nos. 6168, 97-9935, 97-10096, 98-10416, 97-10030, 97-9985, 99-10944, 99-10928, and Cadastral Case No. 00-1092; and (c) comply with the Resolution of this Court *En Banc* dated February 15, 2000 in A.M. No. 00-1-02-RTC directing her to explain why no administrative sanction should be imposed on her for failure to decide on time the cases mentioned therein.

In compliance with this Court's Resolution, Judge Labayen filed her letter-explanation dated July 20, 2001.

For her failure to decide the following cases within the reglementary period, she explains:

- 1) Civil Case No. 97-9787 – She could not decide this case for lack of transcript of stenographic notes. In fact, she directed the court stenographer to finish the transcription.
- 2) Civil Case No. 94-8237 – She overlooked this case because at the time she was to decide it, she was scared her cancer might recur.
- 3) Civil Case No. 94-8189 – This case is between brothers and sisters together with their mother. The latter kept on requesting the court to hold in abeyance the disposition of the case as "she will see to it that her children will come to terms with each other."
- 4) Civil Case No. 98-10200 – The transcript of stenographic notes were not available despite the court's order to the stenographer to transcribe

the same.

5) Civil Case No. 00-11174 – Could not yet be decided in view of a pending Motion to Admit Memorandum dated March 14, 2001 as well as the Opposition thereto dated March 21, 2001.

For her failure to decide the pending incidents in the following cases within the reglementary period, Judge Labayen explains as follows:

1) Civil Case No. 6168 – The Clerk of Court never called her attention to this case.

2) Civil Case No. 97-9935 – She tried to exhaust all avenues for settlement. Both parties are about to submit their compromise agreement.

3) Civil Case No. 97-10096 – She thought she had already disposed of this case as the issue is very simple. "Age and sickness must be catching upon me."

4) Civil Case No. 98-10416 – Since there was overture from the parties for settlement, the court allowed them to settle amicably.

5) Civil Case No. 97-10030 – The incident was submitted at the time she had major operation^[1] of her breast cancer, ovary, cervix, and fallopian tube; and operation for fistula of the anus up to the intestine. "[The] general anesthesia must have caused my forgetfulness."

6) Civil Case No. 97-9985 – The incident was filed at the time her cancer was recurring.

7) Civil Case No. 99-10944 – She held in abeyance the resolution of the incident as the parties manifested their intent to settle the case.

8) Civil Case No. 99-10928 – The stenographic notes were not yet transcribed. She directed the court stenographer to transcribe the notes, and ordered that his one month salary be withheld.

9) Cadastral Case No. 00-1092 – Not yet submitted for decision for there was still a pending opposition to the petition.

For her failure to comply with the Resolution of this Court *En Banc* dated February 15, 2000 in A.M. No. 00-1-02-RTC, directing her to explain why no administrative sanction should be imposed on her for failure to decide within the reglementary period Civil Case Nos. 6123, 6972, 7602 and Criminal Case Nos. 8262, 9535, 10686, 11286, 11287, 11288, 11289, 11290, 11291, 11292, 11293, 11596, 11914, 11915, 11916, 12708, 12709, 13165, 14214,^[2] 15233 which were all partly tried by her, Judge Labayen explains that when she verified her files, it appeared she had already complied with the said Resolution. In fact, in her explanation herein, she insists that she had submitted her compliance. However, the records at the OCA do not indicate that she filed the required explanation. What she furnished this Court was only the status of the cases, the alleged dates of the decisions, sans any explanation why there has been delay in rendering her resolutions or decisions.