

EN BANC

[A.M. No. 98-3-114-RTC, July 22, 1998]

**RE: CASES LEFT UNDECIDED BY JUDGE SERGIO D. MABUNAY,
RTC, BRANCH 24, MANILA.**

R E S O L U T I O N

BELLOSILLO, J.:

JUDGE SERGIO D. MABUNAY who retired on 12 March 1998 as Presiding Judge of the Regional Trial Court, Branch 24, Manila, upon reaching his compulsory retirement age, is recommended by the Court Administrator to be fined P50,000.00 "for failure to decide 2 cases submitted for decision before him in the RTC, Branch 8, Tacloban City, and 13 criminal cases submitted for decision before him in the RTC, Branch 10, Abuyog, Leyte," which "shall be deducted from the proceeds of the retirement benefits of Judge Mabunay."

A word of caution at the outset: We should not be too hasty in condemning our judges, much less in imposing on them unreasonable, if not unwarranted, sanctions. They merit the respect and concern of the Court, especially those who are retiring from the bench after having creditably served for a good number of years. Like any Member of this Court, they too deserve a peaceful and happy retirement from the service without misgivings or any taint of dishonor or disgrace. This much we owe them as they leave the rough and tumble of the judicial profession hoping to cross the threshold of a new life of comfort and ease, which they deserve, unless by their own misdeeds they relinquish this great privilege. Hence, we must thoroughly scrutinize the charge as well as the evidence before we ever condemn.

The records show that on 27 January 1998 or shortly before his compulsory retirement on 12 March 1998, his 70th birthday, respondent was confronted with a *Monthly Report of Cases* by the Office of the Court Administrator coming from RTC-Br. 8, Tacloban City, indicating that there were five (5) cases submitted for decision before him (respondent) when he was still assigned there from 1 August 1985 to 5 November 1986, the date he was transferred to RTC-Br. 24, Manila, which remained undecided. Consequently, on 17 February 1998 respondent Judge received a Memorandum from the Office of the Court Administrator directing him to decide the cases immediately and for the Clerk of Court of RTC-Br. 8, Tacloban City, to transmit the records to him in his station in Manila. Judge Mabunay received the records on 28 February 1998 or twelve (12) days before his compulsory retirement.

Complying with the directive the Court Administrator, Judge Mabunay immediately decided three (3) of the five (5) cases forwarded to him. He could not decide the remaining two (2) cases as the pertinent stenographic notes were not attached to the records and he had no notes on the testimonies of the witnesses since they were heard by other judges. These two (2) remaining cases were filed as early as 1970 and 1976 and heard successively by other judges, namely, Judges Gregorio

Collantes and Jesus Borromeo in 1975, Judge Jose Arro in 1978, and Judges Auxencio Dacuycuy and Fortunato Cuna in 1984.

After respondent retired, the Office of the Court Administrator also found that in addition to the five (5) cases adverted to there were thirteen (13) other cases which were submitted for decision when respondent was still Presiding Judge of RTC-Br. 10, Abuyog, Leyte, but which also remained undecided.

For failure to decide those cases before he retired, the Court Administrator recommended that respondent Judge Sergio D. Mabunay be fined P50,000.00 the amount to be deducted from his retirement benefits.

We cannot agree with the recommendation of the Court Administrator. There is no sound and valid basis for it. First of all, these thirteen (13) other cases were never forwarded to respondent Judge for decision during his incumbency, except the five (5) cases that came from RTC-Br. 8, Tacloban City, the records of which he received only on 28 February 1998, or twelve (12) days before he retired. According to respondent, he immediately decided three (3) of the five (5) cases where the records were complete but returned the remaining two (2) where there were no stenographic notes, referring to Civil Case No. 5131, "*Heirs of Quintin and Maxima Montezon v. Benigno Daa, et al.*" for recovery of real property, and Crim. Case No. 2405, "*People v. Julita Dapuran*," for estafa, and where he had no notes because these cases were not heard by him but by other judges.

Copies of the decisions he rendered in the three (3) cases, together with the corresponding records, referring to Civil Case No. 6720, "*Nilda T. Reyes v. Tacloban Coca-Cola Bottling Co., Inc.*," for damages; Crim. Case No. 4544, "*People v. Rustico Aya-Ay*," for robbery in bond; and Crim. Case No. 5628, "*People v. Francisco Fernandez, et al.*," for murder, were immediately sent by respondent on 8 March 1998 to Atty. Irene I. Pontejos-Cordeta, Clerk of Court, RTC-Br. 8, Tacloban City, for promulgation. He also returned the records of the two (2) undecided cases to the court of origin as they were not ready for decision.

As regards the thirteen (13) cases supposedly submitted for decision when respondent was still the Presiding Judge of RTC-Br. 10, Abuyog, Leyte, the records show that they were never referred to him for decision after he left that station, much less did the Office of the Court Administrator ask him to decide those cases until his compulsory retirement.

Under the circumstances, we cannot see the rationale for holding respondent judge administratively liable, and worse, for imposing upon him a fine of P50,000.00 as recommended by the Court Administrator.

Basically, a case once raffled to a branch belongs to that branch unless reraffled or otherwise transferred to another branch in accordance with established procedure. When the Presiding Judge of that branch to which a case has been raffled or assigned is transferred to another station, he leaves behind all the cases he tried with the branch to which they belong. He does not take these cases with him even if he tried them and the same were submitted to him for decision. The judge who takes over this branch inherits all these cases and assumes full responsibility for them. He may decide them as they are his cases, unless any of the parties moves that his case be decided by the judge who substantially heard the evidence and