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THIRD DIVISION

[A.M. No. MTJ-11-1793. October 19, 2011]
(Formerly A.M. OCA IPI No. 10-2238-MTJ)

ANTONIO Y. CABASARES, *complainant, vs.* **JUDGE FILEMON A. TANDINCO, JR., Municipal Trial Court in Cities, 8th Judicial Region, Calbayog City, Western Samar,** *respondent.*

SYLLABUS

1. **JUDICIAL ETHICS; JUDGES; UNDUE DELAY IN RENDERING A DECISION, COMMITTED.—** In this case, respondent Judge failed to render a decision within the reglementary period or to even ask for an extension of time. "The Court, in its aim to dispense speedy justice, is not unmindful of circumstances that justify the delay in the disposition of the cases assigned to judges. It is precisely for this reason why the Court has been sympathetic to requests for extensions of time within which to decide cases and resolve matters and incidents related thereto. When a judge sees such circumstances before the reglementary period ends, all that is needed is to simply ask the Court, with the appropriate justification, for an extension of time within which to decide the case. Thus, a request for extension within which to render a decision filed beyond the 90-day reglementary period is obviously a subterfuge to both the constitutional edict and the Code of Judicial Conduct." Evidently, respondent Judge failed to do any of these options.

2. **ID.; ID.; ID.; PENALTY; ONLY FINE IS IMPOSED IN VIEW OF THE JUDGE'S RETIREMENT.—** Sections 9 and 11, Rule 140 of the Rules of Court, as amended by A.M. No. 01-8-10-SC, classifies undue delay in rendering a decision or order as a less serious charge with the following administrative sanctions: (a) suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months; or (b) a fine of more than ₱10,000.00 but not exceeding ₱20,000.00. In this case, since respondent Judge has already retired from the service, the only alternative left is to impose a fine. Accordingly, the Court sets the fine to ₱11,000.00 taking

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into account the extent of delay it caused to the parties in said case. This fine shall be deducted from his retirement benefits.

D E C I S I O N

MENDOZA, *J.*:

This is an administrative complaint filed by complainant Antonio Y. Cabasares *(Cabasares)* against respondent, Judge Filemon A. Tandinco, Jr. *(respondent Judge)* of the Municipal Trial Court in Cities *(MTCC)*, 8th Judicial Region, Calbayog City, Western Samar, for undue delay in rendering a decision.[1]

The records disclose that on February 21, 1994, Cabasares filed a Complaint for Malicious Mischief against a certain Rodolfo Hebaya. The case was docketed as Criminal Case No. 8864 and subsequently assigned to the branch of respondent Judge. As early as February 27, 2002, the case had been submitted for decision, but respondent judge had yet to render a decision by the time the complaint was filed on November 6, 2009, which was a clear violation of Section 15 (1), Article VIII of the Constitution and Canon 3, Rule 3.05 of the Code of Judicial Conduct.[2]

In his Comment,[3] respondent Judge claimed that he only came to know of the present administrative complaint against him on December 7, 2009, thru Atty. Elizabeth Tanchoco, head of the Performance Audit Team at MTCC, Calbayog City. On the second day of the audit, he left for Tacloban City upon advice of his doctor and was confined at Divine Word Hospital because of high blood pressure from December 10-13, 2009. Thereafter, he was on leave from December 14-17, 2009 and returned to work only on December 18, 2009. Since it was Christmas time and due to his heavy workload, the case slipped his mind. Later, however, a decision on the case was prepared and promulgated

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[1] *Rollo*, pp. 1-2.

[2] *Id.* at 3.

[3] *Id.* at 11.

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on January 14, 2010.[4] Thus, respondent Judge prayed that his explanation be deemed sufficient considering that he had already retired on January 15, 2010.

The Office of the Court Administrator *(OCA)*, in its Report dated June 1, 2010,[5] found the explanation of respondent judge inexcusable. Accordingly, the OCA made the following recommendations:

> RECOMMENDATION: Respectfully submitted for the consideration of the Honorable Court are our recommendations that:
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> 1. the instant complaint be RE-DOCKETED as a regular administrative matter;
>
> 2. respondent former Judge Filemon A. Tandinco, Jr. be found GUILTY of Undue Delay in rendering a Decision and violating Canon 3, Rule 3.05 of the Code of Judicial Conduct, and be FINED in the amount of ₱20,000.00 which shall be taken from his compulsory retirement benefits.[6]

In its Resolution dated August 25, 2010,[7] the Court required the parties to manifest whether they were amenable to submit the matter for resolution on the basis of the pleadings and available records. Only Cabasares manifested his willingness to submit the case based on the pleadings already filed.[8]

After a careful examination of the records of this case, the Court agrees with the recommendation of the OCA.

Section 15, Article VIII of the 1987 Constitution requires lower courts to decide or resolve cases or matters for decision or final resolution within three (3) months from date of submission. Complementary to this constitutional provision is Canon 1, Rule 1.02, of the Code of Judicial Conduct which instructs that

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[4] *Id.* at 13-16.

[5] *Id.* at 27-29.

[6] *Id.* at 29.

[7] *Id.* at 31.

[8] *Id.* at 32.

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a judge should administer justice impartially and *without delay*.

Similarly, Canon 3, Rule 3.05 of the Code of Judicial Conduct enjoins judges to dispose of their business promptly and to decide cases within the required period. All cases or matters must be decided or resolved by all lower courts within a period of three (3) months from submission.

In fact, the Court, in Administrative Circular No. 3-99 dated January 15, 1999, reminded all judges to meticulously observe the periods prescribed by the Constitution for deciding cases because failure to comply with the said period transgresses the parties' constitutional right to speedy disposition of their cases.[9] Thus, failure to decide cases within the ninety (90)-day reglementary period may warrant imposition of administrative sanctions on the erring judge.[10]

In this case, respondent Judge failed to render a decision within the reglementary period or to even ask for an extension of time.[11] "The Court, in its aim to dispense speedy justice, is not unmindful of circumstances that justify the delay in the disposition of the cases assigned to judges. It is precisely for this reason why the Court has been sympathetic to requests for extensions of time within which to decide cases and resolve matters and incidents related thereto. When a judge sees such circumstances before the reglementary period ends, all that is needed is to simply ask the Court, with the appropriate justification, for an extension of time within which to decide the case. Thus, a request for extension within which to render a decision filed beyond the 90-day reglementary period is obviously a subterfuge to both the constitutional edict and the

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[9] *Re: Cases submitted for Decision before Hon. Meliton G. Emuslan, Former Judge, Regional Trial Court, Branch 147, Urdaneta City, Pangasinan*, A.M. No. RTJ-10-2226, March 22, 2010, 616 SCRA 280, 282.

[10] *Office of the Court Administrator v. Garcia-Blanco*, 522 Phil. 87, 99 (2006).

[11] *Re: Report on the Judicial Audit Conducted in the RTC-Br. 220, Quezon City*, 412 Phil. 680, 684-685 (2001).

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Code of Judicial Conduct."[12] Evidently, respondent Judge failed to do any of these options.

The Court cannot accept respondent Judge's explanation either that he failed to render the decision because he required medical attention. The case had long been due for decision before he was even hospitalized in 2009. His admission that the case "may have escaped his mind"[13] only shows that respondent Judge failed to adopt an effective court management system to carefully track the cases for decision or resolution. "A judge is expected to keep his own record of cases and to note therein the status of each case so that they may be acted upon accordingly and promptly. He must adopt a system of record management and organize his docket in order to bolster the prompt and effective dispatch of business."[14]

Sections 9 and 11, Rule 140 of the Rules of Court, as amended by A.M. No. 01-8-10-SC,[15] classifies undue delay in rendering a decision or order as a less serious charge with the following administrative sanctions: (a) suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months; or (b) a fine of more than ₱10,000.00 but not exceeding ₱20,000.00.

In this case, since respondent Judge has already retired from the service, the only alternative left is to impose a fine. Accordingly, the Court sets the fine to ₱11,000.00 taking into account the extent of delay it caused to the parties in said case. This fine shall be deducted from his retirement benefits.

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[12] *Re: Request of Judge Roberto S. Javellana, RTC-Br. 59, San Carlos City (Negros Occidental) for Extension of Time to decide Civil Cases Nos. X-98 & RTC 363,* 452 Phil. 463, 467 (2003).

[13] *Rollo*, p. 11.

[14] *Request of Judge Fatima Gonzales-Asdala, RTC-Br. 87, Quezon City for Extension Period to Decide CC No. Q-02-46950 & 14 others*, A.M. No. 05-10-618-RTC, July 11, 2006, 494 SCRA 442, 445-446.

[15] Promulgated on September 11, 2001 and took effect on October 1, 2001.

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Once again, the Court cautions judges to be prompt in the performance of their solemn duty as dispenser of justice, for any undue delay corrodes the people's confidence in the judicial system.[16] Delay not only fortifies the belief of the people that the wheels of justice grind ever so slowly, but provokes suspicion, however unfair, of ulterior motives on the part of the judge.[17]

WHEREFORE, retired Judge Filemon A. Tandinco, Jr. of the Municipal Trial Court in Cities, 8th Judicial Region, Calbayog City, Western Samar is found *GUILTY* of undue delay in rendering a decision. Accordingly, he is ordered to pay a *FINE* in the amount of *ELEVEN THOUSAND PESOS* (₱11,000.00) to be deducted from the retirement benefits due and payable to him.

Let a copy of this decision be forwarded to the Office of the Court Administrator so that the remaining benefits due respondent are promptly released, unless there exists another lawful cause for withholding the same.

SO ORDERED.

Velasco, Jr. (Chairperson), Peralta, Abad, and *Perlas-Bernabe, JJ.,* concur.

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[16] *Atty. Montes v. Judge Bugtas*, 408 Phil. 662, 667 (2001).

[17] *Concillo v. Gil*, 438 Phil. 245, 250 (2002).