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EN BANC

[A.M. No. 99-7-250-RTC. April 5, 2000]

CASES SUBMITTED FOR DECISION BEFORE RETIRED JUDGE MAXIMO A. SAVELLANO, JR. RTC- BRANCH 53, MANILA.

SYNOPSIS

This administrative matter arose as a result of, among others, the non-resolution within the reglementary period of several criminal and civil cases before the Regional Trial Court of Manila, Branch 53 then presided by Executive Judge Maximo A. Savellano, Jr.

Judge Savellano, invoking Article VII, Section 15 (2) of the Constitution, posited that the subject cases were not yet submitted for decision inasmuch as the parties had yet to submit their respective memoranda. Further, Judge Savellano explained that as an Executive Judge who concurrently handled a special criminal court, he was burdened with additional duties that affected the speedy disposition and resolution of cases before his court.

The Office of the Court Administrator recommended that a fine of ₱15,000.00 be imposed on Judge Savellano, on the ground of undue delay in rendering decisions in the subject cases and for violation of Supreme Court rules, directives and circulars.

Except for the amount of the fine, which the Supreme Court found too high, the recommendation of the OCA is well taken.

Judges should decide cases even if the parties failed to submit memoranda within the given periods. Non-submission of memoranda is not a part of the trial nor is the memorandum itself an essential, much less indispensable, pleading before a case may be submitted for decision.

Rule 3.05 of Canon 3 of the Code of Judicial Conduct admonishes all judges to dispose of the court's business promptly and decide cases within the periods fixed by law, that is three (3) months from the filing of the last pleading, brief or memorandum. For delay in the disposition of cases erodes faith and confidence of our people in the judiciary, lowers its standards and brings it into disrepute. The designation of respondent judge as an Executive Judges is a

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privilege and a form of recognition of his leadership qualities, and does not excuse him from complying with his constitutional duty to decide cases within ninety (90) days from the time they were deemed submitted for decision.

SYLLABUS

1. **REMEDIAL LAW; CIVIL PROCEDURE; PLEADINGS; MEMORANDA; NOT INDISPENSABLE BEFORE CASE MAY BE SUBMITTED FOR DECISION; NON-SUBMISSION OF MEMORANDA CONSIDERED A WAIVER OF THE PRIVILEGE.** — Judges should decide cases even if the parties fail to submit memoranda within the given periods. Non-submission of memoranda is not a part of the trial nor is the memorandum itself an essential, much less indispensable pleading before a case may be submitted for decision. As it is merely intended to aid the court in the rendition of the decision in accordance with law and evidence — which even in its absence the court can do on the basis of the judge's personal notes and the records of the case — non-submission thereof has invariably been considered a waiver of the privilege.

2. **JUDICIAL ETHICS; JUDGES; MUST DECIDE CASES WITHIN THREE MONTHS FROM FILING OF LAST PLEADING; DELAY IN DISPOSITION OF CASES ERODES FAITH AND CONFIDENCE IN JUDICIARY.**— Rule 3.05 of Canon 3 of the Code of Judicial Conduct admonishes all judges to dispose of the court's business promptly and decide cases within the periods fixed by law, that is three (3) months from the filing of the last pleading, brief or memorandum. For delay in the disposition of cases erodes faith and confidence of our people in the judiciary, lowers its standards and brings it into disrepute.

3. **ID.; ID.; ID.; DESIGNATION OF RESPONDENT JUDGE AS EXECUTIVE JUDGE DOES NOT EXCUSE HIM FROM COMPLYING WITH DUTY TO DECIDE CASES PROMPTLY.**— Although this Court is aware and considered the fact that at the time of his retirement, Judge Savellano acted concurrently as an Executive Judge and a judge of a Special Criminal Court, we must reiterate nonetheless that the designation as an Executive Judge is a privilege and a form of recognition of his leadership qualities, and does not excuse him from complying with his constitutional duty to decide cases within ninety (90) days from the time they were deemed submitted for decision.

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4. ID.; ID.; SHOULD OBSERVE THE NINETY-DAY PERIOD FOR DECIDING CASES UNLESS GRANTED ADDITIONAL TIME; BEING DESIGNATED AS ACTING PRESIDING JUDGE OF TWO OTHER SALAS IS INSUFFICIENT REASON TO JUSTIFY DELAY IN DECIDING CASES.— Analogously, in a recent pronouncement, we invariably held that being designated Acting Presiding Judge of two other salas is insufficient reason to justify delay in deciding a case since the judge could have asked for an extension of the period within which to decide it. The standing rule then is that the ninety-day period for deciding cases should be observed by all judges, unless they have been granted additional time. Judges, when burdened by heavy caseloads which prevent them from disposing their cases within the reglementary period, may, with leave of this Court, ask for additional time. After all, it is not uncommon for the Supreme Court, upon proper application and in meritorious cases, especially when difficult questions of law or complex issues are involved, to grant judges of lower courts additional time to decide beyond the ninety-day period.

RESOLUTION

BUENA, *J.*:

This administrative matter arose as a result of, among others, the non-resolution within the reglementary period of several criminal and civil cases before the Regional Trial Court of Manila, Branch 53 then presided by Executive Judge Maximo A. Savellano, Jr.

As borne by the records, the antecedents of the instant administrative matter are as follows:

On 14 March 1999, Judge Maximo A. Savellano, Jr. compulsorily retired from the judicial service. As required, Judge Savellano rendered Monthly Reports of Cases in Branch 53, the last of which was for the month of November 1998. In the Monthly Report, no entry was made in the space reserved for cases submitted for decision.[1]

[1] Memorandum of Court Administrator Alfredo L. Benipayo, dated 09 July 1999.

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Subsequently, Lawyer Froilan S. Dayco, Clerk of Court of Branch 53, submitted to the Court Management Office, Office of the Court Administrator (OCA), a list of cases "reportedly long submitted for decision before Judge Savellano, but which were only recently decided by the latter." Additionally, Clerk of Court Dayco submitted a separate list of unresolved cases by Judge Savellano allegedly due to non-submission of the memoranda by the parties, as required by the court.

On the basis of the status report submitted by Clerk of Court Froilan Dayco, the OCA, in a memorandum dated 09 July 1999, gathered the following observations, to wit:

"a) In six (6) cases,[2] Judge Savellano issued subsequent orders near his retirement date extending the period given to the parties to submit memorandum although there was a marked non-compliance for an unreasonable period;

b) There were four (4) cases[3] which were left unresolved/undecided by Judge Savellano despite the lapse of an unreasonable length of time.

c) There were ten (10) cases[4] (Four criminal cases and six civil cases) which were decided by Judge Savellano after a lapse of the 90 day reglementary period to decide.

Curiously, the 1998 Monthly Reports of Branch 53 (January-November '98) made a scant mention of only six (6) of these cases:

Criminal Case Nos. 90-82501-02; 94-132490 appeared in the January '98 Reports of Cases; Civil Case Nos. 94-70515; 94-70807; 93-64694; 91-57048 reflected in the May '98 Report of Cases."

In an *En Banc* Resolution dated 03 August 1999, this Court resolved among others to require Judge Savellano and Clerk of Court Froilan Dayco to explain within ten (10) days the improper

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[2] Civil Case Nos. 93-64694; 96-77866; 91-57048; Criminal Case Nos. 92-111825; 94-137245; 94-69609.

[3] Criminal Case Nos. 90-82501; 94-132490; 94-137350; 94-137045.

[4] Criminal Case Nos. 96-150718; 95-146046; 90-86036; 95-142174-5; Civil Case Nos. 82-13979; 93-64357; 97967; 94-70515; 95-70807; 87-39671.

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reporting of nine (9) civil cases[5] and ten (10) criminal cases[6] in the Monthly Reports of Cases of RTC-Manila, Branch 53.

Further, in the same resolution, this Court required Judge Savellano to explain his possible violation of Administrative Circular No. 28, dated 03 July 1989, as a result of the handling of certain civil[7] and criminal[8] cases and for having decided several cases[9] beyond the 90-day reglementary period provided by the Constitution.

In an Explanation dated 14 August 1999, Judge Savellano invoking Article VII, Section 15 (2) of the Constitution, posited that the subject cases were not yet submitted for decision inasmuch as the parties had yet to submit their respective memoranda, as required and ordered by the court. According to Judge Savellano, he "awaited the filing of the required memoranda and even issued subsequent orders giving (the parties) additional time to do so in order to enlighten the court on issues to be raised and discussed by them, but they failed to do so."[10]

Moreover, Judge Savellano submitted that "every case has its own peculiar facts and circumstances necessitating clear and lucid discussions thereof in the required memoranda."[11]

Notwithstanding, Judge Savellano averred that in many instances, he decided cases pending before his court even in the absence of the required memoranda based on "personal notes taken by him during the trial."

Further, Judge Savellano explained that as an Executive Judge who concurrently handled a special criminal court, he was burdened

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[5] Civil Case Nos. 93-64694; 96-77866; 91-570-48; 82-139-79; 93-64357; 97967; 94-70515; 95-70807; 87-39671.

[6] Criminal Case Nos. 92-111825; 94-137045; 94-69609; 90-82501; 94-132490; 94-137350; 96-150718; 95-146046; 90-86036 and 95-142174-5.

[7] Civil Case Nos. 93-64694; 96-77866 and 91-57048.

[8] Criminal Case Nos. 92-111825, 94-137245; 94-69609.

[9] Criminal Case Nos. 96-150718; 95-146046; 90-86036; 95-142174-5; Civil Case Nos. 82-139-79; 93-64357; 97967; 94-70515; 95-70807; 87-39671.

[10] Explanation of Judge Maximo Savellano, Jr., p. 2.

[11] *Ibid.*, p 3.

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with additional duties that affected the speedy disposition and resolution of cases before his court.

In a Memorandum dated 24 January 2000, the OCA recommended that a fine of ₱15,000.00 be imposed on Judge Savellano, on the ground of undue delay in rendering decisions in the subject cases and for violation of Supreme Court rules, directives and circulars.

Except for the amount of the fine which the Court finds too high, the recommendation of the OCA is well-taken.

On this score, Administrative Circular No. 28, dated 03 July 1989 finds pertinence, thus:

"1) As a general rule, the submission of memoranda is not mandatory or required as a matter of course but shall be left to the sound discretion of the court. A memo may not be filed unless required or allowed by the court. x x x.

x x x x x x x x x

3) A case is considered submitted for decision upon the admission of the evidence of the parties at the termination of the trial. The ninety (90) day period for deciding the case shall commence to run from submission of the case for decision without memoranda; *in case the Court requires or allows its filing, the case shall be considered submitted for decision upon the filing of the last memorandum or the expiration of the period to do so, whichever is earlier* x x x.

4) The court may grant extension of time to file memoranda, *but the ninety (90) day period for deciding the case shall not be interrupted thereby.*

In light of these clear provisions, the proffered explanation of Judge Savellano, as to the delay in the resolution of the subject cases and rendition of judgment thereon, loses persuasion and fails to absolve him from administrative liability.

Verily, judges should decide cases even if the parties fail to submit memoranda within the given periods. Non-submission of memoranda is not a part of the trial nor is the memorandum itself an essential, much less indispensable pleading before a case may be submitted for decision. As it is merely intended to aid the court

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in the rendition of the decision in accordance with law and evidence — which even in its absence the court can do on the basis of the judge's personal notes and the records of the case — non-submission thereof has invariably been considered a waiver of the privilege.[12]

Rule 3.05 of Canon 3 of the Code of Judicial Conduct admonishes all judges to dispose of the court's business promptly and decide cases within the periods fixed by law,[13] that is three (3) months from the filing of the last pleading, brief or memorandum.[14] For delay in the disposition of cases erodes faith and confidence of our people in the judiciary, lowers its standards and brings it into disrepute.[15]

Beyond this, Judge Savellano, in his Explanation admitted that in several instances, he resolved cases and rendered judgment thereon utilizing personal notes transcribed in the course of trial, regardless of the lack of required memoranda from the parties.

In addition, although this Court is aware and considered the fact that at the time of his retirement, Judge Savellano acted concurrently as an Executive Judge and a judge of a Special Criminal Court, we must reiterate nonetheless that the designation as an Executive Judge is a privilege and a form of recognition of his leadership qualities, and does not excuse him from complying with his constitutional duty to decide cases within ninety (90) days from the time they were deemed submitted for decision.[16]

Analogously, in a recent pronouncement,[17] we invariably held that being designated Acting Presiding Judge of two other salas is insufficient reason to justify delay in deciding a case since the judge could have asked for an extension of the period within which to decide it.

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[12] *Salvador vs. Salamanca,* 144 SCRA 276.

[13] *Re: Report of Justice Felipe B. Kalalo,* 282 SCRA 61.

[14] *Abarquez vs. Rebosura,* 285 SCRA 109.

[15] *Ibid.*

[16] *Re: Report on the Judicial Audit, RTC, Branches 4 and 23, Manila,* 291 SCRA 10.

[17] *Re: Report on the Judicial Audit of Cases in the Regional Trial Court, Branch 35, Iriga City,* 299 SCRA 382.

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The standing rule then is that the ninety-day period for deciding cases should be observed by all judges, unless they have been granted additional time.[18] Judges when burdened by heavy caseloads which prevent them from disposing their cases within the reglementary period may, with leave of this Court, ask for additional time.

After all, it is not uncommon for the Supreme Court, upon proper application and in meritorious cases, especially when difficult questions of law or complex issues are involved, to grant judges of lower courts additional time to decide bevond the ninety-day period.[19]

WHEREFORE, in view of the foregoing, the Court finds Judge Maximo A. Savellano, Jr., liable for undue delay in the rendition of judgment and for violating Supreme Court Administrative Circular No. 28 and Canon 3, Rule 3.05 of the Code of Judicial Conduct.

ACCORDINGLY, this Court hereby imposes upon him a fine of ₱5,000.00 to be deducted from the amount of ₱30,000.00 already set aside from his retirement benefits, to answer for any liability for which he may be held accountable.

THEREUPON, the Financial Management Office, OCA is hereby directed to release with dispatch the remaining ₱25,000.00 to Judge Savellano.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Gonzaga-Reyes, Ynares-Santiago, and *De Leon, Jr., JJ.*, concur.

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[18] *Sanchez vs. Vestil*, 298 SCRA 1.

[19] *Lambino vs. De Vera*, 275 SCRA 60.