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THIRD DIVISION

[A.M. No. MTJ-10-1769. October 6, 2010]
(Formerly OCA IPI No. 09-2145-MTJ)

EDUARDO B. OLAGUER, *complainant, vs.* **JUDGE ALFREDO D. AMPUAN, Metropolitan Trial Court, Branch 33, Quezon City,** *respondent.*

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; JUDGES; SC ADMINISTRATIVE CIRCULAR NO. 28; DUTY TO DECIDE CASE IN NINETY (90) DAYS.— Respondent Judge really failed in his duty to promptly and expeditiously dispose of Civil Case No. 27653. In so failing, he ran afoul of Supreme Court Administrative Circular No. 28 dated July 3, 1989, whose paragraph three provides: 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 upon the expiration* of the period to do so, whichever is earlier. Lack of transcript of stenographic notes shall not be a valid reason to interrupt or suspend the period for deciding the case unless the case was previously heard by another judge not the deciding judge in which case the latter shall have the full period of ninety (90) days for the completion of the transcripts within which to decide the same.

2. ID.; ID.; ID.; ID.; ID.; VIOLATION THEREOF NOT EXCUSED BY ADDITIONAL COURT ASSIGNMENTS AS EXTENSION OF TIME TO DECIDE CASE CAN BE REQUESTED.— The additional court assignments or designations imposed upon respondent Judge did not make him less liable for the delay. Verily, a judge cannot by himself choose to prolong the period for deciding cases beyond that authorized by law. Had his additional court assignments or designations unduly prevented him from deciding Civil Case No. 27653, respondent Judge

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could have easily sought additional time by requesting an extension from the Court, through the OCAd, but he did not avail himself of this remedy. Without an order of extension granted by the Court, his failure to decide within the required period constituted gross inefficiency that merited administrative sanction.

D E C I S I O N

BERSAMIN, *J.*:

Before us is an administrative complaint against Presiding Judge Alfredo D. Ampuan of Branch 33, Metropolitan Trial Court, in Quezon City.

The complainant charged respondent Judge with delay in rendering a decision, gross inefficiency, and conduct unbecoming of a judge relative to his handling of Civil Case No. 27653 entitled *JOS Managing Builders, Inc. v. Land Bank of the Philippines, et al.* The said civil case had been already pending for eight years because respondent Judge had allowed the case to drag unnecessarily. The complainant claimed that respondent had failed to render a decision despite the lapse of six months and had likewise failed to act on the last two motions he had filed. The complainant averred that the Branch Clerk of Court had informed him that the cause of delay had been the reconstruction of the various transcripts of stenographic notes (TSNs), which should not be true considering that the original TSNs had earlier been provided to the parties.[1]

It appears that on August 5, 2008, the complainant filed an *ex parte manifestation* in Civil Case No. 27653 praying for its submission for decision for failure of the defendants to file their memorandum, but respondent Judge rendered no decision despite the lapse of three months. The complainant then filed *motions to resolve* on December 12, 2008 and on February 18, 2009. Still, respondent Judge did not decide Civil Case No. 27653

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

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until only on June 2, 2009, which was way beyond the three-month reglementary period.[2]

In his *comment*,[3] respondent Judge explained that he had inherited Civil Case No. 27653 from two predecessors, and that he had started handling it only on November 18, 2005, but only for the last five hearings. He averred that the stenographers who had taken the TSNs had transferred to another court, causing a delay in the submission of the TSNs; and that the charges against him were unfair, stressing that he conducted daily hearings because his *sala* was designated as a Special Court for Tax Cases, Election Court, and Small Claims Court.

On August 3, 2010, the Office of the Court Administrator (OCAd) found respondent Judge guilty of gross inefficiency and recommended the penalty of reprimand with a stern warning that a repetition of the same or similar act would be dealt with more severely.[4]

We agree with the finding and recommendation of the OCAd, which were supported by the uncontroverted records.

Respondent Judge really failed in his duty to promptly and expeditiously dispose of Civil Case No. 27653. In so failing, he ran afoul of Supreme Court Administrative Circular No. 28 dated July 3, 1989, whose paragraph three provides:

> 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 upon the expiration** of the period to do so, whichever is earlier. Lack of transcript of stenographic notes shall not be a valid reason to interrupt or suspend the period for deciding the case unless the case was previously heard by another judge not

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[2] *Id.*, p. 10.

[3] *Id.*, p. 9.

[4] *Id.*, pp. 69-73.

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the deciding judge in which case the latter shall have the full period of ninety (90) days for the completion of the transcripts within which to decide the same.

The respondent should have forthwith issued the order directing the stenographers to submit the TSNs after the complainant had manifested that the defendants had not filed their *memorandum*. Yet, he did not, but instead took more than seven months before issuing such order on March 15, 2009.

Moreover, we state that the additional court assignments or designations imposed upon respondent Judge did not make him less liable for the delay.[5] Verily, a judge cannot by himself choose to prolong the period for deciding cases beyond that authorized by law. Had his additional court assignments or designations unduly prevented him from deciding Civil Case No. 27653, respondent Judge could have easily sought additional time by requesting an extension from the Court, through the OCAd, but he did not avail himself of this remedy. Without an order of extension granted by the Court, his failure to decide within the required period constituted gross inefficiency that merited administrative sanction.[6]

Nevertheless, the Court recognizes that respondent judge inherited a total of 1,605 cases upon his assumption on August 10, 2005, and that the omission complained of is the first and only administrative charge against him. We are inclined to mitigate his liability, and opt to impose a reprimand, with stern warning that a repetition of the offense or the commission of a similar offense shall be dealt with more severely.

WHEREFORE, respondent Presiding Judge Alfredo D. Ampuan of Branch 33 of the Metropolitan Trial Court in Quezon City is reprimanded, with stern warning that a repetition of the

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[5] *Re: Judicial Audit of the RTC, Br. 14, Zamboanga City, Presided Over by Hon. Ernesto R. Gutierrez,* AM No. RTJ-05-1950-RTC, 482 SCRA 310, 323.

[6] *Reyes-Garmsen v. Bello, Jr.*, A.M. No. RTJ-04-1877, December 21, 2004, 447 SCRA 377, 382.

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offense or the commission of a similar offense shall be dealt with more severely.

SO ORDERED.

Carpio Morales (Chairperson), Brion, Villarama, Jr., and *Sereno, JJ.,* concur.

THIRD DIVISION

[A.M. No. P-10-2807. October 6, 2010]
(Formerly OCA I.P.I. No. 09-3242-P)

LEAVE DIVISION-OAS, OFFICE OF THE COURT ADMINISTRATOR, *complainant, vs.* **BETHEL I. ESELLER, Court Interpreter II, Municipal Trial Court in Cities, Branch III, Bacolod City,** *respondent.*

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; CSC MEMORANDUM CIRCULAR NO. 04; HABITUAL TARDINESS; POLICY REITERATED IN ADMINISTRATIVE CIRCULARS. — Under CSC Memorandum Circular No. 04, Series of 1991, an officer or employee of the civil service is considered habitually tardy if he incurs tardiness, regardless of the number of minutes, ten (10) times a month for at least two (2) months in a semester, or for at least two (2) consecutive months. To ensure the Circular's observance, we circularized it on May 5, 1998, for the information and guidance of all court officials and employees. The Court reiterated the policy on absenteeism and tardiness with the issuance of Administrative Circular No. 2-99 which provides, among others, that Absenteeism and Tardiness, even if not "habitual" or "frequent" under CSC Memorandum Circular No. 04, Series of 1991, shall be dealt