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SECOND DIVISION

[A.M. No. MTJ-02-1398. February 27, 2002]

JOSELITO R. ENRIQUEZ, *complainant, vs.* **JUDGE PLACIDO B. VALLARTA, Municipal Circuit Trial Court (MCTC), Cabiao-San Isidro, Nueva Ecija,** *respondent.*

SYNOPSIS

Complainant herein was counsel for the accused in a criminal case for malicious mischief before the court of the respondent judge. He filed a complaint against the respondent judge, in which he claimed that the latter allowed the prosecution of the case to be conducted by a private prosecutor without the participation of a public prosecutor. He further alleged therein that the respondent judge ordered the parties to submit memoranda which was prohibited under the Revised Rule on Summary Procedure. The Office of the Court Administrator found the explanation of respondent judge on the use of the "memorandum" as merely a lapse in language and agreed that the intervention of a private prosecutor was authorized under the Rules of Criminal Procedure. However, it found respondent liable for his failure to timely decide the case within 30 days from the date it was submitted for decision and recommended a corresponding penalty therefor.

The Supreme Court agreed with the Court Administrator that the respondent judge cannot be faulted for allowing the intervention of a private prosecutor in the trial. The Revised Rules of Criminal Procedure allowed intervention of private prosecutor due to the unavailability of the public prosecutor. By failing to make a timely objection, complainant must be deemed to have waived his objection to the proceedings before respondent judge. However, the explanation of respondent judge that what he really meant was a "position paper," and he only stated in his order "memorandum" through inadvertence, was not accepted by the Court. The Court, likewise, found that the respondent judge failed to promulgate the decision on the criminal case within the period provided under the Revised Rule on Summary Procedure. The Court found the respondent

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judge guilty of ignorance of the law and delay in the disposition of cases and was ordered to pay a fine of ₱2,000.00, with admonition and with warning.

SYLLABUS

1. **REMEDIAL LAW; RULES ON SUMMARY PROCEDURE; MEMORANDUM AS PROHIBITED PLEADING; DISTINGUISHED FROM POSITION PAPER.** — By directing the filing of memoranda in the criminal case, respondent judge evidently was unaware that a requirement to submit a memorandum is prohibited in a summary proceeding. The purpose of the prohibition is to carry out the objective of the Revised Rule on Summary Procedure to promote the "expeditious and inexpensive determination" of small or simple cases, such as the criminal case at bar which, as already stated, simply involved the cutting of the branches of a tamarind tree by the accused. The explanation of respondent judge that what he really meant was a "position paper" and he only stated in his order "memorandum" through inadvertence cannot be accepted by the Court. Such mistake cannot be an innocuous one because a position paper is required at the beginning of the case, after the filing by the parties of their affidavits constituting their evidence. On the other hand, a memorandum is one which other trial courts may require at the conclusion of a trial. What is more, the provision on position papers applies to civil cases only. In criminal cases, no provision for a position paper is allowed for the reason that after the filing of affidavits and counter-affidavits the court is required to proceed with the trial of the case. Consequently, respondent judge's excuse that what he meant was a "position paper" and not a memorandum is even more revealing of his unawareness of the applicable rules.

2. **ID.; ID.; PROMULGATION OF JUDGMENT; SHALL NOT BE LATER THAN 30 DAYS AFTER TERMINATION OF TRIAL; VIOLATION THEREOF IN CASE AT BAR.** — Article VIII, §15 of the Constitution requires courts to decide cases submitted for decision generally within three (3) months from the date of submission, unless the period is reduced by this Court. With respect to cases falling under the Revised Rule on Summary Procedure, promulgated by this Court to implement the

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constitutional provision on the speedy disposition of cases, first level courts are allowed only 30 days following the receipt of the last affidavit and position paper, or the expiration of the period for filing the same, within which to render judgment. The Revised Rule on Summary Procedure provides in §17 that the lower court shall promulgate the judgment not later than 30 days after the termination of the trial. In Criminal Case No. 215-98, the trial was terminated on January 17, 2000, per the order of respondent judge himself. However, respondent's decision was promulgated only on September 26, 2000. Therefore, the promulgation of the judgment took place 253 days after the termination of the trial. Even if the trial was terminated on February 29, 2000, when the parties were supposed to submit their "memorandum," the promulgation of the judgment would still be beyond the limit of 30 days, being 210 days after the termination of the trial. Indeed, although the decision was dated April 27, 2000, no reason has been given why it was not promulgated shortly after that date, but only after five months from the date the decision was allegedly written. "Promulgation of judgment" means the reading of the judgment or sentence in the presence of the accused and the judge of the court who rendered it. It is not the date of the writing of the decision or judgment, as respondent claims. From March 28, 2000, when the case was submitted for decision, to September 26, 2000, when the decision was promulgated, was a period of 182 days. Clearly, this is way beyond the period allowed by the rules.

3. **LEGAL AND JUDICIAL ETHICS; JUDGES; FAILURE TO RENDER JUDGMENT WITHIN THE REQUIRED PERIOD CONSTITUTES GROSS INEFFICIENCY.** — Respondent's failure to decide the case on time constitutes a violation of Canon 3, Rule 3.05 of the Code of Judicial Conduct, which enjoins judges to dispose of their business promptly and decide cases within the required period. The need to decide cases promptly and expeditiously cannot be overemphasized, for justice delayed is justice denied. Delay in the disposition of cases undermines the people's faith and confidence in the judiciary. Hence, the failure of judges to render judgment within the required period constitutes gross inefficiency, warranting the imposition of administrative sanctions on them. For this lapse, respondent should be fined ₱1,000.00.

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DECISION

MENDOZA, *J.*:

This is a complaint against Judge Placido B. Vallarta, Presiding Judge of the Municipal Circuit Trial Court (MCTC), Cabiao-San Isidro, Nueva Ecija, for falsification of certificates of service, gross ignorance of the law, and grave abuse of authority and discretion, in connection with his handling of Criminal Case No. 215-98, entitled "*People of the Philippines vs. Venancio Santos*." The complainant, Atty. Joselito R. Enriquez, was counsel for the accused in Criminal Case No. 215-98 for malicious mischief, before the court of respondent judge. The criminal case involved the alleged malicious cutting by the accused Venancio Santos of the branches of a tamarind tree worth ₱20,000.00. Since the penalty for the crime under Art. 329 (1) of the Revised Penal Code is *arresto mayor*, or from one (1) month and one (1) day to six (6) months, the case is governed by the Revised Rule on Summary Procedure.

Complainant claims in the case at bar that respondent judge allowed the prosecution of the case to be conducted by a private prosecutor without the participation of a public prosecutor. He further alleges that upon the conclusion of the case, respondent judge ordered the parties to submit memoranda, which is prohibited under §19(f) of the Revised Rule on Summary Procedure. It appears that complainant complied with the submission of the memorandum, but the private prosecutor did not. On March 28, 2000, noting the failure of the prosecution to file a memorandum, respondent judge considered the case submitted for decision.

Respondent judge subsequently found complainant's client guilty of the crime charged and sentenced him to 25 days of imprisonment without costs. The decision, dated April 27, 2002, was actually promulgated on September 26, 2000. Complainant claims that respondent judge might have falsified his Certificate of Service for the period covering June to September 2000 by not stating that the case in question was still pending decision despite the lapse of the 90-day period prescribed in Art. VIII, §15(1) of the Constitution. The case is now before the Regional

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Trial Court of Gapan, Nueva Ecija in view of the appeal of the accused.

In his comment, respondent judge argues that the appearance and intervention of a private prosecutor in the criminal case is authorized by Rule 110, §5 of the 1985 Rules of Criminal Procedure (now Revised Rules of Criminal Procedure), as held in *People v. Beriales*.[1] As for his order requiring the parties to submit their memoranda, respondent judge says that what he actually meant was for them to submit a "position paper." Respondent judge explained that such lapse was due to the fact that he had so many things to do, having been assigned to three courts and holding daily hearings. Finally, he maintains that the decision, dated April 27, 2000, was rendered within 30 days counted from the order, dated March 28, 2000, as provided in the Revised Rule on Summary Procedure.

The Office of the Court Administrator found the explanation of respondent judge on the use of "memorandum" as merely a lapse in language and agreed that the intervention of a private prosecutor was authorized under the Rules of Criminal Procedure. However, it found respondent liable for his failure to timely decide the case within 30 days from the date it was submitted for decision and recommended that respondent be ordered to pay a fine of ₱1,000.00 with warning that a repetition of the same offense will be dealt with more severely.

First. We agree with the Office of the Court Administrator that respondent judge cannot be faulted for allowing the intervention of a private prosecutor in the trial of Criminal Case No. 215-98.

Rule 110, §5 of the Revised Rules of Criminal Procedure (2000) provides:

> All criminal actions commenced by a complaint or information shall be prosecuted under the direction and control of the prosecutor. However, in Municipal Trial Courts or Municipal Circuit Trial Courts *when the prosecutor assigned thereto or to the case is not available,*

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[1] 76 SCRA 42 (1977).

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the offended party, any peace officer or public officer charged with the enforcement of the law violated may prosecute the case. This authority shall cease upon actual intervention of the prosecutor or upon elevation of the case to the Regional Trial Court. . . . (italics supplied)

Absent any showing to the contrary, it will be presumed that official duty was regularly performed. This presumption is reinforced in this case by the fact that complainant, as counsel for the accused, failed to object to the absence of the public prosecutor, giving rise to the presumption that the intervention of a private prosecutor was due to the unavailability of the public prosecutor. By failing to make a timely objection, complainant must be deemed to have waived his objection to the proceedings before respondent judge.

Second. The Revised Rule on Summary Procedure provides in pertinent parts:

Section 1. *Scope.* – This rule shall govern the summary procedure in the Metropolitan Trial Courts, the Municipal Trial Courts in Cities, the Municipal Trial Courts, *and the Municipal Circuit Trial Courts* in the following cases falling within their jurisdiction:

. . . . . .

B. Criminal Cases:

. . . . . .

(4) All other criminal cases where the *penalty prescribed by law for the offense charged is imprisonment not exceeding six months* or a fine not exceeding one thousand pesos (₱1,000.00), or both, irrespective of other imposable penalties, accessory or otherwise, or of the civil liability arising therefrom, x x x

Sec. 19. *Prohibited pleadings and motions.* – The following pleadings, motions or petitions shall not be allowed in the cases covered by this Rule:

. . . . . .

(f) *memoranda,* . . . (italics supplied)

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By directing the filing of memoranda in the criminal case, respondent judge evidently was unaware that a requirement to submit a memorandum is prohibited in a summary proceeding. The purpose of the prohibition is to carry out the objective of the Revised Rule on Summary Procedure to promote the "expeditious and inexpensive determination" of small or simple cases, such as the criminal case at bar which, as already stated, simply involved the cutting of the branches of a tamarind tree by the accused.

The explanation of respondent judge that what he really meant was a "position paper" and he only stated in his order "memorandum" through inadvertence cannot be accepted by the Court. Such mistake cannot be an innocuous one because a position paper is required at the beginning of the case, after the filing by the parties of their affidavits constituting their evidence.[2] On the other hand, a memorandum is one which other trial courts may require at the conclusion of a trial.[3] What is more, the provision on position papers applies to civil cases only. In criminal cases, no provision for a position paper is allowed for the reason that after the filing of affidavits and counter-affidavits the court is required to proceed with the trial of the case.[4] Consequently, respondent judge's excuse that what he meant was a "position paper" and not a memorandum is even more revealing of his unawareness of the applicable rules.

That respondent judge had a heavy caseload cannot justify his failure to observe a provision that particularly applies to him. The Code of Judicial Conduct pertinently provides:

Rule 3.01. – A judge shall be *faithful to the law and maintain professional competence.* (italics supplied)

Canon 18 of the Code of Judicial Ethics is equally clear:

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[2] RULE ON SUMMARY PROCEDURE, §9.

[3] *National Waterworks and Sewerage Authority v. Montejo*, 8 SCRA 211 (1963); *People v. Terrobias*, 103 SCRA 321 (1981).

[4] RULE ON SUMMARY PROCEDURE, §§13-14.

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Canon 18. INFLUENCE OF DECISIONS UPON THE DEVELOPMENT OF THE LAW

A judge should be mindful that his duty is the application of general law to particular instances, that ours is a government of laws and not of men, and that *he violates his duty as a minister of justice under such a system if he seeks to do what he may personally consider substantial justice in a particular case and disregards the general law as he knows it to be binding on him.* Such action may become a precedent unsettling accepted principles and may have detrimental consequences beyond the immediate controversy. He should administer his office with a due regard to the integrity of the system of the law itself, remembering that he is not a depository of arbitrary power, but a judge under the sanction of law. (italics supplied)

Considering, however, that complainant failed to object to the order requiring the parties to file memoranda and that generally the prohibition is intended for the benefit of the prosecutor, a fine of ₱1,000.00 will suffice for the purposes of this case.

Third. As to the failure of respondent judge to promulgate the decision on the criminal case within the period provided under the Revised Rule on Summary Procedure, we find the report and recommendation of the Office of the Court Administrator to be well taken.

Article VIII, §15 of the Constitution requires courts to decide cases submitted for decision generally within three (3) months from the date of submission, unless the period is reduced by this Court. With respect to cases falling under the Revised Rule on Summary Procedure, promulgated by this Court to implement the constitutional provision on the speedy disposition of cases, first level courts are allowed only 30 days following the receipt of the last affidavit and position paper, or the expiration of the period for filing the same, within which to render judgment.[5]

The Revised Rule on Summary Procedure provides in §17 that the lower court shall promulgate the judgment not later

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[5] *Report on the Judicial Audit conducted in the Regional Trial Court, Brs. 87 and 98, Quezon City*, 338 SCRA 141 (2000); *Enriquez v. Camarista*, 280 SCRA 1 (1997) *citing Raboca v. Pantanosas, Jr.*, 245 SCRA 293 (1995) and *Cruz v. Pascual*, 244 SCRA 111 (1995).

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than 30 days after the termination of the trial. In Criminal Case No. 215-98, the trial was terminated on January 17, 2000, per the order of respondent judge himself. However, respondent's decision was promulgated only on September 26, 2000. Therefore, the promulgation of the judgment took place 253 days after the termination of the trial. Even if the trial was terminated on February 29, 2000, when the parties were supposed to submit their "memorandum," the promulgation of the judgment would still be beyond the limit of 30 days, being 210 days after the termination of the trial.

Indeed, although the decision was dated April 27, 2000, no reason has been given why it was not promulgated shortly after that date, but only after five months from the date the decision was allegedly written. "Promulgation of judgment" means the reading of the judgment or sentence in the presence of the accused and the judge of the court who rendered it.6 It is not the date of the writing of the decision or judgment, as respondent claims. From March 28, 2000, when the case was submitted for decision, to September 26, 2000, when the decision was promulgated, was a period of 182 days. Clearly, this is way beyond the period allowed by the rules.

Respondent's failure to decide the case on time constitutes a violation of Canon 3, Rule 3.05 of the Code of Judicial Conduct, which enjoins judges to dispose of their business promptly and decide cases within the required period.[7] The need to decide cases promptly and expeditiously cannot be overemphasized, for justice delayed is justice denied. Delay in the disposition of cases undermines the people's faith and confidence in the judiciary. Hence, the failure of judges to render judgment within the required period constitutes gross inefficiency, warranting the imposition of administrative sanctions on them.[8] For this lapse, respondent should be fined ₱1,000.00.

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[6] *Jimenez v. Republic*, 22 SCRA 622 (1968).

[7] *Maquiran v. Lopez*, A.M. No. RTJ-00-1606, June 20, 2001; *Office of the Court Administrator v. Panganiban*, 277 SCRA 499, 503 (1997) *citing Re: Judge Danilo M. Tenerife,* 255 SCRA 184, 187 (1996).

[8] *Maquiran v. Lopez, supra*; *Gil v. Janolo, Jr.,* 347 SCRA 6 (2000).

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WHEREFORE, Judge Placido B. Vallarta is found guilty of ignorance of the law and delay in the disposition of cases and is hereby ordered to pay a fine of ₱2,000.00, with admonition to be more conscientious and prompt in the performance of his duties and with warning that repetition of similar infractions will be sanctioned more severely.

SO ORDERED.

Bellosillo (Chairman), Quisumbing, Buena, and *De Leon, Jr., JJ.,* concur.

EN BANC

[A.M. No. P-00-1384. February 27, 2002]

JUDGE PASCUAL F. FOJAS, JR., Municipal Trial Court, Indang Cavite, *complainant, vs.* **GALICANO M. ROLLAN, Clerk of Court, Municipal Trial Court in Cities, Tagaytay City (then with MCTC, Indang Cavite),** *respondent.*

SYNOPSIS

This complaint filed by complainant herein stemmed from an audit examination conducted by the Commission on Audit on the cash accountabilities of the respondent, who was transferring to the MTCC, Tagaytay City from his post in the MCTC, Indang, Cavite. The cash collections were found to be in order, but the audit team discovered that the original copy of official receipt No. 2130901 was missing. Respondent originally executed an affidavit claiming that he did not use the said receipt and he exerted efforts to locate it, but to no avail. However, the acting clerk of court to his former post requested the National Bureau of Investigation to conduct a technical examination of the indentations found on the duplicate