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a case of direct contempt, where the contemnor may summarily be adjudged in contempt, in indirect contempt the Rules require that a written charge be filed and opportunity be given to the accused to be heard by himself or counsel before the accused may be punished for contempt.[6]

WHEREFORE, Judge Jonathan S. Biteng is found guilty of gross ignorance of the law and incompetence and is hereby *FINED* the amount of ₱25,000.00, to be taken from the amount earlier withheld from his retirement benefits. The Order dated February 6, 1997 issued by Judge Biteng directing the arrest of Frankie Cariño is declared *NULL AND VOID* and *LIFTED*.

SO ORDERED.

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

SECOND DIVISION

[A.M. No. RTJ-99-1469. October 2, 2000]
(Formerly OCA IPI No. 97-484-RTJ)

JULIUS N. RABOCA, *complainant, vs.* **JUDGE ALEJANDRO M. VELEZ, Regional Trial Court, Cagayan de Oro City, Branch 20,** *respondent.*

SYNOPSIS

An administrative complaint was filed charging respondent Judge with gross negligence, inefficiency, incompetence, serious

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[6] *Lim vs. Domagas*, 227 SCRA 258, 262 (1993); *Wicker vs. Arcangel*, 252 SCRA 444, 451 (1996).

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misconduct and malicious and unreasonable delay relative to Civil Case No. 91-246 for quieting of title.

After investigation, the Office of the Court Administrator (OCA) found respondent administratively liable for the following: for failing to act on two Motions for Summary Judgment in said civil case for over five years; and during the time subject motions were unresolved, and for not stating in his certificates of service that he had pending cases and incidents not yet resolved. Such nondisclosure constitutes falsification of certificates of service. Noting respondent's advantage and poor health, the OCA recommended that he be fined the sum of P1,000.00 to be deducted from his retirement benefits.

The Supreme Court agreed with the OCA, finding respondent Judge guilty of Gross Inefficiency for the delay in resolving the subject motions and of Serious Misconduct for submitting falsified monthly certificates of service. The Court, however, found the recommended fine of ₱1,000.00 too lenient and instead imposed a fine of ₱5,000.00.

SYLLABUS

1. LEGAL AND JUDICIAL ETHICS; JUDGES; ADMINISTRATIVE COMPLAINT AGAINST JUDGES; GROSS INEFFICIENCY; FIVE-YEAR DELAY IN RESOLVING MOTIONS FOR SUMMARY JUDGMENT, A CASE OF; CASE AT BAR. — Respondent failed to act on the subject motions for summary judgment for over five years. The Constitution mandates that all cases filed before the lower courts must be decided or resolved within three (3) months from the date of submission. Failure to observe this command constitutes a ground for administrative sanction against the defaulting judge. A judge should at all times remain in full control of the proceedings in his court and follow the time limit set for deciding cases. x x x If his health problems had indeed severely impaired his ability to decide cases, respondent could have followed our suggestion in another case to retire voluntarily instead of remaining at his post to the detriment of the litigants and the public. Or he could have asked for an extension of time to decide the subject case. He did neither. Such an uncalled for delay of five years is gross inefficiency. He violated Rule 3.05 of Canon 3 of the Code of Judicial Conduct.

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2. ID.; ID.; ID.; SERIOUS MISCONDUCT; SUBMISSION OF FALSE CERTIFICATES OF SERVICE, A CASE OF: CASE AT BAR. — The OCA found that Judge Velez' certificates of service did not reflect the cases and incidents pending in his sala. Submission of false certificates of service is serious misconduct under Section 1, Rule 140 of the Rules of Court and is further a criminal offense under the Revised Penal Code. Gross dereliction of duty is penalized with either a fine or suspension from service without pay.

RESOLUTION

QUISUMBING, *J.*:

In a sworn complaint dated November 13, 1997,[1] Julius N. Raboca charged respondent Judge Alejandro M. Velez[2] of the Regional Trial Court of Cagayan de Oro City, Branch 20, with gross negligence, inefficiency, incompetence, serious misconduct, and malicious and unreasonable delay, relative to Civil Case No. 91-246 entitled *"Spouses Candido V . Raboca, et al.v. Dante Sarroga, et al."* for quieting of title.

Complainant is the counsel for the plaintiffs in the aforesaid case, filed on July 2, 1991. On March 2, 1992, plaintiffs filed a Motion for Summary Judgment, which after over five (5) years, respondent had not ruled on up to the time the instant complaint was filed.

On March 20, 1992, complainant filed a Supplemental Motion for Summary Judgment on substantially the same arguments contained in their earlier motion. Again, respondent did not resolve the second motion for over five (5) years.

On February 16, 1995 and May 10, 1996, plaintiffs moved for the resolution of their earlier motions but respondent again failed to act on these motions.

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[1] *Rollo*, pp. 2-3.

[2] Respondent judge was compulsorily retired from the service last February 2, 1999.

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Complainant now contends that Judge Velez' failure to resolve the subject motions within the reglementary period, constituted gross inefficiency. He also submits that the respondent's monthly certificates of service attesting that all pending incidents and cases were decided within the mandatory 90-day period must have been falsified since he had not resolved the aforestated motions.

In his Answer, Judge Velez denied the charges against him. He said that if there was any delay in the disposition of Civil Case No. 91-246, the delay was not motivated by any malice nor intention to delay the proceedings. He explained that from April to May 1992, he was allowed by this Court to travel to the United States as team leader of the Group Study Exchange of the Rotary Foundation, Rotary International, District No. 5930, South Texas, USA; that he had fallen ill several times disabling him from work; that on August 21, 1993, he suffered a heart attack, confined for seven days at the Intensive Care Unit of the Maria Reyna Hospital in Cagayan de Oro City, and re-admitted from January 1-4, 1994. On October 25, 1995, he was confined at the St. Luke's Medical Center in Quezon City, and operated on. One month later, he had a heart bypass surgery and it took several months before he was fit to work again.

Respondent likewise denied he showed bias in favor of defendant Dante P. Sarraga. Respondent pointed out that any delay was more prejudicial to Sarraga since the latter had a pending Motion to Dismiss, which should take precedence over complainant's Motion for Summary Judgment. He explained that it would have been more convenient for him had he dismissed the suit outright, but in the interest of justice and fairness, he gave plaintiffs sufficient time to present their side.

Judge Velez also averred that the delay was not entirely due to him. After the case was filed, several interlocutory matters and motions had to be attended to. From 1992 to May 21, 1996, when plaintiffs notified the trial court of the change of their counsel's address and moved for the judge's inhibition, complainant had done nothing to prosecute the case thereby contributing to the delay.

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Respondent further explained that complainant filed an identical case, (Case No. OMB-3-97-2183) against him with the Office of the Ombudsman for Mindanao. Said complaint was later dismissed by the Ombudsman in its resolution dated March 31, 1998,[3] with the recommendation that the matter be referred to this Court for appropriate action and disposition.

In its Memorandum dated June 10, 1999,[4] the Office of the Court Administrator (OCA) found that respondent's delay in resolving the motion was not actuated by ill motives or willful intention to prejudice anyone. Nonetheless, the OCA concluded respondent should be held administratively liable for the delay. It noted that respondent should have requested the Supreme Court, through the OCA, for additional time to act upon the said motions when he became ill. Also, during the time that the subject motions were unresolved, respondent did not state in his certificates of service that he had pending cases and incidents not yet resolved. Such nondisclosure constitutes falsification of certificates of service. However, the OCA noted respondent's advanced age and poor health and recommended that respondent instead be fined the sum of ₱1,000.00 to be deducted from his retirement benefits.

Indeed, respondent failed to resolve the Motions for Summary Judgment. A motion for summary judgment is premised on the assumption that a scrutiny of the facts will disclose that the issues presented need not be tried either because these are patently devoid of substance or that there is no genuine issue as to any pertinent fact.[5] A judgment on the motion must be "rendered forthwith if the pleadings, supporting affidavits, depositions, and admissions on file show that, except as to the amount of damages, there is no genuine issue and that

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[3] *Supra* Note 1, at 47-49.

[4] *Id.* at 143-146.

[5] *Bayang v. Court of Appeals,* 148 SCRA 91, 94 (1987) citing *Singleton v. Phil. Trust Co.*, 99 Phil. 91 (1956)

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the moving party is entitled to a judgment as a matter of law."[6] It is a method sanctioned by the Rules of Court for prompt disposition of a civil action where there exists no serious controversy.[7] In applying for summary judgment, plaintiffs sought speedy disposition of their case.

Respondent failed to act on the subject motions for summary judgment for over five years. The Constitution mandates that all cases filed before the lower courts must be decided or resolved within three (3) months from the date of submission.[8] Failure to observe this command constitutes a ground for administrative sanction against the defaulting judge.[9] A judge should at all times remain in full control of the proceedings in his court and follow the time limit set for deciding cases.

Respondent next seeks to be excused because of poor health. We note, however, that his first heart attack was in August 1993, or more than a year after plaintiffs had moved for summary judgment. While we sympathize with his woes, the demands of public service cannot abide his illness.[10] For if his health problems had indeed severely impaired his ability to decide cases, respondent could have followed our suggestion in another case to retire voluntarily instead of remaining at his post to the detriment of the litigants and the public.[11] Or he could have asked for an extension of time to decide the subject case.[12] He did neither.

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[6] RULES OF COURT (1964), Rule 35, Sec. 3. See also *Grand Farms, Inc. v. Court of Appeals,* 193 SCRA 748, 753 (1991) citing *Galicia v. Polo*, 179 SCRA 371 (1989), *Guevarra v. Court of Appeals*, 124 SCRA 297 (1983), *Villanueva v. NAMARCO*, 28 SCRA 729 (1969); *Natalia Realty Corp. v. Vallez*, 173 SCRA 534, 538 (1989) citing *Arradaza v. Court of Appeals*, 170 SCRA 12 (1989), *De Leon v. Faustino*, 110 Phil. 249 (1960).

[7] *De Leon v. Faustino, supra* at 253-254.

[8] CONST., Art. VIII, Sec. 15.

[9] *Mosquera v. Judge Legaspi,* A.M. RTJ-99-1511 (formerly A.M. OCA IPI No. 97-344), July 10, 2000, p. 3.

[10] *Office of the Court Administrator v. Butalid,* 293 SCRA 589, 602 (1998).

[11] *Impao v. Makilala*, 178 SCRA 541, 550 (1989).

[12] *Guintu v. Lucero*, 261 SCRA 1, 8 (1996) citing *Cruz v. Basa*, 218 SCRA 551 (1993).V

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Such an uncalled for delay of five years is gross inefficiency.[13] He violated Rule 3.05 of Canon 3 of the Code of Judicial Conduct.[14]

The OCA found that Judge Velez' certificates of service did not reflect the cases and incidents pending in his sala. Submission of false certificates of service is serious misconduct under Section 1, Rule 140 of the Rules of Court and is further a criminal offense under the Revised Penal Code.[15] Gross dereliction of duty is penalized with either a fine or suspension from service without pay.[16]

In the present case, while we are not unmindful of the mitigating circumstances of respondent's advanced age and poor health, we nonetheless find the recommended fine of ₱1,000.00 of the OCA too lenient. In *Navarro vs. Judge del Rosario,* 270 SCRA 264, 269 (1997), a judge was fined ₱8,000.00 for not deciding a case despite the lapse of three years. In *Lopez vs. Alon,* 254 SCRA 166, 169 (1996), a judge was penalized with a fine of ₱10,000.00 for a delay of eighteen months. In this case, respondent failed to show strong and justifiable reasons why he failed to act on the incidents of Civil Case No. 91-246 within

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[13] *Atty. Patrick Juan Perez v. Judge Concepcion*, A.M. No. MTJ-99-1240, December 21, 1999, p. 6.

[14] Rule 3.05. A judge shall dispose of the court's business promptly and decide cases within the required periods.

[15] ART. 174. *False medical certificates, false certificates of merit or service, etc.* — The penalties of *arresto mayor* in its maximum period to *prision correccional* in its minimum period and a fine not to exceed 1,000 pesos shall be imposed upon:

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2. Any public officer who shall issue a false certificate of merit or service good conduct or similar circumstances.

The penalty of *arresto mayor* shall be imposed upon any private person who shall falsify a certificate falling within the classes mentioned in the two preceding subdivisions.

[16] *Report on the Judicial Audit Conducted in RTC, Branches 29 and 59, Toledo City*, 292 SCRA 8, 23 (1998).

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the reglementary period and to disclose his inexcusable inaction in his monthly certificates of service. Failure to resolve the incidents of a case within the period fixed by law is a serious violation of the constitutional rights of the parties to a speedy disposition of their case. The transgression was further compounded when respondent continued to collect his salaries upon certification that he had no pending cases or incidents submitted for decision. Instead of having shown himself, as an officer of the court, to be the embodiment of competence and integrity, respondent allowed himself to be an instrument of fraud. The penalty must therefore be higher than recommended. Taking into account his failing health and his having already compulsorily retired, a fine of five thousand pesos (₱5,000.00) is reasonable under the circumstances.

WHEREFORE, we find respondent Judge Alejandro M. Velez *GUILTY* of Gross Inefficiency for failing to decide two (2) Motions for Summary Judgment in Civil Case No. 91-246 within the reglementary period and of Serious Misconduct for submitting falsified monthly certificates of service over a period of more or less five years. Accordingly, with due respect to the circumstances herein, a fine of Five Thousand Pesos (₱5,000.00), deductible from his withheld retirement benefits, is hereby imposed upon respondent.

SO ORDERED.

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

EN BANC

[G.R. No. 108552. October 2, 2000]

ASSET PRIVATIZATION TRUST, *petitioner, vs.* **SANDIGANBAYAN (SECOND DIVISION) and ROSARIO M. B. OLIVARES,** *respondents.*