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the December 1, 2010 Resolution of this Court. Atty. Bayhon is further **WARNED** that a commission of the same or similar acts in the future shall be dealt with more severely.

Let copies of this Decision be furnished to the Office of the Court Administrator to be disseminated to all courts throughout the country, to the Office of the Bar Confidant to be appended to Atty. Walfredo C. Bayhon's personal records, and to the Integrated Bar of the Philippines for its information and guidance.

SO ORDERED.

Sereno, C.J. (Chairperson), Leonardo-de Castro, Bersamin, and *Reyes, JJ.,* concur.

SECOND DIVISION

[A.M. No. MTJ-11-1790. December 11, 2013]
(Formerly A.M. No. 11-7-86-MTC)

OFFICE OF THE COURT ADMINISTRATOR, *complainant, vs.* **JUDGE RAYMUNDO D. LOPEZ and EDGAR M. TUTAAN, former Presiding Judge and Clerk of Court, respectively, Municipal Trial Court, Palo, Leyte,** *respondents.*

SYLLABUS

1. JUDICIAL ETHICS; JUDGES; THE FAILURE OF A JUDGE TO DECIDE A CASE WITHIN THE REQUIRED PERIOD IS NOT EXCUSABLE BUT UPON PROPER APPLICATION, HE MAY BE GRANTED ADDITIONAL TIME TO DECIDE BEYOND THE REGLEMENTARY PERIOD.— Judges have the sworn duty to administer justice and decide cases promptly and expeditiously because justice

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delayed is justice denied. The 1987 Constitution mandates that all cases or matters be decided or resolved by the lower courts within three months from date of submission. Judges are expected to perform all judicial duties, including the rendition of decisions, efficiently, fairly, and with reasonable promptness. x x x Time and again, this Court reminds judges to decide cases with dispatch. The Court has consistently held that the failure of a judge to decide a case within the required period is not excusable and constitutes gross inefficiency, and non-observance of this rule is a ground for administrative sanction against the defaulting judge. Upon proper application and in meritorious cases, however, the Court has granted judges of lower courts additional time to decide cases beyond the 90-day reglementary period.

2. ID.; ID.; UNDUE DELAY IN RENDERING A DECISION OR ORDER; CONSIDERED A LESS SERIOUS CHARGE; PENALTY.— Undue delay in rendering a decision or order is a less serious charge and punishable by either: (1) suspension from office without salary and other benefits for not less than one nor more than three months; or (2) a fine of more than ₱10,000.00 but not exceeding ₱20,000.00.

3. ID.; ID.; CERTIFICATE OF SERVICE, DEFINED; MAKING UNTRUTHFUL STATEMENTS IN THE CERTIFICATE OF SERVICE IS A LESS SERIOUS CHARGE; PENALTY.— A certificate of service is an instrument essential to the fulfillment by judges of their duty to dispose of their cases speedily as mandated by the Constitution. Judges are expected to be more diligent in preparing their Monthly Certificates of Service by verifying every now and then the status of the cases pending before their sala. x x x Making untruthful statements in the certificate of service is a less serious charge, and is punishable by either: (1) suspension from office without salary and other benefits for not less than one month nor more than three months; or (2) a fine of more than ₱10,000.00 but not exceeding ₱20,000.00.

4. ID.; ID.; SHOULD NOT ENGAGE IN CONDUCT INCOMPATIBLE WITH THE DILIGENT DISCHARGE OF JUDICIAL DUTIES.— The administration of justice demands that those who don judicial robes be able to comply fully and faithfully with the task before them. Judges are duty-

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bound not only to be faithful to the law, but likewise to maintain professional competence. x x x Judge Lopez's submission of false monthly reports and docket inventory undermines the speedy disposition of cases and administration of justice and is prejudicial to the interests of the parties litigants. Judges are expected not to engage in conduct incompatible with the diligent discharge of judicial duties. Further, Judge Lopez's explanation of lack of time due to emotional and physical stress does not inspire trust and confidence from the public.

5. ID.; ID.; THE NEGLIGENCE OF A JUDGE IN NOT REVIEWING THE MONTHLY REPORT OF CASES AND DOCKET INVENTORY SHOWS A LACK OF PROFESSIONAL COMPETENCE IN COURT MANAGEMENT, AND DOES NOT INSPIRE THE OBSERVANCE OF HIGH STANDARDS OF PUBLIC SERVICE AMONG THE COURT PERSONNEL.— Judge Lopez's admitted negligence in not reviewing the monthly reports of cases and the docket inventory also violates the rules on administrative duties outlined in the Code of Judicial Conduct x x x. The negligence of Judge Lopez shows a lack of professional competence in court management, and does not inspire the observance of high standards of public service among the court personnel. Although the negligence of the judge does not excuse the negligence of the court personnel, the latter look to the former, who is the head of the trial court and who should set the bar for professionalism and excellence.

6. POLITICAL LAW; ADMINISTRATIVE LAW; PUBLIC OFFICERS AND EMPLOYEES; WHEN THE RESPONDENT IS GUILTY OF TWO OR MORE CHARGES, THE PENALTY FOR THE MOST SERIOUS CHARGE SHOULD BE IMPOSED AND THE OTHER CHARGES MAY BE CONSIDERED AS AGGRAVATING CIRCUMSTANCES.— Judge Lopez's violations of the New Code of Judicial Conduct for the Philippine Judiciary and the Code of Judicial Conduct constitute gross misconduct. Gross misconduct is a serious charge, and is punishable by (1) dismissal from the service; (2) suspension from office for more than three months but not exceeding six months; or (3) a fine of more than ₱20,000.00 but not exceeding ₱40,000.00. Section 17, Rule XIV of the CSC Omnibus Rules Implementing Book V of Executive Order

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No. 292 provides that when the respondent is guilty of two or more charges, the penalty for the most serious charge should be imposed and the other charges may be considered as aggravating circumstances. In this case, Judge Lopez is guilty of the serious charge of gross misconduct, and the less serious charges of undue delay in rendering decisions and of making untruthful statements in his Certificates of Service. Since Judge Lopez is already retired, the Court imposes a fine in the amount of ₱40,000.00, which is the amount corresponding to the maximum imposable fine for the most serious charge of gross misconduct.

7. ID.; ID.; ID.; SIMPLE MISCONDUCT; DEFINED AS A TRANSGRESSION OF SOME ESTABLISHED RULE OF ACTION, AN UNLAWFUL NEGLIGENCE COMMITTED BY A PUBLIC OFFICER; PENALTY IN CASE AT BAR.— The Docket Inventory attached to Mr. Tutaan's letter, and purporting to exonerate him from culpability, was executed on 16 February 2011. The Docket Inventory attached to the audit report was executed on 7 March 2011. Mr. Tutaan's explanation that the cases were already reflected in the 16 February 2011 Docket Inventory is of no moment because when the 7 March 2011 Docket Inventory was executed, the cases remained undecided. Besides, 11 out of the 21 cases cited by the OCA are still missing from the 16 February 2011 Docket Inventory. x x x Mr. Tutaan exhibited indifference to the Court's directives as he admitted that he simply continued his practice since 1979 to 1994 of not reporting cases submitted for decision that remain undecided, and waiting for someone to correct him on that practice. As early as 1991, judges, clerks and branch clerks of court were instructed to list down **all cases submitted for decision that are still undecided at the end of the month**. In 1992, judges, clerks and branch clerks of court were yet again reminded about duly filling in the Monthly Report of Cases, SC Form 01 to include **all cases submitted for decision but remain undecided at the end of the month**. x x x Worse still, Mr. Tutaan admitted to omitting certain cases from the reports because of the alleged request of Judge Lopez for him to do so. Mr. Tutaan's statement that he did not intend to submit false reports is belied by his admission that he knowingly excluded certain cases from the reports. The fact remains that he knowingly omitted certain

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cases from the Monthly Reports of Cases and Docket Inventory. On the part of Mr. Tutaan, his act of excluding cases from the Monthly Reports of Cases and Docket Inventory amounts to simple misconduct. Simple misconduct is a transgression of some established rule of action, an unlawful negligence committed by a public officer. It is classified as a less grave offense with a penalty of suspension of one month and one day to six months for the first offense, to dismissal for the second offense. Taking into account his length of service, we impose the minimum penalty of one month and one day suspension on Mr. Tutaan.

D E C I S I O N

CARPIO, *J.*:

The Case

This administrative case arose from a Memorandum dated 20 July 2011 submitted by an audit team of the Office of the Court Administrator (OCA), reporting on the judicial audit conducted in the Municipal Trial Court, Palo, Leyte (trial court).[1]

The Facts

On 31 May 2011 and 1 June 2011, the OCA audit team conducted a judicial audit in connection with the compulsory retirement on 15 March 2011 of Judge Raymundo D. Lopez (Judge Lopez), former presiding judge of the trial court.

The audit team examined all pending cases as of 31 May 2011, and cases disposed during the first semester of 2011. Of the 133 cases audited, consisting of 89 criminal cases and 44 civil cases,[2] the audit team found that:

1. The trial court had 23 cases submitted for decision which had not been decided, despite the lapse of the 90-day reglementary period for deciding cases, to wit: Criminal

[1] *Rollo*, pp. 11-32.

[2] *Id.* at 11.

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Case Nos. 5411; 5532; 5637; 5774-09-94; 5717-4-94; 5891-3-96; 6323-10-99; 6073-11-97; 6127-3-98; 6431-12-00; 6459-12-00; 6803-01-04; 7107-7-06; 6386-4-00; and 7111-7-06; and Civil Case Nos. 375-9-96; 356-08-94; LRC-001-01; 493-7-07; SP-96-01; 464-9-05; 407-6-99; and 488-01-07;[3]

2. The trial court had pending motions and incidents in 16 cases that remained unresolved despite the lapse of the prescribed period, to wit: Criminal Case Nos. 5886-2-95; 6534-10-01; 6853-06-04; 6163-7-98; 6210-12-98; 6943-01-05; 7126-10-06; and 7171-7-07; and Civil Case Nos. 365-2-95; 374-9-96; 386-6-97; 427-1-02; 500-3-08; 505-6-08; 496-10-07; and 518-09-09;[4]

3. The trial court decided 9 cases beyond the 90-day reglementary period in March 2011;[5] and

4. The trial court had 18 cases which had not been acted upon for a considerable length of time since the last action taken thereon;[6] 2 cases which had not been acted upon since filing;[7] and 11 cases which had not been further set for a considerable length of time since the last settings made thereon.[8]

The audit team also observed that 14 criminal and 7 civil cases were not reflected in the trial court's Docket Inventory for the second semester of 2010 and in the list of cases submitted for decision in the Monthly Report for February 2011, to wit: Criminal Case Nos. 5411; 5532; 5637; 5774-09-94; 5717-4-94; 5891-3-96; 6163-7-98; 5467; 5563; 6286-2-99; 6079-11-97; 6236-3-99; 6723-5-03; and 6888-9-04; and Civil Case Nos.

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[3] *Id.* at 12-14.

[4] *Id*. at 15.

[5] *Id*. at 16-17.

[6] *Id*. at 18-19.

[7] *Id*. at 19.

[8] *Id*. at 19-20.

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375-9-96; 356-08-94; LRC-001-01; 464-9-05; 488-01-07; 501-04-08; and 479-3-2006.[9]

Finally, the audit team found that Judge Lopez submitted false Certificates of Service for the months of February 2010 to December 2010.[10]

The OCA submitted its Report on the judicial audit conducted in the trial court (Report)[11] to the Court on 2 August 2011, which was docketed as A.M. No. 11-7-86-MTC. The OCA adopted the findings and recommendations of the audit team, and further recommended that the matter be re-docketed as a regular administrative matter against Judge Lopez.

The Court in a Resolution dated 15 August 2011[12] resolved as follows:

1. **RE-DOCKET** this case as a regular administrative matter against Judge Raymundo D. Lopez, former Presiding Judge, Municipal Trial Court, Palo, Leyte;

2. Judge Lopez be **DIRECTED** to **EXPLAIN** within fifteen (15) days from notice why he should not be cited for:

    2.1. **gross dereliction of duty/gross inefficiency** for his:

        2.1.1. FAILURE TO DECIDE the following **fifteen (15) criminal and eight (8) civil cases** despite the lapse of the prescribed period to decide the same x x x.

        2.1.2. FAILURE TO RESOLVE pending motions/ incidents in the following **eight (8) criminal and eight (8) civil cases**, despite the lapse of the prescribed period to resolve the same x x x.

        2.1.3. DELAY IN DECIDING the following **seven (7) criminal and two (2) civil cases** x x x.

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[9] *Id.* at 20-21.

[10] *Id.* at 22.

[11] *Id.* at 1-10.

[12] *Id.* at 54-65.

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2.2. **serious misconduct** for:

2.2.1. Declaring in his Certificates of Service for the months of February to December 2010 that he has decided all cases and resolved all incidents within ninety (90) day period from the date of submission for decision/resolution even when there were several cases/incidents which remained undecided/unresolved beyond the reglementary period.

2.2.2. Failing to reflect in the Docket Inventory and/or in the Monthly Report of Cases, particularly in the List of Cases Submitted for Decision, the following **fourteen (14) criminal and seven (7) civil cases** that have long been submitted for decision/resolution x x x.

3. **DIRECT** Mr. Edgar M. Tutaan, Clerk of Court, MTC, Palo, Leyte, to **SHOW CAUSE** why he should not be administratively dealt with for submitting false Monthly Report of Cases and Docket Inventory in relation to Item No. 2.2.2 above;

x x x x x x x x x

5. And, **ORDER** the Fiscal Management Office, OCA, to retain from the retirement benefits of Judge Lopez the sum of Two Hundred Thousand Pesos (₱200,000.00), to answer for any administrative liability that may be imposed upon him in connection with the instant administrative matter.[13] (Boldfacing in the original)

The Court likewise ordered the Acting Presiding Judge, Judge Sarah L. Dapula (Judge Dapula) to resolve the cases and incidents left unresolved by Judge Lopez and to take appropriate action on the cases that have not been acted upon, or set for hearing, for a long time. Judge Dapula, in her compliance dated 28 September 2011,[14] reported having acted upon all the cases which had not been acted upon for a considerable length of time, which had not been acted upon since filing, and which

[13] *Id*.

[14] *Id*. at 66-68.

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had not been set for a considerable length of time. However, she requested the Court for an extension of the 90-day period to decide the cases and resolve the pending incidents left by Judge Lopez.

Judge Dapula also reiterated her request that an assisting judge be appointed, or in the alternative, to relieve her as Acting Presiding Judge and designate another judge with less heavy load. In support of her request, Judge Dapula cited her failing health and reasoned that her own sala[15] had an equally heavy caseload.

Judge Lopez in his letter dated 30 September 2011[16] set forth the following reasons:

1. His failure to decide the cases and resolve the pending incidents within the reglementary period was caused by the following health problems and personal circumstances:
    a) He suffered from acute myocardial infarction in 1998, a triple bypass operation in 1999, fluctuating blood pressure from 1999 onwards and an enlarged heart, and underwent extracorporeal shock wave lithotripsy of his right ureterolithiasis in September 1999;
    b) When his wife was diagnosed with cancer, he personally attended to her;
    c) He underwent hemorrhoidectomy in February 2010;
    d) His wife succumbed to cancer on 13 July 2010; and
    e) Two months before his retirement from the judiciary, he was hospitalized for severe hyperkalemia, chronic kidney disease and hypoalbuminemia, hypertensive cardiovascular disease, cardiomegaly, and CHF II.

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[15] Municipal Trial Court, Tanauan, Leyte.

[16] *Rollo*, pp. 120-121.

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2. He ascribed to pure inadvertence, brought about by the same health and personal problems, his false declarations in his Certificates of Service for the months of February 2010 to December 2010; and

3. He suffered much emotional and physical stress, due to his health problems and the death of his wife, which gravely affected his work that he lacked the time to review the monthly reports and docket inventory.

For his part, the Clerk of Court, Edgar M. Tutaan (Mr. Tutaan), reasoned in his letter dated 26 September 2011[17] that:

1. Prior to 1994, the monthly report form required only a list of cases submitted for decision, and did not specifically require a list of the cases still undecided but previously submitted for decision. The form was changed in 1994; however, he continued his old practice since nobody corrected him;

2. Some of the cases cited by the OCA audit team were in fact reflected in the Docket Inventory;

3. Some cases were not reflected in the monthly reports as submitted for decision due to lack of any order by the judge to that effect;

4. For 12 of the cases not included in the monthly reports, he merely acceded to Judge Lopez's request to exclude the same out of sympathy for Judge Lopez's health and personal circumstances; and

5. He did not intend to submit false reports of cases.

In compliance with the Court's Resolution dated 19 October 2011,[18] the OCA, in a Memorandum dated 12 January 2012,[19]

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[17] *Id*. at 191-193.

[18] *Id*. at 189-190.

[19] *Id*. at 213-227.

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commented on Judge Dapula's compliance, recommending that Judge Dapula be relieved as Acting Presiding Judge, and named another judge[20] to replace her. The OCA also evaluated the explanations of Judge Lopez and Mr. Tutaan and expressed its recommendations.

Meanwhile, the case docketed as A.M. No. MTJ-12-1803, entitled *Office of the Court Administrator v. Hon. Raymundo D. Lopez, former Judge, Municipal Trial Court, Palo, Leyte*, involved two cases that were inadvertently not included in the judicial audit. Those cases were also left undecided beyond the reglementary period. The Court in a Resolution dated 18 January 2012[21] imposed a fine of ₱4,000.00 upon Judge Lopez. The Resolution further ordered A.M. No. MTJ-12-1803 to be consolidated with this case.

In a Resolution dated 17 September 2012,[22] the Court required the OCA to comment on the possible de-consolidation of the instant case and A.M. No. MTJ-12-1803. The OCA recommended the de-consolidation of the cases in its Memorandum dated 25 February 2013,[23] since A.M. No. MTJ-12-1803 had already been resolved. In the same Memorandum, the OCA reiterated its recommendations contained in its 12 January 2012 Memorandum, with some modifications, as Judge Jeanette Ngo Loreto had already been appointed Presiding Judge of the trial court.[24]

In the interim, Judge Lopez, in a letter dated 30 October 2012, requested the release of his retirement benefits, which he needed for his maintenance medicines and for hospitalization and medical expenses, pending resolution of this case.

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[20] Judge Mario P. Nicolasora of the Municipal Trial Court, Tolosa, Leyte.

[21] *Rollo*, pp. 228-229.

[22] *Id*. at 232.

[23] *Id*. at 243-245.

[24] *Id*. at 244.

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The OCA's Report and Recommendations

The OCA's recommendations in the Memorandum dated 12 January 2012[25] read, in part:

WHEREFORE, in view of the foregoing, it is respectfully recommended that:

1. Mr. Edgar M. Tutaan, Clerk of Court, Municipal Trial Court, Palo, Leyte be INCLUDED as respondent in the instant administrative case;

2. Retired Judge Raymundo D. Lopez, former Presiding Judge, MTC, Palo, Leyte be found GUILTY of **gross dereliction of duty/gross inefficiency** and be FINED in the amount of two hundred thousand pesos (₱200,000.00) to be taken from the two hundred thousand pesos (₱200,000.00) ordered withheld from his retirement benefits pursuant to the Resolution of 15 August 2011;

3. Mr. Edgar M. Tutaan, Clerk of Court, Municipal Trial Court, Palo, Leyte, be found guilty of **misconduct** and be **FINED** in the amount of ten thousand pesos (₱10,000.00) with a **STERN WARNING** that a repetition of the same or similar infraction shall be dealt with more severely; x x x. (Boldfacing in the original)

The Court's Ruling

The Court finds the report of the OCA well taken except as to the penalty.

On the Delay in Rendering Judgment

Judges have the sworn duty to administer justice and decide cases promptly and expeditiously because justice delayed is justice denied.[26] The 1987 Constitution mandates that all cases or matters be decided or resolved by the lower courts within three months from date of submission.[27] Judges are expected to perform all

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[25] *Id*. at 223-224.

[26] *Office of the Court Administrator v. Asaali*, A.M. No. RTJ-06-1991, 5 June 1999, 588 SCRA 273, 281.

[27] Section 15(1), Article VIII of the 1987 Constitution.

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judicial duties, including the rendition of decisions, efficiently, fairly, and with reasonable promptness.[28]

In this case, Judge Lopez failed to decide a total of 32 cases and resolve pending incidents in 16 cases within the 90-day reglementary period.

Time and again, this Court reminds judges to decide cases with dispatch. The Court has consistently held that the failure of a judge to decide a case within the required period is not excusable and constitutes gross inefficiency, and non-observance of this rule is a ground for administrative sanction against the defaulting judge.[29]

Upon proper application and in meritorious cases, however, the Court has granted judges of lower courts additional time to decide cases beyond the 90-day reglementary period.

In this case, Judge Lopez, despite his medical condition and personal circumstances, did not apply for any extension to decide the cases before him. In certain instances, as the OCA noted, the cases were submitted for decision even before Judge Lopez began having medical problems.

This Court commiserates with Judge Lopez for the heart attack, other ailments, and personal tragedy that he suffered. However, these do not exonerate him from the consequences of his omissions that took place before he became ill and more than a decade after he had resumed reporting to work. In the absence of any showing that his medical and personal problems prevented him from working after his operation, Judge Lopez had no valid excuse for not giving due attention to the cases in his sala. At the very least, his health problems and personal crises would only mitigate his liability.

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[28] Section 5, Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary.

[29] *Lambino v. Judge De Vera*, 341 Phil. 62, 66 (1997).

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In *Re: Cases Submitted for Decision Before Judge Damaso A. Herrera, Regional Trial Court, Branch 24, Biñan, Laguna*,[30] we held:

> [The judge's] plea of heavy workload, lack of sufficient time, poor health, and physical impossibility could not excuse him. Such circumstances were not justifications for the delay or non-performance, given that he could have easily requested the Court for the extension of his time to resolve cases. Our awareness of the heavy caseload of the trial courts has often moved us to allow reasonable extensions of time for trial judges to decide their cases. But we have to remind x x x trial judges that no judge can choose to prolong, on his own, the period for deciding cases beyond the period authorized by law. Without an order of extension granted by the Court, a failure to decide a single case within the required period rightly constitutes gross inefficiency that merits administrative sanction.[31]

Undue delay in rendering a decision or order is a less serious charge and punishable by either: (1) suspension from office without salary and other benefits for not less than one nor more than three months; or (2) a fine of more than ₱10,000.00 but not exceeding ₱20,000.00.[32]

On the False Monthly Certificates of Service

A certificate of service is an instrument essential to the fulfillment by judges of their duty to dispose of their cases speedily as mandated by the Constitution.[33] Judges are expected to be more diligent in preparing their Monthly Certificates of Service by verifying every now and then the status of the cases pending before their sala.[34]

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[30] A.M. No. RTJ-05-1924, 13 October 2010, 633 SCRA 1.

[31] *Id.* at 10.

[32] Sections 9(1) and 11(B), Rule 140 of the Rules of Court.

[33] *Office of the Court Administrator v. Judge Trocino,* 551 Phil. 258, 268 (2007).

[34] *Id.*

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The OCA found that Judge Lopez falsified his Monthly Certificates of Service for the months of February 2010 to December 2010.[35] In the Certificates, Judge Lopez stated that he had decided "all special proceedings, application, petitions, motions, and all civil and criminal cases which have been under submission for decision or determination for a period of ninety (90) days or more." But a careful reading of the audit report reveals that the cases not decided within the 90-day reglementary period were all submitted for decision prior to 2011, some even as early as the 1990s.[36] The same is true with the motions and incidents submitted for resolution left pending beyond the 90-day period.[37]

Making untruthful statements in the certificate of service is a less serious charge, and is punishable by either: (1) suspension from office without salary and other benefits for not less than one month nor more than three months; or (2) a fine of more than ₱10,000.00 but not exceeding ₱20,000.00.[38]

On the False Monthly Report of Cases and Docket Inventory

The administration of justice demands that those who don judicial robes be able to comply fully and faithfully with the task before them.[39] Judges are duty-bound not only to be faithful to the law, but likewise to maintain professional competence.[40] Section 2, Canon 2 of the New Code of Judicial Conduct for the Philippine Judiciary provides:

> The behavior and conduct of judges must reaffirm the people's faith in the integrity of the Judiciary. Justice must not merely be done, but must also be seen to be done.

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[35] *Rollo*, pp. 33-42-A.

[36] *Supra* note 3.

[37] *Supra* note 4.

[38] Sections 9(6) and 11(B), Rule 140 of the Rules of Court.

[39] *Office of the Court Administrator v. Judge Leonida*, A.M. No. RTJ-09-2198, 18 January 2011, 639 SCRA 697, 706.

[40] *Id*.

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Judge Lopez's submission of false monthly reports and docket inventory undermines the speedy disposition of cases and administration of justice and is prejudicial to the interests of the parties litigants. Judges are expected not to engage in conduct incompatible with the diligent discharge of judicial duties.[41] Further, Judge Lopez's explanation of lack of time due to emotional and physical stress does not inspire trust and confidence from the public.

Judge Lopez's admitted negligence in not reviewing the monthly reports of cases and the docket inventory also violates the rules on administrative duties outlined in the Code of Judicial Conduct,[42] which provides:

> Rule 3.08. – A judge should diligently discharge administrative responsibilities, maintain professional competence in court management, and facilitate the performance of the administrative functions of other judges and court personnel.
>
> Rule 3.09. – A judge should organize and supervise the court personnel to ensure the prompt and efficient dispatch of business, and require at all times the observance of high standards of public service and fidelity.
>
> Rule 3.10. – A judge should take or initiate appropriate disciplinary measures against lawyers or court personnel for unprofessional conduct of which the judge may have become aware.

The negligence of Judge Lopez shows a lack of professional competence in court management, and does not inspire the observance of high standards of public service among the court personnel. Although the negligence of the judge does not excuse the negligence of the court personnel, the latter look to the former, who is the head of the trial court and who should set the bar for professionalism and excellence.

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[41] Section 7, Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary.

[42] The Code of Judicial Conduct was superseded by the New Code of Judicial Conduct for the Philippine Judiciary; however, in case of deficiency or absence of specific provisions in the new code, the Code of Judicial Conduct applies suppletorily.

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In addition, we cannot ignore the allegation of Mr. Tutaan that Judge Lopez requested him to exclude certain cases from the Monthly Report of Cases. There is no evidence on record on whether Judge Lopez did in fact make such a request, apart from Mr. Tutaan's statement. However, judges are expected to ensure not only that their conduct is above reproach, but that it be perceived to be so in the view of a reasonable observer.[43]

Judge Lopez's violations of the New Code of Judicial Conduct for the Philippine Judiciary and the Code of Judicial Conduct constitute gross misconduct. Gross misconduct is a serious charge, and is punishable by (1) dismissal from the service; (2) suspension from office for more than three months but not exceeding six months; or (3) a fine of more than ₱20,000.00 but not exceeding ₱40,000.00.[44]

Section 17, Rule XIV of the CSC Omnibus Rules Implementing Book V of Executive Order No. 292 provides that when the respondent is guilty of two or more charges, the penalty for the most serious charge should be imposed and the other charges may be considered as aggravating circumstances.[45] In this case, Judge Lopez is guilty of the serious charge of gross misconduct, and the less serious charges of undue delay in rendering decisions and of making untruthful statements in his Certificates of Service. Since Judge Lopez is already retired, the Court imposes a fine in the amount of ₱40,000.00, which is the amount corresponding to the maximum imposable fine for the most serious charge of gross misconduct.

The OCA, in the Memorandum dated 12 January 2012,[46] found the explanation of Mr. Tutaan flimsy and unconvincing. The OCA's evaluation of Mr. Tutaan's explanation reads:

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[43] Section 1, Canon 2 of the New Code of Judicial Conduct for the Philippine Judiciary.

[44] Sections 8(3) and 11(A), Rule 140 of the Rules of Court.

[45] See *Office of the Court Administrator v. Judge Trocino*, *supra* note 33.

[46] *Supra* note 19.

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The excuse of Mr. Tutaan that Criminal Case Nos. 5411, 5532, 5637, 5467 and 5563 were not reflected in the monthly report of cases because of his mistaken belief that in the old form only cases submitted for a particular month are to be entered therein, is flimsy and unconvincing. In the comment, he admitted that he knows about these undecided cases which were brought home by the judge, yet, despite the introduction of the new form in 1994 and knowledge that it now clearly requires the reporting of all pending cases submitted for decision, he still failed to do so.

Further, the admission of Mr. Tutaan that he gave in to the anomalous request of retired Judge Lopez not to reflect the truth that Criminal Case Nos. 5774-09-1994, 5717-4-1994, 5891-3-1996, 6163-7-1998, 6079-11-1997, 6286-2-1999, 6236-3-1999, 6723-5-2003 and Civil Case Nos. 375-9-96, 356-08-1994, 501-04-2008 and 479-3-2006 in the same monthly report of cases is highly irregular and constitutes misconduct. He now cannot escape administrative responsibility by blaming the judge.

Clerks of Court are the chief administrative officers of their respective courts (*Office of the Court Administrator v. Fortaleza, A.M. No. P-01-1524, July 29, 2002, 385 SCRA 293, 303)*. They must show competence, honesty and probity since they are charged with safeguarding the integrity of the court and its proceedings (*Cabanatan v. Molina, A.M. No. P-01-1520, November 21, 2001, 370 SCRA 16, 23)*.[47]

The Docket Inventory attached to Mr. Tutaan's letter, and purporting to exonerate him from culpability, was executed on 16 February 2011.[48] The Docket Inventory attached to the audit report was executed on 7 March 2011.[49] Mr. Tutaan's explanation that the cases were already reflected in the 16 February 2011 Docket Inventory is of no moment because when the 7 March 2011 Docket Inventory was executed, the cases remained undecided. Besides, 11 out of the 21 cases cited by

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[47] *Rollo*, p. 219.

[48] *Id*. at 198-205.

[49] *Id*. at 43-53.

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the OCA are still missing from the 16 February 2011 Docket Inventory.[50]

In his letter explanation, Mr. Tutaan posed a question: "Is the Clerk of Court duty bound to report a case as submitted for decision even if there is no order yet from the Judge submitting [the same]?"[51]

The answer to Mr. Tutaan's question had already been answered by this Court in *Re: Report on the Judicial Audit Conducted in the Regional Trial Court, Branch 27, Naga City*.[52] In that case the Court also stressed the importance of submitting correct monthly reports that should have guided Mr. Tutaan. We said:

> Vargas would want us to believe, as she claims she honestly believed then that her duty to register the seven cases as submitted for determination in the monthly report depends on the existence of orders declaring the submission of those cases for decision. Withal, the fact that no orders were issued declaring the cases ready for judgment will not necessarily exonerate Vargas from administrative culpability.
>
> Vital to our determination of whether or not Vargas was remiss in her duty, however, is the parallel issue on the definition of the phrase 'submitted for decision.' We find the meaning thereof in Administrative Circular No. 28 x x x.
>
> Thus, in cases where the courts allow the filing of memoranda, no further orders pronouncing the submission of cases for decision are necessary before a case can be regarded as submitted for decision. Where the parties fail to submit their memoranda within the period given by the court, a case is deemed submitted for decision upon the expiration of that period whether or not there is an order from the court to that effect. It is not the order that makes a case ready

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[50] *Id*. In the 16 February 2011 Docket Inventory annexed to Mr. Tutaan's letter, the following cases, from among the cases cited by the OCA, were excluded: Criminal Case Nos. 5411, 5532, 5637, 5774-09-94, 5717-4-94, 5891-3-96, 6163-7-98, 5467, 5563, 6079-11-97 and Civil Case No. 356-08-94.

[51] *Id.* at 194.

[52] 343 Phil. 518 (1997).

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for disposition of the court. The mere filing of the memoranda or the termination of the period to file one, whichever is earlier, *ipso facto* submits the case for adjudication.

One of the basic responsibilities of a Branch Clerk of Court is the preparation of the official Monthly Report of Cases to be submitted to the Supreme Court. Erroneous statistical accomplishment of the monthly report thus required is equivalent to the submission of [inaccurate] reports and the failure of the clerk of court to make proper entries is a ground for disciplinary action against such clerk.

Even if there are no orders declaring the submission of cases for judgment of the court, a clerk of court is neither precluded nor excused from accurately accomplishing SC Form No. 01. We have laid down in Circular 25-92 that all cases submitted for decision but which remain undecided at the end of the month must be duly reported. It is only when there are no cases submitted for decision that clerks are allowed to enter 'none.'

The fact remains that Vargas indicated that there were no cases submitted for decision when in truth there were seven of such cases as discovered by the audit team. She cannot even plead ignorance of Administrative Circular No. 28 because, **as a member of the bar and an employee of the court, she is expected to know the rules and regulations promulgated by this Court**. If she was in doubt as to how to fill up the report, she could have easily consulted the Office of the Court Administrator for assistance or simply stated the facts in full in her report.

An erroneous report falsely indicating that there are no cases submitted for decision is prejudicial to the prompt administration of justice and to the interest of the parties. An accurate monthly report is essential in order to inform this Court of the status of pending cases in a particular lower court. x x x.

The importance of correct reports is underscored by the shift in our policy on the reporting of cases. In lieu of the monthly report of cases required in the Manual for Clerks of Court, we directed in Administrative Circular No. 8-93, dated June 21, 1993, the preparation and submission of Quarterly Report of Cases instead. However, after the Court realized the value of timely and accurate reports in the effective administration of lower courts, the monthly reporting of cases was forthwith restored effective January 1995 through Administrative Circular No. 4-95, dated January 16, 1995.

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Branch clerks of court must realize that their administrative functions are vital to the prompt and proper administration of justice. They are charged with the efficient recording, filing and management of court records, besides having administrative supervision over court personnel. They play a key role in the complement of the court and cannot be permitted to slacken on their jobs under one pretext or another. They must be assiduous in performing their official duties and in supervising and managing court dockets and records.[53] (Emphasis supplied; italics in the original)

Mr. Tutaan exhibited indifference to the Court's directives as he admitted that he simply continued his practice since 1979 to 1994 of not reporting cases submitted for decision that remain undecided, and waiting for someone to correct him on that practice.

As early as 1991, judges, clerks and branch clerks of court were instructed to list down **all cases submitted for decision that are still undecided at the end of the month**.[54] In 1992, judges, clerks and branch clerks of court were yet again reminded about duly filling in the Monthly Report of Cases, SC Form 01 to include **all cases submitted for decision but remain undecided at the end of the month**.[55]

The current Revised SC Form No. 1-2004 was released with Administrative Circular No. 4-2004[56] with rules, guidelines and instructions in filling out the Monthly Report of Cases. Administrative Circular No. 4-2004 reads, in part:

8. Item No. VI (List of Cases Submitted for Decision But Not Yet Decided at the End of the Month) covers **all cases submitted for decision but not yet decided at the end of the month, including those submitted prior to the month covered by the report under preparation**. **Likewise included are cases with unresolved motions which may determine the disposition of the cases**, such as Motions to Dismiss or Demurrer to Evidence. Patent non-

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[53] *Id*. at 526-528.

[54] SC Circular No. 11-91 dated 19 July 1991.

[55] SC Circular No. 25-92 dated 7 May 1992.

[56] Dated 4 February 2004.

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indication of undecided cases or unresolved motions may constitute falsification of official document. All columns provided therein must be properly filled up. Incomplete entries as well as the use of another format not conforming with the prescribed form shall warrant the application of Rule No. 4 on withholding of salaries and other disciplinary measures.[57] (Emphasis supplied)

with the following note:

Note No. 2: **Emphasis is given on the date the case was submitted for decision and the respective date when the reglementary period shall expire/have expired.** The due date should be computed based on the 90 or 30-day period, whichever is applicable. Judges are further reminded that neither incomplete transcript of stenographic notes nor the non-submission of memoranda does not suspend the running of the period within which to decide a case.[58] (Emphasis supplied)

Worse still, Mr. Tutaan admitted to omitting certain cases from the reports because of the alleged request of Judge Lopez for him to do so. Mr. Tutaan's statement that he did not intend to submit false reports is belied by his admission that he knowingly excluded certain cases from the reports. The fact remains that he knowingly omitted certain cases from the Monthly Reports of Cases and Docket Inventory. On the part of Mr. Tutaan, his act of excluding cases from the Monthly Reports of Cases and Docket Inventory amounts to simple misconduct.

Simple misconduct is a transgression of some established rule of action, an unlawful negligence committed by a public officer.[59] It is classified as a less grave offense with a penalty of suspension of one month and one day to six months for the first offense, to dismissal for the second offense.[60]

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[57] Administrative Circular No. 4-2004 dated 4 February 2004.

[58] *Id*.

[59] *Re: Report on the Judicial Audit Conducted at the Metropolitan Trial Court, Branch 55, Malabon City*, A.M. No. 08-3-73-MeTC, 31 July 2009, 594 SCRA 492.

[60] Section 46 (D), Revised Rules on Administrative Cases in the Civil Service.

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Taking into account his length of service, we impose the minimum penalty of one month and one day suspension on Mr. Tutaan.

WHEREFORE, the Court finds Judge Raymundo D. Lopez, former Presiding Judge, Municipal Trial Court, Palo, Leyte, guilty of **GROSS MISCONDUCT** and accordingly **FINES** him ₱40,000.00, to be deducted from his retirement/gratuity benefits. The Court also finds Judge Lopez guilty of **undue delay in rendering decisions** and **making untruthful statements in his Certificates of Service** but these constitute aggravating circumstances to the offense of gross misconduct.

The Financial Management Office of the Office of the Court Administrator is **DIRECTED** to release the remainder of the retirement pay and other benefits due Judge Lopez, unless he is charged in some other administrative complaint or the same is otherwise withheld for some other lawful cause.

The Court finds Edgar M. Tutaan, Clerk of Court, Municipal Trial Court, Palo Leyte, guilty of **SIMPLE MISCONDUCT** and **SUSPENDS** him for one month and one day, with a **STERN WARNING** that a repetition of the same or similar act in the future will merit a more severe sanction.

Judge Jeanette Ngo Loreto is **DIRECTED** to **DECIDE** within one hundred twenty (120) days the cases left undecided by Judge Lopez, to wit: Criminal Case Nos. 5411; 5532; 5637; 5774-09-94; 5717-4-94; 5891-3-96; 6323-10-99; 6073-11-97; 6127-3-98; 6431-12-00; 6459-12-00; 6803-01-04; 7107-7-06; 6386-4-00; and 7111-7-06; and Civil Case Nos. 375-9-96; 356-08-94; LRC-001-01; 493-7-07; SP-96-01; 464-9-05; 407-6-99; and 488-01-07. Judge Loreto is also **DIRECTED** to **RESOLVE** within one hundred twenty (120) days the pending incidents left unresolved by Judge Lopez in the following cases: Criminal Case Nos. 5886-2-95; 6534-10-01; 6853-06-04; 6163-7-98; 6210-12-98; 6943-01-05; 7126-10-06; and 7171-7-07; and Civil Case Nos. 365-2-95; 374-9-96; 386-6-97; 427-1-02; 500-3-08; 505-6-08; 496-10-07; and 518-09-09. Judge Loreto is further **DIRECTED**

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to **SUBMIT** copies of the Decisions and Orders within ten (10) days from rendition or issuance thereof.

SO ORDERED.

Brion, del Castillo, Perlas-Bernabe, and *Leonen,*[*] *JJ.,* concur.

FIRST DIVISION

[G.R. No. 157988. December 11, 2013]

REPUBLIC OF THE PHILIPPINES-BUREAU OF FOREST DEVELOPMENT, *petitioner, vs*. **VICENTE ROXAS and THE REGISTER OF DEEDS OF ORIENTAL MINDORO,** *respondents.*

[G.R. No. 160640. December 11, 2013]

PROVIDENT TREE FARMS, INC., *petitioner, vs.* **VICENTE ROXAS and THE REGISTER OF DEEDS OF ORIENTAL MINDORO,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; PETITION FOR REVIEW UNDER RULE 45 OF THE RULES OF COURT; DOES NOT INVOLVE REVIEW OF QUESTIONS OF FACT; EXCEPTIONS.— Before delving into the merits, the propriety of these Petitions for Review under Rule 45 of the Rules of Court should first be addressed. We note at the outset that except for the third issue on estoppel and prescription, the other two issues involve questions of fact that necessitate a review of the evidence on record. In

[*] Designated acting member per Special Order No. 1627 dated 6 December 2013.