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EN BANC

[A.M. No. 96-5-176-RTC. September 25, 1998]

OFFICE OF THE COURT ADMINISTRATOR (OCA), *complainant, vs.* **RTC JUDGE AMELITA D.R. BENEDICTO and ATTY. EVA G. BASIYA-SARATAN, Clerk of Court V, RTC, Branch 32, Iloilo City,** *respondents.*

SYNOPSIS

A Judicial Audit Team of the Office of the Court Administrator (OCA) submitted to the Court for consideration a Report on the Judicial Audit and Physical Inventory of Pending Cases in the Regional Trial Court (RTC), Branch 32, Iloilo City. However, in view of the Court's acceptance of the resignation of Judge Amelita del Rosario Benedicto, Presiding Judge of said Court, the report was referred back to the OCA for re-evaluation. The acceptance of her resignation was, however, without prejudice to the administrative cases that may be filed against her. The OCA recommended that Judge Benedicto be administratively charged for her failure to render decisions or resolutions within the prescribed 90-day period in the forty-three (43) cases she totally tried. In her written explanation, Judge Benedicto admitted that she failed to render decisions within the 90-day period not due to any malice on her part but rather because of the lack of focus on her work and the inability to think judiciously due to her personal problems.

The Supreme Court resolved to impose a fine of ₱50,000.00 to be deducted from whatever leave and retirement benefits/ privileges Judge Benedicto may be entitled to. While Judge Benedicto's claim of good faith and absence of malice do not abate her consequent liability, the circumstances under which her administrative liability was determined do not point out to a predisposed insolence on her part or a brazen neglect of her responsibilities as judicial magistrate. On the contrary, her candid admission of her inability to perform the adjudicative functions of her office is considered by the Court indicative of sincerity

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in accepting her fault as well as remorse for failing to meet the high standards of competence, efficiency and professionalism of every member of the judiciary.

SYLLABUS

1. **POLITICAL LAW; ADMINISTRATIVE LAW; PUBLIC OFFICERS; JUDGES; FAILURE TO DECIDE A CASE WITHIN THE REQUIRED PERIOD CONSTITUTES GROSS INEFFICIENCY.**— We agree with the findings of the OCA in so far as the finding of administrative liability is concerned but with modifications as to the administrative sanctions imposed as a consequence thereof. As borne out by the records of this case and by the admission of respondent Judge Benedicto, it is evident that she failed to decide/resolve the criminal and civil cases indicated in this Court's Resolution, dated December 3, 1996, within the ninety (90) day reglementary period. Rule 3.05 of Canon 3 admonishes all judges to dispose of the court's business promptly and decide cases within the period fixed by law. It is the duty of a judge to take note of the cases submitted for his decision and see to it that the same are decided within the 90-day period fixed by law, and failure to decide a case within the required period constitutes gross inefficiency. Respondent judge presented no excuse, as there can be none for her exoneration of administrative culpability, taking full responsibility for all the impropriety/inaction alluded to her. The claim of good faith and absence of malice in these glaring instances of incompetence and ineptitude do not abate her consequent liability. For good faith and lack of malicious intent cannot completely free respondent judge from liability.

2. **ID.; ID.; ID.; ID.; A JUDGE OUGHT TO KNOW THE CASES SUBMITTED TO HIM FOR DECISION OR RESOLUTION AND IS EXPECTED TO KEEP HIS OWN RECORD OF CASES SO HE MAY ACT ON THEM PROMPTLY.**— Respondent judge has also been remiss in her responsibility as administrator of the court by failing to adopt a system of record management to such an extent that case records were misplaced or were unaccounted for. A judge ought to know the cases submitted to him for decision or resolution and is expected to keep his own record of cases so that he may act on them promptly. The public trust character of his office imposes upon him the highest

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degree of responsibility and efficiency. Accordingly, judges should always be imbued with a high sense of duty and responsibility in the discharge of their obligation to promptly administer justice.

3. **ID.; ID.; ID.; ID.; THE COURT DEEMED IT APPROPRIATE TO RELAX THE EXACTING STANDARDS REQUIRED OF EVERY MEMBER OF THE JUDICIARY IN ORDER TO EXTEND SUPPORT AND COMPASSION TO A TROUBLED COLLEAGUE; RESPONDENT'S PECULIARLY PERSONAL PREDICAMENT HAS PLACED HER IN AN UNENVIABLE POSITION OF HAVING CONCURRENTLY COPE WITH THE PRESSURES OF HER JUDICIAL FUNCTIONS AND ADVERSITIES IN HER PRIVATE CAPACITY.**— Although we were initially inclined to adopt the recommendation of the OCA forfeiting all leave and benefits/privileges of respondent judge on the impression that she may have been in arrant disregard of her bounden duty to administer justice, it is our considered view that the peculiarities in this case dampen such impression and that the penalty of forfeiture, therefore, is less than deserved. The circumstances under which the administrative liability of respondent judge was determined, do not point out to a predisposed insolence on her part or a brazen neglect of her responsibilities as judicial magistrate. On the contrary, her candid admission of her inability to perform the adjudicative functions of her office is indicative of sincerity in accepting her fault as well as remorse for failing to meet the high standards of competence, efficiency and professionalism required of every member of the judiciary. In this regard, we deem it appropriate to relax these exacting standards in order to extend support and compassion to a troubled colleague in the judiciary. It is worth noting that respondent's inability to efficiently discharge her duties began at about the same time she was attending to the medical needs of her ailing mother (likewise a former member of the judiciary) who was suffering from *diabetes mellitus* and *diabetic coma*. Prior thereto, she had been considerably effective and responsible in her undertakings as trial court judge, even to the extent of accepting designation to other RTC Branches. Moreover, her subsequent act of resigning and willingness to submit to the discretion of this Court the matter of her leave and retirement benefits/privileges, show her genuine resolve to rectify her shortcomings and assuage the justice

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system of her incapability. As recently held by the Court in the case of *Apiag vs. Judge Cantero*: "Man is not perfect. At one time or another, he may commit a mistake. But we should not look only at his sin. We should also consider the man's sincerity in his repentance, his genuine effort at restitution and his eventual triumph in the reformation of his life." In another case, a Clerk of Court who admitted to having misappropriated public funds entrusted to her by reason of her office, was spared from the severe penalty of DISMISSAL and was even allowed to claim her leave credits and retirement benefits. Imploring the Court's compassion and mercy, respondent therein was considered to have acted not with evil design but rather because of dire need of money to save the life of her son. To grant respondent entitlement to such benefits or privileges is but just and proper. Respondent's peculiarly personal predicament has placed her in an unenviable position of having to concurrently cope with the pressures of her judicial functions and the adversities in her private capacity. On the basis of equity and humanitarian considerations, the compassion of this Court on the matter of her retirement benefits/privileges is rightfully deserved. Indubitably, the presence of the aforementioned circumstances warrants the moderation of the extreme penalty of forfeiture of all retirement and leave benefits/ privileges. As such, the recommendation of the OCA forfeiting all retirement and leave benefits of respondent is MODIFIED. Instead, a FINE of ₱50,000.00 is hereby imposed on respondent as a more appropriate penalty.

4. ID.; ID.; ID.; ID.; **BRANCH CLERKS OF COURT; DUTIES AND RESPONSIBILITIES.**— As to the administrative liability of Branch Clerk of Court Eva G. Basiya-Saratan, we adopt the findings and recommendations of the OCA. Atty. Saratan's explanation, particularly with respect to her misrepresentation in the March 1995 Monthly Report of cases as well as her failure to account for and present sixty (60) case records to the Judicial Audit Team, is unavailing and untenable in the light of the prevailing circumstances. As Branch Clerk of Court, she has control and supervision over all court records, exhibits, documents, properties and supplies within said branch subject only to the supervision and control of the Presiding Judge. Branch Clerks of Court are chiefly responsible for the shortcomings of subordinates to whom the administrative function pertaining to the Branch Clerk of Court were delegated.

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They are charged with the efficient recording, filing and management of court records, besides having administrative supervision over court personnel. It is incumbent upon the Clerk of Court to ensure an orderly and efficient record management system in the court and to supervise the personnel under her office to function effectively.

D E C I S I O N

MARTINEZ, *J.*:

On May 13, 1996, the Office of the Court Administrator (OCA) submitted to this Court for consideration a Report on the Judicial Audit and Physical Inventory of Pending Cases[1] in the Regional Trial Court (RTC), Branch 32, Iloilo

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[1] On the basis of the records of cases physically inspected, RTC, Branch 32, Iloilo City has a total caseload of 377 cases as of 28 February 1996, consisting of 247 criminal and 130 ordinary civil cases, special civil actions, special proceedings, cadastral and an election case. However, after collating and the above-mentioned cases and tallying them with the docket books and other files available in the branch, it was discovered that the records of 60 cases (33 criminal cases and 27 civil cases) were not handed to the Team for inspection.

The following cases including the 60 cases not audited are hereunder classified as follows:

CASES	TOTAL	CRIMINAL	CIVIL
With Judgments for promulgation	4	4	0
Submitted for decision	60	41	19
Appealed from MTCs	27	5	22
With Matters for Resolution	20	15	5
On trial	77	58	19
For arraignment of accused/ pre-trial conference	19	9	10
For *ex-parte* reception of evidence	4	0	4
For compliance of parties, etc.	13	7	6
With suspended proceedings	5	2	3
Without further setting	20	6	14
Not acted after lapse of considerable time	59	40	19

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City as conducted by a Judicial Audit Team of the Office of the Court Administrator (OCA).[2]

However, in view of the Court's acceptance of the resignation of Judge Amelita del Rosario Benedicto, Presiding Judge of the aforementioned Regional Trial Court, effective at the close of office hours on June 28, 1996, the Report was referred back to the OCA for re-evaluation. Such acceptance was, however, without prejudice to administrative cases that may be filed against her.[3]

In its Memorandum dated October 28, 1996,[4] the OCA reiterated the findings contained in the above-stated Report and submitted its recommendations to the Court, the dispositive portion of which reads:

With warrants/summons	56	47	9
Newly filed	13	13	0
Not physically inspected	60	33	27
TOTAL	437	280	157

A. CRIMINAL CASES

The 4 criminal cases with judgments to be promulgated on March, 1996 are the following:

Criminal Cases Nos. 19562, 30672, 33082 and 33083.

Tabulated below are the 41 criminal cases submitted for decision, including 5 appealed cases and 15 cases matters for resolution:

	BEYOND REG. PERIOD			WITHIN REG. PERIOD	
	TOTAL	W/ PRIS.	W/ OUT	W/ PRIS.	W/ OUT
Totally Tried	30	4	23	0	3
Partly Tried	11	0	11	0	0
Appealed	5	0	4	0	1
Matters for Reso.	15	1	4	0	10
TOTAL	61	5	42	0	14

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[2] *Rollo*, A.M. No. 96-5-176-RTC, pp. 1-5.

[3] *En Banc* Resolution dated July 9, 1996, *Rollo*, *ibid.*, p. 14.

[4] *Rollo*, *id.*, p. 18.

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"WHEREFORE, in view of the above-mentioned findings of the Judicial Audit Team and considering that the acceptance of the resignation of Judge Benedicto is without prejudice to the filing of administrative cases that may be filed against her in relation to the audit report, it is hereby RECOMMENDED that:

1. Former Judge Amelita D.R. Benedicto, RTC, Branch 32, Iloilo City, be: (a) ADMINISTRATIVELY CHARGED for her failure to render decisions or resolutions within the prescribed 90-day period in the forty-three (43) cases she totally tried, to wit: Criminal Cases Nos. 30959, 34182, 35049, 35871, 35960, 36026, 36068, 36179 to 36182, 36351, 36949, 37103, 37179, 37200, 37627, 37686, 37732, 38530, 39228, 39230, 39396, 39537 to 39539, 39599, 39756, 43345 & 43497, and Civil Cases Nos. 19349, 19547, 19560, 19895, 20237, 20427, 20932, 21148, 21485, 21587, 21631, 21862 & 22367; in the five (5) criminal cases she partly tried with complete transcripts of stenographic notes, to wit: Criminal Cases Nos. 20068, 30633 to 30636; in the twenty-four (24) appealed cases, to wit: Criminal Cases Nos. 39358, 44103, 44526 & 44527, and Civil Cases Nos. 19615, 19892, 20417, 20747, 20759, 20948, 21139, 21444, 21681, 21755 to 21763, 22310 & 22539; and in the twenty (20) cases with matters for resolution, to wit: Criminal Cases Nos. 35960, 37564, 41340, 41466 to 41475, 42496 & 43021, and Civil Cases Nos. 18478, 19971, 21901, 22217 & 22449, and that accordingly she be REQUIRED to EXPLAIN why she should not be held liable therefor.

2. Former Judge Amelita D.R. Benedicto and Branch Clerk of Court Eva B. Saratan, RTC, Branch 32. Iloilo City, be DIRECTED to EXPLAIN within five (5) days from notice, a) why no administrative sanctions should be taken against them for indicating in Item No. VII, Page 2, in their March, 1995 Monthly Report of Cases that there were no cases submitted for decision, when in fact there were; and b) why the records of sixty (60) cases could not be located and presented to the Audit Team for inspection.

3. Branch Clerk of Court Eva B. Saratan, RTC, Branch 32, Iloilo City, be DIRECTED to: (a) PREPARE a list within five (5) days from notice of the following cases partly tried/heard by former Judge Amelita D.R. Benedicto and submitted for her decision/resolution which lack transcripts of stenographic notes to wit: Criminal Cases Nos. 30709, 31071, 32638, 32883,

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33789 & 34203, and Civil Cases Nos. 14981, 16447, 17154, 18306, 18519 & 18710 indicating therein the dates of the proceedings and the stenographers who took down the same; (b) SECURE the comment/s of these stenographers concerned within seventy-two (72) hours from notice on why no administrative sanctions should be taken against them for their delay in the transcription of their respective stenographic notes in these cases and then to immediately TRANSMIT the Comments to this Court through the Office of the Court Administrator; (c) immediately REQUIRE the stenographers concerned to finish the transcription of their stenographic notes in the subject cases and attach these to the respective records thereof within fifteen (15) days from notice; (d) LOCATE the records and ASCERTAIN the status of the 60 civil and criminal cases not presented to the Audit Team for inspection, then SEND a corresponding report to this Court through the Office of the Court Administrator within five (5) days from notice, and EXPLAIN why no administrative sanction should be taken against her for GROSS INEFFICIENCY in controlling and managing court records; and (e) DEVISE immediately a more effective and efficient system in the filing, update and orderly upkeep of records of cases.

4. The Finance Division be DIRECTED to withhold all leave and retirement benefits and privileges to which former Judge Benedicto may be entitled until after the termination of the instant case."

On December 3, 1996, the Court issued a resolution[5] directing Judge Amelita D.R. Benedicto, Clerk of Court Saratan, and the Finance Division of the OCA to comply with the aforementioned recommendations by the Court Administrator.

In compliance thereto, respondent Judge submitted her COMMENT, dated February 13, 1997,[6] stating therein that she tendered her resignation with full knowledge that by doing so she is "not off the hook" and will not be entitled to any retirement benefits even under Republic Act 1616.

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[5] *Rollo, id.*, p. 25.

[6] *Rollo, id.*, pp. 54-59.

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Judge Benedicto explained that her resignation was brought about by the realization that although she was an honest judge, she was not efficient and competent particularly with respect to the adjudicative aspects of her duties. She manifested that as early as 1993 she already had the intention to apply for retirement under R.A. 1616 but she was able to file her application only in 1995 due to the following reasons, to wit:[7]

1. In order to please her mother, the late Judge Amelia K. del Rosario, who had hoped to see her appointed to the Court of Appeals, a position which the late Judge del Rosario had aspired for;

2. In order to sustain the medications and hospitalization expenses incurred when her mother suffered from *diabetes mellitus* and *diabetic coma*, on September 15, 1993, which required hospitalization at least twice a month up to the time of her death on September 15, 1996;

3. So that she could continuously give financial support to her brother, Judge Deogracias K. del Rosario, MCTC, Patnongon-Bugasong, Antique who had not received his salary for the past three (3) years due to his failure to secure his clearance as Clerk of Court, as well as her other siblings whom she claims are "all financially hard up";

4. So that she could apply for the position of Regional Director of the Public Attorney's Office (PAO) which she thought would be vacated by September, 1995, upon the compulsory retirement of Atty. Napoleon G. Pagtanao, although that would mean a demotion for her. However, Atty. Pagtanao was granted a six-month extension;

5. So that she would have a fixed salary to meet the expenses relative to the above-mentioned circumstances.

Notwithstanding these circumstances, Judge Benedicto claimed that she had not taken advantage of her position as judge. She further asserted that after twenty-six (26) years of service her only real property consisted of a residential lot purchased through a Pag-Ibig loan which, nonetheless, had to be sold to her niece

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[7] *Ibid.*

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to help the family. Resultantly, she and her husband rented the house owned by her sister-in-law where they have constructed a small backyard piggery.

The respondent judge admitted that she had failed to render decisions within the 90-day period on the cases mentioned in the Report of the Judicial Audit Team, not due to any malice on her part but rather because of the lack of focus on her work and the inability to think judiciously due to her personal problems.

Another contributory factor in the clogged docket of RTC, Branch 32, Iloilo City, specifically in the years 1994 to 1995, according to respondent, was the fact that she was designated as Acting Presiding Judge of RTC, Branch 33 wherein she conducted several hearings involving detained prisoners and also in cases with urgent matters to resolve.

With respect to the explanation regarding the incomplete data of the March, 1995 Monthly Report of Cases, particularly Item No. VII, Page 2 which was in blank, respondent Judge Benedicto claims full responsibility for such omission.

On the matter of the sixty (60) cases not presented to the Audit Team, respondent claims that they were mixed or intermingled with the disposed/terminated cases as can be gleaned from the Joint Explanation[8] of Staff Assistants Juanilla A. Sabino and Myra D. Gregorios which was attached to the Explanation dated February 10, 1997[9] of Atty. Eva G. Basiya-Saratan, Branch Clerk of Court. For this, respondent also assumes full responsibility for not having managed carefully the docket of RTC, Branch 32, Iloilo City.

As to the six (6) case records not accounted for, namely: Criminal Cases Nos. 18415, 20405, 20435 and 20484 and Civil Cases Nos. 14808 and 16759, respondent Judge maintains that she had already requested Branch Clerk of Court Saratan to

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[8] Annex "D", *Rollo, id.*, p. 81.

[9] Annex "E", *Rollo, id.*, p. 73.

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look for the *expedientes* of these cases. Unfortunately, up to this time, the Branch Clerk of Court has not been able to trace the same.

For her part, Branch Clerk of Court Atty. Eva G. Basiya-Saratan, in her EXPLANATION dated February 10, 1997,[10] claimed that she was not able to fill up Item No. VII, Page 2 of the March, 1995 Monthly Report of Cases (Cases Submitted for Decision) because the data were not yet complete at that time, the clerk-in-charge of criminal cases, Juanilla A. Sabino, having just reported back to work after a maternity leave.

Atty. Saratan explained that she had no intention of giving the impression that there were no cases submitted for decision for that month, intimating that she had not been in the best of health due to allergies.

With regard to the sixty (60) case records which were not located and presented to the Judicial Audit Team, Atty. Saratan explained that she tried to account for these cases but was not able to do so because the clerks-in-charge of these cases were absent at that time. She added that these clerks were required to explain the whereabouts of these cases as well as their absences during the date of the audit.

Atty. Saratan also informed the Court that to date, these sixty (60) cases have all been accounted for except Criminal Cases Nos. 18415, 20435 and 20484 and Civil Cases Nos. 14808 and 16759 which, she believes, have been "re-raffled" to either Branches 34, 36, 37 or 39 of the said Regional Trial Court. Atty. Saratan assured this Court that she will inquire from the branches concerned regarding the whereabouts of the six (6) unaccounted cases and submit the outcome of her inquiry to the Audit Team immediately thereafter.

On the matter of control and management of records of RTC, Branch 32, Iloilo City, Atty. Saratan explained that she had a hard time implementing a systematic recording of the same considering that her clerks-in-charge were not supportive of

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[10] *Ibid.*

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her efforts. Atty. Saratan also manifested that, at present, under the guidance of Presiding Judge Lolita C. Besana, the method of control and management of records is now better organized.

Atty. Saratan further maintained that the transcripts of all cases enumerated in the above-mentioned resolution were all transcribed by the stenographers concerned except those taken by one Mrs. Grace D. Manaay in Criminal Cases Nos. 20068, 39756, 35049 and 30709 due to her transfer to RTC, Branch 65, Guimaras. A Memorandum, dated January 27, 1997, was already issued to Mrs. Manaay reminding her of the untranscribed stenographic notes in the several cases submitted for decision.

In their Joint Explanation dated, January 20, 1997,[11] Mesdames Janette J. Coloma, Lydia F. Delfin and Lorena B. Samson, all of whom are stenographers in the aforesaid RTC in Iloilo City, admitted that there was no inventory of pending cases done by them when the Audit Team arrived.

In October 1996, however, the above-named stenographers conducted an inventory and found out that the cases cited in the Report had already been transcribed except those taken by Mrs. Grace D. Manaay. They claimed that the Judicial Audit Team overlooked the fact that it was only Mrs. Grace D. Manaay whose transcripts were not completed.

The OCA, in a Memorandum dated December 11, 1997,[12] found the explanations of former Judge Amelita K. del Rosario and Clerk of Court Eva B. Saratan to be unsatisfactory and insufficient to abate the administrative charges against them. Accordingly, the OCA recommended the forfeiture of all leave benefits and other privileges to which former Judge Amelita K. Del Rosario Benedicto may be entitled and the suspension of Atty. Eva G. Basiya-Saratan, Clerk of Court V, RTC, Branch 32, Iloilo City for two (2) months without pay.

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[11] *Rollo, id.*, p. 82.

[12] *Rollo, id.*, pp. 87-92.

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We agree with the findings of the OCA in so far as the finding of administrative liability is concerned but with modifications as to the administrative sanctions imposed as a consequence thereof.

As borne out by the records of this case and by the admission of respondent Judge Benedicto, it is evident that she failed to decide/resolve the criminal and civil cases indicated in this Court's Resolution, dated December 3, 1996, within the ninety (90) day reglementary period.

Rule 3.05 of Canon 3 admonishes all judges to dispose of the court's business promptly and decide cases within the period fixed by law.[13] It is the duty of a judge to take note of the cases submitted for his decision and see to it that the same are decided within the 90-day period fixed by law, and failure to decide a case within the required period constitutes gross inefficiency.[14]

Respondent judge presented no excuse, as there can be none for her exoneration of administrative culpability, taking full responsibility for all the impropriety/inaction alluded to her. The claim of good faith and absence of malice in these glaring instances of incompetence and ineptitude do not abate her consequent liability. For good faith and lack of malicious intent cannot completely free respondent judge from liability.[15]

Respondent judge has also been remiss in her responsibility as administrator of the court by failing to adopt a system of record management to such an extent that case records were misplaced or were unaccounted for. A judge ought to know the cases submitted to him for decision or resolution and is expected to keep his own record of cases so that he may act

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[13] Re: Report on Audit and Physical Inventory of the Records and Cases in RTC, Branch 120, Kalookan City.

[14] Re: Letter of Mr. Octavio Ralalo, 231 SCRA 403, citing *Longbonn vs. Hon. Emilio L. Polig*, 186 SCRA 557; *De Leon vs. Castro*, 104 SCRA 241; and In re: Judge F. Madara, 104 SCRA 245.

[15] *Ting vs. Atal*, 231 SCRA 80.

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on them promptly.[16] The public trust character of his office imposes upon him the highest degree of responsibility and efficiency.[17] Accordingly, judges should always be imbued with a high sense of duty and responsibility in the discharge of their obligation to promptly administer justice.[18]

Although we were initially inclined to adopt the recommendation of the OCA forfeiting all leave and benefits/ privileges of respondent judge on the impression that she may have been in arrant disregard of her bounden duty to administer justice, it is our considered view that the peculiarities in this case dampen such impression and that the penalty of forfeiture, therefore, is less than deserved.

The circumstances under which the administrative liability of respondent judge was determined, do not point out to a predisposed insolence on her part or a brazen neglect of her responsibilities as judicial magistrate. On the contrary, her candid admission of her inability to perform the adjudicative functions of her office is indicative of sincerity in accepting her fault as well as remorse for failing to meet the high standards of competence, efficiency and professionalism required of every member of the judiciary.

In this regard, we deem it appropriate to relax these exacting standards in order to extend support and compassion to a troubled colleague in the judiciary. It is worth noting that respondent's inability to efficiently discharge her duties began at about the same time she was attending to the medical needs of her ailing mother (likewise a former member of the judiciary) who was suffering from *diabetes mellitus* and *diabetic coma*. Prior thereto, she had been considerably effective and responsible in her undertakings as trial court judge, even to the extent of accepting designation to other RTC Branches. Moreover, her

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[16] *Mamamayan ng Zapote I, Bacoor, Cavite vs. Balderian*, 265 SCRA 360.

[17] Re: Inventory of Cases in the RTC, Branch 11, Balayan, Batangas, 234 SCRA 502.

[18] *Agcaoili vs. Ramos*, 229 SCRA 705.

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subsequent act of resigning and willingness to submit to the discretion of this Court the matter of her leave and retirement benefits/privileges, show her genuine resolve to rectify her shortcomings and assuage the justice system of her incapability.

As recently held by the Court in the case of *Apiag vs. Judge Cantero*:[19]

"Man is not perfect. At one time or another, he may commit a mistake. But we should not look only at his sin. We should also consider the man's sincerity in his repentance, his genuine effort at restitution and his eventual triumph in the reformation of his life."

In another case,[20] a Clerk of Court who admitted to having misappropriated public funds entrusted to her by reason of her office, was spared from the severe penalty of DISMISSAL and was even allowed to claim her leave credits and retirement benefits. Imploring the Court's compassion and mercy, respondent therein was considered to have acted not with evil design but rather because of dire need of money to save the life of her son.

To grant respondent entitlement to such benefits or privileges is but just and proper. Respondent's peculiarly personal predicament has placed her in an unenviable position of having to concurrently cope with the pressures of her judicial functions and the adversities in her private capacity. On the basis of equity and humanitarian considerations, the compassion of this Court on the matter of her retirement benefits/privileges is rightfully deserved.

Indubitably, the presence of the aforementioned circumstances warrants the moderation of the extreme penalty of forfeiture of all retirement and leave benefits/privileges. As such, the recommendation of the OCA forfeiting all retirement and leave benefits of respondent is MODIFIED. Instead, a FINE of ₱50,000.00 is hereby imposed on respondent as a more appropriate penalty.

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[19] A.M. No. MTJ-95-1070, February 12, 1997.

[20] A.M. No. 95-1-01-MTCC, January 5, 1998.

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As to the administrative liability of Branch Clerk of Court Eva G. Basiya-Saratan, we adopt the findings and recommendations of the OCA. Atty. Saratan's explanation, particularly with respect to her misrepresentation in the March 1995 Monthly Report of cases as well as her failure to account for and present sixty (60) case records to the Judicial Audit Team, is unavailing and untenable in the light of the prevailing circumstances.

As Branch Clerk of Court, she has control and supervision over all court records, exhibits, documents, properties and supplies within said branch subject only to the supervision and control of the Presiding Judge. Branch Clerks of Court are chiefly responsible for the shortcomings of subordinates to whom the administrative function pertaining to the Branch Clerk of Court were delegated.[21] They are charged with the efficient recording, filing and management of court records, besides having administrative supervision over court personnel.[22] It is incumbent upon the Clerk of Court to ensure an orderly and efficient record management system in the court and to supervise the personnel under her office to function effectively.[23]

The Court, however, deems it just and proper to mitigate the aforementioned sanction of two (2) months suspension without pay in the same way that former Judge Benedicto was granted favorable temperance of her administrative penalty. It is worth noting that no bad faith or deliberate intent to deceive can be attributed to the inaction of Atty. Saratan relative to Monthly Report of Cases. As such, the recommendation of the OCA of two (2) months suspension without pay is likewise MODIFIED to a FINE of ₱20,000.00.

As regards the JOINT EXPLANATION of Stenographers Coloma, Delfin and Samson, we find it to be impressed with

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[21] *Yonanon vs. Rulloda*, 242 SCRA 522.

[22] Re: Report on the Judicial Audit Conducted in the RTC, Branches 61, 134 and 147, Makati, Metro Manila, 248 SCRA 5.

[23] *Juntilla vs. Calleja*, 262 SCRA 291.

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merit and thus, will not warrant any administrative reprimand or retribution. There is, however, a need for Mrs. Grace D. Manaay to fully explain her failure to transcribe the stenographic notes in Criminal Cases Nos. 20068, 39756, 35049, 33789 and 30709.

WHEREFORE, in view of the foregoing, the Court RESOLVED to:

1. Impose a *FINE* of *₱50,000.00* to be deducted from whatever leave and retirement benefits/privileges Judge Amelita K. del Rosario Benedicto may be entitled to.

2. *DIRECT* the Finance Division of this Court to *RELEASE* all leave and retirement benefits/privileges to which former Judge Benedicto may be entitled to.

3. a) Impose a *FINE* of *₱20,000.00* on Atty. Eva G. Basiya-Saratan, Clerk of Court V, RTC, Branch 32, Iloilo City for having prepared and misrepresented in the March 1995 Monthly Report of Cases that there were no cases submitted for decision when in fact there were and for her failure to supervise and control the court records system and her subordinates, with a *WARNING* that a repetition of the same or similar acts in the future will be severely dealt with; b) *DIRECT* her to *INFORM* this Court through the OCA within five (5) days from notice the whereabouts of Criminal Cases Nos. 18415, 20405, 20435 and 20484; and Civil Cases Nos. 14808 and 16759; and

4. a) *DIRECT* Mrs. Grace D. Manaay, Stenographer III, RTC, Branch 65, Guimaras, to *EXPLAIN* within five (5) days from notice her continued failure to transcribe the stenographic notes in Criminal Cases Nos. 20068, 39756, 35049, 33789 and 30709; and b) to *TRANSCRIBE* the stenographic notes on said criminal cases within ten (10) days from notice and *REPORT* compliance thereof to this Court through the OCA within five (5) days after transcription of the same.

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SO ORDERED.

Narvasa, C.J., Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, and *Purisima, JJ.,* concur.

Regalado, J., no part; On official leave during deliberations.

EN BANC

[A.M. No. P-98-1276. September 25, 1998]

EDGAR P. REMOLLO, *complainant, vs.* **ATTY. THELMA A. GARCIA, Clerk of Court, Regional Trial Court, Dumaguete City,** *respondent.*

SYNOPSIS

Complainant charged respondent Atty. Thelma A. Garcia, Clerk of Court and *Ex Officio* Provincial Sheriff, Regional Trial Court of Negros Oriental, with misfeasance, bias, ignorance of the law and usurpation of judicial functions. The complainant alleged that respondent persistently refused to perform her ministerial duty to execute a Sheriff's Final Deed of Sale over forty-three (43) parcels of land in Negros Oriental sold at public auction despite the expiration of the period of redemption. Respondent also refused to execute the Final Deed of Sale despite the final and executory decision of the Court of Appeals in an appeal interposed by complainant and his sister, Rosario R. Habana. Complainant also alleged that respondent's refusal was a clear manifestation of bias in favor of respondent's deceased brother-in-law, Julio P. Garcia and his wife Josefa, who were the judgment debtors in an action for possession, ejectment, receivership and damages filed by complainants' parents, Proceso and Rosario Remollo against spouses Julio Garcia and Josefa Garcia. The Office of the Court Administrator recommended the imposition of a ₱5,000.00 fine upon respondent