Republic of the Philippines
Supreme Court
Manila

EN BANC

OFFICE OF THE COURT ADMINISTRATOR,

Petitioner,

- versus -

RETIRED JUDGE FILEMON A. TANDINCO, MUNICIPAL TRIAL COURT IN CITIES (MTCC), CALBAYOG CITY, SAMAR and RONALDO C. DIONEDA, CLERK OF COURT OF THE MTCC, CALBAYOG CITY, SAMAR,

Respondents.

A.M. No. MTJ-10-1760

Present:

SERENO, *C.J.*,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
PERALTA,
BERSAMIN,
DEL CASTILLO,
VILLARAMA, JR.,
PEREZ,
MENDOZA
REYES,
PERLAS-BERNABE,
LEONEN, and
JARDELEZA, *JJ.*

Promulgated:

November 16, 2015

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DECISION

BRION, *J.*:

This administrative matter arose from the judicial audit conducted by an audit team from the Office of the Court Administrator at the Municipal Trial Court in Cities (*MTCC*), Calbayog City, Samar, then presided by Judge Felimon S. Tandinco, Jr. (*Judge Tandinco*). The judicial audit was conducted on December 6, 7 and 8, 2009 prior to Judge Tandinco's retirement on January 16, 2010.

Judge Tandinco was assisted in his court by Judge Alma-Uy-Lampasa (*Judge Lampasa*), then Presiding Judge, Municipal Circuit Trial Court,

Daram-Zumarraga, Samar. She was designated as Assisting Judge of the MTCC, Calbayog City, in Administrative Order No. 152-2007 dated October 8, 2007, to hear all cases pending thereat, including newly filed cases. The Administrative Order directed Judge Tandinco to immediately cease and desist from hearing cases and to concentrate on deciding cases within six (6) months from submission for decision.

On July 20, 2009, Judge Lampasa's designation as Assisting Judge of the MTCC of Calbayog City was revoked under Administrative Order No. 101-2009. Judge Tandinco, on the other hand, was directed to hear and decide all cases, including newly filed cases in his court.

The Memorandum[1] of the Judicial Audit Team dated April 6, 2010, revealed – based on the records actually presented and examined by the team – that the MTCC, Calbayog City, Samar, had a total caseload of 940 cases, consisting of 607 criminal and 333 civil cases. Of these 940 cases audited, the audit team found that:

1. **Judge Tandinco failed to resolve motions and incidents in thirty (30) criminal cases,** to wit: <u>Criminal Case Nos</u>. 8838, 9182, 10329, 99-10507, 11211, 98-10284, 865, 11843, 99-10723, 4392, 08-13620, 99-10412, 99-10413 and 99-10414, 00-11051, 06-12645 and 06-12636, 03-11823, and 09-13821 to 09-13832;

2. **Judge Tandinco failed to resolve motions and incidents in sixty-seven (67) civil cases,** to wit: <u>Civil Case Nos</u>. 857, 916, 980, 917, 1106, 1001, 965, 1101, 1104, 1112, 826, 866, 1010, 734, 1507, 795, 1312, 1041, 1519, 1546, 1301, 1584, 1593, 1594, 1458, 1600, 1601, 1216, 1389, 1618, 1629, 1003, 1081, 1065, 1576, 1883, 1574, 1740, 1816, 1911, 1872, 1862, 1844, 1554, 1556, 813, 1355, 1902, 1914, 1916, 1918, 1919, 1207, 1857, 1620, 1885, 1891, 1910, 1928, 850, 1922, 1632, 1926, 1475, 1774, 1775, and 1772;

3. **Judge Tandinco failed to decide forty-six (46) criminal cases submitted for decision**, to wit: <u>Criminal Case Nos</u>. 9042, 9975, 10842, 8864, 98-10200, 99-10726, 99-10508, 99-10509 and 99-10510, 9620, 10309, 00-10833, 01-11246, 9635, 01-11254, 98-10221, 11528, 9548, 9569, 9572, 10945, 10755, 10834, 99-10673 and 99-10674, 11040, 99-10435, 98-10165, 01-11327, 11360, 11310, 11655, 02-11480, 02-11677, 02-11607, 04-11987, 10634, 04-11988, 11922 and 11923, 04-11997 and 04-11998, 05-12498, 98-10143, 98-10144, 98-10145;

4. **Judge Tandinco failed to decide twenty (20) civil cases submitted for decision**, to wit: <u>Civil Case Nos</u>. 1173, 545, 1336, 1300, SP 02, SCA 1009. 1212. 1206, 1514, 453, 949, 1580, 1513, 1468, 1657, 738, 1659, 1907. 1092, and 1912;

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[1]   Rollo, pp. 1-55.

5. **Judge Lampasa failed to resolve motions and incidents in ninety-six (96) criminal cases, to wit:** <u>Criminal Case Nos</u>. 11983, 06-12589, 06-12590, 06-12595, 06-12596, 06-12597, 06-12603 and 06-12604, 06-12623, 06-12652, 06-12653, 06-12654, 06-12613 and 06-12614, 06=12714 to 06-12717, 06-12747, 06-12754, 06-12811, 06=12812, 06-12823, 06-12824, 06-12825, 06-12828, 06-12829, 06-12831 and 06-12832, 06-12833, 06-12835, 06-12837, 06-12838, 06-12839, 06-12840, 06-12841, 06-12842, 06-12843, 06-12844, 06-12845, 06-12855, 06-12856, 06-12857 and 06-12858, 06-12859, 06-12860, 06-12862, 06-12863 and 06-12864, 06-12885, 06-12886, 06-12893, 06-12905, 06-12906, 06-12907, 06-12909, 06-12912, 06-12913, 06-12915, 06-12918, 06-12919, 06-12923, 06-12924, 06-12925, 06-12926, 06-12927, 06-12928, 06-12930, 06-12931, 06-12932, 06-12938, 06-12942, 06-12943, 06-12947, 06-12948, 06-12949, 06-12950, 06-12951, 06-12953, 06-12954, 06-12955, 06-12956, 06-12957, 06-12958, 06-12959, 06-12961, 06-12962, 06-12963, 06-12964, 06-12967, 06-12968, 06-12973, 06-12974, 06-12975, 06-12983, 06-12982, and 06-13433;

6. **Judge Lampasa failed to resolve motions and incidents in thirty-two (32) civil cases,** to wit: <u>Civil Case Nos</u>. SP 961, SP 962, SP 960, 1290, 884, 1103, 1754, 791, 1818, 1671, 1670, 1854, 1603, 1824, 1825, 1832, 1833, 1834, 1835, 1838, 1839, 1156, 1080, 1856, 1873, 1877, 1884, 1886, 1059, 1867, 1435, 1853;

7. **Judge Lampasa failed to decide ten (10) criminal cases**, to wit: <u>Criminal Case Nos</u>. 10722, 10721, 06-12790, 11793, 11751, 11752, 9854, 05-12488 and 05-12489, 11960; and

8. **Judge Lampasa failed to decide eight (8) civil cases**, to wit: <u>Civil Case Nos</u>. 1633, 739, 955, 1508, 1573, 1793, 1897, and 1533.

Moreover, based on the Monthly Report of cases in the same court submitted to the Statistical Report Division of the Court Management Office for December 2009, the audit team discovered that:

1. **Judge Tandinco failed to decide twenty-four (24) criminal cases submitted for decision**, to wit: <u>Criminal Case Nos</u>. 8884, 9649, 9650, 98-10375, 98-10368, 99-10497, 00-10794, 9605, 99-10419, 9685, 00-11011, 02-11398, 00-10892, 00-10328, 02-11524, 02-11337, 04-11955, 00-10883, 00-10884, 00-10885, 03-11715, 00-11026, 99-10526, 07-12980; and

2. **Judge Tandinco failed to decide twelve (12) civil cases submitted for decision**, to wit: <u>Civil Case Nos</u>. 857, 731, 734, 760, 1215, 759, 1159, 876, 767, 1634, 1272, 1015.

The audit team observed that many of the case folders were not presented to them while the other case records were not accurate due to the absence of the latest court orders. Records also showed that neither Judge Tandinco nor Judge Lampasa requested an extension of time within which to decide the cases submitted before them.

Finally, the audit team reported that: several case records were not chronologically arranged and lacked certain documents (*i.e., certificates of arraignment, formal offer of evidence, writs of execution*); the case rollos/records of the cases that were jointly tried lacked a mother record containing all documents; summons were issued in criminal cases falling under the Rule on Summary Procedure; there were no records indicating that the accused had been arraigned in Criminal Cases Nos. 9548, 13719 and 13720; the court's docket books needed updating; and the employees should be reminded to wear their identification cards.

Upon the OCA's recommendation, the Court docketed the judicial audit as an administrative case against Judge Tandinco for gross incompetence, inefficiency, negligence, and dereliction of duty.[2] The Court also directed Judge Lampasa and Ronaldo C. Dioneda (*Dioneda*), the Clerk of Court of the MTCC, Calbayog City, Samar, to submit their written explanation.

The Court likewise directed the Acting Presiding Judge Lolita R. Mercado (*Judge Mercado*) and Assisting Judges Felipe B. Maglana, Jr. (*Judge Maglana*) and Myrna M. Clemens (*Judge Clemens*) to take appropriate action on the pending criminal and civil cases and pending motions and incidents in the MTCC Calbayog City, Samar. Judge Mercado, Judge Maglana, and Judge Clemens were designated as Acting Presiding Judge and Assisting Judges of the court, respectively, through Administrative Order No. 44-2010 issued by the Court on March 18, 2010.

Compliance with the Court's Resolution dated April 26, 2010

- *Judge Lampasa's Explanation*

In her letter dated July 7, 2010, Judge Lampasa stated that: (1) her designation as assisting judge of the MTCC, Calbayog City, Samar was revoked by Administrative Order No. 101-2009 dated July 20, 2009; (2) she ceased discharging her duties as assisting judge prior to this date because Judge Tandinco had verbally informed her that he would take over; (3) the Clerk of Court did not bring to her attention the pending motions and incidents that were submitted for resolution in the ninety-three (93) criminal cases filed in the MTCC, Calbayog City, Samar; (4) Judge Tandinco eventually resolved these motions in December 2009; (5) she had more than one thousand (1,000) cases to work on at the time she assumed her duties as assisting judge of the MTCC, Calbayog City, Samar; (6) she was stationed as judge at the MCTC, Daram, Samar, and at the same time as assisting judge of the City Court of Catbalogan, Samar; (7) her failure to resolve some of the motions assigned to her was not due to her negligence but to the impossibility of single-handedly resolving the motions in the MTCC, Calbayog City, Samar, while simultaneously balancing two other courts; and

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[2]   SC Resolution dated April 26, 2010. No page number.

(8) the number of pending cases in the MTCC, Calbayog City, Samar, was greatly reduced during her designation as assisting judge.

- *Clerk of Court Ronaldo C. Dioneda's Explanation*

For his part, Dioneda submitted his compliance with the Court's directive and attached a chart of the actions taken on the pending cases and motions assigned to Judge Lampasa. However, except for the general allegation that the records of the cases were with Judge Tandinco, Dioneda failed to offer any specific explanation for failing to present for audit the case records of the following: Criminal Case Nos. 9649, 0650, 98-10375, 98-10368, 99-10497, 00-10794, 9605, 99-10419, 9685, 00-11011, 02-11398, 00-10892, 00-10328, 02-11524, 04-11955, 00-10883, 00-10884, 00-10885, 03-11715, 99-10526 and 07-12980; and Civil Case Nos. 731, 760, 759, 1159, 876, 767, 1634, 1272 and 1015.

On August 17, 2010, Judge Lampasa manifested that she was adopting Dioneda's explanation.

The OCA Evaluation and Recommendation

The OCA issued a Memorandum[3] dated December 10, 2010, reiterating its report in the Memorandum dated April 6, 2010; it found that Judge Lampasa had failed to resolve pending motions and incidents in ninety-six (96) criminal and twelve (12) civil cases. It also found that Judge Lampasa failed to decide within their reglementary period six (6) criminal cases and six (6) civil cases. Considering that Judge Lampasa was no longer with the judiciary (*she was deemed automatically resigned as of her filing of a Certificate of Candidacy with the Commission on Elections on December 1, 2009*), the OCA considered that only the imposition of a fine is appropriate. Thus, the OCA recommended that Judge Lampasa be fined the amount of fifty thousand pesos (₱50,000.00).

With respect to Dioneda, the OCA found his letter-explanation insufficient. The chart he submitted showing that: (1) the records of Criminal Case Nos. 9646, 9650, 00-10794, 9605, 731, 760, 1632, 98-10375, 98-10368, 99-10497, 9650, 99-10419, 9685, 00-11011, 00-10892, 00-10328, 02-11524, 04-11955, 00-10883, 00-10884, 00-10885, 03-11715, 07-12980, 759, 1159, 876, 767, 1272, and 1015 were with Judge Tandinco; (2) the record of Criminal Case Nos. 02-11398 was inadvertently placed among the disposed cases; (3) Criminal Case No. 02-11337 was archived on November 29, 2002; (4) and the records of Criminal Case No. 99-10526 were then on file for new assignment, did not state any justification for not presenting the case records before the audit team. The OCA recommended that he be reprimanded for simple neglect of duty.

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[3]   Unpaged.

Lastly, with respect to retired Judge Tandinco's liability, the OCA reiterated its finding that Judge Tandinco failed to resolve motions and incidents in thirty (30) criminal and sixty-seven (67) civil cases, and failed to decide forty-six (46) criminal and twenty (20) civil cases.

The OCA recommended that he be found guilty of gross incompetence, inefficiency, negligence, and dereliction of duty, and be fined one hundred thousand pesos (₱100,000.00), deductible from his retirement benefits.

The OCA subsequently issued Memorandum[4] dated February 9, 2011, noting the receipt from Judge Mercado of the copies of the pertinent orders and decisions rendered in the MTCC, Calbayog City, Samar, and recommending that the matter on Judges Mercado, Maglana, and Clemens, be considered closed and terminated.

In its Resolution[5] dated March 23, 2011, the Court required Judge Tandinco, Judge Lampasa, and Dioneda to manifest within ten (10) days from notice whether they were willing to submit the case for decision on the basis of the pleadings and records already filed and submitted. It directed Dioneda to conduct an actual inventory of the cases with the Assisting Judges.

On May 23, 2011, Judge Lampasa requested an additional period to file her Supplemental Explanation and documentary evidence.

- *Judge Lampasa's Additional Explanation*

In her Supplemental Explanation,[6] Judge Lampasa reiterated that she formally ceased discharging her duties as Assisting Judge of the MTCC, Calbayog City, Samar, as early as July 20, 2009, by virtue of Administrative Order No. 101-2009.

On June 20, 2011, Dioneda manifested his conformity to submit the case to the court's sound discretion with a prayer that his Compliance and Report dated July 16, 2010, be given favorable appreciation.

Based on Judge Lampasa's Additional Explanation and Dioneda's manifestation, the OCA issued a Memorandum[7] dated September 22, 2011, recommending to this Court the following:

1. The letter dated April 6, 2011 of Hon. Presiding Judge Lolita R. Mercado, Acting Presiding Judge, MTCC, Calbayog City, Samar, be **NOTED**.

2. Mr. Ronaldo C. Dioneda, Clerk of Court, MTCC, Calbayog City, Samar, be **FINED** the amount of **Five Thousand Pesos (₱5,000.00)**

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for failure to comply with the Court's Resolution dated April 26, 2010, February 7, 2011, and March 23, 2011, respectively, with a warning that a repetition of the same or similar act shall be dealt with more severely;

3. Judge Alma R. Uy-Lampasa, former Presiding Judge of the Municipal Circuit Trial Court, Daram-Zumarraga, Samar, and former Assisting Judge, Municipal Trial Court in Cities, Calbayog City, Samar, be **FINED** the amount of **Fifty Thousand Pesos (₱50,000.00)** for failure to resolve motions in ninety-four (94) criminal and ten (10) civil cases and belatedly resolving motions in three (3) other civil cases, and be ordered to remit payment of the said fine within ten (10) days from receipt of the Court's resolution; and

4. The previous recommendation that retired Judge Filemon A. Tandinco of the Municipal Trial Court in Cities, Calbayog City, Samar, be **FINED** the amount of **One Hundred Thousand Pesos (₱100,000.00)** to be deducted from his retirement benefits, for gross incompetence, inefficiency, negligence and dereliction of duty, be **REITERATED**.

The Court's Ruling

Except for the sanction imposed on Judge Lampasa, we find the OCA's recommendation in order.

This Court has consistently impressed upon the members of the Bench the need to decide cases promptly and expeditiously, on the time-honored principle that justice delayed is justice denied.[8]

As frontline officials of the Judiciary, trial court judges should at all times act with dedication, efficiency, and a high sense of duty and responsibility as the delay in the disposition of cases is a major culprit in the erosion of public faith and confidence in the judicial system.[9]

This is embodied in Rule 3.05, Canon 3 of the Code of Judicial Conduct which states that *a judge shall dispose of the court's business promptly and decide cases within the required periods*; and in Section 5, Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary (which provides that *judges shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly, and with reasonable promptness*).[10]

No less than the Constitution requires that cases at the trial court level be resolved within three (3) months from the date they are submitted for decision, that is, upon the filing of the last pleading, brief, or memorandum required by the Rules of Court or by the court itself.[11] This

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[8] Report on the Judicial Audit Conducted in the RTC, Branch 16, of Laoag City, A.M. No. 95-3-89-RTC August 23, 1995.

[9] Re: Failure of Former Judge Antonio A. Carbonell to Decide Cases Submitted for Decision and to Resolve Pending Motions in the Regional Trial Court, Branch 27, San Fernando, La Union, A.M. No. 08-5-305-RTC, July 9, 2013.

[10] *Dulang v. Regencia*, A.M. No. MTJ-14-1841, June 2, 2014, 724 SCRA 214.

[11] Article VIII, Sec. 15 of the 1987 Constitution states:

three-month or ninety-day period is mandatory[12] and failure to comply can subject the judge to disciplinary action.

In the present case, Judge Tandinco did not deny the veracity of the audit team's findings that he failed to decide several criminal and civil cases submitted for decision, as well as the pending motions and incidents submitted for resolution. The audit team's report showed that the Court, through Administrative Order No. 152-2007 dated October 8, 2007, directed Judge Tandinco to decide within six (6) months from notice all cases submitted for decision. The Court further required him to submit to the OCA monthly progress reports with attached copies of the decisions. Judge Tandinco failed to do so.

Based on the audit team's report, Judge Tandinco failed to resolve motions in thirty (30) criminal and sixty-seven (67) civil cases. He also failed to decide forty-six (46) criminal and twenty (20) civil cases.

A review of the records also reveals that some of the motions and incidents in the criminal and civil cases had been submitted for resolution as early as 2002. These motions and incidents were only acted upon after the designation of Judge Mercado, Judge Maglana, and Judge Clemens as Acting Presiding Judge and Assisting Judges, respectively. The same can be said of the criminal and civil cases, which Judge Tandinco failed to decide. His failure to decide these cases and to resolve the motions was even aggravated by the summary nature of these proceedings and the designation of Judge Lampasa as Assisting Judge for almost two (2) years.

As the presiding judge of the MTCC, Calbayog, City Samar, Judge Tandinco had the duty to keep track of the development of the cases pending before his sala and to take note of the cases that were ripe for decision or resolution. More importantly, Judge Tandinco had the sworn duty to decide the cases and to resolve the matters without undue delay. If he had known that he could not decide the cases within the reglementary period, he should have requested additional time to decide the cases. Judge Tandinco never did.

While the rules prescribing the time within which certain acts must be done are regarded as mandatory, the Court has nevertheless been mindful of the plight of our judges and has been understanding of the circumstances that may hinder them from promptly disposing their businesses.[13] The Court, in several instances, has allowed extensions of time to decide cases beyond the 90-day period. All that a judge needs to do is to request from the Court

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"Sec. 15. (1) All cases or matters filed after the effectivity of this Constitution must be decided or resolved within twenty-four months from the date of submission for the Supreme Court, twelve months for all lower collegiate courts, and three months for all other lower courts.

(2) A case or matter shall be deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the Rules of Court of by the court itself."

[12]   Re: Problems of Delays in Cases before the Sandiganbayan, A. M. No. 00-8-05-SC, November 28, 2001.

[13]   Supra note 10.

an extension of time to decide the cases, and to justify any request for additional time.

In the present case, the record does not show any attempt by Judge Tandinco to request a reasonable extension of time to dispose of the submitted cases and matters before him. Thus, his failure to decide several cases and to resolve the motions and incidents within the reglementary period, without strong and justifiable reason, constitutes gross incompetence, inefficiency, negligence, and dereliction of duty, warranting the imposition of administrative sanctions.

In imposing the proper sanction on Judge Tandinco, this Court notes that he has previously been found administratively liable for undue delay in rendering a decision and has been ordered to pay a fine of Eleven Thousand Pesos (₱11,000.00).

Since Judge Tandinco has already retired from service, the only alternative left for us is to impose a fine. Accordingly, **we set the fine of ₱100,000.00,** taking into account the several cases and motions he had failed to dispose of, the unreasonable delay the omission caused to the parties, and Judge Tandico's previous administrative charge for the same offense.

With respect to Judge Lampasa, we find that her explanation – the revocation of her designation was way beyond the reglementary period to decide the cases – does not sufficiently justify the delay in the disposition of the court's business. Based on the OCA report, in almost two years of her designation as Assisting Judge of the MTCC, Calbayog City, Samar, Judge Lampasa still failed to resolve the motions and incidents in ninety-five (95) criminal cases and thirty-two (32) civil cases.

These motions and incidents were submitted for resolution as early as February 2008 while Judge Lampasa was still discharging her duties as assisting judge. Hence, contrary to Judge Lampasa's contention, the 90-day prescriptive period to resolve these motions had already lapsed way before the revocation of her designation on July 20, 2009, as assisting judge at the MTCC, Calbayog City, Samar.

We also found that there were motions in the thirteen (13) civil cases that were already beyond the 90-day prescriptive period. Three (3) of these motions were belatedly resolved by Judge Lampasa:[14]

In her undated letter to this Court, Judge Lampasa tried to justify her failure to resolve the motions on the following grounds: the 90-day period within which to decide the cases and motions had not yet lapsed at the time her authority as assisting judge was revoked; she had ceased to discharge her duties as assisting judge; the transcript of stenographic notes and position papers had not been referred to her for appropriate action; and she had referred the resolution of the case to Judge Tandinco.

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[14]   *Civil Case Nos. 1290, 884, 1103, 1754, 791, 1818, 1671, 1670, 1854, and 1576.*

She also invokes her additional court assignments in two other courts and a heavy caseload for the delay and failure to decide cases already submitted for decision.

We find her explanation unsatisfactory. A heavy caseload or the assignment of additional functions does not exonerate her.[15] If Judge Lampasa could not decide the cases within the reglementary period, all she needed to do was to ask for extension of time to decide them. This, she also failed to do.

In *Casia v. Gestopia, Jr.*,[16] we held that:

> "That respondent Judge had to attend to other courts will not save him from administrative sanction. In *Perez v. Andaya*, we held a similar contention unmeritorious, quoting the recommendation of the Investigating Justice with favor thus:
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>> Respondent judge's argument that on September 29, 1993(,) he was designated acting presiding judge of (the) RTC(,) Branch 54(,) in Lucena City, and has been carrying (the) heavy case load of two salas, and lately designated to hear heinous crimes(,) should not be made as basis for excuses at this point in time when the judiciary is under siege upon which the judge should give complete and dedicated support of his primary and fundamental task to restore full confidence of our people in the court."

Furthermore, as discussed above, most of the motions and incidents in the criminal and civil cases had been submitted for resolution prior to the revocation of Judge Lampasa's designation. Also, the 90-day prescriptive period to resolve these motions had already lapsed before she even ceased to discharge her duties.

We also note that there was no clear data or record to show to which judge – whether to Judge Tandinco or to Judge Lampasa – the subject cases were submitted for decision. Although Judge Lampasa claims that she referred several of these cases to Judge Tandinco for decision, the records do not show that she formally endorsed, through the OCA, the referral of these cases to Judge Tandinco. Even assuming that these cases were submitted for decision before Judge Tandinco, we still find Judge Lampasa administratively liable.

Under Article VIII, Section 15(1) of the 1987 Constitution, judges of the lower courts are mandated to resolve or decide matters and cases within the reglementary period of ninety (90) days. This mandate applies not only to the presiding judges assigned to each court, but also to judges who are tasked to assist other judges in the resolution of cases.

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[15]   Re: Judicial Audit of the RTC, Br. 14, Zamboanga City, presided over by the Hon. Ernesto R. Gutierrez, formerly the Presiding Judge thereof, A.M. No. RTJ-05-1950, February 13, 2006.
[16]   A.M. No. MTJ-99-1181, August 11, 1999, 312 SCRA 204.

Considering that Judge Lampasa failed to resolve the motions and incidents in ninety-five (95) criminal cases and thirty-two (32) civil cases, and had belatedly resolved three (3) other civil cases, we agree with the OCA that Judge Lampasa should likewise be held administratively liable.

Under Rule 140 of the Rules of Court, undue delay in rendering a decision or order is classified as a less serious charge[17] and is punishable by any of the following sanctions: (a) suspension from office without salary and other benefits for a period of not less than one (1) month but not more than three (3) months; or (b) fine of more than ₱10,000.00 but not exceeding ₱20,000.00.

At the time Judge Tandinco's court was audited on December 6, 7, and 8, 2009, Judge Lampasa was no longer with the judiciary. On December 1, 2009, she filed a certificate of candidacy as City Mayor of Calbayog City, hence, she was automatically deemed resigned from the service and the Court was already divested of jurisdiction to institute an administrative case against her.[18]

In order for the Court to acquire jurisdiction over an administrative case, the complaint must be filed during the incumbency of the erring official. The Court, however, is not without remedy against any official or employee of the judiciary who committed violations while in office, but had already resigned or retired therefrom. Under the threefold liability rule, the wrongful acts or omissions of a public officer may give rise to civil, criminal and administrative liability.[19]

In the present case, since Judge Lampasa is no longer with the judiciary, the Court agrees with the OCA that only the imposition of fine is appropriate. As to the amount of imposable fine, we take into account the extant of the delay and the volumes of motions and cases, ninety-four (94 criminal cases and ten (10) civil cases which she failed to resolve. In these lights, a fine of ₱20,000 is in order.

We now resolve Dioneda's liability. In our Resolution dated April 26, 2010, we directed Dioneda to explain, among others, his failure to present for audit the case records of <u>Criminal Case Nos</u>. 9649, 0650, 98-10375, 98-10368, 99-10497, 00-10794, 9605, 99-10419, 9685, 00-11011, 02-11398, 00-10892, 00-10328, 02-11524, 04-11955, 00-10883, 00-10884, 00-10885, 03-11715, 99-10526 and 07-12980; and <u>Civil Case Nos</u>. 731, 760, 759, 1159, 876, 767, 1634, 1272, and 1015.

In a letter dated July 16, 2010, Dioneda submitted his compliance with an attached chart of actions taken on the pending cases and motions assigned to Judge Lampasa. However, he failed to offer any valid reason for

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[17] Rules of Court, Rule 140, Section 11(B).
[18] *Office of the Ombudsman v. Andutan, Jr.*, G.R. No. 164679, July 27, 2011, 654 SCRA 539, 549-550.
[19] Id. at 556-557.

failing to present the case records to the audit team. He likewise failed to attach the copy of any order, resolution, or decision on the said cases.

We also note the audit team's report that several case records were not chronologically arranged and lacked certain documents (*i.e., certificates of arraignment, formal offer of evidence, writs of execution*); the court's docket books need updating, and the *rollos* and records of the cases that were jointly tried lacked a mother record containing all documents. These circumstances clearly indicate poor management of the court docket and poor record keeping.

The Manual for Clerks of Court provides that the Clerk of Court is the administrative officer of the court who controls and supervises the safekeeping of court records, exhibits, and documents, among others.[20] Furthermore, Rule 136, Section 7 of the Rules of Court provides that the clerk of court shall safely keep all records, papers, files, exhibits, and public property committed to his charge, including the library of the court, and the seals and furniture belonging to his office.

Dioneda, whose responsibilities include ensuring that the case records are safely kept and organized and are readily available upon the request of the proper parties, was himself remiss in the performance of his functions. His failure to immediately present all the case records prevented the audit team from examining and auditing the cases with accuracy. Branch clerk of courts must realize that their administrative functions are vital to the prompt and proper administration of justice. They play a big role in the complement of the court and thus cannot be permitted to slacken in their jobs under one pretext or another.

For Dioneda's failure to comply with the Court's Resolutions dated April 26, 2010; February 7, 2011; and March 23, 2011, respectively, we find him guilty of **simple neglect of duty**.

Simple neglect of duty under Section 52, Rule IV of the Uniform Rules on Administrative Cases in the Civil Service is classified as a less grave offense, punishable by suspension without pay for one (1) month and one (1) day to six (6) months for the first offense. We find the OCA's recommended penalty well-taken. Thus, **we hereby impose on Dioneda a fine in the amount of Five Thousand Pesos (P5,000.00)** for failure to comply with the Court's Resolutions, with a warning that a repetition of the same shall be dealt with more severely.

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[20]   Chapter II of the Manual for Clerks of Court provides the general functions and duties of Clerks of Court, one of which is the safekeeping of court records, to wit:

    3.   Duties –
    a. Safekeeping of Property – The Clerks of Court shall safely keep all records, papers, files, exhibits and public property committed to their charge, including the library of the Court, and the seals and furniture belonging to their office.

WHEREFORE, premises considered, the Court finds retired Judge Filemon A. Tandinco, Jr., then Presiding Judge of the Municipal Trial Court in Cities, Calbayog City, Samar, **GUILTY** of **GROSS INCOMPETENCE, INEFFICIENCY, NEGLIGENCE, and DERELICTION OF DUTY.** Accordingly, the Court imposes on him a **FINE** in the amount of **One Hundred Thousand Pesos (₱100,000.00)** to be deducted from his retirement benefits.

The Court finds Judge Alma Uy-Lampasa, then Presiding Judge of the Municipal Circuit Trial Court, Daram-Zumarraga, **GUILTY** of **UNDUE DELAY IN RENDERING A DECISION OR ORDER.** Accordingly, the Court imposes upon her a **FINE** in the amount of **Twenty Thousand Pesos (₱20,000.00)**, payable within thirty (30) days from notice.

The Court finds Ronaldo C. Dioneda, Clerk of Court of the MTCC, Calbayog City, Samar, **GUILTY** of **SIMPLE NEGLECT OF DUTY.** Accordingly, the Court imposes on him a **FINE** in the amount of **Five Thousand Pesos (₱5,000.00)**, with a **STERN WARNING** that a repetition of the same or similar offense shall be dealt with more severely.
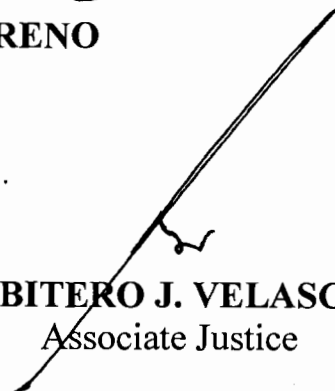
SO ORDERED.

ARTURO D. BRION
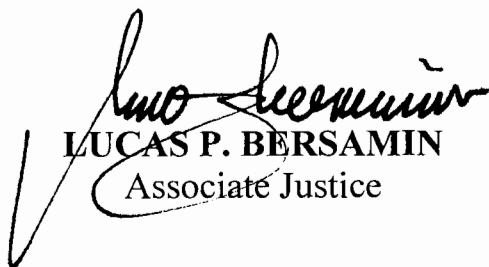Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

ANTONIO T. CARPIO
Associate Justice

PRESBITERO J. VELASCO, JR.
Associate Justice

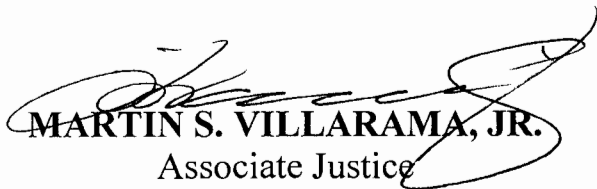**TERESITA J. LEONARDO-DE CASTRO**
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice
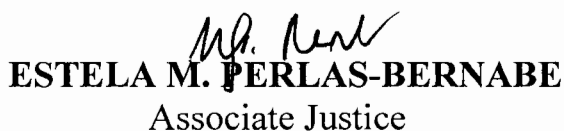
MARTIN S. VILLARAMA, JR.
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

BIENVENIDO L. REYES
Associate Justice
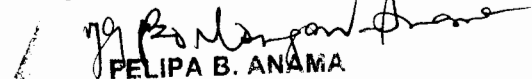
ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

CERTIFIED XEROX COPY;

PELIPA B. ANAMA
CLERK OF COURT, EN BANC
SUPREME COURT