

EN BANC

[A.M. No. MTJ-10-1760, November 16, 2015]

**OFFICE OF THE COURT ADMINISTRATOR, PETITIONER, VS.
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.**

D E C I S I O N

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On July 20, 2009, Judge Lampasa's designation as Assisting Judge of the MTCC of Calbayog City was revoked under Administrative Order No. 101-2009.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: Criminal Case Nos. 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: Civil Case Nos. 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: Criminal Case Nos. 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: Civil Case Nos. 1173, 545, 1336, 1300, SP 02, SCA 1009. 1212. 1206, 1514, 453, 949, 1580, 1513, 1468, 1657, 738, 1659, 1907. 1092, and 1912;

5. Judge Lampasa failed to resolve motions and incidents in ninety-six (96) criminal cases, to wit: Criminal Case Nos. 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: Civil Case Nos. 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: Criminal Case Nos. 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: Civil Case Nos. 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: Criminal Case Nos. 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: Civil Case Nos. 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 Judge's 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

(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 Tandincó, 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 (P50,000.00).

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 Tandincó; (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.

Lastly, with respect to retired Judge Tandincó's liability, the OCA reiterated its finding that Judge Tandincó 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 (P100,000.00), 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 (P5,000.00)** 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 (P50,000.00)** 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;