

## EN BANC

**[ A.M. No. MTJ-12-1817 [Formerly A.M. No. 09-2-30-MTCC], March 12, 2013 ]**

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.  
HON. ROSABELLA M. TORMIS, PRESIDING JUDGE, MUNICIPAL  
TRIAL COURT IN CITIES [MTCC], BRANCH 4, CEBU CITY AND MR.  
REYNALDO S. TEVES, BRANCH CLERK OF COURT, SAME COURT,  
RESPONDENTS.**

### D E C I S I O N

**PER CURIAM:**

The administrative matter stemmed from the Report of the Office of the Court Administrator (OCA) Audit Team which conducted the judicial audit on June 16 to 28, 2008 in the Municipal Trial Court in Cities (MTCC), Branch 4, Cebu City, pursuant to Travel Order No. 45-2008 dated May 28, 2008, series of 2008.<sup>[1]</sup>

The team examined the records of 5,120 cases consisting of 4,466 criminal and 654 civil cases. The examination yielded the following results:<sup>[2]</sup>

<b>STATUS/STAGES OF PROCEEDINGS</b>	<b>CRIMINAL CASES</b>	<b>CIVIL CASES</b>	<b>TOTAL</b>
<b>For Promulgation</b>	<b>12</b>	<b>0</b>	<b>12</b>
<b>Submitted/Due for Decision</b>	<b>120</b>	<b>89</b>	<b>209</b>
<b>With Pending Incidents for Resolution</b>	<b>172</b>	<b>63</b>	<b>235</b>
<b>No Initial Action since Filing of Case</b>	<b>220</b>	<b>3</b>	<b>223</b>
<b>No Further Action for Considerable Length of Time</b>	<b>3,179</b>	<b>312</b>	<b>3,491</b>
With Warrant of Arrest/Summons	33	70	103
For Arraignment	82	-	82
For Setting	5	-	5
For Preliminary Conference/Pre-trial	58	18	76
For Compliance	38	8	46
With Pending Motions	5	2	7
On Trial/For Initial Trial	288	23	311
Suspended Proceedings	24	3	27
Archived	131	1	132
Decided/Dismissed/Disposed	99	62	161
<b>TOTAL</b>	<b>4,466</b>	<b>654</b>	<b>5,120</b>

The Presiding Judge of the subject court is Judge Rosabella M. Tormis (Judge Tormis), while the Clerk of Court is Mr. Reynaldo S. Teves (Mr. Teves).<sup>[3]</sup> Judge Tormis took her oath and assumed office on June 22, 1999. Her service was, however, interrupted because of the following administrative cases wherein she was either suspended or preventively suspended, to wit:

1. Decision dated September 20, 2005 in A.M. No. MTJ-05-1609 (Abuse of Authority) wherein Judge Tormis was **suspended from service for six (6) months**. In a subsequent resolution dated July 12, 2006, she was directed to resume office immediately upon receipt of notice;
2. Resolution dated July 10, 2007 in A.M. No. 07-1691 (Judicial Audit on Solemnization of Marriages) wherein she was placed under **preventive suspension** effective immediately. The suspension was lifted per Resolution dated December 11, 2007; and
3. Resolution dated November 28, 2007 in A.M. No. MTJ-07-1692 (Dishonesty and Grave Misconduct) wherein she was **suspended for six (6) months**.<sup>[4]</sup>

During the absence of Judge Tormis, Judge Carlos C. Fernando (Judge Fernando) of the MTCC, Branch 2, Mandaue City was designated as Acting Presiding Judge pursuant to Administrative Order Nos. 110-2007 and 2-2008 dated July 9, 2007 and January 7, 2008, respectively.<sup>[5]</sup>

The report revealed that Branch 4 does not maintain a docket book or any similar system of record-keeping and monitoring.<sup>[6]</sup> Specifically, the Audit Team found the following irregularities committed by Branch 4:

- (1) [T]here were decisions/judgments in eleven (11) criminal cases rendered by Judge Rosabella M. Tormis which have not been promulgated despite the lapse of considerable length of time;
- (2) [T]here were two (2) inherited cases which remained undecided for about ten (10) years or more;
- (3) [T]here were one hundred twelve (112) criminal and eighty-three (83) civil cases submitted for decision before Judge Tormis which have remained undecided beyond the reglementary period to decide the same;
- (4) [T]here are six (6) criminal and six (6) civil undecided cases submitted for decision before then Acting Presiding Judge Carlos C. Fernando;
- (5) [T]here are one hundred seventy-two (172) criminal and sixty-three (63) civil cases that are with pending incidents for resolution;
- (6) [O]f the 172 criminal cases referred to in the immediately preceding paragraph, one hundred forty-five (145) cases involve violation of city ordinances/traffic rules with pending motions to archive. The court therefore failed to comply with

- Administrative Circular No. 7-A-92 dated June 21, 1993 relative to the guidelines in the Archiving of Cases;
- (7) [T]here are two hundred twenty (220) criminal and three (3) civil cases that have no initial action/proceeding since their filing in court;
  - (8) [T]here are three thousand one hundred seventy-nine (3,179) criminal and three hundred twelve (312) civil cases without further action or proceedings for a considerable length of time;
  - (9) [T]here was an unreasonable delay in deciding Criminal Case No. 111373-R entitled *People vs. Roel Ricardel* [Ricardel case] for Reckless Imprudence Resulting to Double Homicide, since the trial ended on August 29, 2003 and yet it was decided only on April 18, 2008 not by Judge Tormis but by Acting Presiding Judge Fernando;
  - (10) [I]t has been the practice of MTCC, Branch 4, Cebu City not to promulgate judgments in criminal cases in blatant violation of Section 6 of Rule 120 of the Revised Rules of Criminal Procedure;
  - (11) [I]t appears that the Decision dated June 4, 2007 in Criminal Case No. 72880-R to 83-R and 85346-R to 53-R entitled *People vs. Evangeline Datan* [Datan case] for Violation of BP 22, was actually rendered by Judge Tormis at the time when she was already suspended by the Court sometime in July 2007 and said decision has not been promulgated; and
  - (12) [I]n Criminal Case No. 126542R to 49-R entitled *People vs. Jasmin L. Librando* [Librando case] for Violation of BP 22 which is a case falling under the Rule on Summary Procedure, Judge Tormis ordered the issuance of a warrant of arrest in violation of Section 16 of the Revised Rule on Summary Procedure.<sup>[7]</sup>

In a Resolution dated March 18, 2009, the Court directed Judge Tormis to promulgate the decisions/judgments that have not been promulgated; decide with dispatch the two (2) inherited cases that have remained undecided for ten years or more; decide within a non-extendible period of four (4) months criminal and civil cases which are already beyond the reglementary period to decide cases; to resolve within a non-extendible period of four (4) months the pending incidents/motions in criminal and civil cases which are beyond the reglementary period within which to resolve the incidents; to immediately take appropriate action on 145 criminal cases pursuant to Administrative Circular No. 7-92-A; to immediately take appropriate action on criminal and civil cases which have no initial action since their filing in court and those which have no further action for a considerable length of time; explain why she failed to comply with her duty to conduct actual semestral physical inventory of case records thereby submitting to the Court inaccurate reports; explain the delay in deciding the *Ricardel* case; explain why she allowed the practice of not promulgating decisions/judgments in criminal cases in violation of Section 6 of Rule 120 of the Revised Rules of Criminal Procedure and Section 17 of the Revised Rules on Summary Procedure; explain why she rendered the decision dated June 4, 2007 in the *Datan* case at the time when she was already suspended by the Court; explain why in *Librando* case, she ordered the issuance of a warrant of arrest in violation of Section 16 of the Revised Rules on Summary Procedure; and submit

to the Court her compliance with the foregoing directives.<sup>[8]</sup>

In the same resolution, the Court directed Mr. Teves to explain why he failed to comply with his duty to conduct actual semestral physical inventory of case records thereby submitting inaccurate reports of cases; explain why he failed to keep a General Docket Book pursuant to Section 8, Rule 136 of the Rules of Court; to explain why he allowed the practice in their court of not promulgating decisions/judgments in criminal cases in violation of the Rules on Criminal Procedure and Revised Rules on Summary Procedure; and to submit to the Court a report of compliance of the foregoing directives.<sup>[9]</sup>

In compliance with the Court's directive, Judge Tormis explained the irregularities that she allegedly committed. She claimed that she faithfully conducted semestral physical inventory of case records except during the period comprising her three suspensions as she was then denied access to her courtroom and case records.<sup>[10]</sup> She likewise cited the foregoing suspensions as the causes of the delay in the disposition of cases then pending in her court.<sup>[11]</sup> She also alleged that the delay in the disposition of the *Ricardel* case was brought about by the parties' request for time to negotiate on the civil aspect of the case.<sup>[12]</sup> She also denied the alleged practice of her court of not promulgating judgments in criminal cases. She specifically cited the *Datan* case and explained that she rendered the decision prior to her preventive suspension and she filed it with Mr. Teves for the latter to calendar it for promulgation, but instead of following her directive, Mr. Teves sent copies of the decision to the parties of the case.<sup>[13]</sup> Insofar as the *Librando* case is concerned, while admitting having issued the warrant of arrest, she supposedly did so only because the accused failed to appear during the arraignment despite notice.<sup>[14]</sup> Finally, she claimed that she had satisfactorily complied with the directive to decide the cases submitted for decision although beyond the period to decide; she had resolved the incidents due for resolution and had archived all the cases due for archiving; and, she had either disposed of or archived the inactive cases.<sup>[15]</sup>

For his part, Mr. Teves explained that the alleged error in his reports can be attributed to the discrepancy in procedure or appreciation in the preparation of the reports.<sup>[16]</sup> He claimed that their court indeed does not maintain a general docket book, because they have not been provided by the Court with the needed supplies.<sup>[17]</sup> Lastly, on the alleged practice of non-promulgation of judgments, he claimed that the Rules are not applicable because most of their cases were resolved based on compromise agreement, plea of guilt and dismissal by reason of affidavit of desistance, failure to prosecute, or violation of the right to speedy trial.<sup>[18]</sup>

#### *Conclusions and Recommendation of the Office of the Court Administrator*

While recognizing the suspensions of Judge Tormis as one of the reasons for the delay in the disposition of cases, the OCA observed that several of the cases had been overdue for decision or resolution even prior to her suspension. As such, she should be held liable for undue delay in rendering a decision or order, a violation of Section 9, Rule 140 of the Rules of Court. Considering that said offense is a less serious charge, and taking into account the number of unresolved cases pending in her sala, the OCA recommended that Judge Tormis be meted the penalty of fine of

P80,000.00.<sup>[19]</sup> For failure to comply with her duty to provide efficient court management system in her court, which includes the preparation and use of docket inventory and monthly report of cases as tools thereof, the OCA also found Judge Tormis guilty of violation of Supreme Court rules, directives and circulars, another less serious charge, warranting the penalty of fine of P20,000.00.<sup>[20]</sup> The OCA, however, exonerated Judge Tormis of the alleged practice of non-promulgation of decisions/judgments as the same was just misunderstood.<sup>[21]</sup> Finally, in ordering the arrest of the accused even before the latter was apprised of the charges against her, the OCA found Judge Tormis liable for gross ignorance of the law, a serious charge warranting the imposition of the penalty of fine of P20,000.00.<sup>[22]</sup>

As to Mr. Teves, the OCA found him guilty of mismanagement of the case records leading to the court's failure to dispose of many pending cases to the prejudice of the litigants concerned. As such, he was found to be liable for simple neglect of duty.<sup>[23]</sup> Mr. Teves is likewise guilty of another simple neglect of duty in failing to set for promulgation the decision in the *Datan* case.<sup>[24]</sup> As such, the OCA recommended that he be ordered to pay a fine in the amount equivalent to two (2) months of his salary.<sup>[25]</sup>

The OCA's recommendation is quoted hereunder for easy reference:

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

1. The instant matter be **RE-DOCKETED** as a regular administrative matter against **Hon. Rosabella M. Tormis**, Presiding Judge, MTCC, Branch 4, Cebu City and **Mr. Reynaldo S. Teves**, Branch Clerk of Court, same court;
2. **Judge Rosabella M. Tormis be found GUILTY OF (a) undue delay in rendering a decision or order; (b) violation of Supreme Court rules, directives and circulars** resulting in the mismanagement of the court; and **(c) gross ignorance of the law** for ordering the arrest of the accused in Criminal Case Nos. 126542R to 49-R entitled *People vs. Jasmin L. Librando* without the accused having been informed yet of the charge against her and accordingly be **FINED** in the amounts of Eighty Thousand Pesos (P80,000.00), Twenty Thousand Pesos (P20,000.00) and Twenty Thousand Pesos (P20,000.00), respectively, with the warning that a repetition of the same or similar act will be dealt with more severely;
3. **Mr. Reynaldo S. Teves** be found **GUILTY** of **simple neglect of duty** and be **FINED** in the amount equivalent to his two (2) months salary with the warning that a repetition of the same or similar act will be dealt with more severely; and