

## SECOND DIVISION

**[ A.M. No. RTJ-13-2342 [Formerly: A.M. No. 11-8-152-RTC Re: Report on the Judicial Audit Conducted at the Regional Trial Court, Branch 49, Tagbilaran City, Bohol], March 06, 2013 ]**

**OFFICE OF THE COURT ADMINISTRATOR VS. JUDGE FERNANDO G. FUENTES III REGIONAL TRIAL COURT, BRANCH 49, TAGBILARAN CITY**

**[A.M. NO. RTJ-12-2318 [FORMERLY: OCA IPI NO. 11-3755-RTJ] ]**

**PAULINO BUTAL, SR. COMPLAINANT, VS. JUDGE FERNANDO G. FUENTES III REGIONAL TRIAL COURT, BRANCH 49, TAGBILARAN CITY RESPONDENT.**

### R E S O L U T I O N

**PEREZ, J.:**

On 13 June 2011, a judicial audit was conducted at the Regional Trial Court (RTC), Branch 49, Tagbilaran City, Bohol, presided over by Judge Fernando G. Fuentes III (Judge Fuentes III).

The judicial audit report<sup>[1]</sup> of the team from the Office of the Court Administrator (OCA) revealed that as of 13 June 2011, the aforementioned court had 272 (138 criminal and 134 civil) pending cases in its docket. Of these cases, 83 (24 criminal and 59 civil) were deemed submitted for decision. The report also revealed that of the cases submitted for decision, 70 were already beyond the reglementary period to decide, with some cases submitted for decision as far back as 2003. Further, 31 of these 70 cases were appealed from the first level courts, with two criminal cases involving detention prisoners.

On 22 August 2011, the Court resolved, among others, to direct Presiding Judge Fuentes III, to:

- a) CEASE and DESIST from hearing cases in his court and devote his time in deciding cases and resolving pending incidents/motions listed in matrices I and II of this Report, giving priority to Crim[inal] Case Nos. 14116 (PP v. Sarabia) and 14299 (PP v. Formentera, Jr.) which involve[d] detention prisoners, to continue until the above shall have all been finally disposed of, and to furnish the Court, through the OCA, copies of such decisions/orders related thereto; and that his salaries, allowances and other benefits be ordered WITHHELD pending full compliance with this directive;
- b) RESOLVE the twenty-seven (27) pending incidents/motions in

- matrix number III; [and]
- c) EXPLAIN in writing, within fifteen (15) days from notice, why no administrative sanction should be taken against him for his failure to decide/resolve the 83 cases enumerated in Nos. I and II and the 27 cases with pending motions enumerated in No. III;  
x x x x<sup>[2]</sup>

In the same resolution, the Court designated Presiding Judge Suceso A. Arcamo, RTC, Branch 47, Tagbilaran City as assisting judge of RTC, Branch 49, same station, specifically to conduct hearings on all cases and attend to all interlocutory matters pending thereat. Such designation shall continue until full compliance by Judge Fuentes III of what he has been directed to do.<sup>[3]</sup>

Atty. Fara Ricarda Paras-Matuod (Atty. Paras-Matuod), Branch Clerk of Court, RTC, Branch 49, Tagbilaran City was also directed to apprise the judge concerned of the three cases where no further action was taken and to take appropriate action and/or include in the court calendar 64 cases with no further proceedings/resettings.

In his letter dated 7 October 2011, Judge Fuentes III explained that he is offering no justification for the adverse findings of the audit team. He alleged that the cases submitted for decision have always been reflected in the monthly reports of cases he is submitting to the Court. He averred that he is not a resident of Bohol but of Ozamis City. Thus, he had to go home from time to time upon proper leave to visit his family which process has affected his health and has greatly hampered his case disposition.

He considered the opportunity accorded to him by the Court to resolve his backlog of cases as a breath of life to his function as a judge. He expressed his sincerest gratitude with a commitment to comply with what the resolution mandates him to do.<sup>[4]</sup>

On 13 March 2012, Judge Fuentes III partially complied by submitting copies of his decisions/orders in 39 civil and 21 criminal cases mentioned in paragraph (a) of the resolution. He requested for an extension of time or until 16 April 2012 to fully comply with the directives of the Court.

In a resolution dated 11 April 2012, the Court noted the partial compliance of Judge Fuentes III and granted his prayer for extension of time to submit his full compliance.

On 9 July 2012, Judge Fuentes III submitted anew copies of his decisions in 23 civil and five criminal cases. He likewise submitted 20 orders relative to the cases included in paragraphs (a) and (b) of the resolution.

In a letter dated 16 July 2012, Judge Fuentes III made another request for extension of time from the given 16 April 2012 deadline to fully comply with the directive to submit copies of the remaining decisions and resolutions. He explained that his failure to decide the cases within the extended period was for the reason that his youngest son, Michael Philip Fuentes, an autistic child, became sick and had to be hospitalized for almost the whole month of March in Ozamis City. He,

thereafter, had to go on leave for several days in March and June 2012 to bring his son to Manila for further treatment.

For her part, Atty. Paras-Matuod submitted copies of: (1) her letter to Judge Fuentes III apprising/informing him of the cases which have no further action; and (2) the notice of hearings of cases with no further proceedings/settings, in compliance with paragraphs 3(a) and (b) of the 22 August 2011 resolution.

The OCA reported that since Atty. Paras-Matuod has fully complied with what was required from her, as stated in the 22 August 2011 resolution, the matter, insofar as she is concerned, may now be considered closed and terminated.

Meanwhile, on 21 September 2011, the OCA received a verified complaint from Paulino Butal, Sr. (complainant), charging Judge Fuentes III with delay in rendering a decision in Civil Case No. 7028, entitled "Spouses Paulino Pombo Butal, Jr., et al. v. China Road and Bridge Corporation, et al." for damages and attorney's fees.

Complainant alleged that he is one of the plaintiffs in the aforesaid civil case pending before RTC, Branch 49, Tagbilaran City. He claimed that the trial of the case was terminated on 28 January 2008 and the parties were given 30 days within which to submit their respective memorandum. Complainant filed his memorandum on 29 February 2008 while defendants submitted their respective memoranda on 28 February 2008 and 6 March 2008.

On 27 August 2009, the plaintiffs filed a Manifestation and Motion to Render Decision alleging therein that it had been 17 months since the case was submitted for decision. They prayed that judgment be rendered by the court.<sup>[5]</sup>

In his comment<sup>[6]</sup> dated 28 October 2011, Judge Fuentes III admitted that there was delay in rendering judgment in Civil Case No. 7028. He, however, alleged that the subject case was among the cases submitted for decision stated in the resolution dated 22 August 2011 in A.M. No. 11-8-152-RTC. He attached to his comment a copy of the 20 October 2011 decision he rendered in Civil Case No. 7028.

In the resolution dated 23 April 2012,<sup>[7]</sup> the Court adopted and approved the findings of fact and recommendations of the OCA and accordingly OCA IPI No. 11-3755-RTJ was re-docketed as A.M. No. RTJ-12-2318 and consolidated with A.M. No. 11-8-152-RTC.

In its report<sup>[8]</sup> dated 19 November 2012, the OCA recommended that Judge Fuentes III be: a) found guilty of gross inefficiency for his failure to decide 70 cases within the reglementary period, which includes Civil Case No. 7028 subject of A.M. No. RTJ-12-2318, and resolve 27 incidents submitted for resolution; b) fined in the amount of P50,000.00 to be deducted from his salaries; and c) sternly warned that the commission of a similar offense will be dealt with more severely. The OCA stated that:

x x x The duty of a judge is not only confined to hearing and trying cases. It is equally important to decide the same within the period