

EN BANC

[A.M. No. RTJ-06-1991, June 05, 2009]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
HON. TIRING A. ASAALI, PRESIDING JUDGE, REGIONAL TRIAL
COURT, BRANCH 17, ZAMBOANGA CITY, RESPONDENT.**

DECISION

CARPIO, J.:

The Case

This administrative case arose from a Memorandum dated 28 May 2004 submitted by an audit team of the Office of the Court Administrator (OCA), reporting on the judicial audit conducted on the Regional Trial Court, Branch 17, Zamboanga City (trial court).

From 18 to 28 August 2002, a judicial audit was conducted by the OCA audit team on the trial court presided by Judge Tibing A. Asaali (Judge Asaali). In a Memorandum dated 28 May 2004, then Deputy Court Administrator Christopher O. Lock^[1] (Lock) directed Judge Asaali to:

- I. EXPLAIN within ten (10) days from notice why you shall not be ADMINISTRATIVELY held liable for your failure to (a) decide the following cases, despite the period granted to you by the Court, to wit: Criminal Cases Nos. 9478, 9479, 9480, 13739, 13850, 13851, 13923, 14087, 14357, 14360, 14682, 14700, 14768, 14896, 14736, 15032 and 18637; Civil Cases Nos. 2032, 2276, 2498, 2775, 3026, 3403, 3494, 3602, 3671, 3776 (3376), 4049, 4165, 4399, 4512, 4548, 4568, 4660, 4684, 4728, 4748, 4789, 4794, 4858, 4876, 4897, 4938, 4984, 5014, 5119, 5156, 5157, 5159, 5162, 5181, 5756, Cad. Case "No. 01-49, Lot 1003-9 TCT 24,656, Cad. Case No. 99-92, SCA No. 99, SCA No. 140-4, SCA No. 187, SCA No. 209, SCA No. 245, SCA No. 336, SCA No. 346, SCA No. 365, SCA No. 428, SCA No. 432, SCA No. 435, SCA No. 442, SCA No. 452, SCA No. 465, SCA No. 469, SCA No. 470, SCA No. 471, SCA No. 472, SCA No. 473, SCA No. 474, SCA No. 477, SCA No. 107, SCA No. 478, SCA No. 479, SCA No. 495, SCA No. 496, SCA No. 497, SCA No. 498, SCA No. 5273 SCA No. 534, SCA No. 535, SCA No. 536, SCA No. 537, SCA No. 538, SCA No. 556, as well as resolve the pending incidents/motions in the following cases within the reglementary period, to wit: Criminal Cases Nos. 13182, 14913, 16132, 16870 and Civil Cases Nos. 13182, 13183, 14913, 16132, 16870 and Civil Cases Nos. 428, 4049, 4360, 4807, 4823, 4858, 5007, 5159, 5181, 5191, 5203, 5257, SCA No. 443 and SCA No.

5240 (524); (b) to TAKE APPROPRIATE ACTION within thirty (30) days from notice on the following cases which have not been further acted upon (NFA) for a long time already, to wit: Criminal Cases Nos. 3133 (15641), 9478, 9479, 9480, 14111, 14621, 14622, 15079, 15223, 15565, 15566, 15842, 15930, 16215, 16216, 16476, 16522, 16675, 17726, 17852, 17857, 17964, 17995, 17999, 18030, 18089, 18091, 18096, 18153, 18154, 18175, 18327, 18347, 18480, 18509; and Civil Cases Nos. 99-72, 4554, 4630, 4645, 4652, 4684, 4689, 4732, 4737, 4791, 4794, 4808, 4809, 4816, 4824, 4832, 4887, 4911, 4925, 4927, 4934, 4947, 4950, 4951, 4959, 5135, 5142, 5144, 5169, 5173, 5175, 5200, 5213, 5218, 5236, 5249, 5256, Cad. 01-29, Cad. 01-118, Cad. Case No. 02-03, SCA 438, SCA 549, and SP 4636; and the following cases which have not been further set (NFS) for a long time, to wit: Criminal Cases Nos. 8332, 14666, 15032, 15211, 15649, 15685, 15713, 15714, 15930, 16278, 16396, 16461, 16667, 16852, 16880, 17050, 17066, 17252, 17289, 17534; and Civil Cases Nos. 3671, 4383, 4602, 4752, 4758, 4783, 4850, 4930, 5020, Cad. Case No. 97-40, Cad. Case No. 97-88, LRC Cad. Rec. 8267, Cad. No. 97-212, Lot Not. 1974-B, Cad. Case No. 98-07, Cad. Case No. 00-27, Cad. Case No. 01-62, Cad. Case No. 02-48, SCA No. 301, SP No. 4168, SP No. 4360, SP No. 4712, SP No. 4734, SP No. 4740, SP No. 4767, SP No. 4892, SP. No. 4928; including the following criminal cases which have not been acted upon yet (NATY) since the filing thereof, to wit; Criminal Cases Nos. 1525(1, 15251; Civil Cases Nos. 442, (SCA) 452, (SCA) 465, 469, 470, 471, 472, 474, 475, 3-74 (74-3), 96-153, 1158 (4479), 5235, ad. Case No. 01-18, Cad. Case No. 01-51, Cad. Case No. 02-31, Cad. Case No. 02-49 and Cad. Case No. 02-83; and the following cases with motions pending action (MPA) by the court, to wit: Criminal Case No. 15249; and Civil Cases Nos. 4579, 4938, Cad. Case No. 97-120; as well as the following cases, to wit: Criminal Case No. 18159, in accordance with Administrative Circular No. 7-A-92, dated 21 June 1993.

II. DECIDE/RESOLVE the cases mentioned in par 1 (a) within six (6) months from notice.

III. SUBMIT compliance hereof as well as copies of the decisions/resolutions/orders, etc. in the aforecited cases to this Court, through the Court Management Office, Office of the Court Administrator, within ten (10) days from rendition/promulgation/issuance or action taken thereon.^[2]

Judge Asaali did not comply with the directives in the Memorandum even after the lapse of the six month period granted by the OCA. Thus, in another Memorandum dated February 2005, the OCA directed Judge Asaali to comply with the Memorandum dated 28 May 2004 with a warning that should he still fail to fully comply with the same, the matter would be brought to the attention of the Court for appropriate action.

Again, the directives remained unheeded. Judge Asaali failed to submit any letter to

inform the Court of the status of his pending cases or even offer an explanation or defense for his non-compliance with the memoranda. Thus, the OCA took action by tracing the cases which Judge Asaali had decided, through an examination of the Court's Monthly Reports and Semestral Docket Inventory, as well as the Compliances made by Judge Asaali in a previous case.^[3]

The OCA submitted this report pertaining to the actions taken by Judge Asaali on the cases pending before his court:

1. Per the June 2005 Monthly Report of the court, these cases appear to have already been disposed as they no longer appear in the list of cases submitted for decision, to wit: Criminal Cases Nos. 9478, 9479, 9480, 14896, 14736, 15032, 18637; Civil Cases Nos. 2032, 2276, 3671, 4399, 4548, 4789 (4689), 4858, 4897, 4938, 4984, 5014, 5119, 5157, 5159, 5162, 5181, 5756, Cad. Case No. 01-49, Cad. Case No. 99-92, SCA No. 99, SCA No. 140-4, SCA No. 187, SCA No. 209, SCA No. 245, SCA No. 336, SCA No. 346, SCA No. 365, SCA No. 432, SCA No. 435 and SCA No. 407.
2. Per the March 2005 Monthly Report, case appears already decided on 29 March 2005 and Promulgated on the same date. Accused was "acquitted," to wit: Criminal Case No. 14768.
3. Cases appear decided already per the July 2004 Monthly Report and attachments thereto, to wit: SCA No. 477, SCA No. 478, SCA No. 479, SCA No. 495, SCA No. 496, SCA No. 497 and SCA No. 498.
4. Cases appear already decided per the September 2004 Monthly Report, to wit: Civil Case Nos. 3776 (3376) and 4876.
5. Case appears already decided per Letter, dated 28 July 2003 submitted by judge Asaali, in partial compliance with the Resolution, dated 16 June 2003 of the Court in A.M. No. 01-11-606-RTC (Cases Submitted for Decision Before Judge Tibing A. Asaali, RTC, Br. 17, Zamboanga City), to wit: Criminal Case No. 14087.
6. Cases appear already decided per Letter, dated 19 July 2004 of Judge Asaali, which he submitted in partial compliance with the Resolution, dated 16 June 2003 of the court in A.M. No. 01-11-606-RTC (Cases Submitted for Decision Before Judge Tibing A. Asaali, RTC, Br. 17, Zamboanga City), to wit Criminal Cases Nos. 13739, 13923, 14357, 14360, 14357, 14360, 14682, 14700; and Civil Case Nos. 3494, 5156, SCA No. 469, SCA No. 470, SCA No. 471, SCA, No. 472, SCA No. 473, SCA No. 527, SCA No. 534, SCA No. 535, SCA No. 536, SCA No. 537 and SCA No. 538.
7. Cases appear already decided per Letter, dated 14 September 2004 of Judge Asaali, which he submitted in compliance with the Resolution, dated 21 January 2002 of the Supreme Court in A.M. No. 01-11-606-RTC (Cases Submitted for Decision Before Judge Tibing A. Asaali, RTC, Br. 17, Zamboanga City); not by reason of

the directives issued in connection with the judicial audit of 18 to 28 August 2002 conducted of the court (RTC, Br. 17, Zamboanga City). Apparently, confirmed so, per Monthly Report of August 2004 and its attachments, where it appears cases were decided on 23 August 2004, to wit: Criminal Cases Nos. 13850 and 13851.

8. Cases appear already decided per Letter, dated 14 September 2004 of Judge Asaali, which he submitted in compliance with the Resolution, dated 21 January 2002 of the Supreme Court in A.M. No. 01-1 1-606-RTC (Cases Submitted for Decision Before Judge Tibing A. Asaali, RTC, Br. 17, Zamboanga City.), not by reason of the directives issued in connection with the judicial audit of 18 to 28 August 2002 conducted of the court (RTC, Br. 17, Zamboanga City), to wit SCA No. 428, SCA No. 452, SCA No. 465 and SCA No. 556.
9. 9. SCA No. 474 appears to have been disposed of already, like Civil Cases Nos. 469 to 473, which were already decided, it appearing that Civil Cases Nos. 474 and 469 to 473 all entitled Antonio Punzalan, rep. by Linda Urn vs. Bsterlita Aquino, for unlawful detainer refers to one and same case jointly tried, filed (8 February 2000) and submitted for decision on the same date, to wit: 4 April 2000.
10. Case already decided per Compliance, dated 2 July 2004 of Arty. Nancy B. Cuaresma, Clerk of Court, RTC, Br. 17, Zamboanga City, which she submitted in compliance with the Memorandum, dated 28 May 2004 of DCA Lock, in connection with the Judicial audit of 18 to 28 August 2002 conducted of the court (RTC, Br. 17. Zamboanga City), to wit: Civil Case No. SCA No. 442.^[4]

Based on the report submitted by the OCA, then DCA Lock recommended in a Memorandum dated 1 March 2006 that:

(1) In consonance with the Memorandum, dated February 2005, "the matter x x x be brought to the attention of the Court for appropriate action," considering that Judge Asaali still failed to comply anew with the Memorandum, dated 28 May 2004, despite the warning therein;

(2) Case be redocketed as a regular administrative matter; inclusive of the following recommendation that was made in the first Imbang case (Imbang vs. Judge del Rosario, MCTC, Br. 3, Patnongon, Antique, A.M. No. MTJ-03-1515, 3 February 2004, 421 SCRA 523, En Banc, per Callejo, J.), which is adopted here, to wit:

(a) For failing to file his compliances with the various directives of the Office of the OCA, respondent Judge Asaali be meted a FINE in the amount of Ten Thousand Pesos (P1 0,000.00);

(b) The respondent Judge be further DIRECTED to SHOW CAUSE within ten (10) days from receipt hereof why he should not be