

## EN BANC

[ A.M. NO. RTJ-06-2010, January 25, 2007 ]

**MARISSA R. MONDALA, LEGAL RESEARCHER, REGIONAL TRIAL COURT, BRANCH 136, MAKATI CITY, COMPLAINANT, VS. JUDGE REBECCA R. MARIANO, REGIONAL TRIAL COURT, BRANCH 136, MAKATI CITY, RESPONDENT.**

### ***DECISION***

**YNARES-SANTIAGO, J.:**

This is an administrative matter concerning the letter-complaint of Marissa R. Mondala, Legal Researcher of the Regional Trial Court of Makati City, Branch 136, against Presiding Judge Rebecca R. Mariano of the same court.<sup>[1]</sup>

In her letter, Mondala charged respondent judge with misrepresenting in her "Report of Pending Cases for January 2005" that she had already decided Civil Case No. 00-564 entitled "*Amanet Inc. v. Eastern Telecommunications Philippines, Inc.*" when in fact the case was still with Mondala for research and drafting of the decision.

In her Comment, Judge Mariano denied Mondala's allegations and insisted that at the time she prepared the monthly report, a decision had actually been prepared in the *Amanet* case and it was mere "oversight" on her part, not misrepresentation, when she reported the status of the subject case as decided. Notwithstanding this, Judge Mariano subsequently prepared and signed "another decision" on the same case.<sup>[2]</sup>

To support her allegations, Judge Mariano attached a certification dated October 25, 2005 issued by Atty. Teodorico L. Diaz, present Branch 136 Clerk of Court, as well as the affidavits executed by Prosecutor Teodoro Rey S. Riel, Jr., former Branch 136 Clerk of Court; Elvira L. Tablate, Clerk-in-Charge of Civil Cases; and Ma. Theresa M. Belando, a Clerk detailed to Branch 136.<sup>[3]</sup>

In his affidavit, Atty. Riel claimed that he was the Clerk of Court of Branch 136 from April 1999 up to January 2005; that the *Amanet* case was among those reported as decided for the month of January 2005; that when the January 2005 report was being prepared, he was informed by the Clerk-in-Charge for Civil Cases that a decision had already been prepared and was due for printing in final form; that Judge Mariano instructed him "to include the said case in the list of cases decided for the month and to submit a copy of the decision later on since it was still to be printed in final form."

Tablate, Clerk-in-Charge for Civil Cases, stated in her affidavit that when the January 2005 report was being prepared, the decision in the *Amanet* case had already been drafted and was due for printing in final form; that upon the instruction of Judge Mariano, *Amanet* was included in the list of cases decided for

the month without attaching a copy thereof and with the intention of submitting the same at the soonest time; that after submission of the said report and when the draft decision was being printed in final form, the computer bogged down and the draft decision could no longer be retrieved.<sup>[4]</sup>

Belando alleged that she is the permanent employee of the local government of Makati City detailed to Branch 136; and that she re-typed the final draft of the *Amanet* case in the early part of 2005 upon Mondala's instructions.<sup>[5]</sup>

Atty. Diaz claimed that the *Amanet* case was one of the cases turned over to him by Mondala on August 13, 2005; that the *Amanet* case had been with Mondala for research since February 2005 while the latter served as Officer-in-Charge of Branch 136; that the case remained pending up to the time Mondala turned over the same to him on August 13, 2005.<sup>[6]</sup>

Judge Mariano averred that Mondala should have called her attention regarding the status of the subject case to enable her to address the situation; that Mondala's failure to inform her of the status of the case showed her inefficiency and unworthiness as a public servant.

Judge Mariano insisted that the "quarrel" between her and Mondala which transpired on August 22, 2005 prompted the latter to write the letter-complaint; that Mondala is a perennial latecomer, a habitual absentee, and negligent in the performance of her duties; that Mondala's disrespectful attitude and unprofessional conduct during the August 22, 2005 encounter prompted her to ask for Mondala's detail to the Office of the Clerk of Court of the Makati RTC.

The Office of the Court Administrator (OCA), through Deputy Court Administrator Zenaida N. Elepaño and Assistant Court Administrator Antonio H. Dujua, made the following recommendations, the dispositive portion of which states:

1. That the instant case be converted into a regular administrative matter and that Judge Rebecca R. Mariano be found liable for misrepresenting that she decided Civil Case No. 00-564 entitled "*Amanet Inc. vs. Eastern Telecommunications Philippines, Inc.*" sometime in January 2005 when such case had yet to be printed, signed by her, and filed with the Clerk of Court as of March 7, 2005, such misrepresentation partaking the nature of dishonesty, and be fined in the amount of P20,000.00;
2. That Judge Mariano be directed to explain in writing within ten (10) days from notice why she should not be disciplined for her failure to decide the following cases within the 90-day reglementary period without any request for extension of time being filed by her, to wit:

	Case No.	Title	Date Submitted For Decision	Date Due	Status as of Dec. 2004
CIVIL CASES					
1.	96-	Philam	June 29,	Sept.	Pending

	1626	Insurance Co. v. Marathon, Inc.	2004	<b>29, 2004</b>	Resolution
2.	91-980	Estate of Zulueta v. Augusto Camara	June 30, 2004	<b>Sept. 30, 2004</b>	
3.	02-546	BPI v. Milwaukee Builders, Inc.	June 30, 2004	<b>Sept. 30, 2004</b>	- do -
4.	93-4083	Phil. Charter Ins. v. Swissair	June 28, 2004	<b>Sept. 28, 2004</b>	- do -
5.	98-460	Export Industry v. Sps. Sy	June 28, 2004	<b>Sept. 28, 2004</b>	- do -
6.	01-754	Philam v. Geologicistic	June 25, 2004	<b>Sept. 25, 2004</b>	- do -
7.	00-564	Amanet v. Eastern	June 18, 2004	<b>Sept. 18, 2004</b>	- do -
8.	01-810	Jasper Ong v. HBI Securities	August 27, 2004	<b>Nov. 27, 2004</b>	- do -
9.	M-5893	In Re: Guardianship of Minors Manguale	Sept. 20, 2004	<b>Dec. 20, 2004</b>	- do -
CRIMINAL CASES					
1.	01-2653	PP v. Simon Shamie, et al.	June 25, 2004	<b>Sept. 25, 2004</b>	- do -
2.	01-2299	PP v. Lemuel Patungalan	June 25, 2004	<b>Sept. 25, 2004</b>	- do -
3.	02-2787	PP v. Reynaldo Almerie	June 23, 2004	<b>Sept. 23, 2004</b>	- do -
4.	03-049	PP v. Wilma Cabe	June 18, 2004	<b>Sept. 18, 2004</b>	- do -
5.	02-1505	PP v. Alfredo Japon	June 7, 2004	<b>Sept. 7, 2004</b>	- do -

and

3. That the Office of the Court Administrator be authorized to constitute a team to conduct a judicial audit of Branch 136-RTC, Makati City, to enable the said Office to determine the true state of this court's docket.<sup>[7]</sup>

The issues in the instant case are: whether Judge Mariano is liable for misrepresentation when she included in the January 2005 monthly report the case of "*Amanet Inc. v. Eastern Telecommunications Philippines, Inc.*" as among the decided cases; and whether respondent judge made inaccurate entries in the monthly reports and failed to decide the other cases within the 90-day reglementary period.

We agree with the findings of the OCA that Judge Mariano is liable for misrepresenting that she had decided the case of "*Amanet Inc. v. Eastern Telecommunications Philippines, Inc.*" before it was drafted, printed and signed by her.

Granting *arguendo*, that Mondala was motivated by a desire for revenge and harassment due to her quarrel with Judge Mariano on August 22, 2005, this does not deny the fact that Judge Mariano included an undecided case in the list of decided cases in the January 2005 monthly report.

There is no merit in Judge Mariano's claim that the Amanet case was included in the list of decided cases because at the time of the preparation of the report, a decision had already been prepared and was due for printing in final form.

A decision in a civil case is rendered only upon the signing by the judge who penned the same and upon filing with the clerk of court. A judgment or final order determining the merits of the case shall be in writing personally and directly prepared by the judge, stating clearly and distinctly the facts and the law on which it is based, signed by him, and filed with the clerk of court.<sup>[8]</sup> What constitutes rendition of judgment is not the mere pronouncement of the judgment in open court but the filing of the decision signed by the judge with the Clerk of Court.<sup>[9]</sup>

It is elementary that a *draft* of a decision does not operate as judgment on a case until the same is duly signed and delivered to the clerk for filing and promulgation.<sup>[10]</sup> Hence, rendition of judgment is not effected and completed until after the decision and judgment signed by the trial judge.

In *Echaus v. Court of Appeals*,<sup>[11]</sup> we held:

Time honored and of constant observance is the principle that ***no judgment, or order whether final or interlocutory, has juridical existence until and unless it is set down in writing, signed, and promulgated, i.e., delivered by the Judge to the Clerk of Court for filing, release to the parties and implementation, and that indeed, even after promulgation, it does not bind the parties until and unless notice thereof is duly served on them by any of the modes prescribed by law.*** x x x<sup>[12]</sup> (Emphasis supplied)

The fact that Judge Mariano had not yet decided the *Amanet* case in January 2005, is likewise pointed out in the affidavit of Tablate, Clerk-in-Charge for Civil Cases. The records, on the other hand, show that Judge Mariano submitted the January 2005 monthly report only on March 7, 2005,<sup>[13]</sup> which means that it was only then when RTC-Branch 136 initiated the printing of the decision in the *Amanet* case.<sup>[14]</sup>

As correctly pointed out by the OCA, what the monthly report requires is a list of cases decided during the month covered and not a list of cases with prepared drafts. Moreover, the list of decided cases should pertain to those decided during the month for which the report is being submitted, the basis of which is the seventh paragraph of Administrative Circular No. 4-2004.<sup>[15]</sup>

Thus, Judge Mariano misrepresented herself regarding the date of the promulgation of the decision in the *Amanet* case. While the January 2005 monthly report of Branch 136 was submitted on March 7, 2005, the subject decision in the *Amanet* case had not yet been printed. *Amanet* had obviously not yet been decided in January 2005.

Judge Mariano is likewise guilty of other administrative transgressions.

The January 2005 monthly report of Branch 136 reveals that there were cases submitted for decision but remained undecided beyond the 90-day reglementary period without any request for extension of time within which to decide the same being submitted.<sup>[16]</sup>

The records show that Judge Mariano failed to request an extension of time to decide Civil Case Nos. 01-754 and M-5893 and Criminal Case Nos. 01-2653, 01-2299, 02-2787, 03-049 and 02-1505. Her request for extension of time to decide was only with respect to Civil Case Nos. 00-465, 00-594, 99-936, 96-1626, 91-980, 02-546, 93-4083, 00-1022, 01-810 and 98-960, which this Court granted by giving her additional 30 days from September 30, 2004 within which to decide these cases.<sup>[17]</sup>

Despite the extended period, Judge Mariano still failed to decide Civil Case Nos. 96-1626, 91-980 and 93-4083. The December 2005 Monthly Report submitted by Judge Mariano shows that these cases remained undecided for more than a year from the extended period.<sup>[18]</sup>

A number of other cases were decided more than a year from the time these were submitted for decision without any request for extension, as shown in the monthly reports for September, October and November 2005.<sup>[19]</sup> In the monthly report for July 2005, Civil Case No. M-5893 and Criminal Case No. 02-2787 did not have a status report and were not in the list of decided cases for the same month.<sup>[20]</sup>

No less than the Constitution mandates that all cases or matters must be decided or resolved within 24 months from date of submission for the Supreme Court, and, unless reduced by the Supreme Court, 12 months for all lower collegiate courts, and three months for all other lower courts.<sup>[21]</sup>

In implementing this constitutional mandate, Sec. 5, Canon 6 of the New Code of