

THIRD DIVISION

[A.M. No. MTJ-03-1471, January 22, 2003]

**PROSECUTOR ROBERT M. VISBAL, PETITIONER, VS. JUDGE
MARINO S. BUBAN, RESPONDENT.**

DECISION

SANDOVAL-GUTIERREZ, J.:

Once again, we find occasion to reiterate this Court's mandate that every judge should dispose of his court's business promptly. Delay in resolving motions is inexcusable and should not be condoned.^[1]

In a sworn letter-complaint dated April 15, 2000 addressed to then Court Administrator Alfredo L. Benipayo, Provincial Prosecutor Robert M. Visbal of Tacloban City charged Judge Marino S. Buban, Municipal Trial Court in Cities (MTCC), Branch 1, Tacloban City, with gross inefficiency and misconduct in Office.^[2]

In his complaint, complainant alleged that on July 29, 1999, he filed with the MTCC a "Motion to Correct and Re-mark Exhibits of the Prosecution" in Criminal Cases Nos. 98-07-CR-19 and 98-07-CR-20. Presiding Judge Marino S. Buban, respondent, resolved the motion only on March 20, 2000, or almost eight (8) months from the date it was filed. He deliberately failed to resolve the motion within the prescribed period of ninety (90) days because he begrudged complainant's filing of an administrative charge and several motions for his inhibition. Respondent's delay in resolving the motion violated the relevant provisions of the Constitution and the Code of Judicial Conduct. Furthermore, respondent committed falsification by stating in his Certificates of Service from October 1999 to February 2000 that he has no pending motions submitted for resolution.

In his comment,^[3] respondent judge admitted he incurred delay in resolving the "Motion to Correct and Re-mark Exhibits of the Prosecution." He attributed such delay to the frequent resetting of the hearing of the cases. He also alleged that his clerk of court "failed or forgot" to submit the records of the pertinent case to him and to call his attention to the unresolved motion attached to the voluminous records. He blamed the complainant for failing to remind him earlier of the motion. It was only during the hearing of March 20, 2000 that complainant called his attention to the pending incident. Immediately, he granted the motion and ordered the remarking of exhibits. He stressed that the delay in resolving the motion did not impede the flow of the proceedings. He surmised that complainant filed the instant administrative case in order to force him (respondent) to inhibit himself from hearing Criminal Case No. 98-11-18 for direct assault upon a person in authority. The accused therein is complainant's wife.

In her Report, Deputy Court Administrator Zenaida N. Elepaño recommended that respondent be held administratively liable for gross inefficiency for his delay in

resolving a motion.

This Court has consistently held that failure to decide cases and **other matters** within the reglementary period constitutes gross inefficiency and warrants the imposition of administrative sanction against the erring magistrate.^[4] Delay in resolving motions and incidents pending before a judge within the reglementary period of ninety (90) days fixed by the Constitution and the law is not excusable and constitutes gross inefficiency.^[5] Further, such delay constitutes a violation of Rule 3.05, Canon 3 of the Code of Judicial Conduct which mandates that a judge should dispose of the court's business promptly and decide cases within the required periods.^[6]

It is undisputed that respondent failed to resolve complainant's motion within the reglementary period of ninety (90) days. He cannot escape liability by claiming that his clerk "failed or forgot" to inform him of the unresolved motion. Though blame may conveniently be placed on court personnel's mismanagement of the records of cases, it must be kept in mind that they are not the guardians of a judge's responsibilities.^[7] Proper and efficient court management is as much the judge's responsibility for he is the one directly responsible for the proper discharge of his official functions.^[8]

As a trial judge, respondent is a frontline official of the judiciary and should at all times act with efficiency and with probity.^[9] Rule 3.08 of Canon 3 of the Code of Judicial Conduct provides that a judge should diligently discharge administrative responsibilities, maintain professional competence in court management, and facilitate the performance of the administrative functions of other judges and court personnel.^[10]

Furthermore, Rule 3.09, Canon 3 of the same Code requires every judge to organize and supervise the court personnel to ensure the prompt and efficient dispatch of business. Respondent fell short of this mandate. He also failed to comply with this Court's Circular No. 13 dated July 31, 1987 which directs all judges to closely supervise court personnel.^[11]

Noteworthy is the fact that respondent did not refute complainant's imputation of falsification of his Certificates of Service. In fact, the Office of the Court Administrator secured copies of respondent's Certificates of Service for the months of August, September, October, and November 1999 and found that he continued to certify that all proceedings, applications, petitions, motions and all civil and criminal cases for submission or determination within ninety (90) days or more have been determined and decided.^[12]

However, Deputy Court Administrator Elepaño stated that respondent's false entries in his Certificates of Service were based on his belief, though erroneous, that he had then no pending matter to resolve. She concluded that there can be no crime when the criminal mind is wanting.^[13]

We find respondent judge administratively liable for undue delay in rendering an order, a less serious charge under Section 9, Rule 140, as amended, of the Revised Rules of Court. Pursuant to Section 11(b) of the same Rule, such offense is