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[A.M. No. 98-2-22-MeTC, May 11, 2000]

REPORT ON THE SPOT JUDICIAL AUDIT CONDUCTED IN THE METROPOLITAN TRIAL COURT, BRANCH 40, QUEZON CITY.

[A.M. No. MTJ-00-1272.]

ATTY. CLODUALDO C. DE JESUS, COMPLAINANT, VS. JUDGE SUSANITA E. MENDOZA-PARKER, METROPOLITAN TRIAL COURT, BRANCH 40, QUEZON CITY, RESPONDENT.

R E S O L U T I O N

QUISUMBING, J.:

This is a consolidation of two administrative matters involving Judge Susanita Mendoza-Parker, of the Metropolitan Trial Court, Branch 40, Quezon City.

The first, A.M. No. MTJ-00-1272, involves a complaint filed against respondent judge for incompetence and knowingly rendering an unjust judgment.

The second, A.M. No. 98-2-22-MeTC, concerns the report on the spot judicial audit conducted by the Office of the Court Administrator on the sala of respondent judge on September 25 and 26, 1997.

Culled from the records are the following pertinent facts:

A.M. No. MTJ-00-1272

On April 24, 1997, a complaint[1] was filed before the Office of the Court Administrator against Judge Susanita Mendoza-Parker, then presiding judge of the Metropolitan Trial Court, Branch 40, Quezon City. The complaint was filed by Atty. Clodualdo C. De Jesus, counsel for the plaintiff in Civil Case No. 15478 which was being heard in the sala of respondent. De Jesus' client lost in that litigation.

Civil Case No. 15478 was an ejectment case filed on June 4, 1996 by Elvira Nocon Munji, represented by Maria Guarino. The case is covered by the Revised Rules on Summary Procedure. The defendants filed a motion to dismiss. Plaintiff then moved to have judgment rendered on the pleadings, since a motion to dismiss is a prohibited pleading in cases falling under the Revised Rules on Summary Procedure.

On October 15, 1996, plaintiff filed a motion for early resolution of the case. She filed another such motion on December 4, 1996, this time furnishing the Supreme Court, through its Judicial Planning Development and Implementation Office, with copies of the motion.

Complainant, as counsel for plaintiff, then received on December 23, 1996 copies of two orders and the decision relative to the ejectment case. The documents bore different dates of execution but the same date of mailing.

The defendants' motion to dismiss was denied but the complaint for ejectment was dismissed because Guarino as plaintiff's representative was not duly authorized to institute the case. Guarino was authorized by complainant as administrator of the Nocon properties, not by plaintiff Elvira Nocon Munji herself.

Thereafter, complainant charged respondent with incompetence and ineptness, incapability of discharging justice and mental dishonesty, and knowingly rendering an unjust judgment.

Complainant claims that the orders, one dated September 18, 1996 and another dated November 21, 1996, and the decision dated December 3, 1996, were not yet part of the records of the ejectment case on December 3, 1996, prompting him to file a second motion for early resolution on December 4, 1996.

Complainant charged that the copies of the orders and the decision, all postmarked December 12, 1996 but bearing different dates of execution, were only made to appear to have been rendered at an earlier date. Complainant alleged that the orders and the decision were made only after he had filed two motions for early resolution. This, according to complainant, is misrepresentation, meant to hide respondent's alleged ineptness.

Anent the decision rendered by respondent judge, complainant averred that respondent is guilty of mental dishonesty by her alleged deliberate omission of the phrase "administrator of the Nocon properties" when she quoted in her decision the special power of attorney, executed by complainant, that was the source of Guarino's authority.

Complainant contended that respondent was "obviously peeved"[2] when he reported her alleged ineptness to the Supreme Court by furnishing the Court with a copy of his second motion for early resolution. Since the question of improper authorization of the attorney-in-fact was one of the issues raised in defendants' motion to dismiss, complainant argued that respondent exhibited vindictiveness when she used this ground in dismissing plaintiff's complaint despite the earlier denial of the said motion to dismiss.

Complainant lamented the fact that judgment was issued against plaintiff despite defendants having been declared in default for filing a motion to dismiss, a prohibited pleading in cases under summary procedure, thereby losing their period to file an answer.

In her comment, respondent pointed out that the complaint is actually an appeal disguised as an administrative complaint. Thus, it should have been filed in the proper Regional Trial Court and not the OCA. She also argued that judges cannot be held administratively liable for an erroneous decision because that "would be nothing short of harassment and [would make the judge's] position unbearable".[3] She denied all of complainant's charges.

Meanwhile, a spot judicial audit was conducted in the sala of respondent Judge on September 25 and 26, 1997. The audit team found that 73 out of the court's caseload of 4,394 cases were already deemed submitted for decision.[4] Sixty-three of these cases had gone beyond the 90-day reglementary period for decision.[5] There were also another 25 cases with pending motions or incidents the resolution of which could determine their final disposition,[6] 41 cases with pending motions or incidents for resolution,[7] 66 cases which had not been the subject of any proceeding for several months,[8] and 10 cases which had not been acted upon since they were raffled to respondent judge's sala.[9]

The audit team observed that upon the lapse of the reglementary period to decide, respondent judge would order the parties to verify signatures on documents or submit original documents to gain more time.[10] Records showed that, in her January to July 1997 certificates of service, respondent judge stated that she had acted on all matters pending in her sala. However, the audit team discovered 73 cases submitted for decision and 41 cases submitted for resolution, during that period, contrary to her claim in her certificates of service.[11]

In the course of the audit, the audit team noted unsigned orders attached to case folders. According to the branch clerk of court, respondent judge refused to sign them, showing the latter's apparent reluctance to dispose of cases expeditiously.[12]

On September 19, 1997, respondent judge submitted a resignation letter dated September 16, 1997 to the OCA.[13] She cited personal reasons for wanting to resign effective October 1, 1997. However, her salary for the period October 1 to 15, 1997 appears to have been received by her.[14] Action on respondent judge's resignation was held in abeyance pending the outcome of the administrative charge against her and of the spot audit.[15] This notwithstanding, respondent judge left her court, necessitating the appointment of an acting and an assisting judge to Branch 40.[16]

On October 15, 1998, respondent judge withdrew her resignation. She explained that her husband had died, leaving her as the sole breadwinner of her family. She sought to be allowed to immediately reassume her position as presiding judge.

Respondent judge submitted a 102-page comment regarding the report of the audit team. She cited the following reasons for the pile up of cases in her sala: (1) the branch clerk of court's failure to update case records and to turn over cases to her; (2) incomplete TSNs; (3) failure of parties to comply with her orders, particularly for production of original copies of documentary evidence; and (4) lack of proof of service of pleadings or court orders. She also pointed out that she could not have worked on certain cases cited in the spot audit as she went on leave starting August 16, 1997 and the incidents for resolution arose after this date.

Respondent judge asserted that although the branch clerk is subject to her supervision, the negligence of the latter should not be taken against her. As for her failure to decide cases within the reglementary period, she argued that justice and

not speed should be the foremost consideration in deciding cases.

Anent her failure to decide cases under the summary procedure on time, she asserted that the 30-day period for rendering judgment provided for in Section 10 of the Revised Rules on Summary Procedure applies only to cases where the defendants file answers and parties are required to submit affidavits and position papers. In cases where no answer is filed, respondent judge argued that Section 6 gives her "the discretion as to when judgment shall be rendered..."[17] She added that the court needed to wait for the pleadings and to allow some degree of delay in mailing.[18]

The branch clerk of court likewise submitted a comment in view of respondent judge's imputation of fault against her. She denied respondent judge's charges. She asserted that respondent judge only wanted to escape liability and pointed out instances of respondent's inefficiency, particularly the accumulation of unsigned orders and other documents for respondent's signature. According to her, she and other personnel stayed up late in the office on respondent's last day of work to assist the latter in signing the accumulated documents.

The matter was referred to retired Sandiganbayan Justice Romulo S. Quimbo, now an OCA consultant, for investigation, report, and recommendation.

On April 12, 1999 respondent filed with the OCA a motion to set aside the resolution referring her cases to Justice Quimbo and to dismiss the charges against her pursuant to (the old) Section 3, Rule 140 of the Rules of Court. This rule provided:

> "SEC. 7. *Comment; Hearing.* - Upon the filing of the respondent's answer, or upon the expiration of the time for its filing, the court shall assign one of its members, a Justice of the Court of Appeals or a judge of first instance to conduct the hearing of the charges. xxx"

Respondent asserted that Justice Quimbo, not being a CA justice, is not authorized to conduct an investigation into her case.

Justice Quimbo submitted his report dated March 17, 1999, to this Court on April 16, 1999.

Regarding A.M. No. MTJ-00-1272, Justice Quimbo stated that there could be some truth to complainant's claim that the two orders and decision he received were signed at one time and mailed together, though they might have been indeed prepared on the date indicated in each. This was in view of the observation of the audit team and the comment of the branch clerk of court that orders and other documents for respondent's signature remained piled up and unsigned for several months.

However, as to the allegation that the judgment might have been tainted with vindictiveness, this, according to Justice Quimbo, was purely speculative. He stated that respondent was correct in pointing out that parties could not hold her administratively liable for every decision deemed erroneous. Complainant's recourse would have been to appeal the decision to the RTC.

For her failure to closely supervise court personnel, if indeed they were responsible