



Supreme Court of the Philippines Philippine Judicial Academy



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Judge: Undue delay in rendering decision

The Supreme Court in A.M. No. RTJ-09-2171, March 17, 2009, Re: Judicial Audit Conducted in the RTC, Br. 6, Tacloban City, stressed that failure to resolve cases submitted for decision within the period fixed by law constitutes a serious violation of the constitutional right of the parties to the speedy disposition of their cases.

Article VIII, Section 15(1) of the Constitution provides that all cases or matters must be decided or resolved within twenty four months from the date of submission for the Supreme Court, twelve months for all lower collegiate courts, and three months for all other lower courts.

LRC Case No. R-5740 was submitted for decision to respondent Judge on April 9, 2004 but he rendered his decision only on July 30, 2007 or more than three years beyond the 90-day reglementary period.

In this connection, judges are hereby reminded of the provisions of Section 5, Canon 6 of the New Code of Judicial Conduct which exhorts all judges to perform all judicial duties, including the delivery of reserved decision efficiently, fairly and with reasonable promptness because the honor and integrity of the judicial system is measured not only by fairness and correctness of decision rendered, but also by the expediency with which disputes are resolved.

For Undue delay in rendering a decision respondent judge was fined P11,000. **(A.M. No. RTJ 08-2152, January 18, 2010)**

Judges: Violation of the Rules of Court

Section 5, Rule 58 of the Rules of Court provides:

Sec. 5. Preliminary injunction not granted without notice; exception. – No preliminary injunction shall be granted without hearing and prior notice to the party or person sought to be enjoined. If it shall appear from the facts shown by the affidavits or by the verified application that great or irreparable injury would result to the applicant before the matter can be heard on notice, the court to which the application for preliminary injunction was made, may issue a temporary restraining order to be effective only for a period of twenty (20) days from service on the party or person sought to be enjoined, except as herein provided. Within the said twenty-day period, the court must order said party or person to show cause, at a specified time and place, why the injunction should not be granted, determine within the same period whether or not the preliminary injunction shall be granted, and accordingly issue the corresponding order (as amended by En Banc Resolution of the Supreme Court, Bar Matter No. 803, dated February 17, 1998).

However, and subject to the provisions of the preceding sections, if the matter is of extreme urgency and the applicant will suffer grave injustice and irreparable injury, the executive judge of a multiple-sala court or the presiding judge of a single-sala court may issue *ex parte* a temporary restraining order effective for only seventy-two (72) hours from issuance but he shall immediately comply with provisions of the next section as to service of summons and the documents to be served therewith. Thereafter, within the aforesaid seventy-two (72) hours, the

judge before whom the case is pending shall conduct a summary hearing to determine whether the temporary restraining order shall be extended until the application for preliminary injunction can be heard. In no case shall the total period of the effectivity of the temporary restraining order exceed twenty (20) days, including the original seventy-two (72) hours provided therein.

The aforesaid provision expressly prohibits the grant of preliminary injunction without hearing and prior notice to the party or person sought to be enjoined. However courts are authorized to issue ex parte a TRO effective only for 72 hours if it should appear from the fact shown by affidavits or by the verified petitions that great or irreparable injury would result to the applicant before the matter could be heard on notice. Within the said period of 72 hours, the Court should conduct a summary hearing to determine if a TRO shall be issued. The TRO, however shall be effective only for a period of twenty (20) days from notice to the party or person sought to be enjoined. During the 20 day period the judge must conduct a hearing to consider the propriety of issuing a preliminary injunction. At the end of such period, the TRO automatically terminates without need of any judicial declaration to that effect, leaving the court no discretion to extend the same.

Respondent judge issued a TRO ex parte on the same day it was filed without any hearing and prior notice to the herein complainants. He also failed to conduct within 72 hours a summary hearing to determine whether the TRO shall be extended until the application for preliminary injunction can be heard in violation of the Rules.

For violation of the Rules of Court, respondent judge was fined P10,000.00. **(A.M. No. RTJ-05-1953, December 21, 2009)**

Clerk of Court: Simple neglect of duty

Section 10, Rule 141 of the Rules of Court enumerates the duties of a Clerk of Court upon perfection of appeal as follows:

Sec. 10. Duty of clerk of court of the lower court upon perfection of appeal. – Within thirty (30) days after perfection of all the appeals in accordance with the preceding section, it shall be the duty of the clerk of court of the lower court:

- (a) To verify the correctness of the original records or the record on appeal, as the case may be, and to make a certification of its correctness;
- (b) To verify the completeness of the records that will be transmitted to the appellate court;
- (c) If found to be incomplete, to take such measures as may be required to complete the records, availing of the authority that he or the court may exercise for this purpose; and
- (d) To transmit the records to the appellate court.

If the efforts to complete the records fail, he shall indicate in his letter of transmittal the exhibits or transcripts not included in the records being transmitted to the appellate court, the reasons for their non-transmittal, and the steps taken or that could be taken to have them available.

The clerk of court shall furnish the parties with copies of his letter of transmittal of the records [to] the appellate court.

Respondent clerk of court failed to personally verify the correctness and completeness of the records of complainant's case which resulted in the undue delay of its transmittal to the appellate court. Respondent merely relegated the performance of his job to another court employee without any justifiable reason.

For simple neglect of duty, respondent clerk of court was suspended for two months without salary and benefits. **(A.M. No. RTJ-08-2152, January 18, 2010)**

OIC Clerk of Court: Gross neglect of duty

Black's Law Dictionary defines "certificate" as a written assurance or official representation, that some act has or has not been done, or some event occurred, or some legal formality has been complied with.

To certify is to attest to the truthfulness of the document. Without the records to verify the truthfulness and authenticity of a document, no certification should be issued.

Respondent should have known that when she certified the questioned decision she did so under the seal of the court. When the decision she certified turned out to be spurious and non-existent, she undoubtedly put the Judiciary into shambles and jeopardized the integrity of the court. Her act caused damage not only to the complainant, but also to the public. She cannot claim good faith since she herself admitted that there were no court records to support the certification

For gross neglect of duty, respondent OIC clerk of court was dismissed from service. **(A.M. No. P-09-2636, December 4, 2009)**

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