

**EDUARDO G. BAUTISTA, COMPLAINANT, VS. AVELINO JOAQUIN, JR.
DEPUTY CLERK OF COURT, COURT OF FIRST INSTANCE OF
BULACAN, BRANCH III, VALENZUELA, BULACAN, RESPONDENTS.**

A.M. No. P-236. July 29, 1977

Ponente: MUÑOZ PALMA, J.

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MUÑOZ PALMA, J.:

Respondent Avelino Joaquin, Jr. is charged with "irregularity in receiving pleading", which stemmed from the following incidents:

Eduardo G. Bautista, complainant herein, is the plaintiff in Civil Case No. 89-V-73 entitled "Eduardo G. Bautista, plaintiff, vs. Antonio Bautista, and others, defendants," for Breach of Contract pending in the Court of First Instance of Bulacan, Branch III. Sometime on January 10, 1974, complainant's counsel filed in said, civil case a "Motion to declare defendants in default" on the ground that said defendants failed to file their responsive pleading to the complaint notwithstanding the extension of fifteen (15) days granted them which expired on December 24, 1973. On January 14, 1974, the trial court issued an order denying the motion for lack of merit it appearing that defendants had filed their answer on December 19, 1973. A motion for reconsideration was submitted by complainant's counsel which according to complainant had not been resolved. The case was then set for a pre-trial on February 18, 1974 but before that day, the complainant and his counsel went to the presiding judge to inform the latter that before filing their "Motion to declare defendants in default" they examined the records of the civil case in question and there was no answer attached thereto, and this was on January 8, 1974; that Miss Avelina Macalanda who was the clerk-in-charge of the records of said civil case was present when they examined the records and Miss Macalanda even looked at the record book of the court to see if there was an entry of receipt of the answer of the defendants any time before that date of January 8, 1974 and found none. The Presiding Judge, upon hearing the complaint of Eduardo G. Bautista and counsel, called for respondent Avelino Joaquin, Jr. who is the branch clerk of court of Branch III, and when asked to explain respondent admitted to the Judge that he was the one who received the answer of the defendants on December 19, 1973, but that he forgot to attach said answer to the records of the civil case due to pressure of work. (pp. 20-22, rollo)

On the basis of the above incidents, complainant Eduardo G. Bautista now claims that there was an irregularity committed in connection with the alleged receipt on December 19, 1973 of the answer of the defendants in the civil case considering that the respondent was not the one in charge of receiving pleadings, and that even if it were true that he received such a pleading, the same was not attached to the records as late as January 8, 1974 when the complainant and his counsel personally examined the records of the case as well as the record book; that the irregularity is made more evident by the fact that no copy of the answer had been furnished the counsel for the plaintiff (complainant here) either personally or by mail as of December 19, 1973 the supposed date of the filing of the same in court.

In his Comment to the complaint, respondent asserts that the answer of the defendants was filed at about 4:00

o'clock in the afternoon of December 19, 1973 and he was the one who received it because at that time, Miss Avelina Macalanda, the receiving clerk happened to be out of the room, but when she returned, he gave the pleading to her after which he forgot about the whole incident (pp. 2-3, *ibid.*)

The foregoing statement made under oath by the respondent in his comment is however contradicted by the affidavit of Avelina Macalanda which respondent marked as his "Annex 1". According to this affidavit, at about 4:00 o'clock in the afternoon of December 19, 1973, Avelina Macalanda left her room and went to Branch VIII for purposes of verifying certain records; that she remembers that sometime Atty. Blancaflor and Eduardo G. Bautista went to the court to inquire whether the defendants Felipe Bautista and others had filed their answer and she informed them that there was none as at that time she did not know that an answer was received and was in the possession of the deputy clerk of court Avelino Joaquin, Jr.; that it was only after the visit of Atty. Blancaflor and the plaintiff Bautista that she came to know that the said answer of the defendants was in the possession of Avelino Joaquin, Jr. (pp. 5-6, *ibid.*)

It cannot be disputed that when the complainant herein Eduardo G. Bautista and his counsel went to the office of the respondent on January 8, 1974 there was no pleading attached to the same which corresponded to the answer of the defendants in the civil case, and that the supposed answer of the defendants came to the surface only after the complainant and his counsel had filed their motion to declare defendants in default.

Undoubtedly, an irregularity has been committed placing in serious doubt the integrity of the court which respondent serves. There are various possibilities: (1) that respondent forgot to attach the pleading allegedly received by him on December 19, 1973 - but this could not be the case here because respondent in his comment states that he gave the pleading to Avelina Macalanda when the latter returned to the room that same afternoon; (2) that respondent gave to Avelina Macalanda the "answer" as claimed by him - but this is contradicted by the affidavit of Avelina Macalanda marked "Annex 1" of respondent's comment; and (3) that respondent did not receive any pleading at 4:00 p.m. of December 19, 1973, and that he received it days later.

In the administration of justice, litigants repose their faith and trust in the authenticity and correctness of court records, and it is the bounden duty of officials and employees of the court to maintain and uphold that confidence of the public. Any act which tends to undermine and corrode the public trust in a wrongdoing which warrants administrative sanctions the severity of which should be commensurate with the gravity of the act committed.

We cannot overemphasize the importance of a faithful and accurate entry of the date of receipt of pleadings filed in court. Where there is no mechanical device available to make the tampering of dates impossible, safeguards are taken to ensure the correct recording of the time and date when pleadings are received. One such safeguard is the keeping of an entry book. Here, there was such an entry book, but the filing of the answer of the defendants at 4:00 P.M. on December 19 1973, was not registered thereon on said date or any date thereafter, thus giving rise to the fears of complainant, which We hold to be justified, that said answer was surreptitiously received by respondent after the period given by the trial court to the defendants to file their answer had expired, especially since, the original of said answer did not bear any proof of receipt of a copy thereof by complainant's counsel as of the date, December 19, 1973. (see page 11, *rollo.*)

WHEREFORE, We find respondent AVELINO JOAQUIN, JR. guilty as charged and by way of penalty We hereby impose upon him a fine equivalent to his one month salary to be paid within ten (10) days from notice hereof, with a stern warning that any other misconduct in the future will be dealt with greater severity.

Let this be spread on respondent's personal record.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Martin, Fernandez, and Guerrero, JJ., concur.

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