

**VICENTA MALAGGAN, HEIRS OF VENTURA MALAGGAN,
REPRESENTED BY BENJAMIN MALAGGAN, PETITIONERS, VS.
FRANCISCO C. MABAZZA, DEPUTY SHERIFF IV, JOHN A. DONGUI-IS,
JR., OIC, CLERK OF CO...**

A.M. No. P-01-1493 (Formerly OCA IPI No. 99-681-P). December 27, 2002

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before us is a Petition-Complaint filed by Vicente Malaggan and the heirs of Ventura Malaggan against Sheriff IV Francisco C. Mabazza and Legal Researcher II John A. Dongui-is, Jr., of the Regional Trial Court of Tabuk, Kalinga (Branch 25) for Grave Misconduct, Dishonesty and Conduct Prejudicial to the Best Interest of the Service.

Complainants are the plaintiffs in Civil Case No. 336 for “Accion Reivindicacion, Nullity of Title, with Damages and Attorney’s Fees”. On June 22, 1998, the said Regional Trial Court rendered its decision denying plaintiffs’ prayer for nullity of title but ordering the defendants therein to indemnify the plaintiffs in the amount of Five Hundred Thousand Pesos (P500,000.00) on the principle of unjust enrichment.[1]

The defendants appealed to the Court of Appeals but the appellate court dismissed their appeal per Resolution dated December 2, 1998 for failure to pay appellate court docket and other lawful fees.[2]

Defendants filed a motion for reconsideration alleging that they properly and seasonably paid the appellate court docket and other lawful fees to the Clerk of Court of the said RTC on the day they filed their Notice of Appeal. As evidence, the defendants attached a certification dated December 21, 1998 signed by respondent Deputy Sheriff Mabazza, in behalf of respondent Dongui-is, as OIC Clerk of Court, attesting that the defendants appealed their case to the Court of Appeals on August 6, 1998 and paid the appellate court docket and other lawful fees of Four Hundred Twenty Pesos (P420.00) on the same day, August 6, 1998; and that said amount was remitted to the appellate court via Postal Money Order No. 1785981 only on August 27, 1998.[3]

Meanwhile, in their comment to the motion for reconsideration, complainants attached a certification dated February 16, 1999 executed by respondent OIC Dongui-is stating that the defendants paid their appeal fee on August 27, 1998. Said amount was transmitted to the Court of Appeals under PMO No. 1785981 on even date, and forwarded under Registry Receipt No. 2064 on August 31, 1998.[4]

On April 16, 1999, respondent Mabazza issued an Explanation wherein he clarified, among others, that he received the appellate fees on August 7, 1998, and not August 6, 1998 as he previously indicated, and that he converted the same into postal money order for transmittal to the Court of Appeals “believing that the same is treated as proof of payment”. [5] Said Explanation was certified as true and correct by respondent Dongui-is in his Certification dated April 27, 1999.[6]

The Court of Appeals per Resolution dated May 19, 1999 denied the defendants’ motion for reconsideration,

finding that respondent Mabazza has no authority to issue the certification as he is not the Clerk of Court a quo, and the same was not even under oath. The appellate court also posed the query that if it were true that the appeal fees were paid on August 6, 1998, why does it have to be paid in postal money order when it can be paid in cash to the Clerk of Court. Thus, it gave credence to the certification of respondent Dongui-is that it was paid only on August 27, 1998, which was beyond the reglementary period.[7]

Hence, herein petition-complaint filed by complainants against respondents for making it appear that the appellate fees were timely paid.

In his Comment, respondent Dongui-is denied complainants' charges, explaining that he received from respondent Mabazza the amount of Four Hundred Twenty Pesos (P420.00) in postal money order dated August 27, 1998 not knowing that the latter received it in cash from the defendants' counsel on August 7, 1998. He indicated August 27, 1998 as the date when the defendants paid the appellate fees as it was the date appearing on the PMO he received from respondent Mabazza.

Respondent Mabazza also denies the charges made against him. He claims, inter alia, that he followed the old procedure whereby the appeal fees were paid to the Clerk of Court of the appellate court, and the fees deposited with him were converted to postal money order and transmitted to the appellate court. Respondent also maintains that there was no misappropriation of the appeal fees as it was actually converted into postal money order and transmitted to the appellate court.

The petition-complaint was referred to the Office of the Court Administrator (OCA) for evaluation, and in its Evaluation and Recommendation dated May 30, 2001, the OCA found that respondents did not deliberately nor consciously mislead the court. It was of the opinion, however, that respondents committed administrative lapses in the handling of the docket/appeal fees, i.e., the procedure adopted by respondents was not in accord with Rule 41, Section 4 of the 1997 Rules of Civil Procedure, as amended,[8] and their being non-lawyers is not an excuse. Consequently, the OCA recommended that respondents each be fined in the amount of Two Thousand Pesos (P2,000.00), with a warning that a repetition of the same or similar acts will be dealt with more severely.

Indeed, under the old rules, only the notice of appeal is filed with the trial court, and the docket fees were later paid to the appellate court after notice from the latter court that payment of docket fees are due;[9]and the docketing fees may be paid to the clerk of the lower court at any time before the record on appeal were transmitted to the appellate court, in which case, the docketing fees shall be transmitted with the record on appeal.[10] The foregoing procedure, however, has already been superseded by the 1997 Rules of Civil Procedure, which took effect on July 1, 1997, or more than a year after the complained incident. As claimed by respondent Mabazza, he was authorized by Judge Lammawin of Branch 25 to collect/receive fees in behalf of the court. As such, he should not be only familiar with the proper procedure but must keep abreast with circulars and rules vital to his duties and obligations as a collecting officer for these are important to a prompt and proper administration of justice.

The same goes with respondent Dongui-is. He should not have merely relied on respondent Mabazza's representations. As OIC Clerk of Court, he should have known that the rule on payment of docket and appellate fees have already been amended, thus forewarning him that respondent Mabazza's turn over of the postal money order was beyond the reglementary period. If such were the case, the surrounding circumstances of the case could have been timely brought to the attention of the appellate court, and the dismissal of the defendants appeal could have been averted.

This Court has not been wanting in its warnings that judges and all court employees should endeavor to maintain at all times the confidence and high respect accorded to those who wield the gavel of justice. Respondents'

actions indeed show their lack of familiarity with the laws, rules and regulations as to undermine the public confidence in the integrity of our courts.[11]

We find respondents guilty of Gross Ignorance of the Law and Procedure and Conduct Prejudicial to the Best Interest of the Service for which respondents should be fined more than the amount of Two Thousand Pesos (P2,000.00) recommended by the OCA. However, in the absence of evidence that the said offenses were committed deliberately to mislead the court or prejudice the complainants, a fine of Four Thousand Pesos (P4,000.00) each is just and appropriate.

WHEREFORE, finding respondents Deputy Sheriff Francisco C. Mabazza and OIC Clerk of Court John A. Dongui-is guilty of Gross Ignorance of the Law and Procedure and Conduct Prejudicial to the Best Interest of the Service, each is FINED in the amount of Four Thousand Pesos (P4,000.00), with a WARNING that a repetition of the same or similar acts in the future will be dealt with more severely.

SO ORDERED.

Bellosillo (Chairman), Mendoza, Quisumbing, and Callejo, Sr., JJ., concur.

[1] Rollo, Annex "A".

[2] Id., Annex "B".

[3] Id., Annex "C".

[4] Id., Annex "E".

[5] Id., Annex "B"-Explanation.

[6] Id., Annex "C"-Motion for Reconsideration.

[7] Id., Annex "H".

[8] Rule 41, Section 4 of the 1997 Rules of Civil Procedure, as amended, provides:

"Sec. 4. Appellate court docket and other lawful fees. -- Within the periods for taking an appeal, the appellant shall pay to the clerk of court which rendered the judgment or final order appealed from, the full amount of the appellate court docket and other lawful fees. Proof of payment of said fees shall be transmitted to the appellate court together with the original record or the record on appeal."

[9] Rules of Court, Rule 46, Section 5.

[10] Id., Section 6.

[11] Re: Issuance of Subpoena to Prisoner Nicanor de Guzman, Jr., A.M. No. 97-2-12-MTC, August 21, 1997, citing Cuaresma v. Aguilar, 226 SCRA 73 [1993].

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