

PABLO GARCIA, COMPLAINANT, VS. JOSE S. CATBAGAN, BRANCH CLERK OF COURT, COURT OF FIRST INSTANCE, BRANCH XIV, CALOOCAN CITY, AND EMMANUEL BANTUG, RESPONDENTS.

A.M. No. P-1343, December 29, 1980

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

In a letter-complaint dated December 30, 1975 Pablo Garcia charged Jose S. Catbagan, Branch Clerk of Court of the Court of First Instance of Rizal at Caloocan City, with "infidelity in the custody of documents" for allegedly delaying for more than two (2) years the transmittal of the records of Criminal Case No. 53398 as ordered to the Court of Appeals on August 14, 1973. The complainant also blamed the respondent for having "kept said records inside his cabinet or among his idle or dead files" so much so that it was only after the complainant had made his own investigation and follow-up that Jose S. Catbagan finally forwarded the records to the Court of Appeals.[1]

In his comment, the respondent Jose S. Catbagan explained:

"The circumstances surrounding the delay of the transmittal of the records of Criminal Case No. C-4029 (73) to the Court of Appeals are as follows:

"Upon the order of the Court, dated August 14, 1973 to transmit to the Court of Appeals the entire records of the case, the undersigned signed the letter of transmittal on August 28, 1973 and he delivered the same for dispatching to Mr. Emmanuel Bantug, Clerk-in-Charge for criminal cases in Branch XIV. In fact when the records were finally located the said original letter of transmittal is still intact and attached to the records (Transmittal letter marked Annex "A"). Mr. Bantug then prepared another letter and forwarded the records to the Court of Appeals on September 11, 1975.

"Mr. Pablo P. Garcia could also bear witness to the fact that when he inquired from the undersigned about Criminal Case No. C-4029 (73) the undersigned immediately asked Mr. Bantug to get the records but which Mr. Bantug could not locate then. The records were later found among the Archived cases after the undersigned ordered all the personnel to make a thorough search and without any further delay the entire records were accordingly transmitted to the Court of Appeals.

"From the foregoing explanations, it could be seen that the undersigned as Branch Clerk of Court has never been remiss in the performance of his duties especially in the supervision of the Court personnel immediately under him.

"It is reiterated that the undersigned right away prepared and signed the original transmittal letter dated August 28, 1973 to the Court of Appeals and directed the immediate transmittal of the records and that when Mr. Pablo Garcia inquired he likewise immediately ordered a thorough search of the missing records until finally found.

"Attached hereto is the Affidavit of Mr. Emmanuel Bantug (Annex "B") explaining in details how the records were misplaced.

(SGD) JOSE S. CATBAGAN
Branch Clerk of Court"[2]

This Court referred the case to the Executive Judge of the Court of First Instance of Rizal at Caloocan City for investigation, report and recommend-ation, the same to include Deputy Clerk of Court Emmanuel Bantug as co-respondent therein.[3]

On November 4, 1980, Executive Judge Fernando A. Cruz submitted his report containing the following findings:

"It appears from the evidence present-ed by the complainant that after a period of about one year and two months after his case before the City Court of Caloocan City was appealed to the Court of Appeals, he went to the Court of Appeals to inquire about the status of his case and he found out that his case was not elevated to the Court of Appeals; that upon verification from the City Court of Caloocan City, that the case was erroneously forwarded to the CFI of Caloocan City and assigned to Br. XIV, he went to see Atty. Catbagan about October 1974; that complainant went to see Atty. Catbagan twice, the first time was when he was told that the records of the case could not be located, and the second time was in 1975, when he, together with Ramon Alfonso, went to see Atty. Catbagan and it was in that occasion that the records was found among the archived cases in a cabinet right in the office of Atty. Catbagan; that inspite of the promise of Atty. Catbagan that he will immediately transmit the records of the case to the Court of Appeals, it took him more than a month to transmit the same to the Court of Appeals; that Atty. Catbagan did not even apologize to him for the almost one year delay in the transmittal of the records to the Court of Appeals nor did he give any explanation as to the cause of the delay.

"From the testimony of Ramon Alfonso, a friend of the complainant in this case, it appears that he went to see Atty. Catbagan three times. The first time was in October 1974, when he accompanied the complainant to the office of Atty. Catbagan to verify about the appealed case that was transmitted to the CFI of Caloocan City by the City Court of Caloocan; that he heard from the conver-sation of Atty. Catbagan and Mr. Garcia that the records could not be located be-cause it was possible that the records was among the archived cases; that on August 1975, upon the request of Mr. Pablo Garcia he went to see Atty. Catbagan for the second time to verify whether the records of the case was found already and it was on that occasion that the records was found by a female employee in a filing cabinet; that the third time he went to see Atty. Catbagan again, at the instance of Mr. Pablo Garcia, was in September, 1975, when Atty. Catbagan signed the letter of transmittal to the Court of Appeals.

"On the other hand, the respondents' evidence consists of their testimony, as well as Exh. 1 which is Exh. A-2 of the complainant. Exh. 2, xerox copy of the entry appearing on page 246 of a docket book, Exh. 3, which is Exh. A-1 of complain-ant; Exh. 4 which is Exh. A-2 of the com-plainant; Exh. 5, the 4th Indorsement dated January 26, 1976 signed by former Judge Serafin Salvador; Exh. 6, carbon copy of the 1st Indorsement of Atty. Arturo Buena.

"It appears from the evidence presented by the respondents that as early as August 28, 1973 (Exh. 3), respondent Atty. Catbagan signed the letter of transmittal to forward the entire records of said case to the Court of Appeals, which letter of transmittal was prepared by respondent Bantug; that after signing the letter of transmittal Atty. Catbagan gave the entire records of said case to Mr. Bantug who, in turn, gave the letter of transmittal, signed by Atty. Catbagan together with the whole records of the case to Mrs. Rustica Geronimo, clerk-in-charge of forwarding records of appealed cases to the Court of Appeals; that the transmittal was duly recorded in the docket book of cri-minal cases to the effect that the case was ordered elevated to the Court of Appeals; that unfortunately, however, before Mrs. Geronimo could elevate the records to the Court of Appeals, she met a vehicular accident which caused her sudden and untimely death; that after Atty. Catbagan was apprised for the first time in September 1975 by the complainant that the records of said case have not been elevated to the Court of Appeals, he immediately instructed the personnel of Branch XIV to look for the records and it was found among the archived cases; that on September 11, 1975, the records was transmitted to

the Court of Appeals." [4]

The Investigating Executive Judge found that the respondents had not intentionally committed the act complained of. However, the delay in the transmittal of the records could have been avoided had the respondents Jose S. Catbagan and Emmanuel Bantug, after knowing of the untimely death of Rustica Geronimo in 1973, complied with their duty to ascertain that the records in Criminal Case No. C-4029 (73) as well as the records of other cases which were in her possession, were actually sent to, and received by, the Court of Appeals. The failure of both respondents to take such step constitutes dereliction in the performance of their duties, which merits disciplinary action. Such apathy of the respondents is the bane of the public service.

WHEREFORE, the respondents JOSE S. CATBAGAN and EMMANUEL BANTUG are declared GUILTY of negligence in the performance of their duties and are hereby imposed a fine equivalent to their salaries for one (1) month with the WARNING that a repetition of a similar offense will be dealt with more severely.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Guerrero, and Melencio-Herrera, JJ., concur.

[1] Rollo, pp. 1-2.

[2] Rollo, p. 8.

[3] Resolution dated February 11, 1980, Rollo, p. 26.

[4] Report and Recommendation, pp. 2-4.

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