

AGRIPINO S. BELEN, COMPLAINANT, VS. JUDGE SANTIAGO E. SORIANO, PRESIDING JUDGE, MTC NAGUILIAN, LA UNION, RESPONDENT.

A.M. No. MTJ-94-920. January 20, 1995

Ponente: BIDIN, J.

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BIDIN, J.:

Respondent judge is being charged with gross ignorance of the law, gross incompetence and neglect of duty for taking cognizance of a criminal case for grave threats which is properly cognizable by the RTC, and for failing to cause the transmission of the records of the said case to the RTC.

Criminal Case No. 2431 entitled "People of the Philippines vs. Franco F. Rimando" for grave threats was filed by herein complainant against Franco F. Rimando, the incumbent Mayor of Naguilian, La Union. Subsequently, Mayor Rimando filed a criminal case for perjury against complainant.

Complainant charges respondent judge with gross ignorance of the law for taking cognizance of Criminal Case No. 2431 when the same is properly cognizable by the RTC. Complainant also charges respondent judge with gross incompetence and neglect of duty for failing to act on his motion to have Criminal Case No. 2431 elevated to the RTC because the accused in the said case is allegedly a close friend of respondent judge.

Complainant also assails the issuance by respondent judge of a warrant for his (complainant's) arrest in the perjury case filed against him by Mayor Rimando, apparently in retaliation for Criminal Case No. 2431 filed by complainant against the mayor without giving complainant the opportunity to file a counter-affidavit.

In his Comment, respondent judge explained that he assumed jurisdiction over Criminal Case No. 2431 because the information was filed directly by the assistant provincial fiscal with the approval of the provincial fiscal. He denied having refused to elevate the case to the RTC on motion of the prosecution dated September 1, 1989, alleging that he in fact issued an Order dated September 25, 1989 directing the transfer of the case records to the Provincial Fiscal for transmission to the RTC, but that the July 16, 1990 earthquake destroyed the Naguilian Municipal Building, resulting in the misplacement of case records, including the record of Criminal Case No. 2431.

With regard to the perjury case, respondent judge alleges that before he issued the warrant for complainant's arrest, he required the filing of a counter-affidavit, but instead, complainant filed a Manifestation stating that his affidavit-complaint in the case for grave threats shall serve as his counter-affidavit in the criminal case.

The Court referred this complaint to Executive Judge Fortunato V. Panganiban for investigation, report and recommendation.

After due hearing and investigation, Executive Judge Panganiban submitted a Report, finding respondent judge guilty of negligence in the performance of his official duties.

Judge Panganiban noted that the prosecution filed a motion to elevate Criminal Case No. 2431 to the RTC on September 1, 1989 and respondent judge granted the motion in an Order dated September 25, 1989. However, the case records were actually forwarded to the Provincial Prosecutor's Office in Bauang, La Union only on August 9, 1993 and the corresponding information was filed with the RTC of Bauang, Branch 33 on October 5, 1993. It thus took four years before the case was elevated to the RTC.

With regard to the perjury case filed against herein complainant, Judge Panganiban found that the latter was actually arrested pursuant to an alias warrant of arrest issued by Judge Payoyo but he was later released after having filed a surety bond. The case was eventually dismissed after the motion to quash filed by complainant was granted.

During the hearing of this administrative case before Executive Judge Panganiban, respondent judge testified that he prepared an Order dated September 25, 1989 directing the transmission of the records of Criminal Case No. 2431 to the prosecution for elevation to the RTC. However, the Order was unsigned when the records of the case were misplaced due to the destruction of the Neguilian Municipal Building caused by the July 16, 1990 earthquake and the subsequent transfers of his sala. He alleged that his clerk of court, Mrs. Teresita Bravo, forgot about the case, but that much later, he obtained the records from Mrs. Bravo and forwarded the same on August 9, 1993. However, Mrs. Bravo testified that the record was not with her and that she came to know of the case only in 1993 when complainant followed up the case. She alleged that after she referred complainant's follow-up to respondent judge, she saw the record of Criminal Case No. 2431 lying on top of his desk along with the records of other cases.

We agree with the findings of Executive Judge Panganiban. The charge of gross ignorance of the law has no basis since the error lay with the prosecution for filing the information directly before respondent MTC judge instead of the RTC. The charge of gross incompetence likewise has no merit since the same was not substantiated by complainant. There is no question however, that it took respondent judge four years to act on the motion to elevate Criminal Case No. 2431, and that the said omission amounts to negligence, causing unreasonable delay in the disposition of the case violative of the constitutional requirement on the speedy administration of justice.

Although the clerk of court is primarily responsible for the implementation of respondent judge's orders, the fact remains that respondent judge is tasked with administrative supervision over his personnel. He should always see to it that his orders are properly and promptly enforced and that case records are properly stored. Court records are public records and the public should be assured that these records are safe in the custody of the courts so that confidence in the judiciary will be maintained.

Respondent judge cannot hide behind his clerk of court to escape culpability. Besides, in this case, respondent judge's clerk of court contradicted his allegations as to the whereabouts of the subject case records and the reason why the transmission thereof to the Provincial Prosecutor was delayed.

Regardless of who is telling the truth however, it is respondent judge who must be held responsible for the omission complained of.

A judge's failure to file his Order of Dismissal of two criminal cases in the records thereof and his act of furnishing the prosecution a copy of the said Order more than one year after its issuance impairs public confidence in the fair and honest determination of Justice. A judge may not put the blame on his Clerk of Court for his remissness and slothfulness (*Tadiar vs. Mun.* Judge Cases, 60 SCRA 215 [1974]).

Accordingly, respondent Judge Santiago E. Soriano is found guilty of negligence and is hereby **ADMONISHED** to be more prompt and circumspect in the performance of his official duties. He is likewise ordered to pay a FINE

of P2,000.00 with WARNING that the commission of the same or a similar act or omission in the future will be dealt with more severely.

So Ordered.

Feliciano, (Chairman), Romero, Melo, and Vitug, JJ., concur.

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