

JUDGE ADORACION G. ANGELES COMPLAINANT, VS. EMMANUEL BANTUG AND SYLVIA M. GUERRERO, RESPONDENTS.

A.M. No. P-89-295. May 29, 1992

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PER CURIAM:

This is an administrative complaint filed by Judge Adoracion G. Angeles in her capacity as Presiding Judge of the Regional Trial Court, Branch 121, Caloocan City against two (2) of the court personnel assigned in her sala, namely: Emmanuel Bantug, Legal Researcher and Acting Branch Clerk of Court and Sylvia Guerrero, Court Stenographer for falsification of judicial records.

The antecedent facts of this case are as follows:

On September 19, 1988, the Register of Deeds of Caloocan City submitted a manifestation with the Regional Trial Court, Branch 121 of Caloocan City stating his inability to comply with the order of the trial court dated November 17, 1985, directing him to issue new titles, in view of the absence of a statement from which subsisting titles they are to be derived. The questioned order was that allegedly issued by the former Presiding Judge Salvador J. Baylen in Civil Case No. 11974 entitled “Arturo Q. Salientes in his capacity as Court Receiver in Civil Case No. C-424 v. Phil-Asia Realty Development Corporation, et al.,” which directed the Register of Deeds of Caloocan City to issue a new certificate of title in favor of intervenor Roqueta Dimson.

Because she had the impression that the signature of Judge Baylen is a forgery, the incumbent Presiding Judge Adoracion Angeles issued an order on October 5, 1988 directing the Register of Deeds to defer action on the questioned order dated November 17, 1985, considering that the signature of Judge Baylen in the said order will be referred to this Court for investigation to the NBI as to the genuineness thereof.

On October 7, 1988, Judge Angeles submitted a letter informing the Court Administrator of her findings. She alleged that she believed that the signature of Judge Baylen in the order of November 17, 1985 is a forgery, in view of the fact that the latter admitted the motion for leave of court to intervene filed by Roqueta Dimson only on November 15, 1985 and that the complaint in intervention was actually filed later on December 5, 1985. She likewise stated that upon comparison, the signatures in the November 15, 1985 order and in the questioned order dated November 17, 1985 are different; that upon examination of the records of the case, the order of November 15, 1985 is page 153 of the records and the complaint-in?intervention being page 154; that the questioned order of November 17, 1985 as well as the return cards attached thereon and the stenographic notes of respondent stenographer Guerrero were merely inserted into the records without page numbers.

On October 12, 1988, Judge Angeles requested the Court Administrator to include in the investigation her Acting Branch Clerk of Court Emmanuel A. Bantug who signed the “Certificate of Finality” of the questioned order of November 17, 1985 allegedly upon the request of intervenor Roqueta Dimson.

The letter-complaint of Judge Angeles was endorsed by the Court Administrator to the Secretary of Justice who directed the National Bureau of Investigation to investigate the circumstances surrounding the questioned order.

On April 19, 1989, the Court Administrator, thru Executive Judge Manuel Serapio required Sylvia Guerrero and Emmanuel Bantug to comment on the complaint (p. 11, Rollo).

Respondent Emmanuel Bantug in his comment (pp. 19--22) alleged among others that:

- a) Sometime in August 1988, intervenor Roqueta Dimson filed a letter requesting the issuance of a certificate of finality of the order dated November 17, 1985;
- b) Respondent Sylvia Guerrero prepared the certificate of finality which was signed by him in his capacity as Acting Branch Clerk of Court;
- c) Before signing the certificate, he scrutinized the records to determine whether the order had become final and executory;
- d) He never questioned the genuineness of the signature of Judge Baylen on the presumption that it was issued in the regular business of the court;
- e) The certificate of finality signed by him was not officially released for failure of respondent Guerrero to produce the records of the case.
- f) He signed the said certificate in utmost good faith.

On July 24, 1989, respondent Guerrero filed her Comment (p. 26) admitting that the stenographic notes were taken by her but stating that anybody could have typewritten the same with her initials on it. She also alleged that the stenographic notes do not formally form part of the records and she has no knowledge how the same were inserted in the records of the civil case.

On January 8, 1990, this Court, acting on the recommendation of the Court Administrator in his Memorandum dated December 7, 1989, referred this case to the Executive Judge of Caloocan City for investigation, report and recommendation (p. 31, Rollo). Per resolution dated May 30, 1990 of this Court, Judge Zenaida N. Elepaño of RTC, Branch 128 of Kaloocan City was designated to continue the investigation vice Executive Judge Manuel J. N. Serapio.

On December 2, 1991, the investigating judge filed her report with the following observations and findings:

"The following facts are undisputed:

"A. The contents of the Case Record of Civil Case No. C-11974 (supra), numbered in the Rollo as Page 1 to Page 207, inclusive.

"The pleadings, orders, notices, etc. constituting the entire records of the Salientes case are bound together by a paper fastener, with a piece of soft brown cardboard as its cover. At present, there are 207 pages found inside, from the first page of the main complaint bearing page no. 1 up to the last page which is a Certification that the case was already dismissed on December 10, 1988 requested by one Restituta Rosales, bearing page no. 207.

"The contents of this case record show that:

"1. The rein vindicatory action was filed by Arturo Salientes on July 3, 1985.

"2. On July 24, 1985, one Roqueta R. Dimson filed' a Motion for Leave to Intervene.

"3. On November 15, 1985, the Court through the then Presiding Judge Salvador J. Baylen granted the Motion to Intervene, as shown by its Order of the same date.

"This Order bears the page number 153.

"4. Following this November 15 Order is the disputed Order, dated November 17, 1985. It does not carry any page number. Pasted at the back of this Order are four pieces of return cards, bearing in handwriting the names of Register of Deeds of Kalookan City on one, Arturo Salientes on the next, Phil-Asia, on the third and Roqueta Dimson on the fourth, purportedly showing that copies of this November 17, 1985 Order were received by these four persons.

"5. The next page following this Order is a yellow pad paper, also without a page number, containing handwritten shorthand notes on the front page and back, with the letters SJB/SG scribbled at the bottom end of the notes. The front page of this yellow pad bears a stamped date, November 17, 1985, purportedly to show that the notes were taken on said date.

"6. The succeeding page is page 1 of a Complaint-in-Intervention filed on December 5, 1985 by Roqueta Dimson. This complaint bears the page numbers 154 to 182 inclusive.

"7. Following page 182 of the said Rollo is the Order of Judge Adoracion G. Angeles (succeeding Judge Baylen) dated December 10, 1986 dismissing the case without prejudice for lack of interest to prosecute. This is marked as page 183 of the Rollo.

"8. On December 29, 1986, intervenor Roqueta Dimson filed a Motion for Reconsideration of the Order dismissing the case. In the Rollo, said Motion bears the page number 184. This Motion was denied.

"9. On August 15, 1988, Roqueta Dimson wrote a letter to the Branch Clerk of Court requesting for a Certificate of Finality of the Order of November 17, 1985. This letter is attached to the records and marked as page 185.

"10. On September 19, 1988, the Kalookan Register of Deeds filed in Court his Manifestation (supra) regarding his inability to comply with the November 17, 1985 Order filed with 'his Office on August 19, 1988 together with a Certificate of Finality. This Manifestation is attached to the records as pages 186 and 187 thereof.

"B. The Fact of Discovery of the November 17, 1985 Order and Related Documents.

"Emma Carreon is the Clerk-in-Charge for Civil Cases for Branch 121, RTC-Kalookan City. She started the pagination of the records of all the civil cases assigned to this sala on November 20, 1986, and this included the records of Salientes Case, Civil Case No. C-11974. When she did the numbering of the pages of this particular case record in November 1986, the Order of November 17, 1985, the stenographic notes on yellow pad paper, and the four return cards were not found in nor were part of the said case record. Neither were these documents attached thereto when the Complaint, Counterclaim, and the Complaint-in-Intervention were dismissed by Judge Angeles on December 10, 1986. When Emma Carreon received for the Court the Manifestation filed by the Kalookan City Register of Deeds on September 19, 1988, and subsequently looked for the record of the case so that she could attach the Manifestation thereto and present it to Judge Angeles for action, she could not immediately locate the same. It was only on October 3, 1988 or two weeks after that she found the records in the possession of court stenographer respondent Sylvia Guerrero who retrieved the same from under her (Guerrero) typewriter and handed it over to her. Sylvia Guerrero is not and has never been assigned the duty of keeping such record in her custody. It was on this date and before the records in her custody. It was on this date and before the records of the case and the written Manifestation of the Register of Deeds were turned over to Judge Angeles that Carreon first came to know of the existence of the questioned documents, i.e. Order of November 17, 1985, return cards, and stenographic notes, inserted between pages 153 and 154 of the records, as she had never seen them before.

"C. Authorship of the Questioned Order, the Signature of Judge Baylen thereon, and the Certificate of Finality dated August 15, 1988.

"1. Sylvia Guerrero admitted that she herself wrote in shorthand the notes contained in the yellow pad found

next to the questioned Order, and that she also typed the questioned Order of November 17, 1985.

"2. Despite the sworn protestations of Sylvia Guerrero (Affidavit, p. 318, Rollo) that the Order was typewritten by her 'upon the instructions of former presiding judge Salvador J. Baylen who signed the same,' the signature alleged to be that of Judge Salvador J. Baylen affixed on the questioned Order of November 17, 1985 however was found by the handwriting examiner of the National Bureau of Investigation to be a forgery (Exhs. 'L' to 'L-6' inclusive and 'N' to 'N--12' inclusive).

"3. The day the Order was signed, i.e., November 17, 1985 was a Sunday (Exh. 'P-3'), hence it was not a regular working day for court employees.

"4. While the NBI has not pronounced on who in particular affixed the signature on the questioned Order, having merely declared that the signature is not that of Judge Baylen, since Guerrero admitted she prepared the stenographic notes and type the Order herself, her acts were not 'upon instructions of Judge Baylen,' and that she participated to a great extent in the falsification of such Order and in the forgery of the signature in concert with others, as will be shown later on.

"5. On August 15, 1988 at 9:00 o'clock in the morning Emmanuel Bantug received from Sylvia Guerrero a Certificate of Finality in three copies (one original, and two duplicate originals) for his signature as OIC> The copies of the Certificate were prepared and typed by Guerrero, and Bantug signed the same. Of the three copies, two including the original were retained by Bantug who did not attach the same to the records of the case (statement of Bantug at the NBI dated January 26, 1989, Exhibit 'Z'). One copy was furnished Roqueta Dimson (p. 96, Rollo, and Exhibit 'O').

"6. On August 19, 1988, one Vidal S. Gregorio of Lagundi, Morong, Rizal presented to the Register of Deeds of Kalookan City a copy of the questioned Order of November 17, 1985 with copy of a Certificate of Finality allegedly a true copy of the original as attested to by Sylvia Guerrero through her signature appearing at the bottom of the typed words 'A True Copy'. This alleged true copy however differs from the one signed previously by Emmanuel Bantug in that it now had an additional sentence not found in the original, reading 'This Order is final and executory.' Additionally, it does not bear the signature of Bantug, but merely contains the stamped words Original Signed (Exh. 'J--6')." (pp. 393-396, Rollo)

We can infer from the entire records of this case that the questioned order and stenographic notes on yellow pad were inserted after December 10, 1986, the date Judge Angeles dismissed the case, but before September 19, 1988, the date the Register of Deeds of Kalookan City filed his manifestation in court alleging his inability to comply with said order.

This is clearly supported by the sworn affidavit (Exh. FF) of Emma Carreon, Clerk-in-Charge of the civil case, stating that when she did the paging of the records, the questioned documents were not yet attached to or inserted in the records, for which reason she marked the page found before the questioned order as 153 and that immediately following the stenographic notes as 154. The order issued on December 10, 1986 which dismissed the case was marked as page number 182. Since all the previous pages were numbered consecutively from page 1 and 182, it therefore follows that page 153 and 154 were numbered before December 10, 1986. The logical conclusion therefore, is that on or before the aforesaid date, the questioned documents do not form part of the records. Otherwise, these would have been marked with the corresponding numbers and intervenor Roqueta Dimson would not have bothered to file a Complaint-in-Intervention on December 5, 1985 as she had already been benefited in the order of November 17, 1985. When Dimson filed on December 29, 1986 a motion for reconsideration of the order dated December 10, 1986 dismissing the civil case, it can be readily concluded that the questioned order is not yet in existence.

While the authorship of the forged signature of Judge Baylen has not been fully determined, the participation of

respondent Sylvia Guerrero is beyond any aura of doubt.

The sworn statement of Guerrero that it was Judge Baylen himself who signed the order was refuted by the NBI, which by scientific examination found the signature not to be that of Judge Baylen. No amount of persuasion can show that Judge Baylen would go to the court on a Sunday to dictate an order which practically decided the case in favor of intervenor Roqueta Dimson despite the fact that the latter had not yet filed her complaint-in-intervention. With her admission that the stenographic notes attached to the questioned order was hers and that she was the one who typed the disputed order, there is no doubt that respondent Guerrero is responsible for the existence of the questioned order and for the forgery of the signature of Judge Baylen.

With regard to respondent Emmanuel Bantug, the investigating judge found that his statements are not consistent throughout his testimony.

In his July 12, 1989 statement, he stated that before signing the certificate of finality, he carefully scrutinized the records of Civil Case No. C--11794, found therein proofs of notices to the parties and that “no where in the records of Civil Case No. C--11794 could be found any motion for reconsideration of the Order or appeal filed by any of the parties to the case. x x x Based on and guided by the records x x x showing clearly that the order of November 17, 1985 had long become final and executory, the undersigned had no other choice but to x x x issue a Certificate of Finality being requested by Roqueta Dimson.” (p. 20). However, upon further examination, respondent Bantug changed his testimony and declared he only verified if there was an order of Judge Baylen and that there was no motion for reconsideration or appeal taken by the parties but, did not verify all pleadings filed after the order was issued allegedly by Judge Baylen. Again he changed this statement and reverted to his original claim that he examined all the pleadings filed with the Court after the November 17, 1985 order, examined the pages one by one and because no motion for reconsideration was found, he signed the certificate of finality (TSN of January 24, 1991, pp. 21-23). Then, on February 8, 1991, he averred that he signed the certificate on the basis of the information given by Sylvia Guerrero that no motion for reconsideration was filed and that he did not verify from the records the existence of the order the finality of which he was to certify (TSN, February 8, 1991).

The investigating judge further concluded that if respondent Bantug had carefully scrutinized the records of the case to determine if the questioned order of November 17, 1985 had really become final and executory before he signed the certificate of finality, then, he would have noticed that there are other additional papers attached to the records after the date of the questioned order, namely, the complaint-in-intervention dated December 5, 1985, the order of December 10, 1986 dismissing the case and a motion for reconsideration filed by Roqueta Dimson dated December 29, 1986.

Although it is true that the testimony of respondent Bantug during the investigation is replete with inconsistencies, there is no substantial evidence which can point to his participation in the falsification of the order. The inconsistent statements made by respondent Bantug merely refer to the issue of whether respondent Bantug truly examined all the pleadings and orders in the records of the case before issuing the certificate of finality. This alone is not a sufficient basis for this Court to conclude that respondent Bantug had indeed conspired with respondent Guerrero in falsifying a court order and forging the signature thereon.

The clerk of court of a court of justice is an essential officer in any judicial system. The office is the hub of activities both adjudicative and administrative. The clerk of court keeps its records and seal, issues processes, enters judgments and orders, and gives upon request, certified copies from the records. While an officer of the court, a public officer and an officer of the law, the position is not that of a judicial officer, nor is it synonymous with the court. The office is essentially a ministerial one (Manual for Clerks of Court, July, 1991, pp. 2-3). Hence, in entering judgments and orders, the clerk of court acts in a purely ministerial capacity and exercises no judicial

functions (Manual, *supra*, p. 79). Respondent Bantug as acting clerk of court is thus not expected to determine the validity and truth of the contents set forth in every judgment or order issued by the court before entering them as final and executory. Nevertheless, it cannot be gainsaid that as custodian of the records of the court, it is the duty of the clerk to maintain the correctness of the records by making the proper entries and corresponding certificates of final and executory judgments or orders. He must be assiduous in performing his official duties and in supervising and managing court dockets and records. The failure of respondent Bantug to prove that he had exercised this duty before issuing the certificate of finality as can be shown by his testimony before the investigating judge, is gross negligence on his part which warrants disciplinary action.

This Court had said before, and reiterates it here, that the conduct and behavior of every one connected with an office charged with the dispensation of justice, from the presiding judge to the lowest clerk, should be circumscribed with the heavy burden of responsibility. Their conduct at all times, must not only be characterized by propriety and decorum but above all else must be above suspicion (*Jereos Jr. v. Reblando Sr.*, Adm. Matter No. P-141, May 31, 1976, 71 SCRA 126). Indeed, every employee of the Judiciary should be an example of integrity uprightness and honesty (*Ablanida v. Intia*, A.M. No. R-770-P, May 17, 1988).

There is no iota of doubt, on the basis of the evidence presented, that respondent Guerrero is guilty of the detestable act complained of. She does not deserve to stay any longer in the Judiciary. With regard to respondent Bantug, a fine equivalent to one month salary shall be imposed upon him by this Court for such negligence.

ACCORDINGLY, respondent Sylvia Guerrero is hereby ordered DISMISSED from the service with forfeiture of all retirement benefits and with prejudice to reinstatement in the national and local governments, as well as in any governmental instrumentality or agency including government owned or controlled corporations. Respondent Emmanuel Bantug is hereby ordered to pay a fine in the amount of P5,000.00 within thirty (30) days from notice. This resolution is immediately executory. Let a copy of this resolution be entered in the personal records of respondents.

SO ORDERED.

Narvasa, C.J., Gutierrez, Jr., Cruz, Paras, Feliciano, Padilla, Bidin, Griño-Aquino, Medialdea, Regalado, Davide, Jr., Romero, Nocon, and Bellosillo, JJ., concur.

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