

ATTY. PERFECTO A.S. LAGUIO, JR., COMPLAINANT, VS. MILA AMANTE-CASICAS, PROCESS SERVER, METROPOLITAN TRIAL COURT, PASIG CITY, BRANCH 68, RESPONDENT.

A.M. No. P-05-2092 (Formerly OCA IPI NO. 04-2064-P). November 10, 2006

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Atty. Perfecto A.S. Laguio, Jr. (complainant) filed on September 7, 2004 a complaint for sum of money, "Emilie Oblepias v. Spouses Makaraig San Agustin and Virginia San Agustin," and deposited P1,000 for service of summons fee covered by Official Receipt No. 21065483.[1]

The case, filed before the Metropolitan Trial Court of Pasig, was docketed as Civil Case No. 11097 and raffled to Branch 68.

On his return to the trial court two weeks later to inquire whether summons had been served, respondent replied in the negative, she telling complainant that no service fee had been paid.

When the official receipt of payment of the fee was shown to her, respondent assured complainant that she would serve the summons and furnish a copy of her return thereof within one week.

Finding respondent to have welched on her promise to serve the summons despite numerous follow ups, complainant filed the present administrative complaint[2] on November 24, 2004.

In her Comment dated January 25, 2005,[3] respondent claimed that she had, before the administrative complaint against her was filed, already served the summons through substituted service, offering the following explanation:

. . . [A]s soon as I got the copy of the summons with complaint, I immediately proceeded to the defendants' address to serve the said court process but since nobody was around during the time of service, I opted to try to serve it again personally on the defendants. Due to the fact that there are other processes to be served and I assist in the hearings, I was not able to [go] back [until] November 10, 2004 to serve again the summons to defendants, but since they were still not around at the time, the summons with complaint was received by Jonalyn Pardinez, defendants' secretary, as evidenced by her signature appearing o[n] the face of Summons dated September 17, 2004 attached thereto.[4]

Much as I wanted to return to the defendants' given address at Quezon City to personally serve the summons within the next few weeks, I could not find the time to serve it immediately considering that aside from being a process server, I was also designated to discharge the duties of the criminal-in-charge since the position was vacated, add to that the instructions of the Presiding Judge to prioritize the service of notices of cases involving detention prisoners. [5] (Underscoring supplied)

Complainant subsequently brought to the attention of the Court Administrator, by letter of February 23, 2005,[6] about what he thought was respondent's deliberate act of delaying for 20 days the mailing of a copy of her Comment to him, for while copy of her Comment was filed at the Office of the Court Administrator (OCA) on

January 28, 2005, his copy was mailed only on February 17, 2005.[7]

The OCA, by Report dated September 28, 2005,[8]made the following Evaluation and Recommendations:

EVALUATION: Under the law, upon the filing of the complaint and payment of the requisite legal fees, the Clerk of Court shall forthwith issue the corresponding summons to the defendants (Sec. 1, Rule 14, Rules of Court).

The purpose why summons must forthwith be served upon payment of the legal fees is to prevent unnecessary delay in the termination of the case. Summons serves as notice to the defendant that an action has been filed against him. It informs the defendant who initiated the action, in what court the action is filed and the relief sought. Service of summons confers court jurisdiction over the person of the defendant.

There is a presumption that the Clerk of Court immediately issued the summons after the requisite legal fees had been paid. After the summons is issued by the Clerk of Court, it is the duty of the Process Server to serve the same upon the defendant promptly and without delay.

The complainant paid the legal fees when the complaint was filed on September 7, 2004. Respondent alleged that she served the summons, by substituted service on November 10, 2004, or two (2) months after the requisite legal fees had been paid. . . . [R]espondent is liable for negligence for serving the same more than two (2) months after the complaint was filed and legal fees was paid. The defense of the respondent that the summons was not immediately served due to her heavy workload would not exempt her from administrative liability. Her primary duty, as Process Server, is to effect prompt and effective service of summons and other processes issued by the court. Respondent's heavy caseload, because aside from being the Process Server, she was designated as clerk in charge of criminal cases only mitigates her liability.

RECOMMENDATION[S]: Respectfully submitted for the consideration of this Honorable Court [are] the recommendation[s] that the instant Informal Preliminary Inquiry be redocketed as a regular administrative matter and respondent be suspended from office for one (1) month and one (1) day for Simple Neglect of Duty with a warning that repetition of the same or similar offense shall be dealt with more severely.[9] (Emphasis and underscoring supplied)

As recommended, this Court resolved, by Resolution of November 21, 2005,[10] to redocket this case as a regular administrative matter and required the parties to manifest to the Court within ten days from notice if they are submitting the case for decision on the basis of the pleadings already filed and submitted.[11] Respondent did not file any Manifestation.

A process server, like any other employee or officer in the public service, must perform his assigned duties with dedication, efficiency and utmost responsibility.[12] His important role in the speedy administration of justice is highlighted in *Ulat-Marrero v. Torio, Jr.*:

A process server should be fully cognizant not only of the nature and responsibilities of his task but also of their impact in the speedy administration of justice. It is through the process server that a defendant learns of the action brought against him by the complainant. More importantly, it is through the service of summons of the process server that the trial court acquires jurisdiction over the defendant. As a public officer, the [process server] is bound *virtute officii* to bring to the discharge of his duties the prudence, caution, and attention which careful men usually exercise in the management of their affairs. Relevant in the case at bar is the salutary reminder from this Court that the image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women who work thereat, from the judge to the least and lowest of its personnel â€” hence, it becomes the imperative sacred duty of each and everyone in the court to maintain its good name and standing as a true temple of justice.[13] (Italics in the original)

For her failure to promptly serve the summons, respondent is guilty of simple neglect of duty which is defined as

"the failure of an employee to give one's attention to a task expected of him, and signifies a disregard of a duty resulting from carelessness or indifference." [14]

Under the Uniform Rules on Administrative Cases in the Civil Service, [15] simple neglect of duty is classified as a less grave offense, penalized with suspension from One Month and One Day to Six Months for the first offense, and dismissal for the second offense. [16]

This Court is not unaware of the heavy workload in our Judiciary, but the same does not suffice as an excuse to evade administrative liability.

In justifying the delay, respondent cites his heavy work load and the need to transcribe the notes in several other cases as well. His heavy work load is, however, not an adequate excuse for him to be remiss in performing his duties as a public servant. Otherwise, every government employee charged with negligence and dereliction of duty would resort to the same convenient excuse to evade punishment, to the great prejudice of public service. [17] (Emphasis and underscoring supplied)

WHEREFORE, respondent Mila Amante-Casicas is found guilty of simple neglect of duty and is **SUSPENDED** for a period of One (1) Month and One (1) Day without pay. And she is **WARNED** that a repetition of the same or similar offense shall be dealt with more severely.

SO ORDERED.

Quisumbing, (Chairperson), and Carpio, JJ., concur.

Tinga, J., on leave.

Velasco, Jr., J., no part.

[1] Rollo, p. 2.

[2] Id. at 1.

[3] Id at 4-5.

[4] Per OCA Report, nothing was attached to respondent's Comment.

[5] Rollo, pp. 4-5.

[6] Id. at 6-8.

[7] Id. at 6.

[8] Id. at 9-11.

[9] Id. at 11.

[10] Id. at 12.

[11] By Resolution of February 6, 2006, this Court resolved, after the copy of the November 21, 2005 Resolution for complainant, Atty. Perfecto A.S. Laguio, Jr., was returned unserved with postmaster's notation "RTS-moved out," to consider it as served on the complainant. On the other hand, the copy for respondent was received on January 4, 2006 by Sharon Marcelino.

[12] Aguilar v. How, A.M. No. RTJ-03-1783, July 31, 2003, 407 SCRA 482, 487.

[13] A.M. No. P-01-1519, November 19, 2003, 416 SCRA 177, 183.

[14] *Dignum v. Diamla*, A.M. No. P-06-2166, April 28, 2006, 488 SCRA 405, 415.

[15] Resolution No. 991936, August 31, 1999.

[16] Rule IV, Section 52, (B) (1).

[17] *Alcover, Sr. v. Bacatan*, A.M. No. P-05-2043, December 7, 2005, 476 SCRA 607, 612; *Vide Salvador v. Serrano*, A.M. No. P-06-2104, January 31, 2006, 481 SCRA 55, 71; *Ongkiko, Kalaw, Dizon, Panga & Velasco Law Offices v. Sangil-Makasias*, 326 Phil. 31, 37 (1996).

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