

**HILARIO TUdTUD AND ALBERTO TUdTUD, COMPLAINANTS, VS.
ATTY. REY D. CAAYON, CLERK OF COURT VI, RTC OF BOGO, CEBU,
RESPONDENT.**

A.M. NO. P-02-1567. March 28, 2005

Ponente: AZCUNA, J.

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AZCUNA, J.:

This is an administrative complaint filed by Hilario Tudit and Alberto Tudit against Atty. Rey D. Caayon, as Branch Clerk of Court of the Regional Trial Court (RTC), Branch 61, Bogo, Cebu, alleging serious misconduct, graft and corruption and dishonesty.

Complainants Tudit were the intervenors in Civil Case No. BOGO-00099, pending before the aforesaid Branch 61, entitled “Spouses Antonio and Soledad Divinagracia, et al., plaintiffs versus Leonidisa N. Cometa, et al., defendants; Alberto Tudit and Hilario Tudit, Intervenors.”

As alleged in the complaint, the Tudit lost the case before the RTC but were able to file seasonably their notice of appeal on October 6, 1998.

However, upon inquiry thereafter made by the Tudit, they found out that because of the inaction of respondent Caayon, the records of the case had not been transmitted to the appellate court, in violation of a clerk of court’s duty under Section 10, Rule 41 of the Rules of Court which, among others, requires the Clerk of Court to transmit the records to the appellate court within 30 days after perfection of the appeal.

Thus, complainants lodged this administrative complaint against Atty. Caayon, on the ground that “in gross and evident bad faith[,] intentionally [and] with malicious purpose[, he] did not care to send or transmit the records of Civil Case No. BOGO-00099 to the Honorable Court of Appeals for already more than one (1) year and five (5) months from the date of the perfection of the appeal on October 6, 1998 without any valid or justifiable reason at all.”

Complainants allege that there was an intentional delay on the part of respondent Clerk of Court not to transmit the records of the case. Complainants surmise that the same was done in order to give undue advantage and benefit to therein petitioners, the spouses Divinagracia, so that the latter can enjoy the use and produce of the seven parcels of land involved.

According to complainants, the dismissal of Clerk of Court Atty. Rey D. Caayon from the service is in order.

On April 25, 2000, the Court Administrator required Atty. Rey D. Caayon to file his comment to the Sworn Letter-Complaint, which he did through the Executive Judge of Bogo, Cebu on or about May 22, 2000 and which the Executive Judge transmitted to the Court Administrator, on June 1, 2000.

In his Comment respondent alleges that:

- The case involving the Tudit was originally filed before the RTC of Cebu City but was unloaded to Br. 61

at Bogo when the court was constituted;

- After a decision was rendered in favor of the plaintiffs[,] both the defendants and the intervenors Hilario and Alberto Tudit filed their notices of appeal on time and which by order of Oct. 20, 1998 [were] given due course by the court;
- The records of the case were then mistakenly and without intention placed in a cabinet for disposed and terminated cases and it was only on the later part of January 2000 that it was discovered during the inventory taking of cases before the court;
- There was indeed a delay in the transmittal of the records of the case but the same was not intentional and there was no bad faith, ill motive or malice to unduly delay the transmittal of the records on appeal;
- When the Deputy Sheriff IV of the court died respondent assumed the office in an ex-officio capacity and aside from his duties as Clerk of Court VI he also performed the duties of cashier, including the preparation of Cash Books and reports, issuance of Official Receipts, processing of applications for probation and bailbonds, due to lack of personnel;
- He denies the allegations of Gross, Evident Bad Faith, Intentional, Malicious and Undue Delay, Graft and Corruption and giving the spouses Divinagracia any advantage or benefit over the use of the property subject matter of the case and finally that he received anything, money or otherwise, from the spouses;
- In view of the fact that he had transmitted the records of the case to the Court of Appeals on March 31, 2000, even before he received the order to file his comment, the complaint of the Tuditds [should] be considered closed and terminated.

Upon referral to the Court Administrator, a Report and Recommendation dated January 23, 2002 was submitted with the following findings:

- There was a delay in the transmittal of the records of the civil case by the respondent clerk of court of one (1) year and five (5) months after the perfection of the appeal. The only issue is whether or not respondent can be held liable for failing to perform his duty.
- The respondent Clerk of Court transmitted the records to the Court of Appeals only two months after he discovered his mistake in January 2000 and one (1) month after the instant complaint was filed against him.
- The claim of the respondent that his failure to transmit the records was not motivated by bad faith rests on shallow ground. As held in the case of *Cruz v. Tantay* (305 SCRA 128): "As officers of the Court, respondents are expected to discharge their duty of safekeeping court records with diligence, efficiency and professionalism." Branch Clerks of Court must realize that their administrative functions are vital to the prompt and proper administration of justice. They are charged with the efficient recording, filing and management of court records, besides having administrative supervision over court personnel. They play a big role in the complement of the court and cannot be permitted to slacken on their jobs under one pretext or another (*OCA v. Jose R. Bawalan*, A. M. No. P-93-945, March 24, 1994).
- There is also no reason to give credence to the claim of the respondent that he failed to transmit the records because of the heavy workload in the court. The excuse of a heavy caseload in his branch is not a valid justification for the infraction by a Branch Clerk of Court. (Report on the Spot Judicial Audit Conducted in Metropolitan Trial Court, Branch 36, Quezon City, 313 SCRA 25)

As a consequence, the Court Administrator recommends that the Branch Clerk of Court, Atty. Rey D. Caayon be fined Five Thousand (P5,000) Pesos for delay in the transmittal of the records of Civil Case No. BOGO-00099 to the Court of Appeals, with a warning that a repetition of the same offense will be dealt with more severely.

In compliance with the Court's Resolution of March 18, 2002, both complainants and respondent manifested on April 16, 2002 and May 2, 2002, respectively, that they are willing to submit the case for resolution on the basis of the pleadings filed.

At the outset, it is apropos to reiterate that:

We have consistently held that the conduct required of court personnel, from the presiding judge to the lowliest clerk[,] must always be beyond reproach and circumscribed with the heavy burden of responsibility as to let them be free from any suspicion that may taint the judiciary. All court personnel are expected to exhibit the highest sense of honesty and integrity not only in the performance of their official duties but also in their personal and private dealings with other people to preserve the Court's good name and standing. This is because the image of a court of justice is mirrored in the conduct, official or otherwise, of the men and women who work there. Any impression of impropriety, misdeed or negligence must be avoided.[1]

Clearly, the Clerk of Court in this case failed to perform his duties as required under Section 10, Rule 41 of the Rules of Court. In *Office of the Court Administrator v. Judge Jesus M. Barroso, Jr. (Ret.) and Pedrito A. Cunanan*,^[2] the respondent Clerk of Court was found guilty of simple neglect of duty for failure to act immediately on civil cases transferred to his branch and failure to issue immediately summons in three other cases. Rejected was the excuse of preparing for the 2003 bar examinations. Hence, the penalty of suspension of one (1) month and one (1) day was imposed, with a stern warning that a repetition of the same or similar acts will be dealt with more severely next time.

In the recent case of *Re: Loss of Court Exhibits in the MTCC of Cadiz City, Office of the Court Administrator v. Judge Rolando V. Ramirez and Clerk of Court Sandra M. Ledesma, MTCC, Cadiz City*,^[3] the Clerk of Court was found guilty of simple neglect of duty for failing to keep safely all records, papers, files, exhibits and public property committed to her charge. The penalty of suspension of one (1) month and one (1) day was imposed with a warning that a repetition will be dealt with more severely.

In *Re: Report On The Judicial Audit Conducted at the Municipal Trial Court in Cities (Branch 1), Surigao City*^[4] the Clerk of Court was likewise found guilty of simple negligence, for which he was ordered to pay a fine of Five Thousand (P5,000) Pesos, with a warning that a repetition of the same or similar infractions will be dealt with more severely.

Civil Service Commission Resolution No.99-1936, promulgated pursuant to the powers granted to it in Section 12(2), Chapter 3, Title I, Subtitle (A), Book V of the Administrative Code of 1987 (Executive Order No. 292) classifies simple neglect of duty as a less grave offense and imposes the penalty of suspension of one (1) month and one (1) day to six months for the first offense.

However, in *Pickard Balajadia v. Mercedita Gatchalian, Court Stenographer, Regional Trial Court, Branch 221, Quezon City*,^[5] as well as several other cases,^[6] this Court took into consideration as a mitigating circumstance the fact that the offense of simple misconduct was the first offense of respondent and, therefore, a fine of Three Thousand (P3,000) Pesos instead of the recommended penalty of suspension of one (1) month and one (1) day to six (6) months, was imposed. Hence, this being the first offense of respondent, and for the reasons discussed above, the recommendation of the Court Administrator should be sustained, namely, that therein respondent be fined Five Thousand (P5,000) Pesos for the delay in the transmittal of the records of Civil Case No. BOGO-00099 to the Court of Appeals, with a warning that a repetition of the same offense will be dealt with more severely.

WHEREFORE, the complaint against Atty. Rey D. Caayon is given due course and he is found guilty of simple neglect of duty, for which he is ordered to pay a fine of Five Thousand (P5,000) Pesos, with a warning that a repetition of the same or similar infractions shall be dealt with more severely.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Quisumbing, Ynares-Santiago, and Carpio, JJ., concur.

[1] Pickard Balajadia v. Mercedita Gatchalian, A.M No. P-02-1658, October 21, 2004.

[2] A. M. No. RTJ-04-1874, October 18, 2004.

[3] A. M. No. MTJ-03-1508, January 17, 2005.

[4] A. M. No. P-04-1835, January 11, 2005.

[5] Supra, note 1.

[6] Report on the Judicial Audit and Physical Inventory of the Records of Cases in MTCC-Br. 2, Batangas City, 248 SCRA 36 (1995); OCA v. Judge Delia H. Panganiban, 277 SCRA 499 (1997); Reyes-Domingo v. Morales, 342 SCRA 6 (2000); Re: Alleged Tampering of the Daily Time Records (DTR) of Sherry B. Cervantes, Court Stenographer III, Branch 18, Regional Trial Court, Manila, A.M. No. 03-8-463-RTC, May 20, 2004.

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