

**MAGTANGGOL GABRIEL, COMPLAINANT, VS. ATTY. VIRGINIA C. ABELLA, DIVISION CLERK OF COURT OF THE 17TH DIVISION; OLIMPIA V. TRAMBULO, RECORDS OFFICER III, RECEIVING SECTION; FERDINA...**

*A.M. No. CA-99-9-P. April 30, 2003*

Ponente: YNARES-SANTIAGO, J.

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**YNARES-SANTIAGO, J.:**

On July 2, 1998, complainant Magtanggol Gabriel filed an affidavit-complaint[1] before the Office of the Court Administrator (OCA) against Atty. Virginia C. Abella, Division Clerk of Court of the 17[th] Division; Olympia V. Trambulo, Records Officer III, Receiving Section; and Ferdinand Herais, Clerk, Civil Cases Section – all from the Court of Appeals – charging them with grave misconduct.

Complainant alleged that he is the Vice-President of Manila Metal Container Corporation, plaintiff-appellant in CA-G.R. CV. No. 46153 entitled, “Manila Metal Container Corporation (MMCC), Plaintiff-Appellant versus Philippine National Bank, Defendant-Appellee; Reynaldo C. Tolentino, Intervenor-Appellant,” filed with the Court of Appeals.

On May 15, 1998, upon motion of intervenor Reynaldo C. Tolentino, the 17[th] Division of the Court of Appeals issued a Resolution substituting said intervenor as plaintiff and granting the withdrawal of appeal in CA-G.R. CV No. 46153. On May 27, 1998, complainant filed a motion for reconsideration of the aforesaid Resolution. On the same date, intervenor Tolentino also filed a motion for reconsideration praying for the issuance of an entry of judgment.

Based on the above motion of intervenor Tolentino, respondent Atty. Virginia C. Abella prepared and issued an entry of judgment in CA-G.R. CV. No. 46153, despite the pendency of the motion for reconsideration filed by complainant on May 27, 1998. Thus, complainant went to the Receiving Section of the Court of Appeals and requested for a certification that his counsel filed a motion for reconsideration of the Resolution dated May 15, 1998. However, respondent Olympia V. Trambulo refused to give him the certification and, in a loud and belligerent voice, said that she did not have custody of the records of the case.

Complainant further alleged that respondent Ferdinand Herais of the Civil Cases Section was negligent in recording and handling the motion for reconsideration he filed. When confronted by complainant’s counsel, respondent Herais denied having received any motion for reconsideration from plaintiff-appellant. Later, he admitted that he actually received the said motion for reconsideration from the Receiving Section and recorded the same in the Civil Cases Docket Book.

In her answer to the complaint, respondent Abella averred that when she prepared the entry of judgment in question on June 18, 1998, she strictly followed the Revised Internal Rules of the Court of Appeals and Section 10, Rule 51 of the 1997 Rules of Civil Procedure. She prepared the said entry of judgment only after (1) the

reglementary period to file a motion for reconsideration has elapsed; (2) a proper verification from Mr. Alberto Tariga, Jr. of the Judicial Records Division that there was no motion for reconsideration filed; and (3) Justice Corona Ibay-Somera, the ponente of the case, made a marginal note on intervenor Tolentino's motion for reconsideration that "ENTRY OF JUDGMENT ENTERED". She was officially furnished a copy of the plaintiff-appellant's motion only on June 22, 1998, which she promptly reported to Justice Ibay-Somera.[2]

Respondent Trambulo, on the other hand, denied that she was arrogant or belligerent when she attended to complainant and his counsel. Her speaking in a loud manner was meant to emphasize the reason why she cannot issue the requested certification, owing to her failure to verify complainant's motion for reconsideration from the rollo of the case. Moreover, the said motion for reconsideration was properly received, recorded and delivered by her staff from the Receiving Section to the Civil Cases Section. Thus, any tampering of the docket book and the loss of complainant's motion for reconsideration was beyond her control since it did not happen in her section.[3]

Respondent Herais claimed that when he received the motion for reconsideration filed by plaintiff-appellant from the Receiving Section, he immediately recorded it in the docket book of the Civil Cases Section. Afterwards, he placed the motion, together with the other motions received on that day, on top of the table of Mr. Augusto Alba, the rollo clerk. He alleged that he only learned of the loss of plaintiff-appellant's motion for reconsideration after complainant's counsel inquired about it.[4]

This complaint was referred to then Acting Presiding Justice of the Court of Appeals (now retired Associate Justice of this Court) Arturo B. Buena for investigation, report and recommendation. Justice Buena in turn directed Atty. Elisa B. Pilar-Longalong, Assistant Clerk of Court, to conduct the investigation.

After the investigation, Atty. Pilar-Longalong found that respondent Atty. Abella exercised due diligence before issuing the entry of judgment. She waited for the lapse of the reglementary period to file a motion for reconsideration and considered the mailing time allowance provided in Section 6, Rule 11 of the Revised Internal Rules of the Court Appeals.

On the other hand, Atty. Pilar-Longalong found respondent Trambulo's actions unjustified. As Chief of the Receiving Section, she could have easily verified whether the motion for reconsideration filed by plaintiff-appellant was indeed recorded in the Receiving Sections' logbook. Furthermore, it appears from the record that while the intervenor's motion for reconsideration was stamped "received" by the Receiving Section, it was not recorded in its logbook. Nevertheless, the record shows that the intervenor's motion was forwarded to the Judicial Records Division. Hence, Atty. Pilar-Longalong recommended that respondent Trambulo should exercise closer supervision over her personnel.

Finally, Atty. Pilar-Longalong found that the testimony of respondent Herais is contrary to what appears in the record. While he claimed that the plaintiff-appellant's motion for reconsideration was recorded in the docket book on June 1, 1998, the index card of CA-G.R. CV No. 46153 in the possession of the rollo clerk shows that the motion for reconsideration was entered only on June 5, 1998. Moreover, since it was respondent Herais who was last seen handing the motion for reconsideration to the rollo clerk, he must bear the responsibility for its loss. His act of placing the motion on top of the table of Mr. Alba without asking the latter to acknowledge receipt thereof constituted negligence.

On September 4, 1998, Atty. Pilar-Longalong submitted her Report to Justice Buena with the recommendation that:

Premises considered, it is respectfully recommended that:

- The case of grave misconduct against respondent Virginia C. Abella be dismissed for lack of merit;

- While respondent Olimpia V. Trambulo is not shown to have committed any act constituting grave misconduct, nevertheless, she may be held liable for discourtesy and willful refusal to issue the requested certification for which she may be reprimanded and sternly warned against a repetition of said or similar acts in the future. Likewise, the office may consider requiring her to henceforth exercise closer supervision over her personnel; institute remedial measure, if warranted, on the manner by which her personnel discharge their respective functions; and correct existing procedures in her Section to avoid the occurrence of similar incidents in the future;
- While respondent Ferdinand C. Hiramis is not shown to have committed any act constituting grave misconduct either, nevertheless, he may be held liable for negligence in the discharge of his official functions for which he may be imposed the penalty of one month suspension; and
- As a necessary incident/consequence of the foregoing findings in the case, to:
  - Require the personnel of the Civil Cases Section, specifically Messrs. Augusto Alba and Reynaldo Faraon, although not respondents in the case, to henceforth indicate in their index cards and logbooks the name of filers of the pleadings received by them;
  - Admonish Mr. Alberto Tarigan (should read "Tariga") of the Civil Cases Section who, although not a respondent in this case either, but whose erroneous report resulted in the premature entry of judgment, to henceforth be more careful in verifying pleadings and in reporting to the Division clerks, as his reports are made the basis of the entries made by the latter, so as to avoid the occurrence of the same or similar incidents in the future; and
  - Require the chiefs of the Judicial Records Division and the Civil Cases Section to take all necessary remedial measures and adopt new internal procedure, if needed, among their personnel to prevent the tampering of entries in the books under their care and responsibility and/or loss of pleadings within their respective offices.[5]

Justice Buena adopted the foregoing report and recommendation as his own and transmitted the same to the Court Administrator.[6]

The Court Administrator agreed with the findings of Justice Buena and further recommended that Mr. Alberto Tariga, Jr. should be included as respondent in the case since it appears that he participated in the preparation of the erroneous report which became the basis for the premature entry of judgment.[7]

On July 12, 1999, a resolution was issued dismissing the charges insofar as respondent Atty. Virginia Abella is concerned and ordering the inclusion of Alberto Tariga, Jr. as respondent, who was required to file a Comment on the aforesaid complaint.[8]

In his Comment,[9] respondent Tariga averred that he was not responsible for the docketing and reporting of motions and pleadings received by the Court of Appeals. When the Division Clerk of Court inquired whether a motion for reconsideration was filed by plaintiff-appellant, he replied that only the motion for reconsideration filed by intervenor Tolentino was recorded in the docket book and attached to the rollo.

We agree with the recommendation of the Court Administrator.

The conduct required of court personnel must always be beyond reproach and circumscribed with the heavy burden of responsibility.[10] The image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women who work therein, from the judge to the lowest of its personnel; hence, it becomes the imperative and sacred duty of each and everyone in the court to maintain its good name and standing as a true temple of justice.[11]

In *Perez v. Cunting*,<sup>[12]</sup> it was held that the Court will not hesitate in reprimanding court personnel for discourtesy to the public, to wit:

Under Rule XIV, Sec. 23 of the Civil Service Law and Rules,<sup>[13]</sup> a first offense of discourtesy, which is a light penalty, in the course of one's official duties shall be meted the penalty of reprimand. In *Peñalosa v. Viscaya, Jr.*,<sup>[14]</sup> respondent deputy sheriff was reprimanded for gross discourtesy in connection with his actuation towards the complainant (therein private complainant in a criminal case) when the latter requested for an explanation for his failure to serve a warrant of arrest upon the accused. In *Paras v. Lafranco*,<sup>[15]</sup> the respondent, Clerk III of a lower court, was charged with discourtesy and conduct unbecoming a court employee for her acts and utterances directed against the complainant, the counsel for the accused in a pending case before said court. This Court found the arrogant gesture and discourteous utterances of respondent in treating the complainant to be improper. Accordingly, it imposed on respondent the penalty of reprimand. In *Reyes v. Patiag*,<sup>[16]</sup> respondent clerk of court was censured for discourtesy for two acts, when, in a very rude manner, she denied complainant's request to see the records of a civil case and treated her as if she was not an interested party by telling complainant that she seemed to be more knowledgeable than the court because complainant asked why a "preliminary investigation," actually a preliminary examination, was necessary.

In the same vein, we cannot tolerate the discourteous manner shown by respondent Trambulo when she spoke to complainant in a loud voice. Discourtesy and disrespect have no place in the judiciary.<sup>[17]</sup> Even if there was a logical justification for her to refuse to issue the said certification, there was no reason for her to display such a high-strung conduct. She should have been more circumspect in attending to the needs of complainant. As a public officer, she is bound, in the performance of official duties, to observe courtesy, civility, and self-restraint in her dealings with the public, even when confronted with rudeness and insolence.<sup>[18]</sup>

As for respondent Tariga, his erroneous report that there was no motion for reconsideration of the Resolution in CA-G.R. CV No. 46153 served as the basis for the premature issuance of the entry of judgment. As correctly pointed out by Atty. Pilar-Longalong and the OCA, his participation in the irregularities committed in this case was indispensable.

We likewise agree with the finding that respondent Herais was negligent in the discharge of his duty when he received, recorded and forwarded the motion for reconsideration of plaintiff-appellant to Mr. Augusto Alba, the rollo clerk of the Court of Appeals. Being in the Records Division, respondent Herais was tasked to faithfully keep track of the whereabouts of pleadings and other judicial records. He admitted that he deliberately did not ask the rollo clerk to acknowledge receipt of the pleading. In so doing, he failed to realize that the performance of his duties is essential to the prompt and proper administration of justice. His neglect of duty did not only derail the administration of justice; it also eroded public faith in the judiciary.

WHEREFORE, in view of all the foregoing, the Court Resolves to:

(a)

REPRIMAND respondent Olimpia V. Trambulo, Chief, Receiving Section of the Court of Appeals, for discourteous conduct;

(b)

ADMONISH respondent Alberto Tariga, Jr., Verification Clerk of the Court of Appeals, to be more circumspect in verifying pleadings and submitting reports to the Division Clerks; and

(c)

SUSPEND Ferdinand Herais, Clerk, Civil Case Section of the Court of Appeals, for one month without pay for

negligence of official duty.

The Judicial Records Division and the Civil Cases Section of the Court of Appeals are directed to institute remedial measures for the proper custody and handling of pleadings and other judicial records under its supervision to avoid similar incidents in the future.

All the respondents are hereby STERNLY WARNED that a repetition of the same or similar acts will be dealt with more severely.

**SO ORDERED.**

Davide, Jr., C.J., (Chairman), Vitug, Carpio, and Azcuna, JJ., concur.

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[1] Rollo, pp. 2-4.

[2] Id. at 107-111.

[3] Id. at 80-81.

[4] Id. at 85-87.

[5] Id. at 71-80.

[6] Id. at 68.

[7] Id. at 179-187.

[8] Id. at 191-192.

[9] Id. at 93.

[10] Atty. Dajao v. Lluch, A.M. No. P-02-1570, 3 April 2002.

[11] Vda. De Velayo v. Ramos, A.M. No. P-99-1332, 17 January 2002; Ibay v. Lim, A.M. No. P-99-1309, 11 September 2000, 340 SCRA 107, 113; citing Dionisio v. Gilera, A.M. No. P-99-1330, 12 August 1999, 312 SCRA 287, 296; Sy v. Cruz, 321 Phil. 236, 241-242 [1995].

[12] A.M. No. P-02-1630, 27 August 2002.

[13] Book V, Executive Order No. 292.

[14] A.M. No. P-1391, 31 July 1978, 84 SCRA 298.

[15] A.M. No. P-01-1469, 26 March 2001, 355 SCRA 49.

[16] A.M. No. P-01-1528, 7 December 2001.

[17] Supra, note 14.

[18] Supra, note 13.

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