

MARIE ELEONORE S. PUTULIN, COMPLAINANT, VS. JUDGE ARTURO U. BARIAS, JR., PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 38, MANILA, AND MA. CECILIA AUSTRIA-CHUA, BRANCH 38, MANIL...

A.M. No. RTJ-93-1074. May 23, 1994

Ponente: QUIASON, J.

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QUIASON, J.:

In an amended complaint, Marie Eleonore S. Putulin charged Judge Arturo U. Barias, Jr. of the Regional Trial Court, Branch 38, Manila, with delay in resolving the motion for issuance of the alias writ of execution pending appeal and in deciding the appealed case docketed as Civil Case No. 88-45659. Complainant also charged Ma. Cecilia Austria--Chua, the Branch Clerk of Court, with failure to deposit the manager's check for the back rentals paid in said civil case and with her inaction relative to the said motion for issuance of the alias writ of execution.

I

Complainant averred that:

On June 3, 1988, the Metropolitan Trial Court of Manila decided in her favor the ejectment case she filed against the spouses Florentino and Iluminada del Rosario (Civil Case No. 122108-CV). On appeal, the case was raffled to Branch 38 of the Regional Trial Court, Manila.

Complainant filed a motion for the issuance of a writ of execution pending appeal dated July 26, 1988 on the grounds that the defendants failed to post a supersedeas bond and to make the required monthly rental deposits. To their opposition to the motion dated September 2, 1988, the defendants attached a manager's check issued by the Allied Banking Corporation in the amount of P20,900.00, and payable to the Regional Trial Court as deposit for back rentals. Complainant filed a memorandum in support of the motion for the issuance of a writ of execution and for the deposit of the manager's check by the Branch Clerk of Court. On October 5, Judge Natividad Adduro-Santillan overruled the opposition and ordered the issuance of a writ of execution pending appeal. On November 8, the court denied the defendants' motion to set aside.

On November 28, the defendants filed with the Court of Appeals a petition to set aside the Order dated November 8, 1988 (CA-G.R. SP No. 16209). The petition was, however, dismissed.

On June 26, 1989, Judge Adduro-Santillan retired and was replaced by Judge Pedro R. Legazpi, who in turn was replaced by respondent Judge.

In a letter sent by registered mail (Reg. No. 9632), complainant's counsel furnished respondent Branch Clerk of Court with a copy of the letter sent by him to Allied Banking dated April 18, 1992, inquiring whether the manager's check had been deposited. This letter was received by the mailing section of the Regional Trial Court on April 23, 1992.

After receiving a negative reply from the bank to his letter, complainant's counsel sent another letter to respondent Branch Clerk of Court dated June 10, 1992, requesting that the manager's check be promptly deposited and notice of such deposit be sent so that the money could be withdrawn.

On December 8, complainant filed a motion for the issuance of an alias writ of execution which was set for hearing on December 11. No action was taken by respondent Judge on said motion or on the appeal of the defendants. Likewise respondent Judge did not inform complainant whether the manager's check had been deposited (Amended Complaint, p. 4).

Respondents commented that:

When Civil Case No. 88-45659 was filed and the manager's check was deposited, respondent Judge was not yet the presiding judge of Branch 38 and respondent Branch Clerk of Court had not yet been appointed to said position. The check, which was attached to the pleading filed by the defendants, was received by the legal researcher, Henry P. Gofredo, then the officer-in-charge of the Office of the Branch Clerk of Court, who, in turn, kept the check in the vault. When the letter dated June 10, 1992 was received by the court, respondent Branch Clerk of Court was on maternity leave and respondent Judge was not apprised of said letter. They came to know of its existence only when this administrative complaint was filed against them. They endeavored to deposit the check but the bank did not accept it because it was already stale.

With respect to their failure to act on the motion for issuance of an alias writ of execution, respondents claimed that said motion was never received by them, particularly pointing to the log book which did not contain an entry regarding the receipt of said motion (Comment and Supplemental Comment).

In reply, complainant asserted that:

Contrary to respondents' allegations, respondents received a copy of her letter enclosing the letter dated April 18, 1992 and the motion for the issuance of an alias writ of execution, as evidenced by the certifications of the Post Office to that effect. The registry return cards for both mail matters were signed by a certain Luis Orencia, an employee of the Regional Trial Court (Addendum to "Supplement to Complainant's Position Paper").

Respondents countered that:

Branch 38 had no personnel by the name of Luis Orencia and reiterated their claim that they had not received the letter in question (Joint Comment to the Supplement and Addendum To Complainants Position Paper/Memorandum).

II

There are two administrative charges levelled against respondent Judge namely: (1) that he failed to act on the motion for issuance of the alias writ of execution; and (2) that he failed to decide the appeal in Civil Case No. 88-45659.

There is no evidence to show that complainant's motion for the issuance of an alias writ of execution ever reached the attention of respondent Judge. As found by the Office of the Court Administrator:

"Upon proper verification, it was discovered that indeed no motion for the issuance of the alias writ of execution was received by any of the court employees of RTC, Branch 38, Manila, hence, the respondent Judge cannot be held guilty of delay in resolving the motion. Although Luis Orencia, Clerk III, Office of the Clerk of Court, RTC, Manila, who is the Officer-in-Charge of the mailing section, admitted that he signed registry return receipt No. 15674, the document representing the said receipt was however turned over to the employee assigned with the handling of mail and other papers of RTC, Branch 38, Manila and all other RTC

branches stationed at NAPOCOR. Unfortunately, the personnel assigned failed to maintain a record book for pleadings and other papers forwarded to RTC Branches holding offices at NAPOCOR, thereby, it cannot be ascertained whether or not the motion filed by the complainant herein was actually given to RTC, Branch 38, Manila."

We cannot help noting that complainant was partly to blame for the delay in the resolution of the motion for issuance of the alias writ of execution, as well as the appeal in the ejectment case itself. When she set the motion for the issuance of the alias writ of execution for hearing on December 11, 1992, she should have appeared thereat and informed the court of the necessity of acting forthwith on the said motion. For so important a motion, complainant should not have assumed that it would be placed in the motion calendar and be granted as a matter of course. If she could not appear on the scheduled date of the hearing of the motion for one reason or another, she should have made inquiries at the first opportunity as to the action taken by the court on her motion. If she had done so, she could have found out that the said motion, while received by the mailing section of the Regional Trial Court, had not been sent to and received by Branch 38.

Anent the charge that respondent Judge has failed to decide Civil Case No. 88-45659, it appears that the said case was assigned to Branch 38 before his appointment to said branch. This Court has taken cognizance of the backlog of "inherited" cases and is finding measures to dispose of them. However, where a judge is appointed to a court, the parties may assist in the prompt administration of justice by informing him of the pending matters that need his immediate attention. The records do not show that complainant has done so.

The administrative charge against respondent Branch Clerk of Court dealt with her failure to bring to the attention of the presiding judge the motion for issuance of an alias writ of execution and to deposit the manager's check, causing it to become stale.

As adverted to before, the evidence on record does not show that the motion was received by Branch 38. On the other hand, the manager's check was deposited with Branch 38 before respondent Branch Clerk of Court assumed such position and when the letter dated June 10, 1986 was sent, she was on maternity leave. Likewise, there is no showing that she received the letter dated April 18, 1992.

However, it is incumbent on respondent Branch Clerk of Court to see to it that there is an orderly and efficient record management in her office and that the personnel under her supervision function effectively even in her absence.

WHEREFORE, the Court Resolved: (1) to DIRECT respondent Judge to take immediate action on all pending matters in connection with Civil Case No. 88-45659; and (2) to ADVISE respondent Branch Clerk of Court to set up an orderly and efficient record management in her office.

SO ORDERED.

Davide, Jr., Bellosillo, and Kapunan, JJ., concur.

Cruz, J., (Chairman), on leave.

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