

**ESPINA & MADARANG CO. & MAKAR AGRICULTURAL
COMMERCIAL & DEVELOPMENT CORP. (MAKAR),
REPRESENTED BY RODRIGO A. ADTOON, PETITIONERS, VS. HON.
CADER P. INDAR AL HAJ, JUDGE, REGIONAL...**

A.M. NO. RTJ-07-2069 (FORMERLY OCA I.P.I. NO. 05-2257-RTJ). December 14, 2011

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

Before the Court is an administrative case against respondents Judge Cader P. Indar Al Haj (Judge Indar) and Officer-in-Charge (OIC) Clerk of Court Abie M. Amilil (Amilil), both of the Regional Trial Court (RTC), Branch 14, Cotabato City, filed by complainants Espina & Madarang Company and Makar Agricultural Commercial & Development Corporation, represented by Rodrigo A. Adtoon (complainants). In a verified complaint[1] dated April 12, 2005, complainants charged respondents Judge Indar and Amilil with serious misconduct, grave abuse of discretion, oppression, evident bad faith, manifest partiality and gross ignorance of the law in connection with the issuance of an Order[2] dated February 14, 2005 in Special Proceeding No. 2004-074, entitled In the Matter of Insolvencia Voluntaria de Olarte Hermanos y Cia, Heirs of the Late Alberto P. Olarte, etc., Petitioners.

As gathered from the complaint and the subsequent documents filed, the antecedent facts of the case, originally docketed as OCA-I.P.I. No. 05-2257-RTJ, are as follows:

On August 23, 1929, Olarte Hermanos y Cia (Olarte Hermanos) entered into a contract of loan and mortgage with El Hogar Filipino whereby the former mortgaged to the latter a parcel of land in Makar, Cotabato City and covered by Original Certificate of Title (OCT) No. 12 to secure a loan of P160,000.00. When Olarte Hermanos defaulted in its payments on the loan, El Hogar Filipino filed an action for judicial foreclosure of the mortgage. On August 17, 1932, the mortgage was ordered foreclosed and the decision became final on January 6, 1933.

On August 21, 1933, Olarte Hermanos filed a petition for voluntary insolvency, Insolvency Case No. 90, entitled In the Matter of Insolvencia Voluntaria de Olarte Hermanos y Cia. On August 28, 1933, Olarte Hermanos was declared insolvent and the sheriff was ordered to take possession of all properties, books of accounts, and furniture of the insolvent corporation.

On October 14, 1933, the mortgaged property of Olarte Hermanos was sold at public auction with El Hogar Filipino as the highest bidder. The sale was confirmed by the court on December 24, 1933. Thereafter, El Hogar Filipino sold the land to Salud, Soledad, Mercedes and Asuncion, all surnamed Espina (the Espina sisters). Sometime in 1958, the Espina sisters sold the same to Makar Agricultural Corporation, which in turn sold a portion to Espina and Madarang Company.

The insolvency case was archived without having been terminated with the onset of World War II.

On November 18, 1983, Alberto Olarte, Sr. (Olarte) filed a motion for the appointment as receiver of the insolvent corporation. Judge Eduardo P. Singayao (Judge Singayao), then the Presiding Judge of RTC, Branch 14, Cotabato

City, granted said appointment of Olarte and re-docketed the case as Spl. Proceeding No. 2004-074. Subsequently, Rodolfo Pascual (Pascual) also petitioned the court to be a co-receiver of Olarte Hermanos. As receivers, Olarte and Pascual took possession of the assets of the corporation, among which was the piece of land covered by OCT No. 12. A portion of this land was, however, already registered in the name of herein complainants after the sale from the Espina sisters.

On December 7, 1983, Judge Singayao issued an order^[3] to the Provincial Sheriffs of Maguindanao and Cotabato City to place the receivers in possession of the property covered by OCT No. 12, as well as all subdivisions and portions thereof, its fruits and all proceeds of the sale of any portion of the property, and to submit to the court an inventory of any assets of the insolvent corporation.

Herein complainants then filed a petition for certiorari before the Intermediate Appellate Court, docketed as CA-G.R. SP No. 02613 and entitled *Espina & Madarang Co. v. Judge Eduardo Singayao*. On November 21, 1985, the Court of Appeals nullified and set aside the said orders of Judge Singayao and declared as permanent the writ of preliminary injunction it issued against Judge Singayao from implementing its orders.^[4] It held thus:

We are of the opinion that the order of 7 December 1983 was issued with grave abuse of discretion as it was issued without affording petitioners and other interested parties a chance to be heard thereon despite the fact that the circumstances demanded such a hearing. The order in effect nullified a mortgage contract entered into more than fifty (50) years ago and which had not been challenged all that time. The order set aside judicial foreclosure proceedings terminated more than fifty (50) years ago which has in its favor at least the presumption of regularity, especially when the proceedings were had in the very same court where the insolvency proceeding was pending. The order nullified the mortgage contract entered into fifty (50) years earlier on the sole representation of private respondent Alberto Olarte that his brother, Jose Olarte, was not authorized to enter into the mortgage contract, and that his (Alberto Olarte's) signature in the Board Resolution authorizing the mortgage was forged, without receiving evidence, or hearing petitioners, on the truth of such representation considering the rather belated accusation of Alberto Olarte. The order dispossessed present owners and possessors of the property in question who have held title thereto prior to said order and had been in peaceful and unquestioned possession of their respective holdings all that time, some of whom have not even been made parties to the insolvency case. The order does not only transfer possession of the property to private respondents, but directs that the proceeds of the sales thereof through the years be turned over to private respondents. By this, private respondents would have their cake and eat it too. The respondent Court correctly assessed the prejudicial effects of the questioned order when it set said order aside on 3 January 1984, for the reasons "that the right(s) of third parties are affected and considering further that the enforcement of the Order of (the) Court dated December 7, 1983 might cause deprivation of property without due process of law of third parties who are not impleaded in this case, and for the court to be given an opportune time to review the entire records of the case and hear the parties and their respective counsels."

x x x x

WHEREFORE, the orders of 7 December 1983 and 12 January 1984 and the first order of 30 January 1984 advising Branch XXII of the RTC of General Santos City to stay all proceedings in Civil Case No. 2866 are declared null and void and are set aside.

The portion of the second order of 30 January 1984 denying Makar's motion to transfer the insolvency proceedings to the RTC in General Santos City is declared as valid, but the portion lifting the order of 3 January 1984 and directing the Register of Deeds of General Santos City to comply with the order of 7 December 1983, is declared null and void and is set aside.

The writ of preliminary injunction issued by this Court is hereby made permanent.^[5]

This decision of the Court of Appeals was appealed to the Supreme Court via a petition for review on certiorari,

which was docketed as G.R. No. 73457. On August 13, 1986, said petition was dismissed for lack of merit. Thereafter, the decision of this Court became final and executory on September 22, 1986.

After almost twenty years, in February 2005, new incidents transpired in connection with the case.

In the Order dated February 14, 2005, respondent Judge Indar, now the Presiding Judge of RTC, Branch 14 of Cotabato City, granted an ex parte petition for the issuance of a writ of possession filed by the heirs of Olarte to revive the December 7, 1983 Order of Judge Singayao. In full, said order reads:

This is an action for Execution of the Order dated December 7, 1983, directing the registration thereof with the Registry of Deeds of General Santos City, the dispositive portion [of] which is hereunder quoted:

WHEREFORE, in pursuance of the Civil Code and the Insolvency Law, order is hereby issued, to the Register of Deeds of General Santos City, to annotate the deletion on the registry of book and on the face of Certificate of Title No. 12 and all subsequent titles derived therefrom, the annotation of the cancellation thereof by Transfer Certificate of Title No. 886 and annotation of the mortgage by virtue of this order.

Further, order is hereby issued to the Provincial Sheriffs of Maguindanao and Cotabato City, to place the receiver appointed by the Court in possession of the property covered by Certificate of Title No. 12 and/or covered by titles derived therefrom and all proceeds of the sale thereof of portions of the same and all its fruits[.]

Finally, order is issued to the receiver to register this Order with Register of Deeds of General Santos City, and to take possession of the property covered by Certificate of Title No. 12, all subdivisions and portions thereof, its fruits and all proceeds of the sale thereof or any portion of the same to submit to the Court an inventory of any assets of the insolvent that comes to this possession.

SO ORDERED.

Given at Cotabato City, Philippines, this 7[th] day of December 1983.

SGD. EDUARDO P. SINGAYAO
Regional Trial Court Judge

The issue in the instant case is whether or not the final and executory order can be implemented after the lapse of the 5-year and/or 10-year prescriptive period provided for under Rule 39 -

Section 6. Execution by motion or by independent action.

A final and executory judgment or order may be executed on motion within Five (5) years from the date of its entry. After the lapse of such time and before it is barred by the statute of limitations, a judgment may be enforced by action. The revived judgment may also be enforced by motion within Five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations.

The former Presiding Judge of this Court denied this action and the petitioners filed a Motion for Reconsideration of the order of denial on October 7, 2004, which issue was left unresolved that prompted the petitioners to file a Supplemental Motion now submitted for the consideration by this Court;

The petitioner posited that Section 6 of Rule 39 of the Rules on Civil Procedure is not applicable to Special Proceedings in land registration and cited are jurisprudence of the Honorable Supreme Court hereunder quoted:

"Neither this section is applicable to Special Proceedings such as land registration cases, hence, the right to ask for a writ of possession therein never prescribes (CF Heirs of Marcos vs. De Banwar, L-22110, September 28, 1968, Sta. Ana vs. Menia, L-15564, April 23, 1961)."

The Five-year limitation rule for the execution on motion of judgment does not apply to special proceedings, like Cadastral proceedings (Rodil vs. Benedicto 95 SCRA, January 22, 1980);

Further the petitioners in the Supplemental Motion for Execution argued that while the statute of limitations may constitute a bar to its execution, however, this is thoroughly explained and amplified by petitioners in their petition and in the motion for execution.

Consequently, this Court resolves to GRANT the petition. The Order sought to be implemented has become final and executory, and therefore, a ministerial duty of this Court to order its execution directing the Provincial Sheriff to execute the Order dated December 7, 1983.[6]

On March 4, 2005, respondent Amilil issued a Certificate of Finality[7] of the Order dated February 14, 2005, stating therein that neither a motion for reconsideration nor an appeal had been filed within the fifteen (15)-day reglementary period.

It appears, however, that on February 28, 2005, complainants as intervenors in the case below, filed by registered mail a Motion for Reconsideration and To Set Aside Order of February 14, 2005.[8] Said pleading was received by the lower court on March 7, 2005.[9] Complainants stated that "[t]he order dated December 7, 1983 issued by Judge Eduardo P. Singayao in Sp. Case No. 90 was declared NULL AND VOID and set aside by the Court of Appeals in CA-GR No. 02613 entitled, Espina and Madarang Company v. Judge Eduardo Singayao in its decision dated November 21, 1985." [10] Complainants explained further that the said decision of the Court of Appeals, when appealed to the Supreme Court in G.R. No. 73457, was dismissed for lack of merit on August 13, 1986.

Complainants also filed a Motion to Withdraw or Revoke Certificate of Finality[11] dated March 5, 2005, alleging that:

The intervenors, Makar Agricultural Corporation and Espina and Madarang Company by counsel respectfully move the Honorable Court to order the Withdrawal or Revocation of the "Certificate of Finality" of the Order of this Honorable Court dated February 14, 2005 and in support of this motion respectfully allege: THAT -

- The Intervenors were not served a copy of the order of this Honorable Court dated February 14, 2005 granting petitioner's [the Olarte heirs'] motion for "enforcement" of the VOID order of Judge Eduardo Singayao dated December 7, 1983 declared NULL and VOID by the Court of Appeals in CA-GR No. 02613.
- The Intervenors whose appearance in the case was approved by the Honorable Court filed a motion for reconsideration on February 28, 2005 by Registered Mail per Registry Receipt No. 3180 of the Gen. Santos City Post Office. Hence, said order has not become final and executory and the Sheriff should not yet comply with the said order which was declared by the Court of Appeals and affirmed by the Supreme Court NULL and VOID and permanently enjoined from execution.
- The Clerk of Court, Abie M. Amilil, should be advised to immediately withdraw his certification.
- Further, the insolvency case was ordered terminated and closed by Judge Japal Guiani on March 4, 1987 and affirmed by the Supreme Court in G.R. No. 80784 promulgated on August 2, 1984, copy of which is hereto attached as Annex "A".

Thus, in an Order[12] dated April 12, 2005, respondent Judge Indar reconsidered and set aside his Order dated February 14, 2005 for the execution of the Order dated December 7, 1983 by Judge Singayao. Respondent Judge Indar also ordered the recall of the Certificate of Finality issued by respondent Amilil.

Not satisfied with the recall of the said orders, complainants filed the instant administrative case charging respondents Judge Indar and Amilil with serious misconduct, grave abuse of discretion, oppression, evident bad faith, manifest partiality and gross ignorance of the law. Complainants allege that respondents Judge Indar and

Amilil are "guilty of violating the permanent writ of injunction which the Intermediate Appellate Court issued in CA-G.R. SP No. 02613 and affirmed by the Honorable Supreme Court in G.R. No. 73457, (which voided the December 7, 1983 order of Judge Singayao), by resurrecting the same in an order issued ex parte on February 14, 2005, and directed the implementation thereof, despite knowledge of its nullity." [13]

In their undated Comment,[14] respondents Judge Indar and Amilil deny the allegations in the complaint. Respondent Judge Indar claims that since the filing of the petition to revive the case was made on May 3, 2004, neither party made any reference to the fact that the Order dated December 7, 1983 of Judge Singayao had been nullified and set aside by the Court of Appeals and the Supreme Court. He also asserts that he issued the Order dated February 14, 2005 on the ground that he found the party's motion for execution meritorious. It was only when complainants filed a motion for reconsideration to set aside the said order did he come to know of the said Court of Appeals and Supreme Court decisions. Respondent Judge Indar intimated that he even had to go through six volumes of rollo in the bodega and verify with the Court of Appeals the authenticity of its decision dated November 21, 1986 since what he found attached to the records was an unreadable and uncertified copy of the said decision.

Respondents Judge Indar and Amilil contend that the administrative case filed against them is designed to harass and malign them. They allege that two other complaints have been filed against them by the complainants - for indirect contempt before the Court of Appeals, and for graft and corruption before the Ombudsman for Mindanao. Thus, respondents Judge Indar and Amilil also seek the disbarment of complainants' counsels for allegedly being dishonest and in bad faith when they filed the instant administrative case.

In the Resolution[15] dated July 25, 2007, this Court resolved, among others, to re-docket the administrative complaint as a regular administrative matter and to refer the case to the Executive Justice of the Court of Appeals, Cagayan de Oro Station, for raffle among the Justices for investigation, report and recommendation within sixty (60) days from receipt of records thereof.

Immediately thereafter, Associate Justice Elihu A. Ybañez of the Court of Appeals, to whom the instant case was raffled, sent notices to the parties for the setting of the hearings on October 17, 18 and 19, 2007.[16]

Respondents Judge Indar and Amilil filed a Manifestation for the Dismissal of Complaint for Being Moot and Academic and Charging complainants' Counsel for Forum Shopping,[17] stating that respondent Judge Indar would be attending the Philippine Judges Association 2007 Convention in Manila and would then be unavailable for hearing on the said dates.

Thus, on October 17, 2007, only counsel for complainants appeared and submitted a Motion to Withdraw Complaint[18] dated October 9, 2007. In the meantime, the scheduled settings on October 18 and 19, 2007 were also cancelled.

Respondents Judge Indar and Amilil also filed a Manifestation for Withdrawal of Counter-Complaint Against Atty. Nilo J. Flaviano[19] dated October 16, 2007, seeking the withdrawal of their counter-complaint against the complainants' counsel "[a]s a matter of goodwill reciprocity to complainant's (sic) counsel's good faith." [20]

In the Resolution[21] dated November 7, 2007, Investigating Justice Ybañez denied complainants' motion to withdraw complaint, arguing that the court's disciplinary authority over its officials and employees cannot be dependent on or frustrated by private arrangements between the parties, and that an administrative complaint cannot be simply withdrawn at any time by the complainants because there is a need to maintain the faith and confidence of the people in the government and its agencies and instrumentalities.

Consequently, schedule for the hearings was again set for November 14 and 15, 2007. Parties were also warned

that failure to appear at the hearings and to present their evidence on the said dates shall be construed as a waiver of their right to present evidence, in which event the case will be determined on the basis of available records.

On November 14, 2007, only Rodrigo A. Adtoon, complainants' representative, appeared. He informed the Investigating Justice that their counsel was indisposed and reiterated the withdrawal of the complaint but presented no authority to the effect that complainants were no longer interested in pursuing their complaint. Thus, the Investigating Justice considered the case submitted for resolution.[22]

Thereafter, in a Report[23] dated December 10, 2007, Investigating Justice Ybañez made the following recommendation:

Recommendation

The facts established from the records of the case and the pleadings filed before the Investigating Justice are insufficient to support a finding of gross ignorance of the law on the part of the respondent Judge. To be held liable therefore, "the judge must be shown to have committed an error that was gross or patent, deliberate and malicious." Respondent Judge may have erred in the issuance of the February 14, 2005 Order, but such error has not been shown to be gross or patent. Neither is there any clear and sufficient basis for finding respondent Judge liable for gross negligence and issuance of an unjust interlocutory order. He cannot, however, be completely absolved of administrative liability.

The respondent Judge displayed conduct that fell short of the standards expected of a magistrate of the law. A judge should be industriously devoted to the study of the law, for having accepted his position, he owes it to the dignity of the court he sits in. It is indeed demanded that a judge should strive for excellence. To keep the idealism alive and the passion burning, a judge need not only remind himself of this stirring message on who is fit to be a judge: "A man of learning who spends tirelessly the weary hours after midnight acquainting himself with the great body of traditions and the learning of the law."

In the present case, respondent Judge was remiss in his duty to be attentive, patient, studious and careful to diligently ascertain the facts. He should thus be CENSURED because the Code of Judicial Ethics requires him to observe due care in the performance of his official functions and to be the embodiment of, among other desirable characteristics, judicial competence. His Order dated April 12, 2005 setting aside the Order dated February 14, 2005 and recalling the Certificate of Finality dated March 4, 2005 notwithstanding.

As regards the respondent OIC Branch Clerk of Court, the records and the pleadings filed before the Investigating Judge have established his administrative liability. From his failure to inform the Judge of the existence of the IAC and SC Decisions nullifying the December 7, 1983 Order of the Court despite knowledge thereof, failure to make sure that parties were furnished a copy of the court orders as OIC Branch Clerk of Court, particularly the February 14, 2005 Order which complainants were not furnished a copy thereof, and questionable haste in the issuance of Certificate of Finality, respondent OIC Branch Clerk of Court should thus be **SUSPENDED FOR TWO (2) MONTHS WITHOUT PAY** with a stern warning that repetition of the same shall be dealt with more severely.[24]

The findings of Investigating Justice Ybanez are well taken. We, however, modify the penalties imposed upon respondents Judge Indar and Amilil, consistent with Rule 140 of the Rules of Court.

In *Judge Salvador v. Serrano*,[25] we ruled, thus:

This Court stresses once more that the administration of justice is a sacred task; by the very nature of their duties and responsibilities, all those involved in it must faithfully adhere to, hold inviolate, and invigorate the principle solemnly enshrined in the 1987 Constitution that a public office is a public trust and all public officers must at all times be accountable to the people and serve them with utmost responsibility, integrity, loyalty and efficiency. It condemns and would never countenance any conduct, act or omission on the part of

all those involved in the administration of justice which would violate the norm of public accountability and would diminish or even just tend to diminish the faith of the people in the Judiciary. Thus, every employee or officer involved in this task should be circumscribed with the heavy burden of responsibility and their conduct must, at all times, be above suspicion.[26]

Here, respondent Judge Indar failed to conform with the high standards of competence and diligence required of judges under Canon 3 of the Code of Judicial Conduct, particularly the following Rules:

Rule 3.01. A judge shall be faithful to the law and maintain professional competence.

Rule 3.02. In every case, a judge shall endeavor diligently to ascertain the facts and the applicable law unswayed by partisan interest, public opinion or fear or criticism.

Rule 3.08. A judge should diligently discharge administrative responsibilities, maintain professional competence in court management, and facilitate the performance of the administrative functions of other judges and court personnel.

Rule 3.09. A judge should organize and supervise the court personnel to ensure the prompt and efficient dispatch of business, and require at all times the observance of high standards of public service and fidelity.

In the instant case, respondent Judge Indar failed to exert due diligence required of him to ascertain the facts of the case before he came out with the Order dated February 14, 2005. Had he taken time and effort to read and examine the pleadings and the records of the case, he could have known that the Order dated December 7, 1983 was already nullified and set aside by the Court of Appeals.

We likewise find unsatisfactory the excuses given by respondent Judge Indar that neither the previous judges handling the case nor the parties themselves made any reference to the fact that the Order of December 7, 1983 had already been nullified and set aside, and that there were voluminous records to read and study. Respondent Judge Indar should be reminded of his personal responsibility in the making of his decisions and orders. He should not rely on anybody else for the examination and study of the records to properly ascertain the facts of each case that he handles. He cannot simply pass the blame on his staff and hide behind the incompetence of his subordinates. Moreover, respondent Judge Indar should have been more cautious since the case involved was an old inherited case with voluminous records and what was sought to be executed was an order issued almost twenty (20) years ago. It is incumbent upon him to devise an efficient court management system since he is the one directly responsible for the proper discharge of his functions.

While respondent Judge Indar had already issued an Order dated April 12, 2005 which set aside and recalled the Order dated February 14, 2005 and the Certificate of Finality dated March 4, 2005, he was still remiss of his duties to be circumspect, diligent and careful in the performance of his official functions and be the embodiment of judicial competence.

We emphasized in *Mactan Cebu International Airport Authority v. Judge Hontanosas, Jr.*[27] that:

Admittedly, judges cannot be held to account for erroneous judgments rendered in good faith. However, this defense has been all too frequently cited to the point of staleness. In truth, good faith in situations of infallible discretion inheres only within the parameters of tolerable judgment and does not apply where the issues are so simple and the applicable legal principle evident and basic as to be beyond permissible margins of error. Indeed, while a judge may not always be subjected to disciplinary action for every erroneous order or decision he renders, that relative immunity is not a license to be negligent or abusive and arbitrary in performing his adjudicatory prerogatives.[28]

Thus, this Court is in agreement with the findings of Investigating Justice Ybanez that respondent Judge Indar

displayed conduct that fell short of the standards of competence, integrity and diligence expected of a magistrate of law.

With regard to respondent Amilil, this Court agrees with the Investigating Justice that the records and pleadings filed have established his administrative liability. First, respondent Amilil failed to inform respondent Judge Indar of the existence of the Court of Appeals and Supreme Court decisions which have nullified and set aside the Order dated December 7, 1983 which was sought to be enforced. Second, he failed to inform and send the parties their respective notices and court orders particularly the Order dated February 14, 2005. Third, respondent Amilil issued the Certificate of Finality dated March 4, 2005 without verifying if indeed a motion for reconsideration was filed in connection with the case.

To reiterate, complainants filed by registered mail a Motion for Reconsideration and To Set Aside Order of February 14, 2005. It was therefore incorrect for respondent Amilil to certify that the Order dated February 14, 2005 had become final and executory because no appeal had been taken from it nor a motion for its reconsideration filed. The issuance by respondent Amilil of a false certification creates confusion since the facts were neither verified nor confirmed.

In *Atty. Legaspi, Jr. v. Atty. Montero III*,^[29] this Court expounded on the responsibility of the Clerks of Court, thus:

Under the 2002 Revised Manual for Clerks of Court, the branch clerk of court as the administrative officer of the court, among others, controls and supervises the safekeeping of court records. Moreover, Section 7, Rule 136 of the Rules of Court specifically mandates the clerk of court to "safely keep all records, papers, files, exhibits and public property committed to his charge." As custodian of the records of the court, it is the duty of the clerk of court to ensure not only that the same are safely kept in his or her possession, but also those [that] will be readily available upon the request of the parties or order of the court.

Indeed, the clerk of court is an essential officer of our judicial system. As a ranking officer of the court, he performs delicate administrative functions vital to the prompt and proper administration of justice. As custodian of judicial records, it is incumbent upon the clerk of court to ensure an orderly and efficient court management system in the court, and to supervise the personnel under his office to function effectively. A clerk of court plays a key role in the complement of the court and cannot be permitted to slacken his job under one pretext or another. In fact, it has been held that branch clerks of court are chiefly responsible for the shortcomings of subordinates to whom administrative functions normally pertaining to the branch clerk of court were delegated. Hence, clerks of court must be assiduous in performing official duty and in supervising and managing court dockets and records.^[30]

Clearly, it is respondent Amilil's duty as OIC Clerk of Court to safely keep all files, pleadings and files committed to his charge. As custodian of these records, it is incumbent upon him to see to it that court orders were sent with dispatch to the parties concerned. Respondent Amilil should ensure an orderly and efficient record management system to assist all personnel, including respondent Judge Indar, in the performance of their respective duties. Unfortunately, respondent Amilil failed to live up to these standards.

As to the penalties to be imposed upon respondent Judge Indar, this Court finds the same too light for the infractions he committed. Rule 140 of the Rules of Court provides:

SEC. 8. Serious charges. - Serious charges include:

x x x x

3. Gross misconduct constituting violations of the Code of Judicial Conduct.

SEC. 11. Sanctions. - A. If the respondent is guilty of a serious charge, any of the following sanctions may be imposed:

1. Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations. Provided, however, That the forfeiture of benefits shall in no case include accrued leave credits;
2. Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or
3. A fine of more than P20,000.00 but not exceeding P40,000.00.

To our mind, the gravity of the infractions committed by respondent Judge Indar merits a higher penalty than the censure recommended by the Investigating Justice. We likewise note that this is not respondent Judge Indar's first offense. In A.M. No. RTJ-05-1953, we imposed upon him a fine of Ten Thousand (P10,000.00) Pesos for violating Section 5, Rule 58 of the Rules of Court, when he issued a preliminary injunction without any hearing and prior notice to the parties. Thus, this Court finds respondent Judge Indar guilty of gross misconduct for committing violations of the Code of Judicial Conduct, for which we shall impose a fine of Twenty-Five Thousand (P25,000.00) Pesos.

However, with regard to the penalty imposed on respondent Amilil, we find the same commensurate with his infractions. Section 22, Rule XIV of the Omnibus Rules Implementing Book V of Executive Order 292, as amended by CSC Memorandum Circular No. 19, provides that:

SEC. 22. Administrative Offenses with its corresponding penalties are classified into grave, less grave, and light, depending on the gravity of its nature and effect on said acts on the government service.

x x x x

The following are less grave offenses with their corresponding penalties:

(a) Simple Neglect of Duty

- 1st Offense - Suspension for one (1) month and (1) day to six (6) months
2[nd] Offense - Dismissal

Clearly, the acts of respondent Amilil constitute simple neglect of duty for which he must be made administratively liable. Under the Civil Service Rules and the Omnibus Rules implementing it, simple neglect of duty is a less grave offense penalized with suspension of one (1) month and one (1) day to six (6) months for the first offense; and dismissal for the second offense.

Respondents Judge Indar and Amilil are reminded that as public officers, they are recipients of public trust, and are thus under obligation to perform the duties of their offices honestly, faithfully, and to the best of their ability. As held in *Office of the Court Administrator v. Judge Liwanag*[31]:

Time and again, the Court has emphasized the heavy burden and responsibility which court officials and employees are mandated to observe, in view of their exalted position as keepers of the public faith. They are constantly reminded that any impression of impropriety, misdeed or negligence in the performance of official functions must be avoided. The Court will never countenance any conduct, act or omission on the part of all those involved in the administration of justice which would violate the norm of public accountability and diminish the people's faith in the judiciary.[32]

WHEREFORE, the Court finds respondent Judge Cader P. Indar Al Haj GUILTY of gross misconduct for

committing violations of the Code of Judicial Conduct, and is FINED the amount of Twenty-Five Thousand (P25,000.00) Pesos. He is likewise WARNED that a repetition of the foregoing or similar transgressions shall be dealt with more severely.

Respondent OIC Branch Clerk of Court Abie M. Amilil is also found GUILTY of neglect of duty and is SUSPENDED for two (2) months without pay with a stern warning that repetition of the same shall be dealt with more severely.

SO ORDERED.

Corona, C.J., (Chairperson), Bersamin, Del Castillo, and Villarama, Jr., JJ., concur.

[1] Rollo, pp. 1-13.

[2] Id. at 63-64.

[3] Id. at 75-79.

[4] Id. at 99-106.

[5] Id. at 104-106.

[6] Id. at 20-21.

[7] Id. at 22.

[8] Id. at 119-121.

[9] Id. at 119.

[10] Id. at 265.

[11] Id. at 271-272.

[12] Id. at 262-263.

[13] Id. at 11.

[14] Id. at 52-62.

[15] Id. at 240.

[16] Id. at 245-246.

[17] Id. at 247-252.

[18] Id. at 303-309.

[19] Id. at 320-321.

[20] Id. at 320.

[21] Id. at 370-372.

[22] Id. at 375-377.

[23] Id. at 388-410.

[24] Id. at 408-410.

[25] 516 Phil. 412 (2006).

[26] Id. at 430-431.

[27] 484 Phil. 194 (2004).

[28] Id. at 212.

[29] 496 Phil. 46 (2005).

[30] Id. at 52-54.

[31] A.M. No. MTJ-02-1440, February 28, 2006, 483 SCRA 417.

[32] Id. at 430.

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