CRESENCIO N. BONGALOS, COMPLAINANT, VS. JOSE R. MONUNGOLH AND VICTORIA D. JAMITO, CLERK OF COURT II AND COURT INTERPRETER I, RESPECTIVELY OF MCTC, DAUIS, BOHOL, RESPONDENTS.

A.M. No. P-01-1502 (Formerly OCA IPI No. 99-735-P). September 04, 2001

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This is an administrative case for gross neglect of duty, filed by Cresencio N. Bongalos against Jose R. Monungolh and Victoria D. Jamito, Clerk of Court II and Court Interpreter I, respectively, of the 14th Municipal Circuit Trial Court of Dauis-Panglao, Bohol.

Bongalos is the private complainant in Criminal Case No. 1844 for attempted homicide and Criminal Case No. 1825 for illegal possession of firearms against one Francisco Micabani. Both criminal cases were heard and tried jointly by the 14th Municipal Circuit Trial Court of Dauis-Panglao, Bohol, where respondents Monungolh and Jamito were assigned.

When the prosecution was about to formally offer its evidence in the aforementioned criminal cases, it was discovered that Exhibit "A," a .38 caliber snub nose paltik revolver with Serial No. 21760 and Exhibits "A-1" to "A-5" consisting of five live ammunitions were missing. Subsequently, the accused filed a demurrer to evidence which was granted by the trial court, whose order of dismissal is now subject of certiorari proceedings.

As a consequence thereof, Bongalos charged Monungolh and Jamito with gross neglect of duty in connection with the loss of the exhibits, filed before the Office of the Court Administrator. A receipt[1] signed by Monungolh and attached to the complaint showed that Monungolh actually received the gun and ammunitions from the police at the commencement of the criminal cases. According to Bongalos, it was Monungolh's duty to keep the exhibits as clerk of court. Monungolh, however, pointed to Jamito as the person responsible for the loss, because it was allegedly Jamito's job as interpreter to keep the exhibits during its presentation and to return the same to him.[2]

In his comment dated November 26, 1999,[3] Monungolh contended that he should not be faulted for the loss of the firearm and bullets. He explained that he requested SPO3 Jose Pabalan, Jr., the police officer assigned to the case, to secure the evidence, since the trial court had no safe or cabinet for their safekeeping. The police officer did not sign any memorandum to acknowledge receipt of the objects.

Monungolh additionally alleged that at no time during the pendency of the case did the exhibits presented in evidence ever come into his custody. As a matter of fact, he added, the transcript of stenographic notes taken during the hearing of the criminal cases[4] reveals that the private prosecutor, Atty. Liberato Casilan, knew that the evidence was still in the possession of the Philippine National Police (PNP). The Presiding Judge even remarked that it should have been returned to Monungolh during the July 27, 1998 hearing, when the gun and live ammunitions were marked as exhibits. Consequently, he prayed that the instant case be dismissed.

For her part, Jamito stated that as court interpreter, her duties include translation of testimonies and marking of exhibits, but not the safekeeping of evidence which is the duty of the clerk of court. She insisted that she saw the revolver and bullets only when they were marked as exhibits and that afterwards, these were promptly given back to the police officer. The police was entrusted with the exhibits, as was the usual practice, because the court lacked the facilities for safekeeping of evidence such as these. Like Monungolh, she urged the Court to dismiss the administrative complaint against her.[5]

In a report dated October 25, 2000,[6] the OCA recommended that the case against Jamito be dismissed because the safekeeping of exhibits was not part of her duties as court interpreter. However, the OCA recommended that Monungolh be fined in the amount of P5,000.00 and warned sternly, on the ground that it was his duty to see to it that all documents and exhibits in the court's custody are safely kept.

On January 17, 2001, the Court dismissed the case against Jamito for lack of merit and required the remaining parties to manifest if they were willing to submit the case for decision on the basis of pleadings already filed. Thus, on March 5, 2001, Monungolh submitted said manifestation.

We have carefully reviewed the records, and we agree with the findings and conclusions of the OCA that Monungolh is indeed guilty of gross negligence, warranting disciplinary sanction.

Under Section 7, Rule 136 of the Rules of Court and Section A, Chapter II of the Manual for Clerks of Court, it is the clerk of court's duty to safely keep all records, papers, files, exhibits and public property committed to his charge, including the library of the court and the seal and furniture belonging to his office. As court custodian, it was his responsibility to ensure that records are safely kept and the same are readily available upon the request of the parties or order of the court. He must be diligent and vigilant in performing his official duties and in supervising and managing court dockets and records.[7] This custodial duty necessarily extends to evidence submitted by the parties and marked as exhibits.

In our view, Monungolh was negligent in entrusting the gun and ammunitions to the police officer, without requiring any receipt to show that the latter kept them on behalf of the trial court. If this were the trial court's usual practice to secure evidence, as Monungolh submits, then it is clearly unacceptable. It shows great deficiency in utmost diligence required of clerks of court in the performance of their duties. As demonstrated now, Monungolh's neglect is inexcusable for it has led to the delay in the prosecution of criminal cases and the grant of a motion for demurrer to evidence in favor of the accused.

Monungolh could not toss back to SPO3 Pabalan the responsibility for the missing exhibits. For he admitted that the police officer merely acceded to his request. As pointed out by the OCA, even if the exhibits were actually delivered to SPO3 Pabalan, Monungolh remained chiefly responsible for their safekeeping.

Moreover, although Monungolh averred that he entrusted the exhibits to the police, it appears that he did not exert any effort to retrieve them when they were discovered missing. Neither did he explain how and why these were lost or misplaced, instead of blaming the prosecution for their disappearance. However, a receipt,[8] he himself signed, showed that the gun and bullets were in his charge. Hence, he cannot deny responsibility for their loss even if private complainant Bongalos knew that the exhibits were in the custody of SPO3 Pabalan.

Respondent Monungolh's gross negligence of duty leading to the loss of the prosecution's evidence was the very reason cited by the trial court for granting the defense's demurrer, since the prosecution had failed to prove corpus delicti. Indeed, as pointed out by Bongalos, the questionable circumstances under which the exhibits inexplicably vanished give the courts a bad image. Needless to stress, we cannot discount the fact that here there has been a grave miscarriage of justice.

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In Lloveras vs. Sanchez, 229 SCRA 302, 307 (1994), we reiterated that the conduct and behavior of everyone connected with an office charged with the dispensation of justice, from the presiding judge to the lowest clerk, should be circumscribed with the heavy burden of responsibility. Their conduct at all times must not only be characterized by propriety and decorum, but above all else, it must be above suspicion. Further, since the public image of a court of justice is mirrored in the conduct of the men and women who work thereat, it becomes the imperative sacred duty of everyone in the court to maintain its good image and standing as a temple of justice.[9]

In light of the irreparable damage caused by Monungolh's gross negligence, we deem it proper to increase the fine recommended by the OCA.

WHEREFORE, Clerk of Court II JOSE R. MONUNGOLH is found GUILTY of gross neglect of duty and is hereby FINED in the amount of twenty thousand pesos (P20,000.00). Respondent Monungolh is also STERNLY WARNED that repetition of the same or similar acts will be dealt with more severely.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

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[1] Rollo, p. 10.

[2] Id. at 1-3.

[3] Id. at 26-28.

[4] Id. at 32

[5] Id. at 33.

[6] Id. at 37-39.

[7] Basco vs. Gregorio, A.M. No. P-94-1026, 245 SCRA 614, 618 (1995).

[8] Supra, note 1.

[9] Sy vs. Cruz, A.M. No. P-95-1163, 250 SCRA 639, 646 (1995); citing Lim-Arce vs. Arce, et al., A.M. No. P-89-312, 205 SCRA 21, 31-32 (1992).

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