

**ANTONIETA LAO, COMPLAINANT, VS. JUDGE ODELON S. MABUTIN
AND ACTING CLERK OF COURT AND INTERPRETER EFREN F.
VARELA, BOTH OF MUNICIPAL TRIAL COURT, CATBALOGAN
SAMAR, RESPONDENTS.**

A.M. No. MTJ-06-1646. July 16, 2008

Ponente: CARPIO, J.

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CARPIO, J.:

This is a complaint for (1) simple neglect of duty filed by Antonieta Lao (Lao) against acting clerk of court Efren F. Varela (Varela), Municipal Trial Court (MTC), Judicial Region VIII, Catbalogan, Samar; and (2) undue delay in transmitting the records of a case filed by Lao against Judge Odelon S. Mabutin (Judge Mabutin) of the MTC.

Lao was the plaintiff in a civil case[1] for forcible entry against a certain Nimfa Rosal (Rosal). The case was docketed as Civil Case No. 789 and was pending before Judge Mabutin. On 17 June 2002, Judge Mabutin decided Civil Case No. 789 in favor of Rosal and, on 16 July 2002, Lao received a copy of the decision.

Feeling aggrieved, Lao filed a notice of appeal[2] with Judge Mabutin on 29 July 2002. In an order[3] dated 12 August 2002, Judge Mabutin gave due course to the appeal:

Considering that the notice has been filed within the reglementary period, the appeal sought for is hereby given due course. Let the entire records of [the] case with its pages numbered together with the transcript of stenographic notes and the exhibits be forwarded to the Regional Trial Court of Catbalogan, Samar for purposes of the appeal.

Despite follow-ups from Lao, Varela and Judge Mabutin failed to transmit the records of Civil Case No. 789 to the Regional Trial Court (RTC) for more than one year and four months. Lao alleged that every time she made a follow-up, Varela told her that the records of the case were still to be retrieved from the files.

In an affidavit-complaint[4] dated 17 March 2004 and filed with the Office of the Court Administrator (OCA), Lao charged Varela and Judge Mabutin with simple neglect of duty and undue delay in transmitting the records of a case, respectively. In its 1[st] Indorsement[5] dated 2 June 2004, the OCA directed Varela and Judge Mabutin to comment on the affidavit-complaint.

In his comment[6] dated 15 July 2004, Varela stated that (1) his workload was heavy; (2) Lao made the follow-ups only during the latter part of 2003; and (3) the oversight was unintentional. In his comment[7] dated 15 July 2004, Judge Mabutin stated that (1) the follow-ups were not made to him; (2) the MTC lacked manpower; (3) the oversight was unintentional; (4) he was not lacking in his supervision over Varela; and (5) he rendered work even on days he was on leave.

In its Report[8] dated 14 June 2006, the OCA found Varela and Judge Mabutin liable for the unjustified and long delay in the transmittal of the records of Civil Case No. 789. The OCA recommended that (1) the case be re-docketed as a regular administrative matter; (2) Varela be suspended for one month and one day; and (3) Judge

Mabutin be fined P11,000.

In a Resolution dated 7 August 2006, the Court re-docketed the case as a regular administrative matter and directed Varela and Judge Mabutin to manifest if they were willing to submit the case for decision based on the pleadings already filed. In his letter dated 20 July 2007, Varela adopted his 15 July 2004 comment as his manifestation. In his manifestation dated 18 September 2006, Judge Mabutin stated his willingness to submit the case for decision based on the pleadings already filed and reiterated that he was not lacking in his supervision over Varela and that he rendered work even on days he was on leave.

The Court agrees with the OCA.

Varela is liable for simple neglect of duty. Section 6, Rule 40 of the Rules of Court provides:

SEC. 6. Duty of the clerk of court. -- Within fifteen (15) days from the perfection of the appeal, the clerk of court or the branch clerk of court of the lower court shall transmit the original record or the record on appeal, together with the transcripts and exhibits, which he shall certify as complete, to the proper Regional Trial Court. A copy of his letter of transmittal of the records to the appellate court shall be furnished the parties. (Emphasis ours)

Lao's appeal was perfected when she filed the notice of appeal on 29 July 2002.[9] Following Section 6, Varela should have transmitted the records of Civil Case No. 789 to the RTC within 15 days from 29 July 2002. Varela transmitted the records of Civil Case No. 789 to the RTC only on 4 December 2003 and only after Lao made follow-ups. Had Lao not made any follow-up, Varela would have failed to transmit the records of the case to the RTC indefinitely.

Even granting that (1) he had a heavy workload; (2) Lao only made the follow-ups during the latter part of 2003; and (3) the oversight was unintentional, Varela would still be liable. First, having a heavy workload is not a valid excuse. Otherwise, every government employee charged with dereliction of duty would proffer such a convenient excuse to escape liability, to the great prejudice of the public.[10] Second, Rule 40 of the Rules of Court does not require litigants to make any follow-up with the clerk of court. As acting clerk of court, Varela should have transmitted the records of Civil Case No. 789 to the RTC within 15 days from 29 July 2002 even without any follow-up from Lao. Third, good faith or lack of intention to be negligent is a lame, invalid, and unacceptable excuse.[11] Good faith, at most, is only a mitigating circumstance.[12]

Simple neglect of duty is the failure to give attention to a task expected of a court employee. It signifies a disregard of a duty resulting from carelessness or indifference.[13] It is a less grave offense punishable by suspension of one month and one day to six months for the first offense and dismissal for the second offense.[14] In *Tudtud v. Caayon*, [15] the Court penalized a clerk of court for failing to transmit the records of a case for more than one year and five months.

Judge Mabutin is liable for undue delay in transmitting the records of a case. Although the transmittal of the records of Civil Case No. 789 was primarily the concern of Varela, making sure that the 12 August 2002 order was properly and promptly carried out was the responsibility of Judge Mabutin.[16]

Judicial duties include tasks relevant to the court's operations.[17] Rule 3.08 of the Code of Judicial Conduct mandates judges to diligently discharge administrative responsibilities, maintain professional competence in court management, and facilitate the performance of the administrative functions of court personnel. Rule 3.09 mandates judges to organize and supervise the court personnel to ensure the prompt and efficient dispatch of business. The records of Civil Case No. 789 were transmitted to the RTC only after more than one year and four months and only after Lao made follow-ups. Clearly, an oversight was committed. Being the one charged with the

proper and efficient management of the MTC, Judge Mabutin is ultimately responsible for the mistakes of his court personnel.[18]

Even granting that (1) the follow-ups were not made to him; (2) the MTC lacked manpower; (3) the oversight was unintentional; and (4) he rendered work even on days he was on leave, Judge Mabutin would still be liable. First, Rule 40 of the Rules of Court does not require litigants to make any follow-up. Judge Mabutin should have made sure that his 12 August 2002 order was properly carried out even without any follow-up from Lao. Second, even if the MTC was understaffed, Judge Mabutin still had to comply with the 15-day period in transmitting the records of cases to the RTC. He should have devised ways of ensuring a prompt and efficient dispatch of business in the MTC. Moreover, Judge Mabutin failed to show that the transmittal of the records of Civil Case No. 789 within 15 days was impossible due to lack of manpower. Third, good faith, at most, is only a mitigating circumstance.[19] It does not exculpate Judge Mabutin from administrative liability. Fourth, having a heavy workload cannot be used as a convenient excuse to escape administrative liability.[20]

Undue delay in transmitting the records of a case is a less serious offense[21] punishable by suspension from office without salary and other benefits for not less than one nor more than three months or a fine of more than P10,000 but not exceeding P20,000.[22] In *Bellena v. Perello*,[23] the Court penalized a judge for failing to transmit the records of a case for almost nine months.

The public's faith in the judiciary depends largely on the proper and prompt disposition of matters pending before the courts.[24] In *Office of the Court Administrator v. Garcia-Blanco*,[25] the Court held that any delay in the administration of justice, no matter how brief, deprives litigants of their right to a speedy disposition of their case. It undermines the public's faith in the judiciary. A delay of more than one year and four months in transmitting the records of a case is unreasonably long.

WHEREFORE, the Court finds acting clerk of court Efren F. Varela, Municipal Trial Court, Judicial Region VIII, Catbalogan, Samar, GUILTY of SIMPLE NEGLECT OF DUTY. Accordingly, the Court SUSPENDS him for one month and one day and STERNLY WARNS him that a repetition of the same or similar offense shall be dealt with more severely.

The Court finds Judge Odelon S. Mabutin, Municipal Trial Court, Judicial Region VIII, Catbalogan, Samar, GUILTY of UNDUE DELAY IN TRANSMITTING THE RECORDS OF A CASE. Accordingly, the Court FINES him P11,000 and STERNLY WARNS him that a repetition of the same or similar offense shall be dealt with more severely.

Puno, C.J., (Chairperson), Corona, Azcuna, and Leonardo-De Castro, JJ., concur.

[1] Docketed as Civil Case No. 789, entitled "Antonieta Lao v. Nimfa Rosal."

[2] Rollo, p. 4.

[3] Id. at 5.

[4] Id. at 1-3.

[5] Id. at 25-26.

[6] Id. at 41-42.

[7] Id. at 28-34.

[8] Id. at 130-132.

[9] Rules of Court, Rule 41, Section 9.

[10] De Leon-Dela Cruz v. Recacho, A.M. No. P-06-2122, 17 July 2007, 527 SCRA 622, 631; Seangio v. Parce, A.M. No. P-06-2252, 9 July 2007, 527 SCRA 24, 35; Laguio, Jr. v. Amante-Casicas, A.M. No. P-05-2092, 10 November 2006, 506 SCRA 705, 711; Salvador v. Serrano, A.M. No. P- 062104, 31 January 2006, 481 SCRA 55, 71; Office of the Court Administrator v. Bernardino, A.M. No. P-97-1258, 31 January 2005, 450 SCRA 88, 110-111.

[11] Re: Report on the Judicial Audit Conducted in the Regional Trial Court, Branch 134, Makati City, A.M. No. P-06-2172, 6 December 2006, 510 SCRA 14, 19; Re: Audit Report on Attendance of Court Personnel of Regional Trial Court, Branch 32, Manila, A.M. No. P-04-1838, 31 August 2006, 500 SCRA 351, 361.

[12] Revised Uniform Rules on Administrative Cases in the Civil Service, Section 53.

[13] Laguio, Jr. v. Amante-Casicas, *supra* note 10, at 710.

[14] Revised Uniform Rules on Administrative Cases in the Civil Service, Section 52(B)(1).

[15] A.M. No. P-02-1567, 28 March 2005, 454 SCRA 10, 16.

[16] Bellena v. Perello, A.M. No. RTJ-04-1846, 31 January 2005, 450 SCRA 122, 131-133.

[17] New Code of Judicial Conduct for the Philippine Judiciary, Canon 6, Section 2.

[18] Galanza v. Trocino, A.M. No. RTJ-07-2057, 7 August 2007, 529 SCRA 200, 210.

[19] Revised Uniform Rules on Administrative Cases in the Civil Service, Section 53.

[20] De Leon-Dela Cruz v. Recacho, *supra* note 10, at 631; Seangio v. Parce, *supra* note 10, at 35; Laguio, Jr. v. Amante-Casicas, *supra* note 10, at 711; Salvador v. Serrano, *supra* note 10, at 71; Office of the Court Administrator v. Bernardino, *supra* note 10, at 110-111.

[21] Rules of Court, Rule 140, Section 9.

[22] Rules of Court, Rule 140, Section 11(B) (2).

[23] *Supra* note 16, at 134.

[24] Vda. De Castro v. Cawaling, A.M. No. MTJ-02-1465, 6 February 2006, 481 SCRA 535, 538.

[25] A.M. No. RTJ-05-1941, 25 April 2006, 488 SCRA 109, 121.

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