ATTY. ERNESTO C. JACINTO, COMPLAINANT, VS. JUDGE LYDIA Q. LAYOSA AND CLERK III CHERYL BUENAVENTURA, RESPONDENTS.

A.M. NO. RTJ-02-1743. July 11, 2006

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

In a sworn letter-complaint[1] dated August 7, 1999 filed with the Office of the Court Administrator (OCA), complainant Atty. Ernesto C. Jacinto charged respondents Judge Lydia Q. Layosa of the Regional Trial Court (RTC), Branch 217, Quezon City, and Cheryl Buenaventura, Clerk III, of the same court, with infidelity in the custody of public documents and/or gross neglect of duty.

Complainant alleged in his letter-complaint that he is plaintiff's counsel in Civil Case No. Q-95-23426, "REYNALDO P. MARTIN vs. MRS. RAQUEL U. AQUINO and HUSBAND," raffled to the RTC, Branch 217, Quezon City. It was Judge Gil P. Fernandez, Sr. (now deceased) who was then the Presiding Judge. The records of the case did not get lost.

When Judge Fernandez, Sr. died, Judge Demetrio B. Macapagal, Sr. replaced him. The records of the same case did not also get lost.

However, when respondent Judge Layosa was appointed Presiding Judge of the same court, the entire records of the case "disappeared" as shown by the May 14[2] and June 1, 1999[3] Orders issued by her, thus:

> (1) May 14, 1999 Order:
>
> The records of this case had been reported missing by the Branch Clerk of Court and despite efforts exerted to locate it, said records could not be found.
>
> Accordingly, let a conference be held on May 24, 1999 at 2:00 o'clock in the afternoon, for the purpose of reconstituting the same from available documents in counsel's possession."
>
> (2) June 1, 1999 Order:
>
> By agreement of the parties, let the conference for the reconstitution of the records in this case be reset on July 14, 1999 at 8:30 o'clock in the morning.
>
> Meanwhile, the continuation of trial set for today is hereby suspended.

Complainant further alleged that both respondents are guilty as charged.

On September 10, 1999,[4] then Court Administrator Alfredo L. Benipayo referred the letter-complaint to respondent judge for her comment within ten days from notice. She admitted therein[5] that Civil Case No. Q-95-23426 was among the pending cases turned over to her when she assumed her duties in the RTC on November 26, 1997.

She, however, submitted that she cannot be held responsible for the loss of the case records because: (a) she has

not been remiss in the performance of her duties and responsibilities; (b) she has been conducting the required inventory of cases pursuant to the Circulars of this Court, and; (c) she has always been giving instructions to her staff to take precautionary measures in safekeeping the records.

Moreover, when respondent Cheryl L. Buenaventura, in charge of civil cases, verbally informed her that the records of the case are missing, she immediately directed Atty. Flosie Fanlo, then branch clerk of court, to immediately take appropriate action.

On May 14, 1999, she issued an Order calling the parties' counsel for a conference on May 24, 1999 for the purpose of reconstituting the missing records.

On June 1, 1999, both opposing counsel appeared. Upon respondent judge's directive, the defendant's counsel promised to submit the duplicate copies of the records in his possession.

On July 14, 1999, during the scheduled hearing for the reconstitution of the missing records, only defendant's counsel appeared and submitted his copies of the records of the case.

On August 10, 1999, complainant filed an "Opposition and Motion for Reconsideration" of the July 14, 1999 Order which was granted by respondent judge. At this point, there is no showing whether he submitted to the court any record in his files.

Respondent judge emphasized that she did not only take immediate steps to reconstitute the missing records of the case, but she also requested the assistance of then Court Administrator Benipayo[6] who, in turn, requested the National Bureau of Investigation to investigate the matter.[7]

On January 19, 2000, respondent Buenaventura filed her Comment[8] alleging that she is in charge of civil cases. On April 12, 1999, she noticed that the records of Civil Case No. Q-95-23426 were missing. The logbook showed that the case was last heard on March 2, 1999. When the last Order was mailed on March 8, 1999, she transmitted the records to the branch clerk of court. She insisted that those records were kept inside the filing cabinet and nobody borrowed them from her. She admitted though that the lock of the filing cabinet does not work. Lastly, she alleged that the missing records have been reconstituted.

On August 13, 2001, respondent judge filed with this Court a "Motion for Early Resolution"[9] alleging, among others, that during the hearing of the case on May 9, 2000, both counsels failed to appear despite due notice. Hence, she issued an Order dismissing the complaint and the counterclaim.

In his Report,[10] then Court Administrator Presbitero J. Velasco, Jr.[11] found both respondents liable for the loss of the records; and that respondent judge failed to supervise her personnel to ensure efficiency. He recommended that they be ordered to pay a fine in the amount of P5,000.00 each, with a stern warning that commission of a similar offense will be dealt with more severely, thus:

> EVALUATION: In the absence of any direct evidence pointing responsibility to any of the respondents relative to the loss of the records of Civil Case No. Q-95-23426, the persons responsible for their safekeeping should be held accountable and they are the Branch Clerk of Court, who is in charge of the recording, filing, and management of court records as well as the Clerk-in-charge of civil cases to whom such task was delegated by the Branch Clerk of Court. Since Atty. Flosie F. Fanlo has already transferred to another branch of the government, she is already outside of the Courts administrative jurisdiction.
>
> Respondent Cheryl Buenaventura, as the clerk-in-charge of civil cases is undoubtedly the person who has custody of the lost records and the one primarily responsible therefor. As the person in charge of the records of civil cases, respondent Buenaventura should have devised means to safeguard the records given the limited resources at her disposal as well as the defective filing cabinet. x x x

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> Although no motive to conceal, destroy or otherwise profit from the loss of such records was imputed and proved against respondent Buenaventura, it cannot be denied that the records were lost while under her custody and she should be held responsible thereof.
>
> On the other hand, it is the duty of the respondent judge to closely supervise her employees. Civil Case No. 95-23426 was one of the records of pending cases turned over to her by her Clerk of Court. She admitted that she did not know what happened to said record until it was reported to her by Mrs. Buenaventura on April 13, 1999 that it was missing. Canon 3 of the Code of Judicial Conduct requires every judge to organize and supervise the court personnel to ensure the prompt and efficient dispatch of its business, and which requires further at all times the observance of high standards of public service and fidelity. (Fernandez v. Imbing, 260 SCRA 586).
>
> Judges should not tolerate the neglect of court employees.
>
> RECOMMENDATION: Respectfully submitted to the Hon. Court our recommendation.
>
> 1. that the administrative case against Atty. Flosie F. Fanlo, Ma. Cecilia A. Flores, Naomi Paden, Tonette S. Manjuco-Salamanca, Ramona Adduro, Elizabeth Sugcang, Carmen Labsan, Reynaldo Madelaria, Reynaldo Manahan, Maritoni Oning, serafin Corral and Josephine Fernandez be DISMISSED for lack of merit;
>
> 2 that the administrative case against respondent judge Lydia Q. Layosa and Cheryl Buenaventura be REDOCKETED as a regular administrative matter;
>
> 3. that Judge Layosa and Buenaventura be ordered to pay a fine in the amount of P5,000.00 each, with a STERN WARNING that commission of a similar act would be dealt with more severely.

In our Resolution[12] dated November 25, 2002, we ordered that this case be re-docketed as a regular administrative matter and required the parties to manifest, within twenty (20) days from notice, whether they are submitting the case for resolution on the basis of the pleadings and records filed.

On January 15, 2003, both respondents submitted their respective Manifestations,[13] with prayer that a hearing be conducted to enable them to present evidence in support of their defenses.

On February 10, 2003, this Court issued a Resolution referring to OCA respondents' Manifestations for evaluation, report and recommendation.[14]

Upon recommendation of then Deputy Court Administrator Christopher O. Lock,[15] this administrative case was referred to the Court of Appeals for investigation and report within sixty (60) days from notice.

On February 10, 2004, Associate Justice Rebecca de Guia-Salvador of the Court of Appeals submitted to this Court her Report and Recommendation, partly reproduced as follows:

> As the personnel directly charged with the safekeeping of case records of civil cases pending in the sala, (page 55, ibid.) however, respondent Buenaventura was manifestly negligent for not taking the necessary precautionary/safety measures required by the sorry state of said filing cabinets. The conduct and behavior of every person connected with an office charged with the dispensation of justice, from the presiding judge to the lowest clerk is circumscribed with a heavy burden of responsibility (Araza vs. Garcia, 325 SCRA 1, 9-10) in order to maintain public confidence in the judiciary (Re: Report on the Judicial Audit Conducted in RTC, Branch 82, Odiongan, Romblon, 292 SCRA 1,7). Public officers are accountable for their actuations at all times and must perform their duties well. (Solid Bank Corp. v. Capoon, Jr., 289 SCRA 9, 14.
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> Neither can respondent judge evade liability for negligence under the factual circumstances of the case. The measures she interposed as proof positive of due diligence– reporting the incident to the Court Administrator and requesting investigation thereon, (p. 25; Exhibit "3", p. 241, Rollo) directing her staff to adopt safety

> measures in the custody of records, (Exhibit "6", p. 238, ibid.) and requesting for repairs and/or replacement of the defective cabinets (p.5, TSN, January 23, 2004) – all appear to have been adopted only after the discovery of the loss of the case record of Civil Case No. Q-95-23426 on April 12, 1999. Quite significantly, it was not until July 22, 1999 or until the loss of the case record of Civil Case Q-97-32929 that respondent judge made the aforesaid report/request to the Court Administrator.
>
> While it is concededly the Branch Clerk of Court who has control and supervision over all court records, exhibits, documents, properties and supplies within said branch, he is nevertheless subject to the control and supervision of the Presiding Judge. (Yaranon v. Rulloda, 242 SCRA 522, 528.) A judge is tasked with the administrative supervision over his personnel and he should always see to it that his orders are promptly enforced and that case records are properly stored. (Belen v. Soriano, 240 SCRA 298, 301) It is, therefore, incumbent upon the judge to see to it that the personnel of the court perform their duties well and to call the attention of the clerk of court when they fail to do so. (Ang Kek Chen v. Andrade, 318 SCRA 11, 20-21.)
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> Recommendation
>
> PREMISES CONSIDERED, it is recommended that both respondent judge and respondent Buenaventura be ordered to pay a fine of P5,000.00 each, with a STERN WARNING that a similar non-observance of the due care required by their positions will be dealt with more severely.

We agree with Justice Salvador that both respondents are negligent; and that respondent judge failed in her duty to see to it that her personnel perform their duties well. Such conduct on their part constitutes misconduct. [16]

Misconduct is "a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer." The misconduct is grave if it involves any of the additional elements of corruption, willful intent to violate the law or to disregard established rules, which must be proved by substantial evidence. Otherwise, the misconduct is only simple.[17] Records fail to indicate that those additional elements are present here.

We, therefore, find both respondents guilty of simple misconduct.

As the clerk in charge of civil cases, respondent Buenaventura's duties include conducting periodic docket inventory and ensuring that the records of each case are accounted for. Her insistence that the missing records were kept inside the filing cabinet and that she handled them with due care does not convince us. On the contrary, she failed to take appropriate steps and devise means to keep the records, taking into consideration the defective condition of the filing cabinet. Clearly, she was negligent.

On the part of respondent judge, considering her administrative authority over her personnel, she should have directed them, especially those in charge of safekeeping the records, to be diligent in the performance of their duties and should have closely monitored the flow of her cases.

Judges are charged with exercising extra care in ensuring that the records of the cases and official documents in their custody are intact. They must adopt a system of record management and organize their dockets in order to bolster the prompt and efficient dispatch of business.[18] There is no justification for missing records save fortuitous events.[19]

With respect to the imposition of penalty, the Revised Rules of Court provides that simple misconduct is classified as a less serious charge,[20] punishable by suspension from office without salary and other benefits for not less than one month nor more than three months; or a fine of more than P10,000.00, but not exceeding P20,000.00.[21]

It appearing that this is the first administrative offense committed by respondent judge; that she has worked in the

judiciary for more than 20 years; and that no bad faith may be attributed to her, these circumstances may be considered mitigating. Hence, a fine of P5,000.00 is in order.

As to the penalty imposable upon respondent Buenaventura, under the Civil Service Commission Memorandum Circular No. 19, Series of 1999 (Revised Uniform Rules on Administrative Cases in the Civil Service), simple misconduct is classified as a less grave offense,[22] punishable by suspension of one month and one day to six months. Respondent is likewise a first offender, and that no taint of bad faith can be discerned from her actuations. Thus a suspension of twenty one days from office without salary is considered justified.

WHEREFORE, respondent Judge Lydia Q. Layosa and respondent Cheryl Buenaventura are declared guilty of simple misconduct. Judge Layosa is FINED in the sum of Five Thousand Pesos (P5,000.00), while respondent Buenaventura is SUSPENDED from office for twenty-one days without pay. They are WARNED that a repetition of the same or similar infraction will be dealt with more severely.

SO ORDERED.

Puno, (Chairperson), Corona, Azcuna, and Garcia, JJ., concur.

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[1] Rollo, pp. 1-2.

[2] Annex "A," id., p. 4.

[3] Annex "B," id., p. 5.

[4] Id., p. 6.

[5] Id., pp. 13-15.

[6] Id., p. 25.

[7] Id., pp.156-160. The Report recommended that respondent Buenaventura be charged administratively with Infidelity in the Custody of Public or Official Documents or Records.

[8] Id., pp. 71-73.

[9] Id., p. 136.

[10]Id., pp. 166-172.

[11] Now an Associate Justice of this Court.

[12] Rollo, p. 173.

[13] Id., pp. 174 & 175.

[14] Id., p. 184.

[15] Now Court Administrator.

[16] Atty. Leticia E. Ala v. Judge Leocadio H. Ramos, Jr., Regional Trial Court of Burauen, Leyte, Branch 15, A.M. No. RTJ-00-1557, April 25, 2002, 381 SCRA 540.

[17] Civil Service Commission v. Juliana Ledesma, G.R. No. 154521, September 30, 2005, 471 SCRA 589.

[18] Bernardo v. Judge Amelia A. Fabros, A.M. No. MTJ-99-1189, May 12, 1999, 307 SCRA 28.

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[19] Sabitsana v. Villamor, RTJ No. 90-474, October 4, 1991, 202 SCRA 435, citing Longboan v. Polig, 186 SCRA 567 (1990).

[20] Section 9, Rule 140.

[21] Section 11, id.

[22] Section 52, B (1), Rule IV.

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