

IN RE: MOTION FOR RECONSIDERATION OF ADMINISTRATIVE ORDER NO. 353 (13 APRIL 1973) BY THE PRESIDENT OF THE PHILIPPINES, CLERK OF COURT BELINDA ANTONIO OF THE C.F.I. OF SAN CARLO...

Adm. Mat. No. P-38. October 22, 1974

Ponente: ESGUERRA, J.

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ESGUERRA, J.:

Before Us is a Motion by Clerk of Court Belinda V. Antonio of the Court of First Instance of Negros Occidental, Branch VII, at San Carlos City, for reconsideration and review of the evidence of the proceedings on which was based Administrative Order No. 353, dated April 13, 1973, of the President of the Philippines, imposing a fine of one month's pay for neglect of duty on respondent Belinda V. Antonio in accordance with the findings and recommendation of the Secretary of Justice which she claims to be "drastic, unjust, unfair and steep and not in accordance with the investigations conducted by the Hon. Oscar R. Victoriano and the evidence presented during the investigation x x x"

The above-mentioned motion for reconsideration was addressed to the President of the Philippines and coursed through the Department of Justice on May 30, 1973. It was referred back by Assistant Executive Secretary Ronaldo B. Zamora to the Secretary of Justice for comment on October 29, 1973, and in turn was forwarded to this Court on November 7, 1973, by the Judicial Superintendent, for and in behalf of the Secretary of Justice, without comment. Evidently the motion for reconsideration has been forwarded to Us, not necessarily in recognition of the judicial power to review an executive act, a power which We would decline to assume if its purpose were to review the imposition of an administrative penalty on an officer appointed by the President of the Philippines but simply because the administrative supervision over all courts and the personnel thereof has been transferred to the Supreme Court (Sec. 6, Art. X, 1973 Constitution).

A close scrutiny of the record of this case convinces Us that there is room for reconsideration of the penalty, and We believe that had the President of the Philippines considered this motion for reconsideration, by his magnanimous and noble character, he would have arrived at the same conclusion.

The facts of the case are as follows:

Due to the unexplained loss of the record of Criminal Case No. 418 of the Court of First Instance of Negros Occidental Branch VII, at San Carlos City (C.A.-G.R. No. 08053-CR), entitled: People vs. Mapa, Clerk of Court Belinda Antonio, Docket Clerk Presco Labrador, Docket Clerk Eden N. Ledesma, and Janitor Maximiano Biwang of the CFI Negros Occidental, Branch VII, of San Carlos City were administratively proceeded against.

In his decision, dated December 6, 1971, Secretary of Justice Vicente Abad Santos stated that this case against the Clerk of Court, a presidential appointee, would be treated in a separate action, but he found the facts to be that on March 24, 1970, respondent Maximiano Biwang received from the post office the record of Criminal Case No.

418 (People vs. Rosario Mapa) which as remanded by the Court of Appeals to the Court of First Instance of Negros Occidental at San Carlos City for execution of judgment; that respondent Biwang gave the record to respondent Docket Clerk Eden N. Ledesma, in charge of receiving incoming papers, who stamped the name of Clerk of Court Belinda Antonio on the original of the transmittal letter of the Court of Appeals, and on a copy thereof; that after the signature of respondent Clerk of Court Antonio had been affixed on the copy of the letter, the same was returned to the Court of Appeals to acknowledge receipt of said record; that both respondents Antonio and Ledesma claim that in accordance with standard operating procedure in that court, the record of the case was delivered to respondent Presco Labrador, Docket Clerk in charge of criminal cases; that this transfer of the record to respondent Labrador was not formally recorded, contrary to the routinary procedure in that court since 1963; that subsequent inquiry by the offended party, Mrs. Josefina Vda. de Marcella, in Criminal Case No. 418 led to the discovery of the loss of the record; that in the ordinary course of business, respondent Labrador must have been in possession of the said record, and that respondent Ledesma did not keep a record of the movement of papers in the office. Respondents Presto Labrador and Eden Ledesma were found guilty of neglect of duty for the loss of the record and respondent Labrador was fined one month's pay with a reprimand and warning; respondent Ledesma was fined 15 days pay, also with reprimand and warning, and respondent Maximiano Biwang was exonerated.

On April 13, 1973, by Administrative Order No. 353, of the President of the Philippines, respondent Belinda V. Antonio was, "pursuant, on the whole, to the findings and recommendation of the Secretary of Justice", fined one month's pay for neglect of duty, with a warning.

On the basis of the findings of facts of the Secretary of Justice in his decision dated December 6, 1971, respondent Belinda V. Antonio may not be fully exonerated as she was remiss in supervising her subordinates. Both respondents Labrador and Ledesma are under her supervision as Clerk of Court. Although the principle of command responsibility or "respondent al superior" may not be made to apply in an absolute manner, in a case where the proximate cause of the loss of the record of Criminal Case No. 418 could be attributed primarily to the negligence of respondent Labrador and secondarily to the negligence of respondent Ledesma for his failure to record its delivery to Labrador, she cannot be held blameless.

Respondent Belinda V. Antonio, is liable for not exercising closer, supervision over respondents Ledesma and Labrador. However, We realize that even the closest control or supervision over subordinates could not fully and absolutely insure that they would not commit negligence in the performance of their duties. A wrong committed by a subordinate even under the closest surveillance and vigilance by the superior could not be prevented if intentionally done. Respondent Antonio cannot at all times be continuously watching and supervising the performance of duties of her subordinates since they are also presumed to be responsible public servants. We also consider that except for the resultant delay in execution of judgment there was no great harm caused by the loss of the record in Criminal Case No. 418, since the same was immediately reconstituted and the judgment of the Court of Appeals was duly executed.

Although respondent Antonio cannot escape responsibility for her failure to exercise closer supervision over her subordinates and in not prescribing an office procedure by which it can be definitely ascertained who should be responsible for the loss of any record in her office, he deserve some degree of leniency and the penalty to be meted out to her should not be equal to that imposed on respondent Labrador, since her responsibility is not direct but at most vicarious.

WHEREFORE, the penalty of one month's pay fine imposed upon respondent Belinda Antonio is hereby set aside and she is hereby admonished to exercise greater vigilance and closer supervision over her subordinates in the performance of their duties, with the warning that the commission of the same or a similar irregularity in the

future will be dealt with more severely.

SO ORDERED.

Makalintal, C.J., Castro, Fernando, Teehankee, Barredo, Makasiar, Antonio, Fernandez, Munoz Palma, and Aquino, JJ., concur.

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