

**VICTOR BASCO, COMPLAINANT, VS. ATTY. DAMASO GREGORIO,
CLERK OF COURT V, RTC, BRANCH 41, PINAMALAYAN, ORIENTAL
MINDORO, RESPONDENT.**

A.M. No. P-94-1026. July 06, 1995

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

In a sworn complaint[1] dated January 31, 1994, Victor Basco charged Atty. Damaso Gregorio, Clerk of Court of the Regional Trial Court of Pinamalayan, Oriental Mindoro, with misconduct relative to Civil Case No. 1091-92 entitled "Basco v. Mirafles."

Complainant alleged that he is the plaintiff in the aforementioned civil case and that despite the fact that the said case was submitted for decision as early as February 2, 1993, a decision had not yet been promulgated as of the filing of the complaint. He attributed the delay in the rendition of a decision to the fact that respondent lost some, if not all, the records of the case. Complainant further alleged that in the few times he visited the court premises during office hours, he observed respondent to be drunk and somewhat tipsy.

In due course, respondent Gregorio filed his comment with the following submissions, viz:

- (1) He admitted that he was appointed Commissioner in Civil Case No. 1091-92 `but with the exception as to allegation that the case was submitted for decision on February 2, 1993, for the truth of the matter is that it will be considered submitted for decision only after the receipt by the Honorable Judge of Branch 41 of the Commissioner's Report';
- (2) Respondent averred that the case was terminated on January 12, 1993, but, with the voluminous work in his office and other ex-parte cases being handled by him (respondent), he was not able to finish his report within twenty one (21) days from the termination of the case on February 2, 1993 although he had already drafted almost two-thirds (2/3) of said report when the carpeta of the case was lost;
- (3) He further added that because of the said incident, entreaties were made to the mother of the complainant to let Victor Basco come to the office so that the record can be reconstituted but, unfortunately, the said entreaties were never accepted by the mother of the complainant;
- (4) The records were already reconstituted together with the stenographic notes taken during the proceedings;
- (5) He vehemently denied complainant's allegation that he was drunk and somewhat tipsy even during office hours and asserted that the same `is devoid of truth and painted only to attract the Court's attention'; and
- (6) From the time of the termination of the ex-parte proceedings up to the filing of the present complaint, complainant never visited his office nor talked to him in any place elsewhere.[2]

Thereafter, the case was referred to the Office of the Court Administrator for evaluation, report and recommendation.

In a memorandum of said office dated April 6, 1995,[3] the following findings were reported:

On February 13, 1995 this Office (of the Court Administrator) received the investigation report of Executive Judge Manuel A. Roman.

Quoted hereunder is the pertinent portion of his investigation report:

In the hearings duly had, per Minutes and Transcripts attached herewith, Complainant Victor Basco stated:

Q:

And during the times that you visited the Court and/or see or talked with Atty. Gregorio, what was his demeanor?

A:

Ayos naman po siya. (TSN, January 18, 1995, p. 8),

which testimony in effect negates Complainant's claim that on his occasional visits to the court premises, he had 'observed Atty. Gregorio drank and somewhat tipsy, even during office hours.'

That Complainant agreed to Respondent's request that he furnish the latter all available copies of the records in his possession to expedite the resolution of Civil Case No. R-109-92 of RTC, Branch 41, entitled: 'Victor Basco vs. Myra Mirafles', and as a consequence, on January 25, 1995, Respondent furnished the undersigned with a copy of the Commissioner's Report in said case, a copy of which is attached hereto.

That the foregoing, however, did not and will not, in any way, absolved him of the loss of the records of said Civil Case No. R-109-92 while the same was in the performance of his official duties.'

We find no reason to disturb the recommendation of the Investigating Judge. The probability leans heavily in favor of what was asserted by complainant. There is no doubt that respondent was negligent in the performance of his duties in the safeguard of court records. He never mentioned in his comment that diligent efforts were exerted to repeatedly search the lost records of the subject case. All that he claimed was that the records were already reconstituted.

Rule 136, Section 7 of the Rules of Court specifically provides that:

SEC. 7. Safekeeping of property. - The clerk shall safely keep all records, papers, files exhibits and public property committed to his charge, including the library of the court, and the seals and furniture belonging to his office.

In sum, respondent being a public officer is bound to discharge his duties with prudence, caution, and attention which careful men usually exercise in the management of their affairs, particularly so in the safekeeping of court records and properties. Thus, he should be severely admonished to be more vigilant in the exercise of his functions as Clerk of Court.

With respect to the charge that respondent is often observed to be drunk and somewhat tipsy even during office hours, the undersigned agrees with the Investigating Judge that the testimony of complainant during the investigation, negates his claim.[4] (Emphasis ours)

It was recommended therein that respondent be severely admonished to exercise more prudence and vigilance in the performance of his duties. The imposition of a fine of P2,000.00 for his gross negligence in the custody of court records was likewise suggested.[5]

We have thoroughly reviewed the testimonial and documentary evidence as well as the findings and conclusion of

the investigating judge and we find respondent Atty. Damaso Gregorio indeed guilty of the charge against him.

In *Angeles v. Bantug*,^[6] reiterated in *Lloveras v. Sanchez*,^[7] this Court emphasized the vital role a clerk of court plays in the prompt and proper administration of justice. There, we stressed that a clerk of court is an essential officer in any judicial system, his office being the center of activities, both adjudicative and administrative. He keeps the records and seal, issues processes, enters judgments and orders, and upon request, gives certified copies from the records.

Under Section 7, Rule 136 of the Rules of Court and Section A on Duties of Clerks of Court, Chapter II of the Manual for Clerks of Court, it is the duty of the clerk of court 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 custodian of the records of the court, it is his duty to ensure that the same are safely kept in his possession and that they will be 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.

In the case at bench, respondent Gregorio's failure to discharge the aforementioned duties imposed upon him with all due diligence is indicative of negligence on his part which warrants disciplinary action. He must realize that his administrative functions are just as essential to the prompt and proper administration of justice.^[8]

The exacting standards of ethics and morality imposed upon court employees and judges are reflective of the premium placed on the image of the court of justice, and that image is necessarily mirrored in the conduct, official or otherwise, of the men and women who work thereat. It thus becomes the imperative and sacred duty of everyone charged with the dispensation of justice, from the judge to the lowliest clerk, to maintain the courts' good name and standing as true temples of justice.^[9] Circumscribed with the heavy burden of responsibility, their conduct at all times must not only be characterized with propriety and decorum, but above all else, must be above suspicion.^[10] Indeed, every employee of the Judiciary should be an example of integrity, probity, uprightness, honesty and diligence. Certainly, respondent cannot and must not exempt himself from these rigorous standards.

WHEREFORE, respondent Atty. Damaso Gregorio is hereby ordered to pay a fine of Five Thousand Pesos (P5,000.00) and ADMONISHED to be more circumspect in the performance of his duties as a clerk of court, with a STERN WARNING that a repetition of the same or similar infractions in the future will be dealt with more severely. Let copy of this decision be attached to the personal records of respondent Gregorio.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Bellosillo, and Quiason, JJ., concur.

[1] Rollo, pp. 2-4.

[2] Comment, pp. 1-2; Rollo, pp. 7-8.

[3] Rollo, pp. 55-58.

[4] Id., at 55-57.

[5] Id., at 57-58.

[6] 209 SCRA 413 [1992].

[7] 229 SCRA 302 [1994].

[8] Callejo, Jr. v. Garcia, 206 SCRA 491 [1992]; Nidua v. Lazaro, 174 SCRA 581 [1989].

[9] Court Administrator v. Villanueva, 223 SCRA 41 [1993]; Lim-Arce v. Azce, 205 SCRA 21 [1992].

[10] Lloveras v. Sanchez, *supra*; Callejo, Jr. v. Garcia, *supra*; Jereos, Jr. v. Reblando, Sr., 71 SCRA 126 [1976].

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