

**ALBERTO V. GARONG, COMPLAINANT, VS. THE COURT
ADMINISTRATOR ALFREDO L. BENIPAYO AND JUDGE TOMAS C.
LEYNES, BRANCH 40, CALAPAN CITY, ORIENTAL MINDORO,
RESPONDENTS.**

O.C. A.M. No. 00-02 (Formerly AM No. 00-4-189-RTC). November 19, 2003

Ponente: TINGA, J.

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TINGA, J.:

The Court Administrator is charged[1] with assisting the Supreme Court in the discharge of its administrative supervision over all courts and court personnel.[2] With the Court Administrator's awesome authority comes the burden - no less awesome - of strictest adherence to the Code of Judicial Conduct. As the Court's principal arm in the performance of its constitutional duty,[3] the Court Administrator must be the embodiment of ethical deportment. It is ironic, therefore, when the Court Administrator is accused of violating the same Code that he is tasked to uphold and enforce.

Justice Alfredo L. Benipayo, the Court Administrator from 1996 to 2001, [4] and Judge Tomas C. Leynes of Branch 40, Regional Trial Court (RTC), Calapan City, Oriental Mindoro, are charged with colluding with each other to interfere with the appeal interposed by complainant before the Court of Appeals. Such interference, it is claimed, ultimately led to complainant's abrupt arrest. It is also alleged that respondents conspired to cause the withholding of complainant's salaries and his dropping from the service. Until such dropping from the service in 2000, complainant Alberto V. Garong was Court Interpreter III of the same Calapan City RTC, Branch 40, where respondent Judge Leynes presides.

The charges against respondents stem from a criminal case (*People v. Garong, et al.*, Crim. Case No. C-3406) against herein complainant Garong. On March 3, 1993, Judge Marciano T. Virola of Branch 39 of the Calapan City RTC rendered judgment,[5] finding Garong guilty of Frustrated Homicide committed against his neighbor, Gerson Morta. Garong filed an appeal, docketed as CA- G.R. CR No. 14852, with the Court of Appeals.

On August 9, 1996, the 14[th] Division of the Court of Appeals, through its Chair, Justice Jainal D. Rasul, upheld his conviction. [6] Justices Hector L. Hofileña and Hilarion L. Aquino concurred in the decision, which became final and executory on November 15, 1996 per Resolution[7] of the Court of Appeals dated March 11, 1997:

No motion for reconsideration before this Court or petition for review on certiorari before the Honorable Supreme Court having been filed within the reglementary period for filing the same, the decision is hereby declared as having become final and executory as of November 15, 1996, and it is ordered entered in the Book of Entries of Judgment.

It turned out, however, that Garong had actually filed on November 21, 1996 a motion for reconsideration of the decision affirming his conviction. The motion was not immediately forwarded to the Deputy Clerk of Court because of the transfer of the Receiving Section of the Court of Appeals to another location. On June 13, 1997, Garong also filed an urgent motion to recall the Resolution of March 11, 1997, and to admit the motion for

reconsideration. The Court of Appeals did not act on these motions until some two years later.

Meanwhile, sometime in 1998, respondent Judge Leynes, then also Acting Presiding Judge of Branch 39,[8] learned from Cristelita P. Morta, the wife of Garong's alleged victim, that the Court of Appeals had already turned down Garong's appeal despite which Garong had not yet been arrested. Ms Morta obtained her information from the local Chief of Police, who helped her acquire a copy of the judgment of the Court of Appeals.[9]

Judge Leynes asked for the records of Crim. Case No. C-3406 from the personnel of Branch 39 but he was informed that the Court of Appeals had not yet transmitted the same. Judge Leynes assured Ms Morta that he would inquire why the records had not been remanded to the court of origin.

Garong, in the meantime, was facing another criminal case, for Falsification of a Public Document.[10] The case involved the forgery of a court order allegedly issued by then Presiding Judge Mario de la Cruz of Branch 40. Inexplicably, the information against Garong, filed on August 16, 1995, was raffled to the same Branch 40 where Garong was Court Interpreter. The government prosecutor made known to Judge Leynes his intention to file a motion for the latter's inhibition. Thus, on October 2, 1998, Judge Leynes issued an order recusing himself from the case, which was then transferred to Branch 39.

According to Judge Leynes, Garong felt aggrieved by the order of inhibition because he wanted the Judge to dismiss the case for falsification. In retaliation for the Judge's inhibition, Garong filed on November 11, 1998 with the Office of the Court Administrator (OCA) a complaint[11] against Judge Leynes and two other employees of Branch 40, accusing them of falsification of public documents and violation of the Anti-Graft and Corrupt Practices Act.[12]

Required by the OCA to respond to the complaint,[13] Judge Leynes went to Manila on February 17, 1999 to personally file his Answer. Earlier, Judge Leynes issued an Omnibus Order[14] dated February 15, 1999 resetting the cases scheduled for hearing in the RTC:

Considering that the undersigned Presiding Judge of this Court will be in Manila on February 17, 18 and 19 to confer with the Office of the Court Administrator, Supreme Court regarding office practice and procedural problems in his court, let all the cases be scheduled for hearing on said dates be reset to the next available calendar of this Court.

....

Judge Leynes took advantage of his trip to Manila to inquire into the missing records of Crim. Case No. C-3406. From the OCA, he proceeded to the Court of Appeals, a short distance away, where he was informed that the records could not be found. Troubled by this piece of news, Judge Leynes headed back to the OCA to report the matter to the Court Administrator. Judge Leynes feared that the records were lost in transit, or erroneously sent to a different court or, worst, actually received by Branch 39 but misplaced by its personnel.

Although he did not have any previous appointment, Judge Leynes walked into the office of Justice Benipayo[15] and related to him the circumstances surrounding the lost records. Judge Leynes reported that there was a criminal case against a former employee in the Calapan City RTC, and that the judgment of conviction had long become final but could not be executed because the Court of Appeals had not transmitted the records to the lower court.[16] The records could not be found.[17] Sensing something irregular, Justice Benipayo assured Judge Leynes that he would look into the matter and contact the Court of Appeals.[18] Thereupon, Judge Leynes left.[19]

Justice Benipayo then called up Atty. Tessie Gatmaitan, the Clerk of Court of the Court of Appeals, and asked her "to look into [the] problem, to find out where the records were and to report to [him]."[20] After a day or two,

Atty. Gatmaitan informed Justice Benipayo that the records could not be found.[21] Justice Benipayo thus instructed her to "better investigate." [22] Sometime later, Atty. Gatmaitan reported that they finally found the missing records in the office of the ponente, Justice Rasul, notwithstanding that judgment had already been entered.[23]

On February 24, 1999, the 14th Division, through Justice Rasul, issued a resolution denying admission of Garong's motion for reconsideration and directing the Division Clerk of Court to forward the Entry of Judgment to the Archives Section for the remand of the records to the court of origin. The Resolution[24] of February 24, 1999 reads:

Considering the resolution of this Court under date of March 11, 1997 declaring this case as having become final and executory and ordering its entry in the Book of Entries of Judgments, the Court resolved (1) to merely NOTE the Entry of Appearance filed by Atty. Jose Noel A. Garong as collaborating counsel for accused-appellant, and (2) DENY ADMISSION of the Motion for Reconsideration for having been filed beyond the 15 day reglementary period.

ACCORDINGLY, the Division Clerk of Court is hereby directed to release and forward the Entry of Judgment to the Archives Section for remand of the original records of this case to the Court a quo.

At the time of the issuance of the Resolution, both the Court Administrator and the Presiding Justice of the Court of Appeals were already searching for the records.

To make sure that the records would not be misplaced again, Justice Benipayo phoned Justice Jesus Elbinias, then the Presiding Justice of the Court of Appeals, and brought to his attention the circumstances of the case.[25] Alarmed, Justice Elbinias "suggested that to ensure that the records will get to the lower court... perhaps it would be better if the records [were] brought to [Justice Benipayo's] office." [26] Justice Benipayo said, "that was a good idea." [27] He explained the reasons for agreeing to the proposal:

So, I told [Justice Elbinias]... "okay[.]" that would be better because when I was with the Court of Appeals I have had the sorry experience of learning that on 2 or 3 cases decided by the Court of Appeals the records would get misplaced or get lost. And particularly, we [had] a person to investigate one case where a criminal case where the court record was supposed to be brought down to the lower court but when the lower court received the package it did not contain the records [of the] case but old newspapers. That is one irregularity and that the other instance, the record of one case which was supposed to be sent to the lower court [but] was sent to another court in a far away province. So, as a result of [these] judgments that have become executory and ought to be executed could not be executed because of lack of records. Which is why... when we were revising the Rules of Court sometime [in] 1996-1997 I suggested that perhaps to avoid a miscarriage of justice and injustice to [the] winning party that judgment already executory maybe executed even without the original court records or even without the pertinent records provided that the movant, the prevailing party could present to the lower court a certificate of entry of judgment as well as a certified true copy of the executory judgment. On the basis of this[.], there could be execution since the records of the case were not necessary. Now, as a result, my suggestion was adopted and we have this now in the Rule of Court, in the 1997 Rules on Civil Procedure.[28]

Justice Benipayo then called up Judge Leynes and asked him to come get the records from the Court of Appeals.[29] Justice Benipayo instructed Judge Leynes to get in touch with Justice Elbinias.[30] On February 26, 1999, Judge Leynes issued an Order[31] stating:

Considering that the undersigned Presiding Judge of this Court will go to the Supreme Court upon order of Honorable Justice Alfredo L. Benipayo, Court Administrator, to get [the] records of a case filed with the Regional Trial Court, Branch 39, Calapan City, let all the cases set for hearing on Monday and Tuesday, (March 1 and 2, 1999) be reset to the next calendar of this Court.

On his way to Justice Elbinias's office on March 1, 1999, Judge Leynes met Edgardo Laurente, Assistant Chief of the Archive Section, who informed him that Justice Elbinias wanted to talk to him.[32] The two proceeded to the office of the Presiding Justice, where Justice Elbinias told Judge Leynes that the records had already been located and directed Mr. Laurente to bring the records to the office of the Court Administrator.[33] In accordance with Justice Elbinias' instructions, Judge Leynes went with Mr. Laurente.[34]

At the office of Justice Benipayo, respondent Court Administrator asked one of his personnel to make sure the records were in order and then to turn them over to Judge Leynes.[35] The records were then delivered to respondent Judge, who signed a receipt therefor.

Back in Calapan City, Judge Leynes issued on March 3, 1999 a Memorandum[36] detailing Honesto B. Lopez as Court Interpreter of Branch 40 in lieu of Garong, who was then no longer reporting for duty.

The next day, March 4, 1999, Judge Leynes issued an Order of Execution [37] enforcing the final judgment in Crim. Case No. C-3406, as well as a Warrant of Arrest, [38] against Garong. On March 5, 1999, Garong filed a Motion to Quash the Warrant of Arrest [39] and, thereafter, a Motion for Inhibition[40] on March 11, 1999. On March 18, 1999, Judge Leynes denied Garong's motions in view of the judgment's finality.[41]

On April 16, 1999, Garong filed before the Court of Appeals a motion[42] to lift the entry of judgment, to admit and resolve the motion for reconsideration and to recall the order of execution and the warrant of arrest.

Following the issuance of the warrant of arrest, Judge Leynes, in a Letter [43] dated May 17, 1999, addressed to Justice Benipayo, informed the Court Administrator that he had already issued an order for the execution of the decision in Criminal Case No. C-3406, as well as the corresponding warrant of arrest. Garong had not yet been arrested, however. Judge Leynes also reported that, despite conviction, Garong had not yet been terminated from the service and was still drawing his salaries and other benefits. Accordingly, the Judge requested that Garong's position be declared vacant so his position may be filled up.

Upon receipt of the Letter, Justice Benipayo, by way of a handwritten note dated May 24, 1999, which was attached to said Letter, instructed "Mrs. Soria - FMO [Financial Monitoring Office]" to "Pls. stop payment of subject A. Garong."

On June 3, 1999, Garong filed with the Court of Appeals a motion[44] to enjoin the Calapan City RTC from implementing the order of execution and the warrant of arrest.

In a Notice[45] dated June 29, 1999, Hermogena F. Bayani, Officer-in-Charge of the Leave Division of the OCA wrote Garong, requiring him to submit certain documents in connection with his application for leave from March 1 to April 30, 1999, otherwise his salary will be withheld. On July 28, 1999, Ms Bayani directed the withholding of Garong's salary for his "non-submission of local clearances." [46]

On July 5, 1999, the Supreme Court noted the administrative complaint [47] filed by the OCA against Garong for conviction of moral turpitude, a ground for disciplinary action under Section 46 (b), paragraph 10, Chapter 7, Book V of Executive Order No. 292.

In a Travel Order[48] dated July 21, 1999, respondent Judge Leynes directed Atty. Felix C. Mendoza, the Clerk of Court of Branch 40 to "report to the Court Administrator and to file an answer regarding the affidavit-complaint of Alberto Garong against Atty. Felix C. Mendoza, and to make a follow-up regarding the status of Court Interpreter Alberto Garong regarding his indefinite absences and the request of the undersigned Executive Judge to declare the position of Court Interpreter [III] vacant...."

On August 26, 1999, the 14th Division of the Court of Appeals, per Justice Rasul, issued a Resolution[49] in

CA-G.R. CR No. 14852 lifting the Entry of Judgment and ordering the Calapan City RTC to recall the Order of Execution and the Warrant of Arrest. The Court of Appeals held that appellant Garong was not properly served with the notice of judgment, and that the entry of judgment was premature and, therefore, void. The Solicitor General agreed with appellant's arguments. As it turned out:

.... The Notice of Judgment [of the Decision of the Court of Appeals affirming Garong's conviction] dated August 12, 1996 and a copy of the aforesaid decision [were] sent to appellant's former counsel by means of registered mail but it was returned unserved. Though appellant's former counsel notified the Court of a change of address, the notice of judgment as well as the copy of the decision [were] still forwarded to the counsel's old address. On October 30, 1996[,] a copy of said decision was sent to appellant's office at Calapan, Oriental Mindoro. It was not received by the appellant[,] who was at that time on official leave in Manila from October 30, 1996 up to November 8, 1996 (Annexes "E" and "F"). Appellant was thereafter informed by long distance from Calapan, Mindoro to Manila. This prompted appellant to verify the status of the case from [the Court of Appeals]. It was only this time that he learned of the decision... on November 7, 1996. On November 21, 1996, appellant filed his motion for reconsideration of the decision of this Court, affirming his conviction. But his motion for reconsideration filed on November 21, 1996 was received by the Court of Appeals on December 5, 1996 and forwarded to the Receiving Section on December 13, 1996.

Our records show that on February 24, 1999, an Entry of Judgment was made pursuant to the order of this Court denying the motion for reconsideration filed by the appellant and remanding the original records to the court a quo. On March 4, 1999, the Acting Presiding Judge of the lower court issued the Order of Execution of Judgment and Warrant of Arrest. On April 16, 1999, appellant filed an urgent motion to lift or set aside the Entry of Judgment, to admit and resolve the motion for reconsideration, and to recall the order of execution and Warrant of Arrest....

In accordance with the above resolution of the Court of Appeals, Judge Leynes issued on September 24, 1999 an order recalling the Order of Execution of Judgment and the Warrant of Arrest.

In the meantime, on October 29, 1999, Garong filed before the Office of the Ombudsman an Affidavit-Complaint[50] against Court Administrator Benipayo and Judge Leynes, accusing them of violating Section 3 (e)[51] of the Anti-Graft and Corrupt Practices Act.

Complainant claimed that respondent Judge, driven by retribution, issued the order of execution and the warrant of arrest against him, denied his motion to quash and motion for inhibition, and recommended the withholding of his salary and his dismissal from the service. Apparently, respondent Judge was smarting from the administrative case filed by complainant against him.

Colluding with respondent Judge, respondent Benipayo supposedly took advantage of his position and "meddled" in the affairs of the Court of Appeals. Through Court of Appeals Presiding Justice Elbinias, Justice Benipayo allegedly pressured the 14[th] Division to precipitately and hastily cause:

- (1) The issuance of the Resolution of February 24, 1999 denying admission of Garong's motion for reconsideration and ordering the Division Clerk of Court to release and forward the Entry of Judgment to the Archives Section for remand to the court of origin.
- (2) The issuance of the corresponding Notice[52] of said Resolution.
- (3) The issuance of an Entry of Judgment[53] pursuant to such Resolution.
- (4) The issuance of a Letter of Transmittal[54] of the records from the Court of Appeals Archives Section to the Office of the Court of Administrator.
- (5) The entry, on page 31,[55] entry no. 50 of the Logbook of the Court of Appeals Archives Section, of an

annotation opposite the name "Rasul" reading: "Per verbal instruction of PJ Elbinias, to forward records to OCAD."

(6) The transmittal of the records by the OCA to the Clerk of Court of the RTC of Calapan City, through Judge Leynes.

Finding that Garong's complaint involved a violation of the Canons of Judicial Conduct, the Office of the Ombudsman endorsed Garong's complaint^[56] to the OCA. In a Memorandum,^[57] dated April 10, 2000, addressed to the Chief Justice, Justice Benipayo recommended that the case be dismissed for lack of merit.

In a Resolution dated September 26, 2000, the Court En Banc referred the matter^[58] to the Oversight Committee, chaired by then Senior Associate Justice Josue N. Bellosillo. The Committee submitted its Report on July 3, 2002.

Required by the Court to manifest whether they were willing to submit the case for resolution, respondents requested a hearing where they could present additional evidence.^[59] In a Resolution dated August 27, 2002, the Court referred the case for investigation to Supreme Court Associate Justice Carolina C. Griño-Aquino (Ret.), who submitted her Report and Recommendation on May 12, 2003.

Finding "absolutely no merit in the charges against respondents," the Investigating Justice recommends that the complaint be dismissed.^[60] We agree.

It bears stressing at the outset that complainant has the burden of proving his allegations by substantial evidence.^[61] On the other hand, respondent-public officers enjoy the presumption of regularity in the performance of their official duties,^[62] as well as the presumption of good faith,^[63] which complainant must also refute.

We find ludicrous complainant Garong's theory that the loss of the records is a mere "concoction" to conceal respondents' alleged interference with the course of his appeal. It is beyond dispute that complainant's judgment of conviction had already been entered. Despite such entry, transmittal to the court of origin, which should have ensued as a matter of course, had not taken place. The loss or misplacement of the records, to which both the Court Administrator and the Presiding Justice of the Court of Appeals testified, constitutes a very plausible explanation for the irregularity. On the other hand, complainant has not offered an alternative reason for such delay.

Respondents' failure to present as witnesses Atty. Gatmaitan, Mr. Edgardo Laurente and Atty. Josefina Mallari to testify to the loss of the records does not give rise to the presumption that evidence willfully suppressed would be adverse if produced.^[64] That presumption does not apply here because the evidence allegedly withheld would be merely corroborative^[65] and because the same evidence is available to complainant,^[66] who could have requested the Investigating Justice to issue a subpoena and compel such persons to testify.

There is nothing improper in the conduct of respondent Judge who, upon learning that a decision in the case for frustrated homicide had already been rendered, reported to respondent Court Administrator the non-transmittal of the records. The decision of the Court of Appeals affirming Garong's conviction was dated August 9, 1996. Respondent Judge was not informed that appellant had filed a motion for reconsideration or a petition for review. By all likelihood, the decision had become final and executory when he learned of it in 1998. In other words, there was an apparent two-year delay in the transmittal. Moreover, respondent Judge was worried that the personnel of his own Branch 39 may be responsible for the probable loss of the records.

A judge is mandated to administer justice without delay.^[67] He is obliged to diligently discharge administrative responsibilities, maintain professional competence in court management, and facilitate the performance of the administrative functions of other judges and court personnel.^[68] He is required to organize and supervise court

personnel to ensure the prompt and efficient dispatch of business, and require at all times the observance of high standards of public service and fidelity.[69] A judge, therefore, must not only administer justice without delay but also ensure that court personnel act with similar promptness. Only then would he be true to his duty to promote public confidence in the integrity of the judiciary.[70] In the light of such duties, it was imperative that respondent Judge inquire into the status of the case.

Neither is there anything improper in respondent Court Administrator's conduct who, after having been apprised by respondent Judge of the circumstances, investigated the alleged loss and facilitated the transmittal of the records to the Calapan City RTC. Plainly, something was amiss when the records of the case, long final and executory, had not been remanded to the court of origin. Section 8, Rule 11 of the Revised Internal Rules of the Court of Appeals[71] (RIRCA) provides:

After the entry of judgment, the Division Clerk of Court shall forward the rollo to the Mailing and Delivery Section within 2 working days the original records of the case for eventual transmittal to the court of origin. The mailing section shall remand the original records of the case to the court of origin within two working days.

The irregularity, of course, was not lost on respondent Court Administrator, himself a former Associate Justice of the Court of Appeals and a recognized authority on Remedial Law.[72] Worse, according to respondent Judge, the records were missing. Like respondent Judge, it was incumbent upon respondent Court Administrator to look into the anomaly. At best, a serious omission had been committed; at worst, the delay in the transmittal was intentional. When he did investigate, respondent Court Administrator was exercising - not abusing - his powers, he was performing - instead of ignoring - his duties. The Guidelines on the Functions of the Office of the Court of Administrator explicitly vest and impose upon the Court Administrator the power and the duty to intervene in the case management of, and to attend to requests for expeditious action on pending cases in, the lower courts:

I.

General Considerations

....

C.

The work attended to by the Office of the Court Administrator, either on its responsibility or with the approval of the Court En Banc, may be classified into the following categories:

....

2.

Administrative interventions in case management of lower courts , including designation of Executive Judges and detail of judges to other courts;

.....

III. Matters to be attended by the Court Administrator

....

B. Public Assistance and Information

The Office of the Court Administrator shall attend to all matters of public assistance and information, requests for

expeditious action on pending cases in the lower courts, indorsements from other government agencies and other matters which do not involve administrative or judicial adjudications, including queries on status of cases in the lower courts and such other matters relative to pertinent circulars, memoranda, or administrative orders of the Supreme Court.

C. Other Administrative Matters

1.

Requests of judges and court personnel for advice on routine administrative matters where the Court has laid down guiding policies; [Emphasis supplied.]

....

As the esteemed Investigating Justice pointed out in her Report and Recommendation:

Since the Appellate Court, as of August 9, 1996 had already affirmed the decision of the trial court in the Frustrated Homicide against Garong, and declared its judgment final and executory on November 15, 1996 (p. 62, Rec.), both Judge Leynes and CA Benipayo had reason to be disturbed when, after three (3) years, i.e., in 1999 the original records had not yet been returned to the lower court for execution of the judgment. The latter, as Court Administrator, was justified in taking a hand to investigate the anomaly for "administrative intervention in the case management of lower courts" (including the Court of Appeals) is one of the functions of his Office. It was his duty to intervene, investigate, interfere, or "meddle" (to borrow a favorite expression of the complainant), to correct what appeared to be a serious breach in the appellate court's decision procedure for the immediate remand of the original records to the court a quo[.]

CA Benipayo did not "act with impropriety or manifest partiality and abuse off authority" in responding to Judge Leynes' request for advice and assistance regarding his problem with Garong's frequent absences and the missing records of his criminal case. As Court Administrator, it was part of his job to "attend to requests for expeditious action on pending cases" as well as "requests of judges x x x for advice on routine administrative matters[.]"[73] [Emphasis in the original.]

In other words, it was respondent Court Administrator's job to "interfere" or, more accurately, to "intervene." Had he not, he would have been remiss in his duties, possibly subjecting him to disciplinary action. Thus was Justice Benipayo's dilemma:

.... What is ironic about this Madam Justice is that I took action for what appeared to be irregular and I was being faulted for it. If I did not take action, I would be more faulted for it because you know I am supposed to take action as Court Administrator.[74]

What we said earlier with respect to the judge's duty to administer justice without delay applies equally, if not with greater force, to the Court Administrator. Members of the Judiciary must always strive, as respondents did, to live up to their responsibility of assisting parties litigants in obtainin just, speedy and inexpensive determination of their cases and proceedings. [75] This duty they owe to every litigant, including the People of the Philippines, in whose name the information is brought,[76] and the offended party, who have as much right as the accused to a speedy disposition of the case.[77]

There is nothing so sacrosanct about Section 8, Rule 11 of the RIRCA that would prevent the personal transmittal of the records to the presiding judge of the court of origin. The RIRCA should be liberally construed to promote its object and to assist the parties in obtaining just, speedy, and inexpensive determination of every proceeding.[78] The emphasis of Section 8, Rule 11, therefore, should be laid not on the manner, but on the

expediency, of the transmittal to allow the speedy execution of the case.

Thus, after entry of judgment, the Court of Appeals had a total of four days within which to remand the original records to the court of origin. Obviously, the periods fixed by the rule were not observed. Two years had lapsed after judgment had been entered and still there was no transmittal. It would have been folly for the Court of Appeals to go through the rigmarole of Section 8, Rule 11 when the provision had already lost its significance. In the face of the delay and the suspicious circumstances surrounding the loss of the records, the resort to a more expedient and more secure measure was absolutely justified. Indeed, it was more sensible to have the records personally transmitted to the presiding judge rather than delay the transmittal further by having them delivered by registered mail and again risk loss.

Complainant has not offered any evidence proving that respondent Court Administrator exerted undue pressure on the then Presiding Justice of the Court of Appeals to cause the transmittal of the records. Testifying at the investigation, Justice Elbinias was naturally aghast at the suggestion:

ATTY. ROBERTO ABAD:

Mr. Garong testified that former Court Administrator Benipayo put pressure on you to order the transmittal of that record to his office, what can you say about that, Sir?

JUSTICE JESUS ELBINIAS:

Well, I do not want to say this as I might be misunderstood as bragging, but to tell you the truth, nothing could pressure me then and even now especially that I am a free agent now. So, how could the Court Administrator have pressured me being the head of the Court of Appeals. After all, I was not his subordinate.[79]

Complainant hints that the sudden issuance of the 14[th] Division of the Court of Appeals of the Resolution denying admission to his motion for reconsideration was also a result of undue pressure from respondent Court Administrator. We are not so quick to attach a sinister significance to the issuance of the Resolution. Obviously, the sudden issuance of the resolution was prompted by the frantic search for the records, because of which the 14[th] Division discovered its own inaction on Garong's motion for reconsideration.

The issuance of said resolution could not be described as precipitate or hasty. On the contrary, it was long overdue. If the 14[th] Division erred in its resolution, the error cannot be attributed to respondent Court Administrator, who, on the well-grounded belief that a valid entry of judgment was made, was merely acting in accordance with his mandate. Indeed, had it not been for Judge Leynes's and Justice Benipayo's intervention, complainant's motion for reconsideration would still be gathering dust in the dockets of the Court of Appeals. Perhaps, had the Court of Appeals granted complainant's motion and acquitted him, thereby lifting the Sword of Damocles hanging over his head, he would be thanking respondents for their "meddling" instead of chastising them.

In other words, respondents' actions cut both ways. True, the intervention for the transmittal of the records caused the issuance of the warrant of arrest against complainant. It also cannot be denied, however, that such intervention could have easily resulted in complainant's more expeditious acquittal. In any case, had either respondent failed to act, the further delay in the administration of justice would have wrought further injustice.

Complainant failed to present any evidence of collusion between the respondents. No motive was shown on the part of respondent Court Administrator, who denied knowing respondent Judge before the day the latter walked into his office. He also disclaimed any personal interest in the outcome of the case:

ATTY. ROBERTO ABAD:

There is also a suggestion that you pressured... Justices Razul [sic], Hofileña and Aquino to issue that resolution of February 24, 1999. What can you say about that?

SOLICITOR GENERAL ALFREDO BENIPAYO:

Well, I think there is no basis for that suggestion, that I am sure of, because I am positive and definite that I never talked to any of the Justices who took part in the decision. I did not talk at anytime to Justice Razul [sic]. I did not talk at any time to Justice Aquino, and I did not talk at any time to Justice Hofileña. The only Justice to whom I talked to was Justice Elbinias, Presiding Justice, in the manner that I told you earlier. I find that there is no need to talk to them because I have no interest whatsoever in this case. The truth is that I did not know Judge Leynes before he came to see me. I did not know who the complainant of this case was up to now, I have not met him. I do not even know his name, I did not know this Mr. Garong. I never met him until I saw him during the hearing of this case last week. I am absolute I have no interest in this case. My interest was official and to see to it that the law and the regulation are followed.[80]

We disagree with the suggestion that respondent Court Administrator should have acted with more circumspection in acting on the plaint of respondent Judge, considering that the latter had an administrative case pending before the OCA, which incidentally was filed by the appellant in the criminal case for transmittal. The pendency of such administrative case should not prevent respondent Court Administrator from acting on the report of irregularity for, as we have emphasized, his mandate required him to do so. He should not shrug his shoulders and shun the report simply because the one who made it was the respondent in an administrative case.

We likewise find no showing that respondents connived to withhold complainant's salary and to drop him from the service. Just as an order of execution follows the transmittal of the records, these administrative consequences inevitably flow from an employee's unauthorized absences without official leave. Respondent Judge's report regarding complainant's absences and his corresponding recommendation to the OCA were made pursuant to his administrative responsibilities. A judge is tasked to take or initiate appropriate disciplinary measures against court personnel for unprofessional conduct of which the judge may have become aware.[81] We see no taint of malice or arbitrariness in respondent Judge's actions, especially since the unauthorized absences are not seriously disputed.

Much less was there any malice or arbitrariness on the part of respondent Court Administrator in ordering the withholding of Garong's salary. He clarifies that when he instructed the withholding of complainant's salary, he was acting on the belief that complainant had been duly "convicted by final judgment, that he had not been reporting to work, and that a warrant of arrest had been issued against him." [82] At that time, the Court of Appeals had not yet voided the entry of judgment in CA-G.R. CR No. 14852.[83] He correctly points out that, in view of these circumstances, "it would be highly irregular not to stop paying complainant Garong salary from public funds." [84] As regards the dropping of complainant from the rolls, respondent Court Administrator had referred the matter to Deputy Court Administrator Zenaida Elepaño, who made that recommendation to the Court.

Finally, respondent Court Administrator is faulted for recommending, in his Memorandum dated April 10, 2000 to the Chief Justice, the dismissal of the present complaint "for utter lack of merit." Justice Benipayo explains, however, that he intended the Memorandum to serve as his comment to the charges hurled against him by complainant. Thus, when required to answer these charges, respondent, in a Memorandum [85] dated December 13, 2000, simply adopted his Memorandum of April 10, 2000 as his comment.

Respondent Court Administrator adds, and we agree, that there was no attempt on his part to mislead the Court about the facts and circumstances of the case. As expected of any memorandum by the Court Administrator involving disciplinary cases, the Memorandum of April 10, 2000 objectively sets forth the antecedents leading to the complaint and clinically evaluates the evidence. Indeed, complainant has never claimed that respondent's

Memorandum omitted any significant fact or piece of evidence. At any rate, the subject Memorandum was merely recommendatory and, considering that the Court Administrator was one of the respondents in the complaint, we attach very little, if any weight to his "recommendation."

Even prescinding from the recommendatory character of the memorandum, the fundamental point is that the case is not for the Chief Justice alone but for the entire Court to decide. By whatever reasonable yardstick, therefore, the step taken by the Court Administrator cannot be elevated to the level of an administrative offense deserving of legal sanction.

In fine, complainant failed to overcome his burden to prove his allegations by substantial evidence and to rebut the presumptions of regularity and good faith in respondents' favor. We share the Investigating Justice's conclusion that "respondents did not act improperly, corruptly, nor oppressively, nor with manifest partiality and abuse of authority to cause undue injury to the complainant." [86]

Truly, it is the height of irony when the Court Administrator is accused of violating the same Code that he is tasked to uphold and enforce. Of even greater irony, however, is when the Court Administrator faithfully discharges his duty but is condemned for it. Such is the complaint before us. We treat it accordingly.

WHEREFORE, the complaint is hereby DISMISSED for lack of merit.

SO ORDERED.

Davide, Jr., C.J., Puno, Vitug, Panganiban, Quisumbing, Carpio, Austria- Martinez, Corona, Carpio Morales, Callejo, Sr., and Azcuna, JJ., concur.

Ynares-Santiago, and Sandoval-Gutierrez, JJ., no part.

[1] Pres. Dec. No. 828 (1975), sec. 1.

[2] Const., art. VIII, sec. 6.

[3] Resolution of the Court En Banc Re: Guidelines on the Functions of the Office of the Court of Administrator, February 26, 1991; OCA Circular No. 30-91, September 30, 1991; Re: Report on the Judicial Audit, RTC Brs. 4 and 23, A.M. No. 97-3-85-RTC, June 18, 1998.

[4] Since then, respondent Benipayo was appointed Chair of the Commission on Elections and, subsequently, Solicitor General, his current position.

[5] Exhibit 2-Leynes.

[6] Exhibit 3-Leynes.

[7] Exhibit 3- Benipayo; Exhibit 4-Leynes.

[8] In view of the retirement of Judge Virola.

[9] Exhibit 5-Leynes.

[10] People v. Garong, Crim. Case No. C-4805. Garong was subsequently convicted of the crime charged per Decision (Exhibit 8-Leynes) dated September 5, 2002 of the RTC of Calapan City, Branch 39, presided by Judge Mario Lopez.

[11] Exhibit C, entitled Alberto Garong v. Judge Tomas C. Leynes, Atty. Felix C. Mendoza and Celeste Chua, docketed as A.M. No. RTTJ-00-1577. In a Resolution (Exhibit 7-Leynes) dated September 11, 2002, the Court

dismissed the case for insufficiency of evidence.

[12] Rep. Act No. 3019 (1955).

[13] Exhibit D.

[14] Exhibit E.

[15] TSN, November 18, 2002, p. 13.

[16] Id., at 14-15.

[17] Id., at 15.

[18] Id., at 16.

[19] Ibid.

[20] Ibid.

[21] TSN, November 18, 2002, p. 17.

[22] Ibid.

[23] Ibid.

[24] Exhibit M.

[25] TSN, November 18, 2002, p. 18.

[26] Ibid.

[27] TSN, November 18, 2002, p. 20.

[28] Id., at 19.

[29] Id., at 20.

[30] TSN, November 19, 2002, p. 23.

[31] Exhibit F.

[32] TSN, November 19, 2002, p. 23.

[33] Ibid.

[34] Ibid.

[35] TSN, November 18, 2002, p. 22.

[36] Exhibit G.

[37] Exhibit H.

[38] Exhibit I.

[39] Exhibits J and K.

[40] Exhibit L.

[41] Exhibit 9-Leynes.

[42] Exhibit S.

[43] Exhibit T.

[44] Exhibit U.

[45] Exhibit 6- Benipayo.

[46] In another Letter dated January 24, 2000 to Court Administrator Benipayo, Judge Leynes reiterated his request to have Garong's position be declared vacant. He also reported that Garong "had abandoned his duty" since March 1999 for which Garong should be summarily dismissed.

In a Memorandum (Exhibit SS; Exhibit 4-Benipayo) dated February 7, 2000 to the Chief Justice, Deputy Court Administrator Zenaida N. Elepaño recommended that Garong be dropped from the service. This Court subsequently issued a Resolution (Exhibit 5-Benipayo) dated March 6, 2000, stating:

.... It appearing that Mr. Alberto V. Garong, Interpreter III, Regional Trial Court, Calapan City, Branch 40, has incurred unauthorized absences without official leave, the Court Resolves to DROP Alberto V. Garong from the service effective August 1, 1999.

[47] Exhibit Y, docketed as A. M. No. P-99-1311.

[48] Exhibit V.

[49] Exhibit Z.

[50] Exhibit A, docketed as No. OMB-0-99-2533.

[51] Sec. 3. Corrupt practices of public officers. -- In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared unlawful:

...

(e) causing any undue injury to any party, including the government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

[52] Exhibit N.

[53] Exhibit O.

[54] Exhibit R; Exhibit 6-Leynes.

[55] Exhibit Q.

[56] Docketed as A.M. No. 00-4-189-RTC.

[57] Exhibit UU; Exhibit 7-Benipayo.

[58] Docketed as OC No. 00-02.

[59] Resolution dated July 16, 2002.

[60] Report and Recommendation dated May 12, 2003, p. 13.

[61] Sinott v. Barte, A.M. No. RTJ-99-1453, December 14, 2001, 372 SCRA 282.

[62] Rules of Court, Rule 131, Sec. 3 (m).

[63] See Caguioa v. Laviña, A.M. No. RTJ-00-1553, November 20, 2000, 345 SCRA 49.

[64] Rules of Court, Rule 131, Sec. 3 (e).

[65] People v. Zheng Bai Hui, G.R. No. 127580, August 22, 2000, 338 SCRA 420.

[66] Rabor v. People, G.R. No. 140344, August 18, 2000, 338 SCRA 381.

[67] Code of Judicial Conduct, Rule 1.02.

[68] Id., Rule 3.07.

[69] Id., Rule 3.08.

[70] Id., Rule 2.01.

[71] Now Section 6, Rule VII of the 2002 Internal Rules of the Court of Appeals:

"Sec. 6. Transmittal of Records. -- Within five (5) days from the receipt of the rollo, the Chief of the Archives Sections shall cause the remand of the original records to the court or quasi-judicial agency of origin. (Sec. 8, Rule 11, RIRCA [a])."

[72] Respondent was a Consultant of the Revision of the Rules of Court Committee of the Supreme Court.

[73] Report and Recommendation dated May 12, 2003, pp. 11-12.

[74] TSN, November 18, 2002, p. 42.

[75] Perez v. Andaya, 286 SCRA 40 (1998).

[76] Rules of Court, Rule 110, Sec. 2.

[77] Const., Art. III, Sec. 16.

[78] Rules of Court, Rule 1, Sec. 2.

[79] TSN, November 19, 2002, p. 5.

[80] TSN, November 18, 2002, pp. 20-21.

[81] Code of Judicial Conduct, Rule 3.10.

[82] Memorandum for Respondent Alfredo L. Benipayo, p. 19.

[83] Ibid.

[84] Memorandum for Respondent Alfredo L. Benipayo, p. 20.

[85] Exhibit 8- Benipayo.

[86] Report and Recommendation dated May 12, 2003, p. 10.

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