

JUDICIAL AUDIT AND PHYSICAL INVENTORY OF CONFISCATED CASH, SURETY AND PROPERTY BONDS AT THE REGIONAL TRIAL COURT OF TARLAC CITY, BRANCHES 63, 64 AND 65.

A.M. No. 04-7-358-RTC. July 22, 2005

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

A judicial and physical inventory of confiscated cash, surety and property bonds was conducted in Branches 63, 64 and 65 of the Regional Trial Court of Tarlac City. Based on the audit team's report,[1] the Office of the Court Administrator recommended[2] the following actions which we adopted in our July 6, 2004 Resolution,[3] to wit:

For RTC, Branch 63

(a) DIRECT the Presiding Judge to EXPLAIN within ten (10) days from notice hereof and IMMEDIATELY TAKE APPROPRIATE ACTION on the following:

(i) Cases where no judgment on the bond and/or no order/writ of execution was rendered/issued: Criminal Cases Nos. 12239, 10605, 11153, 11343, 12824, 10967, 12892, 12941, 12458, 11239, 12355, 9021, 6807, 10105, 8721, 12128, 12667, 12789 and 12750; and

(ii) Cases where there is no record that order of confiscation was executed (no payment of liability on the bond): Criminal Cases Nos. 10436, 10613, 10787, 10808, 10834, 11385, 9473, 9452, 9451, 9181 and 12893;

(b) DIRECT the Branch Clerk of Court to EXPLAIN within ten (10) days from notice hereof why Criminal Case No. 13116 contains a Supreme Court (SC)-Office of the Court Administrator (OCA) certification which is valid only for the MTCC, Olongapo City; and

(c) REMIND the Presiding/Acting Judge and the Branch Clerk of Court to STRICTLY ENFORCE COMPLIANCE with all the requirements for the application of all kinds of bail bonds prior to the approval thereof (including matters on the renewal of bonds and at least certified true copies of SC-OCA certifications) and to FAITHFULLY OBSERVE the procedure in the confiscation, if any, of the said bonds in favor of the Judiciary Development Fund;

For RTC, Branch 64

(a) DIRECT the Presiding Judge to EXPLAIN within ten (10) days from notice hereof and the Acting Judge to IMMEDIATELY TAKE APPROPRIATE ACTION on the following:

(i) Cases where no judgment on the bond and/or no writ/order of execution was rendered/issued: 12442, 13895, 10779, 12080, 12131, 12132, 10758, 11152, 9213 and 10779; and

(ii) Cases where the order/writ of execution was not satisfied or there was no sheriff's return (no payment of liability on the bond): Criminal Cases Nos. 10509, 10262, 10183, 12256, 11367, 12725, 12825, 11174, 10835, 10780, 10767, 10731, 10629, 10609, 10426, 10477, 10970 and 11696;

(b) DIRECT the Branch Clerk of Court to EXPLAIN within ten (10) days from notice hereof why the bonds posted in Criminal Cases Nos. 12376 and 11498 contain SC-OCA certifications whose validity had expired; and

(c) REMIND the Presiding/Acting Judge and the Branch Clerk of Court to STRICTLY ENFORCE COMPLIANCE with all the requirements for the application of all kinds of bail bonds prior to the approval thereof (including matters on the renewal of bonds and at least certified true copies of SC-OCA certifications) and to FAITHFULLY OBSERVE the procedure in the confiscation, if any, of the said bonds in favor of the Judiciary Development Fund;

For RTC, Branch 65

(a) DIRECT the Presiding Judge to EXPLAIN within ten (10) days from notice hereof and IMMEDIATELY TAKE APPROPRIATE ACTION on the following:

(i) Cases where no judgment on the bond and/or no writ/order of execution was rendered/issued: 13129, 10545, 11761, 12367, 12337, 11001, 11415, 11951, 11197, 11150, 12818, 10957, 12173, 11306, 11587, 10423, 11957, 11184, 11600, 10720, 13646, 11480, 9213, 12839, 11255 and 12444; and

(ii) Cases where the order/writ of execution was not satisfied (partial/no payment of liability on the bond): Criminal Cases Nos. 11190, 11844, 11906 and 11368;

(b) DIRECT the Branch Clerk of Court to EXPLAIN within ten (10) days from notice hereof why Criminal Case No. 12443 contains an SC-OCA certification which is valid but not for the RTC, Tarlac, and there was no such certification attached in Criminal Cases Nos. 31019 and 11498; and

(c) REMIND the Presiding/Acting Judge and the Branch Clerk of Court to STRICTLY ENFORCE COMPLIANCE with all the requirements for the application of all kinds of bail bonds prior to the approval thereof (including matters on the renewal of bonds and at least certified true copies of SC-OCA certifications) and to FAITHFULLY OBSERVE the procedure in the confiscation, if any, of the said bonds in favor of the Judiciary Development Fund.

Judge Martonino R. Marcos and Clerk of Court Leo Cecilio D. Bautista, of Branch 64, submitted their explanations on August 4, 2004[4] while Judge Arsenio P. Adriano and Clerk of Court Ma. Teresa D. Porlucas of Branch 63 submitted their joint explanation on August 6, 2004.[5] Judge Bitty G. Viliran and Clerk of Court Noel M. Subiate of Branch 65 submitted their respective explanations on August 12, 2004[6] and September 28, 2004.[7]

In the Memorandum dated November 9, 2004,[8] the OCA observed that Judge Adriano of Branch 63 has not satisfactorily explained the status of cases with judgment on the bond but no corresponding writ of execution was issued. His explanation regarding cases with unimplemented order of confiscation was not responsive to what the Court required him to do. The OCA opined that payment for the liability on the bond cannot be effected by just showing that judgment on the bond has been issued but appropriate action should be taken to ensure payment of liability on the bonds.[9] With regard to Branch 64, the OCA reiterated its directive to Judge Marcos to explain and take appropriate action in Criminal Case No. 12895 and in those cases with no sheriffs' return.[10] The OCA also required Judge Viliran of Branch 65 to explain Criminal Case No. 13646 and submit documents in support of his explanation, while Clerk of Court Subiate was asked to verify the existence of Criminal Case No. 11498.[11]

Thus, on December 14, 2004,[12] we resolved to:

RTC, BRANCH 63

(a) DIRECT the Presiding Judge to explain and take appropriate action on the following, in reiteration of the resolution of 6 July 2004:

(i)

Cases with no writ of execution issued: Criminal Cases Nos. 12239, 10605, 11153, 11343, 12824, 10967, 12892, 12941, 12458, 11239, 12355, 9021, 10105, 8721 and 12667; and

(ii)

Cases with unpaid liability on the bond: Criminal Cases Nos. 10436, 10613, 10808, 10787, 11385, 9473, 9452, 9451 and 9181;

RTC, BRANCH 64

(a) DIRECT the Presiding Judge to explain and take appropriate action on the following, within ten (10) days from notice hereof:

(i)

Criminal Case No. 12895, a case with no judgment on the bond and writ of execution, and previously referred to as Criminal Case No. 13895 in the resolution of 6 July 2004; and

(ii)

Cases with no Sheriff's Return: Criminal Cases Nos. 10629, 10731, 10477, 10970, 11174, 10262 and 10426; and

(b) REQUIRE the Presiding Judge to SHOW CAUSE, also within ten (10) days from notice hereof, why no disciplinary action should be taken against him for approving the bail bonds with no valid SC-OCA Certifications in Criminal Cases Nos. 12376 and 11498;

RTC, BRANCH 65

(a) DIRECT the Presiding Judge to

(i)

EXPLAIN within ten (10) days from notice hereof and immediately take appropriate action on Criminal Case No. 10646, a case with no judgment on the bond and writ of execution, and previously referred to as Criminal Case No. 13646 in the resolution of 6 July 2004; and

(ii)

SUBMIT supporting documents relative to his letter-explanation dated 30 July 2004, also within ten (10) days from notice hereof; and

(b) DIRECT the Branch Clerk of Court to explain, within ten (10) days from notice hereof, why no SC-OCA Certifications were attached to Criminal Case No. 13019, previously referred to as Criminal Case No. 31019 in the resolution of 6 July 2004, and Criminal Case No. 11498.

On January 31, 2005,[13] Judge Marcos of Branch 64 informed this Court that a judgment on forfeiture was promulgated on November 17, 2004 in Criminal Case No. 12895 where a writ of execution was issued. Anent Criminal Cases Nos. 10629, 10731, 10477, 10970, 11174, 10262 and 10426, he averred that it was Judge Adriano who issued the judgment on forfeiture while Sheriff Aurelio Inalves implemented the writs of execution but he retired without making any return. In Criminal Cases Nos. 12376 and 11498, he alleged that the audit team might have overlooked the valid SC-OCA certifications because upon further verification, they were found to have been attached in the records.

The OCA found the explanation on the status of the bond posted in Criminal Case No. 12895 meritorious and supported by relevant documents. Anent those cases with no sheriff's return, it opined that with the retirement of Sheriff Inalves, there is no more opportunity for Judge Marcos to require the sheriff to explain his failure to submit the return.[14]

The OCA however noted that Judge Marcos failed to satisfactorily explain why he approved the bonds posted in Criminal Cases Nos. 12376 and 11498 without valid SC-OCA certifications. It insisted that there was no oversight on the part of the audit team because as earlier explained by Clerk of Court Bautista, the bonds were approved on condition that certifications will be subsequently submitted.

According to the OCA, Bautista should not be held liable for the irregularity since the bonds were posted on March 26, 2002 and November 8, 2002 before he was appointed Clerk of Court of Branch 64 on February 1, 2004. However, it recommended that Atty. Shalane G. Palomar, the former Clerk of Court of Branch 64, be directed to comment on the letter-explanation of Atty. Bautista.

The OCA emphasized that although the duty to ensure compliance with the requisites of bail application rests mainly with the Clerk of Court and the task of the judge is only to approve the same, he must nevertheless observe the minimum standard of diligence in approving the same.[15] Thus for failure to exercise the necessary diligence in approving the bail bonds, it recommended that Judge Marcos be fined in the amount of P5,000.00.[16]

We adopt the findings and recommendations of the OCA.

All applications for bail/judicial bonds, before their approval by the Judge concerned, shall be coursed thru the Clerk of Court or his duly authorized personnel who shall see to it that the bond is in order.[17] In accepting surety bond, the Clerk of Court should see to it that all the requisites are complied with, otherwise, the bond should be rejected.[18] Every bond shall be accompanied by a clearance from the Supreme Court showing that the company concerned is qualified to transact business which is valid only for thirty (30) days from the date of its issuance.[19]

We agree with the OCA that there were no valid certifications from this Court at the time Judge Marcos approved the bonds. There was really no oversight because as admitted by Clerk of Court Bautista, the bonds were approved on condition that valid certifications would be submitted later after their issuance by the Court.

Concededly, the duty rests with the Clerk of Court to ascertain that the bond is in order and all the requisites are complied with. Nevertheless the judge is also bound to review the documents before approving the same. In this regard, we agree with OCA's observation that:

Although the duty to ensure compliance with the requisites of bail bond application rests mainly with the Clerk of Court or his duly authorized personnel and the task of the Judge is only to approve the same, said task has an accompanying responsibility on the part of the approving Judge to review or determine its validity. Understandably, he should be employing the minimum standard the rules require the clerks of court to observe. Considering the seriousness of the purpose in the posting of bail bond, approval thereof should pass through strict scrutiny and with utmost caution on the part of both the Clerk of Court (or his duly authorized personnel) and the approving Judge.[20]

We held in *Padilla v. Judge Silerio*[21] that in "the discharge of the functions of his office, a judge must strive to act in a manner that puts him and his conduct above reproach and beyond suspicion. He must act with extreme care for his office indeed is laden with a heavy burden of responsibility. Certainly, a judge is enjoined, his heavy caseload notwithstanding, to pore over all documents whereon he affixes his signature and gives his official imprimatur." [22]

In said case, the Court cited with approval the evaluation of the OCA through then Court Administrator Alfredo Benipayo, thus:

Upon careful analysis of the documents/evidence submitted by herein complainant as well as the comment of respondent Judge, we find that there is dearth of evidence to directly implicate respondent Judge to subject anomaly. We believe, however, that respondent Judge should be made liable for carelessness and failure to exercise the necessary diligence when he signed the Order approving the spurious cash bond of accused Prieto.

Signing of Orders must not be taken lightly nor should it be considered as one of the usual paperwork that simply passes through the hands of a judge for signature. Respondent Judge should be made to account for his negligence and lack of prudence which resulted in the anomaly now in question. In the case of Suroza vs. Honrado (110 SCRA 388) the Court ruled that a judge would be inexcusably negligent if he failed to observe in the performance of his duties that diligence, prudence and circumspection which the law required in the rendition of any public service. He cannot likewise exculpate himself, nor take refuge behind the lame excuse that he relied on his staff who, as per alleged standard operating procedure, are tasked to check compliance with the requirements for the approval of cash bonds. His position demands that he maintains professional competence and observe high standards of public service.[23]

The negligence committed by Judge Marcos appears isolated and not deliberate considering that out of the three hundred thirty three (333) audited cases of Branch 64 where bonds were posted, only two (2) were approved without valid certifications. This does not however justify his failure to exercise the necessary diligence in the performance of his duties. He knew beforehand that the bonds lack valid certifications yet he proceeded to approve them on condition that valid certifications will be submitted upon their issuance by the Court.

We find the P5,000.00 fine recommended by the OCA commensurate with the infraction committed. In *Padilla v. Judge Silerio*[24] we imposed a fine of P5,000.00 on respondent judge for his negligence in approving a spurious bond.

We note that only Judge Marcos complied with the directives contained in the December 14, 2004 Resolution. To date, the Presiding Judge of Branch 63 and Presiding Judge and Clerk of Court of Branch 65 have yet to comply thereto.

WHEREFORE, based on the foregoing:

- Judge Martonino R. Marcos of Branch 64, Regional Trial Court of Tarlac City, is FINED in the amount of P5,000.00 for failure to exercise the necessary diligence in the performance of his duties.
- Atty. Shalane G. Palomar, former Clerk of Court of Branch 64, Regional Trial Court of Tarlac City, is DIRECTED to comment within ten (10) days from notice hereof on the letter-explanation of Atty. Leo Cecilio D. Bautista, incumbent Clerk of Court of Branch 64, Regional Trial Court of Tarlac City, re absence of valid SC-OCA certifications on the approved bonds in Criminal Cases Nos. 12376 and 11498.
- Judge Arsenio P. Adriano, of Branch 63, and Judge Bitty G. Viliran and Clerk of Court Noel M. Subiate, of Branch 65, Regional Trial Court of Tarlac City, are REQUIRED to SHOW CAUSE why no disciplinary action should be taken against them for failure to comply with the Resolution dated December 14, 2004 and to COMPLY thereto within ten (10) days from notice hereof.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, and Garcia, JJ., concur.

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- [1] Rollo, pp. 5-15.
- [2] Id. at 2-4.
- [3] Id. at 16-18.
- [4] Id. at 22 and 19.
- [5] Id. at 47-61.
- [6] Id. at 112-113.
- [7] Id. at 121.
- [8] Id. at 154-161.
- [9] Id. at 156.
- [10] Id. at 158.
- [11] Id. at 160.
- [12] Id. at 162-163.
- [13] Id. at 164.
- [14] Id. at 173.
- [15] Id. at 174.
- [16] Id. at 174-175.
- [17] The 2002 Manual for Clerks of Court, Volume I, p. 289.
- [18] Id. at 287.
- [19] Id. at 288.
- [20] Rollo, p. 174.
- [21] 387 Phil. 538 [2000].
- [22] Id. at 543.
- [23] Id. at 542.
- [24] Id. at 544.

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