

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. ATTY. ROSARIO E. GASPAR, REGIONAL TRIAL COURT, BRANCH 2, BALANGA CITY, BATAAN, RESPONDENT.

A.M. No. P-07-2325 (Formerly A.M. No. 06-3-208-RTC). February 28, 2011

Ponente: BRION, J.

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BRION, J.:

We resolve the administrative charge against Atty. Rosario E. Gaspar, Branch Clerk of Court of the Regional Trial Court (RTC), Branch 2, Balanga City, for gross neglect of duty for failing to issue the writs of execution in court judgments rendered against forfeited surety bonds.

The charge arose out of the physical inventory of cash, property and surety bonds conducted on February 20 to 25, 2006 by the audit team of the Office of the Court Administrator (OCA) in Branches 1, 2, 3, 4 and 5 of the RTC in Bataan. The audit team found the following lapses in procedure committed by the respective Officers-in-Charge Branch Clerks of Court[1] and the Branch Clerks of Courts[2] (respondents) of the audited RTC branches: first, the failure of the respondents to comply with A.M. No. 04-7-02-SC regarding the new guidelines on the documentary requirements for surety bail bond applications; and second, the failure of the respondents to issue the corresponding writs of execution on cancelled or forfeited bail bonds.

We initially referred the matter to the OCA for investigation, report and recommendation.[3] We also directed the respondents to file their comments and ordered them to issue the corresponding writs of execution on the forfeited surety bonds.[4]

In their respective Comments, the respondents commonly claimed the lack of knowledge of A.M. No. 04-7-02-SC. They asserted that they came to know the existence of this guideline during the audit of February 20 to 25, 2006. The respondents for Branches 1, 2 (Atty. Gaspar) and 3 also asserted that in multiple sala courts, the applications for surety bonds were processed by Atty. Romeo Delemos of the Office of the Clerk of Court. The respondents offered their respective explanations and apologies on the second charge.

In its Report and Recommendation, the OCA made the following recommendations:

- The (sic) respondents Gilbert A. Argonza, Margarita R. Quicho, Rovelyn B. Baluyot and Joey Astorga we absolved of administrative liability in connection with the non-issuance of the Writs of Execution in the criminal cases mentioned in the audit report. However, for representing that the surety bond for the accused in Criminal Case No. 8780, RTC, Branch 1, Balanga City had expired on September 20, 2003 which is not borne by the surety bond itself attached as Annex C to his Letter Explanation, Mr. Astorga should be admonished to be more careful in the discharge of his duties and in his official communications specially to the Supreme Court.
- Respondent Rosario E. Gaspar be FINED in the amount of Three Thousand Pesos (P3,000.00) for neglect of duty in issuing the writs of execution in Criminal [Case] Nos. 8333 and 8194, RTC, Branch 2, Balanga City, only on August 4, 2006 when the judgments against the bonds in the cases were rendered almost 2 years

earlier.

- All the respondents be absolved of liability for non-compliance with A.M. No. 04-7-02-SC in connection with the corporate surety bonds posted in the criminal cases enumerated in the audit report, for lack of "working information on the new guidelines" as found by the audit team.

- Atty. Romeo Delemos, Clerk of Court of the RTC, Balanga City, be furnished a copy of the audit report and required to explain why administrative action should not be taken against him for non-compliance with A.M. No. 04-7-02-SC.

Except for Atty. Gaspar, the Court resolved to adopt the above recommendations and absolved the respondents from any administrative liability. Thereafter, we charged Atty. Gaspar with neglect of duty based on the Report and Recommendation of the OCA considering her admission that she overlooked and/or inadvertently failed to issue the writs of execution.[5] In the Minute Resolution dated June 13, 2007, we declared:

(2) RE-DOCKET the instant case as a regular administrative matter against respondent Rosario Gaspar;

(3) to require Rosario Gaspar to MANIFEST within ten (10) days from notice hereof if she is willing to submit the case for decision on the basis of the records and pleadings filed;

Atty. Gaspar does not deny her shortcomings but pleads that a lighter penalty be imposed than what the OCA recommended in view of the following circumstances: (a) she was a new employee at the time of the incidents complained of, and was not familiar with the case records; (b) the order for cancellation and forfeiture of the bond in Criminal Case No. 8333 did not specifically mention the issuance of the writ of execution; (c) she did not believe that there was an immediate need to issue the writ of execution in the case since the bondsmen were given three (3) days to produce the accused in court instead of the thirty (30)-day statutory period; and (d) the writ of execution against the surety in Criminal Case No. 8194 was issued just over six (6) months from the date of the order and not two (2) years as reported by the judicial audit team.

OUR RULING

Except for the recommended penalty, we agree with the findings and recommendations of the OCA and hold Atty. Gaspar liable for simple neglect of duty.

Section 1, Canon IV of the Code of Conduct for Court Personnel commands court personnel to perform their official duties properly and with diligence at all times. As the image of the courts, as the administrators and dispensers of justice, is not only reflected in their decisions, resolutions or orders but also mirrored in the conduct of court personnel, it is incumbent upon every court personnel to observe the highest degree of efficiency and competency in his or her assigned tasks. The failure to meet these standards warrants the imposition of administrative sanctions.

In this case, the duty of Atty. Gaspar, as Branch Clerk of Court, to issue the corresponding writs of execution to implement judgments of forfeiture against surety bonds is expressly provided in the 2002 Revised Manual for Clerks of Court. The records of the case and Atty. Gaspar's own admission show that she fell short of complying with the above standard. She failed to efficiently perform her duty to immediately issue the writs of execution in Criminal Case No. 8333 and Criminal Case No. 8194. The records show that Atty. Gaspar issued the writs of execution in these criminal cases more than two (2) years after the judgments were issued against the forfeited surety bonds. In Criminal Case No. 8333, the judgment against the surety bond was rendered on April 24, 2003 and the writ of execution to implement the same was issued by Atty. Gaspar only on August 6, 2006. In Criminal Case No. 8194, the RTC rendered judgment against the surety bond as early as June 8, 2004 when the bondsman failed to produce the accused in court. Atty. Gaspar issued the writ of execution only on August 6, 2006.

We find her liable for simple neglect of duty, bearing in mind our ruling in *Ligaya V. Reyes v. Mario Pablico*, etc.[6] where we defined simple neglect of duty as the failure of an employee to give proper attention to a required task or to discharge a duty due to carelessness or indifference. As distinguished from gross neglect of duty which is characterized by want of even the slightest care, or by conscious indifference to the consequences, or by flagrant and palpable breach of duty, there is nothing in the records to show that Atty. Gaspar willfully and intentionally omitted to issue the subject writs of execution.[7] On the contrary, she candidly admitted that her omissions were caused by plain oversight. She also undertook immediate rectification in compliance with our directives, thereby demonstrating her sincerity and lack of malice in committing her lapses.

Simple neglect of duty under Section 52, Rule IV of the Uniform Rules on Administrative Cases in the Civil Service is classified as a less grave offense, punishable by suspension without pay for one (1) month and one (1) day to six (6) months for the first offense. However, under Section 19, Rule XIV of the Omnibus Civil Service Rules and Regulations, a fine may be imposed instead of the penalty of suspension.[8] The OCA recommended that Atty. Gaspar be fined in the amount of Three Thousand Pesos (P3,000.00). We modify this recommendation and reduce the amount of the fine to P1,500.00, considering Atty. Gaspar's candid admission of her lapses and her apologies.[9]

ACCORDINGLY, premises considered, Atty. Rosario E. Gaspar, Branch Clerk of Court, Regional Trial Court, Branch 2, Balanga City, Bataan, is FINED in the amount of One Thousand Pesos (P1,000.00) for simple neglect of duty in failing to immediately issue the writs of execution of court judgments rendered on forfeited surety bonds. She is hereby WARNED that a repetition of the same or similar offense shall be dealt with more severely.

SO ORDERED.

Carpio Morales, (Chairperson), on wellness leave.

Bersamin, [***]Abad, Villarama, Jr., and Sereno, JJ., concur.

[**]Brion, Acting Chairperson,

[**] Designated Acting Chairperson of the Third Division per Special Order No. 925 dated January 24, 2011.

[***]Designated additional Member of the Third Division per Special Order No. 926 dated January 24, 2011.

[1] They are (1) Mr. Gilbert S. Argonza for RTC-Branch 1, Balanga City, Bataan; (2) Mrs. Margarita H. Quicho for RTC-Branch 3, Balanga City, Bataan; and (3) Mr. Joey A. Astorga for RTC-Branch 5, Dinalupihan, Bataan.

[2] They are (1) Atty. Gaspar; and (2) Atty. Rovelyn B. Baluyot for RTC-Branch 4, Mariveles, Bataan.

[3] Minute Resolution dated September 20, 2006; rollo, p. 97.

[4] Minute Resolution dated July 5, 2006; id. at 20-25.

[5] Page 15 of the OCA Report and Recommendation.

[6] A.M. No. P-06-2109, November 27, 2006, 508 SCRA 146.

[7] *Brucal v. Desierto*, G.R. No. 152188, July 8, 2005, 463 SCRA 151.

[8] Sec. 19. The penalty of transfer, or demotion, or fine may be imposed instead of suspension from one (1) day to one (1) year except in case of fine which shall not exceed six (6) months.

[9] *Seangio v. Parce*, A.M. No. P-06-2252, July 9, 2007, 527 SCRA 24.

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