OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. OFFICER-IN-CHARGE AND LEGAL RESEARCHER NILDA CINCO, REGIONAL TRIAL COURT, BRANCH 28, CATBALOGAN, SAMAR, RESPONDENT.

A.M. NO. P-06-2219 [FORMERLY A.M. NO. 06-7-392-RTC]. July 13, 2009

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

By letter of December 11, 2004,[1] Nilda C. Cinco (respondent), Legal Researcher and Officer-in-Charge of Branch 28, Regional Trial Court (RTC) of Catbalogan, Samar, reported to Presiding Judge Sibanah E. Usman that there were five[2] missing records of cases in their Branch and that she suspected the one in charge of Criminal Cases, Lilia C. Raga,[3] to be behind the loss, hence, she recommended that an investigation be conducted.[4]

The pertinent portions of respondent's letter-report to Judge Usman read, quoted verbatim:

> x x x x
>
> I discovered that three of the above-named records were missing on the 3[rd] day of November 2004, when Armando A. Canes, accused in Criminal Case No. 5885, posted bail for his temporary liberty. It was Judge Carmelita T. Cuares [of RTC, Br. 27] who signed, in view of your leave during the month of November. When the Cashbond of Armando Canes was submitted to our office, I look for its record purposely to attach said Cashbond. I could not find the record so I asked Alicia T. Redaja about the whereabouts of the record considering that she is the clerk assigned to take charge of Criminal Cases records and I also remembered that said record with some others were newly filed cases. . . Miss Redaja could not find the record . . . We inventoried the records twice in order to be sure whether the missing records were really missing, and we found out that three of the above-mentioned records were really missing.
>
> On November 10, 2004 . . . I went to the Police Station and reported the loss of the records. On the 11[th] of November 2004, Miss Redaja found out that another record was missing - the record of Criminal Case No. 5839 - People vs. Crispen Libao. This record was still in the cabinet when we inventoried the records and was found out missing on the 11[th] of November 2004.
>
> x x x x
>
> The last record that I found to be missing was the record of CAD Case No. 4 GLRO Cad Rec. No. 1378 Lot No. 385- Director of Lands vs. Luisa P. Sarmiento, which I thought was taken after we had inventoried the records just like the record of Criminal Case No. 5839-People vs. Crispen Libao which was also taken after we had inventoried the records, but before I padlock the cabinets.[5] (Emphasis and underscoring supplied)

Judge Usman referred respondent's letter, by letter of December 21, 2004,[6] to the Office of the Court Administrator (OCA) which in turn referred it to RTC Catbalogan Acting Executive Judge Carmelita T. Cuares (Judge Cuares) for investigation.

THE INVESTIGATING JUDGE'S
REPORT AND ACTION TAKEN
THEREON.

Judge Cuares' Memorandum Report[7] was summarized by the OCA in its June 29, 2006 Report:

> x x x x
>
> . . . [A]lthough Officer-in-Charge Cinco is the custodian of the missing records, all court personnel have access to the records since these are only placed either on top of Cinco's table, on her chair or in some corners, due to lack of space inside the cabinets. OIC Cinco suspects that the lost records were taken by Lilia C. Raga, Process Server of that court, to discredit her because she refused to sign a petition against their presiding judge, Judge Sibanah E. Usman.
>
> x x x x
>
> Judge Cuares questioned the employees who had access to the court records as well as the security guards in the Hall of Justice. She found no evidence that would implicate Mrs. Raga to the missing records. Nonetheless, the case records that were reported were all reconstituted except Civil Cases Nos. 7412 and 6336 that had long been terminated.
>
> Judge Cuares recommended that (a) Judge Usman be reprimanded for his failure to immediately investigate the loss; (b) Nilda C. Cinco be reprimanded for the loss of the case records; be warned to be extra careful in handling case records, and to adopt a system of accounting for every case record at the end of office hours to ensure that all records are accounted for; and (c) the other employees implicated in this case be relieved from liability for lack of evidence against them. Further, so as not to repeat the occurrence of loss of records, the judge should ensure that, unless authorized by the court, no one be allowed to meddle with the affairs of the court.[8] (Emphasis and underscoring supplied)

Respondent, by letter dated September 18, 2006,[9] in compliance with this Court's directive, manifested that she was not willing to submit the case for decision on the basis of the pleadings/records already filed. And she requested for a copy of the complaint against her so that she could file her answer.

The Court thereafter furnished respondent a copy of Judge Cuares' Memorandum Report and directed her to comment thereon. Respondent did comply.

EVALUATION BY THE OCA OF
THE INVESTIGATING JUDGE'S
REPORT AND ACTION TAKEN
BY THE COURT

The OCA, by Memorandum dated March 6, 2008,[10] evaluated respondent's Comment in this wise:

> Section 7 of Rule 136 of the Revised Rules of Court is explicit that the Clerk of Court shall safely keep all records, papers, files, exhibits and public property committed to her charge. Being the Acting Clerk of Court, respondent Cinco is the custodian of the court records and as such, she is expected to discharge her duty of safekeeping court records with diligence, efficiency and professionalism. Consonant with this duty of safekeeping the records of cases is the bounden duty of the custodian to see to it that the records are kept in secure places.
>
> In this case, however, respondent Cinco admitted that prior to the loss of the case records she leaves the cabinet where she keeps the case records unlocked in order that her co-employees shall have direct access to it every time they need the records. Obviously, respondent Cinco failed to meet the requirement expected of her as a custodian. The fact that she keeps the cabinets unlocked so that her co-employees could have direct access

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> to the case records is a manifestation of her utter lack of diligence and carefulness in performing her duty as a custodian. She did not even bother to take any precautions to see to it that only authorized court personnel shall have access to the cabinets where the records are kept because she made it directly accessible to all by leaving it unlocked. Court records are confidential documents and respondent should have adopted measures to safeguard and ensure their confidentiality and integrity.
>
> To escape culpability, respondent attributes the loss of the case records to the fact that the court lack sufficient cabinets where the court records could be safely kept and to Lilia Raga whom she suspects to have taken the case records. We find this untenable. As noted by then DCA Elepaño in the Agenda report dated 29 June 2006, a simple exercise of diligence could have alerted respondent to inform her judge for the need of additional storage/filing cabinets and to resort to reliable safety measures to ensure the safety of the case records. Further, aside from respondent's bare allegations and speculations, no concrete evidence was presented to prove that Lilia Raga took the missing records.[11] (Emphasis and underscoring supplied)

The OCA thus concluded that respondent is liable for simple neglect of duty and accordingly recommended that she be suspended for one month and one day, with advice to devise means to ensure the safety of the records of the cases.[12]

In compliance with this Court's Resolution of April 16, 2008[13] requiring respondent to manifest within ten days from notice whether she was willing to submit the case for resolution on the basis of the pleadings filed, she filed "Supplemental Comments," which the Court noted in its Resolution of November 12, 2008,[14] stating that she is "a victim of vindictiveness by an unscrupulous employee" whose "misbehavior" they were only trying to curtail.

THE COURT'S FINDINGS

The Court finds the evaluation by the OCA of the Investigating Judge's Report and its recommendation well-taken. Respondent was the Officer-in-Charge, Branch Clerk of Court. As such, she had vital functions in the administration of justice.

> Clerks of court are ranking officers who perform vital functions in the administration of justice. They are the designated custodians of, and have control over, court records. Section 7, Rule 136 of the Rules of Court states that clerks of court shall safely keep all the records, papers, files, and exhibits committed to their charge. The 2002 Revised Manual for Clerks of Court states that the duties of clerks of court include receiving and keeping the necessary papers of cases. In Office of the Court Administrator v. Carriedo, the Court held that clerks of court are duty-bound to safely keep court records and have them readily available upon request. They must be diligent and vigilant in managing the records. In Office of the Court Administrator v. Ramirez, the Court held that clerks of court are liable for the loss of court records.[15] (Italics in the original; underscoring supplied)

Despite respondent's awareness, however, that the filing cabinets were not enough to store all court records, she did not bother to inform the judge of the necessity of securing additional cabinets and, to, in the meantime, resort to measures to ensure the safety of the records.

Indeed, respondent is guilty of simple neglect of duty, defined as "the failure to give attention to a task or the disregard of a duty due to carelessness or indifference,"[16] which is classified as a less grave offense under the Uniform Rules on Administrative Cases in the Civil Service and punishable with suspension for one month and one day to six months for the first offense and dismissal for the second offense.[17]

That respondent may have been saddled with a heavy workload does not free her from administrative liability. Rivera v. Buena[18] teaches:

> When respondent assumed the position of branch clerk of court, it was understood that he was willing, ready and able to do his job with utmost devotion and efficiency. Having a voluminous workload, and being forced

> to do legal research work are unavailing defenses. Neither can respondent pass the blame to his subordinates. Being the administrative officer and having control and supervision over court records, he should have seen to it that his subordinates performed their functions well.[19] (Emphasis and underscoring supplied)

WHEREFORE, the Court finds respondent, Nilda C. Cinco, Officer-in-Charge, Branch Clerk of Court, and Legal Researcher, Regional Trial Court, Branch 28, Catbalogan, Samar, guilty of simple neglect of duty. She is SUSPENDED for One Month and One Day without pay, with warning that a repetition of the same or similar act shall be dealt with more severely.

SO ORDERED.

Quisumbing, (Chairperson), Chico-Nazario,[*] Leonardo-De Castro,[**]and Brion, JJ., concur.

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[*] Additional member per Special Order No. 658.

[**] Additional member per Special Order No. 635.

[1] Rollo, pp. 6-8.

[2] In her Affidavit dated May 30, 2005, rollo, pp. 62-64, respondent stated that after her December 11, 2004 Letter, she discovered that the records of two other cases, Civil Case No. 7412, and Spec. Proc. No. 6336, which were placed in the cabinet located in front of her table, were also missing, thus, there were 7 missing records.

[3] By Decision of June 21, 2006 in A.M. No. P-06-2150, the Court found Lilia C. Raga guilty of grave misconduct and was accordingly dismissed from service.

[4] Respondent enumerated the cases as follows: (1) Criminal Case No. 5882, People of the Philippines v. Dominador T. Alibio; (2) Criminal Case No. 5885, People v. Armando A. Canes and Mariano M. Sintos; (3) Criminal Case No. 5839, People of the Philippines v. Crispen Libao; (4) Civil Case No. 7465, Heirs of Pantaleon Gruta et al for Annulment of Extra Judicial Settlement of Estate; (5) CAD Case No. 4 GLRO CAD Rec. No. 1378 Lot No. 385, Director of Lands v. Luisa P. Sarmiento.

[5] Rollo, pp. 6-8.

[6] Id. at 5.

[7] Id. at 21-33.

[8] Id. at 1-2.

[9] Id. at 222.

[10] Id. at 312-315.

[11] Id. at 314.

[12] Id. at 315.

[13] Id. at 317.

[14] Id. at 323-324..

[15] Office of the Court Administrator v. Garcia-Rañoco, A.M. No. P-03-1717, March 6, 2008, 547 SCRA 670, 674.

[16] Calo v. Dizon, A.M. No. P-07-2359, August 11, 2008, 561 SCRA 517, 533; Rivera v. Buena, A.M. No. P-07-2394, February 19, 2008, 546 SCRA 222, 229; Office of the Court Administrator v. Paredes, A.M. No. P-06-2103, April 17, 2007, 521 SCRA 365, 370.

[17] Section 52(B)(1), CSC Resolution No. 991936, August 31, 1999.

[18] Rivera v. Buena, A.M. No. P-07-2394, February 19, 2008, 546 SCRA 222,228-229.

[19] Ibid.

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