ZENAIDA MUSNI, COMPLAINANT, VS. ERNESTO G. MORALES, PROCESS SERVER, REGIONAL TRIAL COURT OF MALOLOS, BULACAN (BRANCH 15), RESPONDENT.

A.M. No. P-99-1340. September 23, 1999

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The process server is duty-bound to serve summons, writs and other court processes promptly. Unjustified delay in performing this task constitutes neglect of duty and warrants the imposition of administrative sanctions.

The Case And The Facts

Before us is an administrative case for gross neglect of duty filed by Zenaida Musni against Ernesto G. Morales, a process server assigned at the Regional Trial Court of Malolos, Bulacan (Branch 15). In her Complaint-Affidavit received by the Office of the Court Administrator on September 17, 1997, she alleged the following:

> "1. Ako ang siyang nagrereklamo (complainant) sa kasong sibil na may bilang 788-M-96 na may titulong 'Zenaida Musni vs. Sps. Ysaac and Bernardita Tanjutco and the Rizal Commercial Banking Corporation' na nakabinbin sa Regional Trial Court ng Malolos, Bulacan, Branch 15, sala ni Judge CARLOS C. OFILADA.
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> "2. Ang naturang kaso ay aking inilagak sa (filed with) hukuman ng Malolos, Bulacan noon pang Oktubre 22, 1996;
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> "2.[a.] Bilang patunay na ang kasong ito ay nailagak sa hukuman sa nasabing petsa, kalakip bilang bahagi ng Sinumpaang Salaysay na ito ang kopya ng Reklamo (Complaint) na may marka ng pagkakatanggap ng Regional Trial Court ng Malolos, Bulacan noong Oktubre 22, 1996 bilang Annex 'A'.
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> "3. Noong Enero 17, 1997, nakatanggap ang aking abugado ng inamiendahang sagot (Amended Answer) mula sa inereklamong (defendants) mag-asawang Tanjutco na may petsang Enero 7, 1997.
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> "4. Matagal din naming hinintay ng aking abugado ang sagot (Answer) ng inereklamong (defendant) Rizal Commercial Banking Corporation (RCBC), ngunit magpahanggang sa buwan ng Hulyo 1997, ito'y hindi [pa] dumadating.
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> "5. Dahil dito ay ilang beses ding sumaglit ang aking abugado sa sala ni Judge OFILADA upang mag-follow up kung ano ang nangyayari o ginagawa ng process server ng nasabing korte, na nakilala ko na lamang noong bandang huli na na[g]ngangalang ERNESTO G. MORALES, ngunit ayon daw sa mga empleyado ng nasabing korte, ay wala ang nasabing process server.
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> "6. Dahil dito ay napilitan ang aking abugado na magtalaga (assigned) ng kanyang empleyado, si ROEL OLEDAN, na siyang nagdala ng sulat patungkol sa Clerk of Court ng Branch 15 upang malaman kung ang Summons at kopya ng Reklamo (Complaint) ay na i-serve na sa inerereklamong (defendant) RCBC at kung kailan;
>
> "6.a. Ang kopya ng nasabing sulat ay kalakip at bahagi ng Sinumpaang Salaysay na ito bilang Annex 'B'.

"7. Ang nasabing sulat ay ayaw [pa] di-umanong tanggapin ng process server ng nasabing korte noong ito'y unang dinala ni ROEL OLEDAN noong Hulyo 15, 1997 sa kadahilanang sinabihan daw siya ni BERNARDITA TANJUTCO na huwag daw i-serve ang Summons at kopya ng Reklamo (Complaint) sa inereklamong (defendant) RCBC.

"8. Dahil dito ay bumalik muli si ROEL OLEDAN sa Branch 15 noong Hulyo 18, 1997, at noon lamang tinanggap ang sulat ng aking abugado ng Branch 15;

"8.a. Makailang-ulit ding nagbalik-balik si ROEL OLEDAN sa nasabing korte upang i-follow up ang katugunan sa sulat ng aking abugado, ngunit walang nangyari dito dahil himdi naman daw inaabutan ang process server.

"9. Bagaman ang sulat ay patungkol sa Clerk of Court ng Branch 15 at humihingi ng sertipikasyon kung ang Summons at kopya ng Reklamo (Complaint) ay na i-serve na sa inereklamong (defendant) RCBC, ang nasabing Clerk of Court ay hindi nagbigay ng sertipikasyon at nagbigay na lamang ng kopya ng Process Server's Return of Service na may petsang Hulyo 28, 1997;

"9.a. Ang kopya ng nasabing Process Server's Return of Service ay kalakip at bahagi ng Sinumpaang Salaysay na ito bilang Annex 'C'.

"10. Makikita sa nasabing Process Server's Return of Service na bagaman naglabas ng Summons ang Branch 15 ng Regional Trial Court ng Malolos noong Oktubre 29, 1996, ito at ang kopya ng Reklamo (Complaint) ay pinarating lamang ng process server na si ERNESTO G. MORALES sa nasabing inereklamong (defendant) bangko noong Hulyo 25, 1997, o SIYAM (9) NA BUWAN MATAPOS MAILAGAK ANG REKLAMO (COMPLAINT) SA HUKUMAN.

"11. Kalakip at bahagi ng Sinumpaang Salaysay na ito ang Sinumpaang Salaysay ni ROEL OLEDAN na nagpapatunay sa kanyang mga nasaksihan patungkol sa laman ng aking Sinumpaang Salaysay bilang Annex 'D'.

"12. Dahil sa lahat ng nabanggit aking inirereklamo ang nasabing process server na si ERNESTO G. MORALES na karampatang kasong administratibo dahil sa kanyang lubhang pagpapabaya (gross negligence) sa pagtupad ng kanyang t[u]ngkulin o dahil sa kanyang pakikipagkasundo kay BERNARDITA TANJUTCO na huwag paratingin sa inereklamong RCBC ang Summons at kopya ng Reklamo (Complaint) ko."

On December 2, 1997, Respondent Morales was required to file his Comment.

In his Comment, Respondent Morales admitted that there was delay in the service of the summons but explained that "there was no malice, intent and self-interest" in his lapse, viz.:

"1. The undersigned emphatically denies the material allegations embodied in the 'Sinumpaang Salaysay' of Zenaida Musni;

"2. After the undersigned received the summons on the above-cited case, he served the same upon the defendants-spouses Isaac Tanjutco and Bernardita Tanjutco on November 18, 1996, being nearer;

"3. During the service of the summons and copies of the complaint upon the defendants-spouses, the undersigned was made to understand that the said defendants [were] making all efforts to settle the matter and [were] paving all avenues for an amicable settlement, negotiations between all the parties;

"4. The delay in the service of the summons and the copy of the complaint to the defendant bank was not intentional but merely an anticipation of a settlement between the parties;

"5. And then, later on, the undersigned learned that no settlement [or] any negotiations were made, so he finally served the summons and copy of the complaint upon the defendant bank;

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> "6. Furthermore, it [may be] noted that in the course of the trial of this case all parties manifested their inte[n]tion to settle this matter amicably and in fact hearings had been reset [a] few times to give them enough time to finalize their negotiation. Enclosed is an order of this Court confirming the fact that said negotiations are being undertaken with respect to this case[;]
>
> "7. And that, this comment is being submitted to attest to the fact that when the undersigned delayed xxx the service of the oft-mentioned summons - there was no malice, intent, and self-interest except the foregoing facts."

Report and Recommendation

In his Report dated August 6, 1999, which we quote below, Court Administrator Alfredo L. Benipayo recommended that respondent be fined in the sum of P3,000 for neglect of duty:

> "EVALUATION: It is clear from the foregoing that there was a delay in the service of summons upon defendant RCBC. Summons was issued as early as October 29, 1996 yet but it was served together with the copy of the complaint upon defendant RCBC only on July 25, 1997, or nine (9) months thereafter. Respondent, in his comment dated December 22, 1997, expressly admitted that he took it upon himself to defer service of the summons on RCBC to give defendant spouses Tanjutco time to forge a settlement with complainant Musni. His explanation is utterly unmeritorious. The Tanjutco[s'] alleged representation about their move to settle the case amicably was not a valid ground for the respondent to withhold service of the summons on the other defendant especially considering that no confirmation [of] the negotiation for settlement has been given by the plaintiff. The duty to serve summons does not include the discretion whether to serve it or not. As process server, respondent ought to know that his duty to effect such service of summons is purely ministerial and should be made within a reasonable period of time. His act unnecessarily caused delay in the proceedings of the case. However, this being his first offense, it should be considered in his favor.
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> "RECOMMENDATION: Respectfully submitted for the consideration of the Honorable Court is our recommendation that: xxx (2) respondent Ernesto G., Morales, Process Server, RTC, Branch 15, Malolos, Bulacan, be fined in the amount of Three Thousand (P3,000.00) Pesos for neglect of duty and warned that [a] repetition of the same or similar offense will be dealt with more severely."

This Court's Ruling

We agree with the court administrator that the respondent was remiss in performing his duty and that he should be sanctioned.

Responsibility of a Process Server

The responsibilities of a process server have been spelled out as follows:

> "The Process Server serves Court processes such as subpoenas, subpoenas duces tecum, summonses, Court orders and notices; prepares and submits returns of service of processes, monitors messages and/or delivers Court mail matters; keeps in custody and maintains a record book of all mail matters received and dispatched by the Court; and performs such other duties as may be assigned by the Presiding Judge/Clerk of Court."[1]

The significance of the process server's duty must be underscored. It is through the process server that defendants learn of the action brought against them by the complainant.[2] More important, it is also through the service of summons by the process server that the trial court acquires jurisdiction over the defendant. It is therefore important that summonses, other writs and court processes be served expeditiously.[3]

In the present case, respondent admitted that there was a delay, but justified it by saying that it was "in anticipation of the settlement of the parties." This is not an excuse. We reiterate that his task was to serve the summons expeditiously. His duty being ministerial, he has no discretion to postpone it at the behest of a party-litigant. His refusal to serve the summons immediately constituted a clear neglect of duty. Indeed, he was

able to serve the summons only on July 25, 1997, or almost nine months after the trial court had issued it on October 29, 1996.

This Court reminds respondent that the conduct required of court personnel, from the presiding judge to the lowliest clerk, must always be beyond reproach and circumscribed with the heavy burden of responsibility.[4] The judiciary expects the best from all its employees. Respondent's performance is clearly wanting. Not only did his neglect delay the administration of justice; it also impaired public confidence in the judiciary.

WHEREFORE, Respondent Ernesto G. Morales is hereby fined in the amount of three thousand pesos (P3,000) for neglect of duty. He is WARNED that a repetition of the same or similar acts will be dealt with more severely. Let a copy of this Decision be entered in respondent's personal record.

SO ORDERED.

Melo, (Chairman), Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.

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[1] Manual for Clerks of Court, p. 33.

[2] Spouses Andres Olar et al. v. Hon. Fortunato B. Cuna, 90 SCRA 114, 119, May 5, 1979.

[3] Tolentino v. Galano, 160 SCRA 373, 378, April 15, 1988; San Pedro v. Atty. Resurreccion, 113 SCRA 543, 545, April 16, 1982.

[4] Concerned Citizens of Laoag City v. Bienvenido Arzaga and Alfredo Mauricio, 267 SCRA 176, January 30, 1997.

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