

BARTOLOME MACARAEG, COMPLAINANT, VS. OSCAR BERMUDEZ, CLERK OF COURT, COURT OF AGRARIAN RELATIONS, BRANCH VI, PANIQUI, TARLAC, RESPONDENT.

A.M. No. P-1657. August 27, 1981

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

This is an administrative complaint filed by complainant Bartolome Macaraeg against respondent Oscar Bermudez, Clerk of Court, Court of Agrarian Relations, Branch VI, Paniqui, Tarlac for failure of the latter to transmit the records of the CAR Case No. 2628-T-'73 entitled "Segundo Rapada and Mauricia de Guzman, plaintiffs, vs. Bartolome Macaraeg, et al, defendants" to the Court of Appeals within the reglementary period as provided for by Section 18, PD No. 946, which reads as follows:

"The Court of Agrarian Relations shall forward to the Court of Appeals the complete records of the case within a non-extendible period of fifteen (15) days from receipt of a notice of appeal, if no motions for reconsideration are filed. In the event that motions for reconsideration are filed, the records shall be forwarded to the appellate court within a like period from receipt by the party concerned of the denial of the last motion for reconsideration." (Fourth paragraph of Section 18, PD No. 946.)

In his sworn complaint, complainant alleged that his counsel in the aforesaid CAR case filed on May 5, 1977 a notice of appeal with the Court of Agrarian Relations, Branch VI, Paniqui, Tarlac; that upon verification with the aforementioned court, Eufracia Macaraeg, one of the defendants in the said CAR case, found out that the records of the case were not yet forwarded to the Court of Appeals; that his counsel confronted the staff of the respondent Clerk of Court, and the former discovered that the aforesaid records were still with the Court of Agrarian Relations; that he and his counsel requested the Court of Appeals that a letter-order be forwarded to the said Court of Agrarian Relations so that the records should be transmitted to the Court of Appeals; that acceding to the foregoing request, the Court of Appeals sent to the respondent Clerk of Court a letter-order requiring the latter to forward the whole original records of the aforesaid case or a certified true copy there-of to the former within 5 days from receipt the letter-order that on June 21, 1977, his counsel found out again that the records have not as yet been transmitted to the Court of Appeals; and that it was only on June 27, 1977 that the aforesaid records were forwarded to and received by the Court of Appeals.

In his answer-explanation respondent Clerk of Court averred that on May 5, 1977, he received a notice of appeal in the above-mentioned CAR Case No. 2628-T-'73, and on May 9, 1977, he directed one of the stenographers to prepare the records for transmittal to the Court of Appeals; that it is the policy of the Presiding Judge of the said court that a certified true copy of the records of a case being brought on appeal should be prepared to remain with the court for reference in case a motion for execution pending appeal be filed pursuant to Rep. Act No. 5434 and PD No. 946; that an average of three to four cases are being appealed every month and because the stenographers are occupied during the hearing of cases, it takes them ten to fifteen days to prepare a certified true copy of the records of each case; that only the original copies of the transcripts of the said case are existing; that efforts were

exerted to locate copies of the transcript but to no avail; that stenographer Leonora Garcia who assisted in all the proceedings of the aforesaid case has resigned in December, 1976; that respondent Clerk of Court instructed Mr. Fontanilla to contact Mrs. Garcia personally, but she could not be contacted because she is busy with her work as an underwriter of Manila Bankers Life Insurance Company, Inc; that while preparing the certified copy of the records of the case and trying to secure the four copies of all its transcripts, respondent on June 14, 1977 received a letter from the Court of Appeals directing him to transmit the original or certified true copy of the records of the aforesaid case; that on June 24, 1977, being a special public holiday in Manila, respondent delivered the said records at the Central Office of the Court of Agrarian Relations, Quezon City; that the aforesaid Central Office forwarded the records to the Court of Appeals on June 27, 1977, the next working day; that respondent had no intention to delay the transmittal of the said records to the Court of Appeals nor did he deliberately fail to comply with the provisions of PD No. 946; and that this instant administrative complaint is a simple case of harassment against the respondent because the herein complainant and Eufracia Baluyot are among the landowners who lost in the said case in favor of their tenants.

We find that respondent Clerk of Court may not be fully exonerated as he was remiss in supervising his subordinates. Stenographer Leonora Garcia was under his supervision as Clerk of Court. The respondent should have instructed Leonora Garcia to transcribe all her stenographic notes before she resigned from her position as stenographer or at least, made an effort to convince her to transcribe the stenographic notes during Saturdays and Sundays after she had actually resigned from her said position. Respondent's failure to exercise closer supervision over all the stenographers, in particular, Leonora Garcia cannot be excused.

The principle of command responsibility or "respondeat al superior" however, may not be made to apply in an absolute manner because even the closest control or supervision over subordinates could not fully and absolutely insure that they would not commit negligence in the performance of their duties.[1] Respondent cannot be expected to be at all times watching and supervising continuously the performance of duties of his subordinates since the latter are presumed to be responsible public servants.

Although respondent cannot escape responsibility for his failure to exercise closer supervision over his subordinates and in not prescribing an office procedure by which the complete records of a case shall be forwarded to the Court of Appeals within the reglementary period as provided for by Section 18, PD No. 946, he deserves some degree of leniency. Efforts were exerted by respondent to get in touch with Leonora Garcia but the latter could not be located, for she was so busy as an underwriter of Manila Bankers Life Insurance Company, Inc. Moreover, except for the resultant delay in the transmittal of the above-mentioned records, there was no appreciable harm caused thereby to the complainant since the aforesaid records were forwarded to the Court of Appeals on June 27, 1977, one month and 22 days after the receipt of notice on appeal dated May 5, 1977.

WHEREFORE, respondent Clerk of Court is hereby admonished to exercise closer supervision and greater vigilance over his subordinates in the performance of their duties, with the warning that the commission of the same or a similar irregularity in the future will be dealt with more severely.

SO ORDERED.

Barredo, (Chairman), Aquino, Concepcion, Jr., and Abad Santos, JJ., concur.

[1] In re: Motion for Reconsideration of Administrative Order No. 353, 60 SCRA 248.

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