

SUSANA JOAQUIN VDA. DE AGREGADO, COMPLAINANT, VS. JUDGE EDGARDO B. BELLOSILLO, LEGAL RESEARCHER I LEONILA S. HUERTO, CLERK III THERESA T. BANABAN, RESPONDENTS.

A.M. No. MTJ-05-1600. August 09, 2005

Ponente: CARPIO-MORALES, J.

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CARPIO-MORALES, J.:

By Complaint-Affidavit dated July 20, 2003[1] which was received by the Office of the Court Administrator (OCA) on July 25, 2003,[2] Susana Joaquin vda. de Agregado (complainant) administratively charged Quezon City Metropolitan Trial Court (MeTC), Branch 36 1) Judge Edgardo B. Bellosillo, 2) Legal Researcher-Officer-In-Charge Clerk of Court Leonila S. Huerto, and 3) Clerk III Theresa T. Banaban in connection with the disposition of Civil Case No. 29181, a complaint for Sum of Money and Damages[3] against Jose Marcell Panlilio et al., all of the Philippine Village Hotel and Grand Boulevard Hotel.

The facts that spawned the filing of the present administrative complaint are not disputed.

On September 10, 2002,[4] complainant filed the above-said complaint for sum of money and damages against Jose Marcell Panlilio et al. which was raffled to Branch 36 of the Quezon City MeTC.

Summons upon the defendants was served on September 16, 2002 per Sheriff's Return[5] accomplished on even date.

As the defendants failed to file their answer or any responsive pleading despite the lapse of the reglementary period for the purpose, complainant filed a Motion to Declare them in Default.[6]

By Order of December 6, 2002,[7] respondent Judge granted the Motion to Declare Defendants in Default and set the presentation of evidence ex-parte by complainant on February 5, 2003 as she did.

By Decision of March 3, 2003,[8] respondent Judge rendered judgment in the case in favor of complainant.

Copy of the decision was served upon the defendant Jose Marcell Panlilio at his office at the Grand Boulevard Hotel on April 4, 2003.[9]

Nothing having been heard from the defendants, complainant filed on April 22, 2003 a Motion for Execution[10] of the decision, which was set for hearing on April 25, 2003. Copy of the motion was sent to the defendants at their given address and was received by one Girlie Ang on April 21, 2003.[11]

On April 23, 2003, Atty. Dennis G. Manicad of the Manicad Law Offices with office address at Suite 441, Grand Boulevard Hotel, 1990 Roxas Boulevard filed a Notice of Appeal, also dated April 23, 2003,[12] alleging that "defendant (sic) through him" was appealing the decision rendered by respondent Judge to the Regional Trial Court (RTC) which decision, he, as "counsel," claimed to have received on April 8, 2003.

On the scheduled hearing of the Motion for Execution on April 25, 2003, not one of the defendants nor Atty.

Manicad showed up. By Order issued also on April 25, 2003,[13] respondent Judge required the Branch Sheriff to submit his Return in view of the judge's finding of discrepancy in the date of receipt of the decision by the defendants - April 4, 2003 "as manifested" by the plaintiff "per information given by the sheriff," and April 8, 2003 "as [i]t appeared from the record."

Complying with respondent Judge's Order of April 25, 2003, the Branch Sheriff, Cenen L. Amoranto, by Sheriff's Return dated April 29, 2003,[14] gave the following information:

In compliance with the Order of this Court dated April 25, 2003 ordering the undersigned Sheriff to submit his return regarding the service of the Decision in the above-entitled case, it is further certified that on April 4, 2003 said Decision was served upon the defendant Jose Marcell Panlilio at Grand Boulevard Hotel, Manila thru Andy Dizon, whose signature appeared at the return slip of said Decision. (Emphasis and underscoring supplied)

Acting on the Sheriff's Return filed on April 29, 2003, respondent Judge, by Order of April 30, 2003,[15] denied complainant's Motion for Execution in this wise:

The Sheriff of this Branch submitted his Return on the service of the decision to the defendants and certified that the decision was served to defendants on April 4, 2003. However, the counsel for the defendants alleged in his Notice of Appeal that he received copy of the decision on April 8, 2003. Thus, the filing of the Notice of Appeal was within the reglementary period. Besides (sic), the counting of the Fifteen (15) days period should be reckoned from the date when the defendants' counsel received copy of the decision. (Emphasis, italics and underscoring supplied)

Complainant thus filed on June 4, 2003 a Motion for Reconsideration[16] of respondent Judge's Order of April 30, 2003, setting it for hearing on June 10, 2003. Complainant personally served a copy of the motion at the office of Atty. Dennis Manicad and it was received by one Andy Yuson.[17]

The Motion for Reconsideration was also personally filed by complainant at Branch 36 of the MeTC of Quezon City where it was received by an employee on detail from the Office of the Mayor, Regina Malacas, who in turn forwarded it to respondent Legal Researcher-OIC Branch Clerk of Court Huerto.

On the scheduled hearing on June 10, 2003 of her Motion for Reconsideration, complainant was informed by respondent Huerto that there was no hearing on that day and that her motion was deemed submitted for resolution. About a week later, complainant inquired about the status of her Motion for Reconsideration from respondent Huerto who claimed not having seen it.

Respondent Huerto was later to prepare an undated letter of transmittal[18] of the record of the case to the Office of the Clerk of Court, Quezon City Regional Trial Court (RTC). The record of the case was actually transmitted and received at the RTC on June 23, 2003.[19] The letter of transmittal indicates that copies thereof were furnished the Clerk of Court of RTC Quezon City, complainant's counsel of record, and the Manicad Law Offices.[20]

Complainant's counsel was later to receive, on July 9, 2003, a notice from the Office of the Clerk of Court of RTC Quezon City setting the raffle of the appealed case on July 17, 2003, hence, arose the present administrative complaint charging

1) Respondent Judge of the following offenses, quoted verbatim:

1)

Violation of ART. 206 of the Revised Penal Code [RPC] for rendering the unjust interlocutory ORDER dated

April 30, 2003 denying the motion for execution and approving the appeal after the Decision had become final and executory;

2)

Violation of ART. 207, RPC, for rendering the same ORDER dated April 30, 2003 which maliciously delay the proper, effective and efficient administration of justice due me as he presiding party;

3)

Violation of SEC. 3 (e) of the Anti-Graft and Corrupt Practices Act (R.A. 3019, as amended) by issuing his null and void Order of April 30, 2003, unlawfully denying the execution of the final and executory judgment and improperly approving a farce appeal after the expiration of the period provided by law. Judge BELLOSILLO "caused undue injury" to me and "gave the defendants unwarranted benefits, advantage or preference in not obliging them to satisfy the judgments to my prejudice and damage, showing manifest partiality in the discharge of his judicial functions;

4)

Violation of SEC. 1 ART. III (Bill of Rights), of the 1987 Constitution. In unlawfully denying the execution of the final and executory judgment, and unduly approving the improper appeal therefrom, through his null and void ORDER dated April 30, 2003-Judge BELLOSILLO, in effect, deprived me of my right to the fruits of the verdict without due process of law;

5)

For his manifest ignorance of the law, Presiding Judge BELLOSILLO committed violations of: (a) RULE 1.01 and RULE 1.02 of CANON 1 (Code of Judicial Conduct) providing that "A judge should be the embodiment of competence, integrity and independence," and "A judge should administer justice impartially and without delay;" (b) Rule 3.01 of CANON 3-providing that "A judge shall be faithful to the law and maintain professional competence;" (c) RULE 3.02 of CANON 3-enjoining that "In every case, a judge shall endeavor diligently to ascertain the facts and the applicable law unswayed by partisan interest, x x x;" and (d) RULE 3.09 of CANON 3 (on Administrative Responsibilities) providing that "A judge should organize and supervise the court personnel to ensure the prompt and efficient dispatch of business, and require at all times the observance of high standards of public service and fidelity. (Emphasis in the original; italization and underscoring supplied)

2) Respondent OIC Branch Clerk of Court Leonila Huerto and

3) Respondent Clerk III-Civil Case Records-In-Charge Theresa T. Banaban, for violation of Article 226 of the Revised Penal Code on Infidelity In the Custody of Documents.

By separate 1st Indorsements dated August 11, 2003,[21] the Court Administrator directed respondents to comment on the Complaint Affidavit.

By Comment filed on September 26, 2003,[22] respondent Judge proffered that, inter alia,

x x x

- Nobody among the staff informed the undersigned about the problem concerning Civil Case No. 29181. He came to know about the plaintiff's motion for reconsideration only when he received a copy of the Administrative Complaint attaching said motion. The undersigned called a meeting with all the staff to know the circumstances behind the missing pleading. The court's civil in charge, Thess Banaban, and clerk, Regina Manacas, who received the plaintiff's motion, both claimed that a copy of the motion was given to Mrs.

Huerto, who is supposed to forward the same to the office of the Presiding Judge for appropriate action. The undersigned confronted the OIC, Mrs. Huerto, about the missing motion but she could not explain the whereabouts of the said motion. She gave a flimsy excuse that it was lost in her table. It was also stressed during the meeting that any office problem must be immediately brought to the attention of the Presiding Judge.

- Upon receipt of the Administrative Complaint, the undersigned went over the plaintiff's motion for reconsideration and after a cursory perusal thereon, admits that there was an honest mistake or oversight on the part of the undersigned. Instead of reckoning the 15 days reglementary period from the date of receipt of the defendant's counsel, it should be the date of receipt by the defendant Panlilio;

- Had the said missing motion for reconsideration brought to the attention of the undersigned, the mistake could have been rectified or corrected. Unfortunately, the records were forwarded to the Clerk of Court of RTC without the plaintiff's motion for reconsideration;

x x x

- Plaintiff also charged the undersigned for rendering the unjust interlocutory order dated April 30, 2003 denying her motion for execution and approving defendants' appeal. Contrary to the contention of the plaintiff, there was no deliberate and malicious intent on the part of the undersigned to delay (sic) the early disposition of her case. As borne out by the records, all the pending motions filed before in Civil Case 29181 were acted upon with dispatched. It is unfair that the court issued the last order which was not favorable to the plaintiff, she accused the undersigned of delaying (sic) her case;

- Plaintiff further charged the undersigned for violation of Section 3(E) of the anti-graft and corrupt practices act (R.A. 3019, as amended) allegedly for issuing null and void order of April 30, 2003 and improperly approving a farce appeal after the expiration of the period provided by law which caused undue injury to her and gave the defendants unwarranted benefits, advantage or preference in obliging them to satisfy the judgments, showing manifest partiality in the discharge of his judicial functions and violation of Section 1 Article 3 of the 1987 Constitution.

x x x The assailed order was issued on the belief of the undersigned that it was the proper order to be issued then. It is likewise not amiss to point out that due process was afforded to both parties especially the complainant (Agregado);

- Lastly, plaintiff also charged the undersigned for violation of a) Rule 1.01 and Rule 1.02 of Canon 1; b) Rule 3.01 of Canon 3; c) Rule 3.02 of Canon 3; d) Rule 3.09 of Canon 3. The undersigned in handling cases before his sala tries and decides them fairly and judiciously based on facts and applicable laws unswayed by partisan interest.

In resolving plaintiff's motion for execution and defendant's notice of appeal, the undersigned was scrupulously careful to avoid such action as seasonably tend to awaken the suspicion that my actuation was tainted by malice and bad faith. The Supreme Court in the case of *Dizon v. Borja* (Adm. Case No. 163-J, January 28, 1971), Justice Makalintal categorically stated that: "to hold a judge administratively accountable for every erroneous ruling or decision he renders, assuming that he has erred, would be nothing short of harassment and would make his position unbearable;

- Viewed from the foregoing facts, the complaint at bar, if ever understood, is UNFOUNDED and a plain harassment which should be outrightly dismissed. Moreover, not a scintilla of evidence was adduced by complainant Agregado that herein respondent should be suspended, disbarred, or otherwise disciplinarly sanctioned as a member of the bar. (Emphasis and underscoring supplied)

With respect to respondent Legal Researcher-OIC Branch Clerk of Court Huerto, she filed her Comment[23] on November 6, 2003 proffering as follows:

- That on June 4, 2003, Plaintiff filed her Motion for Reconsideration;

x x x

- That on June 10, 2003, I told the plaintiff that the hearing on the Motion was not held due to Semestral Inventory of Cases and the same is deemed submitted for resolution;

- That I have not seen the record on June 10, 2003 since we have no hearing on that date and I'm personally conducting the semestral inventory of cases and other minor problems in the Office;

- That a week after, the Civil Case In-Charge informed me that said Motion for Reconsideration was already placed on my table and I referred it personally to Judge Edgardo B. Bellosillo for his comment;

- That on June 23, 2003, I transmitted the record to the Office of the Clerk of Court, Regional Trial Court, Quezon City, but, however, due to inadvertence, I failed to notice that the Motion for Reconsideration was not part of the record transmitted. Hence, it can be considered an excusable neglect. The Copy of Transmittal Order was given to the mailing-in-charge on June 23, 2003.

x x x

- That when I noticed that said Motion was not transmitted to the Office of the Clerk of Court, Regional Trial Court, Quezon City, I immediately informed the Civil Case In-Charge Ms. Regina Malakas (sic) that we have to forward [the] Motion for Reconsideration to the Clerk of Court of the Regional Trial Court, Quezon City;

- That on June 23, 2003, said Motion for Reconsideration together with other voluminous files were placed in my table including records submitted for decisions, resolutions and other motions;

x x x

- That when I returned from the seminar on Monday, June 30, 2003, I noticed that some records submitted for resolutions, decisions and other motions were disarranged and that some of the records including the Motion for Reconsideration were no longer in its proper place;

- That from then on, I have not seen the Motion for Reconsideration;

x x x

- That said failure to transmit the Motion for Reconsideration was due to certain unavoidable circumstances, but certainly and definitely, not intended to remove, destruct or suppress the said Motion for Reconsideration;

x x x (Emphasis and underscoring supplied)

As for respondent Clerk III-Civil Case-in-Charge Theresa Banaban, she, by letter of September 4, 2003,[24] claimed that complainant's Motion for Reconsideration "did not pass through [her]" as in fact it was not entered in the docket book and she had "no participation of (sic) the appeal of [the] case."

By Manifestation and Motion dated November 12, 2003[25] which was received at the Office of Deputy Court Administrator Christopher Lock on November 19, 2003, respondent Judge informed the Office of the Court Administrator that, among other things, the defendants Jose Marcell Panlilio et al.'s appeal before the RTC was dismissed and that the record of the case was remanded to his sala; that complainant filed a motion for execution and during the hearing thereof the defendants' counsel failed to appear; that he thereafter, by Order of September 26, 2003, granted complainant's motion for execution; and that a writ of execution was issued which was later implemented by the Branch Sheriff to the satisfaction of complainant.

In the same Manifestation and Motion respondent Judge attributes his being impleaded in the present complaint to

the "fault" of respondent Huerto whose claim of having forwarded the Motion for Reconsideration to him was belied by respondent Theresa Banaban who claimed that Huerto was in possession of the Motion for Reconsideration before it was lost.

By Resolution of April 5, 2004,[26] this Court Resolved to require the parties to Manifest whether they are submitting the case on the basis of the pleadings filed and submitted. Copy of the Resolution addressed to Huerto at Branch 36, MeTC, Quezon City was returned unserved due to "RTS Moved Out,"[27] hence, by Resolution of September 20, 2004,[28] this Court considered the said April 5, 2004 Resolution as served on her, and noted complainant's failure to respond to the same resolution.

As for respondents Judge and Clerk III Banaban, they, by Manifestation and Motion dated June 7, 2004,[29] informed that they are submitting the case on the basis of the pleadings already filed and submitted, and proffered some clarifications, which Manifestation and Motion was noted by Resolution of July 14, 2004.[30]

In its Memorandum Report,[31] the Court Administrator gave the following recommendation:

It is hereby respectfully recommended that the complaint be dismissed as against respondents Judge Edgardo Bellosillo and Theresa Banaban for lack of merit. It is further recommended that the instant case be docketed as a regular administrative matter as against respondent OIC Leonila Huerto finding her guilty of simple neglect of duty and sentencing her to suffer the penalty of suspension for one (1) month and one (1) day. A formal investigation is not necessary since the discussion in this case is based on undisputed and admitted facts as disclosed in the complaint and in the comments of the respondents. (Emphasis and underscoring supplied)

In support of its recommendation to dismiss the complaint against respondent Judge, the Court Administrator submits:

Respondent Judge Bellosillo admitted that his order dated April 30, 2003 denying plaintiff's motion for execution was erroneous. He should have reckoned the 15-day reglementary period from date of receipt by the defendants of a copy of the decision on April 4, 2003. He could have rectified his error but he had no opportunity to do so since plaintiff's motion for reconsideration was never referred to him. He learned of the said motion for reconsideration when he received the administrative complaint that was indorsed to him by the Court Administrator. With the consideration that he decided Civil Case No. 29181 in favor of the plaintiff and he had disposed of the incidents with dispatch prior to the filing of the motion for reconsideration, and that there being no showing in the record that his actuation in Civil Case No. 29181 was tainted with bad faith, fraud, dishonesty or corruption, it is not fair and just that he should be held liable for any of the offenses as charged by complainant against him in the instant administrative matter. (Underscoring supplied)

In recommending that respondent Huerto be faulted for simple neglect of duty, the OCA submits:

The vital issue is whether or not the plaintiff's motion for reconsideration in Civil Case No. 29181 was brought to the attention of the respondent judge before the filing of the present administrative matter. On this issue, the respondent legal researcher OIC Leonila Huerto did not tell the truth in claiming that she did personally refer the motion to the respondent judge for his comment. She did not mention any specific date. The motion for reconsideration was filed on June 4, 2003 and set for hearing June 10, 2003. It is clear from her comment that on the same date June 4, 2003, she did receive the motion for reconsideration which was handed to her by receiving clerk Regina Malacas. Plaintiff and her counsel appeared on June 10, 2003 but they were told by respondent Huerto that the presiding judge was then attending a convention and that their motion for reconsideration was deemed submitted for resolution. The motion for reconsideration should have been reset for hearing as there was no court order declaring that motion be deemed submitted for resolution. Evidently, the motion for reconsideration was not brought to the attention of the respondent Judge Bellosillo during the period from June 4, 2003 to June 10, 2003.

On June 23, 2003, respondent OIC Huerto forwarded the record of Civil Case No. 29181 to the RTC. Same respondent categorically admitted in her comment that on the same date June 23, 2003, the subject motion for reconsideration together with other voluminous files were on her table. She did not mention a court order resolving the said motion for reconsideration on her table for no such order existed. The non-existence of an order resolving the motion for reconsideration only shows that respondent Mrs. Huerto had not really referred said motion to respondent Judge for his appropriate action. That is why she did not include the motion for reconsideration as part of the record of the case that was forwarded to the RTC. On June 30, 2003, after her attendance in the seminar, the receiving clerk Ms. Malakas inquired from her the status of the motion for reconsideration. Respondent Huerto said that it was in her possession. She told Mrs. Malakas not to worry about it for there was an order from the court giving due course to the appeal, the same order which was the subject of the motion for reconsideration.

x x x

Section 6, Rule 40 of the Revised Rules of Court prescribes the duty of the clerk of court in case of appeal from the Municipal Trial Court to the proper Regional Trial Court. The rule provides that within fifteen (15) days from the perfection of the appeal, the clerk of court shall transmit the original record together with the transcripts and exhibits which he shall certify as complete, to the proper Regional Trial Court. The appeal in Civil Case No. 29181 was not yet perfected in view of the pending motion for reconsideration. As already discussed in the foregoing, the record of the case that was transmitted on June 23, 2003 by respondent OIC Huerto to the RTC was not complete. Due to her own fault she did not include as part of the record the plaintiff's motion for reconsideration. Indeed, on the same date, June 23, 2003, the motion for reconsideration was on her table but without an order resolving the motion for she never referred the motion to the respondent judge. x x x (Underscoring supplied)

Respondent Judge categorizes as an "honest mistake or oversight" his reliance on Atty. Manicad's allegation that he received copy of the decision on April 8, 2003-basis of his (respondent Judge's) denial of complainant's motion for execution filed on April 22, 2003. He hastens to add that "[h]ad the missing motion for reconsideration [of his order denying [complainant's] Motion for Execution] [been] brought to his [his] attention, the mistake could have been rectified or corrected."

A judge is expected to observe the care and diligence required of him in the performance of his duties. In resolving the Motion for Execution filed by complainant, since the finality of the decision subject thereof had been rendered doubtful in light of the claim by the defendants' "counsel" Atty. Manicad that he received a copy of the decision on April 8, 2003 to thereby render his Notice of Appeal timely filed on April 23, 2003, respondent Judge rightfully ordered the Sheriff to inform the court when copy of the decision was received by the defendants. The documented information of the Sheriff in his Return that the defendant Jose Marcell Panlilio received a copy of the decision on April 4, 2003 notwithstanding, respondent still relied on Atty. Manicad's undocumented claim that he, as "counsel" of the defendants, received it on April 8, 2003.

The only conclusion that can thus be derived from respondent Judge's reliance on Atty. Manicad's representation is that he did not verify the record of the case or, if he did, he did not do so carefully. For, had he done so, he would have found out that the defendants Jose Marcell Panlilio et al. did not, as stated earlier, file any answer or responsive pleading to the complaint, resulting in their, on motion of complainant, being declared in default; and that Atty. Manicad's maiden appearance as "Counsel for the Defendant" was via the Notice of Appeal he filed on April 23, 2003, nineteen (19) days after the defendant Panlilio received on April 4, 2003 a copy of the decision or four (4) days after the period of appeal had expired on April 19, 2003.

Respondent Judge's taking refuge under Legal Researcher-OIC Branch Clerk of Court Huerto's failure to refer to him complainant's Motion for Reconsideration does not lie. For there would have been no Motion for

Reconsideration if, in the first place, he went over the record of the case or, if he did, he carefully did so, before issuing his order denying complainant's Motion for Execution.

Clearly, respondent Judge was remiss in observing the care and diligence expected of him in the discharge of his duties.

As for respondent Huerto, the Court Administrator's above-quoted evaluation of and consequent recommendation in the case against her is well-taken.

Respecting respondent Clerk III Banaban, the Court Administrator's following evaluation of and consequent recommendation in the case against her is likewise well-taken.

As against respondent Theresa Banaban, the complaint alleged that she was the one "who confirmed the setting of the hearing at 2:00 p.m. on June 20, 2003 as approved by OIC-Branch Clerk of Court Leonila Huerto." Even if true, there is nothing wrong about that confirmation. In her Comment, respondent Banaban stated that the motion for reconsideration did not pass through her and that she had no participation in any office work related to the appeal. Said respondent Banaban should be exonerated.

While this Court takes note of the Court Administrator's appreciation in respondent Judge's favor his disposition with dispatch of complainant's case and the absence of any showing of "bad faith, fraud, dishonesty or corruption" in his actuations, he should be admonished for failing, as reflected above, to observe the care and diligence required of him in the performance of his duties.

WHEREFORE, respondent Judge Edgardo B. Bellosillo is hereby ADMONISHED to observe the care and diligence required of him in the performance of his duties as a judge.

Respondent Legal Researcher-Officer-in-Charge Branch Clerk of Court Leonila S. Huerto is hereby, for simple neglect of duty, SUSPENDED for One (1) Month and One (1) Day.

Respondent Clerk III Theresa T. Banaban is hereby exonerated and the case against her is accordingly DISMISSED.

SO ORDERED.

Panganiban, (Chairman), Sandoval-Gutierrez, and Garcia, JJ., concur.
Corona, J., on leave.

[1] Rollo at 1-6.

[2] Ibid.

[3] Id. at 8-11.

[4] Ibid.

[5] Id. at 12.

[6] Id. at 13.

[7] Id. at 14.

[8] Id. at 15-16.

[9] Id. at 17.

- [10] Id. at 18.
- [11] Ibid.
- [12] Id. at 19.
- [13] Id. at 21.
- [14] Supra, Note 9.
- [15] Rollo at 22.
- [16] Id. at 23-24.
- [17] Id. at 24.
- [18] Id. at 25.
- [19] Ibid.
- [20] Ibid.
- [21] Id. at 29, 30, 31.
- [22] Id. at 48-52
- [23] Id. at 53-55.
- [24] Id. at 37.
- [25] Id. at 56-59.
- [26] Id. at 72.
- [27] Id. at 76.
- [28] Id. at 79.
- [29] Id. at 73-74.
- [30] Id. at 77.
- [31] Id. at 66-71.

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