

HON. CARMELITA SARNO--DAVIN, PRESIDING JUDGE, REGIONAL TRIAL COURT, DIGOS, DAVAO DEL SUR, BRANCH 19, COMPLAINANT, VS. ROSALITA L. QUIRANTE, CLERK III, REGIONAL TRIAL COURT, DIGO...

A.M. No. P-19-4021 [Formerly OCA IPI No. 15-4410-P]. January 15, 2020

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PER CURIAM:

This is a Complaint[1] filed by Presiding Judge Carmelita Sarno-Davin, (complainant), Regional Trial Court of Digos, Davao del Sur, Branch 19 (RTC) against Rosalita L. Quirante (respondent), Clerk III, of the same court before the Office of the Court Administrator (OCA), for Dishonesty, Misconduct, and Neglect of Duty.

Antecedents

Complainant alleged that sometime in the 3[rd] week of May 2014, Mercedita P. Dela Sierra (Dela Sierra), secretary of the defense counsel in Criminal Case Nos. 240(06) and 241(06), both entitled *People of the Philippines v. Alviola, et al.*, approached Atty. Louise Marie Therese B. Escobido (Atty. Escobido), Clerk of Court of the RTC. Dela Sierra sought to substitute cash bonds for the property bonds that were posted with the RTC for the accused's bail therein. The property bonds were constituted over several lands, particularly, Transfer Certificate of Title (TCT) No. T-161470 and T-161471, and Tax Declaration Nos. E-G-G-25928 and 02-00002-00454 and 02-00009-004987 (subject titles and tax declarations).[2]

However, when Atty. Escobido checked the case records, she could not find the subject titles and tax declarations. Thus, she inquired from respondent, who was in charge of the records of the criminal cases, regarding the whereabouts of the titles. Respondent denied any knowledge of the titles and tax declarations. Thus, Atty. Escobido informed complainant of the situation. Complainant initiated an investigation on the matter. Respondent eventually admitted that she delivered the subject titles and tax declarations to Atty. Leonardo Suario (Atty. Suario), the accused's former counsel in the said criminal cases. When asked to explain in writing, respondent stated in her Letter dated June 2, 2014, to wit:

To be honest, your Honor, the late Atty. Leonardo Suario asked me to help his client, that's why I used the tax declaration of my properties to be used as the property bond for all the accused and in order to protect me, I just reflected the title numbers of the property which was submitted by the accused to Atty. Suario in the Order of release, so that the accused will be compelled to make good of their undertakings, because the accused were not personally known by the undersigned. I also did not reflect that tax declaration of the property in my name in the Order, because per computation the amount of the two (2) property bonds is already more than the required bailbond.[3]

Complainant further alleged that after the discovery of the bonding anomaly, she ordered an inventory of the RTC's records. The inventory uncovered that respondent failed to transmit to the Court of Appeals (CA) the records of three (3) criminal cases that had long been completed, namely, Criminal Case No. 309(00), entitled *People v. Buenaflor*, Criminal Case No. 70(05), entitled *People v. Rodrigo Esma*, and Criminal Case No. 66(05),

entitled *People v. Enciso*.^[4]

When directed to explain, respondent shifted the blame to the court stenographers who were no longer connected with the RTC. She alleged that they failed to transcribe their stenographic notes. Respondent also blamed the party litigants because they purportedly failed to pay for the photocopying of the records.^[5]

Further investigations showed that respondent apparently concealed the fact that the accused filed, in Criminal Case Nos. 70(05) and 66(05), separate notices of appeal and that the said appeals were given due course by the RTC. However, due to the concealment of respondent, Atty. Escobido erroneously issued a "Certificate of Non-Appeal" in Criminal Case No. 66(05).^[6]

Thus, complainant charges respondent with dishonesty and misconduct for unlawfully taking the subject titles in Criminal Case Nos. 240(06) and 241(06) without authorization from the RTC. Complainant also charges respondent with neglect of duty because she failed to transmit the records of Criminal Case Nos. 309(00), 70(05), and 66(05). She even concealed the timely separate notices of appeal filed by the accused in Criminal Case Nos. 70(05) and 66(05).

In her Comment,^[7] respondent admitted taking the subject titles and tax declarations from the case records without any authority and delivering them to the office of the late Atty. Suarion. However, she denied that her actions were compelled by any sinister motive or corruption and, instead, asserted that she did it out of compassion for the accused, who are mostly farm laborers.^[8]

As to the charge of neglect of duty, she apologized and attributed it to her inability to complete the compilation of the Transcript of Stenographic Notes (TSN) of the witnesses and secure the signature of the former court stenographers in the duplicate TSN. She claimed that it was the usual practice in the office for the appellants to shoulder the expenses for the reproduction of the four (4) sets of certified true copies of the TSN. However, she encountered a dilemma when the counsel for the accused told her that his clients were indigent. Thus, she could not charge them for the said fees. It was only when she brought the matter with Atty. Escobido and complainant that the records of the criminal cases were finally transmitted to the CA in Cagayan de Oro (CA Cagayan de Oro).^[9]

With respect to Criminal Case No. 66(05), where a "Certificate of Non-Appeal" was erroneously issued by Atty. Escobido, respondent defended that she honestly believed that there was no notice of appeal filed in that case. As it turned out, the notice of appeal was inadvertently attached to the records of a different case. She attributed her lapses to her old age and her preoccupation with several domestic issues.^[10]

Respondent begged the Court's compassion for her transgressions. She prayed that her twenty-five (25) years of service in the Judiciary and the fact that she had not been previously involved in any irregularity be taken into account by the Court.^[11]

Meanwhile, the records of the Docket and Clearance Division of the OCA showed that respondent had two previous administrative complaints against her. In A.M. No. P-94-1010,^[12] respondent was charged with gross ignorance of the law and negligence in the performance of duty and was reprimanded by the Court. In another case, A.M. No. P-16-3461,^[13] respondent was found administratively liable for simple neglect of duty and was reprimanded by the Court with a stern warning that the commission of the same or similar acts in the future shall be dealt with more harshly.^[14]

OCA Report and Recommendation

In its Report and Recommendation^[15] dated October 24, 2019, the OCA found that respondent committed grave

misconduct and simple neglect of duty. It held that respondent's acts of taking the subject titles and tax declarations in custodia legis and delivering them to the late Atty. Suarion are highly improper and constitute grave misconduct. It also found that respondent even attempted to conceal her transgressions by not reflecting in the court records that she took the said documents. The OCA also held that respondent's failure to transmit the records of the case to the CA Cagayan de Oro constituted neglect of duty. However, it only found respondent guilty of simple neglect of duty because there was no evidence that such failure was willful and intentional on her part.[16]

The OCA recommended that respondent be administratively penalized for the most serious offense, grave misconduct, that carries a penalty of dismissal from service. It disregarded the plea of leniency of respondent because this was her third infraction. She was previously administratively held liable in the two cases of A.M. No. P-94-1010 and A.M. No. P-16-3461. Thus, the extreme penalty of dismissal must be imposed upon respondent.[17]

The Court's Ruling

The Court adopts and accepts the Report and Recommendation of the OCA, with modification on the administrative offenses committed.

In order to sustain a finding of culpability for the administrative offenses, substantial evidence is required, or such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. The standard of substantial evidence is satisfied when there is reasonable ground to believe that a person is responsible for the misconduct complained of.[18]

Grave Misconduct

Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. It is intentional wrongdoing or deliberate violation of a rule of law or standard of behavior and to constitute an administrative offense, the misconduct should relate to or be connected with the performance of the official functions and duties of a public officer. In order to differentiate gross misconduct from simple misconduct, the elements of corruption, clear intent to violate the law, and not a mere error of judgment, or flagrant disregard of established rule, must be manifest in the former.[19]

In the Matter of the Loss of One (1) Tamaya Transit, An Exhibit in Criminal Case No. 193,[20] a court employee took out a wristwatch from custodia legis, which was a case exhibit. The Court found him guilty of dishonesty and grave misconduct and directed his dismissal from the service with forfeiture of his retirement benefits and with prejudice to reinstatement in any branch of the government.

Recently, in *Zarate-Fernandez v. Lovendino*,[21] the Court found a court aide liable for grave misconduct because he unlawfully took the drug specimens stored in the court's vault, which were exhibits in a pending case. For tarnishing the image and integrity of the bench, the employee's name was perpetually stripped from the rolls of the men and women of the Judiciary.

In this case, the Court finds that the complaint sufficiently proved with substantial evidence that respondent committed grave misconduct. Respondent admitted that she removed the subject titles and tax declarations as property bonds in Criminal Case Nos. 240(06) and 241(06) and delivered these official court documents to Atty. Suarion, former counsel of accused. These documents are under custodia legis and should not have been taken by any court employee for personal reasons and without authorization from the court. Respondent even concealed her acts by making it appear that the property bonds of the accused were intact. She also admitted that she tampered with the RTC Order dated October 5, 2006, by not reflecting that the tax declarations of her properties were used for the property bonds of these cases to hide her transgressions.

The explanation she gave for unlawfully taking the subject titles and tax declarations in custodia legis is utterly insufficient. She claimed that she delivered the said documents in order to help the accused, who are mostly labor farmers. However, this is completely unsubstantiated and it is absolutely unjustified to tamper with court records without proper authority. Thus, respondent's taking of the court documents is a grave misconduct because it is an unlawful behavior or intentional wrongdoing; and there was a clear intent to violate the law when she took great steps to conceal her offenses.

Gross Neglect of Duty

The Court, however, modifies the finding of the OCA of simple neglect of duty against respondent to gross neglect of duty.

Neglect of duty is the failure of a public official or employee to give attention to a task expected of him. The public official or employee of the Judiciary responsible for such act or omission cannot escape the disciplinary power of this Court. Simple neglect of duty is contrasted from gross neglect. Gross neglect of duty refers to negligence characterized by the glaring want of care; by acting or omitting to act in a situation where there is a duty to act, not inadvertently, but willfully and intentionally; or by acting with a conscious indifference to consequences with respect to other persons who may be affected. It is such neglect which, from the gravity of the case or the frequency of instances, becomes so serious in its character as to endanger or threaten the public welfare. It does not necessarily include willful neglect or intentional official wrongdoing.[22]

In *Absin v. Montalla*,[23] the Court ruled that the failure to submit the records of the case, particularly the TSN, within the period prescribed under Administrative Circular No. 24-90, constitutes gross neglect of duty. The court employee therein, who repeatedly failed to submit the required TSN, was dismissed from service.

Here, the Court finds that respondent committed gross neglect of duty. Complainant alleged that when an inventory of the RTC cases was conducted, it was discovered that respondent failed to transmit to the CA the records of three (3) criminal cases that had long been completed, namely, Criminal Case No. 309(00), 70(05), and 66(05). Respondent shifted the blame to the litigants, who were purportedly required to pay for the four (4) duplicate copies of the TSN before the records could be forwarded. However, she could not cite any official rule for the same. As long as the accused has timely filed and served the notice of appeal, and it was given due course, then respondent, as the clerk for the criminal cases, is duty-bound to complete the records of the case and forward the same to the CA. Further, respondent cannot attribute her negligence to the former stenographers because, aside from it being unsupported that they failed to sign the TSN, their signatures could have easily been secured if respondent prepared the records and immediately raised the matter with her superior.

In addition, respondent failed to record the notices of appeal filed separately by the accused in Criminal Case Nos. 70(05) and 66(05) even though the said appeals were already given due course by the RTC. Through sheer negligence, she set aside such crucial court submissions that affect the litigants' right to appeal and review their criminal cases. Due to the irresponsibility of respondent in failing to acknowledge the notices of appeal, Atty. Escobido erroneously issued a "Certificate of Non-Appeal" in Criminal Case No. 66(05). The prejudice caused to the accused in failing to institute their appeal was due to the negligence of respondent.

Evidently, due to the number and gravity of the negligent acts committed by respondent in her duty as clerk in the criminal cases of the RTC, there is substantial evidence proving her administratively liable for gross neglect of duty. Her neglect was so serious in character that it endangers or threatens the public welfare, particularly, the right to appeal of the litigants.

Proper penalty

Section 46, Rule 10 of the Revised Rules of Administrative Cases in the Civil Service (RRACCS) classifies grave misconduct and gross neglect of duty as grave offenses punishable by dismissal from the service even on the first violation.[24] Section 52(a) of the RRACCS states that the penalty of dismissal shall carry with it the cancellation of eligibility, forfeiture of retirement benefits, and perpetual disqualification from holding public office and bar from taking civil service examinations.[25]

Respondent pleads that the Court exercise its compassion in imposing the penalty against her and to consider her twenty-five (25) years of service in the Judiciary wherein she had not been previously involved in any irregularity.

However, a review of respondent's administrative records shows that the present case is her third infraction. In the first administrative case filed against her, docketed as A.M. OCA IPI No. P-94-1010, respondent was charged with gross ignorance of the law and negligence in the performance of duty and was reprimanded by the Court. In the second administrative case, entitled *Mabaga v. Quirante*,[26] respondent was found guilty of simple neglect of duty and was reprimanded. Nevertheless, the Court sternly warned her that commission of the same or similar acts in the future shall be dealt with more harshly.

Accordingly, the Court cannot appreciate respondent's years of service to mitigate her liability due to the gravity of her offenses and the past transgressions she had committed. Time and again, the Court warned respondent that she will be disciplined harshly if she committed similar or graver offenses. However, she did not heed the Court's warning, thus, the ultimate penalty of dismissal must be imposed against her.

No less than the Constitution mandates that all public officers and employees should serve with responsibility, integrity and efficiency, for public office is a public trust. No other office in the government service exacts a greater demand for moral righteousness and uprightness from an employee than the Judiciary. Thus, this Court has often stated that the conduct of court personnel, from the presiding judge to the lowliest clerk, must be beyond reproach and must be circumscribed with the heavy burden of responsibility as to let them be free from any suspicion that may taint the Judiciary. The Court condemns any conduct, act, or omission on the part of all those involved in the administration of justice which would violate the norm of public accountability and diminish the faith of the people in the Judiciary.[27]

WHEREFORE, Rosalita L. Quirante, Clerk III, of the Regional Trial Court of Digos, Davao del Sur, Branch 19, is GUILTY of Grave Misconduct and Gross Neglect of Duty. She is DISMISSED from service with cancellation of civil service eligibility, perpetual disqualification from holding public office, and forfeiture of retirement benefits, except accrued leave credits.

SO ORDERED.

Peralta, C. J., Leonen, Caguioa, Gesmundo, Reyes, J. Jr., Hernando, Carandang, Lazaro-Javier, Inting, Zalameda, Lopez, Delos Sanots, and Gaerlan, JJ., concur.

Perlas-Bernabe and Reyes, A. Jr., JJ., on official leave.

[1] Rollo, pp. 1-4.

[2] *Id.* at 53.

[3] *Id.* at 13.

[4] *Id.* at 54.

[5] *Id.*

[6] Id.

[7] Id. at 43-51.

[8] Id. at 44.

[9] Id. at 46-47.

[10] Id. at 47.

[11] Id. at 48.

[12] Dated October 19, 1994; See the Unsigned Resolution in *Mabaga v. Quirante*, A.M. No. P-16-3461, January 10, 2018.

[13] *Mabaga v. Quirante*, *supra*.

[14] *Rollo*, p. 55.

[15] Id. at 53-58.

[16] Id. at 55-57.

[17] Id. at 57.

[18] *Masion v. Valderrama*, A.M. No. P-18-3869, October 8, 2019.

[19] *Duque v. Calpo*, A.M. No. P-16-3505, January 22, 2019.

[20] 200 Phil. 82 (1982).

[21] A.M. No. P-16-3530, March 6, 2018, 857 SCRA 420.

[22] *Malubay v. Guevara*, A.M. No. P-18-3791, January 29, 2019.

[23] 667 Phil. 560 (2011).

[24] *Malubay v. Guevara*, *supra* note 22; *Duque v. Calpo*, *supra* note 19.

[25] *Duque v. Calpo*, *supra*.

[26] *Mabaga v. Quirante*, *supra* note 12.

[27] *Office of the Court Administrator v. Silongan*, 793 Phil. 667, 681 (2016).

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