

ESTHER P. MAGLEO, IN BEHALF OF UNION REFINERY CORPORATION, PETITIONER, VS. ATTY. ARISTON G. TAYAG BRANCH CLERK OF COURT, RTC, BRANCH 18, MALOLOS, BULACAN, RESPONDENT.

A.M. No. P-97-1242 (Formerly OCA IPI No. 96-174-P). June 19, 1997

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a complaint filed by Esther P. Magleo, vice president of the Union Refinery Corporation, charging Ariston G. Tayag, clerk of court of the Regional Trial Court of Malolos, Branch 18, with “gross neglect of duty, being notoriously undesirable, inefficient and incompetent in the performance of official duties, refusal to perform official duty, insubordination [and] conduct prejudicial to the best interest of the service.”[1]

The Union Refinery Corporation (URC) was plaintiff in Civil Case 550-M-87 of the RTC in Malolos, Bulacan. On July 11, 1994, judgment was rendered against it. URC filed a notice of appeal, for which reason the presiding judge, Judge Demetrio B. Macapagal, Sr., on August 25, 1994, ordered respondent branch clerk of court to forward “the complete records” of the case to the Court of Appeals.

Up to January of 1995, however, the records had not yet been elevated to the appellate court so that, on January 19, 1995, URC filed a motion for the elevation of the records to the Court of Appeals. On October 2, 1995, as the records were not yet transmitted to the appellate court, URC filed another motion, but still the records of the case had not been sent. On January 11, 1996, URC wrote respondent inquiring whether he had complied yet with the order of the court. Respondent did not reply to the letter. On June 26, 1996, after checking with the Court of Appeals, URC’s counsel was informed that the records were not yet with the Court. Complainant, as vice president of URC, then filed the instant complaint.

In his Comment, respondent informed the Court that the complete records of the case had finally been transmitted to the Court of Appeals on February 2, 1996. Respondent explained that the delay in the transmittal of the records was due to the fact that the duplicate copies of the transcript of stenographic notes were not readily available, while the exhibits were disarranged, so that it took respondent two (2) weeks to prepare them.

The Office of the Court Administrator, to which this case was referred for evaluation on January 22, 1997, recommends that respondent be fined P5,000.00 and warned that repetition of this infraction in the future will be dealt with more severely.

The recommendation is well taken. The reason given by respondent for his failure to transmit the records of Civil Case No. 550-M-87 are insubstantial. There was inordinate delay in the transmission of the records. As Senior Deputy Court Administrator Reynaldo L. Suarez states in his report:

While admittedly, the records of the case of Civil Case No. 550-M-87 was already transmitted to the Court of Appeals, this Office cannot tolerate the long period of time, about 17 months, that the Branch Clerk of Court

failed to transmit the records of the case. This Office cannot give credence to the reasons stated by the respondent in not transmitting the records of the case within the prescribed period. The Administrative functions of the Branch Clerks of Court are vital to the prompt and proper administration of justice. Among the duties of the Branch Clerk of Court is the prompt and orderly transmittal of appealed cases and their records to the appellate court (*Fabiculana, Sr. vs. Gadon*, 239 SCRA 542). Under Rule 122, Section 8 of the Rules of Court, the Clerk or Judge of the court with whom the notice of appeal has been filed must, within five (5) days after filing of the notice, transmit to the Clerk of Court to which the appeal is taken, the complete record of the case together with the notice of appeal. The Branch Clerk of Court is responsible for seeing to it that the records of appealed cases are properly sent to the appropriate appellate court without delay (*Tan vs. Coliflores*, 240 SCRA 303). It is the duty of the Branch Clerk of Court to deliver the complete record of the case to the Clerk of Court so that it could be transmitted to the appellate court within five (5) days after the accused gave notice of his appeal. This duty could not be excused simply because copies of the stenographic notes has not been made by the stenographers. What is required to be transmitted within five (5) days from the filing of a notice of appeal is the complete record, not the TSN. If the TSN cannot be transmitted at the same time as the record, it could be submitted to the appellate court later (*Villanueva vs. Pollentes*, 247 SCRA 24). If respondent Clerk of Court anticipates a delay in transmission of the records, he should have made a written manifestation to his Presiding Judge or the courtesy of answering the letter-query of herein complainant, on the reasons why he is incurring in delay in the transmission of records of Civil Case No. 550-M-87 to the appellate court. Hence, this Office finds herein respondent guilty of negligence in failing to transmit the records of the case on time.

Parties should not be made to wait before their complaints are attended to. And, certainly, where necessary, they should be informed of the status of their case, unlike in the case of complainant to whom respondent did not even give the courtesy of a reply to explain the reason for the delay in the transmission of the records.

Accordingly, the Court finds respondent Atty. Ariston G. Tayag guilty of neglect of duty and hereby orders him to pay a fine of P5,000.00 with warning that a repetition of this or similar acts will be dealt with more severely.

SO ORDERED.

Regalado, (Chairman), Romero, Puno, and Torres, Jr., JJ., concur.

[1] Rollo, p.2.

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