

TEODORA DENILA, COMPLAINANT VS. JOSE V. PANES, CLERK OF COURT FRANCISCO F. VILLODRES, DEPUTY CLERK OF COURT AND BRICCIO NECOR, CLERK, COURT OF FIRST INSTANCE OF SOUTH COTABATO, ...

Adm. Mat. No. P-222. January 31, 1975

Ponente: MAKALINTAL, C.J.

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MAKALINTAL, C.J.:

This administrative case pertains to the complaint of Mrs. Teodora Denila regarding the alleged unreasonable delay in transmitting to the Court of Appeals the record of appealed Criminal Case No. 1728 of the Court of First Instance of South Cotabato. By resolution of this Court dated March 12, 1974, the said complaint, together with the second indorsement of respondent Clerk of Court by way of comment, was sent to the Presiding Judge of the Court of First Instance of South Cotabato for investigation, report and recommendation.

As found by the Presiding Judge, the facts are as follows: On March 21, 1969 the Court of First Instance of South Cotabato promulgated its decision in Criminal Case No. 1728 convicting the accused, Ernesto Cabatingan, of frustrated homicide. Thereupon the accused was committed to the City Jail and was received by a certain Patrolman Eriberto S. Pedroso at 9:00 o'clock in the morning. The counsel for the accused filed a notice of appeal and an urgent motion to fix the appeal bond. At 2:00 o'clock in the afternoon the trial court issued an order fixing the appeal bond at P6,000.00. It appears that on the same day, March 21, 1969, the accused was able to post the bond, which was approved by the trial court.

On December 23, 1972 the trial court, acting on the complaint of Mrs. Denila, who presented a certification from the Clerk of the Court of Appeals that the records of said court did not show any appealed case entitled "People vs. Ernesto Cabatingan and Felipe Mondejar," issued an order directing the Clerk of Court, Deputy Clerk of Court, Clerk Briccio Necor, and Clerk Jose Totesora to explain why no administrative action should be taken against them for failure to transmit the record of the case to the Court of Appeals in spite of the perfection of the appeal. It was only then that a certified true copy of the appeal bond, posted by the Luzon Surety Company, Inc. and approved on March 21, 1969, was attached to the record of the case. Finally, on December 26, 1972, the record of Criminal Case No. 1728 was transmitted to the Court of Appeals by respondent Briccio Necor, after a lapse of almost four (4) years from the perfection of the appeal.

The delay in the transmittal of said record was in violation of Section 8 of Rule 122 of the Rules of Court, which reads:

"Section 8. — Transmission of papers to appellate court upon appeal. Upon an appeal being taken, the clerk or Judge of the Court with whom the notice of appeal shall have been filed, must, within five (5) days after the filing of the notices, transmit to the clerk of the Court to which the appeal is taken, the complete record in the case, together with the notice of appeal. x x x"

The only question here is whether or not respondents Clerk of Court Jose V. Panes, Deputy Clerk of Court

Francisco F. Villodres and Clerk Briccio Necor should be held responsible for such delay.

The records disclose that after the appeal bond was approved by the Presiding Judge on March 21, 1969, Mrs. Lucila Cabatingan de Santos, sister of the accused, presented it to respondent Deputy Clerk of Court Villodres at his residence for the issuance of the release order. The latter did not prepare the release order for it was then meal time and he had not yet taken his lunch. Instead, he advised Mrs. Santos to take the bond to the jail warden and to request the latter to allow her brother, with a jail guard, to eat his lunch at a restaurant. He further advised Mrs. Santos to return the bond to the Office of the Clerk of Court for the issuance of the order of release. However, she did not heed this latter advice, for she did not return. Thereafter respondent Villodres forgot all about the bond and never saw the same again.

Respondent Briccio Necor, the clerk who had been designated by the respondent Clerk of Court to perform the specific duty of transmitting to appellate courts the records of appealed cases, gave the lame explanation that the record of Criminal Case No. 1728 could not be transmitted to the Court of Appeals within the reglementary period because the appeal bond and the order for the release of the accused had not been included. It is to be noted that when he did finally transmit said record to the appellate court, what was attached thereto was only a certified copy of the appeal bond, and without the corresponding release order.

The respondent Clerk of Court, Jose V. Panes, cannot evade his responsibility for the delay although he had delegated the transmittal of the records of appealed cases to respondent Briccio Necor, a clerk directly under him. As the administrative head of the court, he was in duty bound to keep close supervision of the performance of duties by his subordinates. In view of the mandatory provision of Section 8, Rule 122 of the Rules of Court and the very limited time allotted for the purpose, he should have at least taken the trouble of reminding and/or checking the matter with Necor. Evidently, he failed to exercise his supervisory authority with due diligence and care.

The respondent Deputy Clerk of Court, Francisco V. Villodres, was the last and only employee of the court to see the appeal bond before it got lost. He was negligent in the performance of his duty for his failure to inform his superior about the matter. Moreover, he allowed the sister of the accused, a private person, to hand-carry the appeal bond to the office of the jail warden, where it was subsequently lost.

In view of the foregoing, this Court finds that all the respondents are guilty of negligence and inexcusable lack of precaution in the performance of their respective duties.

WHEREFORE, respondent Villodres, who appears to be more liable, is hereby suspended for two (2) months, without pay, while respondents Jose V. Panes and Briccio Necor are suspended for one (1) month, without pay.

Teehankee, Makasiar, Esguerra, and Muñoz Palma, JJ., concur.

Castro, J., took no part.

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