

MELECIA B. BELLENA, ANACITA LEONCITO, GINA LUCBAN, MA. FE C. Balsa, FILOMENA T. BELLENA, ELENA B. TIMCANG, FELIPE GADE, JR., AMY CLAVE, CANDELARIA BARRIENTOS, FORTUNATO ESTORES,...

A.M. NO. RTJ-04-1846. January 31, 2005

Ponente: GARCIA, J.

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GARCIA, J.:

In a verified letter-complaint dated 29 September 2002[1] and filed with the Office of the Court Administrator, complainants administratively charged Judge Norma C. Perello, Presiding Judge, Branch 276, Regional Trial Court (RTC), Muntinlupa City with gross ignorance of the law, grave misconduct and oppression in connection with her actuations in Civil Case No. 01-268.

Records show that complainants are the plaintiffs in the aforementioned Civil Case No. 01-268, an action for “Illegal Eviction/Demolition, Loss of Property and Damages, Injunction and Temporary Restraining Order, Relocation/Restitution/Benefits, With Prayer for Lis Pendens and Other Relief”, filed by them against CST Enterprises, Inc. (CST) and several others. In said case, defendant CST filed a motion to dismiss, which the respondent judge granted in her Order of 22 November 2001.[2] Against the order of dismissal, complainants filed a motion for reconsideration but the same was denied by the respondent judge in her subsequent order of 28 January 2002.[3] Thereafter, complainants filed a Notice of Appeal dated February 2, 2002,[4] therein making known to the respondent that they are taking an appeal to the Court of Appeals from her orders of 22 November 2001 and 28 January 2002. In an order dated 6 March 2002,[5] the respondent judge gave due course thereto and directed her clerk of court to act accordingly. It turned out, however, that the records of the case were transmitted to the Court of Appeals only on December 12, 2002,[6] or almost nine (9) months after complainants’ Notice of Appeal was given due course by the respondent judge.

Hence, complainants’ verified letter-complaint, therein alleging that the respondent judge “had deliberately and maliciously and conveniently delayed, mocked, mummified, frustrated, checkmated and defeated the quest [of the complainants] to have their appeal expeditiously disposed”. They thus prayed that “a proper disciplinary sanction be imposed [on the respondent judge] for having grossly violated Rule 3.05 of the Code of Judicial Conduct”.

Acting on the letter-complaint, Court Administrator Presbitero J. Velasco, Jr., via a 1[st] indorsement dated 23 October 2002,[7] referred the same to the respondent judge, directing the latter to submit her comment thereon and “to show [cause] why you should not also be suspended, disbarred or otherwise disciplinary sanctioned as a member of the Bar for Violation of Rule 1.03, Canon 1 of the Code of Professional Responsibility pursuant to the Resolution of the Court En Banc in A.M. No. 02-9-02-SC dated September 17, 2002, within ten (10) days from receipt hereof xxx”.

Via a return indorsement dated November 25, 2002,[8] the respondent judge submitted her comment, thereunder narrating the antecedents of Civil Case No. 01-268. According to her, complainants were the losing party in an

unlawful detainer suit filed by them against CST before the Metropolitan Trial Court in Cities (MTCC), Muntinlupa City; that in said case, the MTCC upheld the better possessory right of CST and accordingly ordered complainants as plaintiffs in the case to vacate the premises therein involved; that instead of taking an appeal to the RTC, complainants went to the Court of Appeals on a petition for certiorari, which petition was denied by the appellate court; that from the MTCC decision, complainants filed a petition for certiorari with RTC Branch 256, Muntinlupa City which said court dismissed; that therefrom, complainants went to the Court of Appeals, again via certiorari, which the appellate court similarly denied; that thereafter, the MTCC decision was executed and all the complainants were evicted from the premises and their shanties demolished; and that, it was then that complainants filed their complaint in Civil Case No. 01-268 which was raffled to her court, asking damages as they were allegedly illegally evicted and their houses demolished on account of the execution of the MTCC decision in the unlawful detainer case. In the same comment, respondent judge averred that pending her consideration of Civil Case No. 01-268, complainants tried to seek the annotation of a notice of lis pendens on CST's title but the Register of Deeds of Muntinlupa refused, prompting complainants to take an appeal en consulta with the Land Registration Authority (LRA); that when the Register of Deeds failed to file a comment to the appeal en consulta as required by LRA, complainants filed a motion in Civil Case No. 01-268, asking her (respondent Judge) to compel the Register of Deeds to comply with the LRA directive; and that ultimately, the LRA dismissed complainants' appeal en consulta.

Respondent alleged that it was against the foregoing backdrop of events when complainants filed their Notice of Appeal in Civil Case No. 01-268, which notice was given due course by her in her Order dated 6 March 2002.

By way of defense, respondent emphasized in the same comment that she is not the custodian of records, maintaining that since the duty to forward to the CA the records of Civil Case No. 01-268 devolves upon her branch clerk of court, Atty. Luis Bucayon II, she could not be held responsible for the delayed transmittal thereof to the appellate court.

In its report to the Court dated 20 November 2003,[9] the Office of the Court Administrator found the respondent judge liable for the delay in the transmittal to the CA of the records of Civil Case No. 01-268, and accordingly recommended, as follows:

“RECOMMENDATION: Respectfully submitted for the consideration of the Honorable Court the following recommendations:

- The respondent be found GUILTY of undue delay in transmitting the records of Civil Case No. 01-268 entitled: ‘Bellena, et. al., vs. CST Enterprises, Inc., et al.’ to the Court of Appeals;
- The respondent be imposed with a penalty of FINE of P 20,000.00; and
- This matter be RE-DOCKETED as a regular administrative case against the respondent judge.”

In a resolution dated 15 March 2004,[10] the Court, thru its 3rd Division, re-docketed the case as a regular administrative matter and referred it to the Presiding Justice of the Court of Appeals for raffle among its members for investigation, report and recommendation within ninety (90) days from notice.

The case was raffled to CA Associate Justice Rosalinda Asuncion-Vicente who forthwith set the same for preliminary conference and initial hearing. Hearings were accordingly held, in the course of which complainants and respondent presented their witnesses in support of their respective allegations.

During the hearings, complainants Melecia Bellena and Zenaida Alfar testified that after their notice of appeal was granted by the respondent judge in her Order of 6 March, 2002, and despite their numerous personal inquiries to the court, it was only in December 2002 that the branch clerk of court transmitted the records of Civil Case No.

01-268 to the Court of Appeals.

For her part, the respondent judge declared that she had never met any of the complainants personally; that she had no reason to delay the transmittal of the records of the subject case to the appellate court; that during the regular monthly meetings with her staff, she would remind her branch clerk of court, Atty. Luis Bucayon II, to elevate the records of the case to the Court of Appeals; and, that Bucayon II explained that the records could not be transmitted yet for being incomplete as he was still awaiting for the resolution of the LRA on complainants' en consulta appeal.

Via a covering letter, bearing date 16 July 2004, the Investigating Justice submitted to the Court her Report dated July 15, 2004, (See confidential envelope), with the following recommendations, to wit:

"IN VIEW THEREOF, the following recommendations are hereby respectfully submitted for the consideration of the Honorable Supreme Court:

1. That the charges of Gross Ignorance of the Law and Grave Misconduct and Oppression against Judge Norma C. Perello be DISMISSED for lack of merit;
2. That respondent Judge Norma C. Perello be found GUILTY of undue delay in transmitting the records of Civil Case No. 01-268 entitled 'Bellena, et al. vs. CST Enterprises, Inc.' to the Court of Appeals and be imposed the penalty of FINE in the amount of P20,000.00; and
3. That respondent Judge Norma C. Perello be further ADMONISHED to faithfully observe the explicit mandate of Canon 3, Rule 3.09 of the Code of Judicial Conduct, not only by adopting measures in her court for the prompt transmittal of records, but also by establishing an effective system of monitoring and safekeeping of court records to comply with its mandate of providing a just and speedy administration of justice."

As we see it, the only issue for determination in this administrative case is whether or not the delay in the transmittal of the records of Civil Case No. 01-268 to the Court of Appeals constitutes gross ignorance of the law, grave misconduct or oppression on the part of respondent judge, as charged by the complainants in their letter-complaint.

When the law is sufficiently basic or elementary, not to be aware of it constitutes gross ignorance of the law.[11] And to be held liable therefor, the respondent must be shown to have committed an error that was gross or patent, deliberate and malicious.[12]

The pertinent rule governing the transmittal of records in appealed cases is Section 10, Rule 41 of the Rules of Court, which provides:

SEC. 10. Duty of clerk of court of the lower court upon perfection of appeal. - Within thirty (30) days after perfection of all the appeals in accordance with the preceding section, it shall be the duty of the clerk of court of the lower court:

- (a) To verify the correctness of the original record or the record on appeal, as the case may be, and to make a certification of its correctness;
- (b) To verify the completeness of the records that will be transmitted to the appellate court;
- (c) If found to be incomplete, to take such measures as may be required to complete the records, availing of the authority that he or the court may exercise for this purpose; and
- (d) To transmit the records to the appellate court.

If the efforts to complete the records fail, he shall indicate in his letter of transmittal the exhibits or transcripts

not included in the records being transmitted to the appellate court, the reasons for their non-transmittal, and the steps taken or that could be taken to have them available.

The clerk of court shall furnish the parties with copies of his letter of transmittal of the records to the appellate court.

As correctly noted by the Investigating Justice, the aforequoted enumerated duties are primarily the concern of the clerk of court, and respondent judge can only go as far as directing the latter to act in accordance therewith after an appeal has been perfected.

Other than complainants' bare allegation, the evidence on record is bereft of proof that the respondent judge acted deliberately, maliciously and in bad faith in the delayed transmittal of the records of Civil Case No. 01-268 to the appellate court. Quite the contrary, the records show that the respondent judge, in her Order dated 6 March 2002, promptly gave due course to complainants' Notice of Appeal filed on February 27, 2002. In yet another Order dated 17 September 2002,[13] the same respondent likewise acted with prompt on complainants' urgent ex-parte motion for transmittal of records

Verily, and as correctly found by the Investigating Justice, the charge of gross ignorance of the law has no factual and legal basis.

We agree with her.

Nor are we to differ with the Investigating Justice in her conclusion that the respondent judge could not be held guilty for grave misconduct or oppression.

Misconduct is defined as any unlawful conduct on the part of the person concerned in the administration of justice prejudicial to the rights of parties or to the proper determination of the cause. It generally means wrongful, improper or unlawful conduct motivated by a premeditated, obstinate or intentional purpose.[14]

Here, there is no showing that respondent judge had deliberately committed an act resulting in the delay of the transmittal of subject records to the Court of Appeals. On the contrary, he acted immediately on the complainants' Notice of Appeal. And when apprised that the records remained unforwarded to the appellate court, she acted, also with dispatch, on complainants' ex-parte motion for transmittal. As it were, the respondent judge never exhibited any hostility to the complainants during the hearing of Civil Case No. 01-268 and even when they were making inquiries on the status of their case.

The same may be said as regards charge of oppression. That the respondent judge ruled against complainants in Civil Case No. 01-276, would not per se amount to partiality against them, much less warrant the conclusion that she intended to oppress them. The Court has to be shown with specific acts or conduct on the part of the respondent judge which are clearly indicative of arbitrariness or prejudice before she could be branded the stigma of being biased, partial and oppressive. It was not shown that the delay in the transmittal of records was due to her personal interest in the main case. For sure, there was even no allegation that the delay was due to her animosity towards the complainants. Not every error or mistake a judge commits in the performance of his/her duties renders him/her liable, unless he/she is shown to have acted in bad faith or with deliberate intent to do an injustice.

The foregoing notwithstanding, we are, however, in accord with the Investigating Justice in her recommendation to hold the respondent judge accountable for the delay of almost nine (9) months in the transmittal of the records of Civil Case No. 01-268 to the Court of Appeals. By any standard, such a delay is quite extraordinary. Appalling is how the Investigating Justice characterized the delay, and we agree with her. We are unsatisfied with respondent's excuse of passing the blame to the incompetence of her branch clerk of court.

Under Rule 3.09, Canon 3, of the Code of Judicial Conduct, a judge should organize and supervise her court personnel to ensure the prompt and efficient dispatch of the business of her court, and require at all times the observance of high standards of public service and fidelity. Sad to say, the respondent judge did not embody the ideals of a good judge when she failed to take appropriate measures that would ensure the prompt transmittal of the subject records. In this connection, we quote with approval the following observations of the Investigating Justice vis-à-vis the excuse proffered by the respondent judge:

“Respondent judge cannot seek refuge in the incompetence of her subordinate since proper and efficient court management is her own responsibility. She is the master of her own domain and should take responsibility for the mistakes of those under her. Such display of laxity and inefficiency on the part of her branch clerk of court, an essential officer performing delicate administrative functions in the court, militates against the management skills of respondent judge. It indicates that she has not been meticulous and zealous as she should have been in organizing and supervising the work of her subordinates as required by Canon 3, Rule 3.09 of the Code of Judicial Conduct. This impression is reinforced by respondent’s failure to discover, despite the lapse of almost nine (9) months, that the records of Civil Case No. 01-268 were still with her court. Also, when complainants filed their Urgent Manifestation and Ex-Parte Motion to Transmit the Original Record or Approved Record on Appeal sometime in September 2002, respondent judge should have already been forewarned that the records of Civil Case No. 01-268 were yet to be transmitted despite her order of March 6, 2002 giving due course to the appeal and directing said transmittal. Respondent’s claim that the records were still incomplete due to the pending ‘Appeal En Consulta’ with the Land Registration Authority was nowhere stated in her orders. And assuming this to be true, the Rules allow a partial transmittal of records, which in fact was done when the records were finally transmitted to the Court of appeals, though quite late already, on December 3, 2002.

Members of the judiciary have always been reminded that undue delays erode the people’s faith and confidence in our justice system and bring it into disrepute.

At any rate, even assuming that the records of Civil Case No. 01-268 were still incomplete, deferring its transmittal is not the proper and legal action. The Rules of Court require the transmittal of the complete records to the appellate court within thirty (30) days after perfection of the appeal. If the efforts to complete the records fail, the clerk of court shall indicate in his letter of transmittal the exhibits or transcripts not included in the records being transmitted to the appellate court, the reasons for their non-transmittal, and the steps taken or that could be taken to have them available.

Also, while respondent Judge tends to attribute to her clerk of court the cause of the delayed transmittal, she has not, however, shown that she had admonished said erring personnel or had taken corrective measures in her court to stress the importance of monitoring and safekeeping of court records. Her seeming laxity and leniency over the carelessness of her subordinates were the same reasons which led to a previous incident in 1997 of a ‘missing’ court record, resulting in the delay in the disposition of that case, for which she was reprimanded along with her staff.

Although the clerk of court is primarily responsible for the implementation of respondent judge’s orders, the fact remains that respondent judge is tasked with administrative supervision over her personnel. It is the responsibility of the judge to always see to it that his/her orders are properly and promptly enforced and that case records are properly stored and kept. Respondent judge here is cognizant of this duty of a judge. In fact, in connection with her previous administrative case where she was reprimanded for incompetence in the supervision of her employees, she admitted that she may have indeed been negligent in not closely supervising her staff but claimed that it does not mean she was incompetent”.[15]

As correctly found by Investigating Justice, undue delay in the transmittal of the records of a case is a less serious offense defined and penalized under Sections 9 and 11, Rule 140, of the Rules of Court, which respectively read, insofar as pertinent, as follows:

“SEC. 9. Less Serious Charges. – Less serious charges include:

“1. Undue delay in rendering a decision or order, or in transmitting the records of a case”.

“Sec. 11. Sanctions. –

xx xxx xxx

“B. If the respondent is guilty of a less serious charge, any of the following sanctions shall be imposed:

- Suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months; or

- A fine of more than P10,000.00 but not exceeding P20,000.00”.

The reason for the rule requiring prompt transmittal of records in appealed cases is to ensure the speedy disposition of the case. Doubtless, respondent’s failure to monitor the performance of her clerk of court had resulted in a delay in the administration of justice. We hold that a fine of P20,000.00 is an appropriate penalty for respondent judge.

WHEREFORE, Judge Norma Perello, Presiding Judge, Branch 276, Regional Trial Court, Muntinlupa City is hereby found GUILTY of undue delay in transmitting to the Court of Appeals the records of Civil Case No. 01-268 entitled “Bellena, et al. vs. CST Enterprises, Inc.” and is accordingly meted the penalty of FINE in the amount of P20,000.00 and further ADMONISHED to faithfully observe the explicit mandate of Canon 3, Rule 3.09, of the Code of Judicial Conduct, not only by adopting measures in her court for the prompt transmittal of records in appealed cases, but also by establishing an effective system of monitoring and safekeeping of court records to ensure a just and speedy administration of justice.

For lack of factual and legal bases, the charges of gross ignorance of the law, grave misconduct and oppression against her are DISMISSED.

SO ORDERED.

Panganiban, (Chairman), Sandoval-Gutierrez, Corona and Carpio-Morales, JJ., concur.

[1] Rollo, pp. 1-8.

[2] Rollo, pp. 44-45.

[3] Rollo, p. 59-60.

[4] Rollo, p. 61.

[5] Rollo, p. 191.

[6] Rollo, p. 215.

[7] Rollo, p. 65.

[8] Rollo, pp. 66-71.

[9] Rollo, pp. 99-104.

[10] Rollo, p. 113.

[11] Uy vs. Dizon-Capulong, 221 SCRA 87, 95 [1993].

[12] Baldado vs. Judge Bugtas, 414 SCRA 345 [2003].

[13] Rollo, p. 190.

[14] Tan Tiac Chiong vs. Justice Cosico, 385 SCRA 509 [2002].

[15] Report, pp. 11-13.

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