

**ANTONIO N. PASCUAL, COMPLAINANT, VS. BANAAG ALVAREZ,
CLERK OF COURT, METC, BRANCH 80, MUNTINLUPA CITY,
RESPONDENT.**

A.M. No. P-04-1882 (Formerly OCA IPI No. 03-1539-P). September 30, 2004

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

The present administrative case against respondent Banaag Alvarez, Clerk of Court, Metropolitan Trial Court (MeTC), Branch 80 of Muntinlupa City, arose from a letter-complaint of Antonio Pascual filed on January 13, 2003, which reads:

- April, 1999, nagsampa po ako ng kaso sa Prosecutor Office ng Muntinlupa.
- Makaraan ang dalawang buwan ako po ay bumalik at nagbayad ng Filing Fee, at LRF.
- Ng ako'y nakauwi makatapos magbayad, tumawag si MRS. EVANGELINE TORREGOZA sa akin, sinabi niya na tinawagan siya ng Clerk of Court at siya ay sinampahan ko ng kaso. Malakas daw siya sa korte at see you in Court sabi niya sa akin.
- After one week pinuntahan ko po si MR. BANAAG ALVAREZ at tinanong ko kung may piyansa na si MRS. TORREGOZA at IMELDA SERENO. Sabi ko kukuha ako ng warrant of arrest kung hindi siya piyansado. Sabi ni MR. ALVAREZ hindi raw niya ako bibgyan ng Warrant of Arrest dahil karapatan daw ng akusado magpiyansa, ang sabi ko po kay Mr. ALVAREZ hindi niya ginagampanan ang responsibilidad niya bilang akusado paano naman ang karapatan ko bilang biktima. Bumalik na lang daw ako sa hapon.
- Nang ako'y bumalik ng hapon. Inabot sa akin ng Clerk of Court na si MR. BANAAG ALVAREZ ang Warrant of Arrest kasabay ang recall of Warrant of Arrest. Na sa aking sariling panuri magkaiba ang pirma.
- Bakit po ang laki ng disparity sa amount ng bail bond ni MRS. TORREGOZA at MISS SERENO. Original (copy of the court P61,000.00) vs. duplicate (copy of the bonding company P15,000.00) see attachment.
- Bakit po sinangayonan ni Judge at ng Notary Public ang ganito?[1]

Required to comment, respondent Alvarez prayed for the dismissal of the complaint for lack of merit.[2]

When the matter was referred to the Office of the Court Administrator (OCA), it recommended that the case be referred to the Executive Judge of the Regional Trial Court of Muntinlupa City for investigation, report and recommendation.[3] Hence, in a Resolution dated July 9, 2003, the Court referred the complaint to the Executive Judge of the Regional Trial Court of Muntinlupa City.[4]

Accordingly, Executive Judge Juanita T. Guerrero conducted hearings on the case. In her Fiscal Report, she summarized the testimonies of the parties as follows:

ANTONIO PASCUAL Y NAVARRO is the private complainant in Criminal Cases Nos. 34819 to 34821 against Evangeline Torregoza and Baby Sereno which are pending before the Metropolitan Trial Court of

Muntinlupa City (MTC), Branch 80. Two (2) months after he filed the case against Torregoza and Sereno with the Office of the City Prosecutor of Muntinlupa, or sometime on June 24, 1999, he was made to file the Information and was required to pay the filing fee and the Legal Research Fund (LRF) with the MTC. When he reached home, he received a call from Torregoza telling him: that the Clerk of Court called her up regarding the case that he filed against her; that she was influential in said court; and that she will just see him in court. Two (2) weeks after receiving said call, he inquired from Mr. Alvarez whether Torregoza has already posted a bond and that if she had not done so, he would like to get a copy of the Warrant of Arrest. Mr. Alvarez told him that he could not give him a copy of said Warrant because it is the right of the accused to post a bail bond and asked him to just return in the afternoon. He insisted, because he believed that he was also entitled to a copy of a warrant of arrest if the accused had failed to post a bond, so he would know the progress of the case he filed against them. When he returned in the afternoon, Mr. Alvarez furnished him a copy of the warrant of arrest as well as the recall of said warrant.

As regards the duplicate copy of the bond for Php 15,000.00 which did not jibe with the original copy of the bond on file with the Court for Php 61,000.00, he was able to secure a duplicate of said bond from the bonding company, the Phoenix Insurance Company in Intramuros, Manila. He observed that the duplicate copy appeared to be an original copy because the typewriter used was different from the original copy on file with the Court.

It is his observation that after comparing the signatures of Judge Jose Bautista, Jr. in the Warrant of Arrest and Recall of Warrant of Arrest, the strokes differed. Although Judge Bautista certified as to the authenticity of his signatures in said documents, he still doubts the same unless an expert would examine them like the NBI. Hence, he is requesting that the NBI be asked to evaluate them.

He is not accusing anybody about any irregularity but he just wanted the Court to conduct an investigation on why the duplicate copy of the bond was different from the original copy on file with the Court and that if as a result of the investigation, it would appear that somebody was responsible for the irregularity, then he should be held liable for the same.

BANAAG C. ALVAREZ is the present Clerk of Court of the Metropolitan Trial Court (MTC) of Muntinlupa City. The record of Criminal Cases Nos. 34819 to 34821 reveals that Mr. Pascual paid the docket fees, the JDF and the LRF on June 24, 1999. The following day, June 25, 1999 they prepared the Warrant of Arrest. The warrants of arrest were no longer endorsed to the warrant officers because on the same date, Torregoza and Sereno posted the corresponding bail bonds. He didn't know how the said accused became aware of the existence of the warrant of arrest on the same date that it was issued for which they were able to post their bonds. He denied having called up the accused regarding the existence of said warrants because he didn't know them personally. He could not recall the time that Mr. Pascual went to his office to ask for a copy of the warrant of arrest because of the lapse of time. He, however, relied on the recollection of Mr. Pascual that the latter was given a copy of the Warrant of Arrest and the Recall of said Warrant in the afternoon of the same date that they were requested. He denied giving Mr. Pascual a run-around when he was following up the status of the cases he filed against Torregoza and Sereno.

As procedure in their Court, whenever a litigant would ask for a copy of a Warrant of Arrest, he would advise the requesting party that a warrant is addressed to the police officer and they do not give a copy to a private person. However, if the private person would insist, he would remind him that he could get a copy for record purposes only but not for service thereof.[5]

On December 1, 2003, Judge Guerrero submitted her Final Report, recommending that respondent Alvarez be suspended for one month and one day without pay for Simple Neglect of Duty, and that he be reprimanded for his Simple Discourtesy, with warning that any other administrative offense to be committed by him shall be dealt with more severely.[6]

In its Memorandum dated July 14, 2004, the OCA concurred with the findings of the Investigating Judge and adopted her recommendation that respondent be suspended for one month and one day without pay.[7] The OCA gave weight on the Investigating Judge's assessment of the witnesses' credibility as well as her factual findings as these were supported by the evidence on record.

The issues in this case were identified as follows:

- Whether or not there was irregularity in the performance of official duty of Mr. Banaag Alvarez, Clerk of Court of Branch 80, Metropolitan Trial Court of Muntinlupa City as to the bail bonds filed by the accused Torregoza and Sereno in Criminal Case Nos. 38491[8] to 38421[9] and as to the signatures of the Hon. Judge Bautista in the Warrant of Arrest and Recall of Warrant of Arrest?
- Whether or not Mr. Alvarez may be held administratively liable for his conduct in dealing with the litigant like Mr. Pascual in attending to the latter's inquiry on the status of his case or his request for a copy of a warrant of arrest?[10]

On the first issue, the Investigating Judge found no cause to hold respondent liable for any irregularity in the discrepancy between the bail bonds filed with the trial court and the Phil. Phoenix Surety & Insurance, Inc. While the bail bonds indeed reflect different amounts, it was the opinion of the Investigating Judge that any investigation therein should be undertaken not by the trial court, but by the Insurance Commission which has the authority to regulate the issuance of bonds by insurance and bonding companies. As regards any claim of forgery on the signatures of Judge Bautista in the Warrant of Arrest and Recall of Warrant of Arrest, Judge Bautista already attested to the authenticity of his signatures, and Judge Guerrero concluded that any NBI investigation thereon would be an exercise in futility.[11]

The Court, however, cannot leave the matter of the differences in the bail bonds as simple as that. On record are the bail bonds supposedly on file with the trial court and the insurance company, Phil. Phoenix Surety & Insurance, Inc., and notarized by Icasiano M. Dela Rea on June 25, 1999. The undertaking on the bail bonds on file with the trial court (trial court bonds) is for the amount of P61,000.00 each for the accused Torregoza (Serial No. JCR[2] 34196) and Sereno (Serial No. JCR[2] 34195), but those on file with Phil. Phoenix Surety & Insurance, Inc. (surety bonds), which was certified to by their bonds manager, Erlinda L. De Jesus, state the amount of P15,000.00 only for each of the accused. Obviously, one set of these copies is spurious. This conclusion is strengthened by the fact that the trial court bonds were completed with the use of a typewriter different from that used with the surety bonds. What's more, the trial court bonds do not provide for accused Sereno's residence tax certificate number, date and place of issuance, as well as the Phil. Phoenix Surety & Insurance, Inc.'s corporation tax certificate number, date and place of issuance, while the surety bonds have these. What further caught the Court's "eye" is that accused Torregoza's name, residence certificate number, date and place of issuance, both in the trial court and surety bonds were apparently accomplished with the use of the same typewriter. This leads the Court to surmise that Torregoza's surety bond must have come from the same source as that of the trial court's bond. But the Court can only speculate. However, the Court is also aware of the proliferation of spurious bail bonds in the trial courts, and it will not tolerate such prevalence as it mars the integrity of court processes and the system of administration of justice as a whole. Thus, the need for a more thorough investigation on this matter.

As regards the signatures of Judge Jose L. Bautista, Jr. on the Warrant of Arrest and Recall of Warrant both dated June 25, 1999, Judge Bautista already certified that the signatures appearing therein were his,[12] and absent any showing that any irregularity was committed by Judge Bautista in issuing the orders, there is no cause for the Court to hold Judge Bautista or respondent Alvarez accountable therefor.

Anent the second issue, the Investigating Judge found complainant Pascual's testimony more credible and recommended that respondent Alvarez be held liable for Simple Neglect of Duty for his failure to properly perform his duties as clerk of court, and for Simple Discourtesy for his discourteous manner in dealing with complainant Pascual.

Simple Neglect of Duty is the failure to give proper attention to a task expected of an employee, thus signifying a "disregard of a duty resulting from carelessness or indifference." [13] It is classified under the Uniform Rules on Administrative Cases in the Civil Service, as a less grave offense and carries the corresponding penalty of suspension for one month and one day to six months, for the first offense.

Respondent Alvarez, as Clerk of Court of the MeTC of Muntinlupa City, Branch 80, plays a key role in the complement of the court. His office is the hub of activities both adjudicative and administrative. He keeps the court's records and seal, issues processes, enters judgments and others, and gives certified copies from the records upon request. As custodian of the records of the court, it is his duty to ensure that every request for certified copies of court records is properly attended to and fully granted if warranted under the rules. [14] As correctly stated by the Investigating Judge, it is respondent Alvarez's duty to furnish complainant Pascual a copy, or at the very least, allow Mr. Pascual to photocopy the warrant of arrest, the recall of the warrant and the bail bond on file with him so as to apprise the complainant of the status of the criminal cases he filed against the accused Torregoza and Sereno. Instead, he gave complainant Pascual the runaround, and as a result, the latter "incurred expenses and spent precious time in coming to and from the MTC . . ." [15] Respondent apparently forgot that court records are public records, which may be accessed by the citizens, particularly the litigants and parties in a given case, subject to such limitations provided by law. [16]

Considering, however, that this is respondent's first infraction, the Court considers the Investigating Judge's recommended sanction of one month and one day of suspension without pay for Simple Neglect of Duty appropriate.

In addition, respondent Alvarez is guilty of discourtesy in the course of official duties, a light offense under the Uniform Rules on Administrative Cases in the Civil Service and punishable with reprimand for the first offense.

It need not be belabored that the conduct required of court personnel must always be beyond reproach and circumscribed with the heavy burden of responsibility, and the Court will not hesitate in reprimanding court personnel for discourtesy to the public. The image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women who work therein, from the judge to the lowest of its personnel; hence, it becomes the imperative and sacred duty of each and everyone in the court to maintain its good name and standing as a true temple of justice. [17]

Discourtesy and disrespect have no place in the judiciary. [18] There was utterly no reason for respondent Alvarez to be discourteous towards complainant Pascual when he asked for the status of his case and a copy of the warrant of arrest issued by Judge Bautista. He should have been more polite in attending to Pascual and his queries, knowing that the latter is a layman and has no idea of the intricacies of court procedures and processes. As a public officer, respondent Alvarez is bound, in the performance of official duties, to observe courtesy, civility, and self-restraint in his dealings with the public, even when confronted with rudeness and insolence. [19]

WHEREFORE, respondent Banaag Alvarez, Clerk of Court, MeTC of Muntinlupa City, Branch 80, is **SUSPENDED** for one month and one day without pay for Simple Neglect of Duty, and **REPRIMANDED** for Discourtesy in the course of official duties, with warning that a repetition of similar acts shall be dealt with more severely.

Let a copy of this Resolution be attached to the personal record of respondent Alvarez.

Meanwhile, the National Bureau of Investigation, in coordination with the Insurance Commission, is DIRECTED to conduct a thorough investigation on the genuineness of the bail bonds issued by Phil. Phoenix Surety and Insurance, Inc. for the accused Evangeline Torregozo and Baby Sereno in Criminal Cases Nos. 34819-34821 pending before the Metropolitan Trial Court of Muntinlupa City, Branch 80, determine the parties liable therefor, and submit its recommendations thereon within three (3) months from receipt of a copy of this Decision.

SO ORDERED.

Puno, (Chairman), Callejo, Sr., and Tinga, JJ., concur.
Chico-Nazario, J., on leave.

[1] Rollo, p. 1.

[2] Id., pp. 31-32.

[3] Id., p. 37.

[4] Id., p. 38.

[5] Id., pp. 99-100.

[6] Id., p. 106; Final Report, p. 9.

[7] Id., p. 94; Memorandum, p. 9.

[8] Sic; should be 34819.

[9] Sic; should be 34821.

[10] Rollo, p. 101; Final Report, p. 4.

[11] Id., pp. 101-102; Id., pp. 4-5.

[12] Id., p. 58.

[13] Arugay vs. Lee, A.M. No. MTJ-04-1518, January 15, 2004.

[14] Ramirez vs. Racho, A.M. No. P-96-1213, August 1, 1996, 260 SCRA 244, 248-249.

[15] Rollo, p. 105; Final Report, p. 8.

[16] Rule 135, Section 2, Rules of Court; Dela Victoria vs. Mongaya, A.M. No. P-00-1436, February 19, 2001, 352 SCRA 12, 18.

[17] Gabriel vs. Abella, A.M. No. CA-99-9-P, April 30, 2003, 402 SCRA 12, 17-18.

[18] Id., at 19.

[19] Ibid.

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