

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. MA. GORGONIA L. FLORES, COURT INTERPRETER AND FORMER OFFICER-IN-CHARGE, RTC, BRANCH 26, SAN FERNANDO, LA UNION, RESPONDENT.

Adm. Matter No. P-93-972. October 06, 1995

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

In compliance with the resolution of this Court of 12 August 1992 in A.M. No. RTJ-92-802[1] directing it to file the necessary complaint against the respondent for gross ignorance of the law and grave misconduct, the Office of the Court Administrator filed the complaint[2] in the instant case charging her with gross ignorance of the law, grave misconduct and/or gross negligence committed as follows:

- That on January 28, 1988, respondent caused to be issued a Notice of initial hearing of Case No. 1785, entitled "In the Matter of the Adoption of Minor Vida Brillantes Pimentel," despite the fact that no Order to that effect has been issued and despite the fact that no such petition was then filed as said petition was filed only on February 1, 1988;
- That on February 10, 1988, respondent caused to be issued a Notice of initial hearing of Case No. 1787, entitled "In the Matter of the Adoption of Minor Rocky E. Jovero," despite the fact that no Order to that effect has been issued, and which date was also the date of the filing of the petition and also of the first publication of the petition;
- That on February 17, 1988, respondent caused to be issued a Notice of initial hearing of Case No. 1789, entitled "In the Matter of the Adoption of Minors Rhea Agnelica L. Paguio and Mark Edward Raymond L. Paguio," despite the fact that no Order to that effect has been issued, and which date was also the date of the first publication of the petition, and despite further of the fact that no such petition was then filed as said petition was filed only on February 18, 1988;
- That on March 16, 1988, respondent caused to be issued a Notice of initial hearing of Civil Case No. 1797, entitled "In the Matter of the Adoption of the Minor Carisa May Villanueva," despite the fact that no Order to that effect has been issued, and the date respondent set the initial hearing was also the date of the last publication of the notice which was on March 30, 1988;
- That respondent failed to attach in the record of Case No. 1829, entitled "In the Matter of the Petition to Declare Jimmy Dizon as Absentee," the affidavit of publication;
- That on April 4, 1989, respondent caused to be issued a Notice of initial hearing of Case No. 1864, entitled "In the Matter of the Adoption of Minor Mark Castellano," despite the fact that no Order has been issued to that effect and despite the fact that no such petition was then filed as said petition was filed only on April 6, 1989;
- That on September 3, 1989, a Sunday, respondent caused to be issued a Notice of initial hearing of Case No.

1897, entitled "In the Matter of the Adoption of Minor Melody Osoteo," despite the fact that no Order has been issued to that effect and despite the fact that no such petition was then filed as the petition was filed only on September 6, 1989;

- That respondent set the initial hearing of Case No. 1967, entitled "In the Matter of the Judicial Confirmation of the De Facto Adoption of Cecilia Averion," on October 11, 1990 the same day the petition was filed;

8-A. That respondent caused the initial publication of Case No. 1967 to be made on October 10, 1990 even when there was no case then filed as in fact the petition was filed only on October 11, 1990;

- That respondent committed the foregoing in willful violation of the established rules of procedure or at the very least respondent was grossly ignorant of the law and/or was grossly negligent.

In her answer dated 12 February 1994,[3] the respondent claims that she has already served the penalty of suspension for six months, without pay, as ordered by this Court in its decision in A.M. No. RTJ-92-802[4] which involved the very same circumstances as those in this case. She denies that the actuations stated in the complaint were committed in willful violation of the established rules or procedure or that she was grossly ignorant of the law or grossly negligent because she caused to be issued Notices of Hearing in Special Proceedings Nos. 1785, 1787, 1789, 1864, and 1897, and Civil Case No. 1797 without any order therefor, as such is pursuant to a practice in the courts in La Union that has been observed for years back -- that only notices of hearing are prepared/issued in lieu of the order setting the case for initial hearing, a practice whose existence is proven by the certification of Atty. Jaime L. Dojillo, Jr., Clerk of Court V, San Fernando, La Union.[5] She alleges that it was not her duty, but that of the sticher to attach the affidavit of publication in the record of Case No. 1829.

Anent the charges that she set the initial hearing of Case No. 1967 on 10 October 1990, the same day the petition was filed, and that she caused the notice of such initial hearing published on 10 October 1990 even when there was no case yet filed, as in fact the petition was filed only on 11 October 1990, she contended that the same have been resolved in A.M. No. RTJ-92-802 for which she was found to be a "willing participant in the commission of the irregularities"[6] in Special Proceedings Nos. 1965 and 1967. She adds, nevertheless, that if she did so in some instances, she merely relied on the regularity of the performance of duty by the person in charge of the preparation of the notices, her examination of all the pages of the record of a case being usually done only because she has always entertained the view that her co-employees should do their jobs faithfully.

The respondent then prays that she be given the chance to redeem herself, as all her omissions were not deliberate or impelled by dishonesty but were a product of her good faith, trust in her co-employees, if not reliance on the instructions and orders of her superiors.

Issues having been joined, this case was first referred to Executive Judge Braulio D. Yaranon of the Regional Trial Court (RTC) in San Fernando, La Union, for investigation, report, and recommendation. In view of the respondent's Urgent Omnibus Motion for the voluntary inhibition of Judge Yaranon, this Court, in the resolution of 6 December 1994, referred this matter to Executive Judge Fortunato V. Panganiban, RTC, Bauang, La Union, for investigation, report, and recommendation.

Judge Panganiban conducted hearings in this case. Atty. Cristobal Caalaman, Clerk of Court of Branch 33, RTC, Bauang, La Union, and as the representative of the Office of the Court Administrator, presented in evidence pertinent parts of the records in Special Proceedings Nos. 1785, 1787, 1789, 1797, 1864, 1897, and 1967 and Case No. 1829. On the other hand, the respondent took the witness stand and presented her witnesses who were court officers subpoenaed to produce and identify judicial records. To prove her claim that no order is required for the issuance of notice of hearing in special proceedings, she presented the records of various cases decided or were

being heard by Branches 27, 28 and 29 which do not contain an order for the issuance of notice of hearings. Anent Special Proceedings No. 1967, she denied any participation therein as the notice and setting of initial hearing was personally issued by Judge Gines.

In his report dated 4 May 1995,[7] Judge Panganiban makes the following findings:

After a careful evaluation of the evidence adduced by the parties, the undersigned believes that the respondent is grossly ignorant of the law and grossly negligent in the performance of her duties. The evidence of the complainant speak for themselves — "res ipsa loquitor".

Clearly, the respondent issued the notices of hearing before the petitions were actually filed in Special Proceeding Case Nos. 1785, 1789, 1864 and 1897, and she issued the notices of hearing on the same date the petitions were filed in Special Proceeding Case Nos. 1787 and 1829. The respondent tries to evade responsibility by passing the blame to one of her subordinate clerks named Maria Concepcion Diaz claiming that it was the latter who prepared the notices of hearing. She wants to impress to the undersigned that she assumed and had the right to rely that all the acts and works of her subordinates were correct and regular and all she had to do was to affix her signature without verifying or going into the substance or at least the correctness and regularity of the document she was signing. Her insistence that the signing of notices of hearing was her ministerial duty which appears to her as a good excuse in failing to see the very apparent irregularity of such notices she signed without the petition being filed first is appalling.

As to the publication of notices of hearing in Special Proceeding cases, assigned to or taken by Branch 26 of the Regional Trial Court of San Fernando, La Union, the respondent impliedly admitted that it was her office who causes such publication saying that one of her subordinate clerks, Ms. Concepcion Diaz, who was under her immediate supervision and control, was the one assigned for that purpose. The respondent again took refuge on her alleged reliance on the presumed regularity of performance of duties of Ms. Diaz. The respondent appears to have done nothing to supervise Ms. Diaz with respect to the publication of notices. Such function being a direct responsibility of the respondent, whatever irregularity committed in its performance can be attributed to her whether she did it personally or thru her subordinates.

On the charge that the respondent caused the issuance of notices of hearing despite the fact that no Orders to that effect have been issued in Spl. Proc. Nos. 1785, 1787, 1789, 1797, 1864 and 1897, the undersigned recommends that respondent be exonerated. It was sufficiently shown by the respondent that it was the standard practice before and up to this time in the different branches of the Regional Trial Court, San Fernando, La Union to issue notices of initial hearing in Special Proceeding cases without the necessity of an Order to that effect. The only difference with respect to the respondent was that some of the notices of hearing were issued by her before the petitions were actually filed.

On the charge in paragraph 8 of the complaint that the respondent set the initial hearing of Spl. Proc. Case No. 1967 on October 11, 1990 the same day the petition was filed, the undersigned likewise recommends the exoneration of the respondent. The questioned notice of initial hearing in that case was directly issued by the then Presiding Judge, Judge Genaro Gines, of which the respondent had no apparent participation.

With respect to the charge that the respondent committed the violations complained of willfully, the undersigned is not thoroughly convinced as the evidence presented was not sufficient to support such finding.

He then recommends:

In view of the foregoing, and finding the respondent grossly ignorant of the law and grossly negligent in the performance of her duties as then Officer-in-Charge of the Office of the Branch Clerk of Court of Branch 26,

Regional Trial Court, San Fernando, La Union, it is recommended that a six (6) months suspension and a stern warning be meted to the respondent.

We find the above conclusions of the investigating Judge to be in order and supported by the evidence, except as to its finding absolving the respondent of the charge of issuing notices of hearing in the absence of court orders in Special Proceedings Nos. 1785, 1787, 1789, 1797, 1864, and 1897 on the sole ground that they were done in accordance with a standard practice in the different branches of the RTC in San Fernando, La Union.

A reading of the certification of Clerk of Court V Jaime Dojillo, Jr. does not show that the practice is as the respondent claims it to be. It is clear from his certification that the real practice is "when a special proceeding case is raffled to this Court, the petition is forwarded to the Presiding Judge for study, after which the case is transmitted to the Branch Clerk of Court or Officer-in-charge to make/issue the notice of hearing upon instruction of the Presiding Judge." [8] This clearly shows that the clerk of court or the officer-in-charge cannot *motu proprio* issue an order, as what the respondent did. Obviously, the latter did not even comply with the practice. Worse, as found by the investigating Judge, she issued "some of the notices of hearing" "before the petitions were actually filed."

Even if indeed the practice is to issue notices of hearing without a court order, as alleged by the respondent, it is in violation of Section 4, Rule 99 of the Rules of Court which provides:

SEC. 4. Order of hearing. — If the petition and consent filed are sufficient in form and substance, the court, by an Order reciting the purpose of the petition, shall fix a date and place for the hearing thereof, which date shall not be more than six (6) months after the entry of the order, and shall direct that a copy of the order be published before the hearing at least once a week for three (3) consecutive weeks in some newspaper of general circulation published in the province, as the court shall deem best.

Thus, in issuing the notices of hearing in the adoption cases without first referring them to and awaiting for the Judge, and, in some instances, even before the cases were filed, the respondent had either shown gross ignorance of Section 4, Rule 99 of the Rules of Court or committed gross misconduct.

In attributing to her subordinate employees the commission of the irregularities in the issuance of the questioned notices of hearing before the filing of the petitions or without prior referral to an order of the court, and in publishing such notices, the respondent demonstrated gross negligence. When she was the officer-in-charge of the Office of the Clerk of Court of Branch 26, she was, for administrative purposes, the extension of the Clerk of Court and performed some of the functions and duties of the Clerk of Court within the said Branch in the interest of the service and subject to the supervision and control of the Presiding Judge. [9] She had the general supervision of subordinate personnel in Branch 26 and, among other things, she had to supervise "the preparation of the notices of hearing," and to see to it that "all returns of notices are attached to the corresponding records." [10] The negligence then of her subordinates is not a valid defense. Such merely proved beyond doubt her neglect of duty.

Finally, the respondent's plea of double jeopardy is without merit. The penalty imposed upon her in A.M. No. RTJ-92-802 is for the commission of other malfeasance or misfeasance in office. The instant case is covered by the letter of 29 January 1993 of Executive Judge Braulio Yaranon and, because of its late referral to the Court Administrator for possible inclusion in A.M. No. RTJ-92-802, this Court expressly stated in its decision in the latter that the charges proffered in the said letter "may be separately dealt with." [11]

WHEREFORE, the Court hereby finds respondent MA. GORGONIA L. FLORES GUILTY of gross ignorance of procedural law, grave misconduct and neglect of duty and is hereby SUSPENDED from the service for SIX (6)

MONTHS without pay and WARNED that the commission in the future of the same or similar acts shall be dealt with more severely.

The Office of the Court Administrator shall cause personal service of this Decision on the respondent and the suspension shall commence on the day immediately following such service.

SO ORDERED.

Feliciano, Padilla, Regalado, Romero, Bellosillo, Puno, Vitug, Kapunan, Mendoza, Francisco, and Hermosisima, Jr., JJ., concur.

Narvasa, C.J., and Melo, J., on leave.

[1] Entitled, "Office of the Court Administrator vs. Judge Genaro Gines, et al."

[2] Rollo, 1-2.

[3] Rollo, 74-82.

[4] Entitled, "Office of the Court Administrator vs. Hon. Genaro C. Gines," 224 SCRA 261 [1993].

[5] Annex "1" of Answer; Rollo, 83.

[6] Supra note 4, at 281.

[7] Rollo, 365-370.

[8] Annex "1" of Answer, supra note 5 (emphasis supplied).

[9] Manual of Clerks of Court, 35.

[10] Manual of Clerks of Court, 35-36.

[11] Supra note 4, at 283.

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