

**MARCOS JUMALON, PETITIONER, VS. CLODUALDO L. MONTES,  
DEPUTY CLERK OF COURT, BRANCH V, CAGAYAN DE ORO CITY,  
RESPONDENT.***Adm. Mat. No. P-2694. March 29, 1982*

Ponente: PLANA, J.

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This is an administrative case against Clodualdo L. Montes, Deputy Clerk of Court of the Court of First Instance of Misamis Oriental, Branch V, at Cagayan de Oro City, for neglect of duty, incompetence and conduct inimical to the administration of justice.

Complainant is one of the plaintiffs in Civil Case No. 4845 (Remedios G. Jumalon, et al. vs. Ninfa F. Cua, et al.) of the Court of First Instance of Misamis Oriental, Branch V, for cancellation of a transfer certificate of title. The case was decided on August 13, 1977 in favor of the plaintiffs, from which the defendants interposed an appeal to the Court of Appeals. The record on appeal and the appeal bond were approved on October 21, 1977; and the respondent was directed by the Court to forward the records of the case to the Appellate Court.

According to complainant, upon verification with the Court of Appeals by his counsel in 1981, it was found that the records of the case had not yet been forwarded to the said Court after the lapse of more than four years; that plaintiff's counsel then asked herein respondent why there had been a delay in the transmittal of the records, but the latter "merely replied that he was still securing the transcribed notes"; that the non-transcription of the stenographic notes could not have been the reason for the delay considering that the plaintiffs have complete records of the transcripts taken from the court stenographers shortly after each proceeding during the trial.

In his answer, respondent admitted his culpability saying: "I forgot this particular job of attending to the appeal in said Civil Case No. 4845" and "I humbly beg an apology from Mr. Jumalon for the uncalled for grief I unknowingly caused him, with the fervent supplication that I be spared from wrath." At the same time, respondent explained that in the latter part of 1977 or early 1978, the court was flooded by heavy rains and so the records of the court cases were placed on top of cabinets, tables and benches; that the repair of the court was done after each court session and this lasted for several months; and that in the process of adjusting things, he forgot about the appeal in Civil Case 4845.

As Deputy Clerk of Court, respondent is primarily responsible for seeing to it that records of appealed cases are properly sent to the appellate court without delay. For his failure in this regard to exercise due diligence, which has resulted in the delayed transmittal of the records of the appealed case, he should be held administratively liable.

It is noted, however, that this is respondent's first administrative offense. Moreover, it cannot be said that the parties to Civil Case No. 4845, including complainant, are entirely blameless for the delay, which could have been discovered earlier and brought to the attention of the Court, had they been more vigilant.

WHEREFORE, respondent Clodualdo L. Montes is hereby found guilty of negligence in the performance of his duty and ordered to pay a fine equivalent to his salary for two months.

**SO ORDERED.**

Fernando, C.J., Teehankee, Barredo, Aquino, Concepcion, Jr., Fernandez, Guerrero, De Castro, Melencio-Herrera, Ericta, and Escolin, JJ., concur. Makasiar, J., equivalent to 6 months salary will be ??????. Abad Santos, J., on official leave.

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