ERLINDA C. MENDOZA, COMPLAINANT, VS. PEDRO S. ESGUERRA, PROCESS SERVER, REGIONAL TRIAL COURT, BRANCH 89, BALOC, STO. DOMINGO, NUEVA ECIJA, RESPONDENT.

A.M. No. P-11-2967 (formerly A.M. OCA IPI No. 08-2991-P). February 13, 2013

Ponente: BRION, J.

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BRION, J.:

In a sworn administrative complaint[1] dated October 14, 2008, Erlinda C. Mendoza (complainant) charged Pedro S. Esguerra (respondent), Process Server, Regional Trial Court (RTC), Branch 89, Baloc, Sto. Domingo, Nueva Ecija, with Negligence and Dereliction of Duty.

The complaint shows that the complainant was the plaintiff in Civil Case No. 53-SD-94, entitled "Erlinda C. Mendoza v. Renato Mendoza," filed with the RTC of Baloc, Sto. Domingo, Nueva Ecija, Branch 89, presided by Judge Santiago M. Arenas. In an Order[2] dated August 14, 2008, the RTC dismissed the complaint "[i]n view of the repeated non-appearance of both parties[.]"

On September 26, 2008, the complainant wrote Judge Arenas asking for the reconsideration of the dismissal of her case.[3] She explained that she failed to attend the hearing of her case because she received a copy of the Order (dated July 9, 2008) setting the case for hearing only on August 22, 2008; another copy was served on her on August 29, 2008.

She further alleged that she inquired from the Office of the Clerk of Court why she was not promptly furnished a copy of the notice before the date set for hearing. She found out that the first notice was given to the respondent Process Server on July 9, 2008 but he mailed it only on August 11, 2008, while the second notice was endorsed to him on August 6, 2008 and was mailed only on August 22, 2008. The complainant pointed out that it took the respondent more than one (1) month to mail the first notice, while the second notice was mailed after the date set for the hearing of her case.

In his answer[4] dated December 6, 2008, the respondent claimed that as Process Server, he is in charge of mailing all the legal processes of the Court. He explained that the copy of the Order of July 7, 2008 setting the case for hearing on August 14, 2008 was mailed only on August 11, 2008 because it was handed to him by the Civil Docket Clerk only "sometime" in the afternoon of August 8, 2008, which was a Friday. He claimed that "the said omission is attributable only to the Clerk in charge (Civil Docket Clerk)."

In an Evaluation Report[5] dated February 3, 2010, the Office of the Court Administrator recommended that the complaint be referred to the Executive Judge of the RTC of Sto. Domingo, Nueva Ecija for investigation, report and recommendation, to give the parties the opportunity to substantiate their respective positions.

At the RTC proceedings, the complainant submitted additional evidence to substantiate her complaint against the respondent. She submitted a copy of the Notice of Dismissal in support of her claim that the respondent had been remiss in the performance of his duties. In her letter[6] dated September 27, 2010, addressed to Executive Judge

Nelson A. Tribiana, she submitted a copy of the Notice of Dismissal dated August 21, 2008 showing that it was endorsed to the respondent sometime on August 22 or 25, 2008, but was mailed only on September 19, 2008.

The respondent, when asked to explain the delay in the mailing of the July 7, 2008 Order, maintained the earlier allegation in his Answer submitted to the Court — that the Order was given to him only on August 8, 2008. Since this date was a Friday, he mailed the Order only on the next working day, August 11, 2008. He explained further that the order he mailed on August 22, 2008 (and received by the complainant on August 29, 2008) was the same and similar order, intended merely as a follow-up of the first mailed order.

In an Investigation Report and Recommendation[7] dated November 12, 2010, Executive Judge Tribiana found the respondent liable for simple neglect of duty. His findings:

> As to whose responsibility the delays in the mailing of the Orders could be attributed, the undersigned believes that it is that of respondent Pedro S. Esguerra, he, as Process Server, being the one responsible in the mailing of Orders issued by the Court. His allegation that the July 7, 2008 Order was endorsed to him by the Docket Clerk for mailing only on August 8, 2008 (Friday), is at all self-serving, as he failed to substantiate such claim. If it were true that said Order was given to him only on August 8, 2008, he should have called the attention of the Docket Clerk, that the mailing of the Order would be too late for the hearing scheduled on August 14, 2008. Thus, he should not have proceeded to mail the same; but instead, should have served the Order personally to the parties, particularly to the herein complainant. Respondent failed to live up to the standards called for of him as a Process Server, whose duty is to serve court processes with utmost care on his part by seeing to it that all notices assigned to him are duly served upon the parties.
>
> It is thus the finding of the undersigned that respondent Pedro S. Esguerra xxx is liable for simple neglect of duty, defined as the failure of an employee to give proper attention to a task expected of him, signifying "disregard of a duty resulting from carelessness or indifference".[8]

No less than the Constitution itself mandates that all public officers and employees should serve with responsibility, integrity and efficiency, for public office is a public trust.[9] The Court has repeatedly reminded those who work in the Judiciary to be examples of responsibility, competence and efficiency; they must discharge their duties with due care and utmost diligence, since they are officers of the Court and agents of the law.[10] "Indeed, any conduct, act or omission on the part of those who would violate the norm[s] of public accountability and diminish or even just tend to diminish the faith of the people in the judiciary shall not be countenanced."[11]

In the present case, the respondent cannot shift the blame to the Civil Docket Clerk for the delay in the service of the July 7, 2008 Order. The Court fully agrees with the findings of Executive Judge Tribiana that if indeed a copy of the July 7, 2008 Order had been handed to the respondent only on August 8, 2008, a Friday, "he should not have proceeded to mail the same; but instead, should have served the Order personally to the parties, particularly to the herein complainant."[12] Even the Notice of Dismissal dated August 21, 2008 was mailed only on September 19, 2008, three (3) weeks after it was endorsed to him sometime on August 22 or 25, 2008. These acts clearly demonstrate lack of sufficient or reasonable diligence on the part of the respondent. Section 1, Canon IV of the Code of Conduct for Court Personnel mandates that "Court personnel shall at all times perform official duties properly and with diligence." Clearly, the respondent had been remiss in the performance of his duties and has shown lack of dedication to the functions of his office. The respondent's actuations displayed a conduct falling short of the stringent standards required of court employees.[13]

In the absence of any further ulterior motivation shown on the records, the Court agrees with Executive Judge Tribiana that the respondent is guilty of simple neglect of duty. He reports:

> There is no doubt that the mailing of the July 7, 2008 Order subject matter of this investigation was delayed for thirty three (33) days (from July 9, 2008 to August 11, 2008). And even the mailing on August 22, 2008 of the

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> same Order, allegedly intended merely as a follow-up, was also delayed for sixteen (16) days counted from the time the OIC Clerk of Court initiated said Order. There is thus, a pattern of delays in the release and mailing of Orders. In fact, even the August 14, 2008 Order of Dismissal, which bears the initial of then OIC-Clerk of Court, Marietta Atayde, dated August 21, 2008, was mailed only on September 19, 2008, a delay of twenty five (25) days (from August 25, 2008, when said Order should have been mailed).[14]

Under Memorandum Circular No. 19, s. 1999 of the Civil Service Commission, simple neglect of duty is classified as a less grave offense punishable by suspension without pay for one (1) month and one (1) day to six (6) months for the first offense, and dismissal from the service for the second offense. However, to prevent any undue adverse effect on public service that would ensue if the respondent would be suspended, the Court deems it wise to impose the penalty of fine instead so that the respondent can continue to discharge his assigned tasks.[15] We believe that a fine equivalent to three (3) months salary would best impress upon the respondent the character of the offense he committed, and send a signal to the whole Judiciary how this Court regards even a seemingly simple violation when that violation would adversely affect third parties and tarnish the image of the Judiciary.

WHEREFORE, the Court finds respondent Pedro S. Esguerra, Process Server, Regional Trial Court, Branch 89, Baloc, Sto. Domingo, Nueva Ecija, guilty of Simple Neglect of Duty and he is hereby imposed a FINE equivalent to three (3) months salary, with a WARNING that a repetition of the same or similar act shall be dealt with more severely.

SO ORDERED.

Carpio, (Chairperson), Del Castillo, Villarama, Jr.,[*] and Perlas-Bernabe, JJ., concur.

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[*] Designated as additional member in lieu of Associate Justice Jose P. Perez per Raffle dated February 6, 2013.

[1] Rollo, pp. 1-3.

[2] Id. at 5.

[3] Id. at 8.

[4] Id. at 10-11.

[5] Id. at 18-19.

[6] Id. at 23-24

[7] Id. at 38-41.

[8] Id. at 40-41.

[9] Francisco v. Galvez, A.M. No. P-09-2636, December 4, 2009, 607 SCRA 21, 27.

[10] Baculi v. Ugale, A.M. No. P-08-2569, October 30, 2009, 604 SCRA 685, 687.

[11] Gutierrez v. Quitalig, 448 Phil. 469, 479 (2003).

[12] Supra note 7, at 40.

[13] Juario v. Labis, A.M. No. P-07-2388, June 30, 2008, 556 SCRA 540, 544.

[14] Supra note 7, at 40.

[15] Juario v. Labis, supra note 13, at 544-545; Zamudio v. Auro, A.M. No. P-04-1793, December 8, 2008, 573

SCRA 178, 187.

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