

**SPS. ARTURO AND CORAZON BLANQUISCO, PETITIONERS, VS. ATTY. ASUNCION AUSTERO-BOLILAN, CLERK OF COURT VI, RESPONDENT.**

*A.M. No. P-03-1704. March 15, 2004*

Ponente: CORONA, J.

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**CORONA, J.:**

In a sworn letter-complaint dated April 17, 2002, spouses Arturo B. Blanquisco and Corazon Manalang-Blanquisco prayed that respondent, Atty. Asuncion Austero-Bolilan, Chief of the Office of the Clerk of Court of the Regional Trial Court of Tabaco City, Fifth Judicial Region, be dismissed from her position and disbarred from practicing the profession of law for grave abuse of authority, oppression, dishonesty, falsification of public document and violation of her lawyer's oath.

The complaint averred that:

- The [c]omplainants are legitimate spouses and residents of Rizal St., Brgy. Taihi, Tabaco City; while [r]espondent is of legal age and a resident of Barangay Basud, Tabaco City, and a member of [the] Philippine Bar and currently employed and holding the position of Clerk of Court VI, of the Regional Trial Court[,] Fifth Judicial Region, Office of the Clerk of Court, where her summons and other processes issued by this Court may be served thereat;
- That on May 18, 1960, x x x [the] compulsory heirs[1] of the late spouses Don Felipe Manalang and Doña Tomasa Legazpi, executed a Deed of Partition that covered the entire estate of the late spouses Don Felipe Manalang and Doña Tomasa Legazpi;
- Said Deed of Partition was signed in [complainant's] behalf, as well as, in behalf of my brothers and sisters by our late (sic) Hermogena Cao married to Jacobo Manalang also deceased;
- This Deed of Partition was questioned in Civil Case No. T-1824 now pending appeal before the Court of Appeals under CA-CV UDK No. 7919B;
- The Civil Case No. T-1824 (CA-CV UDK No. 7919B) was filed in order to seek the annulment of the Deed of Partition that was executed by the other heirs in fraud of the [c]omplainants. The partition and division of estate of the said late spouses was disproportionate and unequal to the prejudice of the legitime of the [c]omplainants and their brother and sister. Because of said civil case for annulment of the Deed of Partition, a Notice of Lis Pendens was recorded at the back of the Title Lot Nos. 4422-B and 4422-C previously covered by TCT No. T-106747 and T-106748 [respectively];

- Respondent, Atty. Asuncion Austero-Bolilan, in grave abuse of authority, oppression in office, dishonesty, grave misconduct and serious partiality and in violation of her oath of office as lawyer, executed a Certification in favor of Angelina Gloria Ong<sup>[1]</sup> certifying that Lot Nos. 4422-B and 4422-C are not involve[d] nor been offered as bond in any criminal or civil case nor litigated in any special proceedings or land registration cases as per available record existing in her [o]ffice as of August 1997. Aware (sic) of the fact that the said civil case was already filed and pending before RTC, Branch 15 of Tabaco City;

- On the basis of said Certification, Angelina Gloria Ong was able to effect the cancellation of the [Notice of] Lis Pendens and able to sell the aforementioned Lot Nos. 4422-B and 4422-C in favor of Efren Canlas and Eduardo Busa and the corresponding TCT No. T-106748 covering Lot No. 4422-C [was] cancelled in favor of Engr. Efren Canlas and while TCT No. 106747 covering Lot No. 4422-B was likewise cancelled in favor of Mr. Eduardo Busa to the damage and prejudice of herein complainants and their brothers and sisters;

- That it was during the pendency of the aforementioned Court of Appeals case that Respondent Atty. Bolilan executed the aforementioned Certification;

- The Notice of Lis Pendens was cancelled because of the [c]ertification of [r]espondent issued in favor of Angelina Gloria Ong. This case resulted in the filing of an Ombudsman case where the Provincial Register of Deeds Ricardo de la Paz was suspended until now;

- 10. To reiterate, [in] the issuance of said [c]ertification, the [r]espondent Bolilan committed and violated her oath of office as lawyer and likewise committed the following administrative offenses: grave abuse of authority, oppression in office, dishonesty and falsification of public document when she certified falsely that the lots in question are not involved in any litigation or special proceedings nor offered as bond in any civil/criminal case.<sup>[3]</sup>

In her comment dated July 12, 2002,<sup>[4]</sup> respondent alleged that, before signing the certification prepared by her staff, she verified the accuracy of what was stated therein. She studied the complaint (for annulment of deed of partition) and the deed of partition itself; she found no mention of lot nos. 4422-B and 4422-C. The complaint listed in its paragraph 5 all the properties subject of the case and described them in detail except for one which was referred to merely as:

d) Lands collectively know[n] as Pili Farm, located in Pili, Tabaco, Albay, consisting of 215.3492 hectares, more or less;

The same property was included in the deed of partition but was described as follows:

4.) All the lands composing the Pili Farm located in Pili, Tabaco, Albay, each parcel being described as follows:

x x x

x x x

x x x

(c) Certificate of Title No. \_\_\_\_\_

A parcel of land (Lot No. 4422 of the Cadastral Survey of Tabaco); with the improvement thereon, x x x

Respondent stated that the above-mentioned paragraph 5 (d) of the complaint was erroneous because there was no Barangay Pili in Tabaco, Albay. Respondent also averred that, although the deed of partition mentioned "lot no. 4422," it was technically different from lot no. 4422-B or lot no. 4422-C. She added that she took pains to verify from Maximo Balayo, owner of a portion of lot no. 4422-A, which was part of lot no. 4422, whether his property was among those included in Civil Case No. T-1824 and she was told that it was not. Respondent alleged that this all the more convinced her that lot no. 4422, subject matter of the complaint for annulment of deed of partition, was not at all related to lot nos. 4422-B and 4422-C.

She further explained that, in issuing a routing certification, she could not be expected to "go outside" of the complaint and its annexes to determine the subject matter of the case. Without evidence aliunde, it could not be said that lot nos. 4422-B and 4422-C, located in San Antonio, Tabaco, Albay, were the subject matter of Civil Case No. T-1824 because this case referred to a parcel of land involving "lot no. 4422" supposedly located in Pili, Tabaco, Albay. Respondent added that even if she signed the certification without exhaustively checking the accuracy thereof, she should still be exonerated of the charges against her based on the ruling of the Supreme Court in *Amado C. Arias vs. Sandiganbayan*:<sup>[5]</sup>

We would be setting a bad precedent if a head of office plagued by all too common problems — dishonesty or negligent subordinates, overwork, multiple assignments or positions, or plain incompetence — is suddenly swept into a conspiracy conviction simply because he did not personally examine every single detail, painstakingly trace every step from inception, and investigate the motive of every person involved in a transaction before affixing his signature as the final approving authority.

x x x

x x x

x x x

We can, in retrospect, argue that Arias should have probed records, inspected documents, received procedures and questioned persons. It is doubtful if any auditor for a fairly sized office could personally do all these things in all vouchers presented for his signature. The Court would be asking for the impossible. All heads of offices have to rely to a reasonable extent on their subordinates and on the good faith of those who prepare bids, purchase supplies, or enter into negotiations. If a department secretary entertains important visitors, the auditor is not ordinarily expected to call the restaurant about the amount of bill, question each guest whether he was present at the luncheon, inquire whether the correct amount of food was served, and otherwise personally look into the reimbursement voucher's accuracy, propriety, and sufficiency. There has to be some added reason why he should examine each voucher in such detail. Any executive head of even small government agencies or commissions can attest to the volume of papers that must be signed. There are hundreds of documents, letters, memoranda, vouchers, and supporting papers that routinely pass through his hands. The number in bigger offices or departments is even more appalling. (Emphasis ours)

Respondent furthermore alleged that, assuming that the certification was erroneous, it was prepared by her subordinates and signed by her without any ulterior motive to favor one litigant or to oppress another. If there was anyone to be blamed, it was the complainant's lawyer who drafted the "poorly studied, incomplete complaint." Respondent also pointed out that under Rule 13, Section 14 of the Revised Rules of Court, a notice of lis pendens can be cancelled only upon order of the court. A mere certification by an unauthorized person is not sufficient

basis for the cancellation of the notice of lis pendens. The erroneous reliance thereon by the Register of Deeds for the cancellation of the notice of lis pendens, if such was in fact the case, should not therefore be blamed on her.

In their opposition to the comment of respondent dated November 6, 2002,[6] complainants alleged that respondent's defenses were nothing but lame excuses aimed at misleading the Court. Complainants pointed out that the subject properties were located in the "Barrio of Pili." There was no "Barangay Pili" to speak of because the term barangay was not in use then. Complainants also stressed that Civil Case No. T-1824 was no ordinary case as it involved properties worth millions of pesos. Being the Chief of the Office of the Clerk of Court, respondent should have been aware of that and should have exercised greater care in issuing the certification in question. Instead of consulting one Maximo B. Balayo who had nothing to do with the case, respondent should have inquired about the subject properties from the Clerk of Court of Branch 15, Tabaco City RTC, to which the case had been raffled.

The Office of the Court Administrator (OCA), after evaluating the records, recommends that respondent be fined in the amount of P2,000 for negligence.[7] We adopt the recommendation of the OCA.

Respondent should have been more prudent in issuing the subject certification. The fact that some of the properties were not described with specificity in the complaint (the deed of partition mentioned lot no. 4422 of the cadastral survey of Tabaco which was referred to in the complaint as "lands collectively known as Pili Farm, located in Pili, Tabaco, Albay, consisting of 215.3492 hectares, more or less") should have warned her to make the necessary verification first before granting the request of Angelina Gloria-Ong for a certification that lot nos. 4422-B and 4422-C were not involved in the case. Also, the fact that the person seeking the certification was a defendant in the said complaint for annulment of the deed of partition should have put her on guard all the more.

Respondent invokes the case of *Arias* to support her contention that, even if she signed the certification without exhaustively checking the accuracy thereof, she should not be held liable because she had the right to rely on the work of her subordinates. *Arias* involves a different set of facts relating to allegations of a large-scale conspiracy involving several heads of offices and/or their deputies. Our ruling there that heads of offices can rely to a reasonable extent on their subordinates and on the good faith of those who prepare bids, purchase supplies or enter into negotiations is only applicable if the facts are similar to the *Arias* case. They are not.

Respondent averred that she took pains to verify from one Maximo Balayo, the owner of a portion of lot no. 4422-A whether his property was among those included in Civil Case No. T-1824. When Maximo Balayo who was her relative told her that it was not, respondent concluded that lot nos. 4422-B and 4422-C were also not involved. Instead of asking Balayo, who had nothing to do with the case, respondent should have consulted the Branch Clerk of Court of Branch 15 where the case was pending. This she did not do. Simple neglect signifies a disregard of a duty resulting from carelessness or indifference.[8] A clerk of court, being an essential officer in the judicial system, is expected to be assiduous in performing his or her official duties. Negligence in the performance thereof warrants disciplinary action.[9]

Lastly, while it is true that respondent should not perhaps be blamed for the erroneous act of the Register of Deeds of Albay in canceling the notice of lis pendens based alone on the certification she issued (inasmuch as any such cancellation required a court order under the Rules of Court), the fact remains that there was negligence on her part in issuing the subject certification.

WHEREFORE, respondent Clerk of Court Asuncion Austero-Bolilan is hereby FINED in the sum of P2,000 with a warning that a repetition of the same or similar act will be dealt with more severely.

**SO ORDERED.**

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

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[1] Includes herein complainant Corazon Manalang-Blanquisco.

[2] Daughter of Angela Manalang-Gloria, one of the compulsory heirs of the late spouses Don Felipe and Doña Tomasa Manalang.

[3] Rollo, pp. 1-4.

[4] Rollo, pp. 49-59.

**[5] 180 SCRA 309 [1989].**

[6] Rollo, pp. 70-72.

[7] Rollo, pp. 73-78.

[8] Dajao vs. Lluch, 380 SCRA 104 [2002]; Philippine Retirement Authority vs. Rupa, 363 SCRA 480 [2001].

[9] Bautista vs. Mendoza, 362 SCRA 397 [2001].

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