

JOSEFINA M. CABUHAT, COMPLAINANT, VS. JUDGE REYNALDO G. ROS, CLERK OF COURT JEWELYN V. CARREON (Carreon) and Clerk III Julius B. Salonga (Salonga), all of Regional Trial Court (RTC), Branch 33, Manila and Clerk of Court VII Jennifer Dela Cruz-Buendia (COC Buendia), Office of the Clerk of Court (OCC), RTC, Manila with grave misconduct and gross neglect of duty.

A.M. No. RTJ-14-2386 (Formerly OCA IPI No. 12-3913-RTJ). September 16, 2015

Ponente: PEREZ, J.

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PEREZ, J.:

This resolves the complaint[1] dated 11 July 2012 filed by Josefina M. Cabuhat (complainant) charging Judge Reynaldo G. Ros (Judge Ros), Clerk of Court V Jewelyn V. Carreon (Carreon) and Clerk III Julius B. Salonga (Salonga), all of Regional Trial Court (RTC), Branch 33, Manila and Clerk of Court VII Jennifer Dela Cruz-Buendia (COC Buendia), Office of the Clerk of Court (OCC), RTC, Manila with grave misconduct and gross neglect of duty.

The facts of the case as culled from the records and summarized in the 12 November 2014 Report[2] of Associate Justice Isaias P. Dicanan (Investigating Justice) are as follows:

Civil Case No. 172750-CV-Heirs of Romeo Cabuhat vs. PAL Employees' Savings and Loan Association, Inc. (Collection of Sum of Money with Damages) Branch 29 of the Metropolitan Trial Court of Manila (MeTC)

Romeo Cabuhat ("Cabuhat"), a member of the PAL Employees Savings and Loan Association, Inc. ("PESALA"), died on August 25, 1999. After his death, PESALA remitted to his wife and children ("Heirs of Cabuhat") an amount which was equivalent to eighty percent (80%) of Cabuhat's capital deposit to the said association. Meanwhile, the amount representing the twenty percent (20%) of his capital contribution to the association was withheld by PESALA.

In view of the refusal of PESALA to remit the balance of twenty percent (20%) of Cabuhat's capital contribution in favor of the heirs of the latter, the Heirs of Cabuhat filed a case for collection of sum of money in the Metropolitan Trial Court of Manila ("MTC of Manila") against PESALA, seeking to collect the amount of Php 226,895.18 from the latter representing the twenty percent (20%) of the amount of the capital contribution of the deceased Cabuhat to the said association. They were represented in the aforesaid case by herein complainant Josefina M. Cabuhat who was the widow of Romeo Cabuhat ("complainant"). The said case was docketed as Civil Case No. 172750-CV.

On November 24, 2005, Branch 29 of the MTC of Manila rendered a decision in Civil Case No. 172750-CV in favor of the Heirs of Cabuhat. The said court ordered PESALA to refund to the Heirs of Cabuhat the remaining 20%) of the total contributions of the late Romeo Cabuhat to the association, plus interest and attorney's fees.

Civil Case No. 06-114514-Heirs of Romeo

Cabuhat vs. PAL Employees' Savings and Loan Association, Inc. (Appeal from Civil Case No. 172750-CV) Branch 33 of the Regional Trial Court of Manila

PESALA then filed an appeal to the Regional Trial Court of Manila ("RTC of Manila") from the November 24, 2005 decision of the MTC of Manila. The said case was docketed as Civil Case No. 06-114514 and it was raffled-to Branch 33 of the said court. On June 19, 2006, the RTC of Manila rendered a Decision affirming the ruling of the MTC of Manila. A Motion for Reconsideration of the June 19, 2006 decision of the RTC of Manila was thereafter filed by PESALA in the said court.

On November 25, 2011 and December 13, 2011, herein complainant filed separate ex parte motion to remand the record of Civil Case No. 06-114514 to its court of origin or to the MTC of Manila for the proper execution of the trial court's decision. Acting on the ex parte motion, herein respondent Judge Reynaldo G. Ros ("respondent Ros") of the RTC of Manila issued an Order dated February 29, 2012 directing the remand of the record of Civil Case No. 06-114514 to its court of origin (MTC of Manila) for proper disposition.

Pursuant to the February 29, 2012 Order of the RTC of Manila, herein respondent Jennifer H. Dela Cruz-Buendia ("respondent Buendia"), Clerk of Court of the RTC of Manila, transmitted the entire record of Civil Case No. 06-114514 to the Clerk of Court of the MTC of Manila. Thereafter, on April 13, 2012, the complainant filed in the MTC of Manila an Ex Parte Motion for Execution of Final Judgment and Issuance of Writ of Execution. However, in an Order dated May 8, 2012, the said motion for execution was denied by the said trial court, through Presiding Judge Rosalia I. Hipolito-Bunagan on the ground that there was no entry of judgment yet in Civil Case No. 06-114514.[3]

Complainant claims that she is the representative of the heirs of Romeo Cabuhat in the aforesaid civil case. She averred that she learned of the 19 June 2006 Decision of the RTC of Manila in her favor only on 5 October 2011 or five (5) years after rendition of the decision. On the said date, her brother, Teodorico Miranda, Jr. went to RTC, Branch 33, Manila and was informed by Salonga that Civil Case No. 06-114514 had already attained finality.

Complainant alleged that she thereafter asked Salonga if she could see the case record of Civil Case No. 06-114514 but was told that the same was already stored in the "bodega" or the court's storage room. Salonga allegedly suggested that complainant instead file, a motion to remand the case to the Metropolitan Trial Court (MeTC) of Manila.

Complainant filed two (2) motions to remand the case to the MeTC of Manila. She, however, lamented that despite the lapse of four (4) months and numerous follow-ups, Salonga and Carreon still could not produce or show to her the record of Civil Case No. 06-114514.

Finally, the case record was found and on 29 February 2012, Judge Ros issued an order remanding the record of the case to the court of origin.

On 13 April 2012, complainant filed a motion for issuance of writ of execution. During the hearing, it was discovered from the record that there . was no resolution yet on the motion for reconsideration filed by defendant-appellant PESALA on 21 July 2006 assailing the decision rendered by RTC, Branch 33, Manila. Consequently, the MeTC of Manila denied the motion for execution on the ground that Civil Case No. 06-114514 had not yet attained finality.

This prompted complainant to file the instant administrative complaint against herein respondents. She contended that Judge Ros committed an irregularity in the performance of his duties as a presiding judge when he issued an order remanding the record of Civil Case No. 06-114514 to MeTC of Manila despite the fact that the said case had not yet attained finality.

She also complained against Carreon and Salonga for their negligence in the performance of their respective duties, particularly, for taking them a period of more than four (4) months just to produce the record of Civil Case No. 06-114514. Complainant also pointed out the negligence of COC Buendia for issuing a transmittal letter on 28 March 2012 stating that there was already an entry of judgment in the subject case despite the fact that there was none.

Acting on the complaint, the Office of the Court Administrator required the respondents to file their respective comments[4] on the complaint of complainant.

Judge Ros[5] averred that he was surprised when he learned that an administrative complaint was filed against him because he closely monitors all the cases in his court that are submitted for decision and resolution. He contended that in his seventeen (17) years as a trial court judge no one has ever complained against him for failure to resolve pending incidents within the reglementary period. He claimed that he decided the subject case shortly after it was submitted for decision and that even the complainant was surprised upon knowing that the case had been resolved as early as 19 June 2006. He surmised that the original copy of the resolution could have been detached from the case record due to their frequent transfers brought about by the renovation of the court room and the segregation of the old cases during the disposal period as ordered by the Supreme Court.

As regards his issuance of the 29 February 2012 order remanding the case to the court of origin, he claimed that the same was done in good faith. A reading of complainant's Ex-Parte Motion to Remand Case dated 9 November 2011 would show that it was claimed in the motion that the decision "had long attained its finality." He then assumed that when complainant filed the motion and being assisted by counsel, it was logical that his decision was already final due to the absence of an appeal. He had no prior information about the pendency of the motion for reconsideration. Considering that the case was decided way back on 19 June 2006, he claimed that he had no reason to question the veracity of complainant's statement that the decision had long become final.

Judge Ros concluded that complainant's counsel should be the one blamed for his client's predicament. He pointed out that it was complainant herself who stated that her lawyer neglected her case. Judge Ros quoted complainant's own words: "Una nagumpisa ang hindi kanais nais sa kaso ko ng mag-apela ang kalaban ko sa desisyon ng MTC (sic) Branch 29, naassign sa sola ni RTC Judge Ross (sic) noon taon 2006, na noon ay inakala ko long na bahagi pa rin ng matagal na proseso ng paghihintay ang nasabing apela dahil mahigit tatlong taon magmula noon (2006-2009) ay lagi long sinasabi sa akin ng counsel on record ko na dedesisyunan na daw yung kaso ko, pero sa huli ay nagtaka ako kung bakit bigla na lang itong naging matabang sa pagkausap sa akin, hanggang sabihan niya ako verbally na marami daw siyang ginagawa na at wala na daw sa calendar niya ang kaso ko. x x x"[6]

Judge Ros submitted that it is clear from the foregoing that for three (3) years, complainant's lawyer never informed his client of the status of the case despite a favorable decision was rendered way back in the year 2006. He claimed that it was unusual that counsel for the defendant-appellant never inquired about the status of the motion for reconsideration for six (6) years and that it is only now that it is being asserted that the same has not been acted upon by the court.

To avoid further delay, Judge Ros requested that he be allowed to again resolve the subject motion for reconsideration.

Carreon,[7] who was then the Branch Clerk of Court of RTC, Branch 33, Manila, admitted that their branch had difficulty in locating the record of Civil Case No. 06-114514. She, however, claimed that the difficulty was attributable not to her negligence or that of the court staff but to "logistic related problems such as the renovation and repainting of the entire courtroom including the storage area which caused the transfer of the record from one place to another." She averred that the record of every case in their branch was prone to get mixed up because of

those transfers.

Carreon further admitted that she delegated the preparation of the transmittal of the record of Civil Case No. 06-114514 to Salonga considering that it was simply a ministerial matter and that the court had already issued an order granting the motion to remand the case to the MeTC of Manila. She further explained that she was always swamped with other work that required her undivided attention. She ruled out the possibility that the motion for reconsideration was not resolved, emphasizing that she and Judge Ros always keep track of pending incidents in their branch.

In his Comment,[8] Salonga maintained that he exerted extra effort to search the record of Civil Case No. 06-114514 which was already in the court's storage room. He explained that it took him several months to locate the record because it was already old and there were a lot of voluminous records and loose files in the storage room. According to him, apart from his duties as the person in charge of civil cases and search warrants in RTC, Branch 33, Manila, he also assisted during court hearings and prepared "communications that are to be mailed." He further explained that he transmitted the subject record to the Office of the Clerk of Court without realizing that some of the pages therein were missing. He asserted that he never told complainant that the decision was already final.

COC Buendia[9] lamented that she was impleaded in the instant administrative complaint. Being the Clerk of Court of RTC, Manila, she asseverated that she has no control over the records of the cases already assigned to the different branches of the court. She argued that she is not the custodian of the records of cases assigned to the branches and had no direct control or supervision over the personnel therein. She contended that when the Appeals Section of her office received the order to remand, it was under the impression that the only thing left to do was to transmit the record to the court of origin which is merely a ministerial duty. She clarified that the transmittal forms, being pro forma in nature, automatically included the words "Entry of Judgment." It does not necessarily mean that there was an actual Entry of Judgment in the transmitted records. She alleged that contrary to complainant's misrepresentation, the words "Entry of Judgment" were not underlined, as the records of the case would show. COC Buendia stressed that when the subject case record was received by her office, it took only sixteen (16) days to remand the same to the MeTC of Manila despite the fact that there were eighteen (18) other case records that were being processed and verified by her office at that time.

On 18 June 2014,[10] this Court issued a resolution re-docketing the instant administrative complaint as a regular administrative matter. In the same resolution, the administrative complaint was referred to the Presiding Justice of the Court of Appeals (CA) for raffle among the Associate Justices in the CA of Manila. The Justice to whom the case is assigned was directed to conduct the investigation and submit his report and recommendation within sixty (60) days from receipt of the record.

In his Report of Investigation and Recommendation dated 12 November 2014, Investigating Justice concluded that Salonga committed irregularities and procedural lapses in the handling of the record of Civil Case No. 06-114514. In his report, he made the following findings:

During the investigation that was conducted by the undersigned on September 30, 2014, Atty. Joselito Frial ("Atty. Frial"), the counsel of the complainant in Civil Case No. 172750-CV/Civil Case No. 06-114514 submitted a copy of the Order dated July 28, 2006 that was issued by respondent Ros requiring the heirs of Cabuhat to file their comment or opposition to the motion for reconsideration that was filed by PESALA. This confirms the veracity of the statement of respondent Ros in his comment to the instant administrative complaint that he, indeed issued such order. Nonetheless, a perusal of the record of Civil Case No. 06-114514 would show that, after the Motion for Reconsideration that was filed by PESALA, the next pleading that immediately appears therein was the Ex Parte Motion to Remand the case that was filed by the herein

complainant, followed by the February 29, 2012 Order of respondent Ros granting the said motion to remand the case. xxx

x x x x

Apart from the July 28, 2006 Order that was issued by respondent Ros which is nowhere to be found in the record of Civil Case No. 06-114514, it appears that, in 2009, the Heirs of Cabuhad, through their counsel, likewise filed a Motion to Resolve dated February 10, 2009 which does not also form part of the record of the aforesaid case. During the investigation that was conducted by the undersigned, the complainant submitted a copy of the said motion to resolve which was duly received by Branch 33 of the RTC of Manila, through respondent Salonga, as shown by the receipt that was stamped on the upper right portion of the receiving copy of the complaint. According to respondent Salonga, after receiving a copy of the said motion to resolve, he attached it to the record of the case. However, the undersigned examined the record of Civil Case No. 06-114514 and there was no copy of the said motion to resolve therein. x x x

x x x x

In other words, while there is no doubt that Branch 33 of the RTC of Manila issued an Order dated July 28, 2006, a copy of the said order was nonetheless missing from the record of Civil Case No. 06-114514. In addition, while it is undisputed that the complainant filed a motion to resolve PESALA's motion for reconsideration in 2009, the said motion to resolve was likewise nowhere to be found in the record of the case. Assuming, for the sake of argument, that the respondent Judge was not able to timely resolve the motion for reconsideration that was filed by PESALA, he could have done so earlier had his attention been called on the matter. However, he only saw for the first time the said motion to resolve the case that was filed by the complainant during the investigation that was conducted by the undersigned in the instant administrative case. Had the record of Civil Case No. 06-114514 been kept intact and properly maintained by respondent Salonga who was the clerk in charge of civil cases, the pending incident would have been readily seen or discovered.[11]

x x x

The Investigating Justice held that respondent Salonga miserably failed to perform his duties and responsibilities as the clerk who was in charge of maintaining or keeping the records of the civil cases that were assigned at RTC, Branch 33, Manila. He noted that it took respondent Salonga more than four (4) months to locate or produce the missing case record and it was only thereafter that the complainant discovered that the case record was incomplete and that some pages thereof were missing. For causing great prejudice to complainant who had to wait for at least ten (10) years before her simple case for collection of money could be finally resolved, the Investigating Justice recommended that respondent Salonga be dismissed from the service.

As regards the other respondents, the Investigating Justice recommended that the administrative case against them be dismissed for failure of the complainant to sufficiently prove that they committed grave misconduct or gross neglect of duty.

We agree with the findings and conclusion of the Investigating Justice that respondent Salonga "had, indeed, committed irregularities and procedural lapses in the handling of Civil Case No. 06-114514" and that he "miserably failed to perform his duties and responsibilities as the clerk who was in charge of maintaining or keeping the records of civil cases that were assigned at Branch 33." We likewise agree that the charges against respondents Judge Ros, Carreon and COC Buendia should be dismissed for lack of substantiation.

The function of Salonga as Clerk III, among others, is to "maintain a systematic filing of criminal cases, civil cases, special civil actions, land registration cases and administrative cases" and "make available all court records for inspection by the public unless the Court forbids its publicity." [12] As the person in charge of the civil cases,

it is his duty to make sure that all pleadings filed in their branch are properly attached to the record and thereafter referred their Branch Clerk of Court Carreon who, in turn, shall forward to these to Judge Ros. The Order dated 28 July 2006 which was received by the counsel for complainant was not attached to the record. The Motion to Resolve filed by complainant was also missing from the record even though it was admitted by Salonga himself that he received the same. His failure to attach the subject pleading to the record meant that he could not have referred the same to Carreon who, therefore, could not have reminded Judge Ros of the pending incident. Salonga's lapses started the chain reaction of mishaps. The proper performance of the tasks of the Branch Clerk of Court and the Presiding Judge depended on how efficiently Salonga performed his. It would be unfair to hold Carreon and Judge Ros liable for something that is the sole responsibility of Salonga. It would also be unreasonable to expect them to remember every pending incident in the cases handled by their branch which is precisely why a clerk, in the person of Salonga, was placed in charge of civil cases.

Furthermore, Salonga, who had custody of the record of Civil Case No. 06-114514, failed to satisfactorily explain why the record of the case ended up in the "bodega" despite the fact that there was an incident still to be resolved by the court.

As for COC Buendia, her function as Clerk of Court of RTC of Manila is too far removed from the incident in this case. We note that her only participation in the subject case was her act of remanding the record to the court of origin in compliance with the order of Judge Ros. We agree with COC Buendia that, contrary to the claim of complainant, her transmittal letter did not categorically indicate that an entry of judgment had already been made in the case.

We have also observed that complainant is not entirely faultless for the delay in the resolution of her case. Part of the blame could be ascribed to her for having taken too long (5 years) to follow-up her case.[13] It was unfortunate that during that time that she failed to follow-up on her case, some of the records of the court had to be transferred in view of the renovation being undertaken. Likewise, the Supreme Court has scheduled during that period a project for the disposal of court records, papers and exhibits involving resolved and decided cases.

Simple neglect of duty is defined as the failure of an employee to give proper attention to a required task or to discharge a duty due to carelessness or indifference. On the other hand, gross neglect of duty is characterized by want of even the slightest care, or by conscious indifference to the consequences, or by flagrant and palpable breach of duty.[14]

Although we agree with the findings of the Investigating Justice, we, however, disagree with the recommended penalty of dismissal from the service for Salonga. Again, we are opting not to wield the axe of outright dismissal from the service, a penalty that we find to be too severe. Section 53, Rule IV, Uniform Rules on Administrative Cases in the Civil Service grants the disciplining authority the discretion to consider mitigating circumstances in the imposition of the proper penalty.

Since no motive to conceal, destroy or otherwise profit from the loss of the pleading, as well as the order issued by Judge Ros, was imputed and convincingly proven against Salonga and that no taint of bad faith can be discerned from his lapses in work, we deem it necessary to mitigate the imposable penalty and find Salonga liable only for simple neglect of duty, a less grave offense. The fact that this is his first infraction in his sixteen (16) years with the judiciary, we thus impose upon him the penalty of suspension from the service for one (1) month and one (1) day.[15]

WHEREFORE, we find Julius B. Salonga, Clerk III, Regional Trial Court, Branch 33, Manila GUILTY of simple misconduct and accordingly, SUSPEND him for one (1) month and one (1) day, with a warning that a repetition of the same or similar offense in the future shall be dealt with more severely.

The administrative complaint against Judge Reynaldo G. Ros and Clerk of Court V Jewelyne V. Carreon, both of Regional Trial Court, Branch 33, Manila and Clerk of Court VII Jennifer Dela Cruz-Buendia, Office of the Clerk of Court, Regional Trial Court, Manila, is hereby DISMISSED for lack of merit.

Let a copy of this decision be attached to the personnel records of Julius B. Salonga in the Office of the Administrative Services, Office of the Court Administrator.

SO ORDERED.

Sereno, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Perlas-Bernabe, JJ., concur.

[1] Rollo, pp. 1-3.

[2] Id. at 162-176.

[3] Id. at 163-165.

[4] Id at 53-56.

[5] Id. at 57-59.

[6] Id. at 58.

[7] Id. at 68-73.

[8] Id. at 65-66.

[9] Id. at 83-85.

[10] Id. at 102-103.

[11] Id. at 169-174.

[12] Chapter VI of the 2002 Revised Manual for Clerks of Court.

[13] Spouses Bautista v. Mendoza, 414 Phil. 692, 698 (2001) citing Lloveras v. Sanchez, A.M. No. P-93-817, 18 January 1994, 229 SCRA 302.

[14] Court of Appeals v. Manabat, Jr., A.M. No. CA-11-24-P, 16 November 2011, 660 SCRA 159, 165.

[15] Id. at 166.

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