

SAGA DESIGN, INC., COMPLAINANT, VS. ATTY. EMELINE B. CABAUG, CLERK OF COURT V, REGIONAL TRIAL COURT, BRANCH 56, MANDAUE CITY, RESPONDENT.

A.M. NO. P-06-2244 (FORMERLY OCA IPI NO. 06-2360-P). December 06, 2006

Ponente: GARCIA, J.

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GARCIA, J.:

The instant administrative case stemmed from a verified complaint dated December 9, 2005 filed with the Office of the Court Administrator (OCA) by complainant Saga Design, Inc., through its representative, Benson Chua, charging the herein respondent, Atty. Emeline B. Cabahug, Branch Clerk of Court, Regional Trial Court (RTC), Branch 56, Mandaue City, with violation of the norm of conduct of public servants and arbitrariness and capriciousness in connection with the pre-marking of exhibits conducted by the respondent in Civil Case No. Man-4500, entitled Saga Design, Inc. v. New Times Limited Philippines, et al.

The facts:

Record shows that complainant Saga Design, Inc., is the plaintiff in Civil Case No. Man-4500 pending before Branch 56 of the RTC, Mandaue City since December 2003. Pursuant to the new rules on pre-trial, the parties to the case and the respondent branch clerk of court agreed to have the pre-marking of exhibits on November 18, 2005.

On November 18, 2005, complainant's representative, Benson Chua, and its counsel, Atty. Francis M. Zosa, arrived at the office of the respondent at around 2:25 p.m. only to be informed that the respondent was attending her child's school function and that the scheduled pre-marking of exhibits had been reset to December 9, 2005, at 3:00 p.m.

On December 9, 2005, Chua and Atty. Zosa arrived at the respondent's office at about 3:13 p.m., which was only 13 minutes past the scheduled time. Inasmuch as by then, the defendants' representatives and counsel had already left, the respondent informed the two that she had agreed to reset the pre-marking of exhibits to January 25, 2006. Atty. Zosa refused to sign the re-setting because the case had been pending for two (2) years already.

To the complainant, the act of the respondent in unilaterally canceling the scheduled pre-marking of exhibits on November 18, 2005, violated the norm of conduct of public servants who should not put public service above personal consideration. It also averred that the respondent's act in agreeing to reset the pre-marking of exhibits just because complainant's representative and counsel were late by a few minutes constituted arbitrariness, capriciousness and contributed to the delay in the resolution of its case.

On January 24, 2006, the then Court Administrator required the respondent to file her comment on the complaint, which she did on February 21, 2006.

In her comment, the respondent admitted having scheduled the pre-marking of exhibits on November 18, 2005 at 2:30 p.m. She explained, however, that at around 2:00 p.m. of that date, she received a call from her child's

teacher asking her to go to the school as the guidance counselor wanted to have a talk with her about a very important matter concerning her child. With the permission of her presiding judge, she immediately proceeded to her child's school. On her way, she remembered the scheduled pre-marking of exhibits in Civil Case No. Man-4500. She then called up her officemate, Ana Añana, instructing her to ask the parties, through counsels, if they could wait until 3:30 p.m. Añana, however, told her that the counsels of both parties agreed to reset the pre-marking of exhibits to December 9, 2005.

On December 9, 2005, the counsel for the defendant Atty. Joseph Randi C. Torregosa and defendant Marivic Debolusan, arrived at the respondent's office at around 2:20 p.m., while the plaintiff's representative, Benson Chua, and its counsel, Atty. Zosa arrived at 3:30 p.m. By then, the defendant's counsel, and Debolusan had already left, with the scheduled pre-marking of exhibits reset to January 25, 2006. Atty. Zosa was furious upon being informed of the resetting and walked out from the respondent's office.

Ultimately, on motion of the plaintiff's representative, the pre-marking of exhibits was conducted and completed on January 5, 2006.

In its Memorandum Report, the OCA recommended that respondent be suspended for one (1) month and one (1) day for simple neglect of duty, saying, *inter alia*, thus:

In this case, respondent admitted to have tasked to conduct the pre-marking of exhibits in Civil Case No. Man-4500. Accordingly, she set the date for such exercise on November 18, 2005, and the parties, together, with their counsels, were duly notified therefor. At the appointed time of the pre-marking of exhibits, however, respondent hurriedly left her office to attend to a school function for her child, conveniently forgetting the task she had earlier set on that day. The parties and their counsels were, thus, left with no choice but to work out by themselves the resetting of the scheduled pre-marking of exhibits, thereby causing delay in the proceeding of the case.

Respondent's excuse that she sought permission from her presiding judge to go to her child's school does not alter the fact that she failed to give proper attention to a task she herself scheduled and of which she was expected to perform. As clerk of court, respondent is expected to act speedily on her assigned task to avoid clogging of cases in court and thereby assist in the administration of justice without delay. Corollarily, under the Code of Conduct of Court Personnel, court employees are required at all times to perform their official duties properly and with diligence, and to commit themselves exclusively to the business and responsibilities of their office during working hours. Consequently, respondent's negligence in the performance of her duties warrants disciplinary action.

With respect to the alleged capricious and arbitrary resetting of the pre-marking of exhibits from December 9, 2005 to January 25, 2006, complainant's representative's own admission of arriving late on December 9, 2005 belies its accusation. The resetting was not meant to prejudice complainant but was prompted by the latter's representative's failure to arrive on time. Defendants and their counsels could not have been expected to wait beyond the scheduled time of the pre-marking of exhibits as they may have been saddled with other equally important appointments on that day.

The OCA's recommendation and the premises holding it together commend our approval. Respondent is guilty of simple neglect of duty, which has been defined as the failure of an employee to give attention to a task expected of him, and signifies a disregard of duty resulting from carelessness or indifference.[1]

As branch clerk of court, respondent is the administrative assistant of the presiding judge. As such, the presiding judge may, before the start of the pre-trial conference, refer the case to the branch clerk of court for a preliminary conference to assist the parties in reaching a settlement, to mark documents or exhibits to be presented by the parties and copies thereof to be attached to the records after comparison and to consider such other matters as may

aid in the prompt disposition of the case.[2] Here, respondent admitted that she was tasked to conduct the pre-marking of exhibits in Civil Case No. Man-4500, and set the date for such exercise, with notices given to both parties and their counsels. But, as it was, she was negligent in her duty. Her actuation casts suspicion on the integrity of the court and affected the efficiency of the process of administration of justice.

Respondent should be the role model of her co-employees to act speedily and with dispatch on assigned tasks to avoid the clogging of the court's docket, and thereby assist in the administration of justice without undue delay. She should be reminded that prompt disposition of the court's business and expeditious disposition of cases can be attained only through efficient case-flow management by the judge and his personnel, especially the branch clerk. Considering that the main case has already been pending for more than two (2) years, respondent should, with more reason, exert extra effort to have the case resolved.

Time and again, we have emphasized the heavy burden and responsibility with which court personnel are saddled in view of their exalted positions as keepers of public faith. They must be constantly reminded that any impression of impropriety, misdeed or negligence in the performance of official functions must be avoided. We condemn and would never countenance any conduct, act or omission, on the part of all those involved in the administration of justice, which would violate the norms of public accountability and diminish, or even just tend to diminish, the faith of the people in the Judiciary.[3]

Simple neglect of duty is a less grave offense punishable by suspension of one (1) month and one (1) day to six (6) months.[4]

However, it appearing that this is the respondent's first offense, and consistent with Civil Service Rules and current jurisprudence[5] on the subject and to prevent any undue adverse effect on the public service should respondent be meted the penalty of suspension, the Court deems it best to merely penalize her with a fine equivalent to her one month salary, with a stern warning that a repetition of the same or similar act will be dealt with more severely.

WHEREFORE, the Court finds respondent Atty. Emeline B. Cabahug, Branch Clerk of Court, RTC, Branch 56, Mandaue City, GUILTY of simple neglect of duty, and imposes upon her a FINE equivalent to her one-month salary, with a WARNING that a repetition of the same or similar act shall be dealt with more severely.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, and Azcuna, JJ., concur.
Corona, J., on leave.

[1]Zarate v. Untalan, A.M. No. MTJ-05-1584, March 31, 2005, 454 SCRA 206.

[2] Rules on Guidelines to be Observed by Trial Court Judges and Clerks of Court in the Conduct of Pre-Trial and Use of Depository-Discovery Measures.

[3] Corpuz v. Ramiterre, A.M. No. P-04-1779, November 25, 2005, 476 SCRA 109, citing Alabastro v. Moncada, Sr., A.M. No. P-04-1887, December 16, 2004, 447 SCRA 42.

[4] Civil Service Commission Memorandum Circular No. 19, Series of 1999.

[5] Angeles v. Base, A.M. P-03-1670, January 22, 2003, 395 SCRA 600; Aquino v. Lavadia, A.M. No. P-01-1483, September 20, 2001, 365 SCRA 441.

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