

## **DIMAS BALOD AND ALEJANDRO MACARUBBO, COMPLAINANTS, VS. VICTORIANO RODRIGUEZ, RESPONDENT.**

*A.M. No. P-2184. August 29, 1980*

Ponente: GUERRERO, J.

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### **GUERRERO, J.:**

In their complaint dated May 11, 1979, complainants Dimas Balod and Alejandro Macarubbo charged respondent Victoriano Rodriguez, Deputy Clerk of Court of the Court of First Instance of Cagayan, Branch V, with dishonesty and corrupt practice.

The complainants alleged that in the morning of January 29, 1979, they filed with the CFI of Cagayan Civil Case No. 2669 entitled "Alejandro Macarubbo vs. Phil. Lumber Company, represented by its manager, So Ka Kee;" that on the same date, the respondent, taking advantage of his position as Deputy Clerk of Court of the CFI of Cagayan, took copies of the complaint from the records of the case for the purpose of delivering the same to the Phil. Lumber Company and showing it to the manager, So Ka Kee; that upon his arrival at the Phil. Lumber Company, respondent informed the son of So Ka Kee that a new complaint had been filed against the said company and assured him that his father need not appear during the hearings of the case as he would take care of everything; that the son gave respondent something which the latter pocketed immediately; that in the morning of the following day, complainants reported the incident to Presiding Judge of the CFI of Cagayan, Hon. Bonifacio A. Cacdac, and that respondent, in the presence of the complainants, readily admitted to the Judge that the incident as narrated by the complainants was true.

Respondent, in his comment dated June 14, 1979, denied the charges filed by the complainants. Nevertheless, he admitted by way of defenses, that he delivered a copy of the complaint in Civil Case No. 2669 to the son of So Ka Kee in the office of Phil. Lumber Company in Tuguegarao, Cagayan because he was instructed by the Clerk of Court, Atty. Viriato M. Molina, Jr. to deliver the same to said office; that the Clerk of Court likewise instructed Mr. Modesto L. Baylon, a clerk in said court, to give respondent an extra carbon copy of the complaint in said civil case for delivery to the Phil. Lumber Company; that as a subordinate, respondent had no choice but to obey the instructions of his superior; that he gave the extra carbon copy of the complaint to the son of Mr. So Ka Kee, Mr. Jovito Cokee, in the office of the Phil. Lumber Company at 5:00 in the afternoon of January 29, 1979; that after going over the said complaint, Mr. Cokee requested respondent to have it xerox copied and gave him P6.00 to cover the cost thereof; that he had the said complaint xerox copied and left the xerox copy with Mr. Cokee; that he has not violated any law, rule or regulation when he complied with the instructions of the Clerk of Court that he must bring a copy of the complaint in Civil Case No. 2669 to Mr. Cokee; that he has spent forty (40) years of his life in the government service and this is the first time that an administrative case has been filed against him; that he intends to retire on March 25, 1980 on his 63rd birthday and looks forward to that day when he could finally reap the fruits of his more than forty years of service in the government.

The Deputy Court Administrator, after a careful consideration of the complaint as well as respondent's comment thereon, found that the facts and circumstances of the case do not warrant a finding of dishonesty and corrupt

practice against the respondent.

There is evidence that good faith characterized the acts of the respondent in delivering the copy of the complaint in compliance with the instruction of a superior. Respondent's allegations in his comment on the complaint have been corroborated by the Clerk of Court Viriato Molina, Jr., who issued a certification dated January 30, 1979[1] stating that upon request made by telephone of the son of the defendant in Civil Case No. 2669, he sent respondent to the son of Mr. So Ka Kee to show him a copy of the complaint in said civil case and also to have it xerox copied if the son of the defendant desires to have a copy thereof.

Furthermore, Mr. Modesto L. Baylon, a clerk in the same court, was also instructed by Mr. Molina to give respondent an extra copy of the complaint for delivery to the Phil. Lumber Company as evidence by Mr. Baylon's affidavit dated June 13, 1979.[2]

In addition, respondent submitted also an affidavit of Mr. Jovito Cokee[3] confirming the claim of respondent that he delivered the copy of said complaint to the Phil. Lumber Company and that Mr. Cokee requested the respondent to have it xerox copied.

The finding that respondent cannot be held entirely blameless as he failed to exercise due care in the performance of his duties by blindly complying with an instruction, which on its face, appears to be irregular, is correct. We agree with the recommendation that respondent be admonished to be more careful in the performance of his duties. Certainly, it is not respondent's duty to provide an additional copy of the complaint to the defendant company through its manager in Civil Case No. 2669 nor to have it xeroxed at the request of said defendant after receiving from the latter the sum of P6.00 to cover the cost of copying. These acts may not be prohibited nor violative of any law, rule or regulation but they are suspicious and can cast a shadow of doubt and accusation against the respondent which may imperil respondent's career of forty (40) years service in the government.

WHEREFORE, respondent Deputy Clerk of Court Victoriano Rodriguez is hereby admonished to be more careful in the performance of his official duties in order to avoid any taint of suspicion on his actuations.

The Court Administrator is hereby directed to require the Clerk of Court, Atty. Viriato M. Molina, Jr., to explain why he instructed respondent Rodriguez to give an extra copy of the complaint to defendant Phil. Lumber Company.

**SO ORDERED.**

Teehankee, (Chairman), Makasiar, Fernandez, De Castro, and Melencio-Herrera, JJ., concur.

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[1] p. 14, rollo.

[2] p. 15, rollo.

[3] p. 16, rollo.

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