

ARNOLD G. TECSON, COMPLAINANT, VS. ATTY. MARICEL LILLED ASUNCION-ROXAS, CLERK OF COURT VI, BRANCH 23, REGIONAL TRIAL COURT, TRECE MARTIRES CITY, CAVITE, RESPONDENT.

A.M. No. P-16-3515 (Formerly OCA I.P.I. No. 15-4401-P). August 10, 2016

Ponente: REYES, J.

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REYES, J.:

Before the Court is an administrative complaint[1] filed by Arnold G. Tecson (complainant) with the Office of the Court Administrator (OCA) against Atty. Maricel Lilled Asuncion-Roxas (respondent), Clerk of Court VI assigned at the Regional Trial Court (RTC) of Trece Martires City, Cavite, Branch 23, for gross neglect of duty.

The Facts

On January 31, 2008, an information was filed with the RTC of Trece Martires City against the complainant for violation of Section 5(a) of Republic Act No. 9262[2] upon the complaint filed by his wife.[3] The case was docketed as Criminal Case No. TMCR-038-08 and was raffled to Branch 23.

At the time of the institution of the said criminal case, the complainant was employed as a Draftsman in Doha, Qatar under a six-year contract with Qatar Petroleum, effective until September 3, 2011.[4]

Consequently, the Presiding Judge of Branch 23 of the RTC of Trece Martires City issued a Hold-Departure Order against the complainant. The complainant's name was then included in the Hold Departure List[5] of the Bureau of Immigration and in the Look-Out List[6] in the Passport Division of the Department of Foreign Affairs.[7]

The complainant filed a motion for reconsideration of the Hold-Departure Order. He likewise sought to be allowed temporarily to leave the country during the pendency of the criminal proceedings under such terms or conditions as may be imposed by the trial court since he needed to report back to his work in Doha, Qatar. His motion was denied by the Presiding Judge of Branch 23.[8]

On October 10, 2013, the RTC of Trece Martires City, Branch 23, rendered a Decision[9] in the criminal case finding the complainant guilty beyond reasonable doubt of the offense charged. A copy of the said decision was received by the complainant on November 4, 2013. On even date, the complainant filed a Notice of Appeal[10] with the RTC of Trece Martires City, Branch 23.[11]

The complainant then sent a letter dated October 22, 2014 to the Court of Appeals (CA) inquiring about the status of his appeal from the RTC's Decision dated October 10, 2013. In a letter[12] dated November 10, 2014, Medella A. Carrera, Chief of the Criminal Cases Section of the CA, informed the complainant that as of said date, the records of Criminal Case No. TMCR-038-08 had not been received by the CA. The complainant was then advised to ask the RTC of Trece Martires City for a certification as to the status of his appeal.

In a letter[13] dated January 23, 2015, the complainant requested the Clerk of Court of the RTC of Trece Martires

City, Branch 23, herein respondent, to transmit the records of Criminal Case No. TMCR-038-08 to the CA within five days. However, the respondent still failed to transmit the records of Criminal Case No. TMCR-038-08 to the CA. The complainant claims that since he could not file with the CA any motion to lift the Hold-Departure Order issued by the RTC, he could not accept the employment offered to him in Lagos, Nigeria.[14]

On March 18, 2015, the complainant filed an affidavit-complaint[15] with the OCA charging the respondent with gross neglect of duty. In the Indorsement[16] dated March 26, 2015, the OCA required the respondent to submit a comment within 10 days from notice. On May 18, 2015, the respondent submitted her comment.[17]

The respondent claims that upon the complainant's filing of his notice of appeal and payment of the required appeal fees, immediately handed over the same to the clerk of Branch 23 assign to criminal cases.[18] She explains that the delay in the transmittal of the records of Criminal Case No. TMCR-038-08 to the CA was inevitable due to her workload as a Clerk of Court in a single sala court. She avers that her workload was duplicated with the designation of an assisting Judge in Branch 23.[19]

Considering her volume of work, the respondent claims that she instructed the clerk assigned to criminal cases to write the corresponding pages in the records of Criminal Case No. TMCR-038-08 and to make a list of exhibits so as to facilitate the preparation of the records to be transmitted to the CA. She alleged that the transcripts of stenographic notes (TSN) were misplaced by the clerk assigned to criminal cases and that she gave ample time to the clerk to locate the TSNs, but the latter failed to do so. She insinuates that she had already forwarded the records of Criminal Case No. TMCR-038-08 to the CA sans the TSNs.[20]

The respondent further claims that she had no intention to cause injury to the complainant or taint the administration of justice. She states that the incident could have been avoided should the RTC of Trece Martires City had a manageable case load.[21]

Findings of the OCA

On April 4, 2016, the Court Administrator issued a Report,[22] recommending that the respondent be found guilty of gross neglect of duty and that she be fined in the amount of P5,000.00 with a stern warning that a repetition of the same or any similar infraction shall be dealt with more severely.

The OCA stated that the duty of the clerk of court of the trial court to transmit to the CA the complete record of the criminal case within five days from the filing of the notice of appeal from the judgment sought to be reviewed is mandatory.[23] It pointed out that the defenses raised by the respondent, such as heavy workload and missing TSNs, are downright flimsy which will not serve to exculpate her from administrative sanctions.[24]

The Issue

The issue for the Court's resolution is whether the respondent is guilty of gross neglect of duty.

Ruling of the Court

After a careful review of the records of this case, the Court adopts the findings and recommendations of the OCA.

Section 8, Rule 122 of the Rules of Court pertinently states that:

Sec. 8. Transmission of papers to appellate court upon appeal. — Within five (5) days from the filing of the notice of appeal, the clerk of the court with whom the notice of appeal was filed must transmit to the clerk of court of the appellate court the complete record of the case, together with said notice. The original and three copies of the transcript of stenographic notes, together with the records, shall also be transmitted to the clerk of the appellate court without undue delay. The other copy of the transcript shall remain in the lower court. (Emphasis ours)

It appears that the respondent was only able to transmit the complete records of Criminal Case No. TMCR-038-08 to the CA on February 23, 2015[25] — more than a year after the complainant filed his notice of appeal on November 4, 2013. Thus, it cannot be gainsaid that the respondent was indeed remiss in her duty as a clerk of court. The respondent's failure to transmit the records of Criminal Case No. TMCR-038-08 to the CA for one year and three months is unreasonably long; it unquestionably amounts to gross neglect of duty considering that the case involves the right of an accused to appeal his conviction to the CA.

The respondent's excuse of heavy workload deserves scant consideration. The Court notes that trial courts are indeed heavily laden with workload due to the number of cases filed and pending before them. It does not, however, serve as a convenient excuse to evade administrative liability; otherwise, every government employee faced with negligence and dereliction of duty would resort to that excuse to evade punishment, to the detriment of the public service.[26]

Time and again, the Court has reminded court personnel to perform their assigned tasks promptly and with great care and diligence considering the important role they play in the administration of justice.[27] Any delay in the administration of justice, no matter how brief, deprives litigants of their right to a speedy disposition of their case. It undermines the public's faith in the judiciary.[28]

In *Judge Fuentes v. Atty. Fabro*,[29] the Court found the clerk of court guilty of gross neglect of duty in failing to transmit to the CA the records of several civil cases within 30 days after the perfection of the appeal pursuant to Section 10, Rule 41 of the Rules of Court. The clerk of court in said case only transmitted the records two years after the order directing their transmittal to the CA. Accordingly, the Court imposed upon him a fine of P20,000.00.

In *Bellena v. Judge Perello*,[30] the Court found the respondent judge guilty of undue delay in transmitting the records of a civil case to the CA and imposed upon her the penalty of fine in the amount of P20,000.00. The respondent judge failed to transmit the records of the case for almost nine months.

In *Goforth v. Huelar, Jr.*,[31] the Court found therein respondent guilty of gross neglect of duty in failing to transmit the records of a civil case to the CA within the required period and imposed upon him a fine in the amount of P15,000.00. Therein respondent's delay in the transmittal of the records to the CA was more than three years.

In this case, considering that what the respondent failed to transmit to the CA was the record of a criminal case, thereby prolonging the complainant's appeal of his conviction, the Court deems it proper to increase the amount of fine recommended by the OCA to be imposed upon the respondent from P5,000.00 to P15,000.00.

WHEREFORE, the Court finds respondent Atty. Maricel Lilled Asuncion-Roxas, Clerk of Court VI assigned to Branch 23 of the Regional Trial Court of Trece Martires City, Cavite, GUILTY of gross neglect of duty for the delay in transmitting to the Court of Appeals the record of Criminal Case No. TMCR-038-08 entitled *People of the Philippines v. Arnold G. Tecson*. The Court hereby imposes on her a FINE of Fifteen Thousand Pesos (P15,000.00) to be paid within a period often (10) days upon receipt hereof, with a warning that a repetition of the same or similar act shall be dealt with more severely.

SO ORDERED.

Velasco, Jr., (Chairperson), Peralta, Perez, and Jardeleza, JJ., concur.

September 20, 2016

NOTICE OF JUDGMENT

Sirs / Mesdames:

Please take notice that on August 10, 2016 a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on September 20, 2016 at 1:26 p.m.

Very truly yours,

(SGD)

WILFREDO V. LAPITAN

Division Clerk of Court

[1] Rollo, pp. 1-8.

[2] Anti-Violence Against Women and Their Children Act of 2004.

[3] Rollo, p. 1.

[4] Id. at 2.

[5] Id. at 11.

[6] Id. at 12.

[7] Id. at 2.

[8] Id.

[9] Rendered by Executive Judge Aurelio G. Icasiano, Jr.; id at 13-19.

[10] Id. at 21-22.

[11] Id. at 3.

[12] Id. at 26.

[13] Id. at 29.

[14] Id. at 4.

[15] Id. at 1-8.

[16] Id. at 30.

[17] Id. at 31-36.

[18] Id. at 32.

[19] Id. at 32-33.

[20] Id. at 34-35.

[21] Id. at 35.

[22] Id. at 56-62.

[23] Id. at 60-61.

[24] Id. at 61.

[25] Id. at 41.

[26] Judge Marquez v. Pablico, 579 Phil. 25, 31 (2008).

[27] Añonuevo v. Judge Rubio, 479 Phil. 336, 339 (2004).

[28] Lao v. Judge Mabutin, et al., 580 Phil. 369, 377 (2008).

[29] 662 Phil. 618 (2011).

[30] 490 Phil. 534 (2005).

[31] 581 Phil. 309 (2008).

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