

EDGARDO C. RIVERA, Complainant, vs. DANVER A. BUENA, Clerk of Court, MeTC, Branch 38, Quezon City, Respondent.

A.M. No. P-07-2394 (Formerly OCA-IPI No. 07-2571-P). February 19, 2008

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TINGA, J.:

A clerk of court's office is the hub of activities, and he or she is expected to be assiduous in performing official duties and in supervising and managing the court's dockets. Negligence in the performance of these duties warrants disciplinary action.[1]

In a sworn Complaint[2] dated 29 March 2007, Edgardo C. Rivera (complainant) charged Danver A. Buena (respondent), Branch Clerk of Court of the Metropolitan Trial Court (MeTC) of Quezon City, Branch 38, with gross neglect of duty, inefficiency and incompetence and conduct prejudicial to the best interest of the service. Complainant claims that he is the private complainant in a criminal case which was filed sometime in October 1996. After the prosecution made its formal offer of evidence on 15 April 2004, it rested its case. When it was the turn of the defense to present its evidence, the accused failed to appear and thus the defense rested its case. On 17 August 2004, the trial court issued an order declaring the case submitted for decision.

On 29 April 2005, or eight (8) months after the case was submitted for decision, counsel for complainant filed an Ex Parte Motion for Early Resolution[3] of the case. His motion was not acted upon. Consequently, on 06 November 2006, complainant wrote the Court Administrator, requesting the early resolution of the case. The matter was referred to Judge Catherine Manondon, then acting presiding judge of Branch 38.

On 18 January 2007, complainant received a copy of the Order[4] dated 11 September 2006 which reads:

When this case was called for hearing, none of the parties appeared. A perusal of the record shows that this case was submitted for decision on August 17, 2004 without offer of evidence by the prosecution.

Accordingly, the prosecution, thru the private prosecutor is given ten (10) days from receipt hereof to offer its evidence, failing which it will be deemed to have waived its right to do so, and this case be submitted for judgment.[5]

Knowing that he had already filed his formal offer of evidence, complainant's counsel personally went to the MeTC Branch 38 to verify the matter. It was discovered that the Formal Offer of Evidence was missing and that the trial court had already issued an Order dated 30 June 2006 declaring that the prosecution had waived its right to formally offer its evidence.[6] The order reads:

The Prosecution having failed to file any Formal Offer of Evidence, it is deemed to have waived its right to do so.

Accordingly, let the reception of defense evidence be held on September 11, 2006 at 2:00 o'clock in the afternoon.

Notify all parties.

SO ORDERED.[7]

Complainant was also surprised when in the afternoon of 5 February 2007 he received a notice of hearing setting the case for hearing at 2:00 in the afternoon of the same date. Complainant was unable to attend the hearing on account of the late receipt of the notice. However, he filed on 21 February 2007 an Omnibus Motion[8] (i) stating the reason for his non-appearance at the 5 February hearing; and (ii) asking the trial court to reconsider its 30 June 2006 Order. Even though the omnibus motion was requested to be set for hearing on 23 February 2007, the trial court set the hearing three months after the motion was filed.[9]

According to complainant, he finds it suspicious that respondent did not bother to inform him or his counsel that his formal offer of evidence was missing so that they could remedy the situation. In fact, as of the date of the complaint, respondent had not yet furnished him a copy of the 30 June 2006 Order.[10]

For his part, respondent avers that sometime in February 2006, in the course of scrutinizing the records of undecided civil and criminal cases pending adjudication, he discovered that complainant's case was submitted for decision on 17 August 2004 and that the prosecution failed to offer its documentary evidence. He allegedly instructed several court personnel to look for the formal offer of evidence filed by the prosecution but despite diligent efforts, they failed to locate the same. Nevertheless, he admits that based on office records, specifically the transmittal of pleadings that the prosecution had filed, it appears that complainant's formal offer of evidence was received by the trial court on 26 April 2004. According to respondent, custody of the records went through the hands of several personnel who, during his inquiry, denied having anything to do with the incorporation of the formal offer of evidence in the case files.[11]

Respondent also claims that complainant did not receive a copy of the Order of the Court dated 30 June 2006 because the clerk in charge of the records neglected to mail the same. He also blames the same clerk for failure to attach to the records of the case complainant's Omnibus Motion dated 21 February 2007. The motion was allegedly attached only on 15 May 2007, thus the belated setting of hearing thereon.[12]

Respondent argues that he has a voluminous workload because he had to divide his attention over his duties as officer-in-charge and as legal researcher I. He claims that in fact, from 16 January 2004 to 26 June 2006, he was compelled, under the direction/instruction of the judge, to give more attention to voluminous legal research work relating to other cases which should be decided before the lapse of the reglementary period, or those cases with pending incidents which needed to be resolved immediately.[13] He opines that the immediate appointment of a court legal researcher I at Branch 38 is urgently needed so that respondent could be relieved of legal research work and fully concentrate in the performance of his duties and responsibilities as clerk of court III.[14]

The Office of the Court Administrator (OCA) has found the complaint meritorious.[15] The OCA observes that on 17 August 2004, the presiding judge had already issued an order submitting the case for decision, and ordered the branch clerk of court to collate all the transcript of stenographic notes (TSN) in preparation for its adjudication. It was thus incumbent upon respondent, who was then acting officer-in-charge, to submit not only the TSNs but also the entire case file to the presiding judge. This, respondent failed to do. The OCA also notes that while respondent acknowledges that the formal offer of evidence had gone missing, he nevertheless tossed the blame to his subordinates. The OCA opines:

In the instant case, had respondent exercised the required prudence in his tasks, specifically of always monitoring the records of the pending cases in his court, the problem would not have occurred. It is crystal clear that respondent failed to examine the records of the subject criminal case proof of which is the undisputed fact that the Formal Offer of Evidence was not attached thereto. Had the Formal Offer of Evidence been in the records, Judge Lee would have admitted the same as evidence for the complainant in his August 17, 2004

Order. Respondent cannot cite the alleged misfeasance and/or malfeasance of his subordinates to evade administrative liability. Being their supervisor, respondent should have exercised the required diligence in order to secure the safety and proper filing of court documents just like in the subject criminal case.

The infraction of herein respondent can be denominated as simple neglect of duty which is defined as the failure to give proper attention to a task expected of an employee resulting from either carelessness or indifference.[16]

The OCA has recommended that respondent be found guilty of simple neglect of duty and penalized with suspension from office for two (2) months without pay and other benefits.[17]

We are in accord with the findings and observations of the OCA.

We cannot overemphasize that those charged or connected with the task of dispensing justice carry a heavy burden of responsibility. The clerk of court is the administrative officer of a court and has, inter alia, control and supervision over all court records.[18] The Rules of Court charge him with the duty of faithfully keeping the records, papers, files and exhibits in cases pending before his court, as well as the public property committed to his charge, including the library of the court, the seals and furniture belonging to his office.[19] As custodian of the records of the court, it is his duty to ensure that the records are complete and intact. He plays a key role in the complement of the court and cannot be permitted to slacken off in his job under one pretext or another.[20]

When respondent assumed the position of branch clerk of court, it was understood that he was willing, ready and able to do his job with utmost devotion and efficiency. Having a voluminous workload, and being forced to do legal research work are unavailing defenses. Neither can respondent pass the blame to his subordinates. Being the administrative officer and having control and supervision over court records, he should have seen to it that his subordinates performed their functions well.

We find respondent guilty of simple neglect of duty for failure to attach to the records of the case which led to the eventual loss of the prosecution's formal offer of evidence. Simple neglect of duty is defined as the failure to give proper attention to a task expected of an employee, thus signifying a "disregard of a duty resulting from carelessness or indifference." It is classified under the Uniform Rules on Administrative Cases in the Civil Service as a less grave offense and carries the corresponding penalty of suspension for one month and one day to six months for the first offense.[21]

WHEREFORE, respondent Danver Buena, Clerk of Court III, MeTC of Quezon City, Branch 38 is found GUILTY of simple neglect of duty and is hereby SUSPENDED from the service for two (2) months, effective immediately, without pay and other benefits which may accrue to him within the given period, with a STERN WARNING that a repetition of the same or similar offense will be dealt with more severely.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio-Morales, and Velasco, Jr., JJ., concur.

[1] Report on the Judicial Audit Conducted in the MTCC, Palayan City, 451 Phil. 437, 447 (2003).

[2]Rollo, pp. 7-12.

[3]Id. at 37-39.

[4] Id. at 44.

- [5] Id.
- [6] Id. at 9.
- [7] Id. at 45.
- [8] Id. at 46-49.
- [9] Id. at 9-10.
- [10] Id. at 10.
- [11] Id. at 55-56; Amended comment.
- [12] Id. at 56-57.
- [13] Id. at 58.
- [14] Respondent was promoted to the position of Clerk of Court III on 26 June 2006.
- [15] Id. at 1-6; Report dated 6 September 2007.
- [16] Id. at 5-6.
- [17] Id. at 6.
- [18] Atty. Bandong v. Ching, 329 Phil. 714, 719 (1996), citing the MANUAL FOR CLERK OF COURT.
- [19] RULES OF COURT, Rule 136, Sec. 7.
- [20] Solidbank Corp. v. Capoon, Jr., 351 Phil. 936, 942 (1998).
- [21] Pascual v. Alvarez, A.M. No. P-04-1882, 30 September 2004, 439 SCRA 545, 552.

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