

LIGAYA V. REYES, COMPLAINANT, VS. MARIO PABLICO, PROCESS SERVER, REGIONAL TRIAL COURT, MANILA, BRANCH 40, RESPONDENT.

A.M. NO. P-06-2109. November 27, 2006

Ponente: CARPIO, J.

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CARPIO, J.:

The Facts

This administrative case stemmed from a Complaint and a Supplemental Complaint dated 16 October 2001 and 10 December 2001, respectively, filed by Ligaya V. Reyes ("complainant"), Officer-in-Charge, Regional Trial Court (RTC) of Manila, Branch 40 ("trial court"), against Mario Pablico ("respondent"), trial court Process Server.

Complainant charged respondent with neglect of duty, inefficiency, incompetence, willful violation of office regulation, and acts prejudicial to the best interest of the service. Complainant alleged that:

- Respondent failed to submit returns or to attach proof of service of notices and subpoenas issued by the trial court.[1] In some criminal cases, respondent simply failed to serve subpoenas, causing the resetting of hearings and other court proceedings.[2]
- Respondent sent a notice of order dated 6 October 2000 to the Public Attorneys Office only on 27 July 2001 (PAO) and to the public prosecutor only on 1 August 2001.[3]
- In Criminal Case No. 00-182699, the presiding judge ordered respondent to serve personally a subpoena to the private complainant. However, it was Wilfredo Giron ("Giron"), a trial court staff member, who served the subpoena.[4] Giron often prepared "mail matters" pertaining to civil cases in the trial court.
- Some notices[5] were served upon the public prosecutor and the PAO not by respondent but by Jojie Malapajo ("Malapajo"), another trial court staff member.
- The presiding judge ordered respondent to serve personally certain subpoenas, yet respondent served them through registered mail[6] or coursed them through the Manila Sheriff's Office ("Sheriff's Office").[7]
- Respondent failed to serve a notice of order provisionally dismissing Criminal Case Nos. 87-54763 and 87-54764, to the public prosecutor and the PAO. For lack of service to the public prosecutor and proper parties, the trial court denied on 16 August 2000 accused's motions for absolute dismissal.[8]
- On 17 October 2000, complainant issued a memorandum to respondent regarding his failure to submit returns on court processes, thus:

MEMORANDUM TO: Mario Pablico of Branch 40
RTC Manila

SUBJECT: Non Submission of Return

For your information, guidance and compliance. You were forewarned before regarding this subject. And several orders of the court reflected your nonperformance of duty.

Starting date of this memo your inaction shall be reflected on the performance rating and the Court Administrator will be furnished a copy of the same.

Manila, October 17, 2000.

LIGAYA V. REYES

Officer-In-Charge

x x x x[9]

- On 18 July 2001, complainant sent respondent a letter reminding him of his duties as process server and directing his strict compliance.[10]

- Despite complainant's admonitions, respondent failed to serve a subpoena issued on 31 August 2001 which directed the appearance of the accused before the trial court on 4 December 2001. Instead, a certain "E. Hernandez" served the subpoena on 9 December 2001.[11]

- Respondent also failed to serve an order requiring a detention prisoner's appearance for promulgation of judgment. This time, it was trial court Presiding Judge Placido C. Marquez ("Judge Marquez") who admonished respondent in open court, thus:

x x x x

ORDER

The process server of this Court is directed to explain in writing within 24 hours from receipt hereof why this produce order to Dennis Samson y Pontaneles, dated October 26, 2001, has not been served to the person of Dennis Samson, such that the promulgation of the decision could not be held.

Let the promulgation of the decision be reset to November 27, 2001 x x x x[12]

- In a memorandum dated 26 November 2001, Branch Clerk of Court Gilbert Berjamine ("Atty. Berjamine") called respondent's attention to his neglect of duty and his absences.

MEMORANDUM TO: MARIO PABLICO

RE: NEGLECT OF DUTY AND ABSENCES

x x x x

Lately, in Criminal Case No. 00-187290, a warrant of arrest against the accused and orders of forfeiture of bail against the bondsmen were issued on October 17, 2001. However, the record does not show whether said orders were served or not. Anent the warrant of arrest, the same was served on October 25, 2001 but the received copy/return was found on top of your table and was not attached to the record. Secondly, in Criminal Case No. 01-192294, entitled "People of the Philippines versus Dennis Samson y Pontaneles," the accused was not around for the promulgation of the decision on the said case. Upon inquiry of Ligaya V. Reyes, the produce order was released on October 26, 2001. However, the same was not served. Furthermore, the said order was lying idly on top of your table. As a consequence of which the undersigned ha[d] to order the Sheriff of this court to personally serve the produce order in Criminal Case No. 01-192294 and the Clerk III to personally serve the two (2) orders of forfeiture of bail in Criminal Case No. 01-187290.

In Criminal Case No. 01-191083, an order dated November 5, 2001 was issued requiring you to explain within

twenty four (24) hours why the subpoena dated October 17, 2001 was mailed only on October 23, 2001. Another order, dated November 12, 2001 was issued in Criminal Case No. 01-192294 requiring you to explain in writing why the produce order has not been served. x x x x[13]

In his Comment dated 30 January 2002, respondent denied the charges against him. Respondent appended his performance rating form for the period 1 January to 30 June 2001, where he received an "outstanding" rating from complainant.[14] Respondent presented records from the trial court to prove that he served the notice of order dated 16 April 2001 for Criminal Case No. 99-175986 on time and that he submitted a return.[15] For those court processes he allegedly served through registered mail or coursed through the Sheriff's Office, against the directive of the presiding judge, respondent asserted that he never actually received a copy of these documents.[16] Respondent claimed that either the clerk in charge of criminal cases or complainant herself had mailed the documents or sent them to the Sheriff's Office.

Respondent admitted that Giron served a subpoena in Valenzuela, but it was upon the request of then trial court Presiding Judge Herminia Pasamba ("Judge Pasamba"), who knew of Giron's familiarity with the area. Respondent also admitted the belated service of the notice of order dated 6 October 2000, but argued that he received a copy of the order only on 27 July 2001, as evidenced by his signed receipt on the dorsal portion of the notice.

In his comment to the Supplemental Complaint, respondent disclosed an agreement with Malapajo, trial court clerk in charge of criminal cases, that the latter would personally serve court processes to the public prosecutor and the PAO, whose offices were very near the trial court.

To ascertain the authenticity of the documentary evidence submitted by the parties and the veracity of their conflicting statements, the Court referred the complaint to Executive Judge Antonio M. Eugenio, Jr. ("Judge Eugenio") of the RTC of Manila for investigation, report and recommendation.[17]

Findings of the Investigating Judge

In his Report and Recommendation[18] dated 21 July 2005, Judge Eugenio accepted respondent's explanation that Judge Pasamba instructed Giron to serve a notice in Valenzuela. Judge Eugenio found that contrary to the allegation of complainant, respondent served notices in Criminal Case Nos. 99-175986 and 99-175987 not through registered mail but through personal service. The records indicate that the trial court provisionally dismissed the cases as shown by respondent's return stating that the addressee had transferred residences.

Judge Eugenio favorably noted the affidavit executed by Jerlyn Balbas ("Balbas"), a trial court staff member, declaring that on 22 May 2001 complainant instructed her to deliver notices to the Sheriff's Office. Judge Eugenio found this affidavit supportive of respondent's claim that he never received some of the notices to be served, as complainant gave them directly to Balbas or to other clerks. Giron also executed an affidavit stating that whenever respondent was out serving court processes, he, as clerk in charge of civil cases, would receive "mail matters and pleadings from the litigants."

In conclusion, Judge Eugenio found that respondent had "a tendency to neglect his work, to the prejudice of the public he is duty bound to serve." Judge Eugenio recommended that the Court find respondent guilty of simple neglect of duty and reprimand him, with a strong warning that a repetition of similar acts would merit a more severe penalty.

On 31 August 2005, we resolved to refer the case to the Office of the Court Administrator (OCA) for evaluation, report and recommendation.

Findings of the Court Administrator

In its memorandum dated 22 November 2005, the OCA recommended the redocketing of the case as a regular administrative matter. The OCA agreed with the findings of Judge Eugenio, upon making the following evaluation:

x x x x

It is undeniable that the respondent was remiss in the performance of his duties. This is shown by the fact that he was unable to serve mail matters to the addressees, and in order to cover-up his lapses, for several occasions his undertakings were performed by his co-employee [Giron]. This is aside from the fact that respondent actually repeated his laziness when he transferred to the [Sheriff's Office] the burden of serving [court] processes to party litigants. Such being the case, the respondent should be disciplined accordingly.

Time and again, the Court had consistently ruled that process servers are required by law to perform their duties with utmost care and diligence as they serve as sentinels of justice. Any act of impropriety on their part immeasurably affects the honor and dignity of the Judiciary and the people's confidence in it. x x x x

x x x A heavy workload cannot serve as an excuse for inefficiency. x x x Considering, however, that complainant did not adduce evidence to controvert the fact that prior to the filing of this administrative complaint, she gave the respondent an outstanding rating in the latter's performance in [the] office, thus, it is our position that the same should be treated as a mitigating circumstance x x x.[19]

On 1 February 2006 or during the pendency of this case, the Office of the Chief Justice received a letter from Judge Marquez requesting for the early resolution of this case as well as of two later administrative complaints filed against respondent. Judge Marquez expressed his continued dissatisfaction with respondent's performance, alleging that on 23 December 2005, respondent wrote in the trial court logbook that he would serve a court process in Criminal Case No. 84-31184. However, the records show that no court process for this case was served on that date. Respondent also failed to paste the registry receipt of mailing to a notice of order issued in Civil Case No. 04-109523, for which Judge Marquez again admonished him in open court.

The Court's Ruling

The findings and recommendation of the OCA are well-taken, except for the recommended penalty.

At the outset, we state that we cannot take cognizance of the additional evidence furnished by Judge Marquez through his letter dated 1 February 2006, respondent not having been given a copy of such letter and afforded the opportunity to answer the charges.

Nonetheless, we find this complaint well-supported by other records from the trial court and by the various memoranda addressed to respondent citing instances of his neglect. In his defense, respondent provided piecemeal explanations which did not completely refute the evidence against him. Specifically, respondent did not explain: (1) the absence of attached registry return cards[20] or proof of service[21] on several case records; (2) his failure to serve the orders in Criminal Case Nos. 01-192294 and 00-183413; and (3) his failure to serve subpoenas to parties in Criminal Case Nos. 98-165949 and 97-158537.[22] That respondent received an outstanding performance rating for the first semester of 2001 cannot overthrow this positive evidence which remain uncontroverted.

On many occasions, complainant and Atty. Benjamin had warned respondent regarding his neglect of duty but their efforts proved futile. Even admonitions from Judge Marquez in open court did not effectively rouse respondent to be more mindful of the tasks expected of him, thus necessitating the filing of this administrative complaint.

According to the Manual for Clerks of Court, the process server —

x x x serves court processes such as subpoena, subpoena duces tecum, summons, court order and notices; prepares and submits returns of service of court process; monitors messages and/or delivers court mail matters received and dispatched by him; and performs such other duties as may be assigned to him.[23]

The role of the process server is indispensable in the machinery of the justice system, where the constitutional mandate of the speedy disposition of cases entails an efficient means of communication between the courts and the litigants. Due to respondent's failure to observe his duties diligently, the trial court encountered problems in the service of its court processes, the most obvious consequence of which is the delay in the progress of cases. Complainant's evidence adequately established that proceedings in several cases heard before the trial court, such as hearings for the taking of witnesses' testimony and for promulgation of judgment, were postponed because the parties did not appear for lack of notice.

Respondent needs reminding that the conduct of every employee of the judiciary is circumscribed with the heavy burden of responsibility.[24] The public expect judicial personnel to be living examples of uprightness in the performance of official duties, and to preserve at all times the good name and standing of the courts in the community.[25] Here, respondent failed to live up to the high standards of dedication and efficiency that the public expect from occupants of his office.[26]

We agree with the finding of the OCA that respondent is guilty of simple neglect of duty, which is the failure of an employee to give proper attention to a required task. Simple neglect of duty signifies "disregard of a duty resulting from carelessness or indifference." [27] The Court cannot countenance neglect of duty, for even simple neglect of duty lessens the people's confidence in the judiciary, and, ultimately, in the administration of justice. However, the recommended penalty of reprimand does not correspond to the range of penalties under Section 52, Rule IV of the Uniform Rules on Administrative Cases in the Civil Service. Simple neglect of duty, if committed for the first time, is punishable by suspension of one month and one day to six months.[28]

WHEREFORE, we find Mario Pablico, Process Server, Regional Trial Court of Manila, Branch 40, GUILTY of simple neglect of duty and accordingly SUSPEND him for three months. We STERNLY WARN respondent that a repetition of the same or similar acts in the future shall merit a stiffer penalty.

SO ORDERED.

Quisumbing, (Chairperson), Carpio Morales, and Tinga, JJ , concur.
Velasco, Jr., J, no part due to prior action in OCA.

[1] Rollo, pp. 3-4, Annex "A" of Complaint. Rollo, pp. 41-47, 52-70, Annexes "B" and "D" of Supplemental Complaint.

[2] Id. at 48-51. Annex "C" of Supplemental Complaint.

[3] Id. at 6-8. Order issued by the trial court in Criminal Case No. 00-186059.

[4] Id. at 11.

[5] Id. at 33-40. Annex "A" of Supplemental Complaint.

[6] Id. at 14-16, 17-19. Orders issued in Criminal Case Nos. 00-182335, 99-175986, and 99-175987.

[7] Id. at 20-21, 22-23, 132. Orders issued in Criminal Case Nos. 01-189123, 01-190509, and 01- 193761.

[8] Id. at 37, 40.

- [9] Id. at 5.
- [10] Id. at 113.
- [11] Id. at 114.
- [12] Id. at 138.
- [13] Id. at 139-140.
- [14] Id. at 150.
- [15] Id. at 151-153. Annexes "3" and "4" of Comment.
- [16] Id. at 144. Annexes "E," "G," "F," and "I" of Complaint.
- [17] Id. at 187. Resolution dated 7 May 2003.
- [18] Report and Recommendation of Judge Antonio M. Eugenio, Jr. transmitted to the OCA on 5 August 2005.
- [19] Memorandum dated 22 November 2005 from the OCA to Chief Justice Hilario G. Davide, Jr.
- [20] Rollo, pp. 71-112, 114-131. Annexes "E" and "G" of Supplemental Complaint.
- [21] Id. at 52-70. Annex "D" of Supplemental Complaint.
- [22] Id. at 48-51. Annex "C" of Supplemental Complaint.
- [23] The Revised Manual for Clerks of Court, Vol. I, p. 203.
- [24] *Fidel v. Caraos*, 442 Phil. 236 (2002).
- [25] *Maxino v. Fabugais*, A.M. No. P-05-1946, 31 January 2005, 450 SCRA 78.
- [26] Article XI, Section 1 of the Constitution provides:
- Section 1. A public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives.
- [27] *Dajao v. Lluch*, 429 Phil. 620 (2002), citing *Philippine Retirement Authority v. Rupa*, 415 Phil. 713 (2001).
- [28] Section 52, Rule IV of the Uniform Rules on Administrative Cases in the Civil Service (Resolution No. 991936 of the CSC), which took effect on 26 September 1999.

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