

**JOSE LAGATIC, COMPLAINANT, VS. HON. JUDGE JOSE PEÑAS, JR.
AND BRANCH CLERK OF COURT CRESCENCIO V. CORTES, JR., BOTH
OF BRANCH 34, REGIONAL TRIAL COURT, IRIGA CITY,
RESPONDENTS. ...**

A.M. No. RTJ-97-1383 (Formerly AM OCA IPI No. 95-20-RTJ). July 24, 1997

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

In a sworn complaint dated 7 April 1995, complainant Jose Lagatic charged respondent Judge Jose Peñas, Jr., Presiding Judge of Branch 34 of the Regional Trial Court of Iriga City, and Crescencio V. Cortes, Jr., Branch Clerk of Court of said Branch 34, with gross negligence which caused the delay in the transmittal of the records of Civil Case No. IR-1903 to the appellate court.

Complainant was the plaintiff in Civil Case No. IR-903, an action for reinstatement with preliminary injunction and damages filed against spouses Generoso Tarala and Avelina Naron Tarala. Respondent Judge decided the case in favor of complainant on 30 May 1991. The defendants appealed from the decision by filing a notice of appeal on 31 July 1991. Yet, as shown by the transmittal letter complainant secured, the records of the case were transmitted by respondent Cortes only on 21 February 1994, or after 7 months and 6 days from the last order of respondent Judge handed down on 15 July 1993. Complainant contended that it was the primary responsibility of respondent Cortes as Branch Clerk of Court to see to it that records of appealed cases, as well as the transcript of stenographic notes, were properly sent to the appellate court without delay, in accordance with the rulings in *Advincula v. Intermediate Appellate Court* (147 SCRA 262) and *Arcega v. Court of Appeals* (166 SCRA 773); likewise, it was the duty of respondent Judge to “keep tract [sic] and make a regular periodic physical inventory of cases to enable him to know of their status (*Juan v. Arias*, 72 SCRA 404).”

We required respondents to comment on the sworn complaint.

In his Comment dated 25 August 1995, respondent Cortes, now Prosecutor I, Office of the Provincial Prosecutor of Ligao, Albay, alleged that he was Branch Clerk of Court of Branch 34, RTC of Iriga City from 17 October 1989 to 26 February 1995. In the course of the performance of his task of supervising court employees, he observed that certain employees were remiss in the performance of their duties and duly called their attention to this fact. Unfortunately, Mr. Salvador Mirando, Clerk III and officer-in-charge of Civil Cases, continued to while away his time. Thus, Cortes issued memoranda on two occasions regarding Mirando’s absences and reported the matter to the Presiding Judge, but when Cortes confronted Mirando, the latter would merely promise to change his ways, which would last for only a week. Fed up with Mirando’s empty promises and in view of the mounting complaints from litigants and lawyers, on 29 October 1993, Cortes wrote a letter-complaint to the Court Administrator through the Executive Judge, concerning Mirando’s incorrigible attitude towards his work. However, before the letter could be forwarded to the Court Administrator, the Executive Judge called Cortes and Mirando to a conference. The latter admitted his shortcomings, promised to reform, and pleaded with the

Executive Judge to hold in abeyance the transmittal of the letter to the Court Administrator. The Executive Judge was moved by Mirando's plea in light of his 17 years of service in the judiciary. It was only after this conference that Mirando started to prepare the court processes which had piled up in his office. In closing, Cortes prayed that he be exonerated.

In its Memorandum dated 14 December 1995, the Office of the Court Administrator (OCA) recommended that: (1) the complaint against respondent (former) Branch Clerk of Court Crescencio L. Cortes, Jr., now Provincial Prosecutor of Ligao, Albay, be dismissed; (2) respondent Judge Jose Peñas, Jr. be required to submit his Comment within a non-extendible period of 5 days from notice with a stern warning that should he fail to do so he would be dealt with administratively; and (3) Mr. Salvador C. Mirando, Clerk III, RTC, Branch 34, Iriga City be required to comment within ten days from notice on the charges of (former) Branch Clerk of Court Cortes contained in the latter's aforementioned comment.

We adopted the above recommendations of the Office of the Court Administrator in the resolution of 14 February 1996. In compliance therewith, Mr. Salvador Mirando, now a party respondent in this case, filed an Answer dated March 5, 1996. Mirando admitted that he was, indeed, in charge of the civil cases of Branch 34 of the RTC of Iriga City; but the delay in the elevation of the records of Civil Case No. IR-1903 entitled "J. Lagatic vs. Sps. Tarala" was not entirely of his doing. Mirando explained that the seven (7) month and six (6) day delay in the transmittal of the records was due, in part, to the delay in the submission by the stenographer on duty of the transcript of the hearings on October 11, 1988 and December 21, 1988; but he could not compel the stenographer concerned under pain of administrative sanction since he was lower in rank than the stenographer. He then asserted that the delay for the period aforementioned was not unreasonable.

For reasons known only to him, respondent Judge never filed his comment as required in the resolution of 14 February 1996. It must be pointed out that in the resolution of 12 July 1995 he was already given ten days from notice within which to file his comment. Accordingly, in the resolution of 9 October 1996, we considered him as having waived the submission of his comment and this case was deemed submitted for decision as against him; and required Mirando to inform us if he was willing to submit this case for decision on the basis of the pleadings already filed.

On 19 November 1996, Mirando filed a supplemental answer praying for dismissal of the case based on a copy of the affidavit of complainant, attached thereto, wherein complainant stated therein that he did not intend to file the instant complaint, but did so at the instance of one Eudes Cuadro who, as he later realized, merely wanted to extract money from him, if not also to spite respondent Judge. This pleading was followed by the filing by complainant himself on 6 December 1996 of a motion to dismiss and withdraw this case, claiming that he was not aggrieved by the delay in the transmittal of the record of the case. He attached to the motion a copy of the same affidavit used by Mirando. In the resolution of 20 January 1997, this Court noted without action the former and denied the latter for lack of merit.

Mirando agreed to submit this case for decision on the basis of the pleadings already filed.

In its Memorandum, the OCA found:

Upon perusal of the records of the instant case, the undersigned finds the contention of respondent Mr. Mirando unworthy of credence. He is remiss in his duties as an employee of the judiciary, being the subject of memoranda on two different occasions for his absences. He could have been a respondent in a letter-complaint to be filed with the Office of the Court Administrator had not the Executive Judge held the same in abeyance taking into consideration that herein respondent served the judiciary for seventeen (17) years and his promise to reform.

The conduct and behaviour of everyone connected with an office charged with the dispensation of justice from the Presiding Judge to the lowest clerk should be circumscribed with the heavy burden of responsibility (Angeles vs. Bantug, 209 SCRA 413).

In the case of Torres vs. Tayros (235 SCRA 297) the Court held that the unexplained absences of respondent is an act prejudicial to the best interest of the service.

In the resolution of the Court dated February 14, 1996, respondent Judge Jose Peñas was required to submit his Comment within a NON-EXTENDIBLE period of five (5) days from notice, failure of which, he will be dealt with administratively. Up to this date, no such comment has been filed by Judge Peñas. It would appear to us that he had no intention to submit the same considering that inspite of the fact that he was required to do so twice in the resolutions of the Court dated July 12, 1995 and February 14, 1996, respectively he ignored these resolution[s]. “Every officer or employee in the Judiciary is duly bound to obey the orders and processes of the Supreme Court without the least delay.” (Pascual vs. Runcan, 216 SCRA 787). It seems that the respondent was not interested in clearing his name. His deafening silence means a tacit admission of the charges against him. In the case at bench, it is evident that there was delay in the transmittal of records of the appealed case to the Court of Appeals. While it is the duty of respondent Clerk of Court to transmit to the Court of Appeals the records of the case within ten (10) days from approval as mandated under Section 11, Rule 14, respondent Judge as his superior should see to it that his Clerk of Court complied with such duty. There was failure of supervision.

The OCA thus recommended the imposition of the following penalties:

(1) On Respondent Judge Peñas, a Fine of One Thousand Pesos (P1,000.00) for his repeated failure to file his comment and a SEVERE REPRIMAND for his failure to supervise his former Clerk of Court to comply with Section 11, Rule 41, Rules of Court; and

(2) On third-party respondent Salvador C. Mirando, a Fine of One Thousand Pesos (P1,000.00) for being negligent in the performance of his official duties with a warning that a repetition of similar acts will be dealt with more severely.

We confirm the above findings of the OCA, but wish to add a few words.

In deliberately ignoring or disregarding our resolution of 12 July 1995 requiring him to comment on the complaint, and that of 14 February 1996 giving him a non-extendible period of five days from notice within which to file his comment with a stern warning that his failure to do so would be dealt with administratively, respondent Judge Peñas demonstrated not merely indifference, but disobedience to, disrespect for and contempt of this Court, the highest tribunal of the land to which he owes fealty. To restate *Parane v. Reloza* (A.M. No. MTJ-92-718, 4 August 1994, 235 SCRA 1), we are simply “dumb-founded by [the] strange and extraordinary attitude of respondent Judge.” He entirely disregarded our injunction in *Pascual v. Runcan* (A.M. No. R-668-P, 23 December 1992) that “(e)very officer and employee in the Judiciary is duty bound to obey the orders and processes of the Supreme Court without the least delay.”

Pursuant to our ruling in *Parane v. Reloza*, the above actuations of Judge Peñas constituted “misconduct and insubordination” for which a penalty higher than that recommended by the Office of the Court Administrator should be meted out to him. A fine of P5,000.00 is thus in order.

As to the main complaint, we considered it submitted for decision as against him on the basis of the complaint itself.

The delay in the transmittal to the appellate court of the record of Civil Case No. IR-903 lasted seven (7) months and six (6) days. Original respondent Cortes and third-party respondent Mirando did not deny this fact. However,

Mirando was not solely responsible for the delay, with Judge Peñas having to shoulder his part of the blame. If only he exercised due diligence in the performance of his duties, he would have readily discovered that fact. As presiding Judge of Branch 34, RTC, Iriga City, he had direct supervision of the personnel of his court; otherwise stated, his sala was under his direct internal control and management. (See Manual for Clerks of Court, p. 9). Under Canon 8 of the Canons of Judicial Ethics he was required to “organize his court with a view to prompt and convenient dispatch and he should not tolerate abuses and neglect by clerks, sheriffs, and other assistants who are sometimes prone to presume too much upon his good-natured acquiescence by reason of friendly association with him.” Rules 3.08 and 3.09 of Canon 3 of the Code of Judicial Conduct, respectively, provide that a Judge “should diligently discharge administrative responsibilities, maintain professional competence in court management, and facilitate the performance of the administrative functions of other judges and court personnel;” and “should organize and supervise the court personnel to ensure the prompt and efficient dispatch of business, and require at all times the observance of high standards of public service and fidelity.” A judge, therefore, cannot simply take refuge behind the inefficiency or mismanagement of his court personnel, for the latter are not the guardians of the former’s responsibility. (Tan v. Madayag, 231 SCRA 62 [1994] citing Nidua v. Lazaro, 174 SCRA 581 [1989]). In the instant case, despite the report to him by Cortes of Mirando’s neglect of duty and misconduct, respondent Judge even opted to defer the filing of the appropriate administrative case against Mirando. Judge Peñas then not only committed neglect of duty, he abetted and tolerated its commission by a member of his staff. For that, the penalty of severe reprimand recommended by the Office of the Court Administrator is much too lenient. We impose upon him a penalty of fine in the amount of P3,000.00.

As to third-party respondent Mirando, the penalty of Fine of P1,000.00 is likewise too light for his serious neglect of duty, his infractions likewise constituting conduct prejudicial to the best interest of the service. He is hereby fined in the amount of P3,000.00.

THE FOREGOING CONSIDERED, judgment is hereby rendered:

A. Finding respondent Judge Jose Peñas, Jr., of Branch 34, Regional Trial Court, Iriga City, guilty of: a) Misconduct and Insubordination for which he is hereby FINED in the amount of FIVE THOUSAND PESOS (P5,000.00); and b) Gross neglect of duty, for which he is hereby FINED in the amount of Three Thousand Pesos (P3,000.00).

B. Finding third party respondent SALVADOR C. MIRANDO, Clerk III, Branch 34, Regional Trial Court, Iriga City, guilty of gross neglect of duty and incompetence for which he is hereby FINED in the amount of Three Thousand Pesos (P3,000.00).

The fines shall be paid within ten (10) days from the receipt of a copy of this decision.

Let copies of this decision be attached to the personal records in the Office of the Court Administrator of respondent Judge Jose Peñas, Jr. and Salvador C. Mirando.

SO ORDERED.

Narvasa, C.J., (Chairman), Melo, Francisco, and Panganiban, JJ., concur.

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