



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

**FORMER JUDGE FERNANDO VIL
PAMINTUAN,¹**

Complainant,

- versus -

**SALVADOR G. COMUYOG, JR.,
CLERK III,**

Respondent.

A.M. No. P-11-2982
(Formerly O.C.A. IPI No. 08-2913-P)

Present:

SERENO, *CJ*, Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
JARDELEZA,* and
PERLAS-BERNABE, *JJ*.

Promulgated:

AUG 17 2015

X ----- X

DECISION

SERENO, *CJ*:

Before us is an administrative case against respondent Salvador G. Comuyog, Jr., Clerk III of the Regional Trial Court (RTC), Branch 3, Baguio City, for simple neglect of duty, insubordination and dishonesty.

THE FACTS

The antecedent facts of the case as shown by the records are as follows:

The attention of Executive Judge Edilberto T. Claravall, RTC, Baguio City, was called by *Northern Philippines Times* when it failed to collect the cost of publication of an Order dated 15 January 2008 in Special Proceedings No. 1757-R, entitled *In Re: Joy-Anne P. Alingog a.k.a. Joyce Pasion for Change of Name*. It appeared that a similar Order dated 31 July 2007 was earlier raffled to Pulso ng Bayan for publication, the cost of which

¹ Fernando Vil Pamintuan was dismissed from judicial service on 18 January 2011 (*Marcos v. Pamintuan*, 654 Phil 626-638 [2011]).

* Designated member in lieu of Associate Justice Jose Portugal Perez who recused himself due to prior action as Court Administrator per raffle dated 17 August 2015.

was already paid by petitioner therein, Joyce Pasion. Both Orders were stamped “original signed” above the typewritten name of then Judge Fernando Vil Pamintuan, and they bore the initials of respondent, on the side. The latter was asked to explain the inclusion of similar Orders in the raffle held on 23 January 2008.

In his explanation, respondent claimed that both Orders were issued by his Presiding Judge, and that the former then caused their publication. However, respondent failed to produce the original copy of the Order dated 31 July 2007. A Memorandum dated 28 April 2008 was subsequently issued by Executive Judge Claravall requiring him to produce the original copy of that Order.

In a reply letter dated 2 May 2008, respondent admitted that it was a mere inadvertence on his part that both Orders, which had the same contents were submitted for publication twice, and that he had no intention to defraud or commit any irregularity. Still, he could not produce the original of the first Order, which he failed to stitch to the records of the case.

On the other hand, a letter dated 11 June 2008 was sent by then Judge Pamintuan to Executive Judge Claravall clarifying that the former had not issued the subject Orders, and that those Orders did not exist in the records of the case. There was not even any registry return receipt to prove that the Office of the Solicitor General (OSG) had been furnished copies of the subject Orders. Then Judge Pamintuan averred that respondent did things on his own without any authority from the former.

A Memorandum dated 26 June 2008 issued by then Judge Pamintuan against respondent was likewise sent to Executive Judge Claravall. The Memorandum directed respondent to show cause why he should not be subjected to disciplinary action for the loss of the original copy of the Order dated 20 September 2007 in Special Proceedings Case No. 1750-R, *In re: Ex parte petition for the issuance of a writ of possession, Andrea Inso – petitioner-applicant*. It was alleged that as a civil case clerk in the RTC, Branch 3, Baguio City, he was the custodian of records of civil cases pending before that *sala*.

Respondent contended in his letter dated 30 June 2008 that the Order dated 20 September 2007 in Special Proceedings Case No. 1750-R was issued by then acting Presiding Judge Antonio C. Reyes. The latter ordered that a corresponding writ of possession be issued directing the acting sheriff of Branch 3 to place therein petitioner Andrea Inso in actual possession of the foreclosed property. The Order was inserted, not sewn, in between the pages of the records of the case. Acting Sheriff Romeo Florendo borrowed the records of Special Proceedings Case No. 1750-R, and a writ of possession dated 26 September 2007 was issued in compliance with the Order dated 20 September 2007. Complainant judge allegedly prohibited respondent from discharging the latter’s functions sometime in April 2008,

so respondent was not able to take hold of the records of the civil cases since then. It was only on 23 June 2008 that respondent was informed of the missing Order dated 20 September 2007 in Special Proceedings Case No. 1750-R.

Considering the gravity of the imposable penalty for the charges of falsification, dishonesty and gross negligence, Executive Judge Claravall referred the matter to the Office of the Court Administrator (OCA) for appropriate action.

Then Court Administrator Jose P. Perez² required respondent to comment on the Complaint of then Judge Fernando Vil Pamintuan. Respondent asked for additional time to file his comment through his written requests dated 16 September 2008 and 16 October 2008 which were both granted by the OCA. It sent him another letter dated 3 April 2009 requiring him to comply with the directive to file a comment. Still, he failed to comply. In a Resolution dated 11 October 2010, the Court required him to show cause why he should not be administratively dealt with for his failure to submit his comment on the Complaint despite the OCA's repeated directives to submit it within five (5) days from his receipt of the directive.

Respondent eventually submitted his Compliance together with his Comment. He alleged that he had already submitted a comment way back in September 2008 and sent it through an LBC courier, but could not find his copy or any proof of the receipt thereof.

In his Comment, respondent reiterated his earlier contentions in his reply letter dated 2 May 2008 that the double publication was a mere inadvertence, and that he had no intention to defraud or falsify the signature of complainant for monetary gain. Respondent admitted that he had committed a mistake or negligence through his failure to carefully handle the court records by merely inserting the originals into the records instead of stitching them together. Respondent further claimed that he could not produce the original copy of the Order dated 15 January 2008 as it had been sent to the OSG. He submitted a Notice of Appearance from the OSG dated 21 May 2008 to prove that the Order dated 15 January 2008 was received by the latter.

THE OCA'S FINDINGS AND RECOMMENDATIONS

In a Memorandum dated 6 June 2011, the OCA identified three issues in this case: 1) whether respondent may be held liable for his repeated failure to comply with the OCA directives; 2) whether he is administratively guilty of falsifying the twin Orders dated 31 July 2007 and 15 January 2008 in Special Proceedings Case No. 1757-R; and c) whether he may be held

² Now Member of this Court.

administratively liable for the loss of the Order dated 20 September 2007 in Special Proceedings Case No. 1750-R.

The OCA found that the failure of respondent to comply with its directives constituted insubordination. He was “lying through his teeth” when he claimed that he had already filed his comment in September 2008, when in fact he twice asked for additional time to file it – on 16 September 2008 and 16 October 2008.

For failure of respondent to substantiate his contentions, he was likewise found to have falsified the twin Orders the original copies of which were allegedly signed by complainant. Respondent wrote his initials on the twin Orders after stamping “original signed” above the name of complainant supposedly to make it appear that there were copies thereof that had been originally signed by complainant. What respondent did constituted falsification of public documents amounting to dishonesty.

As to the loss of the Order dated 20 September 2007, the OCA found respondent liable for simple neglect of duty for not stitching the copy of the original to the records of the case in violation of the 2002 Revised Manual for Clerks of Court.

The OCA recommends that respondent be adjudged guilty of simple neglect of duty, insubordination and dishonesty. It further recommends the imposition of the penalty of dismissal from service with forfeiture of retirement and other benefits except accrued leave credits and with perpetual disqualification from re-employment in any government-owned and controlled corporation.

THE COURT’S RULING

In administrative proceedings, the quantum of proof necessary for a finding of guilt is substantial evidence or such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. Well-entrenched is the rule that substantial proof, and not clear and convincing evidence or proof beyond reasonable doubt, is sufficient as basis for the imposition of any disciplinary action upon the employee. The standard of substantial evidence is satisfied where the employer, as in this case the Court, has reasonable ground to believe that the employee is responsible for the misconduct and the latter’s participation therein renders him or her unworthy of trust and confidence demanded by the position.³

At the outset, the facts of the case show that respondent clearly committed insubordination to the directives of the OCA. It took respondent more than two (2) years to comply, and it was only after a show-cause order that he complied with the filing of the required comment. He exhibited disrespect not just for the OCA, but also for the Court, which exercises

³ *Filoteo v. Calago*, 562 Phil. 474 (2007).

direct administrative supervision over trial court officers and employees through the OCA. In fact, it can be said that his noncompliance with the OCA directives is tantamount to insubordination to the Court itself.⁴ Worse, he had the audacity to make excuses in claiming that he had already filed his comment sometime in September 2008 when in fact, on two occasions, he had asked for extensions of time to file the required comment. Moreover, he was not able to produce any evidence of a courier's receipt of the comment. The conduct exhibited by respondent constitutes no less than a clear act of disrespect for the authority of the Court.

As to the charge of simple neglect of duty, we agree with the OCA's findings. Respondent is a Clerk III in the RTC, Branch 3, Baguio City. His functions and duties include the following:

2.2.Single Sala or Branch of a Multiple Sala Court

xxxx

2.2.5.Clerk III

- 2.2.5.1.does general clerical functions and other related tasks;
- 2.2.5.2.assists the Clerk of Court in maintaining the integrity of the docket books of the Court;
- 2.2.5.3.receives and enters in the docket books all cases filed, including all subsequent pleadings, documents, and other pertinent communications;
- 2.2.5.4.maintains and updates docket books on pending cases, books on terminated cases, books on appealed cases, books on warrants of arrest issued, books on accused persons who are at-large, and books on judgments against bail bonds;
- 2.2.5.5.maintains a systematic filing of criminal cases, civil cases, special civil actions, land registration cases and administrative cases;
- 2.2.5.6.prepares subpoenas, court notices, processes, and communications for the signature of the Presiding Judge and/or Branch Clerk of Court;
- 2.2.5.7.assists in the release of decisions, orders, processes, subpoenas and notices as directed by the Presiding Judge and/or Branch Clerk of Court;
- 2.2.5.8.checks and reviews exhibits and other documents in appealed cases;
- 2.2.5.9.prepares weekly/monthly/quarterly/annual reports to the Court on the status of individual cases;

⁴ *Falsification of Daily Time Records of Ma. Emcisa A. Benedictos*, A.M. No. P-10-2784, 19 October 2011, 659 SCRA 409.

2.2.5.10.makes available all court records for inspection by the public unless the Court forbids its publicity; and

2.2.5.11.performs such other duties as may be assigned by the Presiding Judge and/or Branch Clerk of Court.⁵

According to the 2002 Revised Manual for Clerks of Court, it is the primary function of the court's utility to sew originals of records, pleadings/documents as directed by the branch clerk of court, docket clerk and clerk-in-charge, strictly according to the order of the dates on which they were received and in the correct *expediente*.⁶ However, as Clerk III, respondent was designated as a Branch 3 civil case clerk who was in charge of civil cases and their dockets. Therefore, it was his primary responsibility to see to it that the originals of the civil case records were sewn in the correct *expediente* of each case. His failure to explain the loss of the original copy of the Order dated 20 September 2007 in Special Proceedings Case No. 1750-R, in addition to the alleged copies of the Orders dated 31 July 2007 and 15 January 2008 in Special Proceedings No. 1757-R, shows that he was remiss in his duty as a court custodian of case records. His failure to prove that he exercised this duty constitutes negligence, which warrants disciplinary action. He must be assiduous in performing his official duties and in managing court dockets and records.

Simple neglect of duty is the failure to give attention to a task, or the disregard of a duty due to carelessness or indifference.⁷ As this Court has pronounced in the past, even simple neglect of duty lessens the people's confidence in the judiciary and, ultimately, in the administration of justice.⁸ The Court cannot allow respondent's failure to account for the original copies of the Orders to escape liability.

Finally, and the most important of all is the issue of falsification of public documents amounting to dishonesty. There is substantial evidence to hold respondent guilty of dishonesty for falsifying an official document.

Dishonesty is defined as intentionally making a false statement on any material fact. It is a serious offense that reflects one's character and exposes the moral decay that virtually destroys one's honor, virtue and integrity. It is a malevolent act that has no place in the judiciary, as no other office in the government service exacts a greater demand for moral righteousness from an employee than a position in the judiciary.⁹

We conclude that there is substantial evidence to hold that respondent committed the act of dishonesty imputed to him as he failed to prove that the

⁵ The 2002 Revised Manual for Clerks of Court, Vol.1, Part 6a (2002).

⁶ Id., Item 2.2.7. Utility Worker, sub-item 2.2.7.4.

⁷ *Office of the Court Administrator v. Garcia-Rañoco*, A.M. No. P-03-1717, 6 March 2008, 547 SCRA 670, 673-674.

⁸ *Report on the Financial Audit Conducted on the Books of Account of Sonia L. Dy and Atty. Graciano D. Cuanico, Jr., RTC, Catarman, Northern Samar*, 655 Phil. 368, 380 (2011).

⁹ *OCA v. Bermejo*, 572 Phil. 6-14 (2008).

twin Orders had indeed been issued and authorized to be published by complainant. As aptly found by the OCA, if the claim of respondent was true, he could have easily secured from the OSG a certified copy of the Order that bore the original signature of complainant. Absent any evidence of the existence of such a copy on which respondent allegedly based the issuance of another one that he stamped “original signed,” this Court finds no basis for the issuance of the two Orders, much less their publication. This offense is aggravated by the fact that complainant, who was then Presiding Judge, denied the issuance of the twin Orders. It is incumbent upon respondent to show that he made the duplicate copies with the judge’s authorization, but this he has failed to do. Considering that his livelihood is at stake, he should have exerted more effort to locate at least a duplicate copy of the alleged Order that bears the signature of complainant. Mere denials do not suffice, especially in accusations of falsification.

It bears to stress that “the clerk of court of a court of justice is an essential officer in any judicial system. The office is the hub of activities both adjudicative and administrative. The clerk of court keeps its records and seal, issues processes, enters judgments and orders, and gives upon request, certified copies from the records. While an officer of the court, a public officer and an officer of the law, the position is not that of a judicial officer, nor is it synonymous with the court. The office is essentially a ministerial one. Hence, in entering judgments and orders, the clerk of court acts in a purely ministerial capacity and exercises no judicial functions.”¹⁰ Since his position is purely ministerial, respondent cannot cause the publication or the re-publication of an Order without the authorization of his superior, the Presiding Judge.

This Court cannot tolerate dishonesty. Persons involved in the dispensation of justice, from the highest official to the lowliest clerk, must live up to the strictest standards of integrity, probity, uprightness and diligence in public service. As the assumption of public office is impressed with paramount public interest requiring the highest ethical standards, persons aspiring for public office must observe honesty, candor and faithful compliance with the law.¹¹

PENALTY

As to the impossible penalty, we differ from the recommendation of the OCA.

Insubordination and simple neglect of duty are classified as less grave offenses with the corresponding penalty of suspension for one (1) month and one (1) day to six (6) months for the first offense. On the other hand, dishonesty is classified as a grave offense punishable with dismissal for the

¹⁰ *Angeles v. Bantug*, A.M. No. P-89-295, 29 May 1992, 209 SCRA 413, 422.

¹¹ *De Guzman v. delos Santos*, 442 Phil. 428 (2002).

first offense under the Revised Uniform Rules on Administrative Cases in the Civil Service.¹²

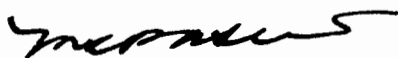
Although this is the first infraction of respondent since he entered the judiciary on 18 February 2002,¹³ this fact cannot be taken as a mitigating circumstance, as he is found guilty of three offenses, one of which carries the penalty of dismissal from service. Nevertheless, the Court may extend compassion in this case under Section 53, Rule IV of the Revised Uniform Rules on Administrative Cases in the Civil Service. This provision grants the disciplining authority the discretion to consider mitigating circumstances in the imposition of the proper penalty.¹⁴

While this Court is duty-bound to sternly wield a corrective hand to discipline its errant employees and to weed out the undesirable, this Court also has the discretion to temper the harshness of its judgment with mercy.¹⁵ Where a penalty less punitive would suffice, whatever missteps may have been committed by the employee ought not to be visited with a consequence so severe.¹⁶ Thus, in the absence of evidence showing that the acts committed by respondent were done with malice or for financial consideration, we consider his culpability mitigated.¹⁷

The Court finds the extreme penalty of dismissal too harsh considering that there was no claim of serious damage to the parties to the aforesaid cases and no proof of financial/material gain by respondent from his infractions. At most, there was double publication, and the charge for the second publication may be claimed from respondent who is its direct cause. The imposition of both maximum penalties for the two less grave offenses he has committed is already a sufficient disciplinary penalty.

WHEREFORE, respondent **SALVADOR G. COMUYOG, JR.**, is **SUSPENDED** for one (1) year without pay, with a very **STERN WARNING** that a repetition of the same or a similar offense will be dealt with more severely.

SO ORDERED.



MARIA LOURDES P. A. SERENO
Chief Justice, Chairperson

¹² Civil Service Commission (CSC) Memorandum Circular No. 19-99.

¹³ OCA Memorandum dated 6 June 2011, p.7.

¹⁴ Supra note 4.

¹⁵ *Cabigao v. Nery*, A.M. No. P-13-3153, 14 October 2013, 707 SCRA 424.

¹⁶ *Allegation of Falsification of the Attendance Record and Daily Time Record Against Ronaldo A. Cruz*, A.M. No. 11-8-155-RTC (Notice), 9 June 2014.

¹⁷ *Office of the Court Administrator v. Miranda*, A.M. No. P-09-2648, P-13-3174, 26 March 2014.

WE CONCUR:

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

Lucas P. Bersamin
LUCAS P. BERSAMIN
Associate Justice

Estela M. Perlas-Bernabe
ESTELA M. PERLAS-BERNABE
Associate Justice

Francis H. Jardeleza
FRANCIS H. JARDELEZA
Associate Justice