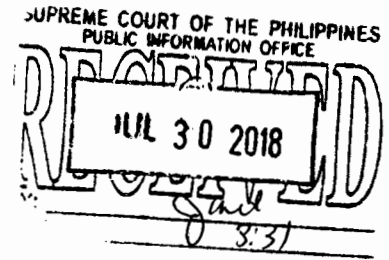




Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION



OFFICE OF THE COURT
ADMINISTRATOR,

Complainant,

- versus -

GILBERT T. INMENZO,
Clerk of Court III, Metropolitan
Trial Court, Branch 52, Caloocan City,
Respondent.

A.M. No. P-16-3617

Present:

CARPIO, J., Chairperson,
PERALTA,
PERLAS-BERNABE,
CAGUIOA, and
REYES, JR., JJ.

Promulgated:

06 JUN 2018

X-----X

DECISION

CARPIO, J.:

The Case

This administrative case arose from a letter¹ dated 11 December 2012 of then Acting Presiding Judge Lourdes Grace S. Barrientos-Sasondoncillo (Judge Sasondoncillo) of the Metropolitan Trial Court, Branch 52, Caloocan City (MeTC) to the Office of the Court Administrator (OCA).

The Facts

The facts, as culled from the records, are as follows:

On 24 March 2004, respondent Gilbert T. Inmenzo (Inmenzo) was appointed as Clerk of Court III of the MeTC.

Pursuant to the Order dated 8 March 2007 of then Acting Presiding Judge Josephine Advento-Vito Cruz, Inmenzo issued a *subpoena duces tecum/ad testificandum* directing PO2 Joselito Bagting (PO2 Bagting) to

¹ Rollo, pp. 5-6.

bring the evidence in Criminal Case No. 229179, entitled *People v. Hidalgo*, on 31 May 2007 before the MeTC. On 31 May 2007, Inmenzo acknowledged receiving from PO2 Bagting, “ONE (1) .38 CALIBER PISTOL marked as Exhibit E, 9MM” (firearm), among the evidence subject of the subpoena.²

Around the week of 8 November 2012, Judge Sasondoncillo found out that the firearm involved in Criminal Case No. 229179 was missing. Thus, on 11 December 2012, Judge Sasondoncillo wrote the OCA requesting for an investigation of the missing firearm. She attached in her letter: (a) her Memorandum to Inmenzo asking him to produce the missing firearm within 72 hours or explain in writing why the firearm could not be produced; and (b) Inmenzo’s Reply to the Memorandum.

In the Initial Investigation Report³ dated 19 February 2014, the investigation team found that Inmenzo received in *custodia legis* the missing firearm from PO2 Bagting on 31 May 2007, evidenced by an acknowledgment receipt. Thus, they recommended that the instant matter be considered a formal administrative complaint against Inmenzo and that he be required to comment on it.

In his Comment⁴ dated 27 May 2014, Inmenzo denied receiving the firearm. He, however, admitted signing the acknowledgment receipt, but he claimed that he signed inadvertently and without reading its contents due to heavy workload. To support his claim, he attached a Joint Affidavit⁵ dated 27 May 2014 of his five co-employees, namely, Court Stenographer II Esperancilla B. Kabling (Kabling), Court Stenographer II Cristita F. Tolentino (Tolentino), Clerk III Rosario H. Santos (Santos), Clerk III Melissa P. Pulangas (Pulangas) and Job Order Employee Archilles M. De Vera (De Vera), stating that they heard PO2 Bagting utter the following words to Inmenzo: “*Nagtataka nga po ako sa iyo sir, bakit pinirmahan niyo po yung acknowledgment receipt eh di ko po naman dito iyon ipinarereceived kungdi dun sa matandang Branch Clerk na nakasalamin.*”⁶

On 15 July 2015, Inmenzo resigned from the service as Clerk of Court III.

In a Resolution⁷ dated 3 August 2015, the Court, through the Second Division, resolved to refer the instant administrative complaint to the Executive Judge of the MeTC for investigation, report and recommendation, considering that factual issues, which were material to the ultimate resolution of the case, could be ventilated only in a formal investigation.

² Id. at 20.

³ Id. at 1-4.

⁴ Id. at 28-38.

⁵ Id. at 53-55.

⁶ Id. at 53.

⁷ Id. at 69-70.

The Recommendation of the Investigating Judge

In the Formal Investigation Report⁸ dated 20 January 2016, Investigating Judge Michael V. Francisco (Investigating Judge) stated that during the formal investigation: (1) PO2 Bagting denied uttering the statement: “*Nagtataka nga po ako sa iyo sir, bakit pinirmahan niyo po yung acknowledgment receipt eh di ko po naman dito iyon ipinarereceived kungdi dun sa matandang Branch Clerk na nakasalamín.*”; (2) Kabiling, Tolentino, Santos, Pulangas, and De Vera recanted their statement in the Joint Affidavit and unanimously declared that the Joint Affidavit was prepared by Inmenzo, who merely made them sign it without allowing them to thoroughly read its contents; (3) Kabiling, Tolentino, Santos, Pulangas, and De Vera also unanimously declared that the only words they heard from PO2 Bagting was: “*sa matandang Branch Clerk na nakasalamín.*” and (4) when confronted with the testimonies of PO2 Bagting and those of his co-employees, Inmenzo no longer contested his receipt of the missing firearm, and only pleaded for benevolence and compassion from the court.

Thus, the Investigating Judge recommended the imposition of the penalty of six months suspension on Inmenzo for simple neglect of duty, after finding that the firearm was lost while under Inmenzo’s custody due to his carelessness. In imposing the penalty, the Investigating Judge considered the following circumstances: (1) in his 22 years of service, this is the first time that evidence entrusted to Inmenzo has been misplaced; (2) he exerted efforts to safeguard the evidence kept in the dilapidated storage facilities of the court by restricting access to the room; and (3) there was no discernible willful, intentional or conscious indifference to his inactions as to warrant a finding of gross neglect.

The Recommendation of the OCA

In a Memorandum⁹ dated 27 September 2016 addressed to Senior Associate Justice Antonio T. Carpio, the OCA adopted *in toto* the findings of the Investigating Judge, except as to the penalty, to wit:

1. the instant administrative complaint be **RE-DOCKETED** as a regular administrative matter against respondent Gilbert T. Inmenzo, Clerk of Court III, Metropolitan Trial Court, Branch 52, Caloocan City; and
2. respondent Inmenzo be found **GUILTY** of simple neglect of duty and be imposed the penalty of **FINE** in the amount of Ten Thousand Pesos (Php 10,000.00), in lieu of suspension on account of his voluntary resignation from the service, said amount to be deducted from his retirement benefits.



⁸ Id. at 73-107. Erroneously dated 20 January 2015.

⁹ Id. at 257-259.

In a Resolution dated 28 November 2016, the Court resolved to re-docket the instant administrative complaint as a regular administrative matter against Inmenzo.

The Ruling of the Court

The Court adopts the findings and recommendations of the OCA, except as to the penalty.

The Manual for Clerks of Court provides that the clerk of court is the administrative officer of the court who controls and supervises the safekeeping of court records, exhibits, and documents, among others.¹⁰ Rule 136, Section 7 of the Rules of Court further provides that the clerk of court shall safely keep all records, papers, files, exhibits, and public property committed in his charge. Section 1 of Canon IV of the Code of Conduct for Court Personnel stresses that court personnel shall at all times perform official duties properly and diligently. A simple act of neglect resulting to loss of funds, documents, properties or exhibits in *custodia legis* ruins the confidence lodged by litigants or the public in our judicial process.¹¹

In the present case, Inmenzo, while he was clerk of court, clearly received the firearm from PO2 Bagting and marked it as an exhibit, based on the acknowledgment receipt Inmenzo himself admittedly signed. He, however, failed to explain the whereabouts of the firearm after receiving it and consequently, lost it under his custody. As court custodian, it was his responsibility to ensure that exhibits are safely kept and the same are readily available upon the request of the parties or order of the court.¹² Having a heavy workload and mentioning the dilapidated state of storage facilities of the court are unavailing defenses. Being the chief administrative officer, 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.¹³ It is likewise his duty to inform the judge of the necessary repair of the dilapidated storage facilities of the court. His attempt to escape responsibility over the loss of the exhibit under his care and custody must therefore fail.

In *Bongalos v. Monungolh*,¹⁴ we found respondent clerk of court guilty of gross neglect of duty and ordered him to pay the fine of ₱20,000

¹⁰ *Office of the Court Administrator v. Tandinco, Jr.*, 773 Phil. 141, 158 (2015), stating "Chapter II of the Manual for Clerks of Court provides the general functions and duties of Clerks of Court, one of which is the safekeeping of court records, to wit:

3. Duties -

- a. Safekeeping of Property - The Clerks of Court shall safely keep all records, papers, files, exhibits and public property committed to their charge, including the library of the Court, and the seals and furniture belonging to their office."

¹¹ *Office of the Court Administrator v. Judge Ramirez*, 489 Phil. 262, 271 (2005).

¹² *Bongalos v. Monungolh*, 416 Phil. 695, 700 (2001).

¹³ *Rivera v. Buena*, 569 Phil. 551, 557 (2008), citing *Solidbank Corp. v. Capoon, Jr.*, 351 Phil. 936, 942 (1998); *Abubacar v. Alauya*, 473 Phil. 180, 191 (2004).

¹⁴ *Supra* note 12.

for entrusting the prosecution's evidence, specifically gun and bullets, to a police officer, causing the loss of evidence. We held that he did not exert any effort to retrieve the evidence when it was discovered missing, and he simply blamed the prosecution for its disappearance.¹⁵ In *Office of the Court Administrator v. Judge Ramirez*,¹⁶ we found the respondent clerk of court liable for simple neglect of duty and imposed upon her the penalty of suspension for one month and one day, for failing to inform the judge of the necessary repair of the dilapidated condition of the steel cabinet where the pieces of evidence are stored, resulting to the loss of firearms and other exhibits stored in it. In *Office of the Court Administrator v. Cabe*,¹⁷ we admonished respondent Officer-in-Charge of the Office of the Clerk of Court and ordered him to pay a fine of ₱20,000 for failing to conduct a proper inventory of exhibits and to turn over the firearms to the nearest Constabulary Command, causing the loss of the firearms.

For failing to give due attention to the task expected of him resulting to the loss of a firearm committed in his charge, we find Inmenzo guilty of simple neglect of duty. Simple neglect of duty is the failure to give attention to a task, or the disregard of a duty due to carelessness or indifference.¹⁸ It is classified under the Revised 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.¹⁹ In *Judge Sasondoncillo v. Inmenzo*,²⁰ we reprimanded Inmenzo for violation of Circular No. 62-97 for exceeding the allowable teaching hours of 10 hours a week. Considering the prevailing jurisprudence and this is Inmenzo's second offense, we find that the payment of an increased fine of ₱20,000 would be more reasonable than that recommended by the OCA.

WHEREFORE, we find respondent Gilbert T. Inmenzo **GUILTY** of **SIMPLE NEGLIGENCE OF DUTY**. Since he had resigned from the service, he is ordered to pay a **FINE** in the amount of **₱20,000** to be deducted from his separation benefits, if any. The Office of the Court Administrator is **DIRECTED** to release the separation pay and other benefits, if any, due Inmenzo unless he is charged in some other administrative complaint or the same is otherwise withheld for some other lawful cause.

SO ORDERED.



ANTONIO T. CARPIO
Senior Associate Justice

¹⁵ Supra note 12, at 701.

¹⁶ Supra note 11.

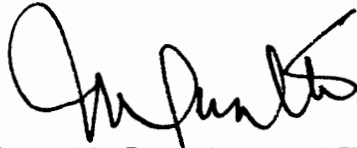
¹⁷ 389 Phil. 685 (2000).

¹⁸ *Office of the Court Administrator v. Atty. Buencamino*, 725 Phil. 110, 121 (2014).

¹⁹ REVISED RULES ON ADMINISTRATIVE CASES IN THE CIVIL SERVICE, Rule 10, Section 46 D (1).

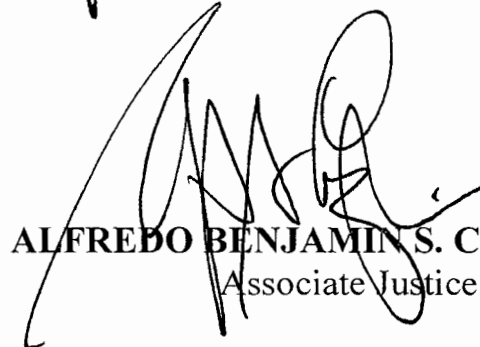
²⁰ A.M. No. P-16-3421, 25 January 2016. Unsigned Resolution.

WE CONCUR:



DIOSDADO M. PERALTA
Associate Justice

M. Bernabe
ESTELA M. PERLAS-BERNABE
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

Reyes
ANDRES B. REYES, JR.
Associate Justice