



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

RAUL K. SAN
BUENAVENTURA,
 Complainant,

A.M. No. P-08-2574
 (Formerly A.M. OCA IPI No. 08-2748-P)

Present:

- versus -

SERENO, CJ.,
 Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, and
REYES, JJ.

TIMOTEO A. MIGRIÑO,
CLERK OF COURT III,
METROPOLITAN TRIAL
COURT, BRANCH 69, PASIG
CITY,

Promulgated:

Respondent.

JAN 22 2014

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DECISION

LEONARDO-DE CASTRO, J.:

This administrative case originates from a complaint for gross neglect of duty, undue interference on a case, and violation of the Code of Conduct and Ethical Standards for Public Officials and Employees (Republic Act No. 6713) filed by complainant Raul K. San Buenaventura against respondent Timoteo A. Migriño, Clerk of Court III of the Metropolitan Trial Court (MeTC), Branch 69 of Pasig City, relative to Civil Case No. 6798 entitled, "*Lourdes K. San Buenaventura, represented by Teresita K. San Buenaventura and/or Raul K. San Buenaventura v. Johnny Josefa,*" for unlawful detainer.

In a verified Complaint-Affidavit¹ dated February 22, 2008, complainant San Buenaventura narrated that after the decision of this Court in Civil Case No. 6798 became final and executory on April 3, 2006, he filed a Motion for Issuance of Writ of Execution on August 17, 2006, requesting that the said motion be heard on August 22, 2006. According to

¹ Rollo, pp. 1-7.

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complainant San Buenaventura, respondent Migriño set the hearing on October 13, 2006 and refused to grant his request for an earlier setting. Complainant San Buenaventura further narrated that on October 30, 2006, the MeTC issued an order informing the parties that the said motion had already been submitted for resolution. However, on December 18, 2006, the MeTC issued another order deferring the resolution of the said motion since the records of the case had been elevated to the Regional Trial Court as defendant Josefa had filed an Annulment of the Judgment and Partition on the decision of the Supreme Court which was sought to be executed.

Complainant San Buenaventura added that he and his counsel asked respondent Migriño if the MeTC had already received a copy of the Supreme Court decision and entry of judgment, emphasizing upon respondent Migriño that there was no need for the records of the case and that under prevailing jurisprudence, a certified true copy of the decision and its entry of judgment were sufficient for the issuance of a writ of execution. According to complainant San Buenaventura, respondent Migriño claimed that the MeTC was not yet served a copy of the Supreme Court decision and entry of judgment, yet when complainant San Buenaventura made further inquiries, he discovered that the MeTC had already received its copies as early as August 7, 2006.

Complainant San Buenaventura further alleged that he and his counsel requested respondent Migriño on several occasions to inform the MeTC Presiding Judge of the Supreme Court decision and the entry of judgment so that their pending motion could be resolved. These requests, however, were not acted upon by respondent Migriño, forcing complainant San Buenaventura to file a Motion with Leave of Court for the Immediate Resolution of Plaintiff's Motion for the Issuance of Writ of Execution on April 13, 2007. It was only on July 20, 2007 when the said motion for the issuance of a writ of execution was finally resolved, or after almost a year from the date of filing of said motion. With regard to the issuance of the writ of execution, complainant San Buenaventura also stated that despite repeated follow-ups and requests, respondent Migriño belatedly issued the said writ only on November 14, 2007, or after almost four months from the time the order of its issuance was given.

As reported in the Sheriff's Return dated December 4, 2007, defendant Josefa refused to leave the subject premises when he was served the Notice to Vacate dated November 19, 2007. On January 25, 2008, the Order dated January 8, 2008 directing the issuance of a writ of demolition was released. Complainant San Buenaventura further alleged that respondent Migriño informed him that the said writ could not yet be issued since an alleged third-party claimant filed a motion for reconsideration and a motion to suspend implementation of the demolition order, among others, was filed on January 28, 2008. Said motions were set to be heard on

February 22, 2008 which complainant San Buenaventura asserted was violative of Section 5, Rule 15 of the Rules of Court as it has been mandated therein that the time and date of the hearing of motions must not be later than 10 days after the filing of the motion. Complainant San Buenaventura also claimed that it was respondent Migriño who filled in, or at the least, facilitated the setting of the hearing of the motion at a very late date, on February 22, 2008.

Complainant San Buenaventura maintained that respondent Migriño should be administratively sanctioned for setting the hearings of various motions in their case over long periods of time and for unduly interfering in Civil Case No. 6798.

In a Comment² dated March 27, 2008, respondent Migriño denied the accusations hurled against him. Respondent Migriño clarified that the Acting Presiding Judge only conducted hearings every Monday, Wednesday and Friday, and that August 22, 2006 was a Tuesday, a non-hearing day, which was the reason why the setting of the hearing was rescheduled to October 13, 2006 without any objections from the counsels of both parties as evidenced by the minutes of the August 22, 2006 hearing. Respondent Migriño maintained that he had nothing to do with the resetting of the hearing schedules. According to him, the counsel for complainant San Buenaventura should have raised her objections on the resetting of the hearing in the minutes, or should have filed a motion for an earlier setting if they found the belated setting objectionable.

Anent the alleged inaction for the issuance of the writ of execution, respondent Migriño contended that it was the court sheriff who prepared the writ and that he merely checked or corrected the draft of the writ before it would be sent to the Presiding Judge for signature.

As to the receipt of the entry of judgment and the Supreme Court decision in Civil Case No. 6798, respondent Migriño admitted that a copy of the entry of judgment was personally received by the Presiding Judge on August 7, 2006, while the decision was received at a different date. He reasoned that he could not be blamed if complainant San Buenaventura's motion for the issuance of a writ of execution remained unacted upon or if there was delay in the resolution thereof, since according to him, the issuance of judicial orders was not part of his duties and responsibilities as a Clerk of Court.

Respondent Migriño also dismissed as hearsay the accusation that he was responsible for the insertion of the date of hearing which was allegedly in violation of the Rules of Court. He submitted the affidavit of Ms. Zynex

² Id. at 81-83.

G. Estaras, civil cases in-charge, attesting to the fact that the date was already written on the motion when it was submitted to the court.

Alleging that the administrative charge against him was simply a harassment suit, respondent Migriño believed that he was not remiss of his duties and that he never interfered with the schedule of the hearings for the case.

In a Resolution³ dated November 12, 2008, this Court re-docketed the instant complaint against respondent Migriño as a regular administrative matter and referred the same to the Executive Judge of the MeTC, Pasig City, for investigation, report and recommendation.

In a Report⁴ dated March 26, 2009, Executive Judge Marina Gaerlan-Mejorada recommended that respondent Migriño be found guilty of simple neglect of duty, for which he should be fined an amount equivalent to his two months salary with a stern warning that a repetition of the same or similar offense in the future shall be dealt with more severely.

Executive Judge Gaerlan-Mejorada reasoned thus:

Any delay in the administration of justice, no matter how brief, deprives the litigant of his right to a speedy disposition of his case. Not only does it magnify the cost of seeking justice. It undermines the people's faith and confidence in the judiciary, lowers its standards and bring it to disrepute. It must be emphasized that the subject writ issued by the Pasig City-MeTC, Branch 69 is a mere administrative enforcement medium of the Order dated July 20, 2007, -- the main order supporting the complainant's motion for the issuance of a writ of execution. The writ itself cannot and does not assume life of its own independent from the order on which it is based. Why it took the Court to issue the subject writ four (4) months after the issuance of the order dated July 20, 2007, truly boggles the mind. Respondent Migriño could not heap the blame on Branch Sheriff Ziganay and feel absolved of any liability for faulty court management. As Clerk of Court, respondent Migriño is the administrative office[r] of the court who must ensure that prompt action on the court's business must be done; failing which, he is deemed guilty of negligence.

The Honorable Supreme Court has stressed time and again that clerks of court are essential judicial officers who perform delicate administrative functions vital to the prompt and proper administration of justice. Their duty is, inter alia, to assist in the management of the calendar of the court and in all matters that do not involve the discretion or judgment properly belonging to the judge. They play a key role in the complement of the court, as their office is the hut of adjudicative and administrative orders, processes and concerns. As such, they are required to be persons of competence, honesty and probity; they cannot be

³ Id. at 93-94.

⁴ Id. at 86-103.

permitted to slacken on their jobs. Respondent Migriño is guilty of simple neglect of duty.⁵ (Citation omitted.)

In a Resolution⁶ dated June 17, 2009, this Court noted the Report dated March 26, 2009 of Executive Judge Gaerlan-Mejorada and required the parties to manifest if they are willing to submit the case for resolution on the basis of the pleadings filed. Only respondent Migriño manifested⁷ his willingness to submit the instant case for resolution based on the pleadings filed.

In a Resolution⁸ dated November 16, 2009, this Court dispensed with complainant San Buenaventura's filing of his manifestation and considered the instant case submitted for resolution. Consequently, in a Resolution⁹ dated July 21, 2010, this Court referred the instant administrative matter to the Office of the Court Administrator (OCA) for evaluation, report and recommendation.

On October 6, 2010, the OCA submitted a Report with the following recommendations:

In view of the foregoing, we respectfully submit for the consideration of the Honorable Court the following recommendations:

1. Respondent Timoteo A. Migriño, Clerk of Court III, Metropolitan Trial Court (Branch 69), Pasig City be found **GUILTY** for simple neglect of duty and be **SUSPENDED** for two (2) months without salary and benefits, with a stern warning that the commission of the same or similar offense in the future shall be dealt with more severely;
2. A separate administrative complaint be filed against Judge Jacqueline J. Ongpauco, Acting Presiding Judge, MeTC (Branch 69), Pasig City for undue delay in resolving the motion for the issuance of a writ of execution in Civil Case No. 6798, which complaint shall be re-docketed as a regular administrative matter; [and]
3. Judge Ongpauco be directed to submit her **COMMENT** on the charge against her within fifteen (15) days from receipt of notice.¹⁰

The OCA modified the penalty recommended by Executive Judge Gaerlan-Mejorada from a fine equivalent to two months salary to suspension of two months without salary and benefits after finding respondent Migriño guilty of simple neglect of duty, a less grave offense punishable by

⁵ Id. at 102.

⁶ Id. at 406-407.

⁷ Id. at 408.

⁸ Id. at 410.

⁹ Id. at 411.

¹⁰ Id. at 417.

suspension of one (1) month and one (1) day to six (6) months, if committed for the first time, and by dismissal if committed for the second time.

We adopt the findings of fact of the OCA and hold respondent Migriño liable for simple neglect of duty.

Simple neglect of duty is defined as the failure of an employee to give proper attention to a required task or to disregard a duty due to carelessness or indifference.¹¹ It is classified as a less grave offense under the Uniform Rules on Administrative Cases in the Civil Service and is punishable with suspension for one (1) month and one (1) day to six (6) months for the first offense and dismissal for the second offense.¹²

In the instant case, it is incumbent upon respondent Migriño as the Clerk of Court and the administrative assistant of the judge, to assist in the management of the calendar of the court, particularly in the scheduling of cases and in all other matters not involving the exercise of discretion or judgment of the judge.¹³ Respondent Migriño is tasked to keep a calendar of cases for pre-trial, trial, and those with motions to set for hearing and to give preference to *habeas corpus* cases, election cases, special civil actions, and those required by law.¹⁴ Here, respondent Migriño showed carelessness and indifference in the performance of his duties. He cannot simply reason that “he had nothing to do with the resetting and the setting of the hearings.” That is an unacceptable excuse, especially in light of Section 1, Canon IV of the Code of Conduct for Court Personnel which requires that “court personnel shall at all times perform official duties properly and diligently.”

Indeed, as found by the Investigating Judge and the OCA, respondent Migriño was guilty of delay in scheduling the Motion for Issuance of the Writ of Execution particularly when the subject decision in Civil Case No. 6798, an unlawful detainer case that is governed by the Rule on Summary Procedure, had already become final and executory. As such, respondent Migriño should have given preference to complainant San Buenaventura’s motion which was filed on August 17, 2006. Granting that the requested date for hearing fell on a Tuesday, a non-hearing day for the Acting Presiding Judge, respondent Migriño should have set the date of the next hearing well within the 10-day period mandated under Section 5, Rule 15 of the Rules of Court.

Moreover, as the officer of the court next in line to the Presiding Judge, it is incumbent upon respondent Migriño to regularly check not only the status of the cases but also the functions of the other court personnel and

¹¹ *Reyes v. Publico*, 538 Phil. 10, 20 (2006).

¹² Section 52(B)(1), Civil Service Commission Resolution No. 991936, August 31, 1999.

¹³ *Re: Report on the Judicial Audit Conducted in the RTC, Branches 61, 134 and 137, Makati, Metro Manila*, A.M. No. 93-2-1001-RTC, September 5, 1995, 248 SCRA 5, 25.

¹⁴ The 2002 Revised Manual for Clerks of Court, Volume 1, Chapter VI, E, 1.2.1.4, p. 238.

employees under his supervision. It is important to stress that as clerk of court, respondent Migriño should take charge of the administrative aspects of the court's business and chronicle its will and directions, keep the records and seal, issue processes, enter judgments and orders, and give upon request, certified copies of the records of the court.¹⁵ Thus, it is clear that respondent Migriño was remiss of his duties when he failed to supervise his subordinates well and to efficiently conduct the proper administration of justice.

Anent complainant San Buenaventura's allegation that respondent Migriño was the one who filled in the blank space for the date of the hearing of the motion of the alleged third-party claimant, or facilitated its setting at a very late date, this Court, however, finds no evidence to support such allegation.

In a Manifestation and Motion to Dismiss dated June 1, 2011, Emelinda P. Migriño, wife of respondent Migriño, wrote to the Court and prayed for the dismissal of the instant case due to respondent Migriño's death on December 11, 2010.

In a Memorandum dated May 31, 2012, the OCA adopted the Executive Judge's recommendation, *i.e.*, that respondent Migriño be found guilty of simple neglect of duty, for which he should be meted the penalty of fine corresponding to two months salary. The OCA, however, modified and reduced the said penalty, and recommended a fine equivalent to one month salary for humanitarian consideration by reason of his death. The OCA recommended:

In view of the foregoing, we respectfully recommend for the consideration of the Honorable Court that Mr. Timoteo A. Migriño, former Clerk of Court III, Metropolitan Trial Court, Branch 69, Pasig City, be found **GUILTY** of simple neglect of duty and a **FINE** equivalent to his one month salary be imposed upon him to be deducted from the retirement benefits due him. Thereafter, this matter be considered **CLOSED AND TERMINATED**.¹⁶

We agree with the recommendation of the OCA.

The death or retirement of any judicial officer from the service does not preclude the finding of any administrative liability to which he shall still be answerable. In the instant case, an investigation was completed and two recommendations were already given by the OCA pointing to the misdemeanor of respondent Migriño.

¹⁵ Id., Chapter I, B, p. 5.

¹⁶ *Rollo*, p. 432.

In *Gallo v. Cordero*,¹⁷ citing *Zarate v. Judge Romanillos*,¹⁸ the Court held:

The jurisdiction that was ours at the time of the filing of the administrative complaint was not lost by the mere fact that the respondent public official had ceased in office during the pendency of his case. The Court retains its jurisdiction either to pronounce the respondent official innocent of the charges or declare him guilty thereof. A contrary rule would be fraught with injustice and pregnant with dreadful and dangerous implication ... If innocent, respondent official merits vindication of his name and integrity as he leaves the government which he has served well and faithfully; if guilty, he deserves to receive the corresponding censure and a penalty proper and imposable under the situation.

The recommendation of the OCA to file a separate administrative complaint against Judge Jacqueline J. Ongpauco for undue delay in resolving the motion for the issuance of a writ of execution in Civil Case No. 6798 is well-taken. We quote the findings of the OCA, thus:

However, the delay in the execution of the judgment could not be wholly attributed to the respondent, but also to Acting Presiding Judge Ongpauco as it concerned judicial orders issued by her.

It must be pointed out that the subject decision in Civil Case No. 6798 had already become final and executory. In fact, an entry of judgment was already issued by the Supreme Court where the case was elevated. Hence, as such, execution of the said decision should have been issued as a matter of right, in accordance with Section 1, Rule 39 of the Rules of Court, which reads:

“Section 1. Execution upon judgment or final orders. – Execution shall issue as a matter of right, on motion, upon a judgment or order that disposes of the action or proceeding upon the expiration of the period to appeal therefrom if no appeal has been duly perfected.”

Instead of immediately ordering the execution of the final judgment, Judge Ongpauco allowed the case to drag on through several resettings of the hearings of the case on such grounds as (1) the defendant not being around; (2) the records of the case were not yet in the court's possession; (3) the granting of the defendant's motion and manifestation to submit his comment/opposition to plaintiff's motion for execution; (4) the records of the case had been elevated anew to the Regional Trial Court.

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Judge Ongpauco, however, was not included as a respondent because she was not named in the complaint. But the fact is it was she who signed the orders, and both the Report dated September 29, 2008 of the Office of the Court Administrator and the Investigation Report dated

¹⁷ 315 Phil. 210, 220 (1995).

¹⁸ 312 Phil. 679, 693 (1995).

March 26, 2009 of Judge Mejorada contained the same observation. It is imperative that she be formally charged and required to file her comment to answer the charge of undue delay in rendering an order in Civil Case No. 6798.¹⁹ (Citation omitted.)

WHEREFORE, this Court finds Timoteo A. Migriño, former Clerk of Court III, Metropolitan Trial Court, Branch 69, Pasig City, **GUILTY** of simple neglect of duty and imposes upon him a **FINE** equivalent to his one (1) month salary to be deducted from the retirement benefits due him. Thereafter, let this matter be considered **CLOSED AND TERMINATED** with regard to respondent Migriño.

Furthermore, let a separate administrative complaint be filed against Judge Jacqueline J. Ongpauco, Acting Presiding Judge, MeTC (Branch 69), Pasig City for undue delay in resolving the motion for the issuance of a writ of execution in Civil Case No. 6798, to be re-docketed as a regular administrative matter.

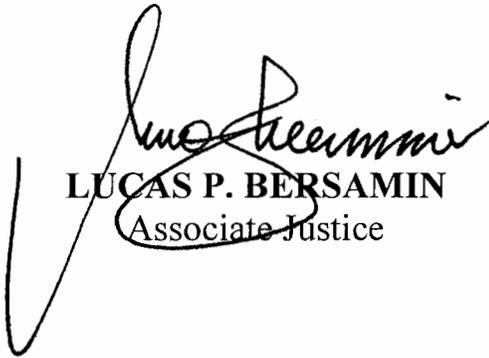
SO ORDERED.

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

WE CONCUR:

Maria Lourdes P. A. Sereno
MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

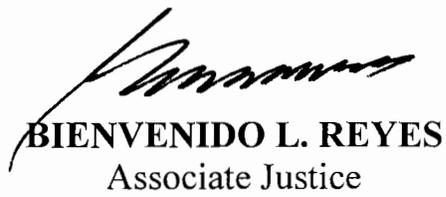
¹⁹ *Rollo*, pp. 416-417.



LUCAS P. BERSAMIN
Associate Justice



MARTIN S. VILLARAMA, JR.
Associate Justice



BIENVENIDO L. REYES
Associate Justice