

SECOND DIVISION

[A.M. NO. RTJ-02-1743, July 11, 2006]

ATTY. ERNESTO C. JACINTO , COMPLAINANT, VS. JUDGE LYDIA Q. LAYOSA AND CLERK III CHERYL BUENAVENTURA, RESPONDENTS.

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

In a sworn letter-complaint^[1] dated August 7, 1999 filed with the Office of the Court Administrator (OCA), complainant Atty. Ernesto C. Jacinto charged respondents Judge Lydia Q. Layosa of the Regional Trial Court (RTC), Branch 217, Quezon City, and Cheryl Buenaventura, Clerk III, of the same court, with infidelity in the custody of public documents and/or gross neglect of duty.

Complainant alleged in his letter-complaint that he is plaintiff's counsel in Civil Case No. Q-95-23426, "*REYNALDO P. MARTIN vs. MRS. RAQUEL U. AQUINO and HUSBAND*," raffled to the RTC, Branch 217, Quezon City. It was Judge Gil P. Fernandez, Sr. (now deceased) who was then the Presiding Judge. The records of the case did not get lost.

When Judge Fernandez, Sr. died, Judge Demetrio B. Macapagal, Sr. replaced him. The records of the same case did not also get lost.

However, when respondent Judge Layosa was appointed Presiding Judge of the same court, the entire records of the case "disappeared" as shown by the May 14^[2] and June 1, 1999^[3] Orders issued by her, thus:

(1) May 14, 1999 Order:

The records of this case had been reported missing by the Branch Clerk of Court and despite efforts exerted to locate it, said records could not be found.

Accordingly, let a conference be held on May 24, 1999 at 2:00 o'clock in the afternoon, for the purpose of reconstituting the same from available documents in counsel's possession."

(2) June 1, 1999 Order:

By agreement of the parties, let the conference for the reconstitution of the records in this case be reset on July 14, 1999 at 8:30 o'clock in the morning.

Meanwhile, the continuation of trial set for today is hereby suspended.

Complainant further alleged that both respondents are guilty as charged.

On September 10, 1999,^[4] then Court Administrator Alfredo L. Benipayo referred the letter-complaint to respondent judge for her comment within ten days from notice. She admitted therein^[5] that Civil Case No. Q-95-23426 was among the pending cases turned over to her when she assumed her duties in the RTC on November 26, 1997.

She, however, submitted that she cannot be held responsible for the loss of the case records because: (a) she has not been remiss in the performance of her duties and responsibilities; (b) she has been conducting the required inventory of cases pursuant to the Circulars of this Court, and; (c) she has always been giving instructions to her staff to take precautionary measures in safekeeping the records.

Moreover, when respondent Cheryl L. Buenaventura, in charge of civil cases, verbally informed her that the records of the case are missing, she immediately directed Atty. Flosie Fanlo, then branch clerk of court, to immediately take appropriate action.

On May 14, 1999, she issued an Order calling the parties' counsel for a conference on May 24, 1999 for the purpose of reconstituting the missing records.

On June 1, 1999, both opposing counsel appeared. Upon respondent judge's directive, the defendant's counsel promised to submit the duplicate copies of the records in his possession.

On July 14, 1999, during the scheduled hearing for the reconstitution of the missing records, only defendant's counsel appeared and submitted his copies of the records of the case.

On August 10, 1999, complainant filed an "*Opposition and Motion for Reconsideration*" of the July 14, 1999 Order which was granted by respondent judge. At this point, there is no showing whether he submitted to the court any record in his files.

Respondent judge emphasized that she did not only take immediate steps to reconstitute the missing records of the case, but she also requested the assistance of then Court Administrator Benipayo^[6] who, in turn, requested the National Bureau of Investigation to investigate the matter.^[7]

On January 19, 2000, respondent Buenaventura filed her Comment^[8] alleging that she is in charge of civil cases. On April 12, 1999, she noticed that the records of Civil Case No. Q-95-23426 were missing. The logbook showed that the case was last heard on March 2, 1999. When the last Order was mailed on March 8, 1999, she transmitted the records to the branch clerk of court. She insisted that those records were kept inside the filing cabinet and nobody borrowed them from her. She admitted though that the lock of the filing cabinet does not work. Lastly, she alleged that the missing records have been reconstituted.

On August 13, 2001, respondent judge filed with this Court a "*Motion for Early Resolution*"^[9] alleging, among others, that during the hearing of the case on May 9,

2000, both counsels failed to appear despite due notice. Hence, she issued an Order dismissing the complaint and the counterclaim.

In his Report,^[10] then Court Administrator Presbitero J. Velasco, Jr.^[11] found both respondents liable for the loss of the records; and that respondent judge failed to supervise her personnel to ensure efficiency. He recommended that they be ordered to pay a fine in the amount of P5,000.00 each, with a stern warning that commission of a similar offense will be dealt with more severely, thus:

EVALUATION: In the absence of any direct evidence pointing responsibility to any of the respondents relative to the loss of the records of Civil Case No. Q-95-23426, the persons responsible for their safekeeping should be held accountable and they are the Branch Clerk of Court, who is in charge of the recording, filing, and management of court records as well as the Clerk-in-charge of civil cases to whom such task was delegated by the Branch Clerk of Court. Since Atty. Flosie F. Fanlo has already transferred to another branch of the government, she is already outside of the Courts administrative jurisdiction.

Respondent Cheryl Buenaventura, as the clerk-in-charge of civil cases is undoubtedly the person who has custody of the lost records and the one primarily responsible therefor. As the person in charge of the records of civil cases, respondent Buenaventura should have devised means to safeguard the records given the limited resources at her disposal as well as the defective filing cabinet. x x x

Although no motive to conceal, destroy or otherwise profit from the loss of such records was imputed and proved against respondent Buenaventura, it cannot be denied that the records were lost while under her custody and she should be held responsible thereof.

On the other hand, it is the duty of the respondent judge **to closely supervise her employees**. Civil Case No. 95-23426 was one of the records of pending cases turned over to her by her Clerk of Court. She admitted that she did not know what happened to said record until it was reported to her by Mrs. Buenaventura on April 13, 1999 that it was missing. Canon 3 of the Code of Judicial Conduct requires every judge to organize and supervise the court personnel to ensure the prompt and efficient dispatch of its business, and which requires further at all times the observance of high standards of public service and fidelity. (Fernandez v. Imbing, 260 SCRA 586).

Judges should not tolerate the neglect of court employees.

RECOMMENDATION: Respectfully submitted to the Hon. Court our recommendation.

1. that the administrative case against Atty. Flosie F. Fanlo, Ma. Cecilia A. Flores, Naomi Paden, Tonette S. Manjucio-Salamanca, Ramona Adduro, Elizabeth Sugcang, Carmen Labsan, Reynaldo Madelaria, Reynaldo Manahan, Maritoni Oning, serafin Corral and Josephine Fernandez be DISMISSED for lack of merit;