

EN BANC

[A.M. NO. P-03-1737 (FORMERLY OCA IPI NO. 01-1250-P), November 16, 2006]

**NICOLAS PACLIBAR, COMPLAINANT, VS. RENAN V. PAMPOSA,
CLERK OF COURT II, MUNICIPAL CIRCUIT TRIAL COURT, PASSI-
SAN ENRIQUE, ILOILO CITY, RESPONDENT.**

DECISION

SANDOVAL-GUTIERREZ, J.:

In a verified letter-complaint^[1] dated October 9, 2001, Nicolas Paclibar charged herein respondent, Renan V. Pamposa, clerk of court II of the Municipal Circuit Trial Court (MCTC), Passi-San Enrique, Iloilo City, with gross ignorance of the law and serious neglect of duty.

Complainant alleged that on February 7, 2000, he filed with the said MCTC a complaint for unlawful detainer against Carlos Benedicto, docketed as Civil Case No. 245. Two months thereafter, complainant and his counsel inquired from the trial court why they have not received an answer from defendant Benedicto. They found that on February 18, 2000, respondent clerk of court sent the summons^[2] to Benedicto through registered mail, not by personal service, although the latter's residence is only two kilometers away from the court. Respondent's act constitutes gross ignorance of Section 6, Rule 14 of the 1997 Rules of Civil Procedure, as amended.

On June 2, 2000, respondent again served the summons^[3] to Benedicto, but this time, by personal service.

When complainant requested his son to follow up the status of the case, he was shocked to learn that the records of Civil Case No. 245 were missing.

Without any order from the trial court, respondent requested Atty. Dennis L. Ausan, complainant's counsel, to furnish him copies of the court processes, pleadings and other pertinent documents for the purpose of reconstituting the records.

On December 5, 2001 and September 10, 2002, then Court Administrator Presbitero J. Velasco, Jr.^[4] directed respondent to comment on the complaint. However, respondent failed to do so.

On July 2, 2003, then Court Administrator Velasco submitted his Report and Recommendation, stating in part:

Records of this Office show that per En Banc Resolution dated November 26, 2002, the Supreme Court resolved to (a) withhold the salaries and benefits of Renan V. Pamposa, Clerk of Court, MCTC, Passi, Iloilo; (b)

drop his name from the rolls for having been absent without official leave (AWOL) since 3 December 2001; and (c) declare his position vacant.

EVALUATION: For being unchallenged or uncontradicted, the allegations in the verified complaint are deemed established, to wit:

1. The respondent was ignorant of the law in sending the summons in Civil Case No. 245 of the MCTC, Passi-San Enrique, Iloilo by registered mail instead of serving it personally to the defendant whose residence is only about two (2) kilometers away from the Court, in violation of Section 6, Rule 14 of the Rules of Court; and
2. The respondent seriously neglected his duty by causing the loss of the records of said Civil Case No. 245.

RECOMMENDATION: Respectfully submitted for the consideration of the Honorable Court recommending that:

1. the instant complaint be **RE-DOCKETED** as a regular administrative matter; and
2. respondent Renan V. Pamposa be **FINED** in the amount of Five Thousand Pesos (P5,000.00) to be deducted from whatever salaries and benefits that may be due him.

On August 18, 2003,^[5] the Court issued a Resolution ordering the re-docketing of the complaint as a regular administrative matter and requiring the parties to manifest whether they are submitting the case for resolution based on the records and pleadings filed.

However, the notice of the August 18, 2003 Resolution addressed to respondent was returned unserved with the postmaster's notation "RTS — addressee moved, left no forwarding address." Thus, in a Resolution dated December 8, 2003,^[6] the Court resolved that the August 18, 2003 Resolution is deemed served on respondent.

Complainant failed to file the required manifestation, prompting the Court to issue a Resolution on October 18, 2004 directing him to show cause why he should not be disciplined for such failure.

On February 16, 2005, the Court issued a Resolution considering the instant case submitted for decision based on the records and pleadings filed.

On April 6, 2005, complainant belatedly filed his Explanation and Manifestation alleging that he received the October 18, 2004 Resolution on November 18, 2004; that he kept it without reading its contents because of his poor eyesight; that he only recalled having received the show cause Order when he inquired about the status of this case; and that he submitting this case for decision based on the pleadings/records filed.

Section 6, Rule 14 of the 1997 Rules of Civil Procedure, as amended, provides:

Sec. 6. Service in person on defendant.— Whenever practicable, the summons shall be served by handing a copy thereof to the defendant in