

SECOND DIVISION

[**A.M. No. P-03-1761 [Formerly OCA-IPI No. 03-1717-P], April 02, 2004**]

**ATTY. RAUL A. MUYCO, COMPLAINANT, VS. EVA B. SARATAN,
BRANCH CLERK OF COURT, BRANCH 32, RTC, ILOILO CITY,
RESPONDENT.**

RESOLUTION

QUISUMBING, J.:

In his verified complaint^[1] dated July 14, 2003, complainant Atty. Raul A. Muyco charges respondent Eva B. Saratan, Clerk of Court, Branch 32 of the Regional Trial Court (RTC) of Iloilo City, with violation of Section 5 (a) of Republic Act No. 6713,^[2] neglect of duty, refusal to perform official duty, and conduct unbecoming a court personnel.

Complainant is the counsel for the plaintiff-appellee in an unlawful detainer case entitled "*F & C Lending Investor/Marcelino Florete, Jr. v. Rexie Protasio*" originally docketed as Civil Case No. 2000(459) before Branch 3 of the MTCC of Iloilo City. He alleges that he secured a favorable judgment for his client, and immediately filed a motion for execution. Unfortunately, the court *a quo* did not resolve the motion because the defendant had appealed the judgment to the RTC of Iloilo City and the records had been transmitted to Branch 32, where the appeal had been raffled.

Even with the appeal having been taken, however, complainant discovered that no supersedeas bond had been posted and no monthly rentals had been deposited. He again sought to execute the judgment in a motion for execution pending appeal, but the motion was likewise denied on May 30, 2003. The presiding judge justified his denial on considerations of equity and the existence of a prejudicial question.

Complainant considered the denial a palpable violation and disregard of Section 19,^[3] Rule 70 of the Rules of Court, and thought of seeking a *writ of mandamus* from the Court of Appeals.^[4] To prepare his petition, complainant requested on June 16, 2003, a certification from respondent that based on the records (1) the defendant-appellant has not posted a supersedeas bond to stay the execution and (2) that the defendant-appellant has likewise not made the monthly deposit of rents awarded in the decision of the court of origin.^[5] Respondent ignored the request so he reiterated it in a letter^[6] dated July 4, 2003. He reminded respondent of her duties under Rep. Act No. 6713 and advised her that her continued refusal to issue the requested certification would constrain him to institute administrative charges against her. Undaunted, respondent continued to ignore the request. Hence, on July 15, 2003, complainant filed the instant complaint.

In her comment^[7] dated August 25, 2003, respondent explains that while she had

the ministerial duty to issue the certification she hesitated to issue it immediately. According to her, the parties to the appeal were still arguing on the appellant's failure to post the supersedeas bond and to make the monthly deposits. Since the certification requested of her also concern facts related to these litigated matters, she became confused whether she was indeed required to issue the certification. She adds that she was also fearful that her issuance of the certification might expose her to liability.

In perhaps an attempt to cite a possible mitigating, if not absolving, circumstance, respondent further cites that complainant sought a reconsideration of the order denying the motion for execution pending appeal. Subsequently, however, complainant moved for the inhibition of the presiding judge before the latter could resolve the motion for reconsideration.

On December 10, 2003, the Court resolved to have the case re-docketed as a regular administrative matter.

The facts of this case make out a clear case of simple neglect of duty.

Section 5 (a) and (d) of Rep. Act No. 6713 or the Code of Conduct and Ethical Standards for Public Officials and Employees provides:

Sec. 5. Duties of Public Officials and Employees. In the performance of their duties, all public officials and employees are under obligation to:

(a) *Act promptly on letters and requests.* All public officials and employees shall, within fifteen (15) working days from receipt thereof, respond to letters, telegrams or other means of communications sent by the public. The reply must contain the action taken on the request.

. . .

(d) *Act immediately on the public's personal transactions.* All public officials and employees must attend to anyone who wants to avail himself of the services of their offices and must, at all times, act promptly and expeditiously.

In Administrative Circular No. 08-99 dated July 2, 1999, we emphasized the importance of complying with these provisions. The Circular reads:

TO: ALL OFFICIALS AND PERSONNEL OF THE JUDICIARY

RE: PROMPT ACTION ON LETTERS AND REQUESTS AND PUBLIC'S PERSONAL TRANSACTION

It has been observed by, and brought to the attention of, the Chief Justice that in some instances complaints, letters or requests from the public addressed to the officials of the Judiciary are belatedly answered or not answered at all.

All concerned are reminded of paragraphs (a) and (d) of Section 5 of R.A.