

FIRST DIVISION

[A.M. No. P-11-2982 (Formerly O.C.A. IPI No. 08-2913-P), August 17, 2015]

**FORMER JUDGE FERNANDO VIL PAMINTUAN,^[1] COMPLAINANT,
VS. SALVADOR G. COMUYOG, JR., CLERK III, RESPONDENT.**

DECISION

SERENO, C.J.:

Before us is an administrative case against respondent Salvador G. Comuyog, Jr., Clerk III of the Regional Trial Court (RTC), Branch 3, Baguio City, for simple neglect of duty, insubordination and dishonesty.

THE FACTS

The antecedent facts of the case as shown by the records are as follows:

The attention of Executive Judge Edilberto T. Claravall, RTC, Baguio City, was called by *Northern Philippines Times* when it failed to collect the cost of publication of an Order dated 15 January 2008 in Special Proceedings No. 1757-R, entitled *In Re: Joy-Anne P. Alingog a.k.a. Joyce Pasion for Change of Name*. It appeared that a similar Order dated 31 July 2007 was earlier raffled to Pulso ng Bayan for publication, the cost of which was already paid by therein, Joyce Pasion. Both Orders were stamped "original signed" above the typewritten name if then Judge Fernando Vil Pamintuan, and they bore the initials of respondents, on the side. The latter was asked to explain the inclusion of similar Orders in the raffle held on 23 January 2008.

In his explanation, respondent claimed that both Orders were issued by his Presiding Judge, and that the former then caused their publication. However, respondent failed to produce the original copy of the Order dated 31 July 2007. A Memorandum dated 28 April 2008 was subsequently issued by Executive Judge Claravall requiring him to produce the original copy of that Order.

In a reply letter dated 2 May 2008, respondent admitted that it was a mere inadvertence on his part that both Orders, which had the same contents were submitted for publication twice, and that he had no intention to defraud or commit any irregularity. Still, he could not produce the original of the first Order, which he failed to stitch to the records of the case.

On the other hand, a letter dated 11 June 2008 was sent by then Judge Pamintuan to Executive Judge Claravall clarifying that the former had not issued the subject Orders, and that those Orders did not exist in the records of the case. There was not even any registry return receipt to prove that the Office of the Solicitor General (OSG) had been furnished copies of the subject Orders. Then Judge Pamintuan

averred that respondent did things on his own without any authority from the former.

A Memorandum dated 26 June 2008 issued by then Judge Pamintuan against respondent was likewise sent to Executive Judge Claravall. The Memorandum directed respondent to show cause why he should not be subjected to disciplinary action for the loss of the original copy of the Order dated 20 September 2007 in Special Proceedings Case No. 1750-R, *In re: Ex parte petition for the issuance of a writ of possession, Andrea Inso - petitioner-applicant*. It was alleged that as a civil case clerk in the RTC, Branch 3, Baguio City, he was the custodian of records of civil cases pending before that *sala*.

Respondent contended in his letter dated 30 June 2008 that the Order dated 20 September 2007 in Special Proceedings Case No. 1750-R was issued by then acting Presiding Judge Antonio C. Reyes. The latter ordered that a corresponding writ of possession be issued directing the acting sheriff of Branch 3 to place therein petitioner Andrea Inso in actual possession of the foreclosed property. The Order was inserted, not sewn, in between the pages of the records of the case. Acting Sheriff Romeo Florendo borrowed the records of Special Proceedings Case No. 1750-R, and a writ of possession dated 26 September 2007 was issued in compliance with the Order dated 20 September 2007. Complainant judge allegedly prohibited respondent from discharging the latter's functions sometime in April 2008,

so respondent was not able to take hold of the records of the civil cases since then. It was only on 23 June 2008 that respondent was informed of the missing Order dated 20 September 2007 in Special Proceedings Case No. 1750-R.

Considering the gravity of the imposable penalty for the charges of falsification, dishonesty and gross negligence, Executive Judge Claravall referred the matter to the Office of the Court Administrator (OCA) for appropriate action.

Then Court Administrator Jose P. Perez^[2] required respondent to comment on the Complaint of then Judge Fernando Vil Pamintuan. Respondent asked for additional time to file his comment through his written requests dated 16 September 2008 and 16 October 2008 which were both granted by the OCA. It sent him another letter dated 3 April 2009 requiring him to comply with the directive to file a comment. Still, he failed to comply. In a Resolution dated 11 October 2010, the Court required him to show cause why he should not be administratively dealt with for his failure to submit his comment on the Complaint despite the OCA's repeated directives to submit it within five (5) days from his receipt of the directive.

Respondent eventually submitted his Compliance together with his Comment. He alleged that he had already submitted a comment way back in September 2008 and sent it through an LBC courier, but could not find his copy or any proof of the receipt thereof.

In his Comment, respondent reiterated his earlier contentions in his reply letter dated 2 May 2008 that the double publication was a mere inadvertence, and that he had no intention to defraud or falsify the signature of complainant for monetary gain. Respondent admitted that he had committed a mistake or negligence through his failure to carefully handle the court records by merely inserting the originals into the records instead of stitching them together. Respondent further claimed that he

could not produce the original copy of the Order dated 15 January 2008 as it had been sent to the OSG. He submitted a Notice of Appearance from the OSG dated 21 May 2008 to prove that the Order dated 15 January 2008 was received by the latter.

THE OCA's FINDINGS AND RECOMMENDATIONS

In a Memorandum dated 6 June 2011, the OCA identified three issues in this case: 1) whether respondent may be held liable for his repeated failure to comply with the OCA directives; 2) whether he is administratively guilty of falsifying the twin Orders dated 31 July 2007 and 15 January 2008 in Special Proceedings Case No. 1757-R; and c) whether he may be held administratively liable for the loss of the Order dated 20 September 2007 in Special Proceedings Case No. 1750-R.

The OCA found that the failure of respondent to comply with its directives constituted insubordination. He was "lying through his teeth" when he claimed that he had already filed his comment in September 2008, when in fact he twice asked for additional time to file it - on 16 September 2008 and 16 October 2008.

For failure of respondent to substantiate his contentions, he was likewise found to have falsified the twin Orders the original copies of which were allegedly signed by complainant. Respondent wrote his initials on the twin Orders after stamping "original signed" above the name of complainant supposedly to make it appear that there were copies thereof that had been originally signed by complainant. What respondent did constituted falsification of public documents amounting to dishonesty.

As to the loss of the Order dated 20 September 2007, the OCA found respondent liable for simple neglect of duty for not stitching the copy of the original to the records of the case in violation of the 2002 Revised Manual for Clerks of Court.

The OCA recommends that respondent be adjudged guilty of simple neglect of duty, insubordination and dishonesty. It further recommends the imposition of the penalty of dismissal from service with forfeiture of retirement and other benefits except accrued leave credits and with perpetual disqualification from re-employment in any government-owned and controlled corporation.

THE COURT'S RULING

In administrative proceedings, the quantum of proof necessary for a finding of guilt is substantial evidence or such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. Well entrenched is the rule that substantial proof, and not clear and convincing evidence or proof beyond reasonable doubt, is sufficient as basis for the imposition of any disciplinary action upon the employee. The standard of substantial evidence is satisfied where the employer, as in this case the Court, has reasonable ground to believe that the employee is responsible for the misconduct and the latter's participation therein renders him or her unworthy of trust and confidence demanded by the position.^[3]

At the outset, the facts of the case show that respondent clearly committed insubordination to the directives of the OCA. It took respondent more than two (2) years to comply, and it was only after a show-cause order that he complied with the filing of the required comment. He exhibited disrespect not just for the OCA, but

also for the Court, which exercises direct administrative supervision over trial court officers and employees through the OCA. In fact, it can be said that his noncompliance with the OCA directives is tantamount to insubordination to the Court itself.^[4] Worse, he had the audacity to make excuses irt claiming that he had already filed his comment sometime in September 2008 when in fact, on two occasions, he had asked for extensions of time to file the required comment. Moreover, he was not able to produce any evidence of a courier's receipt of the comment. The conduct exhibited by respondent constitutes no less than a clear act of disrespect for the authority of the Court.

As to the charge of simple neglect of duty, we agree with the OCA's findings. Respondent is a Clerk III in the RTC, Branch 3, Baguio City. His functions and duties include the following:

2.2. Single Sala or Branch of a Multiple Sala Court xxxx

2.2.5. Clerk III

2.2.5.1. does general clerical functions and other related tasks;

2.2.5.2. assists the Clerk of Court in maintaining the integrity of the docket books of the Court;

2.2.5.3. receives and enters in the docket books all cases filed, including all subsequent pleadings, documents, and other pertinent communications;

2.2.5.4. maintains and updates docket books on pending cases, books on terminated cases, books on appealed cases, books on warrants of arrest issued, books on accused persons who are at large, and books on judgments against bail bonds;

2.2.5.5. maintains a systematic filing of criminal cases, civil cases, special civil actions, land registration cases and administrative cases;

2.2.5.6. prepares subpoenas, court notices, processes, and communications for the signature of the Presiding Judge and/or Branch Clerk of Court;

2.2.5.7. assists in the release of decisions, orders, processes, subpoenas and notices as directed by the Presiding Judge and/or Branch Clerk of Court;

2.2.5.8. checks and reviews exhibits and other documents m appealed cases;

2.2.5.9. prepares weekly/monthly/quarterly/annual reports to the Court on the status of individual cases;