

## THIRD DIVISION

**[ A.M. No. P-07-2325 (Formerly A.M. No. 06-3-208-RTC), February 28, 2011 ]**

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.  
ATTY. ROSARIO E. GASPAR, REGIONAL TRIAL COURT, BRANCH 2,  
BALANGA CITY, BATAAN, RESPONDENT.**

### DECISION

**BRION, J.:**

We resolve the administrative charge against Atty. Rosario E. Gaspar, Branch Clerk of Court of the Regional Trial Court (RTC), Branch 2, Balanga City, for gross neglect of duty for failing to issue the writs of execution in court judgments rendered against forfeited surety bonds.

The charge arose out of the physical inventory of cash, property and surety bonds conducted on February 20 to 25, 2006 by the audit team of the Office of the Court Administrator (OCA) in Branches 1, 2, 3, 4 and 5 of the RTC in Bataan. The audit team found the following lapses in procedure committed by the respective Officers-in-Charge Branch Clerks of Court<sup>[1]</sup> and the Branch Clerks of Courts<sup>[2]</sup> (*respondents*) of the audited RTC branches: *first*, the failure of the respondents to comply with A.M. No. 04-7-02-SC regarding the new guidelines on the documentary requirements for surety bail bond applications; and *second*, the failure of the respondents to issue the corresponding writs of execution on cancelled or forfeited bail bonds.

We initially referred the matter to the OCA for investigation, report and recommendation.<sup>[3]</sup> We also directed the respondents to file their comments and ordered them to issue the corresponding writs of execution on the forfeited surety bonds.<sup>[4]</sup>

In their respective Comments, the respondents commonly claimed the lack of knowledge of A.M. No. 04-7-02-SC. They asserted that they came to know the existence of this guideline during the audit of February 20 to 25, 2006. The respondents for Branches 1, 2 (Atty. Gaspar) and 3 also asserted that in multiple sala courts, the applications for surety bonds were processed by Atty. Romeo Delemos of the Office of the Clerk of Court. The respondents offered their respective explanations and apologies on the second charge.

In its Report and Recommendation, the OCA made the following recommendations:

1. The (*sic*) respondents Gilbert A. Argonza, Margarita R. Quicho, Rovelyn B. Baluyot and Joey Astorga we absolved of administrative liability in connection with the non-issuance of the Writs of

Execution in the criminal cases mentioned in the audit report. However, for representing that the surety bond for the accused in Criminal Case No. 8780, RTC, Branch 1, Balanga City had expired on September 20, 2003 which is not borne by the surety bond itself attached as Annex C to his Letter Explanation, Mr. Astorga should be admonished to be more careful in the discharge of his duties and in his official communications specially to the Supreme Court.

2. Respondent Rosario E. Gaspar be FINED in the amount of Three Thousand Pesos (P3,000.00) for neglect of duty in issuing the writs of execution in Criminal [Case] Nos. 8333 and 8194, RTC, Branch 2, Balanga City, only on August 4, 2006 when the judgments against the bonds in the cases were rendered almost 2 years earlier.
3. All the respondents be absolved of liability for non-compliance with A.M. No. 04-7-02-SC in connection with the corporate surety bonds posted in the criminal cases enumerated in the audit report, for lack of "*working information on the new guidelines*" as found by the audit team.
4. Atty. Romeo Delemos, Clerk of Court of the RTC, Balanga City, be furnished a copy of the audit report and required to explain why administrative action should not be taken against him for non-compliance with A.M. No. 04-7-02-SC.

Except for Atty. Gaspar, the Court resolved to adopt the above recommendations and absolved the respondents from any administrative liability. Thereafter, we charged Atty. Gaspar with neglect of duty based on the Report and Recommendation of the OCA considering her admission that she overlooked and/or inadvertently failed to issue the writs of execution.<sup>[5]</sup> In the Minute Resolution dated June 13, 2007, we declared:

(2) **RE-DOCKET** the instant case as a regular administrative matter against respondent Rosario Gaspar;

(3) to require Rosario Gaspar to **MANIFEST** within ten (10) days from notice hereof if she is willing to submit the case for decision on the basis of the records and pleadings filed;

Atty. Gaspar does not deny her shortcomings but pleads that a lighter penalty be imposed than what the OCA recommended in view of the following circumstances: (a) she was a new employee at the time of the incidents complained of, and was not familiar with the case records; (b) the order for cancellation and forfeiture of the bond in Criminal Case No. 8333 did not specifically mention the issuance of the writ of execution; (c) she did not believe that there was an immediate need to issue the writ of execution in the case since the bondsmen were given three (3) days to produce the accused in court instead of the thirty (30)-day statutory period; and (d) the writ of execution against the surety in Criminal Case No. 8194 was issued just over six (6) months from the date of the order and not two (2) years as