

## FIRST DIVISION

[ **A.M. No. RTJ-08-2137 (Formerly OCA I.P.I. No. 06-2530-RTJ), February 10, 2009** ]

**HEIRS OF SPOUSES JOSE AND CONCEPCION OLORGA,  
REPRESENTED BY ILDA OLORGA-CAÑAL, COMPLAINANTS, VS.  
JUDGE ROLINDO D. BELDIA, JR., AND BRANCH CLERK OF COURT  
MARY EMILIE T. VILLANUEVA, REGIONAL TRIAL COURT, SAN  
CARLOS CITY, NEGROS OCCIDENTAL, BRANCH 57,  
RESPONDENTS.**

### D E C I S I O N

#### **CORONA, J.:**

In a verified complaint dated April 5, 2006, complainant Ilda Olorga-Cañal, by herself and as representative of the other heirs of spouses Jose and Concepcion Olorga, charged respondents Judge Rolindo D. Beldia, Jr. and Atty. Mary Emilie T. Villanueva, former presiding judge and branch clerk of court, respectively, of the Regional Trial Court (RTC), San Carlos City, Negros Occidental, Branch 57, with infidelity in the custody of records in connection with Civil Case No. X-82 entitled "*Concepcion Olorga, et al. v. Cesar Lopez*" for specific performance and damages.

The complainants made the following allegations:

- (1) The records of Civil Case No. X-82, which was filed way back in 1982 by their mother, Concepcion Olorga, were lost while in the custody of respondents and could not be found. They found out that the only entry was the name of [Atty. Rudy B. Cañal]<sup>[1]</sup> who filed the case, the date of the filing, the title of the complaint and nothing else, up to the present year 2006 or precisely a span of 24 years.
- (2) As a result of said complete loss of the records, they found it extremely difficult, if not impossible, to prove that the property or lot, subject matter of the civil case, had been fully and completely paid for by the spouses. All the documentary evidence had already been submitted to the RTC, Branch 57 in 1993 as supported by the xerox copy of the order of respondent judge. Unfortunately, complainants could not secure a certified true copy of this order but would be able to present the original carbon copy duly signed by the Clerk of Court at that time.<sup>[2]</sup>
- (3) Their late father, notwithstanding the distance of their home from the court, the two-hour bus ride and the long hours of waiting in the court, followed up the case after the death of their mother, for almost 10 years, *i.e.* from 1982 to 1991. On

April 19, 1993, they had already rested their case and the lawyer for the defendant had manifested in open court that if the last defense witness could not be presented on the next scheduled hearing, he, too, would be resting his case. Despite this, respondent judge failed to resolve the case within the mandated time of 90 days, from 1994 to 2006.<sup>[3]</sup>

- (4) Respondents were trying to cover-up their negligence by blaming the termites for the loss of the records. Complainants had in their possession copies of the orders issued by respondent judge himself indicating that the same had long been submitted for decision.<sup>[4]</sup>

Respondent judge denied the charges against him. He offered these defenses:

- (1) He was appointed as judge of RTC, San Carlos City, Negros Occidental, Branch 57 only on March 19, 1992 and assumed office in May 1992. Thereafter, he was designated as the acting presiding judge of the RTC, Bacolod City, Branch 45 on June 30, 1993.<sup>[5]</sup> He went back to Branch 57 only in April 2002.<sup>[6]</sup> During the interim period or before his return to Branch 57, he was designated as the acting presiding judge in RTC, Bacolod City, Branch 41, Mambusao, Capiz and Marikina.<sup>[7]</sup>
- (2) Upon inquiry from the court personnel who had been and still assigned in Branch 57, the records of Civil Case No. X-82 could not be traced or located and that the entry in the docket book did not indicate the status of the case and was haphazardly done. If it would still be possible, reconstruction of the records of the case was the only and best way by which complainants could be apprised of the actual status of the case. The Branch 57 personnel under his watch had nothing to do with the loss of the records of Civil Case No. X-82.
- (3) The case records of Civil Case No. X-82 remained with Branch 57 when he was transferred to RTC, Bacolod City, Branch 45 since the records of the cases assigned to him in Branch 57 did not follow him wherever he was assigned. Furthermore, these records could and should not be brought outside of the court's premises without any court order.
- (4) The audit team sent by the Supreme Court on March 21, 2000 found that Civil Case No. X-82 was not among the civil cases that remained not acted upon for a long time.<sup>[8]</sup> When another audit team came on June 16, 2005, the case was never brought up. This team perused the docket books and found everything in order.
- (5) When he was ordered to return to Branch 57 in 2002, Civil Case No. X-82 was not among the cases in the inventory he signed when he resumed his post.<sup>[9]</sup>

On the other hand, respondent Atty. Mary Emilie T. Villanueva averred that:

- (1) She assumed as branch clerk of court of Branch 57, on January 10, 2000. When she assumed her position, there was no existing list of cases submitted for decision and she had to conduct and prepare a physical and actual inventory of all the pending cases assigned to Branch 57. Civil Case No. X-82 was not included in the inventory she prepared and signed by former presiding judge Roberto S.A. Javellana. Also, it was not among those civil cases found by the audit team sent by the Supreme Court on March 21, 2000 as not having been resolved within the required period.<sup>[10]</sup>
- (2) When she assumed office, she realized that the former clerks of court and officers-in-charge of Branch 57 did not keep a proper recording/docketing of the cases assigned to and decided by the said court. So she instructed the clerks-in-charge to properly fill in the docket books the dispositive portions of the court's decisions or final orders before endorsing the records of these cases to the office of the clerk of court.
- (3) Sometime in March 2006, the complainants (spouses Cañal) went to her office to follow-up the status of Civil Case No. X-82 after inquiring by phone. She informed them she had the records of the case searched prior to their arrival but they were not found. In the course of her investigation, she came to know that the records of the case were lost long ago. Even the former clerk of court, Atty. Riah Debulgado, tried to look for them during the latter months of 1995 and early months of 1996 but failed to find them. She showed them the page in the docket book showing the entry relevant to the case. She assured complainants that their office will help them with the reconstruction of the records. Her averments found support in the affidavits of the court's stenographer, sheriff IV, and clerk III (in-charge of the records of all the civil cases).<sup>[11]</sup>

In a resolution dated February 12, 2007, upon the recommendation of the Office of the Court Administrator (OCA), we referred the administrative case to the Court of Appeals, Cebu City, for investigation, report and recommendation.<sup>[12]</sup> It was assigned to Justice Francisco P. Acosta who conducted a hearing on the matter.

From the testimonies and documentary evidence, Justice Acosta ferreted out the following sequence of events:

- (1) Civil Case No. X-82 was **filed in 1982** in RTC, San Carlos City, Negros Occidental, Branch 57, then presided by Judge Macandog, by Atty. Cañal against Cesar Lopez.
- (2) There were photocopies of the orders issued by then Judge Cesar D. Estampador in Civil Case No. X-82, where one Order stated -

As agreed by counsel for both parties, let the continuance of the hearing of this case be set on

October 29, 1987, at 8:30 in the morning, for counsel for the plaintiff to cross-examine witness Cesar Lopez.

SO ORDERED.

- (3) The other orders issued by Judge Estampador were all postponements/resetting of hearing dates.
- (4) In a Motion dated May 21, 1084, Atty. Cañal withdrew as counsel.
- (5) Atty. Raymundo Ponteras took over the case from Atty. Cañal, and thereafter, Atty. Vic Agravante took over from Atty. Ponteras;
- (6) Respondent judge was appointed as the presiding judge of Branch 57 on **March 19, 1992 and assumed office in May 1992.**
- (7) Respondent judge was designated as acting presiding judge of Branch RTC, Bacolod City, Branch 45, pursuant to Administrative Order No. 104-93 dated June 30, 1993, in lieu of Judge Medina who retired, but at the same time he continued to hear cases in Branch 57 since Judge Roberto S.A. Javellana fully assumed the position of presiding judge of Branch 57 only in January of 1995.
- (8) The last **order** issued by the respondent judge in Civil Case No. X-82 was dated **November 16, 1994**, which read as follows:

All exhibits marked, Exhibit "I" with its sub-markings; Exhibit "5" sub-markings; Exhibits "6", "7", "8", and "8-A"; Exhibit "9" and "10" are all admitted as part of the testimony of the witnesses for the defendants, for whatever worth it may be and thereafter submitted for DECISION.

SO ORDERED.

- (9) Respondent judge was designated as the presiding judge of RTC, Bacolod City, Branch 41 on **December 21, 1994**, by virtue of Administrative Order No. 225-93, but **assumed** office only in **January of 1995.**
- (10) Based on their joint-affidavit dated June 2, 2006, spouses Juanito and Leticia de Guzman<sup>[13]</sup> averred that sometime in 1994, they went to Branch 57 to follow-up on the case. They were shown the records thereof and someone from the office asked them for P300 as traveling expenses of the court's messenger who would deliver the case records to respondent judge in Bacolod City since the latter was the one to decide the said case.

- (11)Based on the affidavit of Rudy L. Olorga, he delivered the amount of P300 to the court messenger at his residence and could even recall where the latter lives.
- (12)The complainants, however, did not present the court messenger or any person who could corroborate the foregoing allegations.
- (13)Branch 57 clerk-in-charge of civil cases Lilibeth Libutan assumed her duty as such in July 1996. Per her sworn statement, she had no knowledge of Civil Case No. X-82, until she heard the former clerk of court, the late Atty. Riah Debulgado say that she (Atty. Debulgado) had been looking for the said records but could not locate them.
- (14)Respondent clerk of court assumed office only on **January 10, 2000**. There was no formal turn-over of all the court's case records since at that time, only the judges were required to make and submit a bi-annual docket inventories and to conduct an inventory upon their assumption of office.
- (15)On March 21, 2000, the Supreme Court sent an audit team to Branch 57 and found out that there were several cases not acted upon for a long period of time but Civil Case No. X-82 was not one of them as revealed in the resolution of the First Division of the Supreme Court dated August 28, 2000.
- (16)Per the docket Inventory dated July 11, 2000, for the period January to June 2000, submitted by Judge Javellana, Civil Case No. X-82 was not included in said inventory.
- (17)Respondent judge returned to Branch 57 in 2002, pursuant to Administrative Order No. 18-2002 dated February 7, 2002.
- (18)The Supreme Court sent another audit team on June 16, 2005 and found that no active records had been lost and after going over the court's docket books, said team found everything to be in order.
- (19)Sometime in March of 2006, someone inquired about the status of the case, and thereafter, the respondent clerk of court instructed the clerk in charge to look for the records of Civil Case No. X-82 in all possible places where it may be found, including in the disposed and archived cases section, but the search yielded nothing.
- (20)In the last week of March 2006, complainant Ilda Olorga-Cañal, together with Atty. Rudy Cañal and some other companions, went to Branch 57 and asked for the records of Civil Case No. X-82. They were shown the docket book and were informed that neither the respondent clerk of court nor the clerk in charge had seen said records.
- (21)The Supreme Court directed respondent judge to conduct an investigation/inquiry regarding Civil Case No. X-82.