

## FIRST DIVISION

[ **A.M. NO. P-06-2261 (OCA-IPI NO. 04-1905-P),  
October 30, 2006** ]

**ELPIDIO SY, PRESIDENT, SYSTEMS REALTY DEVELOPMENT CORPORATION, COMPLAINANT, VS. EDGAR ESPONILLA, LEGAL RESEARCHER AND OFFICER-IN-CHARGE, AND JENNIFER DELA CRUZ-BUENDIA, CLERK OF COURT AND EX-OFFICIO SHERIFF, OFFICE OF THE CLERK OF COURT, REGIONAL TRIAL COURT, BRANCH 54, MANILA, RESPONDENTS.**

### **DECISION**

**YNARES-SATIAGO, J.:**

In a verified Complaint<sup>[1]</sup> dated March 30, 2004, Elpidio Sy, President of Systems Realty Development Corporation, charged Edgar Esponilla, Legal Researcher and Officer-In-Charge of Branch 54 of the Regional Trial Court of Manila, and Atty. Jennifer Dela Cruz-Buendia, Clerk of Court and Ex-officio Sheriff of the Regional Trial Court of Manila with Gross Misconduct, Negligence and Dishonesty in connection with the withdrawal of the deposits in the form of monthly rentals in Civil Case No. 90-55003, entitled *Maria Gagarin, et al. v. Bank of the Philippine Islands and Systems Realty Development Corporation*.<sup>[2]</sup>

Records show that upon motion by counsel for plaintiffs, Judge Hermogenes R. Liwag, issued an Order dated November 11, 1994 allowing the withdrawal of the deposits in the concept of rentals amounting to P260,000.00 more or less, based on the finding that a sufficient supersedeas bond was already posted in a related case pending before Branch 32.

The November 11, 1994 Order reads:

Finding the Ex-Parte Motion to Withdraw Rental Deposits filed by plaintiffs, thru counsel, to be well-taken, the same is hereby GRANTED, and the Clerk of Court, or her duly authorized representative, is hereby ordered to release to plaintiffs, or their duly authorized representative, the deposits made by such parties in the concept of rentals from May, 1989 to August, 1994 in the estimated aggregate sum of P260,000.00.

It is well to emphasize here that such deposits were made in the concept of monthly rentals for the plaintiffs' occupancy of the premises in controversy, here and in the ejectment suit now on appeal with Branch 32 of this same Court. It would appear, however, from the attachments to the Motion to Withdraw Rental Deposits that sufficient supersedeas bond was already posted in that appealed ejectment case by the plaintiffs hereto, defendants therein, in the total sum of P260,000.00. Surely, the rental deposits made in this case become superfluous and serve no legal

purpose. It is actually duplicitous and its non-release would actually prejudice the plaintiffs.

SO ORDERED.<sup>[3]</sup>

Thereafter, Jaime Ang, one of the plaintiffs in Civil Case No. 90-55003, withdrew the amount of P256,000.00 from the Office of the Clerk of Court of the Regional Trial Court of Manila.

Complainant averred that the withdrawal of the deposits was irregular because the allegation by plaintiffs' counsel, Atty. Walfredo Bayhon, in the ex-parte motion that the amount sought to be withdrawn from Branch 54 was superfluous and duplicitous as there is already a sufficient supersedeas bond posted with Branch 32, is false.<sup>[4]</sup>

He claimed that the rental deposits made in Branch 54 covered the period from June 30, 1989 to August 5, 1994 while those in Branch 32 were for September 30, 1994 to January 3, 1997. Complainant also alleged that Judge Liwag granted plaintiffs' false motion without ascertaining the veracity of the allegations therein; and that complainant was not furnished a copy of the said motion to withdraw nor was the same set for hearing.

Complainant alleged that the purported motion and Order of Judge Liwag do not appear in the records of Civil Case No. 90-55003, as such, respondent Dela Cruz-Buendia, who was then the Assistant Clerk of Court, is guilty of negligence and connivance with the plaintiffs in Civil Case No. 90-55003 for allowing and facilitating the release of the deposits without verifying the authenticity of the motion and Order. Complainant also claimed that respondent Esponilla is guilty of gross negligence for failing to safeguard vital case records and conniving with the plaintiffs in Civil Case No. 90-55003.

Respondent Dela Cruz-Buendia denied the charges against her. She maintained that her function as a clerk of court is purely ministerial in nature. She does not exercise any discretion except to follow orders of the court; neither is she bound to determine the propriety or impropriety of the orders of the court.

Respondent Esponilla alleged that he was not the Officer-In-Charge of Branch 54 when the purported Order granting the ex-parte motion to withdraw rental deposits was allegedly issued on November 11, 1994 by Judge Liwag as he was only designated as such in March 1995. He thus prayed that the complaint against him be dismissed.<sup>[5]</sup>

On November 9, 2004, the Office of the Court Administrator (OCA) referred the instant complaint to the Executive Judge of the Regional Trial Court of Manila for investigation, report, and recommendation.

On February 1, 2006, Executive Judge Antonio M. Eugenio, Jr. submitted his Report and Recommendation,<sup>[6]</sup> the pertinent portions of which read:

Respondent Edgar Esponilla cannot be faulted for any of the acts complained of as he was appointed officer-in-charge of Branch 54 only in March 1995 and the questioned order was issued by Pairing Judge Hermogenes Liwag on November 11, 1994. Nor did he have a hand in the preparation and release of the check to the plaintiffs on November

14, 1994 or sometime thereafter.

x x x x

As to respondent Clerk of Court, we likewise find her explanations meritorious. In the instant case, the duty of the Clerk of Court and/or respondent Buendia xxx is ministerial.

Upon receipt of an order from a court, the Clerk of Court's duty is to make sure that the order is complied with. xxx For a Clerk of Court to question a ruling or order of a judge is an invitation for contempt.

x x x x

The pivotal issue that should be addressed is why Atty. Walfredo Bayhon filed the motion in the first place and why then Pairing Judge Hermogenes Liwag favorably acted on it without looking into the truth of the allegation of "duplicity and superfluity."

x x x x

Accordingly, it is respectfully submitted that the administrative complaint filed against respondents Edgar Esponilla and Jennifer de la Cruz-Buendia be dismissed for lack of merit.

It is further recommended that Atty. Walfredo Bayhon be asked to explain the circumstances behind his filing of the Ex-Parte Motion and to provide the Supreme Court with a true copy of the motion.<sup>[7]</sup>

On June 5, 2006, the OCA submitted its Evaluation Report,<sup>[8]</sup> adopting the findings and recommendation of Judge Eugenio, thus:

In view of the foregoing discussions, it is respectfully submitted that the administrative complaint filed against respondents Edgar Esponilla and Atty. Jennifer Dela Cruz-Buendia be **DISMISSED** for lack of merit.

Consequently, it is further recommended that Atty. Walfredo Bayhon be asked to EXPLAIN the circumstances behind his filing of the Ex-Parte Motion and to provide the Court with a true copy of the motion.<sup>[9]</sup>

Indeed, clerks of court are officers of the law who perform vital functions in the prompt and sound administration of justice. Their office is the hub of adjudicative and administrative orders, processes and concerns. They perform delicate function as designated custodians of the court's funds, revenues, records, properties and premises. As such they are generally also treasurer, accountant, guard and physical plant manager thereof. They are liable for any loss, shortage, destruction or impairment of such funds and property.<sup>[10]</sup>

The duties of Clerks of Court as defined in the 2002 Revised Manual for Clerks of Court are as follows:

Adjudicative Support Functions: