

SECOND DIVISION

[A.M. NO. RTJ-04-1873 (FORMERLY A.M. OCA IPI NO. 03-1904-RTJ), February 28, 2005]

LETICIA I. KUMMER, COMPLAINANT, VS. JUDGE LYLIHA L. ABELLA-AQUINO, SHERIFF MAXIMIANO CORSINO, COURT STENOGRAPHERS LETICIA F. DOMINGO, RAFAELA G. ANCHETA, ELMA C. SANTIAGO AND ALTAGRACIA S. BAQUIRAN, INTERPRETER MARITES R. MANIO, CLERK III JOSEPHINE P. JOSE, PROCESS SERVER JONARD A. NIEVES AND UTILITY WORKER EDGAR D. BATTUNG, ALL OF THE REGIONAL TRIAL COURT, BRANCH 4, TUGUEGARAO CITY, RESPONDENTS.

RESOLUTION

CALLEJO, SR., J.:

In a verified Letter-Complaint, Atty. Ronaldo P. Solvado, as counsel for complainant Leticia I. Kummer, charged the following personnel of the Regional Trial Court (RTC) of Tuguegarao City, Branch 4, with gross negligence and/or misconduct, and infidelity in the custody of judicial records: Presiding Judge Lyliha L. Abella-Aquino, Sheriff Maximiano Corsino, Stenographers Leticia F. Domingo, Rafaela G. Ancheta, Elma C. Santiago and Altagracia Baquiran, Interpreter Marites R. Manio, Clerk III Josephine P. Jose, Process Server Jonard A. Nieves, and Utility Worker Edgar D. Battung.

On October 12, 2000, the complainant was convicted of homicide in Criminal Case No. 1130 which was assigned to the RTC of Tuguegarao City, Branch 4. Immediately after the promulgation of judgment, she filed a Notice of Appeal, along with a Motion for Temporary Liberty under Bail pending her appeal. The trial court denied her prayer for release under bail, but gave due course to her appeal. The complainant then elevated the question of her release under bond to the Court of Appeals (CA) by way of a petition for *certiorari*. The CA granted her prayer, and she was thus released on bail.

According to the complainant, the records of Criminal Case No. 1130 were transmitted by the CA to the court of origin on October 9, 2002. Upon her receipt of the notice of transmittal, the complainant immediately made inquiries at the trial court since without the records her appeal would not be acted upon. The complainant further narrated –

During said follow-ups, the last of which was made on February 28, 2003, our client and the undersigned counsel were informed by the Officer-in-Charge or Acting Clerk of Court of the trial court, Leticia F. Domingo, with assurances from a certain Josephine P. Jose, the Clerk-in-Charge of criminal cases, and all other court personnel then present, that the complete records of the case have not yet been received since the time it was transmitted to the Court of Appeals on September 18, 2001.

A Certification to this effect dated February 28, 2003 was even issued by the said Leticia F. Domingo. It may be well to add, at this juncture, that several weeks prior to February 28, 2003, the undersigned counsel made several phone calls to the said Josephine P. Jose who, after conferring with other court employees, repeatedly assured him that the entire records were already transmitted to the Court of Appeals.

After a painstaking examination of the voluminous records at the Office of the Postmaster of Tuguegarao City and several inquiries made with the appropriate court personnel therein, our client discovered that the records of her case as transmitted by the Court of Appeals on July 10, 2002 and covered as such by registered letter number 3655 [were] actually delivered by Postman II Gerardo Catolico to Sheriff Maximiano Corsino on October 9, 2002. A certification to this effect was even issued by Postmaster Josue T. Tubaña of the Post Office of Tuguegarao City.^[1]

On March 31, 2003, the complainant filed a Motion For Immediate Transmittal of the entire records to the CA. The respondent Judge then issued an Order dated April 8, 2003, worded as follows:

This refers to the Motion for Immediate Transmittal of the complete records of the above-entitled case.

The Court received a transmittal letter dated July 10, 2002 from Atty. Tessie L. Gatmaitan, Clerk of Court of the Court of Appeals, indicating therein that the complete record of the case was forwarded to this Court (photocopy of which [is] hereto attached). [H]owever, only the transmittal letter was received on October 9, 2002 without records attached to it. It is then clear that said records are still in the custody of the Court of Appeals.

In view of the above, the herein Motion cannot be given due course.

Atty. Ronaldo P. Salvado, counsel for the accused is hereby advised to verify the status of the case at the appellate court.^[2]

Confused as to which court had custody of the records in question, the complainant then filed a "Manifestation of Inquiry"^[3] with the CA inquiring about the records of the criminal case. However, in a Resolution^[4] dated July 18, 2003, the Court resolved:

- A. This Court's remand letter dated July 10, 2002 indicates that what were remanded were only the copy of the decision of January 22, 2001 and Entry of Judgment issued on February 15, 2001. It is to be noted that the remand letter states that no exhibits, OR on appeal, original records and TSNs were remanded. There is no indication in the rollo of the case that the Court *a quo* was ordered by this Court to elevate the original records of Crim. Case No. 1130.
- B. Petitioner is informed that the original records are not with this Court per JRD verifications dated July 2 & 4, 2003.^[5]

The complainant alleged that she filed a case against respondent Sheriff Corsino for infidelity in the custody of documents with the Office of the Deputy Ombudsman for Luzon. Only upon learning of such case from respondent Corsino did the respondent Judge order her personnel to conduct a thorough search for the missing records of Criminal Case No. 1130 on July 29, 2003. That same morning, a part of the records was found in one of the filing cabinets; later in the afternoon, the rest of the records were found in one of the steel cabinets in the courtroom where the records of the archives were kept.

The complainant alleged that the respondents conspired with each other to mislead her into believing that the entire records had been transmitted to the CA, when, in truth and in fact, it had never been transmitted. Due to the respondents' actuations, the resolution of the complainant's appeal was thereby unduly delayed, to her grave and irreparable damage and prejudice.

In her Comment^[6] dated January 28, 2004, the respondent Judge denied the charges against her, and claimed that the records of Criminal Case No. 1130 would show that she had regularly performed her duties. She alleged that when the judgment in the said criminal case was promulgated on October 12, 2000, she immediately directed the transmittal of the records to the CA, in view of the complainant's appeal. The respondent Judge then reminded her staff to immediately transmit the records along with the transcript of stenographic notes taken during the trial, specifically respondent Jose as the clerk in charge of the criminal cases, and respondent Gorospe, who was then the acting Clerk of Court. The respondent Judge claims that both respondents assured her that the records had been sent to the CA within the reglementary period. The respondent Judge further alleged that she repeatedly inquired from the two if the records had already been sent to the CA. This, according to her, was her regular routine in court.

The respondent Judge claimed that when the complainant filed her motion for the immediate transmittal of the record, she again confronted respondent Jose, who assured her that the records of the case had already been prepared for transmittal, and had already been delivered to respondent Gorospe. Respondent Jose further informed her that she had seen respondent Gorospe handing P20.00 to Carmelito Raymundo to cover his fare in going to the post office. The respondent Judge further alleged that respondent Jose showed her a copy of the "Table of Contents" which was prepared for the transmittal of the records. Respondent Jose also assured her that the posting of the records was done by registered mail under Registry Receipt No. 548.

The respondent Judge admitted that when she learned that a case for infidelity in the custody of documents had been filed against respondent Corsino, she had immediately directed her personnel to search for the missing records of Criminal Case No. 1130. Part of the missing records was found at about 11:00 a.m. of July 29, 2003, and the rest were found in one of the steel cabinets in the courtroom where the archived cases were stored. The respondent Judge then immediately ordered their transmittal to the CA. She also issued a Memorandum to respondent Jose requiring her to explain why she should not be administratively charged for not complying with the court's Order dated October 13, 2000, and for misleading the court into believing that the records of the said case had already been sent to the CA.