

THIRD DIVISION

[A.M. MTJ-05-1600, August 09, 2005]

**SUSANA JOAQUIN VDA. DE AGREGADO, COMPLAINANT, VS.
JUDGE EDGARDO B. BELLOSILLO, LEGAL RESEARCHER I LEONILA
S. HUERTO, CLERK III THERESA T. BANABAN, RESPONDENTS.**

D E C I S I O N

CARPIO-MORALES, J.:

By Complaint-Affidavit dated July 20, 2003^[1] which was received by the Office of the Court Administrator (OCA) on July 25, 2003,^[2] Susana Joaquin vda. de Agregado (complainant) administratively charged Quezon City Metropolitan Trial Court (MeTC), Branch 36 1) Judge Edgardo B. Bellosillo, 2) Legal Researcher-Officer-In-Charge Clerk of Court Leonila S. Huerto, and 3) Clerk III Theresa T. Banaban in connection with the disposition of Civil Case No. 29181, a complaint for Sum of Money and Damages^[3] against Jose Marcell Panlilio et al., all of the Philippine Village Hotel and Grand Boulevard Hotel.

The facts that spawned the filing of the present administrative complaint are not disputed.

On September 10, 2002,^[4] complainant filed the above-said complaint for sum of money and damages against Jose Marcell Panlilio et al. which was raffled to Branch 36 of the Quezon City MeTC.

Summons upon the defendants was served on September 16, 2002 per Sheriff's Return^[5] accomplished on even date.

As the defendants failed to file their answer or any responsive pleading despite the lapse of the reglementary period for the purpose, complainant filed a Motion to Declare them in Default.^[6]

By Order of December 6, 2002,^[7] respondent Judge granted the Motion to Declare Defendants in Default and set the presentation of evidence *ex-parte* by complainant on February 5, 2003 as she did.

By Decision of March 3, 2003,^[8] respondent Judge rendered judgment in the case in favor of complainant.

Copy of the decision was served upon the defendant Jose Marcell Panlilio at his office at the Grand Boulevard Hotel on April 4, 2003.^[9]

Nothing having been heard from the defendants, complainant filed on April 22, 2003

a Motion for Execution^[10] of the decision, which was set for hearing on April 25, 2003. Copy of the motion was sent to the defendants at their given address and was received by one Girlie Ang on April 21, 2003.^[11]

On April 23, 2003, Atty. Dennis G. Manicad of the Manicad Law Offices with office address at Suite 441, Grand Boulevard Hotel, 1990 Roxas Boulevard filed a Notice of Appeal, also dated April 23, 2003,^[12] alleging that "defendant (sic) through him" was appealing the decision rendered by respondent Judge to the Regional Trial Court (RTC) which decision, he, as "counsel," claimed to have received on April 8, 2003.

On the scheduled hearing of the Motion for Execution on April 25, 2003, not one of the defendants nor Atty. Manicad showed up. By Order issued also on April 25, 2003,^[13] respondent Judge required the Branch Sheriff to submit his Return in view of the judge's finding of discrepancy in the date of receipt of the decision by the defendants - April 4, 2003 "as manifested" by the plaintiff "per information given by the sheriff," and April 8, 2003 "as [i]t appeared from the record."

Complying with respondent Judge's Order of April 25, 2003, the Branch Sheriff, Cenen L. Amoranto, by Sheriff's Return dated April 29, 2003,^[14] gave the following information:

In compliance with the Order of this Court dated April 25, 2003 ordering the undersigned Sheriff to submit his return regarding the service of the Decision in the above-entitled case, it is further certified that on April 4, 2003 said Decision was **served upon the defendant Jose Marcell Panlilio** at Grand Boulevard Hotel, Manila thru Andy Dizon, whose signature appeared at the return slip of said Decision. (Emphasis and underscoring supplied)

Acting on the Sheriff's Return filed on April 29, 2003, respondent Judge, by Order of April 30, 2003,^[15] denied complainant's Motion for Execution in this wise:

The Sheriff of this Branch submitted his Return on the service of the decision to the defendants and certified that the decision was served to defendants on April 4, 2003. However, the **counsel for the defendants alleged** in his Notice of Appeal that he received copy of the decision on April 8, 2003. Thus, the filing of the Notice of Appeal was within the reglementary period. Besides (sic), the counting of the Fifteen (15) days period should be reckoned from the date when the defendants' counsel received copy of the decision. (Emphasis, italics and underscoring supplied)

Complainant thus filed on June 4, 2003 a Motion for Reconsideration^[16] of respondent Judge's Order of April 30, 2003, setting it for hearing on June 10, 2003. Complainant personally served a copy of the motion at the office of Atty. Dennis Manicad and it was received by one Andy Yuson.^[17]

The Motion for Reconsideration was also personally filed by complainant at Branch 36 of the MeTC of Quezon City where it was received by an employee on detail from the Office of the Mayor, Regina Malacas, who in turn forwarded it to respondent Legal Researcher-OIC Branch Clerk of Court Huerto.

On the scheduled hearing on June 10, 2003 of her Motion for Reconsideration, complainant was informed by respondent Huerto that there was no hearing on that day and that her motion was deemed submitted for resolution. About a week later, complainant inquired about the status of her Motion for Reconsideration from respondent Huerto who claimed not having seen it.

Respondent Huerto was later to prepare an undated letter of transmittal^[18] of the record of the case to the Office of the Clerk of Court, Quezon City Regional Trial Court (RTC). The record of the case was actually transmitted and received at the RTC on June 23, 2003.^[19] The letter of transmittal indicates that copies thereof were furnished the Clerk of Court of RTC Quezon City, complainant's counsel of record, and the Manicad Law Offices.^[20]

Complainant's counsel was later to receive, on July 9, 2003, a notice from the Office of the Clerk of Court of RTC Quezon City setting the raffle of the appealed case on July 17, 2003, hence, arose the present administrative complaint charging

1) Respondent Judge of the following offenses, quoted *verbatim*:

- 1) Violation of **ART. 206 of the Revised Penal Code [RPC]** for rendering the unjust interlocutory ORDER dated April 30, 2003 denying the motion for execution and approving the appeal after the Decision had become final and executory;
- 2) Violation of **ART. 207, RPC**, for rendering the same ORDER dated April 30, 2003 which maliciously delay the proper, effective and efficient administration of justice due me as he presiding party;
- 3) Violation of **SEC. 3 (e) of the Anti-Graft and Corrupt Practices Act (R.A. 3019, as amended)** by issuing his null ad void Order of April 30, 2003, unlawfully denying the execution of the final and executory judgment and improperly approving a farce appeal after the expiration of the period provided by law. Judge BELLOSILLO "caused undue injury" to me and "gave the defendants unwarranted benefits, advantage or preference in not obliging them to satisfy the judgments to my prejudice and damage, showing manifest partiality in the discharge of his judicial functions;
- 4) Violation of **SEC. 1 ART. III (Bill of Rights), of the 1987 Constitution**. In unlawfully denying the execution of the final and executory judgment, and unduly approving the improper appeal therefrom, through his null and void ORDER dated April 30, 2003- Judge BELLOSILLO, in effect, deprived me of my right to the fruits of the verdict without due process of law;
- 5) **For his manifest ignorance of the law, Presiding Judge BELLOSILLO committed violations of: (a) RULE 1.01 and RULE 1.02 of CANON 1 (Code of Judicial Conduct) providing that "A judge should be the embodiment of competence, integrity and independence," and "A judge should administer justice impartially and without delay;" (b) Rule 3.01 of CANON 3-providing that "A judge shall be faithful to the law**

and maintain professional competence;" (c) RULE 3.02 of CANON 3-enjoining that "In every case, a judge shall endeavor diligently to ascertain the facts and the applicable law unswayed by partisan interest, x x x;" and (d) RULE 3.09 of CANON 3 (on Administrative Responsibilities) providing that "A judge should organize and supervise the court personnel to ensure the prompt and efficient dispatch of business, and require at all times the observance of high standards of public service and fidelity. (Emphasis in the original; italization and underscoring supplied)

2) Respondent OIC Branch Clerk of Court Leonila Huerto and

3) Respondent Clerk III-Civil Case Records-In-Charge Theresa T. Banaban, **for violation of Article 226 of the Revised Penal Code on Infidelity In the Custody of Documents.**

By separate 1st Indorsements dated August 11, 2003,^[21] the Court Administrator directed respondents to comment on the Complaint Affidavit.

By Comment filed on September 26, 2003,^[22] **respondent Judge** proffered that, *inter alia*,

x x x

4. Nobody among the staff informed the undersigned about the problem concerning Civil Case No. 29181. He came to know about the plaintiff's motion for reconsideration only when he received a copy of the Administrative Complaint attaching said motion. The undersigned called a meeting with all the staff to know the circumstances behind the missing pleading. The court's civil in charge, Thess Banaban, and clerk, Regina Manacas, who received the plaintiff's motion, both claimed that a copy of the motion was given to Mrs. Huerto, who is supposed to forward the same to the office of the Presiding Judge for appropriate action. The undersigned confronted the OIC, Mrs. Huerto, about the missing motion but she could not explain the whereabouts of the said motion. She gave a flimsy excuse that it was lost in her table. It was also stressed during the meeting that any office problem must be immediately brought to the attention of the Presiding Judge.
5. Upon receipt of the Administrative Complaint, the undersigned went over the plaintiff's motion for reconsideration and after a cursory perusal thereon, admits that there was an **honest mistake or oversight** on the part of the undersigned. Instead of reckoning the 15 days reglementary period from the date of receipt of the defendant's counsel, it should be the date of receipt by the defendant Panlilio;
6. Had the said missing motion for reconsideration brought to the attention of the undersigned, the mistake could have been rectified

or corrected. Unfortunately, the records were forwarded to the Clerk of Court of RTC without the plaintiff's motion for reconsideration;

x x x

8. Plaintiff also charged the undersigned for rendering the unjust **interlocutory** order dated April 30, 2003 denying her motion for execution and approving defendants' appeal. Contrary to the contention of the plaintiff, there was no deliberate and malicious intent on the part of the undersigned to **delay** (sic) the early disposition of her case. As borne out by the records, all the pending motions filed before in Civil Case 29181 were acted upon with dispatched. It is unfair that the court issued the last order which was not favorable to the plaintiff, she accused the undersigned **of delaying** (sic) her case;

9. Plaintiff further charged the undersigned for violation of Section 3(E) of the anti-graft and corrupt practices act (R.A. 3019, as amended) allegedly for issuing null and void order of April 30, 2003 and improperly approving a farce appeal after the expiration of the period provided by law which caused undue injury to her and gave the defendants unwarranted benefits, advantage or preference in obliging them to satisfy the judgments, showing manifest partiality in the discharge of his judicial functions and violation of Section 1 Article 3 of the 1987 Constitution.

x x x The assailed order was issued on the belief of the undersigned that it was the proper order to be issued then. It is likewise not amiss to point out that due process was afforded to both parties especially the complainant (Agregado);

10. Lastly, plaintiff also charged the undersigned for violation of a) Rule 1.01 and Rule 1.02 of Canon 1; b) Rule 3.01 of Canon 3; c) Rule 3.02 of Canon 3; d) Rule 3.09 of Canon 3. The undersigned in handling cases before his sala tries and decides them fairly and judiciously based on facts and applicable laws unswayed by partisan interest.

In resolving plaintiff's motion for execution and defendant's notice of appeal, the undersigned was scrupulously careful to avoid such action as seasonably tend to awaken the suspicion that my actuation was tainted by malice and bad faith. The Supreme Court in the case of Dizon v. Borja (Adm. Case No. 163-J, January 28, 1971), Justice Makalintal categorically stated that: "to hold a judge administratively accountable for every erroneous ruling or decision he renders, assuming that he has erred, would be nothing short of harassment and would make his position unbearable;

11. Viewed from the foregoing facts, the complaint at bar, if ever understood, is UNFOUNDED and a plain harassment which should be outrightly dismissed. Moreover, not a scintilla of evidence was adduced by complainant Agregado that herein respondent should be