

EN BANC

[A.M. No. MTJ-02-1438 (Formerly A.M. No. 02-4-93-MCTC), January 22, 2004]

**EXECUTIVE JUDGE HENRY B. BASILIA, COMPLAINANT, VS.
JUDGE AMADO L. BECAMON, CLERK OF COURT LOLITA DELOS
REYES AND PROCESS SERVER EDDIE DELOS REYES,
RESPONDENTS.**

RESOLUTION

QUISUMBING, J.:

In an order^[1] dated April 5, 2000, Executive Judge Henry B. Basilia, Regional Trial Court, Branch 49, Cataingan, Masbate, dismissed the appeal in Civil Case No. 288 (MCTC Case No. 263-C) entitled "*Visitacion Mahusay Vda. de Du v. Benjamin Du, et al.*", a case for recovery of possession and ownership of land, for being frivolous and filed out of time. In the same order, Judge Basilia required respondents Judge Amado L. Becamon, Clerk of Court II Lolita Delos Reyes, and Process Server Eddie Delos Reyes, all of Municipal Circuit Trial Court, Placer-Cawayan-Esperanza, Masbate, to explain in writing why they should not be dealt with administratively for grave misconduct, gross ignorance of the law, and dishonesty due to the gross irregularities in the records of said case.

Relative to the appeal of Civil Case No. 263-C brought to his court, Judge Basilia observed that the respondents released the trial court's decision^[2] dated January 15, 1999 in said case only on March 2, 1999,^[3] or a month and a half after the case was decided. A copy of the judgment was received by the defendants therein on March 12, 1999. On March 15, 1999 the defendants filed a motion for reconsideration.^[4]

Judge Basilia also noted that the order^[5] dated May 7, 1999 denying the defendants' motion for reconsideration was mailed to them only on October 8, 1999,^[6] or five (5) months after the order was made.

The records of said case also show that before the defendants received a copy of the denial of their motion for reconsideration, the prevailing party, Visitacion Du, filed a motion for execution^[7] on September 14, 1999. The defendants filed their opposition to the motion asserting that they had not yet received a copy of an order resolving their motion for reconsideration and that, consequently, the judgment was not yet final and executory.^[8]

While said opposition was pending resolution, the defendants received a copy of the denial of their motion for reconsideration on October 27, 1999.^[9] On November 3, 1999, they filed a notice of appeal^[10] without, however, paying the docket fees.^[11]

On February 14, 2000, the respondent judge granted the opposition and gave the defendants fifteen (15) days from receipt of the Order^[12] within which to file a notice of appeal. The defendants received a copy of the Order on March 6, 2000. The next day, the defendants again filed a notice of appeal.^[13] The trial court received the appeal fee.^[14] Further compounding his errors, the respondent judge also approved the appeal.^[15]

In a Manifestation/Explanation^[16] dated April 17, 2000, the respondent judge explained that it was the first time that his subordinates, the respondents Clerk of Court II Lolita Delos Reyes and Process Server Eddie Delos Reyes, committed a mistake in releasing or mailing decisions. When he discovered during the inventory of March 1, 1999, that the counsels of the parties had not yet been furnished copies of the decision, he immediately ordered Delos Reyes to mail copies to the parties.

He admitted that when the first notice of appeal was filed on November 3, 1999, he ordered Clerk of Court Delos Reyes not to accept the appeal fee because there was a pending hearing on the motion for execution and the opposition to the motion for execution. He further averred that he granted the defendants' second notice of appeal filed on March 7, 2000 in his honest opinion based on the facts stated in the defendants' manifestation^[17] dated November 22, 1999 and the court's own order dated February 14, 2000, wherein he stated that the defendants had fifteen (15) days from receipt of the order to file their notice of appeal.

Respondents Clerk of Court Lolita Delos Reyes and Process Server Eddie Delos Reyes adopted the aforesaid Manifestation/Explanation filed by the respondent judge.

While admitting having committed "mistakes or errors" in Civil Case No. 263-C, the respondents all submit that they were not motivated by evil desires or material consideration. They professed having learned their lesson to guide them in the discharge of their respective functions and duties in the administration of justice.^[18]

On May 23, 2000, Judge Basilia forwarded the Order dated April 5, 2000 and the Manifestation/Explanation of the respondents to the Office of the Court Administrator (OCA), through then Court Administrator Alfredo L. Benipayo, for appropriate action.^[19]

In a Report dated April 19, 2002, the OCA, through Deputy Court Administrator Jose P. Perez, recommended that the respondent judge be found guilty of ignorance of the law, inefficiency, and conduct prejudicial to the best interest of the service and that a fine of P10,000 be imposed. The OCA also recommended that the respondents Clerk of Court II Lolita Delos Reyes and Process server Eddie V. Delos Reyes be found guilty of the same offenses and that they be fined P5,000 each.^[20]

The observations of the OCA are well-taken but not its recommendation regarding the penalty to be imposed on the respondents.

A judge is obliged to be faithful to the law and to maintain professional competence.^[21] As an advocate of justice and a visible representation of the law, a judge is expected to exhibit more than a cursory acquaintance with the basic legal norms

and precepts as well as with statutes and procedural rules.^[22] Where a judge disregards an established rule of law amounting to ignorance thereof, he is liable to disciplinary action.^[23]

Here, the respondent judge, in clear violation of elementary rules of procedure concerning appeals, extended the period to appeal of the defendants beyond the reglementary 15-day period allowed by the Rules of Court.

From the receipt of a copy of the judgment on March 12, 1999, the defendants had fifteen (15) days to perfect an appeal under Section 2, Rule 40 of the Rules of Court.^[24] The filing of the motion for reconsideration on March 15, 1999, interrupted the running of this period and it was only on October 27, 1999, when the defendants received a copy of the order denying their motion for reconsideration, that the period began to run again.

Pursuant to Rule 22^[25] of the Rules of Court, the defendants had only thirteen (13) days or until November 9, 1999, to perfect their appeal. They filed a notice of appeal on November 3, 1999 but failed to pay the appellate docket and lawful fees. Hence, their appeal was never perfected.

The appeal period having lapsed, it was grossly erroneous for respondent judge to state in his Order of February 14, 2000 that the defendants could still appeal and, worse, that they had fifteen (15) days from receipt of the Order to perfect their appeal. The respondent judge should not have accepted the appellate docket and lawful fees let alone approve the defendants' second notice of appeal. His actuations demonstrate a glaring failure to know, and to apply, elementary rules of procedure concerning appeals.

The respondent judge is reminded that a pending hearing on a motion for execution and the opposition thereto is not a ground for refusing to accept the appellate docket and lawful fees—or disapproving an appeal for that matter—where an appropriate notice of appeal is filed within the reglementary period. That he ordered the respondent Clerk of Court Lolita Delos Reyes not to accept the appeal fee because of the pending motion for execution likewise betrays his failure to know the law. Where the law or rule of procedure on the matter is simple and elementary, the failure to apply the same constitutes gross ignorance of the law and procedure.^[26]

It bears emphasis that having accepted the exalted position as a member of the judiciary, the respondent judge owes it to the public and to the court over which he presides to maintain professional competence at all times and to have the basic rules at the palm of his hands.^[27] A judge who displays gross ignorance of the law and procedure erodes public confidence in the competence and fairness of the courts.

We likewise hold that the respondent judge should be held administratively liable for failing to manage properly the court over which he presides. The records bear out, and the respondent judge admits, that he has been remiss in his duty to perform diligently his administrative duties relative to the prompt and efficient dispatch of business thereby making possible the serious delay in the service of the court's judgment and order denying the defendants' motion for reconsideration.

Rule 3.09 of Canon 3 of the Code of Judicial Conduct requires the respondent judge to organize and supervise court personnel to ensure prompt and efficient dispatch of the court's business. Rule 3.08 of the same code requires him to diligently discharge administrative responsibilities and maintain professional competence in court management. It is the obligation of judges to see that the officers appointed by them comply fairly and strictly with the duties that the law imposes on them.^[28] A presiding judge is directly responsible for the acts of omission of his branch clerk of court to send out notices of court orders.^[29]

For their part, the respondents Clerk of Court Lolita Delos Reyes and Process Server Eddie Delos Reyes, in view of their admission, are guilty of failing to perform diligently their respective duties and responsibilities to the court and to the public.^[30]

In *Solidbank Corp. v. Capoon, Jr.*,^[31] this Court emphasized that the clerk of court is certainly an important functionary of the judiciary because he is primarily responsible for the speedy and efficient service of all court processes and writs. A clerk of court serves as the model for his co-employees to act speedily and with dispatch on their assigned task to avoid the clogging of cases in court and thereby assist in the administration of justice without delay.^[32] In *Musni v. Morales*,^[33] this Court reiterated that the Process Server is duty-bound to serve summons, writs, and other court processes promptly. An unjustified delay in performing this task constitutes neglect of duty which warrants the imposition of administrative sanctions.^[34]

Here, the respondents Clerk of Court Lolita Delos Reyes and Process Server Eddie Delos Reyes, without justifiable explanation, allowed a period of one (1) and a half months to pass before copies of the judgment in Civil Case No. 263-C were sent to the parties. Worse, five (5) months passed before copies of the denial of the defendants' motion for reconsideration were mailed to the proper parties. Certainly, their acts, taken in the light of the respondent judge's infractions, raise strong suspicions that the delay was occasioned by deliberate efforts to frustrate justice.

Time and again, this Court has held that it cannot countenance any act or omission on the part of all those involved in the administration of justice which would diminish or even just tend to diminish the faith of the people in the judiciary.^[35]

However, in the absence of evidence to support the charge of dishonesty or gross misconduct, the respondents cannot be held administratively liable for either charge. Before any member of the judiciary could be faulted, competent evidence should be presented, especially since the charge is penal in character.^[36]

The OCA now opines that the respondent judge should be fined in the amount of P10,000. Under Section 8, Rule 140 of the Rules of Court governing the discipline of judges, gross ignorance of the law or procedure is classified as a serious charge which is punishable by (a) dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations, provided, however, that the forfeiture of benefits shall in no case