

## THIRD DIVISION

[ A.M. No. RTJ-02-1711, November 26, 2002 ]

**ATTY. BENJAMIN RELOVA, COMPLAINANT, VS. JUDGE ANTONIO M. ROSALES, REGIONAL TRIAL COURT, ROXAS, ORIENTAL MINDORO, BRANCH 43, RESPONDENT.**

### DECISION

**PANGANIBAN, J.:**

Under Circular No. 13-92, clerks of court are mandated to deposit fiduciary funds immediately with authorized government depository banks. Their failure to do so cannot directly be blamed on the judges concerned, absent any showing of bad faith, malice, dishonesty, arbitrariness or rank failure/negligence to supervise the clerks of court. This Court is determined to implement its judicial reform program and will not hesitate to discipline and sanction erring members of the judiciary. However, it is also duty-bound to protect the innocent from baseless or unreasonable charges. While it favors cleansing its ranks of the inept, the incompetent and the corrupt, it must at the same time attract the competent and ethical to join the judiciary and to remain there, so as to be able to dispense speedy quality justice for all.

The Case and the Facts

In a letter dated January 30, 2001 addressed to the Office of the Court Administrator (OCA), Atty. Benjamin Relova charged Judge Antonio M. Rosales of the Regional Trial Court (RTC) of Roxas, Oriental Mindoro (Branch 43), with violation of Supreme Court Circular No. 13-92. The letter-complaint states:

"This pertains to Security Bank Manager's Check No. 0000019511 dated May 24, 1999 in the amount of THREE HUNDRED THOUSAND (P300,000.00) PESOS which our client, MR. EUGENIO C. GONZALES deposited for consignment before the Regional Trial Court of Roxas, Oriental Mindoro, Branch 43 in Civil Case No. C-351 entitled: DIANA GONZALES & EUGENIO C. GONZALES vs. MRS. VERA P. QUIANZON, ET AL. A photocopy of the motion to deposit and the Manager's Check above-mentioned are hereto attached as ANNEXES 'A' and 'B' hereof, respectively for ready reference.

"Since the time the said check was deposited with said court up to the present time, the said check ha[s] not been acted upon since the court neither approved nor disapproved the deposit, nor has it ordered the deposit of the said check before a government depository bank as mandated by Supreme Court Circular No. 13-92, dated March 1, 1992, so that the court's inaction has not only deprived the National Treasury of interest which the above-mentioned check should have earned had the same been deposited, but also caused prejudice to our client in terms of

interest had the deposit been disapproved, more importantly because the check has now become stale (per certification of the issuing bank).

"In view of the trial court's failure to observe Circular No. 13-92 aforesaid, we are, for and in behalf of our client, most respectfully call[ing] the attention of your Honorable Office so that appropriate action in the premises against the Presiding Judge of the Regional Trial Court of Roxas, Oriental Mindoro, Branch 43, for violation of Circular No. 13-92. The Judge is the Hon. Antonio M. Rosales."<sup>[1]</sup>

Respondent judge regarded the instant case as harassment, as indicated in his Comment<sup>[2]</sup> dated March 28, 2001:

"x x x. It seems clear from the foregoing baseless charge that Atty. Benjamin Relova would like to picture the undersigned as to be so remiss even in the performance of a simple administrative function of instructing his Clerk of Court to deposit the check in question with the depository bank – the Land Bank branch here in Roxas, this province. It is not that simple. As the succeeding paragraphs will show the decision of the court regarding the said check has been interwoven with the undersigned's exercise of judicial function which has been hampered by the series of actions taken by the complainant's law office like the filing of a petition [for] certiorari (CA G.R. No. SP – 57597) assailing the twin orders of this court denying the plaintiff's Application For Injunction With Temporary Restraining Order in the Court of Appeals, and then by filing an appeal by certiorari (G.R. No. 145914), before the Honorable Supreme Court from the decision of the Honorable Court of Appeals which sustained the twin orders of this court, and then by filing numerous motions for postponements invoking various reasons, the last of which pertains to the scheduled hearing on March 30, 2001. Thus, for reasons attributable to the complainant the court has yet to rule on the propriety of the petition/complaint for consignation filed by their clients.

x x x

x x x

x x x

'It will be noted that on page 3 of the pre-trial order, plaintiffs marked as their Exhibit 'N', the Manager's Check in question and that defendants are not willing to accept the unpaid balance of the purchase price for reasons advanced by them. x x x.

x x x

x x x

x x x

'3.13 Under date of September 18, 2000, plaintiffs filed a Motion For Reconsideration of the decision of the Court of Appeals and this time they changed their theory by arguing that the circumstances obtaining in this case could justify the grant of preliminary mandatory injunction when their application before this court is one for preliminary prohibitory injunction.

'And as an afterthought, plaintiffs assailed the failure of the Branch Clerk of Court, Atty. Mariano S. Familara III, of this court to exercise simple administrative function of depositing the Manager's Check, (plaintiffs's Exhibit 'N') in question which is payable to defendants and/or the RTC in

compliance with Supreme Court Circular No. 13-92, the pertinent portion of which states:

'All collections from bailbonds, rental deposits and other fiduciary collections shall be deposited immediately by the Clerk of Court concerned, upon receipt thereof, with an authorized government depository bank.'

'3.14 Again, the Court of Appeals denied the Motion For Reconsideration in a resolution handed down on November 13, 2000.

'Concerning the check in question, the Honorable Court of Appeals made the following pronouncement:

'As to petitioners' claim for interest which the check they had consigned may have earned if deposited with an authorized government depository bank in accordance with Supreme Court Circular No. 13-92 which took effect March 1, 1992 (p. 9, Motion for Reconsideration, p. 202, Rollo), it is premature in the present petition for certiorari to claim any contingent interest which may accrue by reason of the consignment of the check for the reason that petitioners' main case below is for consignment, the propriety of which is yet to be determined on the merits by the court a quo.'

'A photocopy of the said resolution is hereto attached as Annex 'E'.

'3.15 From the adverse resolution of the Court of Appeals, plaintiffs filed before the Honorable Supreme Court an appeal by way of petition for certiorari under Rule 45 of the 1997 Rules of Civil Procedure where the said petition is now pending.

'3.16 Instead of filing with this court a motion to cancel and/or consider their obligation as extinguished so that the court could immediately rule on the propriety of the consignment, plaintiffs through the law office of the complainant here, Atty. Benjamin Relova filed numerous postpon[e]ments citing various reasons and had they x x x the courage to pursue the case on the merits before this court, the check in question could not have been rendered stale.

'3.17 In fact, the case is set for hearing before this court on March 30, 2001 at 8:30 a.m. and plaintiffs have again filed a very Urgent Motion To Defer/Suspend Proceedings. A photocopy of plaintiff's Very Urgent Motion is hereto attached as Annex 'F'.

"4. From the foregoing discussion, it can easily be deduced that complainant has turned his ire on the undersigned for the purpose of taking him out of the case. On the other hand, the undersigned did not instruct his Clerk of Court to deposit the check in the depository bank because of his honest impression that this court has to rule first on the propriety or impropriety of consignment. This impression was further bolstered by the fact that plaintiffs have even adopted and marked the check as one of their documentary evidence. Thus, the decision to deposit the said check or not does not involve a mere routinary exercise of administrative function. It has been interwoven with the exercise of judicial function which cannot be interfered with unless done in bad faith and/or patently erroneous."<sup>[3]</sup>

In short, respondent argues that the present case is designed to force him to inhibit himself from hearing the aforesaid civil case. He also points out that the check would not have become stale were it not for the numerous hearing postponements requested by complainant, as well as the review Petitions the latter had filed with the Court of Appeals and the Supreme Court.

#### OCA's Evaluation and Recommendation

The OCA found that respondent judge had violated Supreme Court Circular No. 13-92, mandating the immediate deposit of all fiduciary collections with the authorized government depository bank.<sup>[4]</sup> The OCA then recommended the imposition of a fine of P10,000.<sup>[5]</sup>

#### This Court's Ruling

We disagree with the OCA that SC Circular No. 13-92 was violated by respondent.

#### Administrative Liability

Respondent judge has been charged with violating SC Circular No. 13-92, the full text of which reads:

"Our attention has been called by the Treasurer of the Philippines that collections from bailbonds, rental deposits and other fiduciary collections are being deposited with the Provincial, City and Municipal Treasurers in compliance with Circular No. 5 dated November 25, 1982, issued by then Chief Justice Enrique M. Fernando, which procedure runs counter to the provisions embodied in the General Appropriations Act for Fiscal Year 1992, specifically Sections 4 and 12 of its General Provisions, to wit:

'1) *Section 4* provides that trust receipts shall be treated as a trust liability of the agency concerned and deposited in an authorized government depository bank or in the National Treasury as the case may be x x x; Provided, x x x, that if the amount is deposited in a savings account, the interest shall accrue to the General Fund and shall be remitted to the National Treasury at the end of each quarter.

'2) *Section 12* provides that performance bonds and deposits filed or posted by private entities with agencies of the government shall be deposited in an authorized government depository bank as trust liabilities under the name of the agency concerned, the interests thereon and any forfeited amounts to be recorded as income of the General Fund and remitted to the National Treasury.

"Conformably herewith, Circular No. 5, dated November 25, 1982, is hereby revoked and declared of no further force or effect. The following procedure is therefore prescribed in the administration of Court Fiduciary Funds:

#### Guidelines in Making Deposits

- 1) Deposits shall be made under a savings account. Current account can also be maintained provided that it is on an automatic transfer of current account from savings.
- 2) Deposits shall be made in the name of the Court.