

EN BANC

[A.M. No. 01-1-01-SC, May 23, 2001]

IN RE: LOSS OF THE RECORDS OF G.R. NO. 126468 ENTITLED SONIA LLAMAS-TAN V. COURT OF APPEALS, ET AL.

DECISION

PER CURIAM:

This refers to a complaint against respondents Cesar Barroso, Utility Worker II of the Judicial Records Office, and Melquiades Briones, Clerk III of the Office of the Clerk of Court, for dishonesty and conduct prejudicial to the interest of the service.

In his letter-complaint dated July 24, 1997 to Atty. Luzviminda Puno, Clerk of Court, Jose G. Ang, Chief Judicial Staff Officer of the Judgment Division of the Judicial Records Office of this Court, reported the loss of the rollo in G.R. No.126468, entitled *Sonia Llamas-Tan vs. Court of Appeals, et al.*^[1] The case, as can be shown by photocopied records, was a petition for the review of the decision of the Court of Appeals affirming the decision of the trial court in a civil case for rescission and damages filed by private respondents Carolina and Remedios Gonzales.^[2]

It appears that on November 13, 1996, the Third Division of this Court denied the petition, on the ground that the issues raised were factual and the petitioner failed to show that a reversible error had been committed by the appellate court.^[3] On December 9, 1996, the Third Division resolved to note without action an urgent manifestation and motion to admit the supplemental document (verification), dated November 19, 1996, filed by counsel for petitioner.^[4] On February 17, 1997, the Third Division noted the entry of appearance filed by Attys. Daniel Gutierrez and Santiago Angelo Kapunan of Soo Gutierrez Leogardo and Lee as collaborating counsel for petitioner. Petitioner's counsel filed a motion for reconsideration, dated December 24, 1996, and her collaborating counsel filed a supplemental motion for reconsideration, dated February 12, 1997. The Court resolved to deny the two motions for lack of merit, noting that they merely reiterated arguments already raised.^[5] Finally, on April 28, 1997, the Court resolved to deny petitioner's motion for leave to file a second motion for reconsideration of the resolution of November 13, 1996 which denied the petition for review on certiorari and the second motion for reconsideration and to grant private respondents' motion for entry of judgment and for remand of the records of the case.^[6]

Ang said Cesar Barroso, Utility Worker II of the Judicial Records office, and other Court employees were responsible for the loss of the rollo. He also gave a chronological narration of events leading to the discovery of the theft or loss:^[7]

Sometime during the first week of June, a representative of Carolina and Remedios Gonzales, private respondents in the civil case, inquired about its status and asked

for a copy of the Entry of Judgment. Cesar Miral, processor of cases in the Third Division, took out the rollo to check whether it could already be remanded. Miral requested Cayetano de la Pisa, assisting processor, to look for the return cards since he wanted to make sure that the resolution in the case had already been served upon the parties. After finding out that this was not so, Miral placed the rollo on his desk.

On Monday, June 9, 1997, de la Pisa found the registry numbers assigned to counsel for petitioner in the master list of mailed resolutions. On June 11, 1997, a representative of respondents again inquired about the Civil case. Miral told the representative that he would send a letter to the Postmaster of Baguio City asking about the date when counsel for petitioner received the resolution of April 28, 1997, in view of the fact that his office had not received the corresponding return card. It was during this time that Miral discovered the loss of the rollo which he had placed on his desk. It had been replaced with the rollo of another case.

On June 30, 1997, Ang sent a memorandum to Miral and de la Pisa instructing them to update him on their search for the missing rollo. He also asked a certain Diosdado Samson to reconstitute it and to prepare the Entry of Judgment, if warranted.

In July of that year one of the employees in the Judicial Records Office informed Ang that Cesar Barroso, Utility Worker II, together with other Court employees, may have been responsible for the loss of rollo.

Ang noted that this was not the first time the rollo of a case got lost. Considering the importance of the lost documents in the instant case, he claimed that this was not an ordinary case of negligence or carelessness and recommended the dismissal of employees found responsible therefor on the ground of dishonesty and conduct prejudicial to the best interest of the service.

In a Sinumpaang Salaysay dated August 14, 1997, respondent Barroso stated:^[8]

Ako, si Cesar Magculang Barroso, [ay] namamasukan [bilang] empleyado [sa] ilalim ng pamumuno ni Mr. Jose G. Ang. Isang araw [noong] Hunyo, 1997, bago nagkaroon ng anibersaryo ang Supreme Court, ako po ay kinausap ng isang tao na nagngangalang [Melquides "Dading"] Briones. Noong una, ang sabi niya sa akin ay siya'y may [hihiraming] rollo at ipapa-xerox lamang [niya ito], at ako ay binigyan niya ng halagang [isang daang piso (P 100.00)]. Tinanggap ko po ito sa kanya. Nang sumunod na araw ay hiniram niya ulit ito sa akin at sinabi sa akin na hihiramin niya uli ito at gustong makita ng taong kausap niya sa labas. Bago ko ito [ibinigay] sa kanya, sinulat ko ang G.R. No. nito. Ito po ay G.R. No.126468 na [naka-assign] sa 3rd Division. Nalaman ko na malapit na pala itong malagyan ng entry kaya sinako agad sa kanya ito. Nag-alok ulit siya sa akin ng pera ng halagang [limang libong piso (P5,000.00)] kada-buwan na tataakbo [habang] hindi nalalagyan ng entry of judgment. Tinanggap ko ito sa dahilang natatakot na rin akong isauli ito sa file at baka may makakita sa akin, kaya pumayag na lang ako sa alok niya sa akin [sa] pag-aakalang hindi na ipahahanap ang nawawalang rollo. Mula noon pinabayaan ko na lang ito nang hindi nagtatanong sa

kanya, pero nang napag-usapan uli ito minsan sa opisina at ipinahahanap ni Mr. Joseph Ang, agad ko itong tinanong sa kanya (Dading), at sinabi niya na sinunog na raw ito sa harap [ng] kausap niyang tao. Mula noon ay hindi na po ako nakipagkita sa kanya o nakipag-usap at hindi na rin po ako nakatanggap [ng] kahit na magkano sa kanya, hanggang isang araw ay pinatawag niya ako sa en banc sa kanyang *la mesa*, at doon ay tinanong niya ako kung ano na raw ang nangyari at bakit daw nagkaroon ng "entry of judgment" nang hindi ko sinasabi sa kanya, kaya raw po hindi na niya ako nabigyan ng pera na pangako niya sa akin, ay nag-away daw sila [ng] kausap niyang tao sa Baguio, kaya [hindi siya] binigyan ng pera nito.

Mula noon ay hindi na kami nagkausap tungkol dito.

This above statement was executed before Atty. Puno. In a memorandum dated July 14, 2000, Barroso was directed to answer in writing the complaint of Ang which charged him with dishonesty and conduct prejudicial to the best interest of the service.^[9] Briones was also directed to answer the complaint of Ang, together with the attached Sinumpaang Sanaysay of Barroso implicating him in the loss of the subject rollo.^[10] Barroso never complied with the directive of the Office, despite service on him of the complaint and statement as shown by the registry return card no. 1687.^[11] Briones, on the other hand, submitted his Answer, dated July 24, 2000, in which he alleged:^[12]

1. That the undersigned was directed to submit an answer to the allegation of his supposed complicity in the loss of the rollo of G.R. No. 126468 made by Cesar Barroso;
2. That on August 15, 1997, the undersigned had executed an AFFIDAVIT regarding the matter. The undersigned affirms and reiterates the averments that he had made in the aforementioned Affidavit, which has been made a part of the record of this case;
3. That the undersigned had never transacted any business with Cesar M. Barroso regarding the case that is docketed in the Honorable Court as G.R. No. 126468;
4. That the undersigned denies that he had borrowed the rollo of G.R. No. 126468 from Cesar M. Barroso or from anybody else;
5. That the allegation [that] the undersigned had borrowed the said rollo from Cesar M. Barroso is false. Mr. Barroso is not the custodian of the rollo and this fact is known to the undersigned. If the undersigned had a need to borrow any record or document, he knows that the right person to talk to is the custodian of the same;
6. That the allegation that the amount of five thousand pesos (P5,000.00) each month was offered to Cesar M. Barroso by the undersigned is hereby denied.

The undersigned has no interest whatsoever in the case docketed in the Supreme Court as G.R. No. 126468, or its outcome that he would go to the extent of offering the sum of P5,000.00 to any body. And, certainly not to Mr. Barroso who is not in any position to influence the result of the case;

7. That the other allegations of Barroso contradict each other. According to Barroso, the undersigned borrowed the rollo twice. The first time was for the purpose of having the rollo Xeroxed and the second time was for the objective of showing the same to a companion who was waiting outside. Likewise, Barroso claimed that he was offered the monthly sum of P5,000 to delay the preparation of the Entry of Judgement. And, for this reason, Barroso stated that "kaya sinako agad sa kanya ito."

Thereafter, according to Barroso, he accepted the offer of financial reward because "natatakot na rin akong isa-uli ito sa file, at baka may makakita sa akin." After the lapse of a span of time, the matter of the loss of the records was brought up by Mr. Joseph Ang. And, when confronted, the undersigned, according to Barroso, informed the latter that the rollo was burned in front of the contact person of the undersigned.

If it is true that the undersigned was able to destroy the rollo, how come that Barroso was still in a position to return the same, after the second time that the rollo was borrowed? This shows the Barroso was in the possession of the rollo and this fact belies the assertion that the undersigned was able to destroy the rollo in front of the contact person;

8. That the undersigned denies having called Barroso to castigate him about an entry of judgment having been made in G.R. No. 126468;

9. That the allegations implicating the undersigned [in] the loss of the rollo in G.R. No. 126468 are bare of any evidence that would show the participation of the undersigned in the loss of the said rollo. Mere allegation is not evidence and is not synonymous with guilt;

10. That the assertion that the undersigned gave Barroso the sum of P100.00 to have the rollo Xeroxed is a falsehood. There was no need for the undersigned to give the said amount to Barroso. If the undersigned had wanted to have the rollo Xeroxed, all he had to do was bring the rollo to his place of work of assignment where there are Xerox machines. Thereafter, the undersigned can have any portion of the rollo reproduced without anybody else knowing about it.

On August 1, 2000, the Complaints and Investigation Division conducted an investigation during which Briones denied the charges against him and affirmed the allegations in his answer.

On September 18, 2000, Emmanuel Bumanglag, Clerk III of the Complaints and Investigation Division, Office of Administrative services, sought to personally deliver to Barroso at his last known address a notice for him to appear in the Complaints and Investigation Division for investigation. He failed to do so, however, since