



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

HON. PAMELA A. BARING-UY,
Complainant,

A.M. No. P-20-4075
[Formerly OCA IPI-18-4786-P]

Present:

- versus -

PERALTA, C.J., Chairperson,
CAGUIOA,
REYES, J. JR.,
LAZARO-JAVIER, and
LOPEZ, JJ.

MELINDA E. SALINAS, Clerk of
Court III, and **KIM JOVAN L.**
SOLON, Legal Researcher I, both
of Branch 6, Municipal Trial
Court In Cities, Cebu City, Cebu,
Respondents.

Promulgated:

SEP 08 2020

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DECISION

REYES, J. JR., J.:

In a letter dated January 17, 2017 addressed to Court Administrator Jose Midas P. Marquez, Judge Pamela A. Baring-Uy (Judge Baring-Uy) of the Municipal Trial Court in Cities (MTCC), Branch 6, Cebu City alleged that respondents Melinda E. Salinas, Clerk of Court III, and Kim Jovan L. Solon, Legal Researcher I, who was also designated as Criminal Case Clerk-in-Charge, both of MTCC Branch 6, Cebu City, Cebu committed gross neglect of duty for failure to serve the Order dated June 29, 2016 in Criminal Case No. 154786-R entitled, "*The People of the Philippines vs. Rey Suson Labajo*," a case for violation of Batas Pambansa (BP) Blg. 6.¹

¹ *Rollo*, p. 59.

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On August 31, 2016, Judge Baring-Uy received a letter from Jessie Olis Calumpang, Jail Superintendent of the Cebu City Jail (Jail Superintendent Calumpang), inquiring about the status of Criminal Case No. 154786-R and the release order for Rey Suson Labajo (Labajo), the accused therein.

In a Decision² dated June 9, 2016, Judge Baring-Uy found Labajo not guilty of violation of BP Blg. 6.

On June 29, 2016, the Decision was promulgated. On the same date, the MTCC issued an Order³ (subject order) to furnish the Jail Superintendent of the Cebu City Jail with the copy of the said June 9, 2016 Decision, and to release Labajo from detention but only in so far as this case is concerned, unless he is being detained for some other legal causes.

Judge Baring-Uy later learned that the subject order was not served to Jail Superintendent Calumpang. Resultantly, Labajo remained in jail despite his acquittal.

On September 1, 2016, Judge Baring-Uy directed Salinas and Solon to explain in writing their failure to serve the subject order.⁴

In her Letter⁵ dated August 23, 2017 addressed to Judge Baring-Uy, Salinas stated that she turned over the case folder of Criminal Case No. 154786-R to Solon after recording it as disposed case in the monthly report. She instructed Solon to furnish copies of the subject order to the parties. She admitted that she inadvertently failed to verify with Solon whether the subject order was actually transmitted.

For his part, Solon admitted that he inadvertently failed to furnish Jail Superintendent Calumpang with a copy of the subject order. He explained that he “erroneously deemed” that the release of the copy of the June 9, 2016 Decision to Jail Superintendent Calumpang is tantamount to compliance with the June 29, 2016 Order. He apologized to the court and Labajo and emphasized that it was not his intention to delay the administration of justice nor to deprive Labajo of his right to liberty.⁶

On January 4, 2018, the Office of the Court Administrator (OCA) recommended that the Memorandum dated September 1, 2016 issued by Judge Baring-Uy be considered as an administrative complaint for gross neglect of duty against Salinas and Solon and directed them to submit their comments on the charge within ten (10) days from notice.⁷

² Id. at 39-43.

³ Id. at 50.

⁴ Id. at 7.

⁵ Id. at 15.

⁶ Id. at 8.

⁷ Id. at 2-4.

In her Comment⁸ dated March 23, 2018, Salinas referred to her letter dated August 23, 2017 and adopted its contents as part of her submission. She asseverated that she failed to send a copy of the subject order to Jail Superintendent Calumpang in the “sincere yet wrong belief” that Solon already transmitted copies to the parties. She claimed that her failure to inquire about the service of the subject order did not cause grave injury to Labajo’s liberty since he has other cases pending before the Regional Trial Court (RTC) of Cebu City for violation of Section 11 of Republic Act (R.A.) No. 9165.⁹

In his Comment¹⁰ dated March 26, 2018, Solon stated that upon receipt of Jail Superintendent Calumpang’s letter dated August 31, 2016 asking about the status of Labajo’s case, he immediately rectified the error by furnishing Labajo and Jail Superintendent Calumpang, through Jail Officer VR Fernandez, a copy of the subject order. He pointed out that even if it were promptly transmitted to Jail Superintendent Calumpang, Labajo would still remain in detention because of the other pending cases against him warranting his continued confinement. He maintained that the delay in the service of the subject order was not intentional nor wilful and prayed for the dismissal of the complaint against him.

Report and Recommendation of the OCA

In its evaluation and recommendation dated January 22, 2020, the OCA recommended: (1) that the administrative complaint against Salinas and Solon be re-docketed as a regular administrative matter; and (2) that they be found guilty of simple neglect of duty and each of them be ordered to pay a fine of ₱10,000.00 with a stern warning that a repetition of the same or similar acts shall be dealt with more severely.¹¹

The OCA declared that Branch Clerk of Court Salinas serves as both custodian of judicial records and administrative officer of the court who is duty-bound to supervise all subordinate personnel to make sure that they perform their duties well. It enunciated that Salinas’ failure to closely supervise the transmittal of the subject order reflects her failure to faithfully discharge her functions. Moreover, the OCA stated that when Solon failed to promptly transmit a copy of the subject order, albeit inadvertently, he was remiss in his duty. It noted that as criminal cases clerk-in-charge, the functions of a clerk under the 2002 Revised Manual for Clerks of Court apply to Solon despite the fact that he is occupying the position of a legal researcher. It concluded that the justified incarceration of Labajo cannot alter the fact that Salinas and Solon were remiss in their sworn duty to perform their respective functions diligently and effectively.

⁸ Id. at 52-55

⁹ COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002.

¹⁰ *Rollie*, pp. 23-31.

¹¹ See Administrative Matter for Agenda signed by Court Administrator Jose Midas P. Marquez and Deputy Court Administrator Jerry Lind N. Aldecoa-Deiorino; id. at 59-64.

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The OCA recommended that a fine in the amount of ₱10,000.00 be imposed on Salinas and Solon as an alternative sanction taking into consideration the fact that this is the first administrative charge against them.

The Court's Ruling

The Court adopts the findings and the recommendation of the OCA except as to the penalty.

The Code of Conduct for Court Personnel mandates the proper and diligent performance of official duties by court personnel at all times. Every court employee is expected to observe the highest degree of efficiency and competency in his or her assigned tasks. The reason is plain: the image of the courts as the administrators and dispensers of justice is not only reflected in their decisions, resolutions, or orders, but also mirrored in the conduct of their court staff. Hence, a court personnel who falls short of the exacting standards decreed by the Code warrants the imposition of administrative sanctions.¹²

Branch Clerk of Court Salinas and Legal Researcher and Criminal Cases Clerk-in-Charge Solon were found administratively liable for simple neglect of duty when they failed to immediately transmit the June 29, 2016 Order to the jail superintendent of the Cebu City Jail.

Jurisprudence defines simple neglect of duty as the failure of an employee or official to provide proper attention to a task expected of him or her, signifying a “disregard of a duty resulting from carelessness or indifference.”¹³ It is a less grave offense which is punishable by suspension for one month and one day to six months for the first offense, and dismissal from the service for the second offense. Simple neglect of duty presupposes a task expected of an employee.¹⁴

Salinas maintained that she handed the case folder of Criminal Case No. 154786-R to Solon with a verbal instruction to furnish the parties with copies of the subject order in accordance with their normal work procedure in managing disposed cases. She acknowledged that she failed to “follow up and check” if copies of the Order were sent to the parties.¹⁵ She, however, stressed that reliance on the regular performance of the task assigned to Solon as officer-in-charge is justified since no return of service is procedurally required as to ensure the actual and proper service of an Order of Release.¹⁶

As Branch Clerk of Court, Salinas is duty-bound to plan, direct, *supervise* and coordinate the activities of all personnel in her branch for

¹² *Heirs Ochea v. Maratas*, 811 Phil. 660 (2017).

¹³ *Re: Darwin A. Reci* (Resolution), 805 Phil. 290 (2017).

¹⁴ *Ruñez Jr. v. Jurado*, A.M. No. 2005-08-SC, December 9, 2005.

¹⁵ *Rollo*, p. 15.

¹⁶ *Id.* at 54.

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effectiveness and efficiency.¹⁷ Her duty to oversee her subordinates imposes upon her greater responsibility in ensuring that they perform their tasks properly, promptly and efficiently. In this case, however, Salinas failed to closely supervise Solon in the performance of his duties. She overly relied on their so-called “normal work procedure” and completely left the task to Solon without taking necessary measures to ensure that the parties timely received a copy of the subject order. Not even an inquiry as to the status of the case was made.

Salinas had been unmindful that even though Solon was the officer-in-charge to look after the criminal cases assigned in the court, at the end of the day, she remains the official custodian of judicial records. She still *controls and manages all records*, exhibits, documents, properties and supplies of the court pursuant to her non-adjudicatory function.¹⁸ She is chiefly responsible for the shortcomings of subordinates to whom administrative functions normally pertaining to them are delegated.¹⁹ To the mind of the Court, Salinas must also bear a share of the blame for failure to exercise a higher degree of care and vigilance in supervising her subordinates and managing court records and documents.

Solon does not dispute that it was his task to furnish a copy of the June 29, 2016 Order to Jail Superintendent Calumpang and that he inadvertently failed to promptly perform the same. While the Court accepts the apologies he tendered, Solon must still be held liable for the delay in the performance of his duty. It bears stressing that his failure to discharge his duty with the degree of responsibility and efficiency expected of him could have unduly deprived Labajo of his right to liberty and delayed the administration of justice had Labajo not been detained for some other legal cause. Solon further demonstrated disregard of the significance of his tasks when he admitted that he could no longer remember when and how Salinas gave the case record to him. Neither could he recall that Salinas talked to him about the transmittal of the subject order.

Solon is the Legal Researcher of MTCC Branch 6 of Cebu City. He was designated as Criminal Cases Clerk-in-Charge by Judge Baring-Uy in 2013 in the exigency of the service. When Judge Baring-Uy reported the infraction in 2016, Solon has been acting as clerk-in-charge for three years already. It is thus safe to assume that at that time Solon was already acquainted with the demands of his position and familiar with the duties and responsibilities attached to it. Still, Solon failed to timely transmit the subject order for which he should face disciplinary action.

The Court has consistently impressed upon court officials and employees the heavy burden and responsibility placed on their shoulders, in

¹⁷ Section D (1.3), paragraph 1.3.2.1., Chapter VII of the 2002 Revised Manual for Clerks of Court.

¹⁸ Section D (1.3), paragraph 1.3.2.3., Chapter VII of the 2002 Revised Manual for Clerks of Court.

¹⁹ *Panuncio v. Icaro-Velasco* (Resolution), 357 Phil. 839, 842 (1998).

view of their exalted positions as keepers of the public faith. Any impression of impropriety, misdeed or negligence in the performance of official functions must be avoided. Accordingly, we cannot countenance any conduct, act or omission on the part of all those involved in the administration of justice which would violate the norm of public accountability and diminish the faith of the people in the Judiciary.²⁰

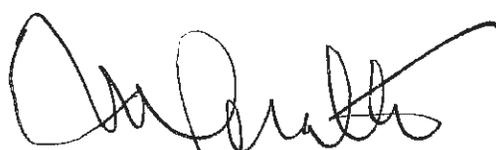
The Court agrees with the OCA that Salinas and Solon are guilty of simple neglect of duty. But we take into account their admission of fault, expression of apology for their carelessness, the absence of malicious intent for the delay, and the fact that this is their first administrative charge. Hence, the recommended fine of ₱10,000.00 on Salinas is just and appropriate. We, however, are of the view that the recommended fine of ₱10,000.00 may be too burdensome for Solon considering that as Legal Researcher I, he holds a position equivalent to Salary Grade 12 and receives a monthly salary of ₱24,495.00. Thus, the Court deems it proper to reduce the recommended fine on Solon to ₱5,000.00.

WHEREFORE, the Court finds respondents Melinda E. Salinas, Clerk of Court III, and Kim Jovan L. Solon, Legal Researcher I, both of Municipal Trial Court in Cities, Branch 6, Cebu City, Cebu, **GUILTY** of Simple Neglect of Duty. The Court imposes a **FINE** on Salinas in the amount of Ten Thousand Pesos (₱10,000.00) and on Solon in the amount of Five Thousand Pesos (₱5,000.00), with **STERN WARNING** that a repetition of the same or similar act in the future will be dealt with more severely.

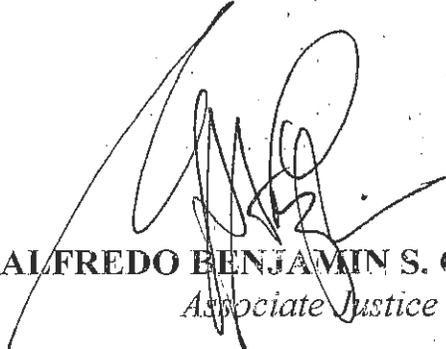
SO ORDERED.


JOSE C. REYES, JR.
Associate Justice

WE CONCUR:


DIOSDADO M. PERALTA
Chief Justice
Chairperson

²⁰ *Alejandro v. Martin*, (Resolution), 556 Phil. 532 (2007).



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice



MARIO N. LOPEZ
Associate Justice