

SECOND DIVISION

[A.M. NO. P-06-2219 [FORMERLY A.M. NO. 06-7-392-RTC], July 13, 2009]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
OFFICER-IN-CHARGE AND LEGAL RESEARCHER NILDA CINCO,
REGIONAL TRIAL COURT, BRANCH 28, CATBALOGAN, SAMAR,
RESPONDENT.**

DECISION

CARPIO MORALES, J.:

By letter of December 11, 2004,^[1] Nilda C. Cinco (respondent), Legal Researcher and Officer-in-Charge of Branch 28, Regional Trial Court (RTC) of Catbalogan, Samar, reported to Presiding Judge Sibanah E. Usman that there were five^[2] missing records of cases in their Branch and that she suspected the one in charge of Criminal Cases, Lilia C. Raga,^[3] to be behind the loss, hence, she recommended that an investigation be conducted.^[4]

The pertinent portions of respondent's letter-report to Judge Usman read, quoted verbatim:

x x x x

I discovered that three of the above-named records were missing on the 3rd day of November 2004, when Armando A. Canes, accused in Criminal Case No. 5885, posted bail for his temporary liberty. It was Judge Carmelita T. Cuares [of RTC, Br. 27] who signed, in view of your leave during the month of November. When the Cashbond of Armando Canes was submitted to our office, I look for its record purposely to attach said Cashbond. I could not find the record so I asked Alicia T. Redaja about the whereabouts of the record considering that she is the clerk assigned to take charge of Criminal Cases records and I also remembered that said record with some others were newly filed cases. . . Miss Redaja could not find the record . . . We inventoried the records twice in order to be sure whether the missing records were really missing, and we found out that three of the above-mentioned records were really missing.

On November 10, 2004 . . . I went to the Police Station and reported the loss of the records. On the 11th of November 2004, Miss Redaja found out that another record was missing - the record of Criminal Case No. 5839 - People vs. Crispen Libao. This record was still in the cabinet when we inventoried the records and was found out missing on the 11th of November 2004.

x x x x

The last record that I found to be missing was the record of CAD Case No. 4 GLRO Cad Rec. No. 1378 Lot No. 385- Director of Lands vs. Luisa P. Sarmiento, which I thought was taken after we had inventoried the records just like the record of Criminal Case No. 5839-People vs. Crispin Libao which was also taken after we had inventoried the records, **but before I padlock the cabinets.**^[5] (Emphasis and underscoring supplied)

Judge Usman referred respondent's letter, by letter of December 21, 2004,^[6] to the Office of the Court Administrator (OCA) which in turn referred it to RTC Catbalogan Acting Executive Judge Carmelita T. Cuares (Judge Cuares) for investigation.

THE INVESTIGATING JUDGE'S
REPORT AND ACTION TAKEN
THEREON.

Judge Cuares' Memorandum Report^[7] was summarized by the OCA in its June 29, 2006 Report:

x x x x

. . . [A]lthough Officer-in-Charge Cinco is the custodian of the missing records, all court personnel have access to the records since these are only placed either on top of Cinco's table, on her chair or in some corners, due to lack of space inside the cabinets. OIC Cinco suspects that the lost records were taken by Lilia C. Raga, Process Server of that court, to discredit her because she refused to sign a petition against their presiding judge, Judge Sibanah E. Usman.

x x x x

Judge Cuares questioned the employees who had access to the court records as well as the security guards in the Hall of Justice. She found no evidence that would implicate Mrs. Raga to the missing records. Nonetheless, the case records that were reported were all reconstituted except Civil Cases Nos. 7412 and 6336 that had long been terminated.

Judge Cuares **recommended** that (a) Judge Usman be reprimanded for his failure to immediately investigate the loss; (b) Nilda C. Cinco be reprimanded for the loss of the case records; be warned to be extra careful in handling case records, and to adopt a system of accounting for every case record at the end of office hours to ensure that all records are accounted for; and (c) the other employees implicated in this case be relieved from liability for lack of evidence against them. Further, so as not to repeat the occurrence of loss of records, the judge should ensure that, unless authorized by the court, no one be allowed to meddle with the affairs of the court.^[8] (Emphasis and underscoring supplied)

Respondent, by letter dated September 18, 2006,^[9] in compliance with this Court's directive, manifested that she was not willing to submit the case for decision on the basis of the pleadings/records already filed. And she requested for a copy of the complaint against her so that she could file her answer.

The Court thereafter furnished respondent a copy of Judge Cuares' Memorandum Report and directed her to comment thereon. Respondent did comply.

EVALUATION BY THE OCA OF
THE INVESTIGATING JUDGE'S
REPORT AND ACTION TAKEN
BY THE COURT

The OCA, by Memorandum dated March 6, 2008,^[10] evaluated respondent's Comment in this wise:

Section 7 of Rule 136 of the Revised Rules of Court is explicit that the Clerk of Court shall safely keep all records, papers, files, exhibits and public property committed to her charge. Being the Acting Clerk of Court, respondent Cinco is the custodian of the court records and as such, she is expected to discharge her duty of safekeeping court records with diligence, efficiency and professionalism. Consonant with this duty of safekeeping the records of cases is the bounden duty of the custodian to see to it that the records are kept in secure places.

In this case, however, respondent Cinco admitted that prior to the loss of the case records she leaves the cabinet where she keeps the case records unlocked in order that her co-employees shall have direct access to it every time they need the records. **Obviously, respondent Cinco failed to meet the requirement expected of her as a custodian.** The fact that she keeps the cabinets unlocked so that her co-employees could have direct access to the case records is a manifestation of her utter lack of diligence and carefulness in performing her duty as a custodian. She did not even bother to take any precautions to see to it that only authorized court personnel shall have access to the cabinets where the records are kept because she made it directly accessible to all by leaving it unlocked. Court records are confidential documents and respondent should have adopted measures to safeguard and ensure their confidentiality and integrity.

To escape culpability, respondent attributes the loss of the case records to the fact that the court lack sufficient cabinets where the court records could be safely kept and to Lilia Raga whom she suspects to have taken the case records. We find this untenable. As noted by then DCA Elepaño in the Agenda report dated 29 June 2006, **a simple exercise of diligence could have alerted respondent to inform her judge for the need of additional storage/filing cabinets and to resort to reliable safety measures to ensure the safety of the case records.** Further, aside from respondent's bare allegations and speculations, no