

THIRD DIVISION

[A.M. NO. P-05-2092 (FORMERLY OCA IPI NO. 04-2064-P), November 10, 2006]

ATTY. PERFECTO A.S. LAGUIO, JR., COMPLAINANT, VS. MILA AMANTE-CASICAS, PROCESS SERVER, METROPOLITAN TRIAL COURT, PASIG CITY, BRANCH 68, RESPONDENT.

DECISION

CARPIO MORALES, J.:

Atty. Perfecto A.S. Laguio, Jr. (complainant) filed on September 7, 2004 a complaint for sum of money, "*Emilie Oblepias v. Spouses Makaraig San Agustin and Virginia San Agustin*," and deposited P1,000 for service of summons fee covered by Official Receipt No. 21065483.^[1]

The case, filed before the Metropolitan Trial Court of Pasig, was docketed as Civil Case No. 11097 and raffled to Branch 68.

On his return to the trial court two weeks later to inquire whether summons had been served, respondent replied in the negative, she telling complainant that no service fee had been paid.

When the official receipt of payment of the fee was shown to her, respondent assured complainant that she would serve the summons and furnish a copy of her return thereof within one week.

Finding respondent to have welched on her promise to serve the summons despite numerous follow ups, complainant filed the present administrative complaint^[2] on November 24, 2004.

In her Comment dated January 25, 2005,^[3] respondent claimed that she had, before the administrative complaint against her was filed, already served the summons through substituted service, offering the following explanation:

. . . [A]s soon as I got the copy of the summons with complaint, I immediately proceeded to the defendants' address to serve the said court process but since nobody was around during the time of service, I opted to try to serve it again personally on the defendants. Due to the fact that there are other processes to be served and I assist in the hearings, I was not able to [go] back [until] November 10, 2004 to serve again the summons to defendants, but since they were still not around at the time, the summons with complaint was received by Jonalyn Pardinez, defendants' secretary, as evidenced by her signature appearing o[n] the face of Summons dated September 17, 2004 attached thereto.^[4]

Much as I wanted to return to the defendants' given address at Quezon City to personally serve the summons within the next few weeks, I could not find the time to serve it immediately considering that aside from being a process server, I was also designated to discharge the duties of the criminal-in-charge since the position was vacated, add to that the instructions of the Presiding Judge to prioritize the service of notices of cases involving detention prisoners. [5] (Underscoring supplied)

Complainant subsequently brought to the attention of the Court Administrator, by letter of February 23, 2005, [6] about what he thought was respondent's deliberate act of delaying for 20 days the mailing of a copy of her Comment to him, for while copy of her Comment was filed at the Office of the Court Administrator (OCA) on January 28, 2005, his copy was mailed only on February 17, 2005. [7]

The OCA, by Report dated September 28, 2005, [8] made the following Evaluation and Recommendations:

EVALUATION: Under the law, upon the filing of the complaint and payment of the requisite legal fees, the Clerk of Court shall forthwith issue the corresponding summons to the defendants (Sec. 1, Rule 14, Rules of Court).

The purpose why summons must forthwith be served upon payment of the legal fees is to prevent unnecessary delay in the termination of the case. Summons serves as notice to the defendant that an action has been filed against him. It informs the defendant who initiated the action, in what court the action is filed and the relief sought. Service of summons confers court jurisdiction over the person of the defendant.

There is a presumption that the Clerk of Court immediately issued the summons after the requisite legal fees had been paid. After the summons is issued by the Clerk of Court, it is the duty of the Process Server to serve the same upon the defendant promptly and without delay.

The complainant paid the legal fees when the complaint was filed on September 7, 2004. Respondent alleged that she served the summons, by substituted service on November 10, 2004, or two (2) months after the requisite legal fees had been paid. . . . [R]espondent is liable for negligence for serving the same more than two (2) months after the complaint was filed and legal fees was paid. The defense of the respondent that the summons was not immediately served due to her heavy workload would not exempt her from administrative liability. Her primary duty, as Process Server, is to effect prompt and effective service of summons and other processes issued by the court. Respondent's heavy caseload, because aside from being the Process Server, she was designated as clerk in charge of criminal cases only mitigates her liability.

RECOMMENDATION[S]: Respectfully submitted for the consideration of this Honorable Court [are] the recommendation[s] that the instant Informal Preliminary Inquiry be redocketed as a regular administrative matter and respondent be suspended from office for one (1) month and one (1) day for Simple Neglect of Duty with a warning that repetition