

EN BANC

[A.M. NO. CA-05-20-P (FORMERLY OCA IPI NO. 05-81-CA-P), September 09, 2005]

ASSOCIATE JUSTICE DELILAH VIDALLON-MAGTOLIS, COURT OF APPEALS, COMPLAINANT, VS. CIELITO M. SALUD, CLERK IV, COURT OF APPEALS, RESPONDENT.

DECISION

CALLEJO, SR., J.:

Cielito Salud, Clerk IV, Mailing Section of the Judicial Records Division, Court of Appeals (CA) stands charged with the following offenses:

1. Inefficiency and incompetence in the performance of official duties;
2. Conduct grossly prejudicial to the best interest of the service; and
3. Directly or indirectly having financial and material interest in an official transaction, under Section 22, paragraphs (p), (t) and (u), Rule XIV of the Omnibus Rules Implementing the Civil Service Law.

[1]

The Facts

Melchor Lagua was found guilty of homicide in Criminal Case Nos. 118032-H and 118033-H before the Regional Trial Court of Pasig City, Branch 163.^[2] On appeal, the case was assigned to the Sixth Division of the Court of Appeals, docketed as CA-G.R. CR No. 27423. Lagua, who was then detained at the Bureau of Prisons National Penitentiary in Muntinlupa City, filed a Very Urgent Petition for Bail. Finding the petition well-taken, the appellate court issued a Resolution on October 9, 2003, directing him to post a P200,000.00 bond.

Lagua's bond was approved in a Resolution^[3] dated November 6, 2003, where the appellate court also directed the issuance of an order of release in favor of Lagua. The resolution was then brought to the Office of the Division Clerk of Court, Atty. Maria Isabel M. Pattugalan-Madarang, for promulgation.

Irma Del Rosario, Utility Worker, noticed the respondent's unusual interest in the Lagua case. The respondent had apparently been making inquiries whether the appellate court had already directed the issuance of an order of release in the said case and was initially told there was none yet. Due to his persistence, the records of the case were eventually found.^[4] Atty. Madarang then directed the typing of the Order of Release Upon Bond,^[5] and to notify the mailing section that there were orders requiring personal service.^[6] At around 4:00 p.m., the respondent then went to Atty. Madarang's office and assisted in arranging and stapling the papers for release. He brought the said resolutions and other papers himself to the Mailing

Section.^[7]

On November 7, 2003, the respondent went to the National Penitentiary to serve the resolution and order of release in the Laguna case. The respondent left the prison compound at around 2:30 p.m.^[8]

In the meantime, Atty. Madarang received a telephone call from a certain Melissa Melchor, who introduced herself as Laguna's relative. It was about 2:00 p.m. The caller asked her how much more they had to give to facilitate Laguna's provisional liberty. The caller also told Atty. Madarang that they had sought the help of a certain Rhodora Valdez of the Regional Trial Court (RTC) of Pasig, where the criminal case originated, but were told that they still had a balance to be given to Justice Magtolis and Atty. Madarang through the respondent. Atty. Madarang then called the said court and asked to speak to Ms. Valdez, pretending to be Laguna's relative.

What transpired thereafter is contained in Atty. Madarang's Affidavit dated December 8, 2003, as follows:

4. That upon telephone queries made with the office of the Clerk of Court of RTC Pasig, I learned that Rhodora Valdez is the incumbent Process Server of RTC, [Branch] 163, Pasig City, from which the original case against accused-appellant Laguna originated. Disguising myself as accused-appellant Laguna's relative, I dialed [Branch] 163, RTC, Pasig (6314273) but Rhodora Valdez did not report for work that day, according to Baby (also known as Ester), her officemate (who) answered my call. She added that Rhodora Valdez has been waiting for us (Laguna's relatives) to call. Her exact words were these: "Wala si Rhodora. Meron lang siyang nilakad. Pero kahapon pa nya hinihintay ang tawag nyo. May kulang pa kayo eh. Kailangan kasing i-en banc sa Court of Appeals ang kaso ni Laguna."
5. That I coordinated with Ms. Cecil Secarro, the Acting Chief of the Mailing Section, to inquire if it was usual/normal for her to text her process servers on the field for an update of their deliveries, to which she answered in the affirmative. While she was in the office, she texted Salud for his whereabouts and he replied, that he was on his way back to Quezon City. That was before 4 p.m., adding that his deliveries were ok.
6. That I got Salud's mobile phone number from Ms. Secarro and started texting him at about the same time Ms. Secarro did. I represented myself as Arlyn, Laguna's relative. Most of his text messages are still stored in my mobile phone. In fact, I received one text message from him while I was at the office of Justice Magtolis, (the Chairman of the 6th Division and the ponente of C.R. No. 27423) in the late afternoon of November 7, 2003 while reporting to her this incident. Those stored in my phone are the following:

1. bkit, C rhodora to. 639204439082. – Nov. 2003,
15:36:15

2. CNO KAMAGANAK AT ANONG PANGALAN MO – 639204439082, 7 Nov 2003 16:14:47
3. SINO K KC NAGHIWALAY N KAMI – 639204439082, 7 Nov 2003 16:40:21
4. TAWAG K S AKIN – 639204439082 – 7 Nov 2003 17:18:47
5. NARELEASE N C MR. LAGUA. NAGKITA N B KAYO – 639204439082-7 Nov 2003 19:44:52
6. Magkano b and binigay nyo sa middle nyo. Puede bang malaman – 639184470111-7 Nov 2003 20:32:05
7. Gud evening. May gusto lng akong malaman. Sana alang makaalam kahit cino. Lito – 639184470111-7 Nov. 2003 19:54:20
8. Cno ang kausap n Rhodora. Pwede bang malaman – 639184470111-7 Nov 2003 20:37:57
9. May landline ka. Tawagan kta bukas nang umaga – 639184470111-7 Nov 2003 20:56:31
10. Wag s Court of Appeal. Txt na lang kta kung saan. – 639184470111-7 Nov 2003 20:52:58
11. Gusto mo bukas nang umaga magkita tyo. 639184470111 – 7 Nov 2003 20:57:10
12. D ba pwede bukas tyo kita. May gusto lang ako malaman – 639184470111 7 Nov 2003 21:02:41
13. D 2ngkol kay rhodora duon sa kasama ko kaninang lalakeng pinsan – 639184470111 – 7 Nov 2003, 21:04:28
14. Ala po ako sa Lunes sa opis. Sa hapon po puede kyo – 639184470111, 7 Nov 2003 21:07:23
15. Kay Melchor Lagua 639184470111 – 7 Nov 2003 21:08:19
16. Kasama ko cya kanina nang lumabas – 639184470111 – 7 Nov. 2003 21:13:05
17. Ano m ba Melchor Lagua – 639184470111 – 7 Nov 2003 21:15:52

18. Between 5 and 5:30 ng hapon. Bkit.
639184470111 – 7 Nov. 2003 21:54:24

19. 3 PM PUWEDE KB – 639004039082 10 Nov 2003
12:09:32

20. Kilala mo b c rhodora. Nagkita na b kayo. Ala
naman problema sa kanya. Ok naman
639184470111 – 7 Nov 2003, 21:57:13

21. MAGKITA N LANG TAYO – 639204439082 – 10 Nov.
2003, 12:20:16

22. A, OK, NAGKITA N B KAYO NG KAMAGANAK MO –
639204439082 – 10 Nov 2003 15:12:14

23. D TALAGA AKO DARATING DAHIL WALA AKONG
KAILANGAN S IYO. – 639204439082 – 10 Nov
2003 18:36:03

7. That Salud called me up in the morning of November 8, 2003 at around 7:33 but I purposely did not answer him. Why did he need to call me up?
8. That I personally called up the Bureau of Prisons for the exact time the Order of Release was delivered and when accused appellant Lagua was released. I learned that the Order of Release was received at 9:15 A.M. and that Lagua was released between 5-5:30 P.M. of November 7, 2003.
9. That I was able to talk to Rhodora Valdez the following Monday, November 10, 2003. Again, I introduced myself as Lagua's relative, Arlyn and told her I only wanted to know how much more we had to pay for Lagua's release. She refused to entertain me because according to her, "Hindi ikaw ang kausap ko. Duda ako sa yo. Kung gusto mo, puntahan mo ako dito bukas, para magkita tayo. Pero lumabas na si Lagua. Itinawag sa akin ni Lito Salud." Then, she [hung] up.
10. That on Tuesday, November 11, 2003, I brought Salud, accompanied by Ms. Secarro to Justice Magtolis. Out of the confrontation, we discovered that Salud did not properly serve the copies of the Resolution and Order of Release upon the accused-appellant and his counsel, Atty. Salvador C. Quimpo of the Quimpo Dingayan-Quimpo and Associates. He gave them to a certain Art, allegedly Lagua's relative who he claimed approached him at the Bureau of Prisons in the morning of November 7, 2003. He told Justice Magtolis that he gave these documents to Art, who promised to take care of them, even before he could deliver the copy addressed to the Director of Prisons. He never mentioned that this Art was connected with the office of accused-appellant's counsel. Because of this information from Salud himself, I did not sign the

Certificate of Service, Annex "C".

11. That several days later, Salud accompanied by Ms. Secarro, came to my office to apologize. But before he could even say a word, he broke down in [wails]. In between his loud cries, he uttered, "Boss, patawad po, alang-alang sa aking mga anak."^[9]

On November 11, 2003, Justice Magtolis called the respondent to her office. When confronted, the respondent denied extorting or receiving money for Laguna's release, or in any other case. He, however, admitted serving the copies of resolution and order of release intended for Laguna and his counsel to Art Baluran.^[10] Justice Magtolis then called the respondent to a meeting with Clerk of Court Atty. Tessie L. Gatmaitan, who stated that she would transfer the respondent to another office which has nothing to do with cases.

Justice Magtolis lodged the complaint against the respondent in a Letter dated November 14, 2003, containing, among others, the following allegations:

The delivery of resolutions/orders to unauthorized persons and "complete strangers" who promised to "take care thereof" ("siya na raw ang bahala") constitutes not only neglect of duty but also conduct prejudicial to the best interest of the service. Staying for the whole day within the vicinity of the National Bilibid Prisons to the point of failing to fulfill his other duties for the day constitutes inefficiency and incompetence in the performance of official duties. On the other hand, the use of my name and that of our Division Clerk of Court to illegally solicit financial or material benefit from parties with pending cases before this Court is illegal *per se*.

In view of the foregoing, it is respectfully requested that Cielito Salud be subjected to an administrative investigation and disciplinary action.^[11]

Attached to the complaint were the following documents to support the charges:

ANNEX "A" - Record of the cases received by Salud on November 6, 2003 for delivery/service the following day, November 7, 2003. Please note that in each of the 3 cases assigned to him, there are several parties/counsels to be served.

ANNEX "B" - Certificate of Service signed by Salud, attested by the Acting Chief of the Mailing Section and Division Clerk of Court Ma. Ramona L. Ledesma, showing that the parties/counsel in SP-67586 were served only on November 10, 2003 (not on November 7, 2003).

ANNEX "C" - Certificate of Service for CR-27423, and corresponding Delivery Receipts.

"C-1" - Delivery Receipts for Defense Counsel Salvador Quimpo signed by someone whose signature was identified by Salud [as]
"Art" - a cousin of appellant Melchor Laguna.

"C-2" - Delivery Receipt for the accused-appellant, received by