

SECOND DIVISION

[A.M. No. P-16-3521 [Formerly OCA I.P.I. No. 15-4493-P], September 04, 2017]

**HON. MARIA CRISTINA C. BOTIGAN-SANTOS, PRESIDING JUDGE
OF THE MUNICIPAL TRIAL COURT, SAN ILDEFONSO, BULACAN,
COMPLAINANT, VS. LETICIA C. GENER, CLERK OF COURT OF THE
MUNICIPAL TRIAL COURT, SAN ILDEFONSO, BULACAN,
RESPONDENT.**

DECISION

PERALTA, J.:

Before us is a Letter^[1] dated August 28, 2014 sent by Judge Maria Cristina C. Botigan-Santos (*Judge Botigan-Santos*), Presiding Judge of the Municipal Trial Court (MTC), San Ildefonso, Bulacan which reported a robbery incident that took place in her court on August 7, 2014.

At the time the robbery incident occurred, Judge Botigan-Santos was on Immersion Program^[2] (July 7 to 11, 2014 and July 28 to August 15, 2014), having been appointed as Judge of the MTC, San Ildefonso, Bulacan on June 16, 2014.^[3] Judge Botigan-Santos took her oath on June 30, 2014.^[4]

On October 21, 2014, the Office of the Court Administrator (OCA) referred the matter to then Hon. Ma. Theresa V. Mendoza-Arcega (*Judge Mendoza-Arcega*), Executive Judge, Regional Trial Court (RTC), Branch 17, Malolos City, Bulacan, for investigation and report.^[5]

In her Report^[6] dated December 11, 2014, Executive Judge Mendoza-Arcega stated that, upon investigation, it appeared that apart from the stolen monies of the court employees, the trial court also lost certain exhibits, particularly: two (2) .38 caliber firearms which served as exhibits in Criminal Case No. 7310 (*People vs. Jerry Ambrocio*) and Criminal Case No. 7007 (*People vs. Hipolito Bermudez*). These exhibits were lost while in *custodia legis*. It was also found out that said criminal cases to which the exhibits were presented had long been dismissed or terminated. The records reveal that the MTC of San Ildefonso, Bulacan kept possession of the subject exhibits despite the fact that said criminal cases had been terminated for over sixteen (16) years. Judge Mendoza-Arcega likewise stated that while all the concerned employees of the MTC of San Ildefonso, Bulacan have extended their full cooperation in the investigation, the police authorities failed to identify the malefactor of the reported robbery.

Thus, in the Resolution^[7] dated October 7, 2015, the Court, upon the recommendation of the OCA, considered the instant matter as a formal administrative complaint against Clerk of Court Leticia C. Gener (respondent). The

Court, thereafter, required her to comment on the allegation against her.

In her Comment^[8] dated November 25, 2015, respondent clerk of court offered her apologies for the robbery incident that transpired on August 7, 2014. She then alleged that she was appointed in the MTC of San Ildefonso, Bulacan on March 1, 1998 as Clerk II, then was promoted as Court Interpreter. In April 2005, she was promoted as Clerk of Court, however, she lamented that she was not formally apprised of the physical custody of the exhibits on Criminal Case Nos. 7310 and 7007, and of their termination in 1998.

Respondent asserted that as clerk of court, she regularly conducts inventory of the properties under her custody but due to lack of formal turn-over of the exhibits on Criminal Case Nos. 7310 and 7007, she was unaware that the missing exhibits were the subject of the terminated cases. Furthermore, she alleged that she thought a formal proceeding was necessary in order to dispose of/turn-over the subject firearms to the custody of PNP-FEU which she claimed could not be done prior to the date of the robbery because of the appointment of a new presiding judge.^[9]

Respondent prayed for the indulgence of the Court for her failure to comply with the established procedures/guidelines in the disposal of exhibits. She claimed that the robbery incident was unforeseeable and abrupt and that in her many years of service, she has performed her duties diligently to the best of her knowledge and abilities.^[10]

On February 24, 2016, the Court referred the instant case to the OCA for evaluation, report and recommendation.^[11]

In its Memorandum to the Court dated June 7, 2016, the OCA has found the complaint meritorious. The OCA did not give credence to respondent's claim that she was not apprised of the physical custody of the two missing 38-caliber firearms which served as exhibits. The OCA opined that respondent's assertion that she regularly conducted inventory of the properties under her custody was inconsistent with her claim that she was clueless as to the connection of the missing exhibits to the terminated criminal cases.

The OCA added that respondent should have been liable for gross neglect of duty for the loss of the exhibits as this could have caused miscarriage of justice. However, considering that the criminal cases related to the exhibits were already long terminated and that the missing exhibits will not affect any pending case before the trial court, the OCA opted instead to recommend that respondent be held liable for simple neglect of duty only.

The OCA further recommended that respondent be imposed of a fine of P3,000.00 instead in order not to hamper the performance of the duties of her office.

We are in accord with the findings and observations of the OCA, except as to the recommended penalty.

We cannot overemphasize that those charged or connected with the task of dispensing justice carry a heavy burden of responsibility. The clerk of court is the administrative officer of court and has, *inter alia*, control and supervision over all

court records. The Rules of Court charge her with the duty of faithfully keeping the records, papers, files and exhibits in cases pending before her court. As custodian of the records of the court, it is her duty to ensure that the records are complete and intact. She plays a key role in the complement of the court and cannot be permitted to slacken off in his job under one pretext or another.^[12]

In the instant case, after considering the records and the investigations conducted on the matter, it is undisputed. that respondent failed to meet the requirement expected of her as a Clerk of Court. Section 7^[13] of Rule 136 of the Rules of Court is explicit that the Clerk shall **safely keep** all records, papers, files, **exhibits**, and public property committed to her charge. The Office of the Clerk of Court performs a very delicate function, having control and management of all court records, exhibits, documents, properties and supplies. Being the custodian thereof, the clerk of court is liable for any loss, shortage, destruction or impairment of said funds and properties.^[14]

As clerk of court, respondent's duties include conducting periodic inventory of dockets, records and exhibits and ensuring that the said records and exhibits of each case are accounted for. If she has been regularly conducting inventory of these, she could not have missed the subject firearms which has been sitting in the cabinet for more than 15 years. Also, the fact that she was unaware that the firearms were exhibits of cases which has been terminated for a very long time will tell that she has been remiss in the performance of her duties. Suffice it to say, it is incumbent upon her as the Clerk of Court to ensure an orderly and efficient record management in the court. Clearly, due to respondent's failure to take precautionary measures to prevent loss of court exhibits, respondent was negligent in her responsibility as custodian of records/exhibits.

Moreover, under the 2002 Revised Manual for Clerks of Court, the Clerk of Court, being the officer in charge of the court's exhibits is mandated to observe the prescribed procedure in the disposal and/or destruction of court exhibits when they are no longer needed, to wit:

CHAPTER XII

Disposal and/or Destruction of Court Records, Papers and Exhibits

A. PROCEDURE

To establish a uniform procedure in the disposal or destruction of records, papers and exhibits pertaining to court cases terminated for at least fifteen (15) years, it is hereby provided that all Courts, except the Supreme Court, are enjoined to strictly comply with the following rules:

x x x x

B. DISPOSITION OF EXHIBITS IN THE CUSTODY OF COURTS WHICH ARE NO LONGER NEEDED AS EVIDENCE

x x x x

2. **Firearms, Ammunitions and Explosives**