

FIRST DIVISION

[A.M. No. RTJ-14-2386 (formerly OCA I.P.I. No. 12-3913-RTJ), September 16, 2015]

JOSEFINA M. CABUHAT, COMPLAINANT, VS. JUDGE REYNALDO G. ROS, CLERK OF COURT JEWELYN V. CARREON AND CLERK III JULIUS B. SALONGA, ALL OF REGIONAL TRIAL COURT, BRANCH 33, MANILA AND CLERK OF COURT VII JENNIFER DELA CRUZ-BUENDIA, OFFICE OF THE CLERK OF COURT, REGIONAL TRIAL COURT, MANILA, RESPONDENTS.

RESOLUTION

PEREZ, J.:

This resolves the complaint^[1] dated 11 July 2012 filed by Josefina M. Cabuhat (complainant) charging Judge Reynaldo G. Ros (Judge Ros), Clerk of Court V Jewelyn V. Carreon (Carreon) and Clerk III Julius B. Salonga (Salonga), all of Regional Trial Court (RTC), Branch 33, Manila and Clerk of Court VII Jennifer Dela Cruz-Buendia (COC Buendia), Office of the Clerk of Court (OCC), RTC, Manila with grave misconduct and gross neglect of duty.

The facts of the case as culled from the records and summarized in the 12 November 2014 Report^[2] of Associate Justice Isaias P. Dicdican (Investigating Justice) are as follows:

Civil Case No. 172750-CV-Heirs of Romeo Cabuhat vs. PAL Employees' Savings and Loan Association, Inc. (Collection of Sum of Money with Damages) Branch 29 of the Metropolitan Trial Court of Manila (MeTC).

Romeo Cabuhat ("Cabuhat"), a member of the PAL Employees Savings and Loan Association, Inc. ("PESALA"), died on August 25, 1999. After his death, PESALA remitted to his wife and children ("Heirs of Cabuhat") an amount which was equivalent to eighty percent (80%) of Cabuhat's capital deposit to the said association. Meanwhile, the amount representing the twenty percent (20%) of his capital contribution to the association was withheld by PESALA.

In view of the refusal of PESALA to remit the balance of twenty percent (20%) of Cabuhat's capital contribution in favor of the heirs of the latter, the Heirs of Cabuhat filed a case for collection of sum of money in the Metropolitan Trial Court of Manila ("MTC of Manila") against PESALA, seeking to collect the amount of Php 226,895.18 from the latter representing the twenty percent (20%) of the amount of the capital

contribution of the deceased Cabuhat to the said association. They were represented in the aforesaid case by herein complainant Josefina M. Cabuhat who was the widow of Romeo Cabuhat ("complainant"). The said case was docketed as Civil Case No. 172750-CV.

On November 24, 2005, Branch 29 of the MTC of Manila rendered a decision in Civil Case No. 172750-CV in favor of the Heirs of Cabuhat. The said court ordered PESALA to refund to the Heirs of Cabuhat the remaining 20%) of the total contributions of the late Romeo Cabuhat to the association, plus interest and attorney's fees.

Civil Case No. 06-114514-Heirs of Romeo Cabuhat vs. PAL Employees' Savings and Loan Association, Inc. (Appeal from Civil Case No. 172750-CV) Branch 33 of the Regional Trial Court of Manila

PESALA then filed an appeal to the Regional Trial Court of Manila ("RTC of Manila") from the November 24, 2005 decision of the MTC of Manila. The said case was docketed as Civil Case No. 06-114514 and it was raffled-to Branch 33 of the said court. On June 19, 2006, the RTC of Manila rendered a Decision affirming the ruling of the MTC of Manila. A Motion for Reconsideration of the June 19, 2006 decision of the RTC of Manila was thereafter filed by PES ALA in the said court.

On November 25, 2011 and December 13, 2011, herein complainant filed separate *ex parte* motion to remand the record of Civil Case No. 06-114514 to its court of origin or to the MTC of Manila for the proper execution of the trial court's decision. Acting on the *ex parte* motion, herein respondent Judge Reynaldo G. Ros ("respondent Ros") of the RTC of Manila issued an Order dated February 29, 2012 directing the remand of the record of Civil Case No. 06-114514 to its court of origin (MTC of Manila) for proper disposition.

Pursuant to the February 29, 2012 Order of the RTC of Manila, herein respondent Jennifer H. Dela Cruz-Buendia ("respondent Buendia"), Clerk of Court of the RTC of Manila, transmitted the entire record of Civil Case No. 06-114514 to the Clerk of Court of the MTC of Manila. Thereafter, on April 13, 2012, the complainant filed in the MTC of Manila an *Ex Parte* Motion for Execution of Final Judgment and Issuance of Writ of Execution. However, in an Order dated May 8, 2012, the said motion for execution was denied by the said trial court, through Presiding Judge Rosalia I. Hipolito-Bunagan on the ground that there was no entry of judgment yet in Civil Case No. 06-114514.^[3]

Complainant claims that she is the representative of the heirs of Romeo Cabuhat in the aforesaid civil case. She averred that she learned of the 19 June 2006 Decision of the RTC of Manila in her favor only on 5 October 2011 or five (5) years after rendition of the decision. On the said date, her brother, Teodorico Miranda, Jr. went to RTC, Branch 33, Manila and was informed by Salonga that Civil Case No. 06-114514 had already attained finality.

Complainant alleged that she thereafter asked Salonga if she could see the case record of Civil Case No. 06-114514 but was told that the same was already stored in the "*bodega*" or the court's storage room. Salonga allegedly suggested that complainant instead file, a motion to remand the case to the Metropolitan Trial Court (MeTC) of Manila.

Complainant filed two (2) motions to remand the case to the MeTC of Manila. She, however, lamented that despite the lapse of four (4) months and numerous follow-ups, Salonga and Carreon still could not produce or show to her the record of Civil Case No. 06-114514.

Finally, the case record was found and on 29 February 2012, Judge Ros issued an order remanding the record of the case to the court of origin.

On 13 April 2012, complainant filed a motion for issuance of writ of execution. During the hearing, it was discovered from the record that there was no resolution yet on the motion for reconsideration filed by defendant-appellant PESALA on 21 July 2006 assailing the decision rendered by RTC, Branch 33, Manila. Consequently, the MeTC of Manila denied the motion for execution on the ground that Civil Case No. 06-114514 had not yet attained finality.

This prompted complainant to file the instant administrative complaint against herein respondents. She contended that Judge Ros committed an irregularity in the performance of his duties as a presiding judge when he issued an order remanding the record of Civil Case No. 06-114514 to MeTC of Manila despite the fact that the said case had not yet attained finality.

She also complained against Carreon and Salonga for their negligence in the performance of their respective duties, particularly, for taking them a period of more than four (4) months just to produce the record of Civil Case No. 06-114514. Complainant also pointed out the negligence of COC Buendia for issuing a transmittal letter on 28 March 2012 stating that there was already an entry of judgment in the subject case despite the fact that there was none.

Acting on the complaint, the Office of the Court Administrator required the respondents to file their respective comments^[4] on the complaint of complainant.

Judge Ros^[5] averred that he was surprised when he learned that an administrative complaint was filed against him because he closely monitors all the cases in his court that are submitted for decision and resolution. He contended that in his seventeen (17) years as a trial court judge no one has ever complained against him for failure to resolve pending incidents within the reglementary period. He claimed that he decided the subject case shortly after it was submitted for decision and that even the complainant was surprised upon knowing that the case had been resolved as early as 19 June 2006. He surmised that the original copy of the resolution could have been detached from the case record due to their frequent transfers brought about by the renovation of the court room and the segregation of the old cases during the disposal period as ordered by the Supreme Court.

As regards his issuance of the 29 February 2012 order remanding the case to the court of origin, he claimed that the same was done in good faith. A reading of

complainant's *Ex-Parte* Motion to Remand Case dated 9 November 2011 would show that it was claimed in the motion that the decision "had long attained its finality." He then assumed that when complainant filed the motion and being assisted by counsel, it was logical that his decision was already final due to the absence of an appeal. He had no prior information about the pendency of the motion for reconsideration. Considering that the case was decided way back on 19 June 2006, he claimed that he had no reason to question the veracity of complainant's statement that the decision had long become final.

Judge Ros concluded that complainant's counsel should be the one blamed for his client's predicament. He pointed out that it was complainant herself who stated that her lawyer neglected her case. Judge Ros quoted complainant's own words: "*Una nagumpisa ang hindi kanais nais sa kaso ko ng mag-apela ang kalaban ko sa desisyon ng MTC (sic) Branch 29, naassign sa sola ni RTC Judge Ross (sic) noon taon 2006, na noon ay inakala ko long na bahagi pa rin ng matagal na proseso ng paghihintay ang nasabing apela dahil mahigit tatlong taon magmula noon (2006-2009) ay lagi long sinasabi sa akin ng counsel on record ko na dedesisyunan na daw yung kaso ko, pero sa huh ay nagtaka ako kung bakit bigla na lang itong naging matabang sa pagkausap sa akin, hanggang sabihan niya ako verbally na marami daw siyang ginagawa na at wala na daw sa calendar niya ang kaso ko. x x x*"^[6]

Judge Ros submitted that it is clear from the foregoing that for three (3) years, complainant's lawyer never informed his client of the status of the case despite a favorable decision was rendered way back in the year 2006. He claimed that it was unusual that counsel for the defendant-appellant never inquired about the status of the motion for reconsideration for six (6) years and that it is only now that it is being asserted that the same has not been acted upon by the court.

To avoid further delay, Judge Ros requested that he be allowed to again resolve the subject motion for reconsideration.

Carreon,^[7] who was then the Branch Clerk of Court of RTC, Branch 33, Manila, admitted that their branch had difficulty in locating the record of Civil Case No. 06-114514. She, however, claimed that the difficulty was attributable not to her negligence or that of the court staff but to "logistic related problems such as the renovation and repainting of the entire courtroom including the storage area which caused the transfer of the record from one place to another." She averred that the record of every case in their branch was prone to get mixed up because of those transfers.

Carreon further admitted that she delegated the preparation of the transmittal of the record of Civil Case No. 06-114514 to Salonga considering that it was simply a ministerial matter and that the court had already issued an order granting the motion to remand the case to the MeTC of Manila. She further explained that she was always swamped with other work that required her undivided attention. She ruled out the possibility that the motion for reconsideration was not resolved, emphasizing that she and Judge Ros always keep track of pending incidents in their branch.

In his Comment,^[8] Salonga maintained that he exerted extra effort to search the record of Civil Case No. 06-114514 which was already in the court's storage room.