

## FIRST DIVISION

**[ A.M. No. P-06-2261 [OCA IPI No. 04-1905-P],  
December 11, 2013 ]**

**ELPIDIO SY, PRESIDENT, SYSTEMS REALTY DEVELOPMENT CORPORATION, COMPLAINANT, VS. EDGAR ESPONILLA, LEGAL RESEARCHER AND OFFICER-IN-CHARGE, AND JENNIFER DELA CRUZ-BUENDIA, CLERK OF COURT AND EX-OFFICIO SHERIFF, OFFICE OF THE CLERK OF COURT, REGIONAL TRIAL COURT, BRANCH 54, MANILA, RESPONDENTS.**

### DECISION

**VILLARAMA, JR., J.:**

This case is one among many where the irregularities complained of are evident and blatant yet its resolution has been protracted for years. While this Court has already ruled on the liability of the respondents in its October 30, 2006 Decision,<sup>[1]</sup> it directed another administrative investigation to search for the “missing link” which – if found – would have established the culpability of the perpetrator of these irregularities.

On March 30, 2004, complainant Elpidio Sy (Sy), President of Systems Realty Development Corporation, filed a verified Complaint<sup>[2]</sup> charging respondent Edgar Esponilla, Legal Researcher and then Officer-In-Charge of Branch 54 of the Regional Trial Court of Manila (Branch 54), and Atty. Jennifer Dela Cruz-Buendia (Atty. Dela Cruz-Buendia), Clerk of Court and Ex-officio Sheriff of the Regional Trial Court of Manila, with Gross Misconduct, Negligence and Dishonesty. The complaint was filed in connection with the withdrawal of deposits for monthly rentals deposited with Branch 54 in Civil Case No. 90-55003 entitled *Maria Gagarin, et al. v. Bank of the Philippine Islands and Systems Realty Development Corporation*.

Complainant had previously filed an ejectment case with Branch 1 of the Metropolitan Trial Court of Manila against Jaime Ang Tiao and Maria Gagarin who were eventually ejected from the property. On appeal, the case was assigned to Branch 32 of the Regional Trial Court of Manila (Branch 32) where supersedeas bond and monthly rentals covering the period from September 30, 1994 to January 3, 1997 were deposited. Simultaneously, Ang Tiao and Gagarin filed with Branch 54 a case, docketed as Civil Case No. 90-55003, contesting the validity of a deed of sale executed between Systems Realty Development Corporation and BPI.<sup>[3]</sup> The plaintiffs deposited with Branch 54 the sum of P264,000.00 to cover rental deposits from June 30, 1989 to August 5, 1994.

Upon a purported Ex-Parte Motion to Withdraw Rental Deposits (Ex-Parte Motion) in Civil Case No. 90-55003 filed by Atty. Walfredo Bayhon (Atty. Bayhon), counsel for plaintiffs Ang Tiao and Gagarin, the late Judge Hermogenes R. Liwag (Judge Liwag)

issued the subject Order dated November 11, 1994, allowing the withdrawal of the deposits amounting to P260,000.00, viz.:

Finding the Ex-Parte Motion to Withdraw Rental Deposits filed by plaintiffs, thru counsel, to be well-taken, the same is hereby GRANTED, and the Clerk of Court, or her duly authorized representative, is hereby ordered to release to plaintiffs, or their duly authorized representative, the deposits made by such parties in the concept of rentals from May, 1989 to August, 1994 in the estimated aggregate sum of P260,000.00.

It is well to emphasize here that such deposits were made in the concept of monthly rentals for the plaintiffs' occupancy of the premises in controversy, here and in the ejectment suit now on appeal with Branch 32 of this same Court. It would appear, however, from the attachments to the Motion to Withdraw Rental Deposits that sufficient supersedeas bond was already posted in that appealed ejectment bond case by the plaintiffs hereto, defendants therein, in the total sum of P260,000.00. Surely, the rental deposits made in this case become superfluous and serve no legal purpose. It is actually duplicitous and its non-release would actually prejudice the plaintiffs.<sup>[4]</sup>

Judge Liwag was then the Pairing Judge of Branch 54 where Civil Case No. 90-55003 was docketed and the questioned Order was issued. He was likewise then the Presiding Judge of Branch 55 where, as the investigation would later show, Atty. Bayhon filed the Ex-Parte Motion. The assailed Order was also typed by an employee of Branch 55. Based on this Order, Ang Tiao was able to withdraw P256,000.00 from the Office of the Clerk of Court of the Regional Trial Court of Manila as evidenced by a disbursement voucher<sup>[5]</sup> dated November 14, 1994 certified by respondent Atty. Dela Cruz-Buendia and approved by then Acting Court Cashier Corazon L. Guanlao.

Complainant alleged that the withdrawal of the rental deposits was irregular because the claim in the Ex-Parte Motion to Withdraw Rental Deposits that the amount withdrawn from Branch 54 was superfluous and duplicitous is false. He asserted that Atty. Bayhon falsely alleged that there was already a sufficient supersedeas bond posted with Branch 32 to justify the withdrawal of the rental deposits made in Branch 54.<sup>[6]</sup> Complainant pointed out that there could have been no such duplication because the deposits made with Branch 54 covered the period from June 30, 1989 to August 5, 1994, while those made in Branch 32 were for the period covering September 30, 1994 to January 3, 1997.<sup>[7]</sup> Complainant thus concluded that when Judge Liwag granted the Ex-Parte Motion, he did not first ascertain the veracity of the allegations therein.<sup>[8]</sup> Complainant explained that he could not have objected to the false allegations made by Atty. Bayhon because he was not furnished a copy of the Ex-Parte Motion and the same was never set for hearing.<sup>[9]</sup>

It is of material significance in the case at bar that the Ex-Parte Motion does not appear anywhere in the records of Branch 54 on Civil Case No. 90-55003, and the fact that these documents were not attached to the case folio were discovered only when the records of the case were elevated to the Court of Appeals.<sup>[10]</sup>

Complainant faulted respondent Dela Cruz-Buendia, who was then the Assistant Clerk of Court for being negligent and conniving with the plaintiffs in the said civil

case when she allowed and facilitated the release of the deposits without first verifying the authenticity of the Ex-Parte Motion and Order.<sup>[11]</sup> Complainant also charged respondent Esponilla with gross negligence for failing to safeguard vital case records and connivance with the plaintiffs in the same civil case.<sup>[12]</sup>

Respondent Dela Cruz-Buendia denied the charges against her and asserted that the functions of a clerk of court are purely ministerial in nature. As such, a clerk of court does not possess the discretion to follow or not to follow orders of the court.<sup>[13]</sup> Respondent Esponilla, on the other hand, prayed that the complaint against him be dismissed. He alleged that he was not the Officer-In-Charge of Branch 54 when the Order granting the Ex-Parte Motion was allegedly issued by Judge Liwag on November 11, 1994. Esponilla was designated as Officer-In-Charge only in March 1995.<sup>[14]</sup>

On November 9, 2004, the Office of the Court Administrator (OCA) referred the instant complaint to the Executive Judge of the Regional Trial Court of Manila for investigation, report and recommendation.<sup>[15]</sup> In a Report and Recommendation<sup>[16]</sup> dated February 1, 2006, then Executive Judge Antonio M. Eugenio, Jr. submitted the following findings:

Respondent Edgar Esponilla cannot be faulted for any of the acts complained of as he was appointed officer-in-charge of Branch 54 only in March 1995 and the questioned order was issued by Pairing Judge Hermogenes Liwag on November 11, 1994. Nor did he have a hand in the preparation and release of the check to the plaintiffs on November 14, 1994 or sometime thereafter.

x x x x

As to respondent Clerk of Court, we likewise find her explanations meritorious. In the instant case, the duty of the Clerk of Court and/or respondent Buendia x x x is ministerial.

Upon receipt of an order from a court, the Clerk of Court's duty is to make sure that the order is complied with. x x x For a Clerk of Court to question a ruling or order of a judge is an invitation for contempt.

x x x x

The pivotal issue that should be addressed is why Atty. Walfredo Bayhon filed the motion in the first place and why then Pairing Judge Hermogenes Liwag favorably acted on it without looking into the truth of the allegation of "duplicity and superfluity."

x x x x

Accordingly, it is respectfully submitted that the administrative complaint filed against respondents Edgar Esponilla and Jennifer de la Cruz[-]Buendia be dismissed for lack of merit.

It is further recommended that Atty. Walfredo Bayhon be asked to

explain the circumstances behind his filing of the Ex-Parte Motion and to provide the Supreme Court with a true copy of the motion.<sup>[17]</sup>

In a Memorandum<sup>[18]</sup> dated June 5, 2006, the OCA submitted its evaluation and recommendation adopting the findings and recommendation of Executive Judge Eugenio, as follows:

**RECOMMENDATION:** In view of the foregoing discussions, it is respectfully submitted that the administrative complaint filed against respondents Edgar Esponilla and Atty. Jennifer dela Cruz-Buendia be **DISMISSED** for lack of merit.

Consequently, it is further recommended that Atty. Walfredo Bayhon be asked to **EXPLAIN** the circumstances behind his filing of the Ex-Parte Motion and to provide the Court with a true copy of the motion.<sup>[19]</sup>

In a Decision<sup>[20]</sup> dated October 30, 2006, this Court dismissed the administrative case against respondent Esponilla for lack of merit. The Court ruled that Esponilla – not being the Officer-In-Charge when the subject documents were allegedly processed with Branch 54 – cannot be faulted for the missing documents in the folio of Civil Case No. 90-55003.<sup>[21]</sup> The Court also did not find proof that Esponilla participated in the preparation and release of the check to the plaintiffs.<sup>[22]</sup> For lack of evidence, the Court was not convinced that Esponilla connived with either the plaintiffs in the civil case or with the other respondents to perpetuate fraud against the complainant.<sup>[23]</sup>

Respondent Dela Cruz-Buendia was found guilty of simple negligence in the performance of her duties and was fined in the amount of One Thousand Pesos (P1,000.00), with a warning that a repetition of the same or similar infraction will be dealt with more severely.<sup>[24]</sup> Atty. Bayhon, for his part, was ordered to explain within ten (10) days from receipt of the Decision the circumstances behind the filing of the Ex-Parte Motion and to provide the Court with a true copy of the Motion.<sup>[25]</sup> The Court required Atty. Bayhon's explanation in order to shed light on the circumstances leading to the issuance of the November 11, 1994 Order and the release of the rental deposits.<sup>[26]</sup>

The Court, in the said Decision, stated that the duties<sup>[27]</sup> and functions of clerks of court as officers of the law are generally administrative in nature and do not involve the discretion on the use of judicial powers.<sup>[28]</sup> It ruled that while respondent Dela Cruz-Buendia's duties as then clerk of court were purely ministerial, "ordinary prudence [would have called] for her to [have] at least [verified] the authenticity and origin of the alleged Order of Judge Liwag because from the copies on record, we note that the same does not bear the seal of the Court nor the standard certification by the branch clerk of court. She should have been vigilant considering that the Order dealt with withdrawal of deposits."<sup>[29]</sup>

The Court further noted the finding of the OCA that per the investigation of Judge Enrico A. Lanzas, "the purported Order of Judge Liwag was actually prepared in Branch 55 by one Baby Manalastas."<sup>[30]</sup> Since this finding does not fully explain why the said Order and the Ex-Parte Motion were not filed in the case folio of Civil Case

No. 90-55003, the OCA was directed to conduct an investigation against the then clerks of court of Branches 54 and 55 during the period material to this case in order to explain the circumstances behind their improper management of court records and documents.<sup>[31]</sup>

In a Motion for Reconsideration<sup>[32]</sup> dated December 28, 2006, respondent Dela-Cruz-Buendia averred that she should not be found guilty of simple negligence. She argued that her delegated duty in relation to the withdrawal of the rental deposits – the physical preparation of the checks issued by the Office of the Clerk of Court – was ministerial and she had no choice but to prepare the subject check based on the Order lest she be cited for contempt. She stated that she did not have to verify the authenticity of the Order because it is presumed to have been regularly issued. Besides, she argued that the Order submitted to the Office of the Clerk of Court “was a duplicate original copy, appeared to be authentic on its face, showed no palpable nor patent, no definite nor certain defects, duly signed by the Honorable Judge Hermogenes Liwag, counterchecked by the subordinate personnel involved in the preparation of vouchers, namely: Corazon L. Guanlao, Court Cashier and Rosa S. Rayo.”<sup>[33]</sup> She allegedly signed and issued the check after the voucher was prepared and signed by the Acting Court Cashier and Clerk-in-Charge; the attachments, including the duplicate original copy of the Order, were attached to the voucher. With a “duplicate original copy” of the Order, respondent Dela Cruz-Buendia argued that there was no need to further require a “certified true copy.”

The Court, in a Resolution<sup>[34]</sup> dated January 31, 2007, resolved to deny the motion with finality as no substantial matters were raised to warrant a reconsideration thereof. Respondent Dela Cruz-Buendia filed a subsequent Supplemental Motion for Reconsideration<sup>[35]</sup> which was Noted Without Action by the Court in its March 19, 2007 Resolution.<sup>[36]</sup>

In a Compliance/Explanation<sup>[37]</sup> dated September 28, 2007, Atty. Bayhon explained that he was not in a position to comply with the Court’s resolution because he had long ceased to be the counsel of record of the plaintiffs in Civil Case No. 90-55003. He further averred that he had already turned over the records of the case to Ang Tiao’s family when he withdrew as counsel in 1997 to join a multinational corporation. Atty. Bayhon also requested that he be allowed to adopt *in toto* the pleadings and arguments raised in his Answer<sup>[38]</sup> and Position Paper<sup>[39]</sup> submitted to the Integrated Bar of the Philippines (IBP) in view of a disbarment complaint filed against him – also by herein complainant Sy. Both of these pleadings submitted to the IBP however failed to shed light into the circumstances surrounding the issuance of the assailed Order which granted the Ex-Parte Motion which allegedly could not now be located by Atty. Bayhon. He also sustained his averment that there is nothing on record to establish that he made an allegation that the deposits made with Branch 54 were superfluous and duplicitous.

On January 3, 2008, the OCA submitted its Report and Recommendation<sup>[40]</sup> to the Court, in compliance with the Resolution<sup>[41]</sup> of the Third Division directing the OCA to conduct an investigation on the mismanagement of court records in Branches 54 and 55 of the Regional Trial Court of Manila. It submitted the following findings: