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FIRST DIVISION

[A.M. No. P-11-2952 (Formerly A.M. OCA I.P.I. No. 10-3502-P), July 30, 2012]

ANECITA PANALIGAN, COMPLAINANT, VS. ETHELDA B. VALENTE, CLERK OF COURT II, 3rd MUNICIPAL CIRCUIT TRIAL COURT, PATNOÑGON, ANTIQUE, RESPONDENT.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

This is an administrative complaint filed by Anecita Panaligan (Panaligan) against Ethelda R. Valente (Valente), Clerk of Court II of the 3rd Municipal Circuit Trial Court (MCTC), of Patnoñgon, Antique, for dereliction of duty, abuse of authority, and dishonesty, relative to Civil Case No. 2-P, entitled *Anecita Panaligan v. Spouses Reynold and Ailene Tumolin*.

Civil Case No. 2-P is a small claims action for collection of sum of money instituted by Panaligan before the MCTC on July 13, 2010, alleging that Reynold Tumolin obtained a loan in the amount of P10,000.00 from Panaligan on July 25, 2009, evidenced by a promissory note, payable on November 30, 2009, and with a monthly interest of 10%; and that Reynold Tumolin left unheeded Panaligan's written request for payment of the loan dated December 1, 2009.[1]

On August 12, 2010, Judge Felixberto P. Barte (Judge Barte), Acting Presiding Judge of 3rd MCTC of Patnoñgon, Antique, issued an Order dismissing Civil Case No. 2-P for the following reasons:

> The case was called for hearing and the Court Interpreter even called the parties for three (3) times but none of them appeared.
>
> For failure of the plaintiff to appear despite due notice, as she was furnished personally by the Clerk of this Court with the copy of the said Notice of Hearing, which was confirmed by the Clerk of Court, is a clear indication that she lacks interest to prosecute her case.
>
> WHEREFORE, due to lack of interest to prosecute for the plaintiff failed to appear despite due notice and pursuant to Section 18 of the Rule of Procedure for Small Claims Cases, this case is DISMISSED.[2]

Panaligan filed the instant complaint[3] against Valente on August 26, 2010, charging the latter with dereliction of duty, abuse of authority, and dishonesty. Panaligan averred that after her receipt on August 18, 2010 of a copy of the MCTC Order dated August 12, 2010 dismissing Civil Case No. 2-P, she went to the MCTC to

verify the reason for the issuance of said order; that Valente, the MCTC Clerk of Court, claimed that she personally furnished Panaligan with a copy of the notice of hearing for August 12, 2010 of Civil Case No. 2-P; that in truth and in fact, Panaligan did not receive a copy of said notice of hearing from Valente; that Valente subsequently retracted her previous claim and then blamed Process Server Nelson Magbanua (Magbanua) for the failure to serve the notice of hearing upon Panaligan; and that due to Valente's erroneous statement and dishonesty, Civil Case No. 2-P was dismissed and Panaligan could no longer collect the amount she loaned to Reynold Tumolin.

In her Answer,[4] Valente denied the charges made against her by Panaligan. According to Valente, she issued on July 14, 2010 a notice setting Civil Case No. 2-P for hearing at the MCTC on August 12, 2010 at nine in the morning. Valente insisted that she personally gave a copy of the notice of hearing to Panaligan when Panaligan went to the MCTC office on an unspecified date; that she explained to Panaligan the importance of the latter's presence at the scheduled hearing; and that Panaligan gave the assurance that she would attend the hearing. However, Valente inadvertently failed to have Panaligan acknowledge her receipt of a copy of the notice of hearing. Although Panaligan already personally received a copy of the notice of hearing for August 12, 2010, Valente avowed that she still instructed Magbanua, the Process Server, to serve copies of the same notice to Panaligan and all other parties involved in Civil Case No. 2-P. Valente even recalled attaching a note on the original copy of the notice of hearing reminding Magbanua to have Panaligan sign said original copy and submit his indorsement after service of the notice. Valente though admitted that Magbanua refused to execute an affidavit supporting Valente's foregoing allegations, but Valente pointed out that this was understandable since it was Magbanua who failed to serve the notice of hearing upon Panaligan despite Valente's repeated reminders to do so. Valente further theorized that Panaligan might have forgotten personally receiving a copy of the notice of hearing because the latter was already 76 years old and did not know how to read and write.

Valente additionally recounted that during the hearing on August 12, 2010, none of the parties in Civil Case No. 2-P appeared before the MCTC. Judge Barte asked Valente whether notice of hearing was served upon Panaligan, and Valente answered in the affirmative. Judge Barte considered the non-appearance of Panaligan as lack of interest, a ground for dismissal of action under the Rule of Procedure on Small Claims Cases, and thus dismissed Civil Case No. 2-P.

Lastly, Valente called attention to her 30 years of unsullied reputation and dedicated, faithful, loyal, and unwavering service in the judiciary as MCTC Clerk of Court, and claimed that the accusations against her were meant to cast aspersion on her reputation and integrity as a loyal public servant. Hence, Valente prayed for the dismissal of Panaligan's complaint against her.

Panaligan filed a Reply[5] refuting the allegations in Valente's Answer. Panaligan maintains that it would have been impossible for Valente to have personally given Panaligan a copy of the notice of hearing for August 12, 2010 as Panaligan had never been to the MCTC office from July 14, 2010 to August 17, 2010. Panaligan only went to the MCTC office on August 18, 2010, a day after receiving the MCTC Order dated August 12, 2010 already dismissing Civil Case No. 2-P.

Panaligan also attached to her Reply the affidavits of several court personnel, namely, Magbanua,[6] the Process Server; Raymunda Imbang,[7] Court Interpreter; Rosemarie Sidayan,[8] Court Stenographer; and Joselinda Febrero,[9] the Clerk of Court of the 1st MCTC, Hamtic, Antique, as well as pages of the MCTC logbook showing entries from July 8, 2010 to September 23, 2010. The aforementioned court personnel affirmed that Valente only endorsed to Magbanua summons for service upon the parties without any notice of hearing; that Panaligan had never visited the MCTC office from July 14, 2010 to August 17, 2010; and that Valente indeed told Judge Barte she was able to personally furnish a copy of the notice of hearing to Panaligan. The pages from the MCTC logbook established that Panaligan visited the MCTC office only on August 18, 2010.

In her Rejoinder,[10] Valente once again denied all of Panaligan's allegations against her. Valente does not have any personal grudge or bad relation with Panaligan, so Valente believed that the filing of the instant complaint against her by Panaligan was instigated by other persons.

Valente contested Magbanua's claim that he received the summons, without any notice of hearing, from Valente on July 13, 2010 and served said summons upon the spouses Tumolin on the same day, for such would have been impossible considering that: (1) Panaligan filed her Statement of Claim before the MCTC on July 13, 2010 at 2:30 p.m. and Judge Barte signed the MCTC Order for the issuance of summons and notice of hearing in Civil Case No. 2-P even later that afternoon at Sibalon, Antique; and (2) Magbanua was absent the afternoon of July 13, 2010 as his name could not be found in the employees' logbook for said date.

Valente alleged that the charges of dishonesty imputed against her were fabricated by court personnel in order to cover the anomalies or unwarranted and unlawful transactions in the MCTC, and said court personnel are conspiring to oust her from office in order to prevent her from revealing their misconducts.

Valente finally challenged Panaligan's reliance on the MCTC logbook as proof that the latter had never been to the MCTC office from July 14, 2010 to August 17, 2010. Valente argues that the said logbook is unreliable because not all visitors who enter the MCTC office actually log in and record their names therein.

On April 26, 2011, the Office of the Court Administrator (OCA) submitted its Report[11] with the following recommendations:

> RECOMMENDATION: It is therefore respectfully recommended for the consideration of the Honorable Court that:
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> 1. The instant case against respondent Ethelda B. Valente, Clerk of Court II, of the 3rd Municipal Circuit Trial Court, Patnongon, Antique be REDOCKETED as a regular administrative matter; and
>
> 2. Respondent Valente be found GUILTY of Simple Neglect of Duty, and meted the penalty of one (1) month and

one (1) day suspension without pay.[12]

In a Resolution[13] dated July 4, 2011, the Court re-docketed the administrative complaint against Valente as a regular administrative matter and required the parties to manifest within 10 days from notice if they were willing to submit the matter for resolution based on the pleadings filed.

Valente[14] and Panaligan[15] submitted their Manifestations dated September 15, 2011 and January 19, 2012, respectively, stating that they were submitting the case for resolution based on the pleadings filed.

Resultantly, the Court deemed the case already submitted for resolution.

In the meantime, Judge Barte, as the Acting Presiding Judge of the 3rd MCTC of Patnoñgon, Antique, and Presiding Judge of the 1st MCTC of Hamtic, Antique, wrote the OCA a letter[16] dated January 16, 2012 as his Comment to the "innuendos and malicious allegations" in Valente's Rejoinder in the instant administrative matter and "also **ADOPTING this as an Administrative Complaint against Ms. Ethelda B. Valente, Clerk of Court of the said Court for DERELICTION OF DUTY, DISHONESTY, DISRESPECT AND MULTIPLE GROSS VIOLATION OF SUB-PARAGRAPH 4 IN RELATION TO SUBPARAGRAPH 8, PARAGRAPH B OF SC CIRCULAR NO. 50-95 AND PARAGRAPH 1, SEC. 68 OF P.D. 1445 x x x.**"[17] Judge Barte not only defended the court personnel who Valente accused of conspiring against her, but also alleged wrongdoings and/or misdeeds committed by Valente apart from those already charged herein by Panaligan.

The Court focuses herein on Panaligan's complaint against Valente. Judge Barte's letter-complaint against Valente shall be the subject of a separate administrative investigation, wherein Valente shall again be accorded the opportunity to be heard on the new charges against her.

The Court is presently called upon to determine whether or not Valente can be held liable for (1) neglect of duty, for her failure to furnish a copy of the notice of hearing to Panaligan, and (2) dishonesty, for relaying to Judge Barte that she personally gave a copy of the notice of hearing to Panaligan.

The Court takes note of Panaligan's consistent statement that she did not receive any notice setting Civil Case No. 2-P for hearing on August 12, 2010. Court personnel confirmed that no notice of hearing was served upon the parties in Civil Case No. 2-P. Court records are also totally bereft of any proof of service upon and receipt by Panaligan of such a notice.

In contrast, the Court is faced with Valente's bare allegation that she was able to personally give a copy of the notice of hearing to Panaligan when the latter visited the MCTC office. Mere allegation is not evidence, and is not equivalent to proof.[18] The Court cannot give much weight to Valente's allegation when she cannot even state the exact date of Panaligan's visit nor show acknowledgement receipt by Panaligan. Worse, no other MCTC court personnel substantiated Valente's claim.

While it may be true, as Valente argued, that not everyone who visited the MCTC