

THIRD DIVISION

[A.M. No. MTJ-05-1588 [Formerly No. 04-9-511-RTC], June 05, 2009]

JUDGE DIVINA LUZ P. AQUINO-SIMBULAN, COMPLAINANT, VS. PRESIDING JUDGE NICASIO BARTOLOME (RETIRED), ACTING CLERK OF COURT ROMANA C. PASCUAL, CLERK OF COURT MILAGROS P. LEREY (RETIRED), AND DOCKET CLERK AMOR DELA CRUZ, ALL OF THE MUNICIPAL TRIAL COURT, STA. MARIA, BULACAN, RESPONDENTS.

DECISION

PERALTA, J.:

Before this Court is a letter-complaint^[1] dated April 27, 2004 filed by complainant Judge Divina Luz P. Aquino-Simbulan with the Office of the Court Administrator (OCA), alleging that respondents Judge Nicasio V. Bartolome, together with Romana Pascual, Milagros Lerey, and Amor dela Cruz, Acting Clerk of Court, retired Clerk of Court and Docket Clerk, respectively, all of the Municipal Trial Court (MTC) of Sta. Maria, Bulacan, committed grave errors and discrepancies in processing the surety bond for the accused Rosalina Mercado in Criminal Case No. 13360, entitled *People of the Philippines v. Rosalina Mercado, et al.*

In her complaint, Judge Simbulan alleged the following:

Criminal Case No. 13360 was originally raffled to the Regional Trial Court (RTC), Branch 41, San Fernando, Pampanga, where complainant Judge presides. On September 18, 2003, said branch of the RTC received an Indorsement from Warrant/Subpoena Officer PO3 Edwin Villacentino of the Sasman Municipal Police Station stating that the accused Mercado voluntarily surrendered before the MTC of Sta. Maria, Bulacan and posted her bail bond through Summit Guaranty & Insurance Co., Inc., which was duly approved by respondent Judge Bartolome on August 21, 2003. This prompted complainant to issue an Order^[2] dated October 29, 2003, directing respondent Lerey, then Clerk of Court of the MTC, to transmit to the RTC within twenty-four (24) hours from receipt of said Order, the bond which the former court approved.

When the Clerk of Court failed to comply, complainant Judge issued an Order^[3] dated January 12, 2004 directing the former to explain in writing within three (3) days from receipt thereof why she should not be cited in contempt for delaying the administration of justice.

On January 29, 2004, the RTC received a letter^[4] from respondent Romana Pascual, then Acting Clerk of Court of the MTC, explaining that the bail bond in Criminal Case No. 13360 was approved by respondent Judge during the tenure of Lerey, and that the latter had retired on August 26, 2003.

On February 12, 2004, the RTC received a written explanation^[5] from Leroy stating that she had misplaced and overlooked the subject surety bond, which resulted in the delay of its transmission to the RTC. Attached to Leroy's letter were the following documents: (1) the Court Order dated August 21, 2003 signed by respondent Judge; (2) Bond No. 46485 dated August 21, 2003 with attachments; (3) Undertaking dated November 22, 2003; (4) Certification from the Office of the Court Administrator, dated October 29, 2003; and (5) Certification from Summit Guaranty and Insurance Company, Inc., dated November 22, 2003.

Upon perusal of the documents, complainant Judge discovered that the subject surety bond bore some erasures, and its attachments were highly anomalous. In view of these findings, the RTC issued a *subpoena* to respondents Pascual and Leroy directing them to appear before it to explain the aforementioned errors.

During the hearing held on April 26, 2004, respondents Pascual and Leroy appeared before the RTC, Branch 41, San Fernando, Pampanga, and the following facts were established therein:

1. That respondent Judge issued an Order of Release dated August 21, 2003 without a Certificate of Detention and Warrant of Arrest attached to the documents presented to him;
2. That while the Order of Release was dated August 21, 2003, the Undertaking and Certification from the bonding company were dated November 22, 2003 and October 29, 2003, respectively;
3. That it was Leroy who reviewed the documents before the surety bond was referred to respondent Judge for the latter's approval; and
4. That the delay in the transmission of the bond and its supporting documents was attributed to Amor dela Cruz, Docket Clerk of the MTC of Sta. Maria, Bulacan.^[6]

After the hearing, Public Prosecutor Otto Macabulos stated that he found the explanation too shallow and self-serving, and that he would file an indirect contempt case under Rule 71, Section 3 (d) of the 1997 Rules of Civil Procedure against Leroy and Dela Cruz. He filed said complaint^[7] on June 21, 2004. The RTC, Branch 41, San Fernando, Pampanga then directed Leroy and Dela Cruz to explain in writing within fifteen (15) days why they should not be cited in indirect contempt of court or improper conduct in the processing of the bail bond of accused Mercado.^[8]

In her Manifestation/Compliance^[9] dated October 25, 2004, Leroy admitted lapses and negligence in processing the subject bail bond and was remorseful for what happened. On the other hand, Dela Cruz stated that there was no wrongdoing on her part in the processing of the subject bail bond and that she merely followed instructions in mailing the said bail bond to the RTC.^[10]

In an Order^[11] dated December 14, 2004, the RTC found Leroy guilty of indirect contempt and sentenced her to pay a fine of P10,000.00, which she duly paid. However, it absolved Dela Cruz from any liability as it found her explanation

meritorious.

In the meantime, in his 1st Indorsement^[12] dated February 26, 2004, Deputy Court Administrator (DCA) Jose P. Perez referred to the Clerk of Court of the MTC of Sta. Maria, Bulacan the Orders issued by complainant Judge relative to the surety bond for comment. However, there was nothing on record to show that said Clerk of Court complied with the directive.

DCA Perez also issued a 1st Indorsement^[13] dated June 22, 2004 to respondent Judge referring to the letter dated April 27, 2004 of complainant Judge, which discussed the errors and discrepancies regarding the approval of the bail bond of the accused in Criminal Case No. 13360, with the instruction to the former to submit his comment thereto.

In compliance, respondent Judge submitted his 2nd Indorsement^[14] dated July 13, 2004, wherein he denied any liability concerning his approval of the subject surety bond. According to him, Leroy had expressly admitted her negligence and lapses which caused the delay in transmitting the bond to the RTC. He stressed that just like any other judge, his Clerk of Court (Leroy) enjoys his trust and confidence on matters pertaining to the affairs of the court, including the review and approval of bail bonds. He added that he had no reason to doubt the official actions of Leroy as the latter had been serving the court for around 37 years.

In a Memorandum^[15] dated March 1, 2005, then Court Administrator, now Associate Justice Presbitero J. Velasco, Jr., recommended that the letter dated April 27, 2004 (and the Orders attached thereto) of complainant Judge be treated as a formal administrative complaint and redocketed as such against respondents Judge Bartolome, Pascual, Leroy, and Dela Cruz, with the directive that the named respondents submit their respective Comments within ten (10) days upon receipt of the Order from the Court. Said Order^[16] was issued by the Court on April 13, 2005, and all the respondents submitted their Comments on May 13, 2005.

Respondent Judge and Pascual both averred that in the case for indirect contempt, only Leroy was found guilty of negligence in the performance of her duties, and no other indictment was made against them.^[17]

On the other hand, Leroy stated in her Comment^[18] that she has already been found guilty of indirect contempt for failure to transmit the bail bond within the period directed by the court, and paid the fine therefor, while Dela Cruz clarified that she has already been exonerated from any liability or participation in said incident.

In a Resolution^[19] dated June 22, 2005, the Court referred the administrative matter to the Executive Judge of the RTC of Malolos City, Bulacan for investigation, report and recommendation within 60 days from receipt of the record.

On April 7, 2006, 2nd Vice-Executive Judge Candido Belmonte submitted his Report,^[20] which contained the following findings:

The Investigating Court takes judicial notice that certain functions of court which are not directly related to decision-making are delegated or

reposed to court personnel. Under this category falls the preparation and evaluation of documents for bail, for the final approval of the judge. However, to rely solely on the representation made by the Clerk of Court without making even a perfunctory perusal of the records is also a mark of neglect. As such, this court finds the explanation of the respondent judge to be inadequate to exculpate him for the oversight he committed.

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With respect to court personnel Romana Pascual, it was established that, at the time of the commission of the subject administrative offense, she was not yet discharging the functions of an Officer-in-Charge. She had no hand in the approval of the bail. As a matter of fact, she immediately informed respondent Milagros Leroy, the former Clerk of Court, of the Order coming from Judge Simbulan of RTC-Branch 41, Pampanga requiring them to transmit the supporting documents for bail. However, it was the inaction of Milagros Leroy on the matter which caused the delay in the transmission. The Court notes that the Order of Judge Simbulan was received at the MTC-Sta. Maria, Bulacan at a time when there was a transition between Milagros Leroy and the present Clerk of Court. During that interregnum, it was Romana Pascual who was the OIC. As such, the letter-explanation of Romana Pascual, dated February 11, 2004, addressed to Judge Simbulan is deemed sufficient explanation by this Investigating Court. Hence, she is exonerated of the charges against her.

Regarding the charge against court personnel Amor dela Cruz, it appears to this Court that although she was the one who finally delivered the supporting bail documents to RTC-Branch 41, Pamapanga, she has nothing to do with the act of delay. This seems to be the implication of the admission of Milagros Leroy that at the time of the approval of the bail bond the supporting documents were incomplete. She only put the documents in order after there was an Order from RTC-Branch 41, Pampanga to transmit the same. The delay took place during this period. Once Milagros Leroy handed the documents to Ms. Dela Cruz, she immediately transmitted them to RTC-Branch 41, Pampanga. These facts borne out by her Comment submitted in the Indirect Contempt Case before RTC-Branch 41, Pampanga dated July 19, 2004, which this Investigating Court finds sufficient.^[21]

Based on the foregoing, the Investigating Judge submitted the following recommendations:

- 1) For respondent Judge Nicasio Bartolome, he be found to be negligent of his duty to supervise his court employees in the discharge of their respective functions. It is further recommended that a fine of P5,000.00 be imposed on him.
- 2) For respondent Milagros Leroy, she be found to be grossly negligent of the discharge of her functions as a Clerk of Court. It is further recommended that a fine of P5,000.00 be imposed on her over and above the fine of P10,000.00 imposed on her in the Indirect Contempt Case.
- 3) For respondents Romana Pascual and Amor dela Cruz, there was no direct documentary or testimonial evidence

that shows they have handled the bail bonds. Furthermore, they are not responsible for the delay in the transmission of the pertinent documents. As such, it is recommended that they be exonerated of the charges against them.

City of Malolos, Bulacan, April 7, 2006.^[22]

In a Resolution^[23] dated October 11, 2006, the Court referred the Report of the Investigating Judge to the OCA for evaluation, report and recommendation within thirty (30) days from receipt of records.

In his Memorandum^[24] dated November 20, 2007, DCA Jose P. Perez observed that:

1. In approving the surety bond of the accused, respondent Judge violated Section 17, Rule 114 of the Rules of Court.^[25] In the instant case, the accused Rosalina Mercado was not arrested. That being the case, she should have filed her bail bond with the court where her case was pending, i.e., the Regional Trial Court, Branch 41, San Fernando City, Pampanga. In the absence of the judge thereof, it could be done at another branch of the same court within the province of Pampanga or City of San Fernando. Instead, accused Mercado filed her bond in the Municipal Trial Court of Sta. Maria, Bulacan, where respondent Judge presides, who approved the same and ordered her release from custody.
2. Respondent Judge did not require the accused to submit the supporting documents pertinent to the application for a bond. It appears that there was no Certificate of Detention presented to him; hence, there was no legal justification for him to issue the Order of Release and process the bond since the accused was not detained within his jurisdiction. Also, there was no Warrant of Arrest attached to the documents presented to him. Moreover, all the supporting papers were belatedly filed: (a) Undertaking was dated 22 November 2003; (b) Certification from the Office of the Court Administrator was dated 29 October 2003; and (c) the Certification from Summit Guaranty & Insurance Co., Inc. was dated 22 November 2003.
3. Respondent Judge failed to live up to the standards of a good magistrate. Not only did he approve the bail bond of the accused without the requisite authority to do so, his manner of doing so showed a flagrant disregard for the applicable procedural law he had sworn to uphold and serve. He committed gross misconduct by blatantly disregarding the Rules and settled jurisprudence.

These findings led DCA Perez to recommend the following:

Considering that Judge Bartolome has compulsorily retired from the service effective on 11 October 2006, we recommend that a fine in the amount of Forty Thousand Pesos (P40,000.00) be deducted from his retirement benefits.