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THIRD DIVISION

[A.M. No. P-08-2442 (Formerly A.M. OCA I.P.I. No. 07-2680-P), March 28, 2008]

BONIFACIO OBRERO, COMPLAINANT, VS. ATTY. MA. VICTORIA A. ACIDERA, CLERK OF COURT, BRANCH 13, REGIONAL TRIAL COURT, LAOAG CITY RESPONDENT.

R E S O L U T I O N

NACHURA, J.:

This administrative case arose from a Complaint[1] dated March 19, 2007 filed by Bonifacio Obrero (Obrero) charging respondent Atty. Ma. Victoria A. Acidera (Atty. Acidera) of Branch 13, Regional Trial Court (RTC), Laoag City, with Gross Ignorance of the Rules, Gross Incompetence, Conduct Prejudicial to the Best Interest of the Service, and for failure to measure up to the ethical standards in government prescribed under Republic Act (R.A.) No. 6713, relative to Civil Cases Nos. 12549, 12750, and 13083 entitled *"Bonifacio Obrero, et al. v. Ferdinand Marcos, Jr., et. al.*"

Obrero alleges that respondent Atty. Acidera allowed the filing of motions that do not strictly conform to the Rules of Court, to his damage and prejudice. In the complaint, he pointed to two instances to justify his charges against the respondent. First, on February 21, 2007, a motion[2] that contains the following notation: *"The Clerk of Court: Please submit the foregoing MOTION to the Court for RESOLUTION. Upon receipt of a COMMENT from all the parties concerned"* was allowed to be filed by respondent. Second, in March 2007, Atty. Acidera allowed the filing of a paper styled as a motion,[3] with a note addressed to respondent which reads as follows: *"Please submit the following Manifestations and Motion for the consideration of this Honorable Court, after due notice and hearing on 08 March 2007 [9:00 A.M.] immediately upon receipt hereof."*

In her Answer[4] dated June 5, 2007, respondent explains that it is her ministerial duty to accept the filing of motions whose notices are addressed to the clerk of court rather than to the parties. She contends that, presented with a deficient motion, she and her staff are not authorized to arrogate unto themselves the power to deny a motion or to declare the same as a mere scrap of paper, as that would amount to supplanting the power of the judge to act on the same. Furthermore, she says that if she does so, she may be pre-empting the action which will be taken by the opposing parties, given that the motions are formally defective.

The issue is whether or not the respondent is guilty of Gross Ignorance of the Rules, Gross Incompetence, Conduct Prejudicial to the Best Interest of the Service, and failing to measure up to the ethical standards in government prescribed under R.A. No. 6713.

The Court's Ruling

The records and Atty. Acidera's own admission confirm that respondent is guilty of ignorance of the law.

The act alleged in the complaint is a violation of Section 5, Rule 15, of the Rules of Court:

> *Section 5. Notice of Hearing. - The notice of* ***hearing shall be addressed to all parties concerned,*** *and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion.*

It is an elementary rule of procedure that any motion which does not comply with the above procedural requisite is a mere scrap of paper, should not be accepted for filing and, if filed, is not entitled to judicial cognizance. As such, it produces no effect on the reglementary period for the filing of the required pleading. Thus, where the motion is directed to the clerk of court, not to the parties, and merely states that the same is to be submitted "for the resolution of the court upon receipt thereof," such a motion is fatally defective.[5] Any subsequent action of the court thereon will not cure the flaw, for a motion with a fatally defective notice is a "useless piece of paper."[6]

To comply with the requirement of notice, as part and parcel of procedural due process, it is necessary that all motions be addressed to all parties concerned. This is a mandatory requirement, and the failure of the movant to comply with this requisite is fatal. Accordingly, a clerk of court who accepts the filing of a fatally defective motion and submits the same to the judgment of the court is equally guilty of violating a basic procedural requirement.

The Clerk of Court's compliance with the Rules of Court is not merely directory, but mandatory. He is expected to know the rules of procedure, particularly those rules that pertain to his functions as an officer of the court.

Thus, as correctly pointed out by the Office of the Court Administrator (OCA), respondent's evident disregard of an elementary rule of procedure makes her administratively liable for ignorance of the law.[7] Since the motions in question were mere scraps of paper for want of the required notice, they must be deemed, for all legal intents and purposes, as if they were not filed.

We are in full accord with the findings of the OCA, *viz.*:

> Despite the string of rulings declaring that notice of hearings must be addressed to the parties to be entitled to judicial cognizance, respondent clerk of court allowed the filing of the Motion, dated February 21, 2007, filed by Atty. Castor Raval as well as another, Manifestation and Motion, dated March 5, 2007, filed by Atty. Sandro Marie N. Obra. Respondent's specious arguments do not hold water. Whether or not damage or prejudice has been caused to complainant when respondent allowed the filing of the fatally defective motions is not material. It is when these are brought for consideration of the court, and worse when the court gave undue attention to them by directing Atty. Obra, in an Order dated February 21, 2007, to submit some requirements before the court