

THIRD DIVISION

[A.M. No. P-03-1682 (formerly OCA IPI No. 97-374-P), September 30, 2004]

JUDGE ROBERTO NAVIDAD, COMPLAINANT, VS. JOSE B. LAGADO, CLERK OF COURT, REGIONAL TRIAL COURT, BRANCH 9, TACLOBAN CITY, RESPONDENT.

R E S O L U T I O N

CORONA, J.:

This concerns the report to this Court dated July 31, 1997 of Acting Presiding Judge Roberto A. Navidad, Regional Trial Court (RTC), Branch 9, Tacloban City on the irregularities, anomalies and/or infractions committed by his branch clerk of court, Atty. Jose B. Lagado. The report was treated as an administrative complaint for grave misconduct, insubordination and anti-graft and corrupt practices.

The pertinent portions of the report follow:

As the Presiding Judge of RTC – Branch 9 in Tacloban City, pursuant to Supreme Court Resolution (En Banc) in A.M. No. 96-00-372 dated 22 October 1996, I have discovered the following irregularities, anomalies and/or infractions committed principally by Atty. Jose B. Lagado, Branch Clerk of Court, namely:

1. As Branch Clerk of Court and for a fee, he has been processing bail bonds and qualifying bondsmen coming from the towns of Dagami and Burauen, Leyte and recommending the same to the Court for approval despite the fact that there are no sufficient securities therein. It appears that Branch 9 has been the base of operations of this syndicate involving false bail bonds with the assistance of some court personnel from RTC – Branch 6, one of them being SILVERIO MENDOZA who is currently with RTC – Palompon, Leyte but who is nevertheless often seen just roaming around the corridors of the Bulwagan Building at Tacloban City.

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2. Likewise as Clerk of Court, Atty. Lagado had been compromising the integrity of the Court while at the same time violating the neutrality of the Court in its dispensation of justice, by sending communication in order to favor some party litigants. This infraction is akin to the case of the Court Administrator vs. Atty. Gadon in A.M. No. P-95-1142 (A.M. No. 93-3-1003).

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3. Every month, while he posts a List of Cases Submitted for Decision, furnishing a copy thereof to the Integrated Bar of the Philippines (IBP), Leyte Chapter, he, however, does not furnish the Presiding Judge a copy of such list nor submit the records of said cases to the Presiding Judge.
4. In another case, he has sought from the undersigned the return to the respondent of different contraband articles seized by virtue of a defective search warrant even as his initiative was denied, in open court, by the counsel for said respondent.

He personally typed the afore-mentioned obviously defective search warrant, which was issued contrary to law, inasmuch as it lumped up in a single search warrant the different classes of contraband items of which four (4) separate applications were filed therefor.

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5. In relation to the "theft" of court records/cases by Judge Walerico Butalid, there are facts and circumstances indicating a conspiracy between Atty. Jose Lagado and Judge Butalid, such as -
 - a. Sometime in the early part of 1997, despite the existing suspension of Judge Butalid, Atty. Lagado, without clearing the matter with the undersigned or with the Executive Judge, sent a telegram to the Office of the Court Administrator requesting that Judge Butalid be allowed to decide the cases subject of an audit;
 - b. The facility with which Judge Butalid, after a long absence, found said records suggests a conference as to the location of said records/cases between them;
 - c. The "theft" happened after Atty. Lagado served the Notice of Hearing to Judge Butalid of the latter's administrative case;
 - d. d. Atty. Lagado is in possession of three (3) letters of Judge Butalid to him asking that the records of three (3) cases be given to him;

Surprisingly, no information of this matter was given to the undersigned. Instead, he wrote the Executive Judge and it was through the latter that said information had reached me.

6. Atty. Jose Lagado has demonstrated acts of insubordination towards the undersigned when I assumed office. Despite proper instructions, he was reluctant to provide the undersigned with working space in Branch 9 or its chambers. It was only after more than two (2) months, and the threat of insubordination, that he relented. Yet, he had previously made available the sheriff's table for the private secretary of Pros. Robert Visbal, and providing her with equipment and supplies even as it inconvenienced the court

employees of Branch 9 in their routinary functions. This practice was stopped only after my reprimand and a request to Pros. Visbal to advise his secretary from holding office at Branch 9.

In his answer dated February 5, 1998, respondent refuted the allegations of the report and narrated the following:

1. As to the charge of fake bail bonds, undersigned hereby strongly denies the same as he has not processed and recommended the approval of unqualified sureties, nor have demanded any consideration therefrom since the beginning. From whom did respondent receive any fee is not mentioned since it never existed in our Court. In fact, in order not to compromise the integrity of the Court, he sees to it that sureties possess all the qualifications required under Sections 11, 12 and 14 of the Rules on Criminal Procedures and these sureties where real properties are used as bail bond to guarantee the appearance of an accused with a pending case in our sala are properly registered and the lien is duly annotated in the Office of the Register of Deeds of the province or city where the land lies, as reflected in the bail bond. There was no bail bond after registration and annotation that has been cancelled for being irregular such that the property used is non-existent. The alleged syndicate of false bail bonds in RTC, Branch 9 is purely an imaginary accusation of Judge Roberto A. Navidad. That is why he cannot specifically pinpoint who among these sureties are engaged in such activity. And in compliance with complainant's unnumbered memorandum dated January 23, 1997 (Annex 1) which he claims bears the approval of then Executive Judge Getulio M. Francisco, undersigned has no longer processed and administered an oath of any surety in view of the disqualification imposed by complainant's memorandum (which is even violative of the due process principle). And it must be noted that during the incumbency of the complainant, he had approved only eight (8) property bail bonds filed with our Court as evidenced by Annexes "2" and series. Moreover, the affidavit of said Elpidia Ripalda (Annex 3) never mentioned any participation of the undersigned in the alleged transaction (bail bond) in the case of Genny Berdan. In fact, I have not even seen nor have known her since, to repeat, I was no longer involved in the processing and qualifying of bail bonds at that time. This bail bond of Genny Berdan in Crim. Case No. 97-01-12 was qualified and approved by complainant himself last March 3, 1997 as shown by Annex "4". Surprisingly, undersigned is perplexed why I was said to be in connivance with one Silverio Mendoza as I have no knowledge about this bail bond of Genny Berdan. It is now crystal clear that complainant's accusation is wanting of factual basis;
2. Anent complainant's second charge, I likewise deny the same and further disagree that the case of the Court Administrator vs. Atty. Manuel B. Gadon in A.M. No. P-95-1142, June 16, 1995, A.M. No. 93-3-1003-RTC is of no relevance to the case at bar. Offered to refute these charges is the explanation stated in my "Compliance"

to the Order dated May 23, 1997 (Annex 5 and series) which was officially received by Rosalina M. Padilla, Legal Researcher of this Court on August 11, 1997, the original copy of which was personally given by the latter to Judge Roberto A. Navidad, but is not found in the records of the case, which omission shows a motivated suppression of evidence by the complainant. Be it respectfully noted that copies of compliance have been furnished the Honorable Chief Justice, the Hon. Court Administrator and the Hon. Deputy Court Administrator, as evidenced by the registry receipts attached on page 3 thereof;

3. Paragraph 3 of the Report is the performance of the undersigned's duties mandated under Administrative Circular No. 10-94. And it might be stressed herein that cases submitted for decision have been assigned to our Legal Researcher, who keeps a list in a separate record book and takes note which record of a case had been given to the Judge for resolution or decision. Such system had long been practiced in order to account the actual possessor of the record of a case to prevent from its being lost (See Annex 6). It also helps the early retrieval of records of cases and serves as a proof that the Presiding Judge had the records with him until a decision/resolution had been handed down by him. Nonetheless, the delegated task is being closely monitored by the undersigned since cases submitted for decision are properly reported in our Monthly Report of Cases, which the Presiding Judge signs;
4. Paragraph 4 of the Report is likewise strongly denied since I have no knowledge of complainant's averments stated therein. It must be emphasized that indeed, it is true that undersigned had typed the said Search Warrant No. 04-96 issued on August 26, 1996, but done only upon instruction of our then Presiding Judge, Walerico B. Butalid. As to its propriety, however, I have no authority to pass upon an opinion that the same is contrary to law since this is a judicial function reposed only upon the magistrate of the Court. Complainant seems to reach a conclusion that undersigned was interested in this case, but he is not, when he and complainant discussed the pending Motion of the defense counsel, which was resolved in the Order of the Court dated February 10, 1997 (Annex F of the Report). I could hardly imagine why complainant, after our academic discussion, would now try to twist the real score of things;
5. Paragraph 5 of the Report, alleging a conspiracy in the theft of court records/cases by Judge Butalid, is likewise denied. In fact, undersigned immediately reported the incident to the Executive Judge, Hon. Getulio M. Francisco of RTC, Tacloban City (Annex 7). If indeed, I had an agreement with Judge Butalid, then I would not have reported the matter to the Executive Judge. Moreover, the telegram sent to the Hon. Court Administrator (Annex 8) by the undersigned was not a request that Judge Butalid be allowed to decide the cases, subject of a previous audit, but was only soliciting advice whether Judge Butalid still had the authority to decide cases

after audit had been conducted. It is not also surprising why Judge Butalid found those records of cases submitted for decision because he personally knows where these records were properly kept, long before his suspension. All these records are kept in an open shelf to give free access to stenographers, in order for them to transcribe court proceedings previously taken. I have not also served a Notice of Hearing to Judge Butalid in the latter's administrative case, prior to the theft incident. Further, undersigned has no knowledge about those letter[s] of Judge Butalid because the latter's request was made only verbally thru the phone, as clearly stated in my letter-query dated March 12, 1997 (Annexes 9 and 9-A). Finally, the reason why undersigned did not inform Judge Navidad about this matter and instead reported directly to the Executive Judge, Hon. Getulio M. Francisco was because of complainant's indifference, which was due to my letter dated January 6, 1997 (Annex 10). Complainant, upon learning of said letter, called a staff meeting in the afternoon of the following day (January 7, 1997) wherein undersigned was scolded and insulted in the presence of his staff, for having usurped a judicial function. Said letter, however, is supported by his own memorandum issued on November 12, 1996 (Annex 10); and

6. Paragraph 6 of the Report is likewise denied as I have not unreasonably disregarded any instruction of the complainant. The reason why I was unable to provide him with a working space was the fact that Judge Butalid did not turn over the key to the chamber until the early part of March, 1997. Said key was later on given to the complainant, who is still in possession of the same, up to now. Regarding complainant's allegation that undersigned offered the sheriff's table for the private secretary of Pros. Robert Visbal, who was then assigned to our Court, and had provided the latter with the necessary equipment and supplies is likewise denied since I have not, nor anybody else for that matter, consented to such an arrangement, knowing for a fact that complainant has a personal misunderstanding with Pros. Robert Visbal. Besides, the sheriff's table is located in a blind corner of the staff room, which makes it highly impossible for me to see and observe who is using the typewriter situated therein.

The penultimate paragraph of the Report wherein complainant alleges loss of trust with the undersigned and that he had to utilize the services of our Legal Researcher and other court personnel, which purports that I was not cooperating with him and/or I am not performing my duties and responsibilities as the Branch Clerk of Court of RTC, Branch 9, Tacloban City, is negated by the fact that aside from the performance of my usual duties and responsibilities, I even used to draft initial order of cases assigned to our sala which are submitted to the complainant for his approval, wherein complainant signifies "OK" or "Finalize", as can be gleaned from Annexes "12" and series;

Finally, I wish to state herein that despite complainant's indifference and/or intention to malign the integrity of the undersigned who had