

SPECIAL FIRST DIVISION

[A.M. No. MTJ-04-1539, November 26, 2004]

ELENA R. ALCARAZ, COMPLAINANT, VS. JUDGE FRANCISCO S. LINDO, METROPOLITAN TRIAL COURT OF MALABON, BRANCH 55, RESPONDENT.

RESOLUTION

YNARES-SATIAGO, J.:

The decision subject of the instant motion for reconsideration arose from a complaint for disbarment filed by Elena Alcaraz against respondent Judge Francisco S. Lindo of the Metropolitan Trial Court of Malabon, Branch 55, for his failure to comply with Section 3 (a), Rule 9 of the 1997 Rules of Civil Procedure.

In her complaint, Elena Alcaraz alleged that as the defendant in Civil Case Nos. 1782-98 entitled, *Maria Aurora Santos, Plaintiff versus Rufina Eligio, Elena Alcaraz and her husband, Faustino C. Alcaraz, and Conchita Ocampo and her husband, Rodolfo Ocampo, Defendants*, she was not furnished a copy of the June 5, 1998 Order of the respondent judge declaring her in default or of the order declaring her co-defendant, Rufina Eligio, in default.

In his comment,^[1] the respondent judge did not refute said allegations of the complainant. He merely averred that the complainant was served with summons, that she filed her answer, that the plaintiff filed a motion to declare them in default, and that an order was issued declaring four of the defendants in default on June 5, 1998.

For his failure to refute the charge that he failed to furnish the complainant with copies of the order of default and of the subsequent orders in connection with the complaint, respondent judge was found guilty of violating Rule 3.01 of the Code of Judicial Conduct for which he was imposed a fine of Five Thousand Pesos (P5,000.00).

In his motion for reconsideration, respondent judge appeals not only for administrative absolution but also for understanding. He alleged that he failed to specifically refute the charge of disregarding complainant's rights as a defendant in default because he concentrated in refuting the claim of the complainant that she was denied due process and that she was not afforded ample time to appeal.

Respondent judge further alleged that contrary to the complainant's claim, notices were sent at her given address either by registered mail or by personal service. In support thereof, respondent judge attached certified^[2] machine copies of several registered mail envelopes with registry return card addressed to the complainant,^[3] which bore stamped notations of date of mailing, one of them was stamped with the words, "Return to Sender, Unclaimed".

Respondent judge likewise annexed to his motion, the affidavits of Liza D. Salamanca^[4] and of Eduardo R. Hubilla,^[5] the Clerk III and the Process Server respectively of Branch 55 of the Metropolitan Trial Court of Malabon. In her affidavit, Liza D. Salamanca alleged that she is the clerk-in-charge of Civil Cases in Branch 55 and as such, she is tasked to release copies of orders, decisions, processes, subpoenas and notices issued in all cases, except criminal cases, of Branch 55. She further alleged that in relation to Civil Case Nos. 1782-98, she gave copies of June 5, 2003 order of the respondent judge to Process Server Eduardo R. Hubilla for personal service to all defendants in Civil Case Nos. 1782-98 namely, Rufina Eligio, Elena Alcaraz and her husband, Faustino Alcaraz and her husband, Rodolfo Ocampo. She added that on October 29, 1998, she mailed a copy of the decision in Civil Case Nos. 1782-98 addressed to the complainant, but the same was returned by the Manila Central Post Office in December 1998.

Liza D. Salamanca also stated that the order of the respondent judge dated December 15, 1998 was mailed to the complainant on December 21, 1998 but it was returned to Branch 55 in January 1999 with the notation, "Return to Sender Unclaimed". She added that the orders of the respondent judge dated February 23, 1999, April 20, 1999, April 26, 1999, May 28, 1999 and June 22, 1999 were all mailed and received by the complainant, while a copy of respondent's May 23, 2002 order for the complainant was returned unserved by Process Server Eduardo R. Hubilla, with the notation that complainant is no longer residing at the given address.

Process Server Eduardo R. Hubilla alleged that insofar as Civil Case Nos. 1782-98 is concerned, he went at least three (3) times to the given address of the complainant at the corner of Pureza and C. Arellano Streets, Sta. Mesa, Manila, to serve upon her and her husband, copies of the Court processes issued by the respondent judge. The first one was on June 16, 1998 when she personally served a copy of the June 5, 1998 order. The next instance was on January 28, 1999, when he served upon the complainant a copy of the decision in the said civil case. During these two instances, the copies intended for the complainant were left to the caretaker since she was not around to personally receive copies of the aforementioned court processes.

On May 29, 2002, Process Server Eduardo R. Hubilla again went to the given address of the complainant to serve a copy of the Order dated May 23, 2002 but was unable to serve the same because the complainant was no longer residing at the said address.

We find merit in respondent judge's Motion for Reconsideration.

The established rule in administrative proceedings is that the burden of proof that respondent judge committed the act complained of rests on the complainant.^[6] Administrative charges against members of the judiciary must be supported at least by substantial evidence. Failure to do so will result in the dismissal of the complaint for lack of merit.^[7]

Rule 133, Section 5 of the Revised Rules on Evidence defines "substantial" evidence as "that amount of relevant evidence which a reasonable mind might accept as