

THIRD DIVISION

[A.M. OCA No. P-02-1570 (formerly A.M. No. 01-2-29-RTC), April 03, 2002]

ATTY. SAMSON DAJAO, COMPLAINANT, VS. FRANKLIN LLUCH, PROCESS SERVER, RTC, BRANCH 4, ILIGAN CITY, RESPONDENT.

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

In an undated "Memorandum-Complaint" addressed to Executive Judge Mamindiara P. Mangotara of the Regional Trial Court at Iligan City, Temolito B. Nalla, through his counsel, Atty. Samson N. Dajao, charged Franklin Lluch, process server of the same court, with dereliction of duty in connection with Civil Case No. 4510.^[1] Complainant alleged that on March 9, 1999, this case was set for hearing but was cancelled because respondent Lluch forgot to serve the notice to the parties. Respondent's conduct caused prejudice to the complainant considering that he had to take a leave of absence from his work at the National Steel Corporation. He stressed that "lazy and incompetent employee has no place in this sacred activity called dispensation of justice where utmost honesty, dedication, integrity, industry and sometimes personal sacrifices are required. He should find employment somewhere else."^[2]

Respondent did not deny that he failed to serve the Notices of Pre-Trial to all the parties in Civil Case No. 4510. In his Explanation dated March 12, 1999, he stated:

"That his failure was not intentional nor do he failed to record the said notice. All notices for service were placed in one envelope. However, because of the voluminous notices he has since regular Sheriff of this Court was on leave and all notices and summons were assigned to him, he mistakenly placed the above-mentioned Pre-Trial Notice at the middle of a Notice (between the original and duplicate) that is scheduled for service the following week.

"That I have already conferred this matter with Atty. Samson Dajao of the situation and that he accepted my explanation. In fact, he told me to intercept the letter mailed to the Supreme Court but unfortunately, the letter was already mailed when we arrived at the Iligan City Post Office."

^[3]

Upon the directive of the Office of the Court Administrator (OCA), which was furnished a copy of the said "Memorandum-Complaint," Executive Judge Mangotara conducted an investigation. His findings and recommendation are as follows:

"2. That Franklin Lluch, Process Server of RTC Branch 4 explained to the undersigned that his failure to give notice to the parties in the pre-trial conference on March 9, 1999 is not intentional. That because of the

voluminous notices which was placed in one envelope due to the leave of absence of the Deputy Sheriff Mr. Anacleto, he mistakenly placed the pre-trial notice at the middle of a notice (between the original and duplicate);

"3. That he, the Process Server had conferred this matter with Atty. Samson Dajao of the circumstances and Atty. Dajao had accepted it but unfortunately said letter was already mailed to the Supreme Court. In fact, immediately after the hearing on March 9, 1999, the acting Presiding Judge of RTC, Branch 4 admonished Franklin Lluch, the Process Server, not to repeat his short-coming otherwise he will be recommended for fine or suspension from the service;

"From the foregoing explanation of Process Server Franklin Lluch, the Court is of the view that prejudice is wanting. The clients of Atty. Dajao are residents of Iligan City. In fact, the record shows that the pre-trial was reset to March 16, 1999, and the same was terminated on the same date, and that the plaintiff has already presented three (3) witnesses.

"In the light of the foregoing, the undersigned recommends for reprimand only to the effect that repetition of the same, a more severe penalty shall be imposed."^[4]

The OCA considered the above findings and recommendation "satisfactory" and made the same recommendation to this Court.

After a close review of the records, we are convinced that respondent was negligent in the performance of his duties as a process server. He deserves a more severe penalty.

As mentioned earlier, Executive Judge Mangotara found that no prejudice was caused to the parties since "the pre-trial was reset to March 16, 1999, and the same was terminated on the same date, and that the plaintiff (now complainant) has already presented three (3) witnesses." At first glance, the damage to the parties is trivial. In fact, complainant was on leave from work for only one day and that not one of the defendants complained. However, respondent's neglect of duty goes beyond the interest of the parties in Civil Case No. 4510. It is a concern of this Court. We find his actuation inimical to the speedy dispensation of justice. Considering the heavy backlog of cases in the trial courts, negligence of this kind, if lightly taken, will definitely hinder their speedy disposition.

The duty of a process server is vital to the machinery of the justice system. His primary duty is "to serve court notices"^[5] which precisely requires utmost care on his part by seeing to it that all notices assigned to him are duly served upon the parties. Thus, respondent should have carefully examined each of the "voluminous notices" assigned to him, scanning and reading every page to ensure that every notice to the party concerned will be served properly. Here, respondent failed to exercise that degree of diligence required by his office. It bears reiterating what we said in *Musni vs. Morales*,^[6] that "the conduct required of court personnel, from the presiding judge to the lowliest clerk, must always be beyond reproach and circumscribed with heavy burden of responsibility." In government service, both the highest and lowest positions are impressed with public interest^[7] and are, by