

THIRD DIVISION

[A.M. No. P-98-1266, April 15, 1998]

SOLIDBANK CORPORATION, COMPLAINANT, VS. BRANCH CLERK OF COURT ROBERTO B. CAPOON, JR., REGIONAL TRIAL COURT, BRANCH 62, MAKATI CITY, AND CLERK OF COURT VIRGINIA TABIRAO, OF THE SAME RTC, BRANCH 62, MAKATI CITY, RESPONDENTS.

R E S O L U T I O N

PURISIMA, J.:

Administrative Complaint for gross negligence, grave misconduct, manifest bias and partiality, lodged by Solidbank Corporation thru counsel, Atty. George S. Briones, against Clerk of Court Roberto B. Capoon, Jr. and Clerk for Civil Cases Virginia Tabirao of Branch 62 of the Regional Trial Court, Makati City, in connection with the dismissal for failure to prosecute of Civil Case No. 92-021, entitled "Solidbank Corporation vs. Ballistics Armoring Corporation Philippines, R. Keith Ogden, Jr., and American Home Assurance Company," for Sum of Money.

Complainant contends that the said respondents are administratively liable for failing to furnish its lawyer with a copy of the court Order dated August 6, 1993, dismissing the aforesaid Civil Case No. 92-021 for failure to prosecute. According to complainant, by reason of the nonfeasance complained of, it failed to avail of remedies to protect its interest and as a result, it suffered great and irreparable damage. Further, complainant theorizes that as it was the only party not given a copy of subject order of dismissal, respondents patently acted with bias and partiality in favor of the adverse parties (defendants).

Records show that from the day of filing of Civil Case No. 92-021, on January 6, 1992, to December 7, 1992, the defendants in said case were granted several extensions of time to file their answer or motion to dismiss.^[1] On February 21, 1994 or more than a year after the filing of the last pleading, Solidbank filed an "Ex Parte Motion to Declare Defendants in default" and on February 24, 1994, its lawyer, Atty. George S. Briones, went to personally verify the status of his said motion, and he learned for the first time, that Civil Case No. 92-021 was dismissed by the trial court on August 6, 1993. The dispositive portion of the Order of Dismissal was to the following effect:

"Wherefore, for failure of plaintiff Solidbank Corporation, third-party plaintiff American Home Assurance Company to prosecute its Complaint and crossclaim respectively within the reasonable length of time, the Complaint, cross claim, and third-party Complaint are all dismissed.

SO ORDERED."^[2]

Records of said civil case showed that only Atty. Michael Angelo G. Paderanga, counsel for defendants Ballistic Armory Corporation and R. Keith Ogden, Jr., and Atty.

T. J. Sumawang, counsel for defendant American Home Assurance Corporation, were served and notified of the Order in question. Plaintiff Solidbank, the herein complainant, was never notified thereof. When Atty. Briones asked why his client was not sent a copy of the said Order of dismissal dated August 6, 1993, respondent Virginia Tabirao said *“ginaya ko lang ho yung ginawa noong dating in-charge sa civil cases kasi bago pa lang ako.”*

In view of what he discovered, Atty. Briones lost no time in bringing the matter to the attention of Presiding Judge Roberto C. Diokno, who told him to present a motion for reconsideration and to reiterate in such pleading, by way of Omnibus Motion, his motion to declare the defendants in default. But on July 12, 1994, the same Court presided over by Judge Diokno issued an Order^[3] ruling out the reinstatement of the Complaint in Civil Case No. 92-021 and considering the motion to declare the defendants in default moot and academic.

Complaining of great and irreparable damage caused by alleged negligence, bias, incompetence, and inefficiency of respondents, complainant Solidbank seeks respondents' dismissal from the service.

In his Comment dated September 26, 1995, the respondent Branch Clerk of Court, Atty. Roberto B. Capoon, Jr., explained that he never failed to instruct his subordinates what to do and if ever there were some mistakes or delays, it must have been due to the heavy caseload of the court. This respondent stressed that the long delay of service of the Order of dismissal in said civil case did not cause great damage to the complainant because its complaint was dismissed on the ground of failure to prosecute, and it had a chance to move for reconsideration and to appeal should its motion for reconsideration be denied.

Respondent Clerk of Civil Cases Virginia Tabirao, who sent in her separate Comment on September 20, 1995, laid the blame on her assistant, a casual employee, who was tasked to mail the court notices including the notice of subject Order dated August 6, 1993. She reasoned out that while she was preoccupied with the inventory of pending civil cases, she adopted a good filing system so much so that, on February 24, 1994 she was able to show to Atty. Briones the records of Civil Case No. 92-021.

On May 3, 1995, this administrative case was referred to the Court Administrator, for evaluation, report and recommendation. And on February 18, 1996, the Court Administrator submitted the corresponding Report/Memorandum, finding both respondents, Virginia Tabirao and Atty. Roberto Capoon, Jr., guilty of gross negligence and partiality, and recommending the imposition of a fine of P500.00 on the former and reprimand for both respondents.

From the records on hand, it can be gleaned that while notice of the Order of Dismissal dated August 6, 1993 was not served on the plaintiff, Solidbank Corporation, within a reasonable time, the lawyers of the defendants in subject Civil Case No. 92-021 were duly notified without undue delay.

The administration of justice is a sacred and delicate task. Any act or omission tending to erode the faith of the people in the judiciary cannot be countenanced. It must be punished with severity because those *“involved in the administration of justice ... must live up to the strictest standard of honesty and integrity in the public service.”*^[4] Their conduct must at all times, not only be characterized by propriety and decorum but must