

FIRST DIVISION

[G.R. Nos. 85248-49, February 01, 1996]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SGT.
JERRY BALANON, ACCUSED-APPELLANT.**

R E S O L U T I O N

BELLOSILLO, J.:

On 6 July 1994 we affirmed the conviction of accused Sgt. Jerry Balanon of murder on two (2) counts as well as the penalty of reclusion perpetua in each count imposed by the Regional Trial Court of Zamboanga City.^[1]

On 4 April 1994, appellant informed this Court that he was withdrawing his appeal purportedly because he could no longer wait for the decision to be handed down. He maintained that he has served his sentence of "double life imprisonment" of fourteen (14) years and four (4) months from the time of his incarceration on 22 December 1980.^[2] On 18 April 1994 the Judicial Records Office (JRO) received the letter of Sgt. Balanon, and on 28 April 1994 transmitted it to the Clerk of Court of the First Division.^[3]

On 31 May 1994 Sgt. Balanon wrote a second letter inquiring how he could withdraw his appeal as he had sought the assistance of his counsel de officio but did not receive any response from him.^[4] On 16 June 1994 the JRO received the letter of the accused, and on 17 June 1994 transmitted it to the Clerk of Court, First Division.

Upon investigation conducted by the Clerk of Court of the First Division, it was revealed that the one in charge of receiving pleadings in the First Division was Ms. Barbara C. Lopez, Records Officer II.^[5] The records show that Ms. Lopez received the two (2) letters of Sgt. Balanon on 28 April 1994 and 17 June 1994, respectively; that she had the letters attached to the rollo and transmitted them to the Agenda Division for reporting only on 26 October 1994; that, acting on the letters, the Court noted them in the agenda of 16 November 1994 and required Atty. Virginia Ancheta-Soriano, Clerk of Court of the First Division, to explain why the letters of Sgt. Balanon were belatedly brought to the attention of the Court.

In her Memorandum dated 2 June 1994 to Mr. Justice Teodoro R. Padilla, Chairman, First Division, Atty. Soriano reported that Ms. Lopez verbally admitted her failure to forward the letters to the Agenda Division within a reasonable time and apologized for the delay. According to her sister Ms. Lilian Pimentel who also works with the Court, Ms. Lopez was unable to submit her written explanation because she was confined at the Makati Medical Center.

In her letter to Atty. Soriano dated 11 January 1995 Ms. Lopez explained that she repeatedly requested for the rollo of this case from the Rollo Room on four (4)

separate occasions, i.e., on 29 April 1994, 26 May 1994 and 7 and 21 June 1994,^[6] but failed to receive it; that when she was given clearance to transmit the pleadings without the rollo, she made an inventory of all pleadings, segregating those due for reporting from those which were not; that she then placed in one (1) folder the pleadings which need not be reported and set it aside; that she placed in another folder the temporary *rollos* containing the pleadings that had to be reported and noted their case numbers in an index card; that unfortunately, Ms. Lopez inadvertently filed the letters of Sgt. Balanon in the folder containing pleadings that did not require reporting.

Ms. Lopez further explained that she could not rely on her list of cases where she requested for the rollos - to remind her of pleadings that remained unacted upon - because of the number of papers that regularly passed her table. Consequently, she had to depend on the pleadings actually on file in her folder which she relied upon to remind her of the *rollos* of the cases not yet delivered to her. She claimed that she was unaware all the while that the two (2) letters of appellant Balanon were placed in the wrong folder until someone requested for them.

On 17 January 1995 Atty. Soriano submitted a Supplemental Memorandum-Report to Mr. Justice Padilla. According to her, while the evidence showed that Ms. Lopez indeed requested for the rollo from the *Rollo Room four (4) times without favorable response, this could not exonerate* her from administrative liability since Ms. Lopez could have used a temporary rollo for the purpose. Assuming that her efforts to obtain the *rollo* were futile, she should have transmitted the letters just the same to the Agenda Division even without the *rollo*. Obviously, her shortcomings were due not to the unavailability of the *rollo* but because the letters had been erroneously filed in another folder.

Atty. Soriano informs the Court that she has replaced Ms. Lopez as the employee in charge of receiving pleadings for transmission to the Agenda Division in view of her propensity to commit such mistakes in the performance of her duties, and that she has reminded the Chief of Division to closely supervise her subordinates to avoid a repetition of the same act. Atty. Soriano recommends that Ms. Lopez be accordingly admonished.

It may be recalled that in *Tan Chun Suy v. Court of Appeals* (G.R. No. 93640, 7 January 1994) a similar imprudence or indiscretion was committed in the First Division by the same Ms. Barbara C. Lopez. In that case, Ms. Lopez received the "Manifestation and Motion to Withdraw Petition" of petitioner on 24 November 1993 but failed to transmit the same to the Agenda Division for reporting until a decision had already been promulgated. Ms. Lopez again attributed the delay in the transmittal of the aforementioned manifestation and motion to the unavailability of the rollo despite her repeated requests from the Rollo Room. According to her, she accidentally found the rollo of the *Tan Chun Suy* case on 25 January 1994 at the Judgment Division of the Judicial Records Office after it was directly forwarded to it upon promulgation of the decision on 7 January 1994. In that incident Atty. Soriano rebuked Ms. Lopez and warned her to be more circumspect in obtaining *rollos* of cases, suggesting to her that to be earnest in her purpose she should have made a formal request signed by the Clerk of Court authorizing her to follow-up *rollos* for proper reporting.

The *Tan Chun Suy* incident undoubtedly placed the Court in a bad light. We are