

FIRST DIVISION

[A.M. No. P-96-1213, August 01, 1996]

**JULIE O. RAMIREZ, COMPLAINANT, VS. FERNANDO G. RACHO,
CLERK OF COURT, MTC, BRANCH 21, MANILA, RESPONDENT.**

D E C I S I O N

PADILLA, J.:

The present controversy arose from a complaint^[1] filed by Julie O. Ramirez charging respondent Fernando G. Racho, Branch Clerk of Court, Metropolitan Trial Court, Branch 21, Manila, with gross neglect of duty and conduct prejudicial to the best interest of the service.

Complainant asserts that she requested from respondent certified copies of documents which form part of the records of Civil Case No. 126749-CV. The corresponding fee for such copies was paid by complainant. However, respondent allegedly failed to stamp on the reproduced documents that the same are "certified xerox copies" (of the originals). As a result thereof, complainant claims that her Petition for Certiorari and Prohibition was denied by this Court on the ground of non-attachment of certified copies of annexed documents.

In his Comment^[2] to the complaint, respondent avers that:

1. On the day he received the letter-request of complainant, he immediately instructed the court stenographer to bring out the records of the case and photocopy all documents listed in the request; at the same time he directed the representative of complainant to pay to the cashier the corresponding fee;
2. After payment of the fee was made, respondent assumed that the representative of complainant would return to their office to have the documents stamped or marked as "certified copies." He did not. Accordingly, the blame should rest on the representative of complainant;
3. Finally, even granting that the documents were not stamped or marked as "certified copies," the official receipts attached to the documents would readily show that they were in fact certified copies.

On 1 June 1995, then Deputy Court Administrator Juanito A. Bernad referred the administrative complaint and the respondent's comment thereon to Executive Judge Thelma A. Ponferrada (Metropolitan Trial Court of Manila) for investigation, report and recommendation.

On 28 July 1995, Judge Ponferrada submitted to the Office of the Court

Administrator her investigation report,^[3] the pertinent part of which is quoted hereunder, to wit:

"x x x In compliance with the directive, the complaint was set for hearing on July 14 and 25, 1995 but complainant Julie O. Ramirez could no longer be served with notice at her given address.

On the other hand, respondent moved for the dismissal of the complaint, and when asked, affirmed the contents of his Comment which was submitted to the office of the Deputy Court Administrator on April 28, 1995, copy of which is enclosed.

In view hereof, the undersigned recommends that the subject complaint be dismissed."

On 25 August 1995, the Office of the Court Administrator inquired^[4] from Judge Ponferrada how the notices were served on complainant since, according to her investigation report, complainant could no longer be served with notice at her given address.

In her reply letter,^[5] Judge Ponferrada explained that the notice for the July 19 hearing was intended to be personally served on the complainant. However, the personal service could not be effected since, as per return, the house at the given address had already been demolished.^[6] The notice for the July 25 hearing was sent by registered mail on 17 July 1995 but was returned unclaimed.^[7]

Notwithstanding the above developments, and despite the recommendation by Judge Ponferrada for the dismissal of the administrative complaint, the Court Administrator recommended disciplinary action against the respondent clerk of court. This recommendation is contained in his Memorandum^[8] for the Chief Justice, the pertinent part of which is quoted hereunder:^[9]

"x x x A perusal of the records would establish a basis of liability on the part of the respondent. Complainant Ms. Ramirez specifically requested in her letter certified copies of some documents relative to Civil Case No. 126749. Thus, when her representative was given reproduced copies of the requested documents, it was to be presumed that the records should have been stamped with "certified xerox copies" since that was the purpose why it was requested and paid for. x x x."

For failure of the Court Administrator to indicate in the above Memorandum the proper penalty to be imposed against respondent, this Court referred the case back to the Court Administrator on 17 January 1996 for the determination of the proper penalty.

In a Memorandum dated 2 February 1996,^[10] the Office of the Court Administrator recommended that a fine of Two Thousand Pesos (P2,000.00) be imposed on respondent.

We find no reason to disturb the findings and recommendation of the Court Administrator.