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The law always presumes good faith; thus, any person who seeks damages because of the tortious acts of another has the burden of proving that the latter acted in bad faith or with ill motive. Certainly, petitioners have not discharged this burden, and a recovery for damages under the circumstances is unwarranted.

In sum, petitioners themselves were the ones who caused the damage which they claim to have suffered, because they had failed to follow the strict legal requirements for perfecting an appeal. If they had filed the requisite supersedeas bond, the execution of the judgment would have been stayed. Hence, their loss or misfortune can be attributed to no less than their own inaction or failure to follow the law.

WHEREFORE, the Petition is *DENIED* and the assailed Resolutions *AFFIRMED*. Costs against petitioners.

SO ORDERED.

Melo, J. (Chairman), Vitug, Sandoval-Gutierrez, and *Carpio, JJ.*, concur.

EN BANC

[A.M. No. P-01-1486. February 21, 2002]

JUDGE LORETO D. DE LA VICTORIA, *complainant, vs.* **HON. LEOPOLDO V. CAÑETE,* formerly Branch Clerk of Court, Regional Trial Court, Branch 6, Cebu**

28, 1994; *Saba v. Court of Appeals*, 189 SCRA 50, August 24, 1990; *Ilocos Norte Electric Company v. Court of Appeals*, 179 SCRA 5, November 6, 1989; *Auyong Hian v. Court of Tax Appeals*, 59 SCRA 110, September 12, 1974.

* Impleaded as additional respondent per resolution of February 19, 2002.

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City and now Judge, Regional Trial Court, Branch 27, Lapu-Lapu City, and TEOFILO M. MENDEZ, formerly Court Interpreter, same court, *respondents.*

SYNOPSIS

Court Interpreter Teofilo M. Mendez of the Regional Trial Court, Branch 6, Cebu City, applied for retirement due to his disability. Presiding Judge Loreto D. de la Victoria recommended that his retirement be approved subject to the condition that the release of his retirement benefits be withheld until he submitted some missing case exhibits which had been entrusted to his care and custody. The matter was referred for investigation, report and recommendation. Thereafter, the Supreme Court directed the then Branch Clerk of Court respondent LeopoldoCañete now Judge Regional Trial Court, Branch 27, Lapu-lapu City, to make an inventory of the exhibits and submit a copy to the Court. The Court also directed Judge de la Victoria to issue the necessary orders for the expeditious resolution of the cases and for respondent Mendez to comment on the alleged loss of exhibits, which were in his custody. Both respondents herein failed to comply with the directives to them. Hence, the Court considered the letter of Judge de la Victoria as a complaint against Mendez.

Following the recommendation of the Court Administrator, the Supreme Court dismissed the case against respondent Mendez for being moot and academic having long retired from service. Respondent Cañete was reprimanded for failure to comply with the directive of the Court; and Judge de la Victoria was ordered to direct his Branch Clerk of Court to make an inventory of the exhibits and submit them to the Court. According to the Court, as Branch Clerk of Court, Cañete was mandated to safely keep all the records, papers, files, exhibits, and public property committed to his charge. It was his duty to see to it that his subordinates to whom the safekeeping thereof was delegated performed his duties.

SYLLABUS

1. **POLITICAL LAW; PUBLIC OFFICERS; COURT PERSONNEL; COMPULSORY RETIREMENT PLACES ONE**

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OUTSIDE THE ADMINISTRATIVE SUPERVISION OF THE COURT; APPLICATION IN CASE AT BAR. — The record shows that respondent Teofilo M. Mendez took a leave of absence for five months, from June to October 1994, and stopped reporting for work thereafter. His application for disability retirement in October 1994 was not approved because he could not produce certain exhibits that were in his custody. Somehow, however, he was able to retire compulsorily on March 5, 1997. Hence, when this Court, in its resolution of July 17, 2001, treated Judge de la Victoria's letter as a complaint, Teofilo M. Mendez had long been separated from the service. His compulsory retirement on March 5, 1997 placed him outside the administrative supervision of this Court. Consequently, the complaint against him must be considered moot and academic, without prejudice to the filing of criminal or civil cases against him for the loss of the exhibits.

2. **ID.; ID.; CLERK OF COURT; RESPONSIBLE FOR KEEPING CLOSE SUPERVISION OF HIS SUBORDINATES; CASE AT BAR.** — Although respondent Mendez had been remiss in his safekeeping of the said exhibits resulting in their loss, respondent Cañete cannot escape responsibility for the loss of the exhibits. As Branch Clerk of Court he was mandated to safely keep all records, papers, files, exhibits, and public property committed to his charge, including the library of the court, and the seals and furniture belonging to his office. More specifically, with respect to all exhibits used as evidence and turned over to the Court, it was his duty to see to it that his subordinates to whom the safekeeping thereof was delegated performed their duties. In the case of respondent Mendez, strictly speaking, his duty as translator of the Court, was only to attend court hearings, administer oaths to witnesses, mark all exhibits introduced in evidence, and prepare and sign all the minutes of the session, but not to keep documents in his custody. If custody of the exhibits in question had been entrusted to respondent Mendez, respondent Cañete's duty was to see to it that the documents were kept properly. His excuse, that even before he became Branch Clerk of Court, respondent Teofilo M. Mendez had already been entrusted with the custody of case records, cannot justify his failure to exert his authority and perform a duty that by law primarily devolved on him as Branch Clerk of Court. So, even if respondent Cañete's appointment, first as Judge of the MeTC and later as Judge of

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the RTC, came very shortly after this Court's directive to him to prepare a list of the missing exhibits excused him from complying, nonetheless he cannot be excused from the responsibility of keeping close supervision of his subordinate Teofilo M. Mendez whom he knew had been keeping custody of court records. Above all, respondent Cañete should at least have had the courtesy, after his appointment as a Judge, to inform this Court of his inability to comply with the order given to him as Branch Clerk of Court, instead of doing so only after he had been required to comment in this case. He was especially expected to do this as a responsible member of the judiciary since as Judge his orders have to be complied with by those to whom they are directed, with a duty on the part of the latter to explain if they cannot comply.

D E C I S I O N

MENDOZA, *J.:*

This is a complaint filed by Presiding Judge Loreto D. de la Victoria of the Regional Trial Court, Branch 6, Cebu City against his court interpreter, Teofilo M. Mendez, for the latter's failure to produce missing case exhibits which had been entrusted to his care and custody. The complaint stemmed from a letter dated August 22, 1996 which Judge de la Victoria wrote to this Court, stating that respondent Mendez filed a leave of absence from June to October 1994 and never returned to work afterward. Judge de la Victoria stated that he later learned that respondent Mendez had applied for disability retirement but his application had not been approved because of his failure to produce the exhibits in certain cases despite orders issued to him. Judge de la Victoria stated that respondent Mendez had been disabled on account of a stroke which impaired his memory and his speech. For this reason, Judge de la Victoria recommended that, if possible, respondent Mendez's application for retirement be approved subject to the condition that the release of his retirement benefits be withheld until he submitted the missing exhibits.

The matter was referred to then Executive Judge Priscila S. Agana of the Regional Trial Court of Cebu City for investigation,

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report, and recommendation.[1] Judge Agana directed respondent Leopoldo V. Cañete, as Branch Clerk of Court of the Regional Trial Court, Branch 6, Cebu City, to submit a list of the missing exhibits within 10 days from notice.

In compliance with Judge Agana's directive, respondent Cañete said that he came to know about the missing exhibits only while in the process of transmitting the records of cases on appeal to the Court of Appeals.[2] He identified the missing exhibits in the appealed cases as the following:

a) *PP v. Giovanni Mante* — Crim. Case No. CBU-1769
For: Homicide

Exh. 2 - medical certificate of Rosita Mante
3 - X-ray findings
4 - medical certificate issued by Dr. Jesus Rabanes
5 - sketch by Francisco Mante, Jr.

b) *PP v. Nicanor Enriquez* — Crim. Case No. CU-5313
For: Viol. of Art. 166, RPC

Exh. C - search warrant
C-1 - return of search warrant
C-2 - receipt of confiscated articles
C-3 - receipt of confiscated printing machine
E -statements of Alexeber Chiong
F - picture of printing machine
F-1 to F-9 - photopictures
H - sworn statements of Ignacio Carreon
K - waiver
L - waiver of constitutional rights

c) *Raul Sesbreño vs. Gov. Eduardo Gullas* — Civ. Case No. R-19022
For: Damages

Exh. 7-Gullas - letter of Atty. Hermosisima dtd 2/18/80
8-Gullas - worksheet
9-Gullas - worksheet[3]

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[1] 1st Indorsement dated Oct. 21, 1996 by DCA Bernardo P. Abesamis.

[2] Manifestation and Compliance dated Nov. 12, 1996, p. 1.

[3] *Id.*, p. 2.

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Respondent Cañete explained that Mendez had been interpreter for 30 years and was known to have been given the custody of exhibits even prior to his (respondent Cañete's) appointment as Branch Clerk of Court in 1988. For this reason, respondent Cañete said he did not know the whereabouts of the other exhibits because respondent Mendez did not submit an inventory of the exhibits despite a directive to that effect, nor did Mendez take the trouble of locating the missing exhibits, save in one civil case, as required by the Court of Appeals.[4]

In her report, Executive Judge Agana recommended that Branch Clerk respondent Cañete be ordered to make an inventory of exhibits in each case and that respondent Mendez be ordered examined by physicians of the Government Service Insurance System to determine if he could avail of disability retirement, and, if found not to be qualified for retirement, that he be administratively dealt with and his retirement benefits forfeited.[5] Judge Agana noted, however, that some other exhibits could have been lost even after 1994 when respondent Teofilo M. Mendez stopped reporting for work.

For this reason and upon recommendation of the Court Administrator, this Court, in a resolution, dated February 4, 1997, directed (1) respondent Cañete to make an inventory of exhibits and submit a copy thereof to the Court; (2) Judge de la Victoria to issue the necessary orders for the expeditious resolution of the cases; and (3) respondent Mendez to comment within 10 days from notice on the alleged loss of exhibits which were in his custody.[6]

As respondents Cañete and Mendez both failed to comply with the directives to them, the Court considered the letter of Judge de la Victoria as a complaint against respondent Mendez, required respondent Cañete to show cause why he should not be disciplinarily dealt with for his failure to make an inventory

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[4] *Id.*, p. 1.

[5] Report, dated Nov. 13, 1996.

[6] Resolution, dated Feb. 4, 1997.

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of the missing documents within 10 days from notice, and ordered respondent Mendez to file his answer within 10 days from notice.

Respondent Cañete filed his comment explaining that, on February 4, 1997, when the order to submit an inventory of the missing exhibits was issued by this Court to him, he was no longer the Branch Clerk of Court of the Regional Trial Court, Branch 6, Cebu City, having been appointed judge of the Metropolitan Trial Court of San Fernando, Cebu and having assumed office on February 3, 1997, per the Certification issued by Clerk of Court Lourdes R. Taping on March 19, 1997. He likewise submitted a copy of his oath of office as judge of the MeTC. He explained that he honestly thought that having ceased to be the Branch Clerk of Court, the obligation of complying with this Court's requirement to submit an inventory of the exhibits devolved upon his successor-in-office, Atty. Myrna Valderrama-Limbaga. As far as he was concerned, he had already done his part by submitting the partial inventory of exhibits in his manifestation and compliance. He further stated that he was promoted as presiding judge of the Regional Trial Court, Branch 27, Lapu-Lapu City and that he had assumed office as such on May 8, 2000, per certification of Acting Branch Clerk of Court Flordeliza G. Garcia.

Since Teofilo M. Mendez appears to have retired on October 14, 1994, before the letter of Judge de la Victoria was docketed as an administrative complaint against him, the Court Administrator recommended the dismissal of the case on the ground that this Court no longer had administrative supervision over him. With respect to respondent Cañete, the Court Administrator believes that he had the duty to comply with the resolution of this Court, which did not cease upon his appointment as Judge of the Metropolitan Trial Court of San Fernando, Cebu.

Hence, the Court Administrator recommended that (1) the case against respondent Teofilo M. Mendez be dismissed for being moot and academic; (2) respondent Leopoldo V. Cañete be reprimanded for failure to comply with the directive of the Court; and (3) Judge de la Victoria to direct his Branch Clerk

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of Court to make an inventory of the exhibits and submit them to the Court within 20 days from notice.[7]

The recommendations are well taken.

First. The record shows that respondent Teofilo M. Mendez took a leave of absence for five months, from June to October 1994, and stopped reporting for work thereafter. His application for disability retirement in October 1994 was not approved because he could not produce certain exhibits that were in his custody. Somehow, however, he was able to retire compulsorily on March 5, 1997. Hence, when this Court, in its resolution of July 17, 2001, treated Judge de la Victoria's letter as a complaint, Teofilo M. Mendez had long been separated from the service. His compulsory retirement on March 5, 1997 placed him outside the administrative supervision of this Court. Consequently, the complaint against him must be considered moot and academic, without prejudice to the filing of criminal or civil cases against him for the loss of the exhibits.

Second. With respect to former Branch Clerk of Court respondent Cañete, it appears from the record that he learned of the missing exhibits when they could not be located after they were required to be transmitted to the Court of Appeals in connection with appeals in certain cases. As the investigation conducted by Executive Judge Agana shows, respondent Cañete did not know if all the exhibits in all of the cases before the sala of Judge de la Victoria had been accounted for on the ground that respondent Mendez had been their actual custodian prior to and during his (respondent Cañete's) incumbency as Branch Clerk of Court of the Regional Trial Court, Branch 6, Cebu City. Nor did respondent Cañete bother to find out if there were any other missing exhibits aside from those cases on appeal.

Although respondent Mendez had been remiss in his safekeeping of the said exhibits resulting in their loss, respondent Cañete cannot escape responsibility for the loss of the exhibits. As Branch Clerk of Court he was mandated to safely keep all records,

[7] Memorandum dated Dec. 14, 2001.

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papers, files, exhibits, and public property committed to his charge, including the library of the court, and the seals and furniture belonging to his office.[8] More specifically, with respect to all exhibits used as evidence and turned over to the Court, it was his duty to see to it that his subordinates to whom the safekeeping thereof was delegated performed their duties.[9] In the case of respondent Mendez, strictly speaking, his duty as translator of the Court, was only to attend court hearings, administer oaths to witnesses, mark all exhibits introduced in evidence, and prepare and sign all the minutes of the session,[10] but not to keep documents in his custody. If custody of the exhibits in question had been entrusted to respondent Mendez, respondent Cañete's duty was to see to it that the documents were kept properly. His excuse, that even before he became Branch Clerk of Court, respondent Teofilo M. Mendez had already been entrusted with the custody of case records, cannot justify his failure to exert his authority and perform a duty that by law primarily devolved on him as Branch Clerk of Court.

So, even if respondent Cañete's appointment, first as Judge of the MeTC and later as Judge of the RTC, came very shortly after this Court's directive to him to prepare a list of the missing exhibits excused him from complying, nonetheless he cannot be excused from the responsibility of keeping close supervision of his subordinate Teofilo M. Mendez whom he knew had been keeping custody of court records. Above all, respondent Cañete should at least have had the courtesy, after his appointment as a Judge, to inform this Court of his inability to comply with the order given to him as Branch Clerk of Court, instead of doing so only after he had been required to comment in this case. He was especially expected to do this as a responsible member of the judiciary since as Judge his orders have to be complied with by those to whom they are directed, with a duty on the part of the latter to explain if they cannot comply.

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[8] RULES OF COURT, RULE 136, §7.

[9] *Cañete v. Rebosa, Sr.*, 278 SCRA 478 (1997).

[10] *Dionisio v. Gilera*, 312 SCRA 287 (1999).

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For these reasons, as recommended by the Office of the Court Administrator, respondent Leopoldo V. Cañete should be given a reprimand.

Third. Atty. Myrna Valderrama-Limbaga, as the incumbent Branch Clerk of Court of the Regional Trial Court, Branch 6, Cebu City, should submit the inventory of all cases pending before that court within 30 days from notice, furnishing a copy thereof to the Judge. For his part, Judge Loreto de la Victoria should see to it that this directive is complied with.

WHEREFORE, judgment is rendered as follows:

(1) The complaint against respondent Teofilo M. Mendez, former Court Interpreter of the Regional Trial Court, Branch 6, Cebu City is *DISMISSED* for being moot and academic, without prejudice to the filing of the appropriate criminal or civil case for the loss of the exhibits in question as may be warranted. For this reason, the Office of the Court Administrator is directed within thirty (30) days from notice to study the feasibility of bringing such action and report to the Court within five (5) days thereafter,

(2) Respondent Leopoldo V. Cañete is *REPRIMANDED* for being remiss in the performance of his administrative duty as Branch Clerk of Court of the Regional Trial Court, Branch 6, Cebu City, resulting in the loss of court exhibits.

(3) The Presiding Judge of the Regional Trial Court, Branch 6, Cebu City is hereby ordered to see to it that Branch Clerk of Court Myrna Valderrama-Limbaga complies with the herein directive to her to prepare an inventory of all cases and the exhibits therein now pending before said court and submit a copy of the same and a list of those missing to this Court within thirty (30) days from notice, furnishing a copy to the Presiding Judge of that court.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Panganiban, Quisumbing, Buena, Ynares-Santiago, De Leon, Jr., Sandoval-Gutierrez, and *Carpio, JJ.,* concur.