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FIRST DIVISION

[A.M. No. P-02-1556. February 22, 2002]
(A.M. OCA IPI No. 96-182-P)

NORMA SANTOS, *complainant, vs.* **JOYCE TRINIDAD ARLEGUI-HERNANDEZ, Clerk of Court, Metropolitan Trial Court, Branch 58, San Juan, Metro Manila, and Atty. MARLON B. LLAUDER, private practitioner,** *respondents.*

SYNOPSIS

Complainant herein charged Joyce Trinidad Arlegui-Hernandez, Clerk of Court of the Metropolitan Trial Court of San Juan, with making an intercalation into the records of a certificate of non-forum shopping when said paper was not attached to or part of the document at the time the complaint for ejectment was filed. In relation to this, a complaint was also filed against Atty. Marlon B. Llauder, counsel for the plaintiff in the said ejectment case. The complaint against Atty. Llauder was referred to the Integrated Bar of the Philippines for investigation, report and recommendation, while the case against Arlegui-Hernandez was referred to the Executive Judge of the Regional Trial Court of Pasig City. The Executive Judge found respondent Hernandez guilty of negligence in the performance of her duties and recommended that she be reprimanded with a warning that a repetition of the same or similar acts in the future will be dealt with more severely. The Office of the Court Administrator affirmed the findings of the investigating judge, but imposed an additional fine of ₱5,000.00.

According to the Supreme Court, the Clerk of Court is charged with the responsibility of maintaining the authenticity and correctness of court records and to keep such records with due diligence, efficiency and professionalism. Evidence on record manifestly showed that respondent Hernandez violated such duty. By allowing the insertion of the certification of non-forum shopping to make it appear that the same was already part of the case records at the time of filing of the complaint, respondent Hernandez committed an act of dishonesty. The Court found the penalties recommended by both the investigating

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judge and the Court Administrator to be too light incommensurate with the gravity of the offense. For her grave misconduct and conduct prejudicial to the best interest of the service, respondent Hernandez was ordered suspended for one year with a stern warning that a repetition of a similar act will be dealt with more severely.

SYLLABUS

1. **POLITICAL LAW; LAW ON PUBLIC OFFICERS; COURT PERSONNEL; STRICTEST STANDARD OF HONESTY AND INTEGRITY, REQUIRED.** — The Court has repeatedly stressed that the conduct and behavior of every one connected with an office charged with the dispensation of justice, from the presiding judge to the lowliest clerk, should be circumscribed with the heavy burden of responsibility. The strictest standard of honesty and integrity in the public service is required of those involved in the administration of justice.

2. **ID.; ID.; CLERK OF COURT; SPECIFICALLY CHARGED WITH RESPONSIBILITY OF MAINTAINING AUTHENTICITY AND CORRECTNESS OF COURT RECORDS.** — In particular, clerks of court must be individuals of competence, honesty, and probity since they are specifically imbued with the mandate of safeguarding the integrity of the court and its proceedings, to earn and preserve respect therefor, to maintain loyalty thereto and to the judge as superior officer, to maintain the authenticity and correctness of court records and to uphold the confidence of the public in the administration of justice. One of the specific duties of a clerk of court is the safekeeping of court records. The clerk of court is charged with the responsibility of maintaining the authenticity and correctness of court records and to keep such records with due diligence, efficiency and professionalism.

3. **ID.; ID.; ID.; ID.; VIOLATION THEREOF; PENALTY.** — Since it is the clerk of court who is charged with the duty of safekeeping the court records, clearly then, respondent Hernandez wittingly, or unwittingly, through sheer negligence, was a party to the malfeasance. On this point, Atty. Marlon B. Llauder, counsel for the plaintiff, testified in the hearing before the Court of Appeals, that he brought the certification of non-forum shopping to respondent after the complaint was filed and the latter just received it without putting the stamp

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"RECEIVED" on the document. This act by the clerk of court is patently violative of her duty to maintain the authenticity and correctness of court records and also of Section 3, Rule 13 of the Revised Rules of Court which provides: *Section 3. Manner of filing.* — The filing of pleadings, appearances, motions, notices, orders, judgments and all other papers shall be made by presenting the original copies thereof, plainly indicated as such, personally to the clerk of court or by sending them by registered mail. In the first case, the *clerk of court shall endorse on the pleading the date and hour of filing.* In the second case, the date of the mailing of motions, pleadings, or any other papers or payments or deposits, as shown by the post office stamp on the envelope or the registry receipt, shall be considered as the date of their filing, payment or deposit in court. The envelope shall be attached to the record of the case. By allowing the insertion of the certification of non-forum shopping to make it appear that the same was already part of the case records at the time of the filing of the complaint, respondent Hernandez committed an act of dishonesty. The Court finds the penalties recommended by both the investigating judge and the court administrator to be too light and incommensurate with the gravity of the offense. Since dishonesty constitutes grave misconduct, the same carries the extreme penalty of dismissal from service on commission of the first offense. In the case of *Judge Enrique Almario vs. Jameswell Resus and Nora Saclolo*, respondents branch clerk of court and stenographic reporter were dismissed from service by this Court for their grave misconduct in preparing in advance a TSN of a hearing yet to take place and inserting it into the records of the case even though the hearing did not push through. In justifying their dismissal from service, the Court ruled that "[b]y their acts, they have compromised and undermined the public's faith in the records of the court below and, ultimately, the integrity of the Judiciary." Hence, for committing a grave misconduct of inserting into the records of the case a certification of non-forum shopping and making it appear that the same was already part of such records at the time the complaint was filed, herein respondent clerk of court deserves to be similarly penalized.

APPEARANCES OF COUNSEL

Anthony L. Po for J.T.A. Hernandez

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RESOLUTION

KAPUNAN, *J.*:

In a sworn letter-complaint dated July 10, 1996, Norma Santos charged Joyce Trinidad Arlegui-Hernandez, Clerk of Court of the Metropolitan Trial Court of San Juan, Branch 58, with making an intercalation into the court records of a certificate of non-forum shopping when said paper was not attached to or part of the document at the time the complaint for ejectment was filed.

Complainant alleged that she and her husband were the defendants in an ejectment case filed by Dr. Jose Antonio Baun with Branch 58 of the Metropolitan Trial Court of San Juan on May 27, 1994, docketed as Civil Case No. 7888.

On June 7, 1994, she received the Summons[1] with a copy of the Complaint[2] dated May 27, 1994. The said Complaint lacked the necessary certification against forum-shopping as required by Supreme Court Administrative Circular No. 04-94. Thus, in her Answer[3] filed on June 14, 1994, complainant raised such lack of certificate against forum-shopping as an issue.

Thereafter, the case was decided in favor of Dr. Baun prompting herein complainant to appeal the same with the Regional Trial Court of Pasig City, Branch 153. The Regional Trial Court affirmed the decision of the Metropolitan Trial Court so a Petition for Review was lodged by complainant with the Court of Appeals.

While she was trying to secure certified true copies of the documents required in her Petition from the Regional Trial Court of Pasig, complainant discovered that a Certification of Non-Forum Shopping had been inserted in the records. The

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[1] *Rollo*, p. 5.

[2] *Id*, at. 6-9.

[3] *Id.*, at 10-16.

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certification was undated but bore a notarial date of June 8, 1994. It also did not bear the stamp of the Metropolitan Trial Court with the word *"RECEIVED."* The date of receipt of such document by the clerk of court was likewise not indicated. Moreover, it was not accompanied by any written motion or pleading seeking leave of court to admit such certification.

Upon such discovery, complainant called the attention of the appellate court on the matter. She concluded that respondent Hernandez connived with Atty. Marlon B. Llauder, counsel for the plaintiff, in effecting an intercalation into court records to make it appear that there was a certification of non-forum shopping attached to the Complaint at the time it was filed in court. Complainant thus wrote a sworn letter-complaint addressed to this Court charging respondent clerk of court and Atty. Marlon Llauder with making the intercalation.

In her Comment dated November 6, 1996, respondent Hernandez alleged that:

1. It was not true that summons and complaint were served upon Complainant on June 7, 1994 for the records clearly show that the same were served on June 11, 1994, proof of which is the copy of the Process Server's Return Card marked as Annex "3", (*Rollo* p. 92).

2. The Certification against Non-forum shopping was subscribed to on June 8, 1994, however at that time, the records of the case already bore the complaint with the attached Certification against Non-Forum Shopping and the Summons of the Court.

3. The Complaint and Certification against Non-Forum Shopping served upon Norma and her husband on 11 June 1994 were verified by plaintiff Baun.

4. While the alleged non-compliance with the Supreme Court Circular 04-94 was mentioned by Norma Santos in her answer in Civil Case No. 7888, in the preliminary conference of the case held on 10 August 1994 the alleged malpractice or intercalation of the Certificate of Non-Forum Shopping was not raised as an issue. Neither was the matter of the Certification against Non-Forum Shopping brought up when Norma Santos appealed the decision of the MeTC, San Juan to RTC, Branch 153, Pasig City. It was only on 23 August 1996 at

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the hearing in the Court of Appeals that Norma Santos through counsel mentioned the lack of certification against non-forum shopping, as shown in the TSN of the proceeding. (Annex 5, *Rollo*, pp. 95-177)

5. There is nothing in Civil Case No. 7888 which even remotely suggests that justice has been derailed. The records thereof are complete and the dispute has been decided by the court *a quo* on the basis of the evidence submitted by the parties. The decision has in fact been affirmed by the RTC, Branch 153, Pasig City and the Court of Appeals and then by this Court in G. R. No. 125801."[4]

In her Reply, complainant averred that she did not earlier raise the issue of intercalation because she only belatedly discovered the inserted certification when the case was already on appeal to the Court of Appeals. However, she had, in fact, raised the issue of lack of Certification of Non-Forum Shopping in her Answer to the Complaint. Complainant stated that she would not have raised such issue in her Answer if, indeed, such certification was attached to the complaint at that time the same was filed.

Complainant also claimed that the admission of respondent that such certification was notarized only on June 8, 1994, or two weeks after the filing of the complaint and a day after receipt of the summons and complaint by the defendants, proves that the certification was not in the records at the time of the filing of the complaint. She further stressed that the instant complaint is not a mere strategy to prop up her lost cause in the ejectment case but to put a stop to the deceitful practice by respondents.

As to the excuse posed by respondent Hernandez that she is not tasked to receive pleadings from the litigants, complainant maintained that under the principle of *respondeat superior,* respondent's primary duty and responsibility is to see to it that all office work is done properly.

In a resolution by the First Division of this Court, the case was referred to Judge Amalia Dy of the Regional Trial Court,

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[4] Memorandum of the Court Administrator, p.2.

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Branch 213, Mandaluyong City for investigation, report and recommendation. When Judge Dy inhibited herself from the case, the Court designated Executive Judge Ma. Cristina Cortez-Estrada of the Regional Trial Court of Pasig to continue with the investigation. Later on, Judge Estrada was appointed Associate Justice of the Sandiganbayan and the case was finally referred to Executive Judge Rodolfo R. Bonifacio, Regional Trial Court, Branch 159, Pasig City.

Thereafter, the complaint against Atty. Marlon B. Llauder, docketed as Administrative Case No. 4617, was referred to the Integrated Bar of the Philippines for investigation, report and recommendation.

On March 30, 2000, Executive Judge Bonifacio submitted a report finding respondent Hernandez guilty of negligence in the performance of her duties and recommended that she be reprimanded with a warning that the repetition of the same or similar acts in the future will be dealt with more severely. The Office of the Court Administrator affirmed the findings of the investigating judge but imposed an additional fine of five thousand (₱5,000.00) pesos.

The Court has repeatedly stressed that the conduct and behavior of every one connected with an office charged with the dispensation of justice, from the presiding judge to the lowliest clerk, should be circumscribed with the heavy burden of responsibility.[5] The strictest standard of honesty and integrity in the public service is required of those involved in the administration of justice.[6]

In particular, clerks of court must be individuals of competence, honesty, and probity since they are specifically imbued with the mandate of safeguarding the integrity of the court and its proceedings, to earn and preserve respect therefor, to maintain loyalty thereto and to the judge as superior officer, to maintain

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[5] *Samonte vs. Gatdula*, 303 SCRA 756 (1999).

[6] *Office of the Court Administrator vs. Sumilang*, 272 SCRA 316 (1997).

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the authenticity and correctness of court records and to uphold the confidence of the public in the administration of justice.[7]

One of the specific duties of a clerk of court is the safekeeping of court records.[8] The clerk of court is charged with the responsibility of maintaining the authenticity and correctness of court records and to keep such records with due diligence, efficiency and professionalism. Evidence on record manifestly show that respondent Hernandez violated such duty.

The Complaint was filed on May 27, 1994. No certification of non-forum shopping as required by Supreme Court Administrative Circular No. 04-94 was appended to the complaint. Thus, when herein complainant (defendant below) received her copy of said complaint together with the summons on June 7, 1994, she noticed such lack of certification of non-forum shopping. For this reason, complainant raised the same in her Answer. Quite obviously, such issue would not have been raised by the complainant in her Answer to the Complaint if, in fact, such certification was not missing.

When the case was already pending appeal with the Court of Appeals, complainant discovered that the required certification was already part of the records of the case. Said certification was not dated but appeared to have been notarized on June 8, 1994. Any person of ordinary intelligence would turn suspicious at the sudden appearance of this missing certification of non-forum shopping in the records. Something was clearly amiss. The certification of non-forum shopping was notarized on June 8, 1994. This date signifies the date when such certification was executed and sworn to before the notary public. Since the complaint was already filed in court on May 27, 1994, it is thus clear that the certification of non-forum shopping was

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[7] *Marasigan vs. Buena*, 284 SCRA 1 (1998); *Rangel-Roque vs. Rivota*, 302 SCRA 509 (1999); *Almario vs. Resus*, 318 SCRA 742 (1999); *Panuncio vs. Icaro-Velasco*, 297 SCRA 159 (1998); *Anonymous vs. Geverola*, 279 SCRA 279 (1997).

[8] Section A. 3. (a), Chapter II of the Manual for Clerks of Court; see also *Cruz vs. Tantay*, 305 SCRA 128 (1999).

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executed several days later, thirteen days after the complaint was filed to be exact. Evidently, and as a matter of logic, there was no such certification yet when the Complaint was filed and the same was appended only thereafter. In fact, the certification was executed and notarized a day after complainant has already received her copy of the Complaint with the Summons.

Since it is the clerk of court who is charged with the duty of safekeeping the court records, clearly then, respondent Hernandez wittingly, or unwittingly, through sheer negligence, was a party to the malfeasance. On this point, Atty. Marlon B. Llauder, counsel for the plaintiff, testified in the hearing before the Court of Appeals, that he brought the certification of non-forum shopping to respondent after the complaint was filed and the latter just received it without putting the stamp "RECEIVED" on the document.

xxx xxx xxx

Justice Mabutas:
Was this certification simultaneously filed with the complaint?

Atty. Llauder:
It is not Your Honor...

Justice Mabutas:
It is not. So, the filing first, then came the certification?

Atty. Llauder:
Yes, Your Honor.

Justice Mabutas:
But according to you that was before the summons was served?

Atty. Llauder:
Yes, Your Honor.

Justice Mabutas:
Now, how many days after the complaint was filed when the certification was issued?

Atty. Llauder.
Well, 2 or 3 days, something like that Your Honor.

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Justice Mabutas:
And it was not stamped received?

Atty. Llauder.
It was not stamped received Your Honor because there was no other pleading to be appended to the complaint except the certification Your Honor.

Justice Mabutas:
How come that it was received by the Court?

Atty. Llauder.
Well, because when we determine that there was not *(sic)* certification, we filed the certification and there was no need...

Justice Valdez:
You just brought this to the Branch Clerk of Court and the Branch Clerk of Court just received it without indicating on the face of the certification when he or she receives it?

Atty. Llauder.
Yes, that is the truth Your Honor.

Justice Valdez:
It stealthily went into the records?

Atty. Llauder.
No, it is not Your Honor because what's important Your Honor is that the certification that was attached to the complaint was made prior to the service of the summons and complaint upon the defendants.

xxx xxx xxx[9]

This act by the clerk of court is patently violative of her duty to maintain the authenticity and correctness of court records and also of Section 3, Rule 13 of the Revised Rules of Court which provides:

Section 3. Manner of filing. — The filing of pleadings, appearances, motions, notices, orders, judgments and all other papers shall be made by presenting the original copies thereof, plainly indicated as

[9] pp. 53-56, TSN of the Court of Appeals in CA-G.R. SP No. 39744; pp. 147-150 of *Rollo*.

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such, personally to the clerk of court or by sending them by registered mail. In the first case, the *clerk of court shall endorse on the pleading the date and hour of filing*. In the second case, the date of the mailing of motions, pleadings, or any other papers or payments or deposits, as shown by the post office stamp on the envelope or the registry receipt, shall be considered as the date of their filing, payment or deposit in court. The envelope shall be attached to the record of the case.

By allowing the insertion of the certification of non-forum shopping to make it appear that the same was already part of the case records at the time of the filing of the complaint, respondent Hernandez committed an act of dishonesty. The Court finds the penalties recommended by both the investigating judge and the court administrator to be too light and incommensurate with the gravity of the offense. Since dishonesty constitutes grave misconduct, the same carries the extreme penalty of dismissal from service on commission of the first offense.[10] In the case of *Judge Enrique Almario vs. Jameswell Resus and Nora Saclolo,*[11] respondents branch clerk of court and stenographic reporter were dismissed from service by this Court for their grave misconduct in preparing in advance a TSN of a hearing yet to take place and inserting it into the records of the case even though the hearing did not push through. In justifying their dismissal from service, the Court ruled that "[b]y their acts, they have compromised and undermined the public's faith in the records of the court below and, ultimately, the integrity of the Judiciary."[12] Hence, for committing a grave misconduct of inserting into the records of the case a certification of non-forum shopping and making it appear that the same was already part of such records at the time the complaint was

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[10] Memorandum Circular No. 30, Series of 1989, or the Guidelines in the Application of Penalties in Administrative Cases; see also *Regalado vs. Buena*, 309 SCRA 265 (1999); *Marasigan vs. Buena*, 284 SCRA 1 (1998); *Re: Financial Audit of RTC, General Santos City*, 271 SCRA 302 (1997).

[11] 318 SCRA 742 (1999)

[12] *supra*, p. 752.

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filed, herein respondent clerk of court deserves to be similarly penalized.

WHEREFORE, for her grave misconduct and conduct prejudicial to the best interest of the service, respondent Joyce Trinidad Arlegui-Hernandez is hereby ordered *SUSPENDED* for ONE (1) YEAR with a stern warning that a repetition of a similar act will be dealt with more severely.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Puno, and *Ynares-Santiago, JJ.,* concur.

FIRST DIVISION

[G.R. No. 149930. February 22, 2002]

SULPICIO LINES, INC., *petitioner, vs.* **QUINCIANO GULDE,** *respondent.*

SYNOPSIS

Respondent herein was an employee of the petitioner for thirteen years until his termination on October 9, 1996. He was dismissed from service because of an incident where two looters were able to board and later disembark from the truck he was driving, carrying with them four pieces of basketball. After an investigation of the incident, he was dismissed from the service along with his truck helper for having been found to connive with the two pilferers. The labor arbiter ruled in favor of the petitioner and found the dismissal of respondent as valid. The National Labor Relations Commission (NLRC) initially reversed the decision and declared that the respondent was illegally dismissed. However, the NLRC reversed itself when the petitioner filed a motion for reconsideration. The dismissal was