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FIRST DIVISION

[A.M. No. P-1641. February 28, 1979]

RODOLFO PAA, *complainant*, *vs.* **VALENTIN C. REMIGIO, Clerk of Court, Court of First Instance of Isabela, Br. III**, *respondent*.

SYLLABUS

1. **ADMINISTRATIVE LAW; PUBLIC OFFICERS AND EMPLOYEES; CLERK OF COURT; NEGLIGENCE IN THE PERFORMANCE OF DUTY; PENALTY.** — Where a clerk of court repeatedly took no action on the summons sent to him for service upon the defendant in a case, and when required to explain his inaction, he stated that he "inadvertently forgot all about the return service" due to pressure of work, and admitted that he "misplaced unopened" a registered mail matter obviously containing an order of the court requiring him to make the return, such explanation is unsatisfactory, and having shown himself not to be a fitting example of official integrity, responsibility and efficiency, respondent deserves a penalty heavier than a stern reprimand, such as a fine equivalent to his three months salary.

2. **ID.; ID.; ID.; SHOULD BE A MODEL FOR HIS CO-EMPLOYEES.** — A clerk of court should be the model for his co-employees to act speedily and with dispatch on their assigned task to avoid the clogging of cases in court and thereby assist in the administration of justice without delay.

RESOLUTION

GUERRERO, *J.*:

The respondent Valentin C. Remigio, Clerk of Court of the Court of First Instance of Isabela, Branch III, is charged "for refusing to perform his duties and obligation, and for defying a lawful order of the Honorable Court, Court of First Instance, Branch V, Echague, Isabela" by the complainant Rodolfo Paa in a verified complaint dated May 24, 1977 specifying as follows:

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"That more or less, three (3) years ago, undersigned filed a Civil Case docketed as Civil Case No. Br. V-207, in the Court of First Instance, Branch V-Echague, Isabela. Corresponding summons was forwarded to VALENTIN REMIGIO for purposes of services to the defendant IGNACIO CABAUATAN, a Deputy Provincial Sheriff for and in the Province of Isabela, who was then assigned in Branch III, CFI, Cabagan, Isabela. For TWO YEARS AND FOUR MONTHS (2 Yrs. 4 months) said VALENTIN REMIGIO did not serve the summons upon the defendant as shown by the fact that no service of summons was made. For failure of VALENTIN REMIGIO to submit the corresponding service of summons, the Honorable Judge, Court of First Instance, Branch V, Echague, Isabela, issued an order last March 23, 1977, ordering VALENTIN REMIGIO to submit a service of summons, as shown by the order of the Honorable Court, a copy of the same is hereto attach as Annex "A" of this complaint. Inspite of the lapse of the period prescribed by the Honorable Court, said VALENTIN REMIGIO, in defiance of a lawful order of the Honorable Court, failed and refuses to submit in return of service, which acts hampers and frustrate the administration of justice to herein complainant, victim of an injustice committed by IGNACIO CABAUATAN, also a Deputy Provincial Sheriff of Isabela."

Attached as Annex "A" to the complaint is a certified true copy of the order of the Hon. Procoro J. Donato, Judge of the Court of First Instance of Isabela issued by him in Civil Case No. Br-V-207 which reads as follows:

"It appears from the record of this case that the summons, together with a copy of the complaint, was sent to the defendant Sheriff Ignacio Cabauatan, through the Clerk of Court, Branch III of this Court, at Cabagan, Isabela, and that the same was received by him on December 2, 1974, as evidenced by the registry return card. Despite the lapse of 2 years, 3 months and 21 days, no return of the summons was ever made.

WHEREFORE, the Clerk of Court, Branch III of this Court, at Cabagan, Isabela, is hereby ordered to effect the return of the summons within five (5) days from receipt of this Order."

The complaint having been referred to respondent Clerk of Court Valentin Remigio for comment by the Acting Judicial Consultant on June 17, 1977, the respondent submitted the following explanation dated July 8, 1977, to wit:

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"A registered letter containing the summons and copy of the complaint in the above-entitled case was received by Mr. Isidoro Salazar, Clerk of this Court. on December 9, 1976, and the same was handed to me on the same date, and the some was only served upon defendant Ignacio Cabauatan on the 11th day of December, 1976 by delivering to him the copy of the complaint and letting him sign the summons issued in the said case; that after the service of the summons upon the defendant, as it was already 5:00 o'clock in the afternoon, I kept the summons among other papers inside the drawer of my office table with the intention to prepare the return of service the following day, but due to pressure of work, I inadvertently forgot all about the return service of the summons; that I discovered the non-service of the same when I received the 1st indorsement dated June 17, 1977 together with the complaint of Rodolfo Paa on July 1, 1977. As regards the claim of the complainant that I defied the lawful order of the Court of First Instance, Branch V, Echague, Isabela, I had never disobeyed any lawful orders nor have the intention to defy the same as I had always been prompt in complying with the rules and lawful orders of the courts; that this incident is an unavoidable circumstance beyond my control as aforestated. I received a registered mail from the 5th Branch of the Court on March 30, 1977 but it was misplaced unopened. Hence, I did not know the contents of the same, presumably, it contained the order referred to by the complainant, otherwise, had I known of its contents, I should have complied with the same.

In view hereof, it is respectfully requested that the complaint of Mr. Rodolfo Paa be disregarded as, after all, the summons which is the subject of the complaint was served immediately upon receipt thereof, as evidenced by a copy of the said summons duly received and properly signed by Ignacio Cabauatan on December 11, 1976."

Respondent also submitted a copy of the order of Judge Procoro J. Donato dated July 19, 1977 issued in Civil Case No. Br-V-207 which stated as follows:

"Just received is a written manifestation, dated July 9, 1977, of Atty. Valentin C. Remigio, Clerk of Court at Branch III of this Court, Cabagan, Isabela. which manifestation is quoted in full as follows:

"COME NOW the undersigned Clerk of Court and unto this Honorable Court, respectfully states and manifests:

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That the Clerk of this Court, Mr. Isidoro Salazar, received a registered Mail Matter containing the summons and a copy of the complaint in the above-entitled case on December 9, 1976;

That the said summons together with the copy of the complaint was handed to the undersigned immediately and was served to the defendant Ignacio Cabauatan on the 11th day of December, 1976;

That after the service of the summons upon the defendant, Ignacio Cabauatan, it was already 5:00 o'clock in the afternoon, I kept the summons among other papers inside the drawer of my office table with the intention to prepare the return of service the following day, but due to pressure of work, I inadvertently forgot all about the return service of the summons;

That the undersigned discovered the non-service of the same when he received the 1st Indorsement dated June 17, 1977 together with the complaint of Mr. Rodolfo Paa on July 1, 1977, from the office of the Judicial Consultant, Supreme Court, Manila;

That prior to the 1st Indorsement dated June 17, 1977, on March 30, 1977 the undersigned received a registered mail matter from the 5th branch of this Honorable Court but it was misplaced unopened. Hence, I did not know the contents of the same, presumably, it contained the order referred to by the complainant, otherwise, had I known its contents, I should have complied with the same.

WHEREFORE, in view of all the foregoing, it is respectfully submitted that the return of service of the summons served upon the defendant, Ignacio Cabauatan, duly signed by him, be given due course, the same summons is respectfully return to this Honorable Court, thru the Clerk of Court of same Court.

Cabagan for Echague, Isabela, July 9, 1977.

(SGD) VALENTIN C. REMIGIO
Clerk of Court"

A cursory perusal thereof will readily show that said Clerk of Court was grossly negligent in the discharge and flagrantly inefficient in the performance of his duties, to say the least, as borne out by the following:

1. On November 27, 1974, the summons, together with a copy of the complaint, for the defendant, Deputy Sheriff Ignacio Cabauatan, was coursed to him for proper service, which was received by him

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on December 2, 1974, as evidenced by the registry return receipt attached to the record. Despite the unusual length of time from then to the present, no action was taken by him;

2. On December 3, 1976, another summons with a copy of the complaint, addressed to the same Ignacio Cabauatan, was again sent to him for service, which was also received by him on December 9, 1976, as evidenced by the registry return receipt attached to the record. In spite of his receipt thereof, no action was taken by him;

3. On March 23, 1977, this Court issued an Order directing him to effect the return of the summons within five (5) days from receipt of said Order. It was received by him on March 30, 1977, as evidenced by the registry return receipt attached to the record. Again, no action was taken by him.

To compound his omissions, he inferentially admitted from his said manifestation that were it not for the 1st Indorsement, dated June 17, 1977, of the Office of the Judicial Consultant, Supreme Court (which acted on a complaint of the plaintiff herein, Rodolfo Paa), he would not have still taken any action on the two summonses sent to him for service upon Ignacio Cabauatan who now appears to be a Deputy Provincial Sheriff of Branch III of this Court.

His explanation that he "inadvertently forgot all about the return service, of the second summons after it was served upon the defendant, Ignacio Cabauatan, on December 11, 1976, ostensibly due to pressure of work," deserves not even a scant consideration. For if he is really true to his duties as a Clerk of Court, he could have realized that making a return of service of a court process is but one of those strictly exacted from him by law. Thus, if he believes he cannot perform the task, there is no justification for him to stay a minute longer in his present position. His official actuation was exacerbated by his very admission that he allegedly "misplaced unopened" a *registered* mail matter which came from this Court (which obviously was the Order of this Court adverted to above). If, indeed, he is faithful to his obligation as a court employee, he could right then and there opened the same, aware that it is a communication coming from this Court. And even assuming for the nonce the verity of his claim that said *registered* mail matter was "misplaced unopened," he could have with ease communicated with the Clerk of this Court and inquired what the mail matter was all about. But he chose to ignore it, as can be gleaned from his failure (or sheer indolence) to even open it. He just folded his hands in abject unconcern and pretended not to know

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anything about it until he received a communication from the Office of the Judicial Consultant. Above all, his deportment caused unnecessary and undue delay in the early disposition of the case.

There is nothing which the Court can simply ferret out from his explanation to mitigate his utter negligence and inexcusable omissions except perhaps the fact that this is his first offense known to this Court.

WHEREFORE, in the light of the foregoing considerations, the Court hereby sternly reprimands him for his gross negligence and inexcusable failure in the performance of his duties as a Clerk of Court, with the warning that a repetition thereof shall be dealt with more severely.

Let copies of this Order be forwarded to the Acting Judicial Consultant, Supreme Court, Metro Manila, for his information and appropriate action and to the Deputy Clerk of Court and Administrative Officer, Supreme Court, Metro Manila, for entry in the personal file of said Clerk of Court Valentin C. Remigio."

It is clear and evident from the answer of respondent date July 8, 1977 and the two orders issued by Judge Procoro J. Donato dated March 23, 1977 and July 19, 1977 that respondent was grossly negligent in the discharge of his official duties. When respondent received the first summons together with a copy of the complaint for one of the defendants on December 2, 1974, no action was taken by him thereon. When another summons with the copy of the complaint for the same defendant was received by respondent on December 9, 1976, he also took no action thereon and for the third time when he received on March 30, 1977 the Order of the Court directing him to make the return of the summons within five (5) day from receipt of said order respondent again took no action. Respondent's explanation that he "inadvertently forgot all about the return service" of the second summons after it was served upon the defendant Cabauatan due to pressure of work and his admission that he "misplaced unopened" a registered mail matter sent by the Court of First Instance of Isabela, Branch V, which obviously referred to the order dated March 23, 1977, cannot be excused even if this is his first offense.

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The stern reprimand imposed upon him by Judge Donato for such gross negligence and inexcusable failure in the performance of his duties as a Clerk of Court with the warning that a repetition thereof shall be dealt more severely, is too light a penalty for the respondent. As Clerk of Court, respondent should be the model for his co-employees to act speedily and with dispatch on their assigned task to avoid the clogging of cases in court and thereby assist in the administration of justice without undue delay. We find that the explanation of the respondent is unsatisfactory and having shown himself not to be a fitting example of official integrity, responsibility and efficiency, respondent deserves a penalty heavier than a stern reprimand.

WHEREFORE, the Court hereby resolves to impose a fine upon respondent Clerk of Court Valentin C. Remigio equivalent to his three months salary and to authorize the Collecting and Disbursing Officer, the Accounting Officer, the Budget and Finance Officer and the Auditor, all of this Court, to withhold the salary of respondent until this fine is fully paid.

SO ORDERED.

Teehankee (Chairman), Makasiar, Fernandez, De Castro, and *Melencio Herrera, JJ.*, concur.

FIRST DIVISION

[A.M. No. P-1687. February 28, 1979]

ANGEL MANALILI, SIXTO MORALES, ORLANDO MONTEMAYOR, GLORIA SALALILA, MARCELO BAUTISTA, ERNESTO SURLA, PAULA MANALILI, MARIO CALARA, and SERAFIA VDA. DELA CRUZ, *complainants*, *vs.* **DANILO VIESCA and RENATO ROBLES**, *respondents*. **Re: Acting Municipal Judge Vivencio A. Bantugan.**