Supreme Court E-Library

Very grave imputations and charges against the integrity of former Assistant Fiscal Angel P. Purisima and of his brother incumbent Judge Amante P. Purisima of the Court of First Instance of Manila have been made *ex-parte* by complainant Bernal in the course of the investigation of his complaint against respondent. Let copies hereof and of the decision be furnished them by the Clerk of Court for whatever action they may deem appropriate in the premises in order to ferret out the truth.

Muñoz Palma, J., concurs.

FIRST DIVISION

[Adm. Matter No. P-274. January 31, 1977]

ROSENDO LADORES, *complainant, vs.* **ISAURO TUAZON,** *respondent.*

SYLLABUS

1. ADMINISTRATIVE LAW; PUBLIC OFFICERS AND EMPLOYEES; A COURT EMPLOYEE WHO FAILED TO BRING TO THE ATTENTION OF THE TRIAL JUDGE THE TELEGRAPHIC MOTION FOR POSTPONEMENT HE RECEIVED IS GUILTY OF NEGLIGENCE IN THE PERFORMANCE OF HIS DUTIES.— Although We believe respondent's allegation that he had no personal motives for withholding the telegram and prejudicing the herein complainant, the fact, however, is that said telegraphic motion for postponement was not brought to the attention of the trial judge who naturally proceeded with the *ex-parte* hearing. Respondent claims that he attached the telegram to the record of the case, but that could not have been so, because Judge Benedicto himself in his Order of August 2, 1971, stated that had been aware of that telegram, the postponement could have been favorably considered. From this statement We deduce that no telegram was attached to the record of Civil Case 353 nor

Supreme Court E-Library

did respondent clerk inform the Deputy Clerk of Court that a telegram concerning the case was received by him the afternoon before. Respondent was undoubtedly remiss in the performance of his duties as an employee of the Court. There is negligence when there is a breach of duty or failure to perform an obligation.

2. **ID.; ID.; ID.; ID.; WHERE EMPLOYEE'S NEGLIGENCE IS TREATED WITH LENIENCY; REASONS; CASE AT BAR.**— We are disposed however to view respondent's inaction with leniency because of the following attending circumstances: (1) The *decision of April 28, 1971,* which resulted from the *ex-parte* hearing of February 3, 1971, was *set aside* by the trial judge, and the defendants in the case were given the opportunity to present their evidence; (2) This administrative complaint appears to be more of a retaliatory reaction to an unfavorable decision in the civil case where the complainant was a defendant, rather than the pursuit for redress of a legitimate and well-founded grievance, for it was filed more than three years (June 20, 1974), after the alleged "*deliberate suppression*" of the telegram and only after complainant herein was defeated in the case; (3) Respondent has a record of not less than eleven (11) years service in the Court of First Instance of Nueva Ecija, having served as messenger in said court since June 1, 1965 and was promoted to process server in December, 1970, with no administrative complaint having been filed against him except for this particular case, as per available records in the Court, during which period he has been cited by the Office of the Provincial Governor of Nueva Ecija as an Outstanding Employee for the years 1966, 1967 and 1968, for his "*marangal, matapat, malinis, at kanais-nais na paglilingkod sa Pamahalaan at sa Bayan.*"

DECISION

MUÑOZ PALMA, *J.*:

Respondent Isauro Tuazon is an employee in the Court of First Instance of Nueva Ecija, Branch V, who is charged in this administrative case with having "deliberately suppressed" a telegraphic motion for postponement sent by the complainant herein Rosendo Ladores, which act allegedly prejudiced the

Supreme Court E-Library

latter who is one of the defendants in Civil Case No. 353 entitled: "*Domingo Ternida, et al., plaintiffs, versus Cecilia Mercado and Rosendo Ladores, defendants.*"

The records of this case show the following:

Civil Case No. 353 of Branch V, Court of First Instance of Nueva Ecija, was scheduled for hearing on February 3, 1971, at 8:30 o'clock in the morning At 4:00 o'clock in the afternoon of February 2, respondent clerk received a telegram signed by Rosendo Ladores and addressed to the Presiding Judge requesting postponement of the hearing on the ground that defendants' counsel, Atty. Gonzales, would be unable to attend due to the death of the latter's father-in-law. (p. 3, *rollo*)

When the aforesaid case was called in the morning of February 3, 1971, the trial court, unaware of the existence of the abovementioned telegram, proceeded with an *ex-parte* hearing with the Deputy Clerk of Court receiving the evidence.

On April 28, 1971, a decision was rendered in favor of the plaintiffs and against the herein complainant in said civil case. Upon receipt of a copy of the decision, defendants filed a motion for new trial invoking "fraud, accident, mistake, or excusable negligence" based on the allegation that a telegram was sent asking for postponement of the hearing in view of the death of the father-in-law of defendants' counsel which telegram was either "deliberately or unintentionally" withheld from the knowledge of the Presiding Judge.

For reasons thus stated in the motion for new trial, the trial court then presided by Judge Mariano V. Benedicto issued an order on August 2, 1971, setting aside the decision of April 28, 1971, and reopening the case for purposes of allowing the defendants to present their evidence. (pp. 15-17, *ibid.*)

After both parties in the civil case had presented their respective evidence, the trial court rendered its decision in favor of the plaintiffs therein.

Is respondent guilty of *deliberate suppression* of the subject-telegram?

Supreme Court E-Library

Although We believe respondent's allegation that he had no personal motives for withholding the telegram and prejudicing the herein complainant, the fact, however, is that said telegraphic motion for postponement was not brought to the attention of the trial judge who naturally proceeded with the *ex-parte* hearing. Respondent claims that he attached the telegram to the record of the case, but that could not have been so, because Judge Benedicto himself in his Order of August 2, 1971, stated that had been aware of that telegram, the postponement could have been favorably considered. (p. 16, *ibid.*) From this statement We deduce that no telegram was attached to the record of Civil Case 353 nor did respondent clerk inform the Deputy Clerk of Court that a telegram concerning the case was received by him the afternoon before.

Respondent was undoubtedly remiss in the performance of his duties as an employee of the Court. There is negligence when there is a breach of duty or failure to perform an obligation.[1]

We are disposed however to view respondent's inaction with leniency because of the following attending circumstances:

(1) *The decision of April 28, 1971,* which resulted from the *ex-parte* hearing of February 3, 1971, was *set aside* by the trial judge, and the defendants in the case were given the opportunity to present their evidence;

(2) This administrative complaint appears to be more of a retaliatory reaction to an unfavorable decision in the civil case where the complainant was a defendant, rather than the pursuit for redress of a legitimate and well-founded grievance, for it was filed more than three years (June 20, 1974), after the alleged "*deliberate suppression*" of the telegram and only after complainant herein was defeated in the case;

(3) Respondent has a record of not less than eleven (11) years service in the Court of First Instance of Nueva Ecija,

---

[1] *Recto v. Racelis,* AM No. P-182, *En Banc,* April 30, 1976.

Hon. Celestino P. Juan v. Municipal Judge F.P. Arias, et al., AM No. P-310, *En Banc,* August 23, 1976.

Supreme Court E-Library

having served as messenger in said court since June 1, 1965 and was promoted to process server in December, 1970, with no administrative complaint having been filed against him except for this particular case, as per available records in the Court, during which period he has been cited by the Office of the Provincial Governor of Nueva Ecija as an Outstanding Employee for the years 1966, 1967 and 1968, for his "*marangal, matapat, malinis, at kanais-nais na paglilingkod sa Pamahalaan at sa Bayan.*" (pp. 18-21, *rollo*)

PREMISES CONSIDERED, We dismiss the complaint but admonish respondent to be vigilant, zealous, prompt, and attentive in the performance of his duties for the good of the service, and warn him that future acts of negligence or misconduct will merit severe disciplinary action from the Court.

SO ORDERED.

Teehankee, Makasiar, Concepcion, Jr., and *Martin, JJ.*, concur.

FIRST DIVISION

[A.C. No. 1352. January 31, 1977]

CALIXTO BALLOS, *complainant, vs.* **ATTY. PAQUITO G. BALASABAS,** *respondent.*

SYLLABUS

LEGAL AND JUDICIAL ETHICS; ATTORNEYS; ADMONISHMENT; A LAWYER WHO DID NOT ACT VIGOROUSLY IN ADVOCATING HIS CLIENT'S CAUSE AND FAILED TO RENDER PROPER ACCOUNTING OF THE MONIES HE RECEIVED FROM HIS CLIENT SHOULD BE GIVEN AN ADMONITION OR WARNING.— After a study of the evidence