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SECOND DIVISION

[A.M. No. P-01-1489. August 9, 2001]

SPOUSES CATALINO AND JUANITA BAUTISTA, *complainants, vs.* **AMELITA O. MENDOZA, Clerk of Court II, 4th Municipal Circuit Trial Court, Alfonso-General Aguinaldo, Cavite,** *respondent.*

SYNOPSIS

Complainant spouses Catalino and Juanita Bautista filed an administrative complaint against respondent Amelita O. Mendoza, Clerk of Court II, 4th Municipal Circuit Trial Court, Alfonso-General Aguinaldo, Cavite, for neglect of duty resulting in the loss of the records of a criminal case for frustrated homicide. Respondent claimed that she made an extensive search for the records, but could not find them and that after a while she stopped because she got sick and underwent an operation. Due to the volume of cases assigned to the court, she did not become aware of the loss of the records until complainant Juanita Bautista came in 1999 to inquire. She claimed that she had no motive to hide the records, since complainant is her relative and she had never seen the accused until before he posted bail.

The Supreme Court reprimanded respondent and warned that a repetition of the same or similar acts in the future will be dealt with more severely. The Court affirmed the findings of the investigating judge that respondent was guilty of non-feasance for failure to perform her duty to safely keep the record which was committed to her charge. The Court also affirmed the recommendation of the investigating judge that consideration should be given to the fact that there are numerous cases filed before respondent's court and the fact that this is the first incident that a record was lost under her charge and that immediately after her knowledge of the loss, she exerted all efforts to locate and/or reconstitute the said records and have tried to convince complainant-spouses to re-file the case against the accused. The recommendation also stated that part of the blame should also be ascribed to complainant-spouses for having taken too long (5 years) to follow up their case.

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SYLLABUS

POLITICAL LAW; ADMINISTRATIVE LAW; PUBLIC OFFICERS; CLERKS OF COURT; LIABLE FOR FAILURE TO PERFORM MANDATED DUTY TO SAFELY KEEP THE RECORDS OF CASES.— Time and again we have emphasized that those charged or connected with the task of dispensing justice carry a heavy burden of responsibility. With specific reference to clerks of court, the Rules of Court charge them with the duty of faithfully keeping the records, papers, files, and exhibits in cases pending before their courts. These are duties spelled out in the Manual for Clerks of Court. In *Angeles v. Bantug*, we described a clerk of court as an essential officer in the judicial system. His or her office is the hub of activities, and he or she is expected to be assiduous in performing official duties and in supervising and managing the court's dockets. His or her negligence in the performance of these duties warrants disciplinary action. In his report to the Court, Presiding Judge Garcia found respondent guilty of nonfeasance and recommended that she be reprimanded. While agreeing with the findings of Presiding Judge Garcia, Acting Court Administrator Zenaida N. Elepaño recommended a fine in the amount of ₱5,000.00 with warning of a more severe penalty for a repetition of the same act as a reprimand would be too light a penalty for the offense. On the other hand, in *Lloveras v. Sanchez*, respondent Clerk of Court of the Municipal Trial Court of Consolacion, Cebu admitted to the loss of records of a criminal case. However, she explained that the loss was due to broken locks of the dilapidated filing cabinet in her office, resulting in court personnel having access to court records. She also exerted efforts to reconstruct the records, such that a decision on the case was subsequently rendered. The Court reprimanded respondent and warned her that a similar infraction in the future would be dealt with more severely. The case at bar is similar to the *Lloveras* case. As the investigating judge stated in his report: "Under the circumstances, Mrs. Amelita O. Mendoza, Clerk of Court, MCTC, Alfonso-Gen. Aguinaldo, is already guilty of non-feasance for failure to perform her duty to safely keep the record (Crim. Case No. 2337-94) which was committed to her charge. Consideration, however, should be given to the fact that although there are numerous cases before her court and the fact that she has been Clerk of Court for a long period of time, this is the first time that a record was lost under her charge; that immediately after her

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knowledge of the loss, she exerted all efforts to locate and/or reconstitute the said records and have tried to convince complainant-spouses to re-file the case against Eduardo Erni. Part of the blame should also be ascribed to complainant-spouses for having taken too long (5 years) to follow up their case."

D E C I S I O N

MENDOZA, *J.*:

This is a complaint filed against Amelita O. Mendoza, Clerk of Court II of the MCTC, Alfonso-General Aguinaldo, Cavite, for neglect of duty resulting in the loss of the records of a criminal case for frustrated homicide.

Complainants are the spouses Catalino and Juanita Bautista of Barangay Castanos Lejos, General Aguinaldo, Cavite. It appears that they filed in February 1994 a complaint for frustrated homicide against Eduardo Erni before the 4th MCTC, Alfonso-General Aguinaldo, Cavite, where it was docketed as Criminal Case No. 2337-94. In their present complaint, the Bautistas allege that the trial of the criminal case had yet to be held even after one year had passed. Meanwhile, accused Eduardo Erni had been granted bail. Complainants claim that in November or December 1999, when they inquired about the status of their case, they were informed by respondent Clerk of Court Amelita O. Mendoza that the records of the case had been lost and that the case had already been archived.[1]

In his 1st Indorsement, dated January 21, 2000, Court Administrator Alfredo Benipayo required respondent to submit his comment. Respondent explained:

x x x [D]ue to the number of times of record movements in our office due to the heavy rains that usually beset our place coupled by the fact that the building that houses our court is already old and needs repair of the roof and walls, the record of the aforesaid case was misplaced.

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[1] Affidavit-complaint of Juanita B. Bautista and Catalino L. Bautista dated Jan. 3, 2000.

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Many records were heavily soaked with water, eventually destroying them. Some were eaten by termites.[2]

She denied telling complainants that she had already archived the records of the case. What she told them was that she would check if the records had not been sent, together with records of other cases, to the archives.[3]

The Court Administrator then referred the case to Executive Judge Christopher O. Lock, of the Regional Trial Court of Cavite City, for investigation, report, and recommendation.[4] Executive Judge Lock returned the case, however, explaining that respondent was not under his administrative supervision, but under that of Judge Alfonso Garcia of the RTC, Tagaytay City.[5] Accordingly, the case was referred to the latter for investigation and report.[6]

On May 3, 2000, complainant Juanita Bautista and respondent Amelita O. Mendoza testified before Presiding Judge Garcia. Complainant said she went to the MCTC, Alfonso-General Aguinaldo in November or December 1999 to inquire about the status of her case and was informed by respondent that the records of the case were missing. Respondent promised to look for them. In March or April 2000, according to complainant, she and her husband went back to the MCTC because of a subpoena ordering them to appear in court and to bring with them a copy of their complaint. Complainant said they talked to Judge Jose A. Mendoza, the presiding judge, who promised to look for the said complaint in the records of the MCTC.[7]

Complainant claimed that while going down the stairs of the courthouse, they met respondent who told them that the records were still missing. She asked them to return so that the records

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[2] Comment of Amelita O. Mendoza dated Feb. 8, 2000.

[3] *Id.*

[4] 1st Indorsement dated Feb. 29, 2000.

[5] 2nd Indorsement dated March 8, 2000.

[6] 1st Indorsement dated April 5, 2000.

[7] TSN (Juanita Bautista), pp. 2-20, May 3, 2000.

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could be reconstituted. Complainant Catalino Bautista said she was angry and refused to come back because they had already filed the complaint against the accused in the criminal case. Instead, they filed this administrative case against the clerk of court.[8]

For her part, respondent clerk of court denied having told complainants that the records of the criminal case were missing, but only that these could have been misfiled with the records of other cases. She said she made an extensive search for the records, but could not find them and that after a while she stopped because she got sick and underwent an operation. Due to the volume of cases assigned to the court, she did not become aware of the loss of the records until complainant Juanita Bautista came in 1999 to inquire. She claimed she had no motive to hide the records, since complainant is her relative and she had never seen the accused Erni until before he posted bail.[9]

Time and again we have emphasized that those charged or connected with the task of dispensing justice carry a heavy burden of responsibility.[10] With specific reference to clerks of court, the Rules of Court charge them with the duty of faithfully keeping the records, papers, files, and exhibits in cases pending before their courts.[11] These are duties spelled out in the Manual for Clerks of Court.[12] In *Angeles v. Bantug*,[13] we described a clerk of court as an essential officer in the judicial system. His or her office is the hub of activities, and he or she is expected to be assiduous in performing official duties and in supervising and managing the court's dockets.[14] His or her negligence in the performance of these duties warrants disciplinary action.

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[8] *Id.*

[9] TSN (Amelita Mendoza), pp. 20-26, May 3, 2000.

[10] *Re: Loss of Records of G.R. No. 126468 entitled "Sonia Llamas Tan vs. Court of Appeals,"* A.M. No. 01-1-01-SC, May 23, 2001; *Quiroz v. Orfila*, 272 SCRA 324 (1997); *Re: Ms. Teresita S. Subido*, 242 SCRA 432 (1995).

[11] Rule 136, §7.

[12] Chapter II, Sec. A, General Duties of the Clerk of Court.

[13] 209 SCRA 407 (1992).

[14] *Ramirez v. Racho*, 260 SCRA 244 (1996).

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In his report to the Court, Presiding Judge Garcia found respondent guilty of nonfeasance and recommended that she be reprimanded. While agreeing with the findings of Presiding Judge Garcia, Acting Court Administrator Zenaida N. Elepaño recommended a fine in the amount of ₱5,000.00 with warning of a more severe penalty for a repetition of the same act as a reprimand would be too light a penalty for the offense.

Considering the findings of the investigating judge, we hold that a reprimand with warning is the more appropriate penalty for sanctioning the act in this case.

In a recent case,[18] respondent Utility Worker of the Judicial Records Office of this Court was shown to have lent another person the records of a civil case in exchange for a sum of money, resulting in their loss. Despite a directive to him to explain the loss of the records, he refused to do so. He was found guilty of dishonesty and gross misconduct and dismissed from the service, with forfeiture of retirement benefits and with prejudice to reemployment in government.

On the other hand, in *Lloveras v. Sanchez*,[19] respondent Clerk of Court of the Municipal Trial Court of Consolacion, Cebu admitted to the loss of records of a criminal case. However, she explained that the loss was due to broken locks of the dilapidated filing cabinet in her office, resulting in court personnel having access to court records. She also exerted efforts to reconstruct the records, such that a decision on the case was subsequently rendered. The Court reprimanded respondent and warned her that a similar infraction in the future would be dealt with more severely.

The case at bar is similar to the *Lloveras* case. As the investigating judge stated in his report:

> Under the circumstances, Mrs. Amelita O. Mendoza, Clerk of Court, MCTC, Alfonso-Gen. Aguinaldo, is already guilty of non-feasance for failure to perform her duty to safely keep the record (Crim. Case No. 2337-94) which was committed to her charge.

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[18] *Re: Loss of Records of G.R. No. 126468 entitled "Sonia Llamas Tan v. Court of Appeals, supra.*

[19] 229 SCRA 302 (1994).

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Consideration, however, should be given to the fact that although there are numerous cases before her court and the fact that she has been Clerk of Court for a long period of time, this is the first time that a record was lost under her charge; that immediately after her knowledge of the loss, she exerted all efforts to locate and/or reconstitute the said records and have tried to convince complainant-spouses to re-file the case against Eduardo Erni. Part of the blame should also be ascribed to complainant-spouses for having taken too long (5 years) to follow up their case.

WHEREFORE, it is hereby recommended that Ms. Amelita O. Mendoza be REPRIMANDED with a warning that a repetition of the same offense, a severe penalty will be meted against her.[15]

WHEREFORE, respondent Amelita O. Mendoza is *REPRIMANDED* and *WARNED* that a repetition of the same or similar acts in the future shall be dealt with more severely and the instant complaint is *RE-DOCKETED* as an administrative matter.

SO ORDERED.

Bellosillo (Chairman), Quisumbing, Buena, and *De Leon, Jr., JJ.*, concur.

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[15] Report of Presiding Judge Alfonso S. Garcia dated May 22, 2000, pp. 3-4.