



**Republic of the Philippines
Supreme Court
Manila**

SECOND DIVISION

MARIANO T. ONG,

Complainant,

A.M. No. P-12-3090

(Formerly A.M. OCA IPI No. 11-3662-P)

Present:

-versus-

**CARPIO, Chairperson,
BRION,
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, JJ.**

**EVA G. BASIYA-SARATAN,
CLERK OF COURT,
REGIONAL TRIAL COURT,
ILOILO CITY, BRANCH 32,**

Respondent.

Promulgated:

JAN 07 2013

[Handwritten signature]

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RESOLUTION

PERLAS-BERNABE, J.:

On June 13, 2011, Mariano T. Ong (complainant) filed a verified letter-complaint¹ before the Office of the Court Administrator (OCA), charging Clerk of Court Eva G. Basiya-Saratan (respondent) of the Regional Trial Court (RTC) of Iloilo City, Branch 32 for inefficiency and/or negligence in the performance of her official duties. Complainant averred that respondent repeatedly failed to issue Alias Writs of Execution for almost

¹ *Rollo*, pp. 1-6.

three (3) years from the time she was first directed to do so by the RTC in its Order² dated September 26, 2008 in Civil Case No. 18978.

The Facts

Complainant is one of the defendants/judgment obligees in the Decision dated June 21, 1999 rendered in the aforementioned case,³ in the amount of ₱800,000.00 representing damages and attorney's fees. To implement the judgment, the RTC issued the Order dated April 24, 2006 granting the issuance of the writ of execution. Since the judgment has remained unsatisfied, complainant moved for the issuance of an Alias Writ of Execution, which was granted by the RTC in its Order dated September 26, 2008, with a further directive to the Sheriff of the RTC of Valenzuela City, Branch 72 to proceed against plaintiff's attachment bond issued by Prudential Guarantee and Assurance, Inc.⁴

On November 26, 2010 or after the lapse of more than two (2) years with no action on the part of respondent, the RTC again directed the issuance of an Alias Writ of Execution and its implementation by Sheriff Romero L. Rivera (Sheriff Rivera).⁵ Notwithstanding, respondent did not issue any, prompting complainant to file a "Very Urgent Motion to Be Furnished Certified True Copy of Alias Writ of Execution,"⁶ which the RTC granted in its Order dated January 14, 2011.⁷

² Id. at 7. Penned by Presiding Judge Globert J. Justalero.

³ A case for specific performance and damages filed by ARMCO Industrial Corp. against complainant Mario T. Ong, *among others*.

⁴ Pursuant to Rule 57, Section 19 of the Rules of Court.

⁵ *Rollo*, p. 8.

⁶ Id. at 9-10.

⁷ Id. at 11.

On February 7, 2011, complainant filed a Manifestation and Motion,⁸ followed by a subsequent urgent motion⁹ dated April 27, 2011, seeking to compel respondent to comply with the court's directive. He also averred that on February 1, 2011, he received an unsigned and uncertified copy of the Alias Amended Writ of Execution¹⁰ dated June 7, 2007, addressed to “The Provincial Sheriff of Iloilo or any of his Lawful Deputies” and not to Sheriff Rivera, the deputized sheriff.

On August 15, 2011, the RTC issued an Amended Order¹¹ enjoining respondent to issue a certified true copy of the Amended Writ of Execution to complainant and to Sheriff Rivera. But up to the filing of the instant administrative complaint, no action has been taken by respondent.

The Action and Recommendation of the OCA

In the 1st Indorsement¹² dated June 17, 2011, the OCA required respondent to file her comment to the complaint which was reiterated in the 1st Tracer¹³ dated October 25, 2011. However, no comment was submitted.

Upon evaluation of the complaint, the OCA found respondent to have been remiss in the performance of her duties as Clerk of Court of the RTC of Iloilo City, Branch 32, in violation of Section 1, Canon IV of the Code of Conduct for Court Personnel, underscoring her failure to issue the corresponding Alias Writs of Execution as directed by the RTC as well as her failure to comment on the allegations of the complainant. The OCA also noted that this is not the first time respondent had failed to perform her official functions. In another complaint filed against her by Atty. Raul A.

⁸ Id. at 12-14.

⁹ Id. at 15-17.

¹⁰ Id. at 19-21.

¹¹ Id. at 26-27.

¹² Id. at 23.

¹³ Id. at 28.

Muyco,¹⁴ she was reprimanded by the Court for her failure to issue on time a certification requested by the complainant, and sternly warned that the commission of similar acts would be dealt with more severely. Accordingly, the OCA, applying Rule IV of the Uniform Rules on Administrative Cases in the Civil Service,¹⁵ recommended her suspension from the service for six (6) months and one (1) day without pay, with a stern warning that a repetition of the same or any similar act will warrant a more severe penalty.

The Issue

The sole issue before the Court is whether respondent should be imposed the penalty as recommended by the OCA for her repeated failure to issue the corresponding alias writs of execution despite directives from the RTC.

The Court's Ruling

The Court finds the recommendation of the OCA to be well-taken.

Section 1, Canon IV of the Code of Conduct for Court Personnel¹⁶ enjoins court personnel to perform their official duties properly and with diligence at all times. Clerks of Court like respondent are primarily responsible for the speedy and efficient service of all court processes and writs. Hence, they cannot be allowed to slacken on their work since they are charged with the duty of keeping the records and the seal of the court, issuing processes, entering judgments and orders, and giving certified copies of records upon request. As such, they are expected to possess a high degree

¹⁴ *Muyco v. Saratan*, A.M. No. P-03-1761, April 2, 2004, 427 SCRA 1.

¹⁵ Resolution No. 99-1936 dated August 31, 1999.

¹⁶ A.M. No. 03-06-13-SC issued on June 4, 2004.

of discipline and efficiency in the performance of their functions to help ensure that the cause of justice is done without delay.¹⁷

As an officer of the court, respondent was duty-bound to use reasonable skill and diligence in the performance of her officially-designated duties as clerk of court,¹⁸ failing which, warrants the imposition of administrative sanctions. In this case, respondent unjustifiably failed to issue the alias writs of execution to implement the judgment in Civil Case No. 18978 despite orders from the RTC. Moreover, she failed to file the required comment in disregard of the duty of every employee in the judiciary to obey the orders and processes of the Court without delay. Such act evinces lack of interest in clearing her name, constituting an implied admission of the charges.¹⁹

Consequently, the Court finds her guilty of refusal to perform official duty classified as a grave offense under Section 52(A)(18) of the Revised Uniform Rules on Administrative Cases in the Civil Service, punishable with suspension of six (6) months and one (1) day to one (1) year for the first offense and by dismissal for the second offense.

WHEREFORE, the Court finds respondent **ATTY. EVA G. BASIYA-SARATAN GUILTY** of **refusal to perform official duty** and accordingly, **SUSPENDS** her from office for **six (6) months and one (1) day without pay** effective immediately upon receipt of this resolution. She is **STERNLY WARNED** once again that a commission of the same or similar offense in the future shall be dealt with more severely.

¹⁷ *Escobar Vda. de Lopez v. Luna*, A.M. No. P-04-1786, February 13, 2006, 482 SCRA 265, 273.

¹⁸ *Panaligan v. Valente*, A.M. No. P-11-2952, July 30, 2012.

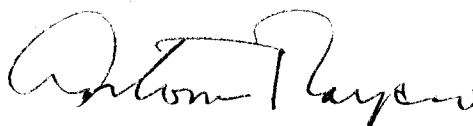
¹⁹ *Re: Criminal Case No. MC-02-5637 Against Arturo V. Peralta and Larry C. De Guzman, Employees of MeTC, Br. 31, Q.C.*, A.M. No. 02-8-198-MeTC, June 8, 2005, 459 SCRA 278, 285.

Let a copy of this resolution be attached to the personal records of respondent in the Office of Administrative Services, Office of the Court Administrator.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:

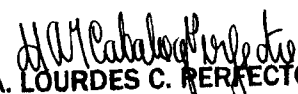

ANTONIO T. CARPIO
Associate Justice


ARTURO D. BRION
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice

CERTIFIED TRUE COPY:


MA. LOURDES C. PERFECTO
Division Clerk of Court
Second Division