

EN BANC

[**A.M. NO. P-97-1258 (FORMERLY A.M. NO. 96-10-380-RTC), January 31, 2005**]

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. CLERK OF COURT ERMELINA C. BERNARDINO, MUNICIPAL TRIAL COURT, CARDONA, RIZAL, CLERK OF COURT LIBERTAD SAN JUAN, MUNICIPAL CIRCUIT TRIAL COURT, PILILIA-JALA-JALA, RIZAL, CLERK OF COURT ATTY. MANUEL I. BANTING, REGIONAL TRIAL COURT, BINANGONAN, RIZAL AND MA. LUISA TUAZON, CASH CLERK, OFFICE OF THE CLERK OF COURT, REGIONAL TRIAL COURT, BINANGONAN, RIZAL, RESPONDENTS.

D E C I S I O N

PER CURIAM:

The administrative cases against Clerks of Court Ermelina C. Bernardino,^[1] Libertad San Juan^[2] and Atty. Manuel I. Banting,^[3] and Clerk Ma. Luisa Tuazon^[4] deal with collections and remittances of court funds.

The cases stemmed from the Reports dated 09 August 1996 and 14 August 1996 of Justice Felipe B. Kalalo (Ret.), Regional Coordinator, Judiciary Planning Development and Implementation Office, Supreme Court, on the audit conducted on the courts in Rizal^[5] province from 01 to 06 August 1996. In the 09 August 1996 Report, Justice Kalalo bared he discovered irregularities in the collection and remittances of the Judiciary Development Fund (JDF), including the maintenance of the corresponding cash book, committed by Clerks of Court, OIC and/or cash clerks for which he recommended that:

1. An immediate audit, examination and reconciliation of the Judiciary Development Fund (JDF) collections, deposits and remittances be conducted by Auditors of the FMBO or Accounting Division of the Supreme Court in the following courts/offices of the Clerk of Court:
 - a. Office of the Clerk of Court, RTCs Binangonan, Rizal
 - b. Municipal Trial Court of Cardona
 - c. Municipal Circuit Trial Court of Pililia-Jala-Jala

and for said auditors to submit their respective reports, findings and recommendations.

2. That Clerk of Court Mrs. ERMELINA C. BERNARDINO of the Municipal Trial Court of Cardona, Clerk of Court Mrs. LIBERTAD SAN JUAN of the MCTC-Pililia-Jala-Jala and RTC Clerk of Court Atty. MANUEL I. BANTING of the RTCs at Binangonan and her Cash Clerk MA. LUISA TUAZON be

relieved immediately of their respective duties and replaced temporarily by other competent court personnel, pending the results of the audit to be conducted.

. . .

4. Administrative charges be filed immediately against these court personnel involved on the basis of the irregularities enumerated in this Report and to place them under preventive suspension without pay pending the result of the respective administrative complaints.^[6]

On 21 October 1996, Deputy Court Administrator Zenaida N. Elepaño, acting on the reports of Justice Kalalo, recommended that respondents Banting and Tuazon be immediately relieved of their duties as collecting and disbursing officers.^[7]

In a Resolution, dated 21 January 1997, the Court *en banc* ordered:

1. An immediate audit, examination and reconciliation of the JDF collections, deposits and remittances be conducted by the Fiscal Audit Division, Office of the Court Administrator in the following courts:

- a. Regional Trial Court, Binangonan, Rizal
- b. Municipal Trial Court, Cardona, Rizal
- c. Municipal Trial Court of Pililia-Jala-Jala

and for said office to submit its report, findings and recommendations within 15 days;

2. Mrs. Ermelina C. Bernardino, Clerk of Court of the Municipal Trial Court of Cardona, Mrs. Libertad San Juan, Clerk of Court of the Municipal Circuit Trial Court of Pililia-Jala-Jala, Atty. Manuel I. Banting, Clerk of Court of the Regional Trial Court of Binangonan, and Ma. Luisa Tuazon, cash clerk at the Regional Trial Court of Binangonan are immediately relieved from their respective duties and temporarily replaced by other competent court personnel to be recommended by the Court Administrator pending the results of the audit to be conducted by the FMBO;^[8]

On 18 March 1997, Maria Clara L. Guzman and Leandro L. Villanueva of the Fiscal Audit Division of the Office of the Court Administrator (OCA) submitted a Memorandum for then Chief Justice Andres R. Narvasa on the audit they conducted on the JDF, as well as the General Fund and Fiduciary Fund, of the Municipal Trial Court (MTC), Cardona, Rizal, and Municipal Circuit Trial Court (MCTC), Pililia-Jala-Jala, Rizal. It reads:

MUNICIPAL TRIAL COURT, CARDONA, RIZAL

The Clerk of Court is Mrs. Ermelina C. Bernardino. She assumed office as MTC Clerk of Court I on June 9, 1983. The cut[-] off date of our audit was October, 1996.

Based on the JPDIIO report of Justice Felipe B. Kalalo dated August 9,

1996, the last JDF remittance was made on January 15, 1995 in the amount [of] P800.00 representing collections for the month of December, 1994. Our audit showed that the amount of P800.00 actually represents collections for the months of November, 1994 (P237.50) and December, 1994 (P562.50) and was deposited on January 15, 1995 to the Land Bank of the Philippines by a deposit slip under the common JDF Savings Account No. 0591-0116-34. JDF collections for January, 1995 to July, 1996, a period of nineteen months, in the total amount of P36,441.50 was remitted to the Supreme Court Cashier's Division under OR No. 6279551 on September 30, 1996. The amount of P40.00 and P600.00 representing JDF collections for the months of September, 1996 and October, 1996 were deposited with the LBP by way of deposit slips on October 10, 1996 and November 6, 1996.

Collections for General Fund prior to January, 1996 was being collected by the Municipal government pursuant to Section 93 of the Judiciary Act of 1948. The amount of P3,281.00 representing collections for the period January, 1996 to August, 1996 was remitted to the Supreme Court Cashier's Division under OR No. 6278901 on September 30, 1996. Collections for the months of September (P400.00) and October, 1996 (P2,470.00) were likewise remitted to the SC Cashier's Division on October 9, 1996 and under OR No. 6278939 and OR No. 6992545 dated November 7, 1996.

Fiduciary Fund collections started on July, 1994 in accordance with Circular No. 32-93 issued by the Office of the Court Administrator on July 9, 1993. The balance of Fiduciary Fund as of October, 1996 in the amount of P79,700.00 was verified to be deposited with the Land Bank of the Philippines, Binangonan, Rizal Branch in the name of the MTC, Cardona under Savings Account No. 2391-001-24.

MUNICIPAL CIRCUIT TRIAL COURT, PILILIA-JALA-JALA, RIZAL

The Clerk of Court is Mrs. Libertad San Juan. She was appointed as Clerk of Court II on March 1, 1995. The cash accountabilities of Ms. Erna Casas who was the Officer-in-charge for the period September 1, 1993 to February, 1995 was likewise included in the audit. The audit period covered was from September, 1993 to October, 1996.

The latest JDF remittance made in March, 1995 as stated in the JPDI report in the amount of P4,937.00 represents collections for February, 1995. Collections for the period March, 1995 to August, 1996, a period of 18 months in the total amount of P39,519.50 were remitted to the Land Bank of the Philippines under the JDF common Savings Acct. No. 0591-0116-34 on September 16, 1996. JDF collections for the months of September, 1996 (P200.00) and October, 1996 (P330.00) were deposited to the LBP on October 2, 1996 and November 15, 1996 [,] respectively.

Collections for the general fund for the period September, 1993 to September, 1996 were erroneously incorporated with the collections for the JDF. This explains the large collections reflected in the JDF which is unusual for a municipal circuit trial court. The practice was stopped on

September, 1996. General Fund collection for the month of October, 1996 in the amount of P23,965.00 representing interests on Fiduciary Fund deposits was deposited with the Land Bank of the Philippines on October 16, 1996.

The balance of the Fiduciary Fund collections covering the period October, 1993 to October, 1996 in the total amount of P280,645.00 was found to be deposited with the Land Bank of the Philippines, Tanay Branch in the name of MCTC, Jala-Jala-Pililia, Rizal under Savings Account No. 1141-0020-11 with Judge Santos, MTC Morong, acting as judge in Jala-Jala, and Mrs. San Juan as signatories.

From the foregoing, it is concluded that Mrs. Bernardino, Clerk of Court, MTC, Cardona, Rizal and Mrs. San Juan, Clerk of Court, MCTC, Pililia-Jala-Jala, Rizal failed to observe the circulars issued by the Supreme Court and the Office of the Court Administrator in connection with their duties and responsibilities as Accountable Officers.^[9]

Their Memorandum^[10] containing the partial audit covering the JDF, General Fund, Sheriff's General Fund and Fiduciary Fund of the Regional Trial Court (RTC), Binangonan, Rizal, was submitted on 22 August 1997. It reads:

. . . The actual collection of fees and the recording of transactions were being performed by Mrs. Ma. Luisa Tuazon Ira, Clerk III, in the Office of the Clerk of Court of that Court. In view of the unavailability of required documents which were not presented to date, and the proximity of the submission of our audit report, stated hereunder is our partial findings. Amount of shortages maybe reduced upon presentation of vital records like validated deposit slips/official receipts.

A. JUDICIARY DEVELOPMENT FUND

Audit period covers February, 1985 to December, 1996, or a period of eleven years and ten months. For nine years and nine months or up to October, 1994, all collections were remitted and accounted for. The depository bank up to March, 1994 was the PNB, Ortigas Branch. For the period April, 1994 to October, 1994, it was the PNB, Cainta Branch. Effective January, 1996, the depository bank was the Land Bank of the Philippines. The cash books showed no collections nor remittances for the months of November and December, 1994. Beginning January, 1995 to December, 1996, the remittances became irregular resulting to an under remittance of P106,311.68. Any shortage that may be incurred for the months of November and December, 1994 cannot be determined in the absence of collections and deposits entries in the cashbooks. No reports were neither submitted to the Accounting Division of the Supreme Court for recording.

B. FIDUCIARY FUND

Audit period for this Fund covers February, 1984 to December, 1995 only. While the cut-off date should have been December, 1996 like the other funds, no office file records for collections, deposits and

withdrawals were presented for the whole year of 1996. The audit was based on file copies of monthly reports because no cashbooks were maintained. Monthly reports for submission to Accounting Division were prepared based on the duplicate copies of official receipts instead of entries from the cashbooks. Based on available documents, the balance of Fiduciary Fund as of December, 1995 should be P990,451.80. However, considering that no cashbooks were maintained where the running balance of the fiduciary fund is reflected at the beginning and ending of each monthly transactions, the said balance of P990,451.80 has nothing to be compared with. Likewise no passbook was given us where all the deposits and withdrawals are shown and is one of the basis for determining the balance of deposits as of a certain date.

C. CLERK OF COURT GENERAL AND

D. SHERIFF'S GENERAL FUND

Collections for these two funds started January, 1984. The audit examination covered twelve years or up to December, 1996. Remittances of collections up to December, 1993 were found to be in order. Irregular remittances were committed beginning the years 1994, 1995 and 1996. Tentative unremitted collection for Clerk of Court General Fund is P99,314.93, while that of the Sheriff's General Fund is P46,038.97. Subject amounts may likewise be adjusted upon presentation of receipts and other proofs of remittances or payments.

Accordingly, Atty. Banting, Clerk of Court, RTC Binangonan, Rizal should be made to explain and account for his shortages as follows:

1. Judiciary Development Fund	P 106,311.68
2. Fiduciary Fund	990,451.80
3. Clerk of Court, General Fund	99,314.93
4. Sheriff's General Fund	<u>46,038.97</u>
TOTAL	P1,242,117.38

In a Memorandum dated 26 September 1997, Deputy Court Administrator Zenaida N. Elepaño recommended that the report of Justice Felipe B. Kalalo dated 09 August 1996, and the reports of Maria Clara L. Guzman and Leandro L. Villanueva dated 20 February 1996^[11] and 08 April 1997 regarding the audits they conducted on the MTC, Cardona, Rizal, MCTC, Pililia-Jala-Jala, Rizal, and RTC, Binangonan, Rizal, be considered the administrative complaints against Ermelina C. Bernardino, Libertad San Juan, Atty. Manuel I. Banting and Ma. Luisa Tuazon, and that they be required to submit their comments thereon within ten (10) days from receipt of the order.^[12]

Respondents San Juan and Bernardino filed their separate Requests/Motions to Lift