

EN BANC

[A.M. No. P-15-3368 [Formerly A.M. No. 15-04-39-MTC], November 08, 2016]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, V.
EVANGELINE E. PANGANIBAN, CLERK OF COURT II, MUNICIPAL
TRIAL COURT (MTC), BALAYAN, BATANGAS, RESPONDENT.**

DECISION

PER CURIAM:

This is an administrative matter stemming from the Report on the Financial Audit conducted in the Municipal Trial Court (MTC) of Balayan, Batangas,^[1] on the books of accounts of Evangeline E. Panganiban (respondent), Clerk of Court II, covering the period from August 1, 2005 to September 30, 2014.

In the course of the fiscal audit examination, the audit team uncovered irregularities in the handling of the financial transactions of the court as well as shortages in its financial accountabilities. There were shortages of substantial amounts from the collection of various court funds handled by the respondent totalling P484,991.90 listed as follows: Fiduciary Fund (FF) — P323,000.00; Judiciary Development Fund — P47,497.90; Special Allowance for the Judiciary Fund — P43,494.00; Mediation Fund — P56,000.00; and Sheriffs Trust Fund (STF) — P15,000.00.^[2]

According to the report, an examination of the FF disclosed a tentative cash shortage of P323,000.00 due to non-remittance of collections covered by tampered Official Receipts (ORs) in the total amount of P284,000.00. The report said that tampering of ORs was very rampant during the time of the respondent as evidenced by the copies of ORs attached to the case records. In various cases, it was discovered that mere photocopies of the original ORs were used to acknowledged collections. All collections covered by the tampered ORs were neither recorded in the cashbooks nor deposited to the FF account and were never reported at all. It was also the respondent's practice not to put a date on the face of the duplicate and triplicate copies of the receipts, so as not to detect the delay in the remittance of collections, and she would only put a date once the collection is deposited.^[3]

There were also unauthorized withdrawals of cash bonds which resulted in misappropriation of P38,000.00. Based on the inventory of pending cases as of August 31, 2014, several cases were still undergoing trial but the respondent had already withdrawn the cash bonds posted for the said cases. An examination of the withdrawal documents disclosed that the signatures of the bondsmen in the acknowledgment receipts were forged as the signatures were totally different from the signatures in the retrieved case records, and there was no court order authorizing such withdrawal.^[4]

During the audit team's exit conference with Presiding Judge Dennis U. Magsombol, the respondent did not refute the team's findings of financial irregularities in her

accounts and even insinuated her desire to resign from the service.^[5]

In the Resolution^[6] dated August 17, 2015, the Court adopted the findings of the Office of the Court Administrator (OCA) and resolved as follows:

(2) **PLACE** [the respondent] under **PREVENTIVE SUSPENSION** pending resolution of this administrative matter;

(3) **DIRECT** [the respondent] to:

(3.1) **RESTITUTE** the cash shortages incurred in the [FF], Judiciary Development Fund, Special Allowance of the Judiciary Fund and Mediation Fund and [STF] in the amount of P323,000.00, P47,497.90, P43,494.00, P56,000.00 and P15,000.00, respectively, or a total of P484,991.90 and **SUBMIT** to the Fiscal Monitoring Division, Court Management Office (FMD-CMO), the corresponding machine validated deposit slips as proof of compliance;

(3.2) **EXPLAIN** in writing within ten (10) days from notice why she should not be administratively and criminally charged for:

(3.2.a) her non-remittance of collections for the different judiciary funds;

(3.2.b) her issuance of mere photocopies of original receipts to acknowledge the following FF collections, which resulted in the misappropriation of P156,000.00, to wit:

x x x x

(3.2.c) her [un]authorized FF withdrawals totaling P38,000.00, to wit:

x x x x

(3.2.d) her unaccounted FF withdrawal of P1,000.00 on October 29, 2008;

(4) **DIRECT** Presiding Judge Dennis U. Magsombol, MTC, Balayan, Batangas, to **PROPERLY MONITOR** the financial transactions of the incumbent Officer-in-Charge; and

(5) **ISSUE** a **HOLD DEPARTURE ORDER** against [the respondent] to prevent her from leaving the country.^[7]

The respondent filed a Motion for Extension of Time to File Answer^[8] dated September 28, 2015, requesting for a 90-day extension to comply with the Court's Resolution dated August 17, 2015, which the Court granted in its Resolution^[9] dated December 9, 2015.

However, instead of submitting her compliance, the respondent filed a Motion for Additional Extension of Time to File Answer^[10] dated December 15, 2015, asking for an additional 90 days from December 17, 2015 to submit her answer reasoning that she is still looking for other documents and possible means of restitution. This motion was belatedly granted by the Court in its Resolution^[11] dated April 13, 2016.

Eventually, the respondent submitted her Answer^[12] dated February 12, 2016. In her Answer, the respondent admitted the findings of the audit team and explained that: (1) her non-remittance of judiciary collections was due to great financial problem as medical crisis plagued her family which she alone had to shoulder, i.e. her husband suffered strokes, her father died of lung and bone cancer and all her children were hospitalized one by one;^[13] and (2) to solve her financial dilemma, she resorted to the issuance of mere photocopies of ORs to acknowledge the FF collections with the plan of replacing them with the original copy by the time that she has cash for deposit.^[14] The respondent also said that she had already restituted partial shortages amounting to P57,780.00.^[15]

In addition, the respondent requested that her remaining financial accountabilities be deducted from her withheld salaries and other benefits due her from January 2015 to September 14, 2015. She also requested that the monetary value of her earned leave credits be applied to her financial accountabilities to allow her to use whatever portion will be left.^[16] Lastly, the respondent expressed her sincere repentance and pleaded for utmost consideration and leniency and for the Court's compassion and mercy to lift her suspension and allow her to return to work for the sake of her family, as she has served the judiciary for more than 31 years.^[17]

On June 29, 2016, the Fiscal Monitoring Division, Court Management Office of the OCA received a Letter^[18] dated June 10, 2016 from Maria Rafaela R. Maderse, Officer-in-Charge, MTC of Balayan, Batangas, requesting for guidance relative to the request for release of cash bond of Celerio Gazmen (Gazmen). Based on the documents presented by Gazmen, he posted a cash bond of P40,000.00 under OR No. 4509989 at the MTC of Balayan, Batangas on February 7, 2012 for Criminal Case No. 11-0930 entitled *People of the Philippines v. Celerio Gazmen*, for *Estafa* filed before the Regional Trial Court of Parañaque City. However, upon verification from the triplicate copy of the OR, it turned out that OR No. 4509989 was issued to Ariel Contreras for Criminal Case No. 7671, entitled *People of the Philippines v. Adolfo Rubia y Alano* for Reckless Imprudence Resulting to Homicide in the amount of P30,000.00 on December 5, 2011, and the cash bond posted by Gazmen was under OR No. 4509990 in the amount of P10,000.00 only. Thus, P30,000.00 will have to be added to the respondent's accountability.

Succeeding examinations conducted on the books of accounts of the MTC of Balayan, Batangas on March 29, 2016 disclosed that the cash shortage of P15,000.00 in the STF account was already deposited on June 11, 2014; hence, the respondent is now cleared from financial responsibility in the STF account.^[19]

The OCA now summarized the respondent's accountability to P410,991.90, as follows:[20]

FUNDS	AMOUNT
Fiduciary Fund (FF)	P 264,000.00
Judiciary Development Fund (JDF)	47,497.90
Special Allowance for the Judiciary Fund (SAJF)	43,494.00
Mediation Fund (MF)	<u>56,000.00</u>
TOTAL	P 410,991.90 =====

Unfortunately, the respondent failed to restitute the shortages within the period given to her allegedly due to sickness and lack of means to pay for being jobless.
[21]

The Issue

The only issue in this case is whether or not the respondent should be held administratively liable for Serious Dishonesty.

Ruling of the Court

The Court agrees with the findings and recommendation of the OCA, with the modification of holding the respondent also administratively liable of Grave Misconduct and Gross Neglect of Duty. The Court has already ruled that:

Clerks of Court perform a delicate function as designated custodians of the court's funds, revenues, records, properties, and premises. As such, they are generally regarded as treasurer, accountant, guard, and physical plant manager thereof. It is the duty of the Clerks of Court to faithfully perform their duties and responsibilities. They are the chief administrative officers of their respective courts. It is also their duty to ensure that the proper procedures are followed in the collection of cash bonds. Clerks of Court are officers of the law who perform vital functions in the prompt and sound administration of justice. x x x.[22] (Citation omitted)

As custodians of court funds and revenues, . Clerks of Court have the duty to immediately deposit the various funds received by them to the authorized government depositories for they are not supposed to keep funds in their custody. Such functions are highlighted by OCA Circular Nos. 50-95[23] and 113-2004[24] and Administrative Circular No. 35-2004[25] which mandate Clerks of Court to timely deposit judiciary collections as well as to submit monthly financial reports on the same.[26] The Court already held, in the case of *OCA v. Recio, et al.*, [27] that the failure of the Clerk of Court to remit the court funds is tantamount to gross neglect of duty, dishonesty and grave misconduct prejudicial to the best interest of the service.