

EN BANC

[A.M. No. P-11-2887 (formerly A.M. No. 09-2-32-MTC), January 18, 2011]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
MARISSA U. ANGELES, CLERK OF COURT II, MUNICIPAL TRIAL
COURT, PANTABANGAN, NUEVA ECIJA, RESPONDENT.**

A.M. NO. P-10-2880 (FORMERLY OCA IPI NO. 08-2782-P)

**JUDGE ANALIE C. ALDEA-AROCENA, COMPLAINANT, VS.
MARISSA U. ANGELES, CLERK OF COURT II, MUNICIPAL TRIAL
COURT, PANTABANGAN NUEVA ECIJA, RESPONDENT.**

DECISION

PER CURIAM:

For resolution are the present administrative matters which were consolidated pursuant to the Court's Resolution of March 9, 2009.^[1]

The Antecedents

A.M. No. P-10-2880 arose from the 1st Indorsement, dated February 19, 2008, with accompanying documents^[2] of Judge Analie C. Aldea-Arocena [Municipal Trial Court (MTC), Pantabangan, Nueva Ecija] to Executive Judge Cicero D. Jurado of the Regional Trial Court [(RTC), Branch 38, San Jose City] , informing him of the alleged failure of Ms. Marissa U. Angeles (Clerk of Court of the MTC, Pantabangan, Nueva Ecija) to remit/deposit cash and bail bonds and other collections of the court. A.M. No. 09-2-32-MTC, on the other hand, pertains to the Office of the Court Administrator (OCA) Audit Team's Report^[3] on the financial examination conducted on the books of accounts of the MTC in Pantabangan, Nueva Ecija, for the period March 1, 1992 to February 28, 2008.

On November 26, 2008, the Court resolved to:

1. TREAT the 1st Indorsement dated February 19, 2008 of Judge Arocena as an administrative complaint for Grave Misconduct against Clerk of Court Angeles;
2. TREAT Clerk of Court Angeles' letter to Judge Arocena dated January 14, 2008 as her comment to the complaint against her;
3. REFER the complaint to Executive Judge Jurado, Jr. for investigation, report and recommendation within sixty (60) days

from notice; and

4. SUSPEND Clerk of Court Angeles from office effective immediately upon receipt hereof, until further orders from this Court.^[4]

Further, the Court required the Court Management Office (CMO) of the OCA to submit the corresponding audit report.

In the meantime, Judge Cynthia Martinez Florendo was appointed acting presiding judge of the RTC, Branch 38, San Jose City, and as Executive Judge of the RTC, San Jose City, replacing Judge Jurado who transferred to the RTC, Manila on January 16, 2008.

On March 12, 2009, pursuant to the Court's Resolution of November 26, 2008, the case records of **A.M. No. P-06-2276** (formerly OCA IPI No. 03-16-03), entitled "Beatriz F. Villar v. Marissa U. Angeles," were transmitted^[5] to Judge Florendo, prompting her to request that she be given the authority to investigate A.M. No. P-10-2880 in her capacity as Executive Judge.

Upon the OCA's recommendation, the **Court, in its Resolution dated November 16, 2009**,^[6] granted Judge Florendo's request for authority to investigate A.M. No. P-10-2880.

In the resolution^[7] consolidating the two cases, the Court directed Angeles to (1) restitute the balance of the Judiciary Development Fund (JDF) shortage of P398.20, and submit to the OCA the machine-validated copy of the deposit slip as proof; and (2) submit valid documents that withdrawn cash bonds and undeposited cash bond collections amounting to P64,200.00 and P64,000.00, respectively, were deposited in the Court's Fiduciary Fund (FF) savings account, or were refunded to the concerned bondsmen/litigants; otherwise, to restitute these amounts.

The Court also directed Ms. Ligaya G. Linsangan, court interpreter and former OIC clerk of court of the same court, to (1) restitute P3,000.00, representing withdrawals of cash bonds, by depositing the amount to the Court's FF savings account, and submit to the OCA a machine-validated deposit slip as proof; (2) submit to the OCA machine-validated copies of deposit slips of undeposited cash bond collections amounting to P40,000.00, otherwise, to restitute the amount; and (3) submit to the OCA valid documents (court order, acknowledgement receipt or official receipt) supporting the withdrawals made on the Court's FF savings account, amounting to P15,695.98.

The Court likewise directed Mrs. Nirvana P. Rubi, OIC court interpreter, to submit to the OCA valid documents supporting the withdrawals made on the FF savings account amounting to P11,000.00.

Finally, the Court directed Judge Arocena to ensure strict compliance with the Court's issuances, particularly on the handling of judiciary funds, to avoid repetition of the same accountability problem that involved Angeles and Linsangan.

Judge Florendo's Evaluation and Recommendation

In an "**Evaluation and Recommendation**" dated November 27, 2009,^[8] Judge Florendo recommended Angeles' dismissal for dishonesty and grave misconduct. The recommendation was based on the facts outlined below.

On November 20, 2007, Marissa Uruga, the common-law wife of Ramon Tuazon, the accused in Criminal Case No. 2752, executed an affidavit stating that she deposited with Angeles P12,000.00 representing her husband's bail bond, only to find out later that the receipt Angeles issued was only for P6,000.00.^[9] Further, a Ms. Vivian Tuazon also executed an affidavit stating that she gave P500.00 to Angeles on October 28, 2006, as additional payment for the bail bond of his brother in the same case, but Angeles did not issue a receipt for the amount.^[10]

By memorandum dated January 8, 2008, Judge Arocena asked Angeles to comment on the allegations contained in the two affidavits.^[11] In another memorandum dated February 5, 2008, Judge Arocena directed Angeles to remit to the MTC a total of P13,000.00 representing (1) the bail bond in Criminal Case No. 7664 (*People of the Philippines v. Freddie Joaquin and Dario Joaquin*) under O.R. No. 12575739 for P10,000.00, and (2) the bail bond deposit in Criminal Case No. 2670 (*People of the Philippines v. Romeo Borja, et al.*) under O.R. No. 12575748 for P3,000.00, to be deposited in the Land Bank of the Philippines, Cabanatuan City.^[12] In a third memorandum dated February 5, 2008, Judge Arocena directed Angeles to remit to the Court the P8,000 she received from one Jose Presto as partial settlement in Civil Case No. 235.^[13]

On January 15, 2008, Angeles submitted her letter/comment^[14] denying receipt of P12,000.00 from Uruga. She claimed that what she received was only the reduced bail bond of P6,000.00. She admitted receipt of P500.00 from Vivian Tuazon but explained that the amount represented the bail bond fee. She also admitted receipt of P8,000.00 from the defendant in Civil Case No. 235 but claimed that it was given for safekeeping until the settlement amount could be raised. She disclosed that in 2002, Court Interpreter Ligaya Linsangan replaced her as accountable officer; since then, she had never handled any money matters for the court.

Judge Florendo commenced investigation of the administrative matter on September 9, 2009. The matter was submitted for resolution on November 20, 2009. On the same day, Angeles tendered her resignation.^[15]

Judge Florendo's Findings

Judge Florendo's findings were clearly laid out and its pertinent portions are reproduced below.

In her Position Paper dated October 29, 2009, respondent attached as Annex "C" the Sinumpaang Salaysay of Marissa Uruga and Vivian Tuazon dated March 12, 2008 wherein they swore that:

2. *Na pinirmahan naming (sic) ang nasabing affidavits (referring to the Affidavit they signed on*

November 20, 2007) nang hindi nauunawaan ang mga nilalaman xxx

3. *Na aming nauunawaan na ang ibinigay naming P6,000.00 (at hindi P12,000.00 katulad ng nasaad sa affidavit) xxx*
5. *Na amin nang pinapawalang bias (sic) ang mga nakasaad sa aming naunang Affidavit sapagkat hindi namin nauunawaan ang mga nakasaad dito xxx*
6. *Na aming pinatutunayan na walang anumang naging pagkukulang o pagkakamali si Gng. Marissa Angeles xxx.*

To strengthen her defense, respondent thru counsel presented Marissa Uraga as witness. During the examination however, testimony of said witness proved to be more of evidence for the complainant rather than for the respondent. Part of her testimony enunciates:

- Q. Miss Marissa, why did you sign this Sinumpaang Salaysay dated March 12, 2008?
- A. I signed the document because she returned the amount of Php6,000.00 which is the reduced bail for my husband xxx
- Q. And what is the Php6,000.00 you are referring to as an (sic) amount returned to you by Miss Marissa Angeles?
- A. It was intended for my husband's bailbond which was originally in the amount of Php12,000.00. We gave her Php12,000.00 wherein it was reduced into (sic) Php6,000.00 and the amount of Php6,000.00 was returned to me.
- Q. When did you give this Php12,000.00?
- A. (witness is trying to recall the date and said October 2007)
- Q. And when was this Php6,000.00 returned to you?
- A. March 12, 2008, ma'am. (page 8 of TSN dated November 16, 2009)

Vivian Tuazon was also presented by the respondent as witness. She stated the following during her examination:

- Q. No. 5; Na amin nang pinapawalang bisa ang mga nakasaad sa aming naunang Affidavit sapagkat hindi namin nauunawaan ang mga nakasaad dito xxx
- A. No sir, but we are withdrawing the said affidavit because the amount of Php6,000.00 has been returned to us xxx
- Q. What is your reason why you signed this Sinumpaang Salaysay (referring to the Salaysay dated March 12, 2008).

- A. My reason is since the document was that (sic) they paid us the amount of Php6,000.00 and therefore there was nothing to argue about. (page[s] 16-17 of TSN dated November 16, 2009)

Said testimonies only proved that it was in fact Php12,000.00 which was handed to the respondent as reflected in the first affidavit and the testimonies during direct examination, and not the reduced amount of Php6,000.00. It also proved that Marissa Uruga did not seek to reduce the bail fixed at Php12,000.00, otherwise, she could just have tendered the amount of Php6,000.00. Said testimony likewise show (sic) that respondent returned the Php6,000.00-excess only on March 12, 2008 or almost five (5) months after having received the same from the bondsman and on the same date the Sinumpaang Salaysay refuting the first Affidavit was executed.

Respondent took the witness stand on November 20, 2009 and with the intention of rebutting having received the amount of Php12,000.00, presented as proof the order of the late Judge Joselito R. Dela Cruz dated October 27, 2006 wherein it was stated that the accused in Criminal Case No. 2752, posted his cash bond in the amount of Php6,000.00 (Exh. "2").

Review of said order however clearly shows that the original amount written was twelve thousand pesos but the word twelve and the number 12 [were] erased and [were] replaced by six and 6, respectively, without any initial. Said erasures heightened doubt on the mind of the Court. Even giving the respondent the benefit of the doubt that she did not cause the erasures in said Order, still, she was not able to explain why she did not call the attention of Marissa Uruga when the latter tendered the amount of Php12,000.00 when she (respondent) could just have received the amount of Php6,000.00 plus Php500.00 as bailbond fee or better yet, upon receipt of Php12,000.00, she could just handed back the amount of Php5,500.00 to Marissa Uruga.

In the instant case, respondent returned the money only on March 12, 2008, five (5) months after the deposit of Php12,000.00 was made. For her receipt of money in excess of the deposit required and for failure to return said excess immediately to the bondsman, there is clear violation of her duty as Clerk of Court, as collection officer, and as an employee of the government. Said violations constitute grave misconduct and make her unworthy of trust. "As public servant and as an officer of the court, the Clerk of Court must exhibit at all times the highest sense of honesty and integrity." (A.M. No. P-94-1031, July 1, 2003) Clearly, respondent fell short of the honesty required of her by the position she holds. Under Section 52 [,] Rule IV of the Administrative Rules of Procedure, dishonesty is a grave offense which has a corresponding penalty of dismissal for first offense.

Dishonesty which is defined by the Civil Service Commission (CSC) as "any act of which shows lack of integrity or a disposition to defraud, cheat, deceive or betray. It consists of an intent to violate the truth, in a