

EN BANC

[A.M. No. P-10-2758 (Formerly OCA IPI No. 08-2957-P), February 02, 2010]

**JUDGE DELIA P. NOEL-BERTULFO, MUNICIPAL TRIAL COURT,
PALOMPON, LEYTE, COMPLAINANT, VS. DYNDEE P. NUÑEZ,
COURT AIDE, MUNICIPAL TRIAL COURT, PALOMPON, LEYTE,
RESPONDENT.**

RESOLUTION

PER CURIAM:

On September 5, 2008, Judge Delia P. Noel-Bertulfo of the Municipal Trial Court, Palompon, Leyte, filed a complaint against Mr. Dyndee P. Nuñez, Court Aide of the same court, for Gross Dishonesty. In her Complaint-Affidavit, Judge Bertulfo alleged that she had been losing money and personal effects inside her chambers since the latter part of the year 2006. She further narrated:

x x x x

That my bag containing my cash and valuables are kept in the filing cabinet inside my Chambers during office hours;

That I always carry two (2) wallets inside my bag;

That I started noticing that every week I would lose money in varying amounts sometimes P1,000.00, and at other times, P2,000.00, P1,500.00, and even P3,000.00, etc.;

That it was too late when I discovered that the topmost drawer of my filing cabinet could be opened even if [it is locked];

That after making the said discovery, I transferred my wallets inside my attaché case which is always placed on top of my table for easy access to my files;

That I was secure in the thought that my money was safely stashed inside my attaché case with combination lock each time I would be out of my chambers;

That despite placing my two (2) wallets inside my briefcase, I continued losing money and was [mystified] as to how it could have happened;

That in the afternoon of July 24, 2007 between 1:30-2:45 o'clock in the afternoon, I went to the Philippine National Bank located just a stone's throw away from the Hall of Justice, Palompon, Leyte;

That on that fateful day, I had TWENTY THOUSAND PESOS (P20,000.00) in ONE THOUSAND PESO BILLS in one of my wallets;

That I could not determine how much cash I had in the other wallet;

That when I returned from the bank, Dyndee P. Nuñez was no longer inside the Staff Room;

That after office hours, I had somebody look for him so he could load my briefcase [in] my vehicle, but he was nowhere in sight;

That upon reaching home, I was aghast to find that TEN (10) ONE THOUSAND PESO BILLS and my PNB ATM Card were missing from my wallet;

That I started sensing something amiss that I did not anymore place my wallets inside my filing cabinet and briefcase;

That after some sleuthing around my office, I found out that the barrel bolt of the door from the Chambers to the Courtroom was intentionally displaced so it could not be closed from inside and could be opened by someone who has a key to said door;

That Dyndee P. Nuñez is the only one who has keys to the outside door leading to the Courtroom and to the door leading to my Chambers;

That on August 24, 2007 at around 1:34 o'clock in the afternoon, I, together with my then Acting Clerk of Court, Mrs. Raineria S. Pabica, went out of the office to solemnize a marriage at the function room of PACCI just across the Hall of Justice;

That in order to confirm my suspicions, before leaving my chambers, I placed a swivel/computer chair right behind the door leading to the Courtroom;

That I locked my attaché case, [changed the lock combination, and] committed to memory the 3-digit numbers;

That after the marriage ceremony, I lingered for a short while as I wanted sufficient time to elapse as I was certain that my absence would embolden him into action;

That when I got back to the MTC Office and opened the door from the Personnel Room to the Chambers, the first thing that caught my attention was the swivel/computer chair that was already a foot away from the other door;

That the next thing I did was to inspect the numbers in my attaché case and my suspicion was confirmed as the numbers were already re-arranged;

That nothing was taken as I brought with me my handbag and wallets;

That I acted nonchalantly about the whole thing and did not breathe a word about the thievery perpetrated right in the Hall of Justice and by a suspected Court employee;

That I tried to find ways and means to catch the culprit red-handed;

That I installed a web camera in the desktop computer in my Chambers although the Court has no internet access;

That on September 4, 2008 at around 11:15 o'clock in the morning, I left the Court premises together with Court Stenographer, Raineria S. Pabica, announcing before leaving to all the MTC Personnel that we would be going to the Philippine Institute of Technology (PIT) to have my GSIS E-Card Plus validated;

That Dyndee P. Nuñez was within earshot when I made the said announcement on purpose;

That before leaving the MTC Office I placed my bag with my wallet containing P6,570.00 cash in different denominations inside my filing cabinet;

That my other wallet containing P10,450.00 in different denominations was placed inside my briefcase;

That I had jotted down in two (2) sheets of paper the serial numbers of the bills inside each wallet;

That I set up the camera with [part at the back] portion x x x taped x x x so the green light would [not be] noticed;

That after turning on the capture mode I turned off the monitor of the desktop computer;

That I placed a computer chair a foot away from the door;

That I was out of the office for about twenty-three (23) minutes;

That when I returned to my Chambers the first thing that caught my notice was the swivel chair that was moved from its place so I rushed to check the contents of my wallets;

That TWO (2) FIVE HUNDRED PESO BILLS bearing SERIAL NUMBERS EM624905 and QZ0186 were missing from the wallet inside the filing cabinet;

That no cash was taken from the wallet inside the briefcase;

That I called to my Chambers the newly-appointed Clerk of Court, Mrs. Ma. Irene R. Legaspi, and we sat down in front of the computer monitor to review the recorded video;

That I thought then that I already had evidence to pin down the culprit but I was astounded and filled with sheer frustration and disgust when at 00:4:39 minutes into the recorded video the screen suddenly went blank as presumably the camera was shut down;

That at 00:5:59 minutes into the recording the camera's cover was opened again;

x x x x

Because of the foregoing events, complainant sought the assistance of the National Bureau of Investigation (NBI) and the Criminal Investigation and Detection Group (CIDG). Allegedly, respondent Nuñez, who was the first employee to be questioned and fingerprinted by the NBI agents, ultimately admitted his culpability, sought forgiveness and begged not to be put behind bars.

Meanwhile, on September 5, 2008 or on the same date the instant complaint was filed, respondent Nuñez tendered his irrevocable resignation effective immediately.

On November 7, 2008, the Office of the Court Administrator (OCA) informed respondent Nuñez that the Court has accepted his resignation without prejudice to the continuation of the administrative case filed against him.

To substantiate her allegations, complainant submitted the affidavits of Ma. Irene R. Legaspi, Randy D. Peñaranda, Allan A. Tubiz, as well as a certified true extract copy from the Police Blotter of the Palompon Police Station.

In her affidavit, Ma. Irene R. Legaspi, Clerk of Court of the Municipal Trial Court of Palompon, Leyte, narrated that on September 4, 2008, at around 11:35 a.m., she was summoned by Judge Bertulfo to her chambers. Judge Bertulfo informed her that her money was missing and that they would view the video recording in her desktop computer to find out the identity of the perpetrator. However, they found out to their dismay that the camera was switched off. Thereafter, all personnel of the Municipal Trial Court were called to a meeting where they learned that Judge Bertulfo has been losing money inside her chambers since 2006. They were then instructed by Judge Bertulfo not to leave the court premises because NBI agents were on their way to conduct an investigation. Respondent Nuñez who was the first to be fingerprinted, admitted that he was responsible for the theft. He sought forgiveness from complainant and begged her not to have him incarcerated. In addition, respondent Nuñez told Judge Bertulfo that he would resign from his job and that he would pay back the money that she lost.

On the other hand, Randy D. Peñaranda stated in his Affidavit that at 6:00 p.m. of September 4, 2008, an NBI agent came to his store, Marilao Agrivet and Vet Store, inquiring if the herein respondent Nuñez came to his store that day. He told the NBI agent that a Court employee wearing blue barong came to the store past 11:00 a.m. and bought chicken feeds. The said Court employee was a regular customer but he did not know his name. He described the Court employee as one who has whitish patches on his lips down to his neck and has chinky eyes, which matched the description of herein respondent Nuñez.