

EN BANC

[A.M. NO. P-04-1821, August 02, 2007]

JUDGE REUBEN P. DE LA CRUZ, COMPLAINANT, VS. ATTY. ANNA LIZA M. LUNA, RESPONDENT.

[A.M. NO. P-05-2018]

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. ATTY. ANNA LIZA M. LUNA, CLERK OF COURT, RTC-BRANCH 18, TAGAYTAY CITY, RESPONDENT.

RESOLUTION

PER CURIAM:

At bar are consolidated cases filed against respondent Atty. Anna Liza M. Luna, clerk of court of the Regional Trial Court (RTC), Branch 18 of Tagaytay City, for grave misconduct and dishonesty for falsifying court documents and for her failure to properly account for court collections amounting to over P12 million.

In A.M. No. P-04-1281, complainant Judge Reuben de la Cruz, assisting judge of the RTC, alleged that respondent issued a decision and an order making it appear that they were duly issued by the trial court. On May 20, 2004, he submitted to us copies of documents^[1] issued by respondent which were as follows:

1. copy of the trial court order dated January 22, 2004 dismissing the petition for the issuance of the owner's certificate of title filed by one Oscar Grande in PET TG No. 1050 [petition for issuance of owner's duplicate of titles];
2. copy of a fictitious judgment issued on the same date in PET TG No. 1050; and,
3. copy of a certification dated March 9, 2004 issued by respondent certifying to the effect that the fictitious judgment had already become final and executory.

Judge de la Cruz added that a certain Zenaida vda. de la Vega had also furnished him a copy of her demand letter^[2] to respondent for the return of P50,000 which the latter solicited for the issuance of a new owner's copy of a transfer certificate of title.

On May 31, 2004, respondent tendered her resignation.

On June 8, 2004, the Court issued a resolution^[3] treating Judge de la Cruz's complaint against respondent as a regular administrative complaint for grave

misconduct. We also (1) referred it to the Office of the Court Administrator (OCA) for investigation, report and recommendation; (2) required respondent to file her comment to the complaint; (3) placed her under suspension pending the outcome of the investigation and (4) directed the OCA to immediately conduct a judicial audit.

Subsequently, OCA's audit team conducted a financial audit which showed a cash shortage of over P12 million. In its report, it made the following recommendations:

1. This report be DOCKETED as a regular administrative matter against [respondent] and consolidated with A.M. No. P-04-1821...
2. [Respondent] be DIRECTED to RESTITUTE shortages incurred in the Judiciary Development, Special Allowance for the Judiciary Fund, Clerk of Court General Fund, Sheriffs General Fund and Sheriffs Trust Fund amounting to P8,269,307.76, P5,176.46, P1,435,131.18, P93,108.13 and P2,437,750.00, respectively or a total of P12,240,473.53.

xxx xxx xxx

6. Hold Departure Order be ISSUED against [respondent] to prevent her from leaving the country without settling the shortages found.
7. The LEGAL OFFICE be DIRECTED to file appropriate criminal charges against [respondent].^[4]

In a resolution,^[5] we adopted OCA's recommendation. The audit report was then docketed as A.M. No. P-05-2018 and consolidated with A.M. No. P-04-1821.

Later, the OCA audit team submitted an amended report incorporating therein a new computation of the respondent's cash shortages. The amended report read:

Based on the records presented, the following are our significant audit findings/observations with [regard] to extra-judicial foreclosure of mortgage cases:

- 1. There was a total shortage of TWELVE MILLION EIGHTY-FIVE THOUSAND EIGHT HUNDRED THIRTY ONE PESOS and 61/600 (P12,085,831.61).**

Cash shortages were incurred due to the following:

- a. Non-collection/under-collection of filing fees on some extra-judicial foreclosure cases in the amount of **Three Million Seven Hundred Thirty-Four Thousand Seven Hundred Forty-Six Pesos and 99/100 (P3, 734,746.99).**

OCA Circular No. 1-2000 provides that all applications for extra-judicial foreclosure of mortgage whether under the direction of the Sheriff or Notary Public...shall be filed with the Executive Judge, through the Clerk of Court who is also the Ex-Officio Sheriff . The

[Office of the Clerk of Court] was further directed to collect the filing fees...and issue the corresponding [o]fficial [r]eceipt.

Audit disclosed that[,] [respondent] failed to collect the filing fees on twenty-three (23) foreclosure cases which would amount to **[P3,363,280.90]**.

It was also evidently observed that the basis used in the computation of the filing fee was not consistent. Other cases were based only on the principal amount of the mortgage secured, excluding interest and other charges...[w]hile in cases wherein the total amounts of indebtedness were not higher than [P1 million], interest, penalties and other charges were included in the computation as this would not affect the amount of filing fee to be paid which is peg at P2,000. Non-inclusion of interests and other charges in the computation resulted to [an] under-collection of filing fees in the total amount of **[P371,466.07]**.

- b. Non-collection of advertising fee in the total amount of **Nineteen Thousand Four Hundred Fifty (P19,450.00)**.

As provided for under Section 9(h) of ...Rule 141 [of the Rules], for advertising a sale, besides cost of publication, [P50.00] shall be collected upon filing a case. Advertising fee is to be allocated to the Judiciary Development Fund [JDF] and the General Fund [GF]...

Although not properly allocated to the JDF and GF funds, the Court collected an advertising fee every case filed thereat from...1999 onwards. However, from CY 1995-1998, there was no showing that an advertising fee of P50.00 per case has ever been collected, which translates to [the] non-collection of **P19,450.00...**

- c. Non-remittance of posting fee amounting to **Six Hundred Seventy-Seven Thousand Seven Hundred Fifty Pesos (P677,750.00)**.

As evidenced by [a]cknowledgment [r]eceipt found in some case folders, [respondent] collected posting fee of P250.00 per case for the year[s] 1996-1996 and a minimum of P500.00 per case from 1997 onwards, depending on the location where the "NOTICE OF EXTRA-JUDICIAL SALE" will be posted. During her accountability period, [respondent] could have collected a total of no less than **P677,750.00** as posting fee without issuing [o]fficial [r]eceipt...

- d. Non-collection/under-collection of sheriff's commission in the total amount of **Five Million Eight Hundred Sixty-Six Thousand Five Hundred Eighty-Four Pesos and 62/100 (P5,866,584.62)**.

Based on the documents presented, there [was] a total of **949** foreclosure cases filed...from 1995-2002...Of this total, **603** were found to have been either disposed or withdrawn as evidenced by the Certificate of Sale (COS) issued and the corresponding sheriff's

commissions collected by the Clerk of Court...However, it was noted that there were a total of 125 cases which [have] already been disposed...but there was no proof that [the] sheriff commission in the total amount of **P3,159,541.34**...was collected.

Moreover, due to the unsystematic [record-keeping], the [OCA] Team considered as disposed those [extra-judicial foreclosure] cases with incomplete set of documents, for it is irrational to consider them as pending since the cases were filed a long time ago and that there was no Letter of Withdrawal of petition attached to the case [folders]. But in the absence of the [COS], instead of bid price, we use the amount of indebtedness as basis in the computation of [the] sheriff commission and arrived at an uncollected amount of **P2,603,399.00**...

- e. Non-collection of Entry Fee on 91 [extra-judicial foreclosure cases] in the amount of Twenty-Seven Thousand Three Hundred Pesos (P27,300.00).

As provided for under Section 20 (d) of Rule 141, for application for and entries of Certificates of Sale (COS) and final deeds of sale in extra-judicial foreclosures and mortgages, the [Clerk of Court] is mandated to collect P300.00. Non-collection of entry fee on 91 [extra-judicial foreclosure] cases resulted to under collection of **P27,300.00**...in the Judiciary Development Fund.

- f. Non-remittance of sheriffs fees in the amount of **One Million Seven Hundred Sixty Thousand pesos (P1,760,000.00)**.

As evidenced by acknowledgement receipts attached to some case folders, [respondent] used to collect from the winning bidder a minimum of **P5,000** every case disposed as sheriff's fee. For the years 2000-2002 alone, she could have collected a total of **P1,760,000.00** (352 cases x P5,000) by issuing only an acknowledgement receipt. Such collection should have been deposited to the Sheriff's Trust Fund account to be later dispensed with, subject to the disbursement of all the expenses incurred in administering and executing the process. But what [respondent Clerk of Court] did was she handled the money and directly paid the sheriff who executed the process...^[6]

The Court later on designated retired Justice Romulo S. Quimbo as hearing officer in the investigation of the allegations in A.M. No. P-04-1281. During the investigation, respondent admitted issuing the spurious court documents. After the hearings were concluded, Justice Quimbo found respondent guilty not only of grave misconduct but also of dishonesty.

In its report^[7] to the Court, the OCA echoed Justice Quimbo's findings and stated further that respondent's act was covered by Article 171 of the Revised Penal Code defining falsification of public documents by a public officer. According to the OCA, "the issuance in an authenticated form of a document purporting to be a copy of an original document when no such original exists, or including in such copy a