

THIRD DIVISION

[A.M. NO. P-05-1949 (Formerly A.M. No. 04-9-255-MCTC), September 27, 2006]

RE: FINANCIAL AUDIT CONDUCTED IN THE MUNICIPAL CIRCUIT TRIAL COURT, RAGAY-DEL GALLEGO, CAMARINES SUR

RESOLUTION

TINGA, J.:

This disposes of the administrative case against Darius Ramon C. Abengoza (Abengoza), Officer-in-Charge (OIC)/Acting Clerk of Court of the Municipal Circuit Trial Court (MCTC) of Ragay-del Gallego, Camarines Sur.

It appears that Abengoza was designated as OIC/Acting Clerk of Court in a memorandum dated May 6, 2002 of Hon. Manuel E. Contreras (Judge Contreras), Acting Presiding Judge of the said court, due to the indefinite leave of absence of Clerk of Court II, Ricardo Roehl P. Ocfemia (Ocfemia).^[1] On October 17, 2002, however, Judge Contreras relieved Abengoza of his designation due to the latter's failure to make the necessary remittances of his cash collections and to submit the required financial reports on time. Subsequently, Judge Contreras requested that a financial and judicial audit of his court be immediately conducted.^[2]

It was discovered during the financial audit that collections on the Judiciary Development Fund (JDF), Clerk of Court General Fund, and Fiduciary Fund for the months of August to October 16, 2002 with an aggregate amount of P62,934.80 were not reported and remitted on time to their corresponding depository accounts, and salary checks of employees amounting to P19,095.00 were encashed from court collections in violation of existing Supreme Court administrative circulars. As a result, the Office of the Court Administrator (OCA) recommended that Abengoza be fined in the amount of P5,000.00 and disqualified from being an accountable officer of any first and second level court.^[3]

The matter was referred to the Executive Judge of the Regional Trial Court (RTC), Libmanan, Camarines Sur, for investigation, report and recommendation. Accordingly, Executive Judge Cecilia R. Borja-Soler (Judge Borja-Soler) conducted an investigation and submitted a Report^[4] dated December 23, 2005.

The Report reveals that Abengoza admitted his lapses but attributed them to his lack of training for the designated post. According to Abengoza, he tried his best to diligently perform his duties as OIC/Acting Clerk of Court apart from his regular duties as Clerk II.^[5] He divulged that he committed an error when he deposited the amount of P19,095.00 to the JDF when it was supposed to have been deposited to the Fiduciary Fund. From then on, he opted to keep the cash collections inside Ocfemia's drawer, hoping that the latter would soon resume his regular work.^[6]

Avengoza also admitted having allowed the encashment of the salary checks of his officemates from the court's cash collection but claimed that the practice was done in good faith.^[7]

In view of Avengoza's admission of his mistakes and plea for the Court's understanding, Judge Borja- Soler recommends that he be fined the amount of P3,000.00 and disqualified from being an accountable officer of any first and second level court.^[8]

We are in accord with the findings and recommendation of Judge Borja-Soler.

Clerks of court are officers of the law who perform vital functions in the prompt and sound administration of justice. Their office is the hub of adjudicative and administrative orders, processes and concerns. They perform a delicate function as designated custodians of the court's funds, revenues, records, properties and premises. As such, they generally are also the treasurer, accountant, guard and physical plant manager thereof. They are liable for any loss, shortage, destruction or impairment of such funds and property.^[9]

It is the duty of clerks of court to perform their responsibilities faithfully, so that they can fully comply with the circulars on deposits of collections. They are reminded to deposit immediately, with authorized government depositaries, the various funds they have collected because they are not authorized to keep those funds in their custody. The unwarranted failure to fulfill these responsibilities deserves administrative sanction and not even the full payment of the collection shortages will exempt the accountable officer from liability.^[10]

Abengoza's practice of keeping the court's cash collections inside Ocfemia's drawer was imprudent and foolhardy. His action was in complete violation of Administrative Circular No. 3-2000 dated June 15, 2000 which commands that all fiduciary collections shall be deposited immediately by the Clerk of Court concerned, upon receipt thereof, with an authorized government depository bank. The procedural guidelines of this circular provide:

II. Procedural Guidelines

A. Judiciary Development Fund

x x x x

3. Systems and Procedures.

x x x x

c. In the RTC, MeTC, MTCC, MTC, MCTC, SDC and SCC. - The daily collections for the Fund in these courts shall be deposited everyday with the nearest LBP branch for the account of the Judiciary Development Fund, Supreme Court, Manila - SAVINGS ACCOUNT NO. 0591-0116-34 or if depositing daily is not possible, deposits for the Fund shall be at the end of every month, provided, however, that whenever collections for the Fund reach P500.00, the same shall be deposited immediately even before the period above-indicated.

x x x x

Collections shall not be used for encashment of personal checks, salary checks, etc. x x x