

## FIRST DIVISION

**[ A.M. P-05-1958 [OCA-IPI NO. 03-1718-P],  
February 07, 2005 ]**

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.  
CLERK IV TESSIE DUQUE, MUNICIPAL TRIAL COURT IN CITIES,  
BRANCH 1, SANTIAGO CITY, ISABELA, RESPONDENT.**

### ***DECISION***

**YNARES-SANTIAGO, J.:**

In a letter<sup>[1]</sup> dated October 3, 2002, complainant Eugenio Taguba, Process Server of the Municipal Trial Court in Cities, Branch 2, Santiago City, Isabela (MTCC-Br. 2) requested for an investigation on the alleged anomalies discovered during the implementation of a writ of execution in Crim. Case No. II-4066 entitled *People of the Philippines v. Marirose Valencia*.

On November 15, 2002, Deputy Court Administrator Jose P. Perez referred the letter to Judge Fe A. Madrid, Executive Judge of the Regional Trial Court of Santiago City, Isabela, for discreet investigation.<sup>[2]</sup>

In her report dated March 5, 2003,<sup>[3]</sup> Judge Madrid narrated that on April 24, 2001, respondent Judge Ruben R. Plata rendered decision in Crim. Case No. II-4066 convicting Marirose Valencia of violation of BP Blg. 22 and sentencing her to pay P120,000.00 as fine and P100,000.00 representing civil liability.

Pending reconsideration of the case, Valencia and Atty. Pacifico Capuchino, delivered the amount of P120,000.00 to respondent Tessie Duque, Clerk IV of the MTCC, Br. 1, Santiago City, for safekeeping.

Before respondent Judge Plata could resolve the motion for reconsideration, Judge Maxwell Rosete, the former presiding judge of MTCC-Br. 2, returned and assumed his former office. He denied Valencia's motion for reconsideration and subsequently issued a writ of execution. However, when Sheriff Wilmer Beltejar implemented the writ, he discovered that Valencia had already delivered the money to respondent Duque as evidenced by a receipt.<sup>[4]</sup>

Thereupon, Judge Rosete required respondent Duque to comment but the latter instead filed a Manifestation<sup>[5]</sup> requesting for an appropriate order directing the proper turn over of the money in her custody.

Thus, Judge Rosete issued an order of garnishment and pursuant thereto, Sheriff Beltejar took the money from respondent Duque, issued a receipt<sup>[6]</sup> therefor, and turned over the same to the Branch Clerk of Court who likewise issued a receipt.<sup>[7]</sup> The money was eventually delivered<sup>[8]</sup> to Reynaldo Valmonte, the complainant in

Although the investigating judge believed that respondent Judge Plata actually received the P120,000.00, she nonetheless recommended that disciplinary action be imposed on respondent Duque alone as she was the one who admitted receipt thereof.<sup>[9]</sup>

In his comment,<sup>[10]</sup> respondent judge maintained that he merely brokered the meeting between the parties in Crim. Case No. II-4066 to enable them to amicably settle the case. He claimed that upon learning of the P120,000.00 in the custody of respondent Duque, he immediately gave instructions to return the same to Valencia.

Respondent Duque admitted<sup>[11]</sup> that she received the money but insisted that the same was entrusted for her safekeeping only. She alleged that she immediately informed respondent Judge Plata upon receipt of the amount. She thought that by keeping the money, she was rendering service to the litigants.

The OCA adopted the findings of Judge Madrid and recommended that respondent Duque be held administratively liable for keeping and receiving money without authority and that a fine of P5,000.00 be imposed on her.

As for respondent Judge Plata, the OCA found no concrete evidence that he received money for the settlement of the case. However, it recommended that respondent Judge Plata be advised to be more careful and circumspect in his dealings to avoid repetition of similar incidents.

In a resolution<sup>[12]</sup> dated May 24, 2004, we required the parties to manifest whether they are willing to submit the case for decision based on the pleadings filed. Despite receipt<sup>[13]</sup> of the said resolution, the parties failed to file their manifestation, hence the filing thereof was deemed waived.

At the outset, it has been established that the "missing" money was duly accounted for and eventually returned to Reynaldo Valmonte, the complainant in Crim. Case No. II-4066.

Nevertheless, respondent Duque is not absolved from any liability. As Clerk IV, she is not authorized to receive money for whatever purpose, *moreso* because she was detailed to MTCC- Br. 1 and not to Br. 2 where Crim. Case No. II-4066 was pending. Granting that the exigency of the situation justified her receipt of the money, respondent Duque is still liable because she failed to turn over its custody to the Clerk of Court<sup>[14]</sup> of MTCC-Br. 2 as soon as possible. Instead, she kept the money in her custody for 17 months (from May 9, 2001 to October 4, 2002) and released the same only after Judge Rosete issued the notice of garnishment divesting her of its custody.

Thus, when respondent Duque accepted the money, she arrogated to herself the authority to exercise a function that properly belongs to the Branch Clerk of Court. While the *2002 Revised Manual for Clerks of Court*<sup>[15]</sup> provides that a Clerk IV, such as respondent Duque, *may perform* other duties that may be assigned to her in addition to her official functions, it is worthy to note that respondent Judge Plata did