

EN BANC

[**A.M. No. 02-9-24-0, November 27, 2002**]

**RE: LOSS OF EXTRAORDINARY ALLOWANCE CHECK NO. 1106739
OF JUDGE EDUARDO U. JOVELLANOS.**

RESOLUTION

PER CURIAM:

This matter arose from the loss of a check issued in the name of Judge Eduardo U. Jovellanos, then Presiding Judge of the Municipal Circuit Trial Court (MCTC), Alcala, Pangasinan.

In an indorsement dated May 2, 2002, Deputy Court Administrator Christopher O. Lock referred to the Complaint and Investigation Division, Office of Administrative Services, through Atty. Eden T. Candelaria, Deputy Clerk of Court and Chief Administrative Officer, for investigation, the anomalous encashment of Landbank check no. 1106739 in the name of Judge Jovellanos. There was a possible involvement of some court employees, particularly in the Finance Division, Financial Management Office, Office of the Court Administrator (OCA).

The circumstances surrounding the anomalous encashment of the said (which was reported lost) are as follows:

Judge Jovellanos was suspended for one year pursuant to a Supreme Court en banc resolution dated August 1, 2000 in A.M. No. MTJ-00-1289. Sometime in the third week of February 2002, Judge Jovellanos filed his clearance application in connection with his compulsory retirement effective January 25, 2002. In the process, the Checks Disbursement Division, Financial Management Office, OCA, discovered that Judge Jovellanos was overpaid by P5,250 representing his extraordinary allowance for the month of November 2000 through check no. 1106739. But Judge Jovellanos was under suspension then. It was discovered that said check was neither mailed to the payee nor cancelled. Upon verification at the Reconciliation Unit, it was found that the subject check was deposited, on April 2, 2001, at the Metrobank Branch in Cabanatuan City, under account no. 3119275429. One Marietta Rodriguez, an employee of the Municipal Trial Court (MTC), Sta. Rosa, Nueva Ecija, was the one who endorsed the check.

In two separate letters respectively dated March 14, 2002 and March 20, 2002, Virginia Togle, SC Chief Judicial Staff Officer, Checks Disbursement Division, requested Marietta Rodriguez to explain her participation as endorser of the check.

In her reply dated April 1, 2002, Marietta Rodriguez explained that the said check was given to her by Shirley Chua, Cashier II, Accounting Division, Office of the Court Administrator, as payment for an existing obligation. She also admitted having approached Chua on several occasions to discount checks for cash. Likewise, there were times when she borrowed money from her at minimal interest.

In her testimony dated May 16, 2002, Shirley Chua admitted using the check to pay for the carpet she bought from Marietta Rodriguez. She reiterated the statement in her affidavit dated April 30, 2002, submitted to Virginia Togle, that the check was encashed with her by Rosario Santos, a utility worker assigned as processor of checks at the Finance Division, OCA. She further stated that she merely accommodated Rosario Santos since Santos was an officemate and she used to enter into similar transactions with apparent authority from the payees. In addition, she admitted having encashed checks of Supreme Court and lower court employees representing their dividends, salaries and allowances at discounted values and sometimes lending money to them. She did all this to help employees in dire need of money.

In her comment dated May 23, 2002, Rosario Santos denied Shirley Chua's allegations and alleged that she (Rosario Santos) could not have approached the latter (Shirley Chua) in November 2000 for the purpose of encashing the subject check as it was "deposited 5 months later." The check was among those she endorsed to the Checks Disbursement Division for cancellation on April 16, 2001. As proof of the transmittal, Santos presented a photocopy of the page of the record book evidencing that Teresita Damian, Accounting I, Checks Disbursement Division, received the subject check. However, she could not explain how the check was encashed at a much earlier date, on April 2, 2001.

Moreover, Santos blamed the Checks Disbursement Division for its failure to call her attention much earlier. While she admitted having referred employees to Chua for encashment of their checks, Santos denied transacting personally with Chua. She submitted two affidavits of officemates attesting to the fact that Chua was in fact engaged in the encashment of checks and lending money for a consideration.

Teresita Damian, on the other hand, denied Santos' allegation that the latter transmitted the subject check to her. When presented with a photocopy of the page of the record book allegedly evidencing her receipt of 3 checks, among which was check no. 1106739, she admitted that the signature was hers. However, she insisted that she received only 2 checks (check nos. 1040899 and 1090934) on April 16, 2001 and that check no. 1106739 was not one of them. Damian claimed she always reminded Santos to transmit to her immediately all the checks for cancellation so that she could finalize the entries in her records but Santos did not do so.

On May 29, 2002, the Office of Administrative Services (OAS) requested the assistance of the National Bureau of Investigation for examination of the handwriting of Rosario Santos in the record book to find out whether the entries appearing thereon were written on the same date or not. The office also sought to find out whether the bracket written by Damian to confirm receipt of the 3 checks was altered. However, due to time constraints, the OAS opted to withdraw the request from the NBI on July 26, 2002.

On August 14, 2002, Deputy Clerk of Court and Chief Administrative Officer Eden T. Candelaria submitted a memorandum finding sufficient evidence of culpability against Rosario Santos for the loss of check no. 1106739.

The Court, after a careful examination of the records of this case, is convinced that respondent Rosario Santos is indeed responsible for stealing, encashing and converting for her personal use the amount represented by check no. 1106739 issued to Judge Eduardo U. Jovellanos.

While respondent denies the charge, her unsubstantiated disavowal cannot stand against the positive and detailed account of Chua regarding her (Santos) participation in the encashment of check no. 1106739. Chua narrated how the check got to the hands of Marietta Rodriguez who endorsed the same. Chua testified:

ATTY. MA. CARINA M. CUNANAN (Investigating Officer)

Q Are you aware of the alleged loss of check in favor of Judge Jovellanos?

A Ganito po ang nangyari d'yan, inilapit po sa akin yan ng taga Finance na si Charry o Rosario Santos po. Nagpunta yan sa opisina ko at ang sabi ate palitan mo naman itong check sabi ko naman ano yan? Tinanong ko kung nasan ang tao. Sabi n'ya nandyan lang ate sa baba ayaw na n'yang umakyat ako na lang ang pinaakyat n'ya. Sigurado ka bang nariyan sa baba? Oo naman ate, sabi po n'yang ganon. Tapos tiningnan ko po yun check nakita ko na may pirma naman sa likod tapos yun pong date ng check is November ata yun. Sabi ko ma-stale na to ah, di pa ate sabi n'yang ganon sa akin so sabi ko po sa kasamahan ko kay Malou Garcia. Malou i-check mo nga ito mukhang stale bumilang po si Malou at ang sabi ay hindi pa malapit na, malapit ng ma-stale sabi n'ya tapos bumilang din si Charry. Sabi sa akin ni Charry kita mo ate hindi pa. In good faith po ako kaya ko naman pinalitan yun.

Q Bakit nagpapalit ka ba ng check?

A Hindi ko naman dini-deny na nagpapalit ako ng check kasi po taga-rito din ang lumapit sa akin na humihingi po ng tulong sa akin.

Q Paano kang magpalit ng check for a fee, for a consideration or what?

A Bale po kung magkano lang po ang ibigay nila sa akin.

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Q Yung kay Judge Jovellanos, do you inquire kung nandoon ang tao o wala?

A Ganito po kasi yan Attorney, lumapit nga po sa akin si Rosario Santos sa opisina sabi n'ya ate palitan mo naman itong check.

Q Do you know Rosario Santos personally?

A Opo, nakikilala ko po s'ya.

Q Or you simply know because she is an officemate?

A Dahil ka-opisina natin dito kaya nagtiwala naman po ako sa kanya. In good faith naman po ako dahil ang check na yun...

Q Do you know from what division is she?

A Opo, sa Finance po s'ya.

Q So nagtiwala ka?