

## EN BANC

[ A.M. No. P-00-1415-MeTC, August 30, 2001 ]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.  
MRS. TERESITA Q. ORBIGO-MARCELO, CLERK OF COURT, METC,  
TAGUIG, METRO MANILA, RESPONDENT.**

### RESOLUTION

#### PER CURIAM:

The absence without official leave of the Clerk of Court of the Metropolitan Trial Court (MeTC) of Taguig, Metro Manila since November 3, 1999 prompted Judge Benjamin T. Pozon, MeTC Taguig, Branch 74, to order an inventory of all the records of the office of the Clerk of Court. Judge Pozon also reported the matter to the Office of the Court Administrator (OCA) and requested that a financial audit be conducted.

In a Letter dated December 1, 1999, Judge Pozon directed the respondent Clerk of Court, Mrs. Teresita Marcelo, to explain her unauthorized absences. In response thereto, Herbert Orbigo, the son of respondent, informed Judge Pozon that:

- a) Respondent left for the United States of America on 1 November 1999 together with her husband, Gonzalo Marcelo, to attend a family reunion and for other personal reasons;
- b) Prior to respondent's departure, he was informed by the former that she will go on vacation leave with the knowledge and permission of Judge Pozon. The judge even asked respondent to prepare the monthly reports of cases before she leaves to which request she complied;
- c) Respondent's officemates, including Judge Pozon, threw a "*despedida*" party for her last October 30, 1999 which only showed that they are fully aware of the whereabouts of the respondent and the reason why she was on vacation leave; and
- d) Respondent left an accomplished vacation leave form with the court's Legal Researcher Mabel Madamba, who even accompanied her when she asked permission to go on vacation leave and to whom respondent entrusted some important documents. The leave form was even shown to Herbert Orbigo by Judge Pozon on November 3, 1999 when the former went to the latter's office. Judge Pozon also showed him a passbook of the Land Bank of the Philippines and told him that the respondent also entrusted the amount of P100,000.00 with the Legal Researcher and the Cash Clerk.

Lastly, Herbert Orbigo questioned the integrity of the audit and inventory

conducted by Legal Researcher Mabel Madamba on November 3, 1999 involving the official receipts accountable to the respondent. He alleged that although his mother reported to work up to October 30, 1999, a Saturday, it was after she left for abroad that the audit and inventory was conducted by Ms. Madamba. Thus, he claimed, the authenticity of the records particularly of the official receipts for which his mother is being held accountable, may have been compromised.<sup>[1]</sup>

In the meantime, the OCA's examination revealed a shortage in the sum of P3,827,552.70, broken down as follows:

1.) Judiciary Development Fund (JDF)	359,455.20
2.) Clerk of Court General Fund (GF)	235,715.50
3.) Clerk of Court Fiduciary Fund (FF)	<u>3,232,382.00</u>
Total Accountabilities	<u>P3,827,552.70</u> <sup>[2]</sup>

The bases for the above findings are contained in the OCA Memorandum dated June 23, 2000 addressed to the Honorable Chief Justice and are reproduced below:

(1) Judiciary Development Fund (JDF)

Mrs. Marcelo handled the collections of this fund for the period March 1985 to October 1999. She maintained a cashbook only from March 1985 to August 1994. Considering that file copies of Monthly Reports of collections and deposits submitted to the Accounting Division were incomplete which made the audit very cumbersome, the examinations were based entirely on the triplicate copies of Official Receipts issued and partially on the available cashbook and copies of monthly reports. Collections were not deposited in full at the end of each month. Thus, this fund showed an understated remittance/deposits amounting to P359,455.20 as against the total collections computed as follows:

Total collections from March 1985 to October 1999	P459,571.20
Less: Remittances made:	
1. Remittance to SC Cashier from April 1985 to September 1990	P5,560.00
2. Deposit to LBP for the period February 1994, April 1999 to November 1999	130,556.00 <u>P136,116.00</u>
Shortage as of October 31, 1999	<u>P359,455.20</u>

(2) Clerk of Court General Fund (GF)

Audit examination for this fund covered the period July 1996 to October 1999. To determine the collections for this fund we used the triplicate copies of Official Receipts issued as basis since Mrs. Marcelo did not maintain any cashbook. Likewise no copy of the Monthly Reports were kept nor were there entries on the Subsidiary Ledger of the Accounting Division which showed that she was submitting regularly the monthly reports for this fund.

In the course of the audit examination of the triplicate copies of the Official Receipts issued for this fund, total monthly collections reported to the Accounting Division were understated as against the total entries reflected on the Official Receipts issued for the month. Actual/correct collections for the month were not reported. There were duplicate copies of official receipts issued for a particular month, which should have been attached to the Monthly Report of Collections, and Remittances submitted but were deliberately excluded which rendered the report incorrect.

Mrs. Marcelo did not keep any copy of deposit slips on her file except for one remittance made on November 17, 1999, as evidenced by Supreme Court O.R. # 8885688 (copy attached as annexed A), amounting to P8,977.00 covering collections received by Mrs. Marcelo for the period September 1999 to October 1999. The amount was remitted by Ms. Mabel Madamba, the incumbent Officer-in-Charge. On the Subsidiary Ledger of the Accounting Division, there were remittances made for this account but we cannot take it up since we have no proof as to the validity of these remittances and records are not available for further verification of this account. Hence, accountability for this fund amount[s] to P235,715.50, broken down as follows:

Total collections from July 1996 to October 1999	P244,692.50
Less: Remittances made	<u>8,977.00</u>
Total Accountability as of October 31, 1999	<u>P235,715.50</u>

### (3) Fiduciary Fund (FF)

The collections for this fund started on August 15, 1994. The determination of collections was based solely on all the triplicate copies of Official Receipts issued. Mrs. Marcelo did not maintain any cashbook, and no copy of monthly reports submitted to the Accounting Division were left in her custody. There were series of official receipts intended for Judiciary Development Fund and Clerk of Court General Fund collections, which were erroneously used for Fiduciary Fund.

The Subsidiary Ledger at the Accounting Division showed no entries for the withdrawals of cashbonds since they were never reported at all. To determine the withdrawals, we were left with no choice but to base it on the available records of lawful Orders of the Court. On the other hand,

monthly reports of collection for the period January 1996 to August 1996, January 1997 to April 1997 and September 1999 to October 1999 were the only reports submitted to the Accounting Division, but said reports were found out to be understated. There was a discrepancy between the actual amount of collections as per official receipts issued compared to the reports submitted to the Accounting Division.

Bank records showed that Mrs. Marcelo opened an account intended for Fiduciary Fund at Land Bank of the Phils.-Kapasigan Branch on October 17, 1996 under LBP Savings Account No. 1641-0148-57 named after MeTC, Taguig with her as the sole signatory. Examination of said account disclosed that there were inconsistencies/irregularities in both deposits and withdrawals made as evidence by the entries reflected in the bank passbook (copy attached as Annex B). Collections from 1994 to October 16, 1996 were never deposited, and the deposits made from October 17, 1996 to April 1999 represent only partial remittance/deposits of collections for the entire period of Mrs. Marcelo's accountability. Some withdrawals made on said account were not duly supported by Court Orders.

The interest earned from deposits with LBP for the period October 1996 to October 1999 were not remitted to the account of Clerk of Court General Fund. The present Officer-in-Charge has already been advised to withdraw the interest earned from Fiduciary Fund deposits and transfer it to the JDF.

We exerted all our efforts to look for the undeposited Fiduciary Fund collections through official communication and confirmation of deposits with the Landbank of the Philippines branches of Kapasigan, Makati and FTI but their response were all in the negative.

After examining and verifying evidential records, the total accountabilities of Mrs. Teresita Orbigo-Marcelo on Fiduciary Fund amount to P3,232,382.00, computed as follows:

Total collections from Aug. 15, 1994 to Oct. 31, 1999		P3,946,826.25
Less: Total withdrawals made for the same period based on the Court Orders issued		608,844.25
Total Unwithdrawn Fiduciary Fund		P3,337,982.00
Less: Deposits at LBP (Kapasigan Branch) as of October 1999	P110,171.59	
Less: Interest earned, net of w/tax	<u>4,571.59</u>	<u>105,600.00</u>
Total Accountabilities as of October 31, 1999		<u>P3,232,382.00</u> <sup>[3]</sup>