



Republic of the Philippines
Supreme Court
Manila

EN BANC

ATTY. DENNIS A. VELASCO,
Petitioner,

A.M. No. P-06-2161
(Formerly A.M. No. OCA IPI
No. 05-2115-P)

- versus -

MYRA L. BATERBONIA,
Respondent.

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IN RE: REPORT ON THE
FINANCIAL AUDIT
CONDUCTED IN THE RTC
BRANCH 38, ALABEL, AND
MCTC OF MALUNGON, BOTH
IN SARANGANI PROVINCE.

A.M. No. P-07-2295
(Formerly A.M. No. 07-1-16-
RTC)

Present:

SERENO, C.J.,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
PERALTA,
BERSAMIN,
DEL CASTILLO,
ABAD,
VILLARAMA, JR.,
PEREZ,
MENDOZA,
REYES, and
PERLAS-BERNABE, JJ.:

Promulgated:

SEPTEMBER 25, 2012

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gls for longen - drama

DECISION

PER CURIAM:

A cash clerk of a trial court who defrauds the Judiciary is guilty of the most serious administrative offense that warrants her dismissal from the service. She should also be criminally prosecuted for *estafa* through falsification.

This administrative case stemmed from the complaint dated January 19, 2005 filed by Atty. Dennis A. Velasco (Velasco),¹ then the Clerk of Court VI of Branch 38 of the Regional Trial Court (RTC) in Alabel, Sarangani Province, against RTC Cash Clerk Myra L. Baterbonia (Baterbonia).

In his complaint,² Velasco averred that Baterbonia had short-changed the Government on several occasions by not remitting the full amounts of the judicial fees paid by the litigants; that her *modus operandi* had involved a clandestine effort to record in the duplicate and triplicate copies of the official receipts (ORs) amounts smaller than what had actually appeared on the ORs issued to the litigants; that he had discovered her scheme while he was checking the filing fees for a petition for notarial commission to serve as basis for the filing fees to be assessed in the filing of a new petition; that he had then found that what had appeared as paid on the duplicate and triplicate copies of OR No. 21459326 had been the amount of only ₱6.40 for a certified photocopy, instead of the proper amount of ₱1,532.00, and that she had made only the amount of ₱3.60 appear on the duplicate and triplicate copies of OR No. 21459376 covering the payment of a certified photocopy instead of the correct amount of ₱468.00;³ that his discovery of the fraud had

¹ Now Presiding Judge of MTCC of Koronadal City.

² *Rollo* (P-06-2161), pp. 1-8.

³ *Id.* at 1-2.

made probe further, resulting in his unearthing other falsified transactions relating to 18 civil actions (*namely*, Civil Case No. 9997, Civil Case No. 2000, Civil Case No. 2001, Civil Case No. 2002, Civil Case No. 2003, Civil Case No. 2004, Civil Case No. 2005, Civil Case No. 2006, Civil Case No. 2007, Civil Case No. 2008, Civil Case No. 2009, Civil Case No. 2011, Civil Case No. 2012, Civil Case No. 2013, Civil Case No. 2014, Civil Case No. 2015, Civil Case No. 2018, Civil Case No. 2019);⁴ that she had thereby misappropriated the total sum of ₱43,964.80;⁵ and that she had voluntarily admitted and confessed to her misdeeds upon confrontation.⁶

Atty. Velasco requested the conduct of an audit of all the financial records of Branch 38 of the RTC by the Office of the Court Administrator (OCA); and prayed that Baterbonia be punished for her acts of malversation, falsification, dishonesty, and grave misconduct.

Acting upon the recommendation of then Court Administrator Presbitero J. Velasco Jr., the Court ordered: (*a*) that a financial audit and investigation of the accounts handled by Baterbonia be conducted and a report be submitted within 60 days from completion of the investigation; and (*b*) that Baterbonia be preventively suspended pending the conduct of the investigation.⁷

Findings of the Audit Team

The OCA audit team found Baterbonia primarily responsible for discrepancies between the legal fees received from party litigants and the

⁴ Id. at 2-5.

⁵ Id. at 5.

⁶ Id.

⁷ Id. at 70.

amounts she had written in the duplicate and triplicate copies of the ORs,⁸ as follows:

| | Per Legal Fees Form | Recorded Amount per duplicate and triplicate copies | Difference of unrecorded/unreceipted amount |
|----------------------------|---------------------|---|---|
| For JDF: | | | |
| Civil Cases | ₱213,996.24 | ₱115, 451.84 | ₱98,544.40 |
| Miscellaneous Cases | 25,300.00 | 9,508.00 | 15,792.00 |
| Special Proceedings | 5,232.00 | 2,801.80 | 2,430.20 |
| Special Civil Actions | 21,064.15 | 11,722.00 | 9,342.15 |
| Extra-Judicial Foreclosure | 157,842.31 | 98,531.20 | 59,311.11 |
| TOTAL | 423,434.70 | 238,014.84 | 185,419.86 |
| | | | |
| For the General Fund | | | |
| Civil Cases | 31,152.06 | 20,835.06 | 10,317.00 |
| Miscellaneous Cases | 5,250.00 | 0.00 | 5,250.00 |
| Special Proceedings | 360.00 | 328.00 | 32.00 |
| Special Civil Actions | 2,620.00 | 1,770.00 | 850.00 |
| Extra-Judicial Foreclosure | 6,873.39 | 3,639.86 | 3,233.53 |
| | | | |
| | | | |
| For SAJF | | | |
| Civil Cases | 35,877.06 | 10,585.60 | 25,291.46 |
| Miscellaneous Cases | 8,254.00 | 1,899.00 | 6,355.00 |
| Special Proceedings | 3,508.00 | 1,853.20 | 1,654.80 |
| Special Civil Actions | 6,588.53 | 3,478.00 | 3,110.53 |
| Extra-Judicial Foreclosure | 15,727.98 | 7,790.07 | 7,937.91 |
| TOTAL | 69,955.57 | 25,605.87 | 44,349.70 |
| | | | |
| For Sheriff's General Fund | | | |
| Civil Cases | 14,820.00 | 11,400.00 | 3,420.00 |
| Miscellaneous Cases | 1,460.00 | 0.00 | 1,460.00 |
| Special Proceedings | 420.00 | 420.00 | 0.00 |

⁸

Id. at 160-161.

| | | | |
|-----------------------|--------------|--------------|--------------|
| Special Civil Actions | 600.00 | 300.00 | 300.00 |
| TOTAL | 17,300 | 12,120.00 | 5,180.00 |
| | | | |
| GRAND TOTAL | ₱ 556,945.72 | ₱ 302,313.63 | ₱ 254,632.09 |

The audit team also found that Baterbonia had not deposited either in the Judicial Development Fund (JDF) or in the Sheriff’s General Fund (GF) the amount of ₱36,000.00 representing the withdrawn confiscated bonds.

At this juncture, minor mathematical errors have been detected in summing up the discrepancies uncovered by the audit team. The amount defrauded was only ₱231,699.03.

Atty. Anthony A. Barluado, then the Branch Clerk of Court of Branch 38 of the RTC, was similarly subjected to the audit, and was found to have sufficiently explained all the accountability issues relevant to certain withdrawals. Hence, the matter concerning his withdrawals was deemed closed and terminated.

Findings and Recommendations of the OCA

In its Memorandum dated August 23, 2011, the OCA adopted the findings of the audit team and recommended the following disciplinary actions to be taken, to wit:

- 1. The letter-compliance dated 14 July 2011 of Atty. Anthony A. Barluado, Clerk of Court VI, Regional Trial Court, Branch 38, Alabel, Sarangani Province, in compliance to the Resolution dated 23 June 2008, submitting certified photo machine copies of the following: a) the two (2) withdrawal slips in the amount of ₱10,000.00 each duly validated by the Land Bank of the Philippines, both dated 21 March 2000, for Election Case No. 98-10 entitled “Flora L. Benzonan vs. Enrique Yap” and Election Case No. 98-11 entitled “Roselito Wong, et al. vs. Venancio Wata, et al.”; b) two (2) Orders to withdraw said amounts both dated 21 March 2000; c) Acknowledgement Receipts dated 21 March 2000; and d) a photocopy of the LBP Passbook (Fiduciary Fund) with account no.

2071-0148-97 evidencing that only two withdrawals in the amount of ₱10,000.00 each were made on that date, be NOTED.

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4. Respondent Myra L. Baterbonia, Clerk III, RTC Branch 38, Alabel, Sarangani province, be found GUILTY of dishonesty and gross misconduct, and the penalty of DISMISSAL from the service and forfeiture of retirement and all other benefits, except accrued leave credits, with prejudice to re-employment in any government agency, including government-owned and controlled corporations, be imposed upon her.

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7. Atty. Anthony A. Barluado, Clerk of Court VI, Regional Trial Court, Branch 38, Alabel, Sarangani Province, be ADMONISHED for his failure to supervise Acting Cash Clerk Myra L. Baterbonia, which resulted to the mishandling of the court's judiciary funds and be STERNLY WARNED that a repetition of the same infraction shall be dealt with more severely;

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Ruling

We find the foregoing recommendations of the OCA to be warranted by the evidence on record.

Section 1, Article XI of the 1987 Constitution of the Philippines declares that a public office is a public trust, and mandates public officers and employees at all times to be accountable to the people, to serve the people with utmost responsibility, integrity, loyalty and efficiency, to act with patriotism and justice, and to lead modest lives.

In enforcing the constitutional declaration, the Court has been constant and unceasing in reminding all its judicial officers and other workers in the Judiciary to faithfully perform the mandated duties and responsibilities of their respective offices. The Court is ever aware that any act of impropriety on their part, be they the highest judicial officers or the lowest members of the workforce, can greatly erode the people's confidence in the Judiciary. This, because their conduct, good or bad, necessarily reflects on the image of the Judiciary as the temple of justice and right. It is,

therefore, the sacred duty of every worker in the Judiciary to maintain before the people the good name and standing of the courts.⁹

Based on the findings of the OCA, Baterbonia failed to measure up to the standards of conduct prescribed for her office. As an accountable employee charged with the safekeeping of fees collected from litigants and the rest of the public dealing with the court she was serving, she was expected to exercise honesty and fidelity in the discharge of that duty of safekeeping because she would thereby ensure the flow of judicial funds so essential to the orderly administration of justice.¹⁰ Yet, she frequently violated the trust and confidence reposed in her position by committing serial acts of misappropriation of the funds she had received as fees that amounted to gross dishonesty. She thereby manifested a malevolent tendency to cheat the Judiciary of its funds.

Baterbonia's misconduct was certainly grave. The Court has explained the concept of grave misconduct in *Imperial v. Santiago, Jr.*,¹¹ viz:

Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. **To warrant dismissal from the service, the misconduct must be grave, serious, important, weighty, momentous and not trifling. The misconduct must imply wrongful intention and not a mere error of judgment. The misconduct must also have a direct relation to and be connected with the performance of his official duties amounting either to maladministration or willful, intentional neglect or failure to discharge the duties of the office. There must also be reliable evidence showing that the judicial acts complained of were corrupt or inspired by an intention to violate the law.**

In grave misconduct, as distinguished from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard

⁹ *Office of the Court Administrator v. Recio*, A.M. No. P-04-1813, May 31, 2011, 649 SCRA 552, 566.

¹⁰ *Re: Financial Audit on the Books of Account of Ms. Laura D. Delantar, Clerk of Court, MTC, Leyte*, A.M. No. 06-2-43-MTC, March 30, 2006, 485 SCRA 562, 570.

¹¹ A.M. No. P-01-1449, February 24, 2003, 398 SCRA 75, 85.

of established rule must be manifest.¹² Corruption as an element of grave misconduct consists in the act of an official or employee who unlawfully or wrongfully uses her station or character to procure some benefit for herself or for another, contrary to the rights of others.¹³ Certainly, Baterbonia’s acts constituted very serious administrative offenses of grave misconduct that called for her dismissal from the service many times over. In that regard, her boldness in repeatedly committing the acts erased all possibility of leniency towards her.

Baterbonia’s grave misconduct, being a grave offense, deserved the ultimate penalty of dismissal for the first offense pursuant to Section 52, A, of the *Uniform Rules on Administrative Cases in the Civil Service*.¹⁴

Moreover, in her defrauding the Judiciary, Baterbonia schemed to have her acts go undiscovered by surreptitiously tampering the ORs to make them appear to contain the much diminished amounts. She thereby clearly abused the trust and confidence reposed in her as the cash clerk of her court. She might have probably incurred criminal liability for the complex felony of *estafa* through falsification for each such occasion of misappropriation. Hence, the Court deems it proper to instruct the OCA to initiate the necessary criminal charges against her in the Department of Justice to make her answer for any crimes she might have been guilty of committing.

Before closing, the Court notes that despite the lack of a showing of a conspiracy in the defraudation of the Judiciary between Baterbonia and Atty. Barluado, her immediate superior officer, the latter concededly failed to

¹² *Salazar v. Barriga*, A.M. No. P-05-2016, April 19, 2007, 521 SCRA 449, 461; *Civil Service Commission v. Belagan*, G.R. No. 132164, October 19, 2004, 440 SCRA 578, 599.

¹³ *Salazar v. Barriga*, id., pp. 453-454.

¹⁴ Section 52. *Classification of Offenses*. xxx.

A. The following are grave offenses with their corresponding penalties:

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3. Grave Misconduct
1st offense – Dismissal

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exercise utmost diligence in his oversight of her discharge of her duties as the cash clerk. Her misappropriations of substantial sums belonging to the coffers of the Judiciary surely did not happen except over some period of time, and might have been sooner discovered, if not altogether prevented, had he been diligent and vigilant in supervising her. An admonition for him to be diligent and vigilant in his supervision of his subordinates is, therefore, timely and appropriate, lest such subordinates will take advantage of his laxity and softness in order to defraud the Judiciary some more or to violate the public trust with some degree of impunity. He ought to be reminded that his being the clerk of court requires him to perform delicate functions regarding the custody of judicial funds, revenues, records, properties and premises, and that he should then unceasingly be alert to any misfeasance and malfeasance on the part of his subordinates. He should always bear in mind that he may be held as responsible to an extent for any loss, shortage, destruction or impairment of the funds or property entrusted to the court he serves as any of his guilty subordinates.¹⁵

WHEREFORE, the Court:

1. **FINDS MYRA L. BATERBONIA GUILTY** of dishonesty and gross misconduct; and **DISMISSES** her from the service effective immediately, with prejudice to reemployment in any government agency, including government-owned and controlled corporations and with forfeiture of all retirement benefits, except accrued leave credits;

2. **ORDERS MYRA L. BATERBONIA** to restitute within 30 days from her receipt of this decision the amount of ₱231,699.03, which is the total of her shortages consisting of the ₱185,419.86 for the Judiciary

¹⁵ Id.

Development Fund; the ₱44,349.70 for the Special Allowance for the Judiciary Fund; and the ₱5,180.00 for the Sheriff's Special Fund;

3. **DIRECTS** the Employees Leave Division, Office of Administrative Services, to determine the balance of **MYRA L. BATERBONIA**'s earned leave credits, if any, and to forward the balance to the Finance Division, Fiscal Management Office for the computation of its monetary value, and for the application of the monetary value and any other monetary benefits due to her to the restitution of the aforestated shortages;

4. **REQUIRES** the Office of the Court Administrator to bring to the Department of Justice the necessary criminal complaints for the prompt criminal prosecution of **MYRA L. BATERBONIA**, if warranted; and

5. **ADMONISHES** **ATTY. ANTHONY A. BARLUADO** to exercise diligent and vigilant supervision of his subordinates, with a warning that a repetition of his lack of diligence and vigilance shall be dealt with more severely.

SO ORDERED.



MARIA LOURDES P. A. SERENO
Chief Justice



ANTONIO T. CARPIO
Associate Justice



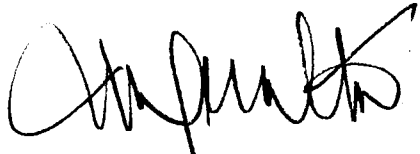
PRESBITERO J. VELASCO, JR.
Associate Justice



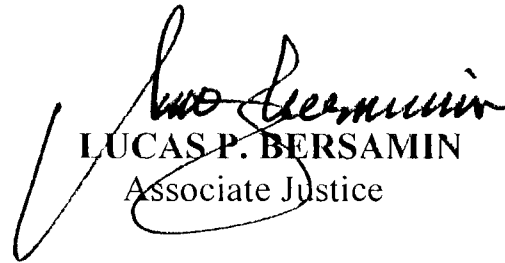
TERESITA J. LEONARDO-DE CASTRO
Associate Justice



ARTURO D. BRION
Associate Justice



DIOSDADO M. PERALTA
Associate Justice

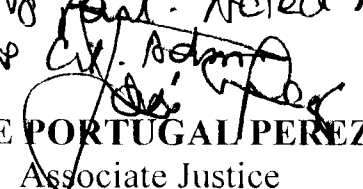


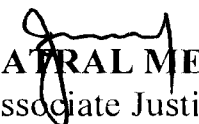
LUCAS P. BERSAMIN
Associate Justice

(ON LEAVE)
MARIANO C. DEL CASTILLO
Associate Justice


(ON LEAVE)
ROBERTO A. ABAD
Associate Justice

(ON LEAVE)
MARTIN S. VILLARAMA, JR.
Associate Justice


No part. Acted on matter
as Civ. Action

JOSE PORTUGAL PEREZ
Associate Justice



JOSE CATRAL MENDOZA
Associate Justice



BIENVENIDO L. REYES
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice