



Republic of the Philippines
Supreme Court
Manila

EN BANC

OFFICE OF THE COURT
ADMINISTRATOR,

Complainant,

A.M. No. P-12-3686

(Formerly A.M. No. 11-7-75-MCTC)

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.

- versus -

SUSANA R. FONTANILLA,
Clerk of Court, Municipal Circuit
Trial Court, San Narciso-Buenavista,
San Narciso, Quezon,

Respondent.

Promulgated:

SEPTEMBER 18, 2012

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RESOLUTION

MENDOZA, J.:

This administrative matter stemmed from the financial audit report,¹
dated November 22, 2011, conducted by the Court Management Office,

* On Official Leave.

** No part.

Office of the Court Administrator (*CMO-OCA*), on the books of accounts of Susana R. Fontanilla (*Fontanilla*), Clerk of Court, Municipal Circuit Trial Court, San Narciso-Buenavista, San Narciso, Quezon (*MCTC*).

On January 26, 2009, the OCA requested for authority from the Court to withhold Fontanilla's salaries for her continuous failure to submit the required monthly reports of collections, deposits and withdrawals for the Judiciary Development Fund (*JDF*), Special Allowance for the Judiciary Fund and Fiduciary Fund. The request was approved on January 27, 2009.²

In her Letter,³ Fontanilla admitted that she used some of her collections for her personal needs because of financial difficulties. She explained that, as she was the bread winner of the family, she used the money for the family's sustenance, education of her children and medical expenses of her husband and parent.

In another Letter,⁴ dated December 17, 2010, Fontanilla informed the OCA that she had submitted the required monthly reports and deposited all the cash balances on hand and attached the validated deposit slips as proof thereof. In the same letter, Fontanilla requested the release of her withheld salaries.

Upon recommendation of the OCA, the Court, in its Resolution,⁵ dated July 19, 2011, ordered the release of the salaries of Fontanilla beginning April 2011 and authorized the Fiscal Monitoring Division, CMO-OCA, to conduct a financial audit on the books of accounts covering the period from October 1984 to September 8, 2011. Subsequently, Fontanilla

¹ *Rollo*, pp. 14-29.

² *Id.* at 5.

³ *Id.* at 4.

⁴ *Id.* at 8.

⁵ *Id.* at 10.

was relieved as Clerk of Court and Ericson E. Musa (*Musa*), Court Stenographer I, was designated as Officer-in-Charge.

Based on the audit conducted, Fontanilla's collections were all accounted for in the Court's financial records. It was, however, revealed that there were unauthorized withdrawals amounting to ₱28,000.00, resulting in a cash shortage in the Fiduciary Fund. The amounts and dates of the withdrawals were: ₱4,000.00 on March 8, 2006, ₱12,000.00 on December 11, 2006, and another ₱12,000.00 on January 23, 2008. On October 20, 2011, Fontanilla restituted the said amounts.

The audit team noted that although no cash shortage was found in the other judiciary funds, Fontanilla delayed the remittances of collections which deprived the Court of the interests that would have accrued had the collections been deposited on time.

During the audit, it was also discovered that, as of August 31, 2011, the MCTC had Fiduciary Fund deposits with the Municipal Treasurer's Office, San Narciso, Quezon, in the amount of ₱141,500.00, which should have been withdrawn and deposited in the Land Bank of the Philippines (*LBP*), Mulanay, Quezon Branch, the Court's authorized depository bank.

The audit team likewise found out that the MCTC was not collecting the Process Server's Fee and the Mediation Fee as required under Section 9 of the Amended Administrative Circular No. 35-2004. The audit team, thus, advised Musa to collect the process server's fee and disburse the same in accordance with the aforementioned circular; and to collect the mediation fee, remit it to its corresponding account, and prepare the monthly reports relative thereto.

In its Memorandum,⁶ dated July 25, 2012, the OCA adopted the recommendation of the audit team, as follows:

- 1) This report be DOCKETED as a regular administrative matter against Ms. Susana R. Fontanilla, Clerk of Court, Municipal Circuit Trial Court, San Narciso-Buenavista, Quezon;
- 2) A FINE of ₱10,000.00 be IMPOSED upon Ms. Fontanilla for not depositing her collections and not submitting the required Monthly Reports of Collections, Deposits and Withdrawals within the prescribed period;
- 3) The Finance Division, FMO, OCA, be DIRECTED to RELEASE the withheld salaries of Ms. Susana R. Fontanilla and to DEDUCT therefrom the FINE of ₱10,000.00 and the amount of ₱52,799.87 representing interests that could have been earned had the collections [been] deposited within the prescribed period;
- 4) The Cash Division, FMO, OCA, be DIRECTED to DEPOSIT amounts of ₱10,000.00 and ₱52,799.87 referred to in no. 3 above, to the accounts of the Special Allowance for the Judiciary Fund and Judiciary Development Fund, respectively, and FURNISH the Fiscal Monitoring Division, CMO, OCA, with copies of machine-validated deposits slips as proof of compliance thereof;
- 5) Incumbent Officer-in-Charge Mr. Ericson E. Musa be DIRECTED to:
 - a. WITHDRAW the fiduciary fund deposits of ₱141,500.00 [from] the Municipal Treasurer's Office (MTO), San Narciso, Quezon and TRANSFER the amount to the fiduciary fund account with the Land Bank of the Philippines pursuant to Circular No. 50-95; and
 - b. FURNISH the Fiscal Monitoring Division, CMO, OCA, with the copy of the machine-validated deposit slip/certified true copy of passbook as proof of remittance of the amount of ₱141,500.00 transferred from MTO;
- 6) Hon. Walter Inocencio V. Arreza, Acting Presiding Judge, MCTC, San Narciso-Buenavista, Quezon, be DIRECTED to STRICTLY MONITOR the incumbent Officer-in-Charge relative to the compliance with the circulars and issuances of the Court particularly in the handling of judiciary funds, otherwise, he

⁶ Id. at 12-13.

shall be held equally liable for the infraction committed by the employee under his command/supervision.

The Court finds the recommendation of the OCA to be well-taken except as to the amount of the fine.

SC Circular No. 13-92 mandates that all fiduciary collections shall be deposited immediately by the Clerk of Court concerned, upon receipt thereof, with an authorized government depository bank. Section 3, in relation to Section 5 of SC Circular No. 5-93, specifically designates the LBP as the authorized government depository of the JDF. It reads:

3. Duty of the Clerks of Court, Officers-in-Charge or accountable officers. – The Clerks of Court, Officers-in-Charge, or their accountable duly authorized representatives designated by them in writing, who must be accountable officers, shall receive the Judiciary Development Fund collections, issue the proper receipt therefore, maintain a separate cash book properly marked x x x deposit such collections in the manner herein prescribed and render the proper Monthly Report of Collections for said Fund.
4. x x x x
5. Systems and Procedures:

x x x x

- c. In the RTC, SDC, MeTC, MTCC, MTC, and SCC.
– The daily collections for the Fund in these courts shall be deposited every day with the local or nearest LBP branch For the account of the Judiciary Development Fund, Supreme Court, Manila – Savings Account No. 159-01163; or if depositing daily is not possible, deposits of the Fund shall be every second and third Fridays and at the end of every month, provided, however, that whenever collections for the Fund reach ₱500.00, the same shall be deposited immediately even before the days before indicated.

Where there is no LBP branch at the station of the judge concerned, the collections shall be sent by postal money order payable to the Chief

Accountant of the Supreme Court at the latest before 3:00 of that particular week.

X X X X

- d. Rendition of Monthly Report. – Separate “Monthly Report of Collections” shall be regularly prepared for the Judiciary Development Fund, which shall be submitted to the Chief Accountant of the Supreme Court within ten (10) days after the end of every month, together with the duplicate of the official receipts issued during such month covered and validated copy of the Deposit Slips.

The aggregate total of the Deposit Slips for any particular month should always equal to, and tally with, the total collections for that month as reflected in the Monthly Report of Collections.

If no collection is made during any month, notice to that effect should be submitted to the Chief Accountant of the Supreme Court by way of a formal letter within ten (10) days after the end of every month.

These directives in the circulars are mandatory, designed to promote full accountability for government funds.⁷ Clerks of Court, tasked with the collections of court funds, are duty bound to immediately deposit with the LBP or with the authorized government depositories their collections on various funds because they are not authorized to keep funds in their custody.⁸ The unwarranted failure to fulfill this responsibility deserves administrative sanction and not even the full payment, as in this case, of the collection shortages will exempt the accountable officer from liability.⁹

In the case at bench, Fontanilla did not only delay the remittance of her collections but also incurred shortages amounting to ₱28,000.00. She admitted her fault, explaining that she used the money for her family’s

⁷ *Re: Initial Report on the Financial Audit conducted in the Municipal Trial Court of Pulilan, Bulacan*, A.M. No. 01-11-291-MTC, July 7, 2004, 433 SCRA 486, 493.

⁸ *Re: Report on the Financial Audit Conducted in the MTCC-OCC, Angeles City*, 525 Phil. 548, 560, (2006).

⁹ *Office of the Court Administrator v. Elumbaring*, A.M. No. P-10-2765 (Formerly A.M. No. 09-11-199-MCTC), September 13, 2011, 657 SCRA 453, 464.

sustenance, for the education of her children, and for the medical expenses of her spouse and mother.

Although the Court understands the plight of Fontanilla, it cannot condone her wrongdoing. As custodian of the court's funds and revenues, she was entrusted with the primary responsibility of correctly and effectively implementing regulations regarding fiduciary funds.¹⁰ She was an accountable officer entrusted with the great responsibility of collecting money belonging to the funds of the court. She was, therefore, liable for any loss, shortage, destruction, or impairment of said funds and property.¹¹ As held in *Report on the Financial Audit Conducted on the Books of Accounts of the Municipal Circuit Trial Court, Mondragon-San Roque, Northern Samar*,¹² shortages in the amounts to be remitted and the years of delay in the actual remittance constitute gross neglect of duty for which the clerk of court shall be administratively liable.

Delay in the remittance of collection is a serious breach of duty.¹³ It deprives the Court of the interest that may be earned if the amounts are promptly deposited in a bank;¹⁴ and more importantly, it diminishes the faith of the people in the Judiciary.¹⁵ This act constitutes dishonesty which carries the extreme penalty of dismissal from the service even if committed for the first time.¹⁶

¹⁰ *Re: Misappropriation of the Judiciary Fund Collections by Ms. Juliet C. Banag, Clerk of Court, MTC, Plaridel, Bulacan*, 465 Phil. 24, 37, (2004).

¹¹ *Office of the Court Administrator v. Lising*, A.M. No. P-03-1736, March 8, 2005, 453 SCRA 16, 22.

¹² A.M. No. P-09-2721 (Formerly A.M. No. 09-9-162-MCTC), February 16, 2010, 612 SCRA 509.

¹³ *In re: Delayed Remittance of Collections of Teresita Lydia R. Odtuhan, Officer-in-charge, Regional Trial Court, Branch 117, Pasay City*, 445 Phil. 220 (2003).

¹⁴ *In-House Financial Audit Conducted in the Books of Accounts of Khalil B. Dipatuan, RTC-Malabang, Lanao Del Sur*, A.M. No. P-06-2121 (Formerly OCA A.M. No. 05-12-746-RTC), June 26, 2008, 555 SCRA 417, 423.

¹⁵ *Re: Report on the Financial Audit Conducted on the Books of Accounts of Atty. Raquel G. Kho*, A.M. No. P-06-2177, 526 Phil. 42 (2006).

¹⁶ *Id.*

In this case, however, Fontanilla, in a show of remorse, immediately returned the withdrawals and complied with the directives of the audit team. Considering that this is her first offense, the Court finds the penalty of ₱40,000.00 fine as sufficient.

Every public official should realize that “public office is a public trust. Those charged with the dispensation of justice, from the justices and judges to the lowliest clerks, should be circumscribed with the heavy burden of responsibility. Not only must their conduct, at all times, be characterized by propriety and decorum but, above all else, it must be beyond suspicion.”¹⁷

Again, the OCA is reminded to expand the coverage of the check payment system in all cities and capital towns in the provinces in order to minimize, if not to eliminate the irregularities in the collection of court funds.¹⁸

WHEREFORE, finding Susan R. Fontanilla, Clerk of Court, Municipal Circuit Trial Court, San Narciso-Buenavista, San Narciso, Quezon, **GUILTY** of grave misconduct for her failure to make timely remittance of judiciary funds in her custody, the Court hereby orders her to pay a **FINE** of ₱40,000.00 with a **STERN WARNING** that a repetition of the same or similar act will be dealt with more severely.

The Finance Division, Fiscal Management Office, Office of the Court Administrator, is **DIRECTED** to **RELEASE** the withheld salary of Susana Fontanilla, **deducting** the fine of ₱40,000.00, to **DEPOSIT** said amounts to the accounts of the Special Allowance for the Judiciary Fund and Judiciary

¹⁷ *Office of the Court Administrator v. Nini*, A.M. No. P-11-3002 (Formerly A.M. No. 11-9-96-MTCC), April 11, 2012.

¹⁸ *Office of the Court Administrator v. Lometillo*, A.M. No. P-09-2637, March 29, 2011, 646 SCRA 542, 565.


Development Fund, respectively, and to **FURNISH** the Fiscal Monitoring Division, Court Management Office, Office of the Court Administrator, copies of machine validated deposit slips as proof of compliance.

Ericson E. Musa, Court Stenographer I and Officer-in-Charge, Municipal Circuit Trial Court, San Narciso-Buenavista, Quezon, is **DIRECTED** to **WITHDRAW** the fiduciary fund deposit of ₱141,500.00 from the Municipal Treasurer's Office, San Narciso, Quezon, and to **TRANSFER** the said amount to the fiduciary fund account with the Land Bank of the Philippines pursuant to SC Circular No. 50-95; and to **FURNISH** the Fiscal Monitoring Division, Court Management Office, Office of the Court Administrator, copies of machine- validated deposit slips/certified true copy of passbook as proof of compliance.

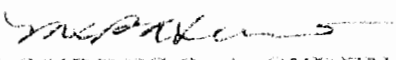
The Hon. Walter Inocencio V. Arreza, Acting Presiding Judge, Municipal Circuit Trial Court, San Narciso-Buenavista, Quezon, is **ENJOINED** to strictly monitor the financial transactions of MCTC, San Narciso-Buenavista, Quezon, in strict compliance with the issuances of the Court and to avoid recurrence of irregularity in the collection, deposit and withdrawal of court funds; otherwise, he will be held equally liable for the infractions to be committed by erring employees under his supervision.

Lastly, the Office of the Court Administrator is hereby ordered to expand the coverage of the check payment system in all cities and capital towns in the provinces.


SO ORDERED.

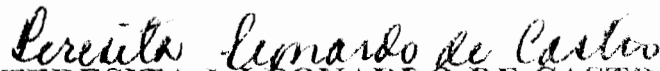

JOSE CATRAL MENDOZA
Associate Justice

WE CONCUR:

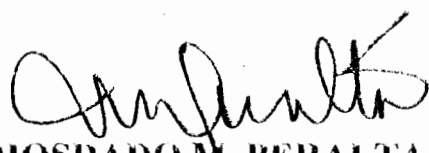

MARIA LOURDES P. A. SERENO
Chief Justice


ANTONIO T. CARPIO
Associate Justice


PRESBITERO J. VELASCO, JR.
Associate Justice

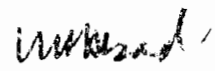

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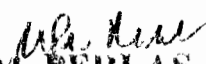

MARIANO C. DEL CASTILLO
Associate Justice


ROBERTO A. ABAD
Associate Justice

(On Official Leave)
MARTIN S. VILLARAMA, JR.
Associate Justice


(No part)
JOSE PORTUGAL PEREZ
Associate Justice


BIENVENIDO L. REYES
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice