OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. AUSTRIA-MARTINEZ, NORMALYN P. NACURAY, CLERK III, OFFICE OF THE CLERK OF COURT, REGIONAL TRIAL COURT, MANILA, PROMULGATED: RE...

A.M. NO. P-03-1739. April 07, 2006

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PER CURIAM:

The instant case stems from the result of the financial audit conducted in the Office of the Clerk of Court, Regional Trial Court (RTC), Manila, on April 22, 2003.[1] The audit was prompted by a report of the incumbent Clerk of Court, Atty. Jennifer H. dela Cruz-Buendia, that one of the clerks assigned to receive payments had tampered with the entries in the duplicate copies of the Court's official receipts.[2]

The Office of the Court Administrator (OCA) summarized the factual antecedents as follows:

> "The anomaly was discovered when during the period of leave of absence of respondent, a representative of the Summit Guarranty and Insurance Co. requested for the certification of OR No. 17792985 dated April 15, 2003 amounting to P40,000.00. Comparing the original receipt with the duplicate copy on file shows a discrepancy in the amounts reflected therein. The duplicate show the amount of P20,000.00 or P20,000.00 less than what is reflected in the original copy of the official receipt.
>
> "Considering that respondent was assigned as cashier from October 4, 1999 up to the time of the audit, the financial audit team concentrated on the collections made during the period July 1999-April 2003. It was discovered that majority of the tamperings occurred during the period of November 2002 [to] April 2003, with a few ones in October 1999, November 2000 and May and July 2001. All the ORs used during those period were issued only by respondent.
>
> "Aside from the financial audit, the team also conducted an interrogation among the staff of the OCC including the respondent. During the interrogation, respondent admitted that she altered the amount paid to her by understating the same in the duplicate copy of the OR, which is the copy submitted to the Supreme Court. The figures indicated therein are the same figures reported as collections and are the basis of deposits made with the Landbank of the Philippines. Respondent, however, reflected the correct amount paid in the original of the receipt which is given to the payor and in the triplicate copy which is retained by the OCC for record and authentication purposes.
>
> "Based on the available documents, the audit yielded the following results:
>
> "JUDICIARY DEVELOPMENT FUND:
>
> MONTH/YEAR
>
> AMOUNT PER REPORT /ABSTRACT
>
> AMOUNT PER TRIPLICATE COPY OF O.R. DIFFERENCE/S HORTAGE
>
> October 1999 P 215.00

P 226.00

P 11.00

May 2001
1, 490.95

1, 577.15

86.20

July

168.00

224.00

56.00

November 2002

884.00

25, 002.00

24, 118.00

December

94, 255.08

212, 463.07

118, 207.99

January 2003 23,901.00 177,849.00 153,948.00

February

23, 210.00

140, 923.29

117, 713.29

March

14, 900.00

193, 510.00

178, 610.00

April 47,[9]72.20[*] 146,201.20 98,229.00

TOTAL P 206,996.23 P 897,975.71 P 690,979.48

[*] Duplicate copies of [the] ORs were available at the time of the audit.

GENERAL FUND:

MONTH/YEAR AMOUNT PER REPORT /ABSTRACT AMOUNT PER TRIPLICATE COPY OF O.R.

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DIFFERENCE/S HORTAGE

October 1999

P 37.00

P 128.00

P 91.00

November 2000

2.00

3.00

1.00

November 2002

32.00

5, 464.00

5, 432.00

December

23, 954.26

81, 580.26

57, 626.00

January 2003

2, 044.00

7, 216.00

5, 172.00

February

5, 250.00

12, 992.81

7, 742.81

March

1, 290.00

2, 440.00

1, 150.00

April

6, 489.80[*]

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13, 289.80

6, 800.00

TOTAL

P39, 099.06

P123, 113.87

P 84, 014.81

[*]Duplicate [copies of the ORs were] available at the time of the audit.

LEGAL RESEARCH FUND:

MONTH/YEAR AMOUNT PER REPORT /ABSTRACT AMOUNT PER TRIPLICATE COPY OF O.R. DIFFERENCE/S HORTAGE

November 2002

10.00

280.10

270.10

December

1, 159.31

2, 540.61

1, 381.30

January 2003

135.20

553.80

418.60

February 94.80

349.37

254.57

March

77.50

192.50

115.00

April

326.99

666.99

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340.00

TOTAL

P 1, 803.80

P 4, 583.37

P 2, 779.57

GRAND TOTAL P 247, 899.00

P 1, 025, 672.95

P 777, 773.86

"In a Letter dated April 30, 2003, Atty. Buendia furnished the OCA a copy of the Information dated April 23, 2003 filed against respondent Nacuray, docketed as Criminal Case No. 03-213348, entitled 'People of the Philippines vs. Normalyn Nacuray y Palmar' for Malversation of Public Funds through Falsification of Public Document. [It was] reported that 'the act alluded to against Nacuray in the criminal case is but a part of the anomalies discovered by the Financial Audit Team.' Per the Court's Resolution dated October 20, 2003, the said letter, together with all its attachments, was incorporated with the records of the present case.

"In an earlier Resolution dated August 18, 2003, the Court, among others, directed respondent to explain the shortages in her collections amounting to Seven Hundred Seventy Seven Thousand Seven Hundred Seventy-Three Pesos and 86/100 (P777,773.86); and to restitute the said computed shortage within thirty (30) days from notice. She was also suspended from the service until further orders from the Court.

"In another Resolution dated July 26, 2004 the Court noted that respondent failed to comply with the August 18, 2003 directive, hence, the Court resolved to (a) impose upon respondent a fine of P1,000.00 payable to the Court within ten (10) days from notice or a penalty of imprisonment of five (5) days if said fine is not paid within said period; and (b) require said respondent to comply with the resolution of August 18, 2003 by explaining the shortages in her collections and to restitute the said computed shortages, also within ten (10) days from notice. A copy of this resolution was sent to respondent at No. 540 J. Rizal, Mandaluyong City or at No. 632 B. Coronado St., Hulo, Mandaluyong City but was returned unserved with postmaster's notation 'RTS-unknown at address, moved.'"[3]

The OCA found respondent guilty of dishonesty and gross misconduct for falsifying the official receipts and the monthly report of collections, deposits and withdrawals; and for misappropriating public funds. For these offenses, the following sanctions were recommended:

"1. Respondent Normalyn P. Nacuray be found GUILTY of dishonesty and gross misconduct and be DISMISSED from the service with prejudice to reemployment in any government agency, including government owned and controlled corporations, all her withheld salaries, allowances and benefits, if any, be ordered FORFEITED;

"2. Respondent be DIRECTED to restitute the amount of Seven Hundred Seventy Seven Thousand Seven Hundred Seventy-Three Pesos and 86/100 (P777,773.86);

"3. The Employees Leave Division, Office of the Administrative Services - OCA be DIRECTED to compute the balance of respondent's earned leave credits and forward the same to the Finance Division, Fiscal Management Office-OCA, which shall compute the money value of the same, the amount, as well as other benefits the respondent may be entitled to, to be included as restitution of the computed shortages;

"4. The Legal Office be DIRECTED to file criminal charges against the respondent before the appropriate

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court; and

"5. It appearing that Judge Jesusa P. Maningas of MeTC, Branch 24, Manila has not yet complied with the August 18, 2003 Resolution of the Court in the instant case, she be DIRECTED again to SUBMIT, within ten (10) days from notice, the official receipts issued during her incumbency as Clerk of Court of the RTC, Manila for the periods listed hereunder:

FUND PERIOD

JDF October 11 - November 20, 2002

FF

October 10 - November 20, 2002

GF October 12 - November 27, 2002."[4]

This Court fully agrees with the OCA that respondent Normalyn Nacuray should be dismissed from the service.

No position demands greater moral righteousness and uprightness from its holder than a judicial office.[5] Those connected with the dispensation of justice, from the highest official to the lowliest clerk, carry a heavy burden of responsibility.[6] As frontliners in the administration of justice, they should live up to the strictest standards of honesty and integrity. They must bear in mind that the image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women who work there.[7]

There is no question with respect to the guilt of respondent, because she herself admitted that she had falsified the official receipts; and the monthly report of collections, deposits and withdrawals. During an interrogation conducted by the audit team, she simply reasoned that financial difficulties had led her to misappropriate the court's funds; and explained that she did so by understating the figures in the duplicate copies of the official receipts issued.

We find this explanation unacceptable. Public servants are called upon to uphold public interest over personal needs.[8] Certainly, no less can be expected from those involved in the administration of justice. Safekeeping of public and trust funds is essential to an orderly administration of justice.[9] Personal problems cannot justify the misuse by any court employee of judiciary funds in their custody.[10] Those are government funds, and public servants have absolutely no right to use them for their own purposes.

We have not hesitated to impose the ultimate penalty on those who have fallen short of their accountabilities.[11] Any conduct that would violate the norms of public accountability and diminish, or even tend to diminish, the faith of the people in the justice system has never been and will never be tolerated or condoned by this Court.[12] No less than the Constitution enshrines the principle that a public office is a public trust.[13] The supreme law of the land commands all public officers and employees to be at all times accountable to the people;[14] and to serve them with utmost dedication, honesty and loyalty ("DHL").[15]

Worse, despite the Court's notice dated August 18, 2003, directing respondent to explain the shortages in her collections, she never bothered to submit any comment or explanation. Such cavalier attitude disregards the duty of every employee in the judiciary to obey the orders and processes of this Court without delay.[16]

It seems, though, that respondent was not at all interested in clearing her name. As shown by the process server's return, she even deserted her apartment during the pendency of the controversy, without leaving any forwarding address. Her refusal to face the charges against her head on is contrary to the principle that "the first impulse of x x x innocent [persons] when accused of wrongdoing is to express [their] innocence at the first opportune

time."[17] Indeed, the flight of respondent, together with her failure to file a comment to clear her name, was an indicium of her guilt and an implied admission of her liability for the shortages.

There is no doubt that respondent violated the trust reposed in her as a collecting officer of the judiciary. Her acts of tampering with copies of the official receipts and of misappropriating the collections for herself leave us no choice but to hold her liable for gross dishonesty and misconduct. Her misappropriation of judiciary funds constitutes gross dishonesty and grave misconduct, which are grave offenses punishable by dismissal under Section 52, Rule IV of the Uniform Rules on Administrative Cases in the Civil Service. Her acts may, moreover, subject her to criminal liability. Verily, her grave misdemeanors justify her severance from the service.

It is best to stress that dishonesty is a malevolent conduct that has no place in the judiciary.[18] We have repeatedly warned that dishonesty, particularly that which amounts to malversation of public funds, will not be countenanced. Otherwise, courts of justice may come to be regarded as mere havens of thievery and corruption.[19] Worth repeating is the following admonition:

> "x x x [A]s [this Court] tries to device the appropriate action to strengthen the moral fiber and strength of character of the employees and officers that constitute the judiciary, this [C]ourt shall never be less strict in applying only the highest standards of propriety, decorum, integrity, uprightness and honesty from the highest judicial officer of the land to the humblest court employee, for the ultimate power of this court lies in its incorruptibility."[20]

WHEREFORE, respondent Normalyn P. Nacuray is found GUILTY of gross dishonesty and grave misconduct and is DISMISSED from the service, effective immediately. All benefits -- except accrued leave credits, if any -- are also FORFEITED, with prejudice to her reemployment in any branch or instrumentality of the government, including any government-owned and -controlled corporation. She is further ORDERED to restitute the amount of seven hundred seventy-seven thousand seven hundred seventy-three pesos and eighty-six centavos (P777,773.86).

The Employee's Division, Office of the Administrative Services-OCA, is likewise DIRECTED to compute the balance of the earned leave credits of respondent and to forward it to the Finance Division, Fiscal Management Office-OCA, which shall compute the money value of the balance, as well as other benefits that she may be entitled to, to be included as partial restitution of the computed shortages. The OCA is also ORDERED to coordinate with the prosecution arm of the government to ensure the expeditious prosecution of her criminal liability.

Judge Jesusa P. Maningas of MeTC, Branch 24, Manila, has not yet complied with this Court's August 18, 2003 Resolution on the instant case. Hence, she is DIRECTED to SHOW CAUSE, within ten (10) days from notice, why she should not be held in CONTEMPT for her failure to comply with that Resolution; and to SUBMIT, within the same period, the official receipts issued during her incumbency as Clerk of Court of the RTC, Manila, for the period listed below:

FUND PERIOD

JDF October 11 - November 20, 2002

FF

October 10 - November 20, 2002

GF October 12 - November 27, 2002.

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SO ORDERED.

Panganiban, C.J., Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, and Garcia, JJ., concur.
Puno, J., on leave.

Velasco, Jr., J., no part.

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[1] Memorandum dated July 15, 2003 signed by Deputy Court Administrator Christopher O. Lock and approved by Court Administrator Presbitero J. Velasco, Jr. (now a member of this Court).

[2] Id., p. 1.

[3] OCA Memorandum dated April 19, 2005, pp. 1-3.

[4] Id., pp. 4-5.

[5] Re: Report on the Financial Audit Conducted in the Municipal Trial Court (MTC), Sta. Cruz, Davao Del Sur, A.M. No. 05-2-41-MTC, September 30, 2005; OCA vs. Yan, 457 SCRA 389, April 27, 2005; citing Re: Memorandum dated 27 Sept. 1999 of Ma. Corazon M. Molo, A.M. No. SCC-00-6-P, 413 SCRA 520, October 16, 2003.

[6] Report on the Financial Audit Conducted at the MCTC-Mabalacat, Pampanga, A.M. No. P-05-1989, October 20, 2005; In Re: Delayed Remittance of Collections of Odtuhan, 445 Phil. 220, February 11, 2003; OCA vs. Ibay, 441 Phil. 474, November 29, 2002.

[7] Chua vs. Paas, 469 SCRA 471, September 9, 2005.

[8] In fact, the Code of Conduct and Ethical Standards for Public Officials and Employees provides thus: "Public officials and employees shall always uphold the public interest over and above personal interest. x x x." (Republic Act 6713, Sec. 4a). See also Dondiego vs. Cuevas, Jr., 398 SCRA 386, February 27, 2003; Marasigan vs. Buena, 348 Phil. 1, January 5, 1998.

[9] Re: Financial Audit on the Accountabilities of Mr. Restituto A. Tabucon, Jr., Former Clerk of Court II of the MCTC, Ilog, Candoni, Negros Occidental, 467 SCRA 246, August 18, 2005; Re: Misappropriation of the Judiciary Fund Collections by Ms. Juliet C. Banag, Clerk of Court, MTC, Plaridel, Bulacan, 420 SCRA 150, January 20, 2004.

[10] Re: Report on the Examination of the Cash and Accounts of the Clerks of Court of the RTC and the MTC of Vigan, Ilocos Sur, 400 SCRA 387, April 2, 2003.

[11] Dondiego vs. Cuevas, Jr., supra at note 8; OCA vs. Atty. Galo, 373 Phil. 483, September 21, 1999.

[12] Re: Report of the Financial Audit Conducted on the Accounts of Zenaida Garcia, MTC, Barotac Nuevo, Iloilo, 303 SCRA 142, February 15, 1999.

[13] CONSTITUTION, Art. XI, Sec. 1.

[14] Id.

[15] "DHL" refers to the code expounded upon by Chief Justice Artemio V. Panganiban in his address to the Supreme Court employees during their flag-raising ceremony on January 2 and 9, 2006.

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[16] Re: Criminal Case No. MC-02-5637 against Arturo V. Peralta and Larry C. De Guzman, both employees of MeTC, Branch 31, Quezon City, 459 SCRA 278, June 8, 2005; OCA vs. Yan, supra at note 5; Naawan Community Rural Bank vs. Martinez, 383 SCRA 1, June 5, 2002.

[17] Chua vs. Paas, supra at note 7; citing People vs. Castillo, 333 SCRA 506, 519, June 16, 2000.

[18] Re: Administrative Case for Dishonesty Against Elizabeth Ting, Court Secretary I, and Angelita C. Esmerio, Clerk III, Office of the Division Clerk of Court, Third Division, 464 SCRA 1, July 22, 2005.

[19] Concerned Citizen vs. Eleuterio C. Gabral, Jr., Clerk Of Court II, MCTC, Sta. Rita, Samar, A.M. No. P-05-2098, December 15, 2005.

[20] Sy vs. Mongcupa, 335 Phil. 182, 187, February 6, 1997.

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