

**RE: MISAPPROPRIATION OF THE JUDICIARY FUND COLLECTIONS
BY MS. JULIET C. BANAG, CLERK OF COURT, MTC, PLARIDEL,
BULACAN,**

A.M. No. P-02-1641. January 20, 2004

Ponente: YNARES-SATIAGO, J.

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YNARES-SATIAGO, J.:

Respondent Juliet C. Banag is the Clerk of Court of the Municipal Trial Court of Plaridel, Bulacan. An audit was conducted in her office on September 18, 2001. Since respondent was on leave that day, Ms. Evelyn Ramos, the Court Interpreter, handed to the audit team the office's cash on hand amounting to P2,740.00. Of this sum, P1,790.00 pertained to the Judiciary Development Fund, P860.00 to the Clerk of Court General Fund and P90.00 to the Legal Research Fund. Later that day, respondent arrived at her office and turned over to the team several stale checks in the total amount of P142,800.00, representing unwithdrawn confiscated bonds and fines.

The audit revealed the following findings:

- There was an unremitted collection for the period of August 1, 2001 to September 16, 2001 in the Judiciary Development Fund in the amount of P23,477.25.
- Respondent was usually late in depositing her collections. The following table shows that the remittances were delayed for several months[1]:

Period of Collection	Date Remitted	Amount
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October 1999-December 1999	June 19 & 22, 2000	
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		P 37,141.40
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January 2000-April 2000	June 22, 2000	
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		35,701.40
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May 2000	December 29, 2000	
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		11,630.00
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June 2000-December 2000	June 25, 2001	
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		74,441.60
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January 2001-April 2001	June 28, 2001	
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		44,782.35
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May 2001	August 2, 2001	
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9,486.50

June 2001-July 2001 August 14, 2001

21,330.40

August 2001-September 2001 September 17, 2001

17,831.70

TOTAL

P252,345.35

- Respondent made several deposits amounting to P23,511.00 in the wrong savings account number, namely, Savings Account No. 159-011-65-1 instead of Savings Account No. 159-011-63-1. It was also found that some entries in the cash book for the Judiciary Development Fund was not certified true and correct by respondent.

- Respondent also incurred shortages in the Clerk of Court General Fund[2] as follows:

Total collections from July 1996

to September 17, 2001

P541,082.89

Less: Total remittances made

519,601.39

Shortages as of September 17, 2001

P 21,481.50

Less: Deposits made after the cash count

9,054.60

Balance of Accountabilities (Shortage)

P 12,426.90

- Respondent was also late in her remittances of the collections for the Clerk of Court General Fund.[3]

Period of Collection Date Deposited

Amount

October 1999 Oct. 19 & Nov. 24, 1999;

June 19, 2000

P 18,945.60

November 1999 Nov. 25 & Dec. 23, 1999;

June 19, 2000

13,343.75

December 1999 Dec. 23, 2000 & June 19, 2000

3,820.40

January 2000-May 2000 June 22, 2000

17,605.30

June 2000 July 3 & Dec. 28, 2000

25,029.20

July 2000 Dec. 28, 2000

Feb. 16 & Aug. 9, 2001

48,180.40

August 2000-

November 2000 Dec. 28, 2000

15,516.00

January 2001 June 28, 2001

1,436.80

February 2001-

June 2001 August 2, 2001

22,709.25

July 2001 &

December 2000 August 9 & 14, 2001

26,764.10

August 2001- August 14, 24 & 31, 2001;

September 17, 2001 September 14, 2001

38,824.60

TOTAL

P232,175.40

- Respondent cancelled several official receipts but the amounts reflected therein were nevertheless deposited.[4]
These receipts are:

Date Issued

O.R. No.

Amount

July 3, 2000

12437661

P 3,000.00

July 3, 2000

12437662

3,000.00

July 3, 2000

12437663

3,000.00

July 3, 2000

12437664

3,000.00

July 3, 2000

12437665

3,000.00

July 3, 2000

12437666

3,000.00

July 3, 2000

12437667

3,000.00

TOTAL

P20,500.00

- Although the audit team was not able to finish its examination of the books of accounts for the Fiduciary Fund, it found that respondent was delayed in her remittances of the said fund as follows:[5]

Period of Collection Date Remitted Amount

August 13, 1998 September 2, 4 & 7, 1998

P 40,000.00

August 14, 1998 September 30, 1998

28,000.00

August 14, 17 & 28, 1998 October 19 & 30, 1998 ;

November 4, 1998

46,750.00

September 1-23, 1998 November 13, 1998

107,873.00

September 25, 1998 to

November 3, 1998 November 13, 1998

114,100.00

July 13, 2000 September 14, 2000

36,000.00

July 31, 2000 September 22, 2000

6,000.00

TOTAL

P378,723.00

Based on the foregoing findings, this Court resolved, among others, to:

(a) IMMEDIATELY RELIEVE MS. Juliet Banag of her duties and responsibilities as account officer of MTC, Plaridel, Bulacan:

(b) DIRECT: (1) Ms. Banag to: (aa) EXPLAIN in writing within ten (10) days from notice why no disciplinary sanction should be imposed upon her for violating the circulars issued by the Court as well as accounting and auditing rules and regulations; (bb) RESTITUTE the shortages incurred for COC General Fund in the amount of P12,246.90; and (cc) SUBMIT a report within ten days from notice whether or not the misposted remittance of JDF collections amounting to P23,511.00 to Account No. 159-011-65-1 instead of Account No. 159-011-63-1 has been corrected otherwise the latter amount will also form part of her accountability; and (2) the Financial Management Office to WITHHOLD the salaries and other allowances of Ms. Banag to cover possible shortages that may be found in her Fiduciary Fund pending outcome of the audit x x x .[6]

Respondent filed a letter-explanation,[7] wherein she stated that beginning 2000, when the expanded jurisdiction of lower courts took effect, she began to encounter problems because of the heavy caseload in her office. Aside from the numerous cases, she also had to attend to monetary matters relevant to the Judiciary Development Fund (JDF) and Clerk of Court General Fund (CCGF). She admitted that she lacked training and knowledge as to accounting rules and procedure. It was only in 2001 when, during a seminar in Subic, Olongapo City, she fully understood the Supreme Court Circulars relative to the collection, computation and allocation of the JDF and CCGF as well as the preparation of reports relative thereto.

Respondent alleges that there were no shortages incurred for the CCGF in the amount of P12,426.90. Rather, the said amount comprised payments for fines for which the corresponding Official Receipts Nos. 12437940-12437947 were issued. Unfortunately, she misallocated the said funds through sheer inadvertence, but she immediately corrected the error upon discovery thereof by issuing another set of eight checks payable to the JDF with Official Receipt Nos. 1489729 to 14890736. Due to time constraints and pressure of work attending trials and other court business, she was unable to indicate in the Cash Book of the CCGF the cancellation made in the corresponding entries reflected thereat. The said amounts were included in the Cash Book of the CCGF without the corresponding indication of cancellation. Consequently, the same were included in the computation made by the auditing team.

In response to the directive to submit a report on whether or not the misposted remittance of the JDF collections amounting to P23,511.00 to Account No. 1590011-65-1 instead of Account No. 159-011-63-1 has been corrected, respondent maintains that she took immediate steps and coordinated with the Manager of the Land Bank, Malolos Branch. During her last follow-up, she found that the Branch Manager she was dealing with had been transferred, thereby causing delay in the correction of the misposting of funds.

In a Resolution dated April 3, 2002,[8] the Court referred the case to the Office of the Court Administrator (OCA) for evaluation report and recommendation.

In its report,[9] the OCA found respondent's explanations unsatisfactory. First, the delays in the remittances of collections were not only for several days but for months, even years. Second, the law expanding the jurisdiction of Municipal Trial Courts went into effect in 1994 and the records show that Ms. Banag dutifully remitted her JDF and CCGF collections up to September 1999, hence, there is no basis for her to lay the blame on additional work brought about by said statute because she was able to effectively cope with the additional burden up to September 1999. Third, her lack of training is no excuse because she should have exerted all efforts to familiarize herself with all the facets of her work.

However, the OCA found that respondent was able to clarify the issue of the shortage of P12,426.90 in the CCGF and the misposting of P23,511.00 which was rectified by the Land Bank.

Meanwhile, the Audit Team updated its findings regarding the collections in the JDF and the CCGF and found a shortage of P1,863.55 in the JDF remittances and an over-remittance in the CCGF of P11,441.45. It also discovered a shortage in the Fiduciary Fund in the amount of P7,216.00,[10] broken down as follows:

Total Collections from July 2, 1996 to September 30, 2001 P5,344,207.40

Less: Withdrawals made for the same period 3,674, 723.40

Unwithdrawn Fiduciary Fund as of September 30, 2001 P1,669,484.00

Less: Bank Balance under

Time Deposit Account No.

0531-0842-82 P1,000,000.00

Current Account No.

0531-21053-15 679,981.15

Total Deposits P1,679,981.15

Less: Unwithdrawn

Interest Earned 17,713.15 1,662,268.00

Shortage as of September 30, 2001 P 7,216.00

The audit team also discovered that on July 31, 2001, respondent made a lump-sum deposit of P600,000.00 in the Fiduciary Fund. This amount represents in part undeposited collections from:

Month/Year Collections Deposits Differences

Jan-Dec. 1998 P1,103,173.00 P1,090,073.00 P13,100.00

Jan-Dec. 2000 1,099,670.50 872,470.50 227,200.00

Jan-July 2001 477,500.00 150,000.00 327,500.00[11]

On the basis of said Report, the Court resolved, among others, to:

(a) DIRECT Ms. Juliet C. Banag, CoC, MTC, Plaridel, Bulacan to: (1) RESTITUTE the shortages found in the JDF amounting to One Thousand Eight Hundred Sixty-Three and 55/100 (P1,863.55) within ten days from receipt of notice; and (2) EXPLAIN in writing her reasons behind her lump-sum deposit of Six Hundred Thousand Pesos (P600,000.00) on July 31, 2001 for collections in part of the Fiduciary Fund covering the periods January to December 1998 and January 2000 to July 31, 2001;[12]

Respondent submitted her Explanation,[13] wherein she asserted that there was no shortage of P1,863.55. She

claims that she immediately filed a letter-appeal for clarification on October 7, 2002 and a verification was made by the Court's Financial Audit Team in connection with said sum. Upon instructions of the Audit Team, she presented receipts of remittances which showed that there was no misappropriation of said amount.

Claiming honest inadvertence with regard to the lump-sum deposit of P600,000.00, respondent avers that she kept the collections in a vault together with the documentary exhibits and forgot about it. She only discovered the money in an envelope when she was looking for other folders.

The OCA found the explanation unsatisfactory and recommended that respondent be found criminally and administratively liable.

On May 22, 2003, respondent manifested^[14] her willingness to have the case submitted for decision on the basis of the pleadings filed.

Clerks of Court are officers of the law who perform vital functions in the prompt and sound administration of justice.^[15] Their office is the hub of adjudicative and administrative orders, processes and concerns.^[16] They perform a delicate function as designated custodians of the court's funds, revenues, records, properties and premises.^[17] As such, they generally are also the treasurer, accountant, guard and physical plant manager thereof.^[18] They are liable for any loss, shortage, destruction or impairment of such funds and property.^[19]

Section B (4) of Supreme Court Circular No. 50-95 on the collection and deposit of court fiduciary funds mandates that:

(4) All collections from bail bonds, rental deposits, and other fiduciary funds shall be deposited within twenty-four (24) hours by the Clerk of Court concerned upon receipt thereof with the Land Bank of the Philippines.

Along the same vein, SC Circular Nos. 13-92 and 5-93 provide the guidelines for the proper administration of court funds. SC Circular No. 13-92 commands that all fiduciary collections "shall be deposited immediately by the Clerk of Court concerned, upon receipt thereof, with an authorized government depository bank." More explicitly, Section 3 in relation to Section 5 of SC Circular No. 5-93 which designated the Land Bank as the authorized government depository of the JDF, states:

- 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 . . . deposit such collections in the manner herein prescribed and render the proper Monthly Report of Collections for said Fund.

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- Systems and Procedures:

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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 P500.00, 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.

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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. (Emphasis ours)

The Audit Report of the OCA clearly shows that respondent failed to comply with the mandates of the said Circulars. While she subsequently was able to account for the shortages, her restitution thereof was belatedly done. It is the duty of clerks of court to perform their responsibilities faithfully, so that they can fully comply with the circulars on deposits of collections.[20] They are reminded to deposit immediately, with authorized government depositories, the various funds they have collected because they are not authorized to keep those funds in their custody.[21] The unwarranted failure to fulfill these responsibilities deserves administrative sanction and not even the full payment, as in this case, of the collection shortages will exempt the accountable officer from liability.[22]

Respondent does not dispute her failings as custodian of the courts funds. However, she asserts that her failure to perform her tasks efficiently was borne neither of malice nor bad faith but of an increased workload and responsibilities. While the Court is inclined to be benevolent to respondent, its sympathy is somewhat dampened by the fact that she has been less than forthright in pleading difficulty in her expanded functions and responsibilities. In this regard, the OCA correctly observed that the law expanding the jurisdiction of Municipal Trial Courts took effect in 1994, while the records show that respondent dutifully remitted her JDF and CCGF collections up to September 1999. There is, therefore, no basis for her to lay the blame on a heavier workload brought about by said statute because she was able to effectively cope with the additional burden up to September 1999.

It may be that respondent may have had internal problems with her staff particularly with regard to their absences. However, she could not put all blame on them and be absolved of any liability because at the root of her woes is her faulty court management. As clerk of court, respondent is the court’s administrative officer who must ensure that her subordinates are performing their tasks properly, promptly and efficiently.[23]

Thus, while the Court commiserates with her travails, these cannot fully excuse her continuous violation of pertinent rules and regulations over a long period of time. The Court has to enforce what is mandated by the law and to impose a reasonable punishment for violations thereof.[24] Aside from being the custodian of the court’s funds and revenues, property and premises, a clerk of court is also entrusted with the primary responsibility of correctly and effectively implementing regulations regarding fiduciary funds.[25] Safekeeping of funds and collections is essential to an orderly administration of justice and no protestation of good faith can override the mandatory nature of the circulars designed to promote full accountability for government funds.[26]

Respondent’s delay in the remittance of her cash collections constitutes a gross neglect of duty under the Civil

Service Law and the Omnibus Rules implementing it.[27] However, in determining the applicable penalty in this case, the Court takes into consideration the lack of bad faith,[28] the fact that she fully remitted all her collections and that she has no outstanding accountabilities.[29] Bearing in mind the attendant circumstances, and for humanitarian considerations, we find the imposition of a fine of P20,000.00 a sufficient penalty.[30]

WHEREFORE, in view of the foregoing, Juliet C. Banag, Clerk of Court of the Municipal Trial Court of Plaridel, Bulacan, is FINED the amount of P20,000.00 and is STERNLY WARNED that a repetition of the same or similar acts shall be dealt with more severely.

SO ORDERED.

Davide, Jr., C.J., Panganiban, Carpio, and Azcuna, JJ., concur.

[1] Rollo, p. 4.

[2] Id.

[3] Id.

[4] Id., p. 5.

[5] Id.

[6] Id., p. 14.

[7] Id., pp. 22-25.

[8] Id., pp. 56-57.

[9] Id., pp. 58-62.

[10] Id., p. 64.

[11] Id., p. 65.

[12] Id., pp. 67-68.

[13] Id., pp. 98-100.

[14] Id., p. 235.

[15] Reyes-Domingo v. Morales, A.M. No. P-99-1285, 4 October 2000, 342 SCRA 6; Escañan v. Monterola, A.M. P-99-1347, 6 February 2001, 351 SCRA 228.

[16] Solidbank v. Capoon, 351 Phil. 936 (1998).

[17] Section B, Chapter I, 2002 Revised Manual for Clerks of Court, p. 4; OCA v. Marcelo, A.M. No. P-00-1415-MeTC, 416 Phil. 356 (2001).

[18] Section B, Chapter I, 2002 Revised Manual for Clerks of Court, p. 4.

[19] Nones v. Ormita, A.M. P-01-1532, 9 October 2002, 390 SCRA 519.

[20] Re: Financial Audit Conducted on the Book of Accounts of Clerk of Court Pacita T. Sendin, MTC, Solano, Nueva Vizcaya, A.M. No. 01-119-MTC, 16 January 2002.

[21] OCA v. Galo, 373 Phil. 483 (1999); Re: Report on the Judicial and Financial Audit of RTC – Branch 4, Panabo, Davao del Norte, 351 Phil. 1 (1998); Ferriols v. Hiam, A.M. No. P-90-414, 9 August 1993, 225 SCRA 206.

[22] Re: Withholding of Other Emoluments of the following Clerks of Court: Elsie R. Remoroza of the Municipal Trial Court (MTC) of Mauban, Quezon; Elena P. Reformado, of the MTC OF Guinayangan, Quezon; Eugenio Sto. Tomas of the MTC of Cabuyao, Laguna; Maura D. Campano, of the MTC of San Jose, Occidental Mindoro; Eleanor D. Flores, of the Municipal Circuit Trial Court (MCTC) of Taytay, Palawan; and Jesusa P. Benipayo of the MCTC of Ligao, Albay, A.M. No. 01-4-133-MTC, 26 August 2003, citing Re: Report of Regional Coordinator Felipe B. Kalalo on Alleged Anomalies Involving JDF Collections in MTCC, Angeles City, and MCTC, Minalin, Pampanga, 326 Phil. 703, (1996).

[23] Report on the On-The-Spot Judicial Audit Conducted in the Municipal Circuit Trial Court, Teresa-Baras, Rizal, A.M. No. MTJ-02-1397, 17 September 2002, 389 SCRA 1, 15.

[24] OCA v. Quizon, A.M. No. RTJ-01-1636, 13 February 2002.

[25] Pace v. Leonardo, A.M. No. P-03-1675, 6 August 2003.

[26] OCA v. Fortaleza, A.M. No. P-01-1524, 29 July 2002.

[27] OCA v. Besa, A.M. No. P-02-1551, 11 September 2002, 388 SCRA 558, 565; Section 52 b (1), Uniform Rules on Administrative Cases in the Civil Service.

[28] Section 53 (a), Uniform Rules on Administrative Cases in the Civil Service.

[29] Re: Withholding of Other Emoluments of the Following Clerks of Court: Elsie C. Remoroza, et al., supra.

[30] Re: Non-Submission of Judge Demasira M. Baute, (former Clerk of Court) Shari'a Circuit Court, Kapatagan, Lanao del Norte, of the Official Cashbooks for Fiduciary Fund, Judiciary Development Fund, Sheriff Trust Fund and Other Related Documents, 325 Phil. 516 (1996).

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