

RE: COMPLAINT AGAINST ATTY. WILFREDO B. CLAVERIA FOR MISAPPROPRIATION OF JUDICIARY FUNDS.

A.M. No. P-02-1626. July 07, 2004

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PER CURIAM:

Before us are two consolidated administrative cases wherein Atty. Wilfredo B. Claveria is charged with misappropriation of judiciary funds.

These cases initially stemmed from an affidavit, dated June 23, 2000, executed by Rodolfo P. Sañano, State Auditor II of the Commission on Audit (COA), portions of which read as follows:

“1. That in compliance with Office Memorandum dated May 15, 2000, ... an examination of the cash and accounts of the Accountable Officer, Office of the Clerk of Court, Regional Trial Court, 5[th] Judicial Region, Cadlan, Pili, Camarines Sur, was conducted covering the period from December 22, 1998 to March 15, 2000.

“2. That I examined the cash and accounts of Atty. Wilfredo B. Claveria, Clerk of Court VI and Ex-Officio Provincial Sheriff, Office of the Clerk of Court, Regional Trial Court, 5[th] Judicial Region, Cadlan, Pili, Camarines Sur, being the Accountable Officer thereat;

“3. That to establish the total cash accountability of Atty. Wilfredo B. Claveria, as such Clerk of Court VI and Ex-Officio Provincial Sheriff, we availed of and made use of all available financial records in his Office, and checked the official receipts issued and used in the transactions of his office in receiving collections, covering the period from December 22, 1998 to March 15, 2000, as shown in the attached Schedules of Cash Accountability for each fund;

“4. That as a result of said examination, Atty. Wilfredo B. Claveria was found short of his cash accountability by P284,610.58, as shown in the issued and served letter of demand dated May 22, 2000, in relation to the demand letters previously issued and served dated October 25, 1999 and November 4, 1999, which were personally received by the accountable officer on October 26, 1999, November 8, 1999 and June 15, 2000, respectively, copies of which are hereto attached and marked as Annexes ‘D’, ‘E’, and ‘F’;

“5. That despite of the above-mentioned demand letters which had been served to Atty. Wilfredo B. Claveria, directing him to produce immediately the missing funds and to explain in writing how the shortage came about, there was no reply made up to the present time, except for the submission of deposit slips which were duly validated by the bank in the amount of P34,856.80, thereby, reducing the shortage to P249,753.78 only;

“6. That Atty. Wilfredo B. Claveria, Clerk of Court VI and Ex-Officio Provincial Sheriff of the Office of the Clerk of Court, Regional Trial Court, 5[th] Judicial Region, Cadlan, Pili, Camarines Sur, was relieved from his duties as accountable officer effective March 15, 2000 by the Honorable Executive Judge Martin Badong, Jr. in response to my letter dated March 6, 2000, copies of which are hereto attached and marked as Annexes ‘G’ and ‘H’;

“7. That the corresponding consolidated report of examination of the cash and accounts of Atty. Wilfredo B. Claveria together with the supporting schedules of cash accountability for each fund were accomplished and submitted to the COA Regional Director through the Provincial Auditor, Province of Camarines Sur, a copy of

which is hereto attached and marked as Annex 'I' and made an integral part of this affidavit;[1]

.....

The Regional Office No. V of the COA submitted to the Office of the Deputy Ombudsman for Luzon (Deputy Ombudsman for brevity), a letter dated July 2, 2000, informing the latter that based on the findings of State Auditor Sañano, respondent appears to be guilty of Malversation of Public Funds; and recommending the filing of appropriate criminal charges against respondent Claveria.[2]

In deference to the provisions of Section 6, Article VIII of the Constitution and in consonance with the rulings of the Supreme Court in *Sanz Maceda vs. Vasquez*[3] and *Dolalas vs. Office of the Ombudsman-Mindanao*,[4] the Deputy Ombudsman, in its Order dated August 13, 2001,[5] referred the case to us through the Office of the Court Administrator (OCA). The case was docketed as OCA I.P.I. No. 01-1225-P.

In an Indorsement dated November 20, 2001, the OCA directed respondent to file his comment on the affidavit executed by State Auditor Sañano.[6] Respondent failed to file his comment. In a subsequent tracer, dated September 11, 2002[7], the OCA reiterated its directive for respondent to file his comment but respondent continued to defy said order.

Meanwhile, acting on the same affidavit executed by State Auditor Sañano, the Fiscal Monitoring Division, Court Management Office (FMD-CMO) of the OCA sent an Audit Team to Pili, Camarines Sur to conduct a financial audit on the books of account of respondent. The audit was conducted between February 18, 2002 and March 1, 2002.

In a Memorandum, dated June 17, 2002, addressed to Deputy Court Administrator Jose P. Perez, the FMD-CMO reported that there was indeed a shortage in the various court funds under the responsibility of Atty. Claveria, to wit:

Sheriffs' Trust Fund (STF) P 1,349.95

Sheriffs' General Fund (SGF) P 2,286.60

Judiciary Development Fund (JDF) P 69,408.13

Clerk of Court General Fund (CCGF) P 52,400.45

Fiduciary Fund (FF) P 158,952.50

P 284,397.63

According to the FMD-CMO report, Atty. Claveria admitted that he appropriated the missing funds for his personal use and expressed willingness to restitute the same.[8]

In a Resolution dated July 24, 2002, we resolved to docket the FMD-CMO report as a complaint against Atty. Wilfredo B. Claveria,[9] and directed respondent to explain in writing why no administrative sanction should be imposed upon him for misappropriation of judiciary funds.[10] In addition, we directed the FMO of the OCA to compute the actual amount of withheld salaries and other allowances of respondent and deduct therefrom the total amount of P284,397.63 to satisfy the shortages incurred by him;[11] and the Legal Office of the OCA to file appropriate criminal charges against respondent as a result of the financial audit.[12]

On September 13, 2002, respondent filed a Motion for Extension of Time to Submit Explanation.[13] We granted the motion in a Resolution dated December 9, 2002.[14] The OCA issued a certification that as of October 29, 2003, it has yet to receive the required explanation or comment of respondent on the charge filed against him.[15]

On August 14, 2003, the OCA submitted a report, denominated as OCA IPI No. 01-1225-P, on its evaluation of the instant administrative matter. Noting respondent's continued defiance of the Court's directive for him to file his comment, the OCA recommended that respondent be dismissed from the service with forfeiture of retirement benefits and leave credits to which he may be entitled, if any, with prejudice to his re-employment in any branch of the Government, including government-owned or controlled corporations.[16]

On September 3, 2003, we issued a Resolution consolidating OCA IPI No. 01-1225-P and A.M. No. P-02-1626, it appearing that both administrative matters stemmed from one and the same affidavit filed by State Auditor Sañano.[17]

On November 24, 2003, we issued a Resolution requiring the re-docketing of OCA IPI No. 01-1225-P as a regular administrative matter.[18] OCA IPI No. 01-1225-P was later re-docketed as A.M. No. P-03-1759.

We agree with the observations and recommendations of the OCA.

Respondent was given enough opportunity to explain his side. As earlier stated, the OCA issued two directives requiring him to file his comment while we issued a Resolution directing him to explain in writing why no administrative sanction should be imposed upon him. These orders were issued in a span of almost ten months and were all duly received by respondent. This period is more than sufficient for respondent to answer and refute the truthfulness of the charges against him. Respondent ignored these directives and chose to remain silent on the charges against him.

The natural instinct of a man is to resist an unfounded claim or imputation and defend himself, for it is totally against human nature to remain silent and say nothing in the face of false accusations.[19] Silence in such cases is almost always construed as an implied admission of the truth thereof.[20] Thus, in the absence of any compelling reason to hold otherwise, we take respondent's silence as a waiver to file his comment and an acknowledgment of the truthfulness of the charges against him.

Respondent failed to live up to the standards of honesty and integrity expected of an officer of the court. In *Office of the Court Administrator vs. Galo*,[21] we held that:

"We have said time and again that those involved in the administration of justice from the highest official to the lowest clerk must live up to the strictest standards of honesty and integrity in the public service bearing 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 thereat. More particularly, we have repeatedly warned Clerks of Court, being next in rank to judges in courts of justice, that dishonesty, particularly that amounting to malversation of public funds will not be countenanced as they definitely reduce the image of courts of justice to mere havens of thievery and corruption. Hence, as custodian of court funds and revenues, Clerks of Court have always been reminded of their duty to immediately deposit the various funds received by them to the authorized government depositories for they are not supposed to keep funds in their custody. For those who have fallen short of their accountabilities, we have not hesitated to impose the ultimate penalty. This Court had never and will never tolerate nor condone any conduct which would violate the norms of public accountability, and diminish, or even tend to diminish, the faith of the people in the justice system." [22]

The failure of respondent to turn over the money deposited with him and to explain and present evidence thereon constitute gross dishonesty, grave misconduct and malversation of public funds for which dismissal from the service with forfeiture of all leave credits and of retirement privileges and with prejudice to reappointment are clearly appropriate.[23]

Moreover, in *Himalin vs. Balderian*, we held that:

"[A] resolution of this Court requiring comment on an administrative complaint against officials and

employees of the judiciary is not to be construed as a mere request from the Court. On the contrary, respondents in administrative cases are to take such resolutions seriously by commenting on all accusations or allegations against them as it is their duty to preserve the integrity of the judiciary. Any indifference to such resolutions has never been tolerated by this Court. [24]

for which respondent must be fined for contempt of court.

WHEREFORE, we find respondent GUILTY of gross dishonesty, grave misconduct, and malversation of public funds. He is DISMISSED from the service with forfeiture of all his accrued retirement benefits, leave credits except those already earned, and other privileges, if any, with prejudice to re-employment in any branch, agency or instrumentality of the government, including government-owned or controlled corporations.

Furthermore, we find respondent Atty. Wilfredo B. Claveria GUILTY of Contempt of Court and he is fined the amount of Twenty Thousand Pesos (P20,000.00) to be paid separately out of his earned leave credits.

SO ORDERED.

Davide, Jr., C.J., Puno, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.

[1] Rollo of A.M. No. 01-1225-P, pp. 6-7.

[2] Id., p. 5.

[3] 221 SCRA 464.

[4] 265 SCRA 819.

[5] Rollo of A.M. No. 01-1225-P, p. 2.

[6] Id., p. 39.

[7] Id., p. 40.

[8] Rollo of A.M. No. P-02-1626, pp. 3-8.

[9] Docketed as A.M. No. P-02-1626, formerly docketed as A.M. No. 02-6-377-RTC.

[10] Rollo of A.M. No. P-02-1626, p. 9.

[11] The Financial Management Office-OCA earlier recommended the withholding of salaries and other benefits of Atty. Claveria beginning June 15, 1999 until December 31, 2000 for his failure to submit monthly reports of his collections, deposits and withdrawals. He was excluded from the payroll effective January 1, 2001.

[12] Rollo of A.M. No. P-02-1626, pp. 9-10.

[13] Id., p. 14.

[14] Id., p. 15.

[15] Id., p. 20.

[16] Rollo of A.M. No. 01-1225-P, pp. 41-45.

[17] Rollo of A.M. No. P-02-1626, p. 18.

[18] Id., p. 24.

[19] Grefaldeo vs. Lacson, 293 SCRA 524, 528 (1998).

[20] Ibid.

[21] 314 SCRA 705, 711 (1999).

[22] Ibid.

[23] Id., p. 712.

[24] A.M. No. MTJ-03-1504, August 26, 2003.

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