

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
CLERK IV TESSIE DUQUE, MUNICIPAL TRIAL COURT IN CITIES,
BRANCH 1, SANTIAGO CITY, ISABELA, RESPONDENT.**

A.M. No. P-05-1958 [OCA-IPi NO. 03-1718-P]. February 07, 2005

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

In a letter^[1] dated October 3, 2002, complainant Eugenio Taguba, Process Server of the Municipal Trial Court in Cities, Branch 2, Santiago City, Isabela (MTCC-Br. 2) requested for an investigation on the alleged anomalies discovered during the implementation of a writ of execution in Crim. Case No. II-4066 entitled *People of the Philippines v. Marirose Valencia*.

On November 15, 2002, Deputy Court Administrator Jose P. Perez referred the letter to Judge Fe A. Madrid, Executive Judge of the Regional Trial Court of Santiago City, Isabela, for discreet investigation.^[2]

In her report dated March 5, 2003,^[3] Judge Madrid narrated that on April 24, 2001, respondent Judge Ruben R. Plata rendered decision in Crim. Case No. II-4066 convicting Marirose Valencia of violation of BP Blg. 22 and sentencing her to pay P120,000.00 as fine and P100,000.00 representing civil liability.

Pending reconsideration of the case, Valencia and Atty. Pacifico Capuchino, delivered the amount of P120,000.00 to respondent Tessie Duque, Clerk IV of the MTCC, Br. 1, Santiago City, for safekeeping.

Before respondent Judge Plata could resolve the motion for reconsideration, Judge Maxwell Rosete, the former presiding judge of MTCC-Br. 2, returned and assumed his former office. He denied Valencia's motion for reconsideration and subsequently issued a writ of execution. However, when Sheriff Wilmer Beltejar implemented the writ, he discovered that Valencia had already delivered the money to respondent Duque as evidenced by a receipt.^[4]

Thereupon, Judge Rosete required respondent Duque to comment but the latter instead filed a Manifestation^[5] requesting for an appropriate order directing the proper turn over of the money in her custody.

Thus, Judge Rosete issued an order of garnishment and pursuant thereto, Sheriff Beltejar took the money from respondent Duque, issued a receipt^[6] therefor, and turned over the same to the Branch Clerk of Court who likewise issued a receipt.^[7] The money was eventually delivered^[8] to Reynaldo Valmonte, the complainant in Crim. Case No. II-4066.

Although the investigating judge believed that respondent Judge Plata actually received the P120,000.00, she nonetheless recommended that disciplinary action be imposed on respondent Duque alone as she was the one who admitted receipt thereof.^[9]

In his comment,^[10] respondent judge maintained that he merely brokered the meeting between the parties in Crim. Case No. II-4066 to enable them to amicably settle the case. He claimed that upon learning of the

P120,000.00 in the custody of respondent Duque, he immediately gave instructions to return the same to Valencia.

Respondent Duque admitted[11] that she received the money but insisted that the same was entrusted for her safekeeping only. She alleged that she immediately informed respondent Judge Plata upon receipt of the amount. She thought that by keeping the money, she was rendering service to the litigants.

The OCA adopted the findings of Judge Madrid and recommended that respondent Duque be held administratively liable for keeping and receiving money without authority and that a fine of P5,000.00 be imposed on her.

As for respondent Judge Plata, the OCA found no concrete evidence that he received money for the settlement of the case. However, it recommended that respondent Judge Plata be advised to be more careful and circumspect in his dealings to avoid repetition of similar incidents.

In a resolution[12] dated May 24, 2004, we required the parties to manifest whether they are willing to submit the case for decision based on the pleadings filed. Despite receipt[13] of the said resolution, the parties failed to file their manifestation, hence the filing thereof was deemed waived.

At the outset, it has been established that the “missing” money was duly accounted for and eventually returned to Reynaldo Valmonte, the complainant in Crim. Case No. II-4066.

Nevertheless, respondent Duque is not absolved from any liability. As Clerk IV, she is not authorized to receive money for whatever purpose, moreso because she was detailed to MTCC- Br. 1 and not to Br. 2 where Crim. Case No. II-4066 was pending. Granting that the exigency of the situation justified her receipt of the money, respondent Duque is still liable because she failed to turn over its custody to the Clerk of Court[14] of MTCC-Br. 2 as soon as possible. Instead, she kept the money in her custody for 17 months (from May 9, 2001 to October 4, 2002) and released the same only after Judge Rosete issued the notice of garnishment divesting her of its custody.

Thus, when respondent Duque accepted the money, she arrogated to herself the authority to exercise a function that properly belongs to the Branch Clerk of Court. While the 2002 Revised Manual for Clerks of Court[15] provides that a Clerk IV, such as respondent Duque, may perform other duties that may be assigned to her in addition to her official functions, it is worthy to note that respondent Judge Plata did not assign or authorize her to receive, much less keep the money. On the contrary, respondent Judge Plata immediately instructed her to return the money in order to avoid any misconception.

In *Office of the Court Administrator v. Judge Octavio A. Fernandez*,[16] we defined the concept of misconduct, thus:

Misconduct is defined as any unlawful conduct on the part of a person concerned in the administration of justice prejudicial to the rights of parties or to the right determination of the cause. It generally means wrongful, improper, unlawful conduct motivated by a premeditated, obstinate or intentional purpose. The term, however, does not necessarily imply corruption or criminal intent. On the other hand, the term “gross” connotes something “out of all measure; beyond allowance; not to be excused; flagrant; shameful.”

For administrative liability to attach it must be established that the respondent was moved by bad faith, dishonesty, hatred or some other like motive. As defined –

Bad faith does not simply connote bad judgment or negligence; it imputes a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of a sworn duty though some motive or intent or ill-will; it partakes of the nature of fraud. It contemplates a state of mind affirmatively operating with furtive design or some motive of self-interest or ill-will for ulterior purposes. Evident bad faith connotes a manifest deliberate intent on the part of the accused to do wrong or cause damage. (Citations omitted)

There being no evidence that respondent Duque was moved by evident bad faith, dishonesty or hatred, she is held liable only for simple misconduct.[17]

Section 52(B)(2) of the Uniform Rules on Administrative Cases in the Civil Service penalizes simple misconduct with suspension ranging from 1 month and 1 day to 6 months, for the first offense, and dismissal, for second offense. This being respondent Duque's first infraction, the proper imposable penalty is suspension. In addition, sections 53 and 54 of the same rules provide that attendant circumstances, such as good faith, shall be considered in the imposition of the penalty. Hence, it appearing that respondent Duque was acting in good faith when she accepted the money, we deem it proper to impose the penalty of suspension without pay for two months.

We have consistently held that persons involved in the administration of justice ought to live up to the strictest standards of honesty and integrity in the public service. The conduct required of court personnel, from the presiding judge to the lowliest clerk, must always be beyond reproach and circumscribed with the heavy burden of responsibility. This Court cannot countenance any act or omission by all those involved in the administration of justice, where such act or omission would violate the norm of public accountability and diminish the faith of the people in the judiciary.[18]

Everyone in the judiciary, from the presiding judge to the lowliest clerk, bears a heavy responsibility for the proper discharge of his duty, and it behooves each one to steer clear of any situation in which the slightest suspicion might be cast on his conduct.[19]

As for respondent Judge, while we agree with the OCA that there is no evidence of complicity on his part with respect to the receipt of the money, nevertheless, he must be advised to be more prudent and circumspect in his dealings. A judge's official conduct should be free from any appearance of impropriety; and his personal behavior, not only in the bench and in the performance of his official duties, but also in his everyday life should be beyond reproach.[20]

A judge should behave at all times as to promote public confidence in the integrity and impartiality of the judiciary.[21] He must comport himself at all times in such a manner that his conduct, official or otherwise, can bear the most searching scrutiny of the public that looks up to him as an epitome of integrity and justice.[22] Judges and all court employees should endeavor to maintain at all times the confidence and high respect accorded to those who wield the gavel of justice.[23]

WHEREFORE, in view of all the foregoing, respondent Tessie Duque, Clerk IV of the Municipal Trial Court in Cities, Branch 1, Santiago City, is found GUILTY of SIMPLE MISCONDUCT for which she is SUSPENDED without pay for two months. Respondent Judge Ruben R. Plata is ADVISED to be more prudent and circumspect in his dealings.

SO ORDERED.

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

[1] Rollo, pp. 49-50.

[2] Id., p. 47.

[3] Id., pp. 14-31 including annexes.

[4] Annex "C", Rollo, p. 179.

[5] Annex "D", Id., p. 180.

[6] Annex “G”, Id., p. 184.

[7] Annex “I”, Id., p. 186.

[8] As shown by a receipt dated October 9, 2002 executed by the complainant Reynaldo B. Valmonte, Annex “H”, Id., p. 185.

[9] Rollo, p. 29.

[10] Id., pp. 218-221.

[11] In her Comment/Affidavit and Supplementary Affidavit dated January 30, 2003 and September 3, 2003 respectively. Rollo, pp. 232-233 and 225-229.

[12] Id., p. 261.

[13] Id.

[14] Section E (2.1.2), Chapter VI, 2002 Revised Manual for Clerks of Court, p. 387.

[15] Id.

[16] A.M. No. MTJ-03-1511, 20 August 2004, citing Yap v. Inopiquez, Jr., A.M. No. MTJ-02-1431, 9 May 2003, 403 SCRA 141, 151.

[17] OCA v. Fernandez, supra. See also Zacarias v. Marcos, A.M. No. MTJ-04-1520, 27 January 2004, where we suspended the respondent Clerk of Court for six months for having committed simple misconduct by arrogating judicial authority unto herself in directing complainant to post the cash bond.

[18] Nones v. Ormita, 439 Phil. 370, 379-380 (2002); Firmalo v. Quierrez, 425 Phil. 603, 606 (2002).

[19] Racasa v. Collado-Calizo, 430 Phil. 775, 781 (2002).

[20] Liguind v. Camano, Jr., 435 Phil. 695, 709 (2002); Briones v. Ante, Jr., 430 Phil. 204, 209 (2002).

[21] Alumbres v. Caoibes, Jr., 425 Phil. 55, 63 (2002).

[22] Briones v. Ante, Jr., supra.

[23] Malaggan v. Mabazza, 442 Phil. 528, 533 (2002).

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