

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. EDILTRUDES A. BESA, CASH CLERK II, METROPOLITAN TRIAL COURT OF PARANAQUE CITY, RESPONDENT.

A.M. No. P-02-1551. September 11, 2002

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PER CURIAM:

This administrative case arose from a report on unremitted collections of judiciary funds in the Metropolitan Trial Court (“MeTC” for brevity) of Paranaque City amounting to P154,846.69. Upon verification by the audit team of the Fiscal Monitoring Division of the Office of the Court Administrator, the unremitted collections reached P537,725.41.

On August 17, 2000, Atty. Ramil G. Reyes, Clerk of Court IV of the MeTC Paranaque City, wrote Executive Judge Angelina Domingo Mauricio, informing the Judge of the following:

- (1) Mrs. Ediltrudes A. Besa (“Besa” for brevity), Cash Clerk II, and Mrs. Gloria R. Antiquera (“Antiquera” for brevity), Records Officer I, of MeTC Paranaque City, failed to deposit P138,854.64 covering the collections of the court from March to August 1999;
- (2) these collections were not reflected in the monthly reports submitted to the Supreme Court; and
- (3) Besa and Antiquera incurred a shortage of P15,992.05 representing undeposited collections as of February 28, 1999.

The total shortage amounted to P154,846.69.

On August 18, 2000, Judge Mauricio ordered Besa and Antiquera to explain in writing, within twenty-four hours from notice, why they failed to remit the amounts and to include the deposits in the monthly reports submitted to this Court. Judge Mauricio also directed Rhonel L. Santos, Cashier I of the same court, to assume temporarily the duties and functions of Besa who stopped reporting to work starting August 1, 2000.

On August 24, 2000, Judge Mauricio wrote then Court Administrator Alfredo L. Benipayo requesting for an audit of all the financial accounts of MeTC Paranaque City from January to December 1999. The last audit of the court covered the period from December 1, 1995 to April 30, 1998 with then Clerk of Court, Atty. Rossana Morales-Montojo, and from May 1, 1998 to February 28, 1999 with Officer-in-Charge Mr. Gordon S. Montojo.

Thus, the audit team of the Fiscal Monitoring Division of the Office of the Court Administrator conducted on September 11 to 15, 2000 an on-the-spot audit examination and reconciliation of the books of accounts of MeTC Paranaque City. The audit team initially found incumbent Clerk of Court, Atty. Ramil G. Reyes, in possession of undeposited and unremitted collections in the amount of P111,000.00 as of September 11, 2000. Upon advice of the audit team, Atty. Reyes deposited the cash and furnished the audit team with copies of the deposit slips as proof of remittance.

The audit team established that the total shortage in the Fiduciary Fund from April 30, 1998 to August 31, 2000

was P537,725.41. The shortages occurred during the time Besa was in charge of the Fiduciary Fund collections. Accordingly, on February 6, 2001 the Court Administrator recommended to this Court, among others, that “Besa be directed to reconstitute within thirty (30) days from notice, the amount of Five Hundred Thirty Seven Thousand Seven Hundred Twenty Five Pesos and 41/100 Centavos (P537,725.41) to the account of the Fiduciary Fund.”

On March 14, 2001, this Court, through its Second Division, issued a Resolution, as follows:

- “1) DIRECT Ms. Ediltrudes Besa to RESTITUTE within thirty (30) days from notice, the amount of Five Hundred Thirty Seven Thousand Seven Hundred Twenty-Five Pesos and 41/100 Centavos (P537,725.41) to the account of Fiduciary Fund under LBP Current Account No. 1562-1011-83; and to EXPLAIN within ten (10) days from notice, why she should not be charged administratively for misappropriating her collections; and
- 2) WITHHOLD the salaries and other emoluments of Ms. Ediltrudes A. Besa, Ms. Gloria R. Antiquera and Atty. Ramil G. Reyes without prejudice to their filing of written positions regarding this matter pending the outcome of a detailed audit on Fiduciary Fund to be conducted for the period December 1995 to present; and
- 3) REQUIRE Atty. Ramil G. Reyes to PRODUCE all available Fiduciary Fund records from December 1995 to present, i.e., Monthly Reports of Collections/Deposits and Withdrawals, Cashbooks, Triplicate Copies of Official Receipts, Bank Pass Books or Bank Statements, Withdrawal Vouchers and court Orders authorizing such withdrawals and SUBMIT the same to the Court Management Office, Office of the Court Administrator within ten (10) days from notice hereof.”

In his Position Paper, Atty. Ramil G. Reyes prayed for his exclusion as respondent in the administrative case and from the resolution withholding the salaries and other emoluments of the respondents. He contended that he could not be held liable since the shortages in the Fiduciary Fund are not missing but were misappropriated by Besa as admitted by her in her “Salaysay.” Atty. Reyes explained that he failed to notice the shortages in the Fiduciary Fund because the monthly reports were deliberately altered by the person preparing the reports to conceal the shortages.

In her Position Paper, Antiquera claimed that since January 1999 she had no participation in the remittance of collections or in the preparation of monthly reports due to her designation as Records Officer as of January 1999. She further claimed that she was never in charge of the Fiduciary Fund collections. Antiquera also alleged that sometime in April 1998, the Office of the Court Administrator conducted an audit due to the impending transfer of then Clerk of Court, Atty. Rossana Montojo, to the Department of Justice. The audit found nothing irregular for which reason a clearance was issued to Atty. Montojo. Antiquera argued that because of this clearance, no accountabilities can be attributed to Atty. Montojo or her staff, which included Antiquera, for the period prior to April 30, 1998. Hence, the accounts prior to April 30, 1998 should no longer be subject to further audit. Antiquera prayed for her exoneration from all charges and for her exclusion from the resolution withholding the salaries and emoluments of the respondents.

In the Resolution dated August 20, 2001, this Court granted Besa’s motion for extension of sixty days from May 29, 2001 within which to reconstitute to the Fiduciary Fund the amount of P537,725.41. The requests of Atty. Reyes and Antiquera for the release of their salaries were referred to the Office of the Court Administrator for evaluation, report and recommendation.

In her Affidavit of December 13, 2001, Besa made the following revelations:

- “7. Sometime in April 1998, in view of the impending transfer of the then Clerk of Court, Atty. Rosanna Montojo to the Department of Justice, an audit was conducted and the corresponding clearance thereof was issued by the Internal Audit Section of the Supreme Court.

8. In 1999, my father got sick and had to be hospitalized. My siblings were still studying and they were all depending on me for support. Due to personal financial problems, I was tempted and in fact, I did, stole (sic) some money from my collections starting early of 1999 up to the time a memorandum was issued relieving me of my duties as Cash Clerk as a result of the discovery of the deficiencies in the money collected concerning the Fiduciary Fund. From thereon, I was not allowed to handle collections anymore.

9. I took the money and I alone benefited therefrom. None of my co-employees ever knew of the same. At that time, I merely intended to borrow the said amount and planned to return the same if my fortune permits.

10. Upon receipt of the payment and issuance of the corresponding receipt to the person who paid, I kept the two remaining copies thereof and thereafter hid them away so that no one will know the said anomaly and hoped that I can return the same before somebody can notice it. Upon audit, I surrendered the said receipts to the Internal Audit of the Supreme Court when they asked me to produce the same.

11. Every end of the day, I remitted my collections to Atty. Ramil Reyes, the Clerk of Court of the Metropolitan Trial Court to be deposited in the Land Bank of the Philippines. The money collected is placed in an envelope with the amount written thereon. The Clerk of Court counts the money and upon seeing that the amount corresponds with the amount written on the envelope, then all that is left to do is to make the report thereon at the end of the month.

12. It was easy to conceal the same because of the trust and confidence my co-employees have afforded me due to the fact that for the duration of my service from 1992, I have never had any bad record nor was I ever involved in any case or controversy.

13. In February of 1999, there was a deficit of P15,992.05 in the Fiduciary Fund. When the said news reached Judge Angelina Mauricio, she told us to better settle the matter. I had P11,000.00 cash at that time, and all I needed to produce was P5,000.00. Anyway, I thought nobody would suspect that there was an anomaly because everybody thought that it was merely an oversight on the part of the Cash Clerk. Besides, no one will notice why I should be very eager to settle the same because I was the one involved and the collections of the Fiduciary Fund and the same was under my responsibility.

14. So I borrowed P5,000.00 from Ms. Gloria Antiquera assuring her that I will pay the same in order to complete the deficit so that the matter at hand will be settled. Little did they know that the deficit was not that amount only but much more. I was only too willing to settle the same to buy time for me to raise the necessary amount to reimburse to the Fiduciary Fund whatever amount I had previously taken.

15. However, my plan to return the money did not materialize because my father died in August 1999. We needed money for his funeral. Instead of returning the money, I was constrained to take more to make both ends meet.

16. It was only in 1999 that another audit was conducted in our office in view of the request made to the Supreme Court due to discrepancies in the Fiduciary Funds.

17. Lastly, I want to reiterate my sincerest apology to all the persons who were affected by my misgivings and that I promise never to commit the same misdemeanor ever again. Also, this is to admit my wrong and to ask that the other persons implicated in my crime be cleared from whatever liability as my conscience cannot take it anymore to see them suffer despite of their innocence. Further, I undertake to return whatever amount I am suppose (sic) to pay for my wrongdoing.”

The Court Administrator recommended that the Financial Management Office of the Office of the Court Administrator be directed to release the salaries and other emoluments of Atty. Ramil G. Reyes and Mrs. Gloria R. Antiquera. He further recommended that: (1) the report of the financial audit be docketed as an administrative complaint against Besa; (2) Besa be suspended for her failure to reconstitute the shortages amounting to P537,725.41;

and (3) Besa be ordered to restitute the amount, otherwise, appropriate criminal charges shall be filed against her.

The Court, in its Resolution dated January 30, 2002, directed the Financial Management Office of the Office of the Court Administrator to release the salaries and other emoluments of Atty. Reyes and Mrs. Antiquera that were earlier withheld. The instant case was re-docketed as an administrative complaint against Besa only.

We agree with the conclusion of the Court Administrator that Besa should be held administratively liable for her failure to restitute the shortages in the Fiduciary Fund. We find, however, the penalty of suspension recommended by the Court Administrator too light and inadequate considering the gravity of the offense committed.

By her own admission, Besa used the Fiduciary Fund collections for the medical and funeral expenses of her father. She admitted in her Affidavit that “[D]ue to personal financial problems, I was tempted and in fact, I did, stole (sic) some money from my collections starting early of 1999 up to the time a memorandum was issued relieving me of my duties as Cash Clerk as a result of the discovery of the deficiencies in the money collected concerning the Fiduciary Fund.”[1] She pleaded for understanding and reiterated her “sincerest apology to all the persons who were affected by her misgivings (sic)” and she promised “never to commit the same misdemeanor ever again.” She further undertook to return whatever amount she misappropriated.[2]

As she admitted in her Affidavit, Besa initially misappropriated for her own personal use P15,992.05 sometime in February 1999. As established by the audit, this amount later ballooned to P537,725.41, although Besa admitted misappropriating a total of only about P300,000.00.[3] Besa misappropriated a substantially large amount for her personal needs. Even if she is able eventually to return the full amount she misappropriated, such restitution will certainly not exonerate her from liability.[4] Her misappropriation of public funds for her personal benefit constitutes dishonesty which is punishable both administratively and criminally.[5]

Besa also failed to remit on time P15,992.50 in collections of the Fiduciary Fund. Delayed remittance of cash collections constitutes gross neglect of duty.[6] The failure to remit on time judiciary collections deprives the court of interest that may be earned if the amounts are deposited in a bank. Besa admitted the delay, and remitted the amounts only after the audit team found discrepancies in the collections and deposits.[7] Failure of a public officer to remit funds upon demand by an authorized officer constitutes prima facie evidence that the public officer has put such missing funds or property to personal use.[8]

A public servant is expected to exhibit, at all times, the highest degree of honesty and integrity and should be made accountable to all those whom he serves.[9] There is no place in the judiciary for those who cannot meet the exacting standards of judicial conduct and integrity.[10]

Those involved in the administration of justice must live up to the strictest standards of honesty and integrity in the public service. Their conduct must, at all times, not only be characterized with propriety and decorum but must also be above suspicion. For the image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women of the judiciary, from the highest magistrate to the lowest court personnel.[11] No position demands greater moral uprightness from its occupant than the judicial office. Those involved in the dispensation of justice bear a heavy burden of responsibility.

To reiterate, not even the restitution of the whole amount of P537,725.41, which Besa has failed to restitute up to now, can erase her administrative culpability. By her reprehensible act of gross dishonesty, Besa has undermined the public’s faith in our courts and, ultimately, in the administration of justice.

This is not the first time that this Court has ordered the dismissal of clerks of court and other court personnel for failure to deposit fiduciary funds in authorized government depository banks.[12] In one case,[13] this Court ordered the dismissal from the service of a court employee for using the Judiciary Development Fund collections

for the medical treatment of her father who was then suffering from cancer.

The Court will not countenance any conduct, act or omission on the part of those involved in the administration of justice which violate the norm of public accountability and diminish the faith of the people in the Judiciary.[14] Besa's case is no exception. Her continued failure to reconstitute even a part of the P537,725.41 unremitted collections shows that she is not sincere with her promises of restitution. Her continued employment with the judiciary must be terminated.

WHEREFORE, the Court finds Ediltrudes A. Besa guilty of dishonesty and imposes on her the penalty of DISMISSAL from the service. All her leave credits except those already earned, and retirement benefits, are forfeited, and she is barred from re-employment in any government agency, including government-owned and controlled corporation. The Civil Service Commission is ordered to cancel her civil service eligibility, if any, in accordance with Section 9, Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292.[15]

The Court Administrator is ordered to take appropriate steps to file criminal charges against Ediltrudes A. Besa for malversation of public funds as may be warranted by the facts. The Court Administrator shall report to the Court on the action taken within ninety days from notice of this decision.

Let a copy of this decision be attached to the personnel records of Ediltrudes A. Besa.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Mendoza, Panganiban, Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio-Morales, and Callejo, Sr., JJ., concur.

Sandoval-Gutierrez, J., on leave.

[1] Paragraph 8 of Besa's Affidavit dated December 13, 2001.

[2] Ibid., paragraph 17.

[3] Initial report on the financial audit conducted in the Metropolitan Trial Court of Parañaque City dated January 31, 2001; Letter dated May 11, 2001 addressed to President Gloria Macapagal-Arroyo "xxx totoo po ang nakasaad doon sa sulat pero hindi ho ganoong kalaki...xxx"

[4] Judiciary Planning Development and Implementation Office vs. Calaguas, 256 SCRA 690 (1996).

[5] Ferriols vs. Hiam, 225 SCRA 205 (1993).

[6] 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, Clerk of Court General Fund Ex-Officio General Fund, Sheriff Trust Fund and Other Related Documents, 255 SCRA 231 (1996).

[7] Paragraphs 13-16, Besa's Affidavit dated December 13, 2001.

[8] Tanggot vs. Sandiganbayan, 236 SCRA 273 (1994).

[9] Supra, see Note 4.

[10] Office of the Court Administrator vs. Sumilang, 271 SCRA 316 (1997).

[11] Ibid.

[12] Rangel-Roque vs. Rivota, 302 SCRA 509 (1999) citing Re: Report on the Judicial and Financial Audit of RTC-Br. 4, Panabo, Davao del Norte, A. M. No. 95-4-143-RTC, March 13, 1998; Re: Financial Audit in RTC, General Santos City, 271 SCRA 302 (1997); Office of the Court Administrator vs. Sumilang, 271 SCRA 316 (1997); JDF Anomaly in the RTC of Ligao, Albay, 255 SCRA 221 (1996); and Ferriolas vs. Hiam, 225 SCRA 205 (1995).

[13] Supra, see Note 11.

[14] Re: Report of Justice Felipe B. Kalalo, 282 SCRA 61(1997).

[15] Section 9, Rule XIV of the Civil Service Rules provides that “(t)he penalty of dismissal shall carry with it cancellation of eligibility, forfeiture of leave credits and retirement benefits, and the disqualification for re-employment in the government service. Further, it may be imposed without prejudice to criminal or civil liability.”

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