

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. MS. MIRA THELMA V. ALMIRANTE, INTERPRETER AND FORMER OFFICER-IN-CHARGE, MUNICIPAL TRIAL COURT, ARGAO, CEBU, RESPONDENT.

A.M. No. P-07-2297. March 21, 2011

Ponente: BRION, J.

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BRION, J.:

We resolve the administrative matter involving Ms. Mira Thelma V. Almirante, Interpreter and former Officer-in-Charge (OIC), Office of the Clerk of Court, Municipal Trial Court {MTC}, Argao, Cebu.

The Factual Background

On July 17, 2006, an audit team from the Office of the Court Administrator (OCA) conducted an audit on the books of accounts of the MTC, Argao, Cebu. The audit was in response to the request of Presiding Judge Leonardo P. Carreon, of the same court, for an investigation into the alleged failure of Almirante to turn over to Clerk of Court Ryan S. Plaza the Fiduciary Account passbook, deposit slips, and official receipts for the Judiciary Development Fund (JDF), Special Allowance for the Judiciary Fund (SAJF) and the Fiduciary Fund (FF)[1] The audit covered the financial transactions of Almirante from January 1, 2005 to November 30, 2005; and of Plaza from December 1, 2005 to June 30, 2006. Almirante served as OIC Clerk of Court from January 24, 2005 to November 2005, while Plaza assumed the position of Clerk of Court on December 1, 2005.

The Audit Report, dated November 3, 2006,[2] disclosed the following findings in relation with Almirante's accountability:[3]

- 1) Shortages in the SAJF collections in the total amount of P7,655.60 incurred between January 2005 and November 2005 due to the erroneous remittance of the collections to the FF account;
- 2) Shortages in the JDF collections in the total amount of P6,682.90 incurred between January 2005 and November 2005 due to the erroneous remittance of the collections to the FF account; and
- 3) Reported misappropriation of the exhibit money in Criminal Case No. 6553 (People of the Philippines v, Florecita Bucacao) in the amount of P41,000.00.

On July 28, 2006, Almirante deposited, by way of restitution, the amounts corresponding to her shortages — P7,655.60 for the SAJF account[4] and P6,682.90 for the JDF account[5] — with the MTC's Land Bank account. Further, the reportedly misappropriated exhibit money had been returned to the court even before the OCA audit. In a letter to the OCA dated May 18, 2006,[6] Plaza reported that on May 16, 2006, a certain Erlinda Tecson tendered to him cash amounting to P162,000.00, claiming that the money was a payment for Almirante's accountabilities. On May 22, 2006, Plaza deposited P121,000.00, out of the P162,000.00 he received from Tecson, to the court's Land Bank FF account, and set aside the balance of P41,000.00 as replacement for the exhibit money in Criminal Case No. 6553.

On the recommendation of the OCA, the Court (First Division) issued a Resolution[7] directing Almirante to explain in writing, within ten (10) days from notice, why no disciplinary action should be taken against her for: (1) misappropriating the exhibit money in Criminal Case No. 6553; (2) her failure to regularly submit her Monthly Report of Collections and Deposits in violation of OCA Circular Nos. 32-93 and 113-2004; and (3) her failure to submit her collections for the SAJF and the JDF on time.

Almirante's Explanation

Almirante submitted her explanation on April 17, 2007.[8] She denied misappropriating the exhibit money in Criminal Case No. 6553. She explained that due to her intermittent absences because of her health condition at the time, she sent the exhibit money to Plaza, the newly-appointed clerk of court, together with the court collections. She claimed that due to inadvertence, she placed all the money in one envelope without segregating the exhibit money from the collections. Plaza deposited the money in the court's FF account, believing that the entire amount constituted the court's cash collections.

Almirante admitted her failure to deposit her cash collections on time. She claimed, however, that when she was designated as Acting Clerk of Court in early 2005, she was not aware that court collections should be deposited within twenty-four (24) hours from the time of collection, until the auditor called her attention to this requirement sometime in April 2006. Moreover, the court is located sixty-six (66) kilometers away from the depository bank. She said, the travel to the bank to deposit the collections would be very costly.

With respect to the non-submission of monthly reports, Almirante claimed that when she went to the Prosecutor's Office at one time to deliver the records of remanded cases, she inadvertently left the reports, together with other personal items she was carrying, in the taxicab she took that day.

The OCA Report

On October 7, 2008, the OCA submitted its report/recommendation[9] whose pertinent portion provides:

Ms. Almirante retained in her possession for a period from fifteen (15) days to eleven (11) months the court's cash collections. She admitted that she was not aware of the directive to promptly remit cash collections. Since she adduced no valid justification, this omission amounts to neglect of duty. Being the Officer-in-Charge, she is considered the custodian of court funds and revenues. For this reason, she should have been aware of her duty to immediately deposit the various funds she received to the authorized government depositories. Failure to fulfill this responsibility deserves administrative sanction. Not even the full payment of the shortages or the claim of ignorance of the applicable rule can exempt the accountable officer from liability.

The respondent's failure to regularly submit the corresponding reports on the collections and deposits of court funds/fees indicates her negligence. The regular submission of the monthly report on the collections of the court funds/fees is mandatory. Ms. Almirante's claim that she inadvertently lost the monthly reports in a taxi cannot justify her omission, the said assertion being clearly self-serving.

In the matter of the alleged misappropriation of the exhibit money in Criminal Case No. 6553, the evidence on record does not show adequately that there was unauthorized use of the exhibit money by the respondent, whether in whole or in part thereof. The entire amount was intact during the conduct of the cash count examination, and the same was already placed in the custody of the incumbent Clerk of Court.

Nonetheless, as indicated by the results of the judicial audit, Ms. Almirante has been remiss in the performance of her administrative responsibilities as then Officer-in-Charge of the MTC, Argao, Cebu. Her omissions partake of violations of specific rules and regulations governing the duties and responsibilities of Clerks of Court (or their authorized substitutes) in the collection and custody of legal funds/fees. Well-defined is the role of the Clerks of Court as judicial officers entrusted with the delicate function in the collection of legal fees, and they are expected to correctly and effectively implement regulations (*Gutierrez v. Quitalig*, 448 Phil 465,

[2003], cited in *Dela Pena v. Sia*, A.M. No. P-06-2167, June 27, 2006). The same exacting standard should also be observed by those who, like the herein respondent, have been temporarily designated to discharge the functions of the Clerk of Court. Failure of Ms. Almirante to properly remit the court collections and regularly submit corresponding monthly reports transgressed the trust reposed in her as officer of the court.

In A.M. No. 01-4-119-MTC (Re: Financial Audit conducted on the books of accounts of Clerk of Court Pacita L. Sendin, MTC, Solano, Nueva Viscaya, January 16, 2002) the Clerk of Court concerned was directed by the Court to pay a fine of P5,000.00 for violating the circular issued by the court relative to the immediate remittance of court collections. Moreover, in *Re: Gener C. Endoma* (241 SCRA 237), the Court found the respondent Clerk of Court remiss in the performance of his duties when he deposited the collections for the month of June 1994 on 01 August 1994; and for the months of July and August 1994, on 16 September 1994. The delays were deemed unreasonable and violative of Administrative Circular No. 5-93. The Clerk of Court was ordered to pay a fine of P2,000.00.

Under the Uniform Rules on Administrative Cases in the Civil Service, the omissions of the respondent, as established, amount to simple neglect of duty warranting a penalty of suspension of one (1) month and one (1) day to six (6) months for the first offenders.

However, in the 07 March 2007 Resolution in A.M. No. 07-2-26-MTC, the Second Division of the Court ordered the dropping of Ms. Almirante from the rolls effective 01 December 2005, and her position had been declared vacant.

With this supervening circumstance, it would be impractical to impose upon her the penalty of suspension. A penalty in the form of a fine would be in order.

IN VIEW OF THE FOREGOING, it is respectfully submitted for the consideration of the Honorable Court the recommendation that Ms. Mira Thelma V. Almirante, Interpreter, Municipal Trial Court, Argao, Cebu be FOUND LIABLE for simple neglect of duty; and be FINED in the amount of Eight Thousand Pesos (P8500.00). The said amount shall be deducted from any monetary benefits she may receive from the court as a result of her early separation from the service per A.M. No. 07-2-26-MTC.

We find the OCA's report/recommendation to be well-founded except for the penalty. Indeed, Almirante should be penalized for she had been remiss in the performance of her duties as OIC Clerk of Court at the MTC, Argao, Cebu. The OCA's recommended fine, however, is not proportionate with the penalty that could have been imposed had Almirante not been given the chance for an early separation. Since the penalty for simple neglect is one (1) month and one (1) day up to six (6) months suspension, the fine imposable on Almirante should at least be the equivalent of one (1) month suspension, or P9,612.00 based on Almirante's personnel records. In this manner, there is proportion between the suspension that should have been imposed and the fine, as the substitute penalty under the circumstances.

WHEREFORE, premises considered, Ms. Mira Thelma V. Almirante, Interpreter, Municipal Trial Court, Argao, Cebu, is found LIABLE for simple neglect of duty and is FINED an amount equivalent to her one (1) month salary. The amount shall be deducted from any monetary benefits she is entitled to as a result of her early separation from the service, pursuant to the Resolution dated March 7, 2007 in A.M. No. 07-2-26-MTC.

SO ORDERED.

Carpio Morales, (Chairperson), Bersamin, Villarama, Jr., and Sereno, JJ., concur.

[1] Rollo, pp. 12-13; letter dated April 20, 2006.

[2] Id. at 4-11.

[3] Id. at 5-7.

[4] Id. at 20; audit report, Annex "F."

[5] Id. at 21; audit report, Annex "G."

[6] Id. at 24; audit report, Annex "J."

[7] Id. at 26-28; dated February 12, 2007.

[8] Id. at 29; Comment dated March 30, 2007.

[9] Id. at 51-57.

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