

JUDGE ANICETO A. LIRIOS, COMPLAINANT, VS. SALVADOR P. OLIVEROS, CLERK OF COURT, MUNICIPAL TRIAL COURT, NAVAL, BILIRAN, RESPONDENT.

A.M. No. P-96-1178. February 06, 1996

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

This administrative case arose from a letter of Judge Aniceto A. Lirios, Municipal Trial Court, Naval, Biliran, dated 20 April 1995, addressed to the Chief of the Supreme Court Audit Team reporting that his Clerk of Court Salvador P. Oliveros committed the following irregularities: (1) He failed to account for consignment deposits made with him as Clerk of Court in Civil Case No. 324, *Veneracion v. Yu King Hua*, for illegal detainer, and in Civil Case No. 356, *Veneracion v. Eng Kee Ong*, also for illegal detainer; (2) He came to the Supreme Court and requisitioned one (1) typewriter, two (2) stand fans and other office equipment without the consent of complainant judge and thereafter kept the equipment, except the typewriter, in his house.

As regards the first charge of irregularity, Judge Lirios claims that in Civil Case No. 356 the consignment deposits totalled P49,500.00 covered only by temporary receipts issued by respondent to defendant Eng Kee. Since complainant assumed office as presiding judge only in June 1993, he could only determine the irregularities committed from that time on. Judge Lirios also reports that the Office of the Municipal Treasurer of Naval, Biliran, had issued a certification that no collections or monies in the aforesaid civil cases had been deposited with his office by respondent.

In his Office Order No. 95-1 dated 16 January 1995 Judge Lirios required respondent to turn over to his court within ten (10) days all amounts consigned in connection with Civil Cases Nos. 324 and 356. In his position paper supported by an affidavit, defendant Eng Kee presented machine copies of the temporary receipts issued by respondent from February 1992 to December 1994.

On 18 January 1995 respondent filed with the Regional Trial Court of Biliran his Comment on the Office Order of Judge Lirios. Respondent claims that Judge Lirios verbally instructed him to get office supplies and equipment from the Supreme Court and complying with the instruction he was able to bring home with him one (1) typewriter, two (2) electric fans, two (2) staplers, office supplies and accountable forms all covered by a Memorandum Receipt and a Requisition and Issue Voucher. He further claims that he personally delivered the office supplies and accountable forms on 6 January 1995 and told his OIC Clerk of Court to get the typewriter and electric fans from his house.

Acting on Judge Lirios' letter, Ms. Antonina A. Soria, Director III, Fiscal Audit Division of this Court, issued a Memorandum on 25 May 1995 to the Office of the Court Administrator (OCA) that consignment deposits made by litigants in the Municipal Trial Court are in the nature of trust funds which should be deposited either with the Land Bank of the Philippines or with the municipal treasurer concerned. Ms. Soria also found after some investigation that respondent failed to remit on time his collections of the Judiciary Development Fund, i.e. he

remitted only in December 1994 P42,566.00 out of his total collections of P43,128.60 from May 1985 to December 1994.

On 19 July 1995, this Court issued a Resolution requiring respondent to show cause within ten (10) days from notice why disciplinary action should not be taken against him for: (a) not issuing official receipts for the consignment deposits in Civil Cases Nos. 324 and 356; (b) not depositing his collections with the authorized depositories; (c) delay in the remittance of JDF collections thus violating Administrative Circular No. 5; and, (d) failure to deliver to the court the two (2) stand fans and office equipment and supplies requisitioned from the Supreme Court.

On 30 August 1995, respondent filed his Answer admitting his failure to issue official receipts for the consignment deposits in Civil Cases Nos. 324 and 356 during the previous years he was detailed with the Regional Trial Court, Br. 16, Naval,, Biliran, as he followed only, according to him, the practice of the RTC Clerk of Court of that branch of issuing ordinary receipts instead of official receipts for consignment deposits. Respondent further alleges that he had never been reprimanded by any of his superiors, including Judge Lirios; that he kept the amounts deposited with him inside his vault; that after every audit he would immediately deposit his collections with the Land Bank, as evidenced by machine copies of cash deposit slips and remittance advice attached to his Answer; and, that all his collections were charged solely to JDF as there were no other available receipts intended for other collections. He further claims that he instructed the OIC Clerk of Court, MTC, Naval, Biliran, to get from his house the two (2) stand fans requisitioned from the Supreme Court but the latter failed to do so, and that the boxes containing the two (2) stand fans have remained unopened up to the present as he awaits the resolution of the instant administrative case.

On 18 September 1995 this Court issued a Resolution noting the Answer of respondent and referring this case to OCA for evaluation, report and recommendation. On 23 October 1995 OCA complied and recommended the suspension of respondent for one (1) month.

The explanation of respondent is far from satisfactory. He failed to refute successfully the accusations against him. The reasons advanced by respondent simply demonstrate the whimsical and abusive conduct of a government employee prejudicial to the best interest of the service. Specifically, he violated the trust reposed in him as cashier and disbursement officer of the Court.[1] Respondent's admission that he kept his collections in his vault and deposited them only after every audit clearly violates Supreme Court Circular No. 13-92 issued 1 March 1992 which provides that all collections from bailbonds, rental deposits and other fiduciary collections shall be deposited immediately by the Clerk of Court concerned, upon receipt thereof with an authorized government depository bank. By accepting the deposit of the rentals, respondent was bound by law to turn over the funds immediately to the custody of the official or bank authorized to receive such trust or depository funds.

Similarly, the act of respondent in not delivering immediately to the court the stand fans and typewriter requisitioned from this Court gives rise to the speculation, and not without reason, that he meant to appropriate government property for his own personal use, especially taking into account the unreasonable period of time that he was keeping them in his house. Moreover, respondent's undue delay in remitting his collections pertaining to the Judiciary Development Fund amounts no less to grave misfeasance if not malversation of funds.

The conduct and behavior of everyone connected with an office charged with the dispensation of justice, the courts below not excepted, from the presiding judge to the lowest clerk, must be circumscribed with the heavy burden of responsibility.[2] A public office is a public trust and all public officers and employees must at all times be accountable to the people, and this Court cannot countenance any act or omission which diminishes or tends to diminish the faith of the people in the judiciary.

WHEREFORE, the Court finds respondent Clerk of Court SALVADOR P. OLIVEROS guilty of grave misconduct in office and imposes upon him a FINE of P 10,000.00 which he should pay within thirty (30) days from notice hereof with a STERN WARNING that a repetition of the same or similar act will be dealt with more severely.

SO ORDERED.

Padilla (Chairman), Vitug, Kapunan, and Hermosisima, Jr., JJ., concur.

[1] See Chapter VII, Sec. B, Manual for Clerks of Court, July 1991, p. 123.

[2] Montemayor v. Collado, A.M. 251 9-MJ, 10 September 1981, 107 SCRA 258.

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