

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. ATTY. JOSE R. BAWALAN, CLERK OF COURT, REGIONAL TRIAL COURT, BRANCH 23, TRECE MARTIRES CITY, RESPONDENT.

A.M. No. P-93-945. March 24, 1994

Ponente: REGALADO, J.

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REGALADO, J.:

Atty. Jose R. Bawalan, Clerk of Court of the Regional Trial Court of Trece Martires City, Branch 23, was charged in a letter-complaint filed before the Office of the Court Administrator with non-cooperation and negligence in the custody of records and accountable forms.

The Office of the Court Administrator, in its memorandum to the Court,[1] made the following findings of facts which we adopt for being consistent with and sustained by the evidence, to wit:

"In his letter dated February 2, 1993, Jorge P. Monroy, State Auditor IV, Department Auditor, Judiciary, forwarded to this court for appropriate action the letter-request of the Provincial Auditor of the Province of Cavite dated January 12, 1993 anent the alleged non-cooperation and negligence in the custody of records and accountable forms of Atty. Jose Bawalan, Clerk of Court, RTC, Branch 23, Trece Martire(s) City, resulting in the non-completion of the cash examination conducted on his cash and accounts. On March 9-16, 1993, a team from the Fiscal Audit Division of this Court conducted an audit examination of the said Court. Based on its report dated April 19, 1993, Atty. Bawalan was cited for his:

1. Failure to report the missing two original receipts Nos. 8793447 and 8793448;
2. Failure to submit to the Accounting Division of this Court monthly reports of collections and deposits for all funds (Judiciary Development Fund, Clerk of Court General Fund, Sheriff's Fees-General Fund and Fiduciary Fund) from January, 1988 to December, 1992;
3. Verbal designation of Mrs. Emy Austria, Clerk III, as the person-in-charge of issuing official receipts.

"In his Comment dated October 7, 1993, respondent alleges that since he started assuming the duties and functions of Clerk of Court in 1987, he never personally handled the management of the collection of fees in RTC, Branch 23, Trece Martire(s) City and more particularly the safekeeping of the money collected, their entries in the corresponding books of accounts and deposits with the offices concerned. Respondent likewise admitted that since he had no knowledge of accounting rules and regulations he was constrained to rely on the assistance of his designated Collecting Officer, Mrs. Emy P. Austria, who was already performing the said duty even during the time of his predecessor, then Clerk of Court Proceso P. Silangcruz. He further confessed that he did not "deal and touch" (sic) with the figures appearing in their Report as he knew nothing about it.

"Respondent asserts that there was no formal and actual turn-over of duty and accountability from Atty. Proceso P. Silangcruz to him and that the fiduciary collection in the amount of P66,528.62 transferred from the accountability of the latter to him was "totally stranged" (sic) since there was no actual and physical turn-over of said money to him. Moreover, respondent claims that he never defrauded the government of even a single

centavo and this is evident from the fact that their report even mention an over-remittance of P2,334.25 on their part. Furthermore, if ever there was any negligence on his part in the performance of his duty as Clerk of Court, as far as the handling of money accountability is concerned, the same is not intentional and for these shortcomings he (respondent) begs the kind indulgence and understanding of the Court." [2]

After a thorough analysis of the records of this case, we find respondent Bawalan remiss in the performance of his duties as branch clerk of court of the aforesaid regional trial court.

The Office of the Clerk of Court performs a very delicate function, that of being the custodian of the court's funds and revenues, records, properties and premises. [3] Being the custodian thereof, the clerk of court is liable for any loss, shortage, destruction or impairment of said funds and properties. Section 7, Rule 136 of the Rules of Court requires that "(t)he clerk shall safely keep all records, papers, files, exhibits and public property committed to his charge x x x." The loss, therefore, of the original copies of Official Receipts Nos. 8793447 and 8793448 in the instant case is directly attributable to the negligence of herein respondent. His explanation that the originals were already detached when he received the blank official receipt forms [4] cannot be given judicial acceptance for want of evidence to substantiate the same.

By virtue likewise of his duty as custodian of the court's funds, respondent had no justification whatsoever for leaving the collection and issuance of receipts for legal fees to Emy Austria. It devolves upon him to personally attend to the collection of the fees, the safekeeping of the money thus collected, the making of the proper entries thereof in the corresponding book of accounts, and the deposit of the same in the offices concerned. These duties he had to discharge notwithstanding his admission or pretension that since he has no knowledge of accounting rules and regulations, he was constrained to rely on the assistance of his designated collecting officer. [5] The collection of legal fees, by its nature, is a delicate function of clerks of court as judicial officers entrusted with the correct and effective implementation of the regulations thereon. Functionally, the work involves the examination and verification of every pleading and document to determine with accuracy the amount of collectible revenues or fees which by law properly belong to the Government. [6]

Moreover, respondent is also obliged to make monthly reports to this Court regarding all collections and deposits for all funds made in the court to which he is assigned. [7] Admittedly, he failed to perform the aforesaid responsibility from January, 1988 to December, 1992. [8] It is of no moment that the money collected was properly accounted for and that there was an excess of remittance in the sum of P2,334.25. [9] The "over-remittance" that respondent invokes will not obliterate his failure to make the required monthly reports.

The evidence further shows that respondent repeatedly refused to submit himself to an audit of his cash receipts and accounts as clerk of court by virtually playing hide-and-seek with government auditors and evading them, thereby obstructing the speedy administration of justice.

Thus, in a memorandum addressed to the Provincial Auditor, dated January 8, 1993, [10] it appears that when the Provincial Audit Team led by State Auditor III Estrella Q. Resurreccion went to respondent's office on December 8, 14, 15 and 16, 1992 to conduct an examination of the court's funds, respondent and his designated collecting officer, Emy Austria, were nowhere to be found. Upon inquiry, Judge Ramon Añonuevo of the Regional Trial Court of Trece Martire(s) City, Branch 23, informed Resurreccion that respondent had been on leave from December 7 to 17, 1992. Resurreccion reported, however, that no approved application for leave was ever furnished them.

When respondent and Austria finally surfaced on December 18, 1992, Resurreccion informed them of the missing cashbook and receipts and verbally instructed them to locate the same within two weeks. After the two-week grace period, the team once again proceeded to respondent's office. On their way thereto, they saw respondent at

the lobby of the Capitol Building going to his office, so they immediately followed him to complete their examination. However, when the team reached the court, respondent's staff informed them that he was not around.

On the foregoing chronicle of events, it is crystal-clear that, on several occasions, respondent repeatedly prevented the audit team from examining and auditing the funds of the court under his custody.

Branch clerks of court must realize that their administrative functions are vital to the prompt and proper administration of justice. They are charged with the efficient recording, filing and management of court records, besides having administrative supervision over court personnel. They play a big role in the complement of the court and cannot be permitted to slacken on their jobs under one pretext or another.[11]

IN VIEW OF THE FOREGOING, the Court hereby imposes a FINE in the amount of P10,000.00 on respondent Atty. Jose R. Bawalan, with a WARNING that a repetition of the same or similar acts in the future will definitely be dealt with more severely.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, and Puno, JJ., concur.

[1] Rollo, 32.

[2] Ibid., 32-33.

[3] Manual for Clerks of Court, 2.

[4] Rollo, 20.

[5] Ibid., 27.

[6] Manual for Clerks of Court, 187.

[7] Ibid., 128. These include the Judiciary Development Fund, Clerk of Court-General Fund, Sheriff's Fees-General Fund, and Fiduciary Fund.

[8] Rollo, 1.

[9] Ibid., 4.

[10] Ibid., 17-18.

[11] Nidua vs. Lazaro, A.M. No. R-465 MTJ, June 29, 1989, 174 SCRA 581.

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