

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. SYLVIA R. YAN, STENOGRAPHIC REPORTER AND FORMER OIC, RESPONDENT.

A.M. NO. P-98-1281. April 27, 2005

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PER CURIAM:

In his letter dated November 19, 1997, addressed to former Court Administrator Alfredo L. Benipayo, Judge Fernando R. Gomez, Jr. of the Municipal Trial Court, Brooke's Point, Palawan, requested an audit of all collections and deposits of Sylvia R. Yan, Stenographic Reporter, herein respondent, while she was the Officer-In-Charge (OIC) of the said court.

In his letter, Judge Gomez, Jr. reported that he issued two memoranda to respondent ordering her to turn over to Clerk of Court Remedios Base the bank book for Judiciary Fund and receipts for cash bailbonds. However, respondent failed to do so.

Upon receipt of Judge Gomez' letter, the Office of the Court Administrator (OCA) immediately sent a checklist of audit requirements to the following:

- Respondent Sylvia R. Yan who acted as Officer-In-Charge for the periods from June 20, 1991 to February 7, 1993 and November 8, 1993 to October 5, 1997.

- Remedios Base – Clerk of Court, for the periods from February 8, 1993 to November 7, 1993 and October 6, 1997 to present.

Only Clerk of Court Remedios Base submitted the audit requirements to the OCA.

On May 8, 1998, the OCA wired respondent to surrender the necessary documents.

Eventually, respondent appeared before the OCA and submitted the official cashbooks and the official receipts of all collections pertaining to the Judiciary Development Fund (JDF) and Fiduciary Fund. She explained that she failed to submit the required documents on time because she was sick. When asked why there was delay in the submission of monthly reports of collections and deposits during her term as OIC, she explained that although she was the designated OIC, there were other court personnel who collected money from the parties concerned. Oftentimes, her co-workers borrowed the money and that she had a hard time collecting the amounts. When asked about the Fiduciary Fund, respondent cried and admitted that she spent it.

The Fiscal Monitoring Division of the OCA conducted an audit of the JDF, Clerk of Court General Fund, and Fiduciary Fund of the said court during the period that respondent acted as OIC. The audit shows that with respect to the JDF, respondent incurred a shortage amounting to P3,371.00.

As to the Clerk of Court General Fund, the audit shows that respondent did not maintain a cashbook nor prepare

reports of collections and deposits. The collections amounting to P2,576.00 were not remitted.

Relative to the Fiduciary Fund, respondent failed to submit any monthly report of collections and withdrawals. For this Fund, respondent had a shortage of P255,115.38. Following is the summary of respondent's shortages in all her collections:

1) JDF

P 3,371.00

2) General Fund

2,576.00

3) Fiduciary Fund

255,115.38

Total

P261,062.38

On August 14, 1998, the OCA submitted to this Court its audit report. In a Resolution dated September 22, 1998, we treated the OCA's audit report as an administrative complaint against respondent; directed her to explain her failure to remit her collections in the amount of P261,062.38; and placed her under preventive suspension pending resolution of the matter.

For her failure to explain and retribute her shortages, we issued a Resolution dated June 29, 1999 requiring her to show cause why no disciplinary action should be taken against her.

However, despite an extension of 15 days, she still failed to comply with our Resolution. Hence, on October 24, 2000, we referred the matter to the OCA for the filing of appropriate charges against respondent.

On February 9, 2001, the OCA formally filed an administrative complaint for dishonesty, gross misconduct and violation of Administrative Circular No. 5-93[1] against respondent.

Acting thereon, we required respondent to file her comment. But she was defiant. Thus, in the Resolutions dated July 9, 2002 and January 28, 2003, we ordered her to show cause why no disciplinary action should be taken against her. But she remained obstinate.

On December 14, 2004, we issued a Resolution imposing a fine of P1,000.00 upon respondent or a penalty of imprisonment of 5 days if the fine is not paid, within 5 days from notice. Again, respondent disregarded our Resolution.

In his Report dated January 25, 2005, Court Administrator Presbitero J. Velasco, Jr. made the following evaluation and recommendation:

“The function of being the custodian of the court's funds and revenues, records, properties and premises devolves upon respondent. She was tasked to use the funds under her official custody in a judicious manner.

Being a mere office-in-charge in no way ebbd the degree of care respondent should exercise in performing her functions. Section 7, Rule 136 of the Rules of Court requires that ‘the clerk shall safely keep all records, papers, files exhibits and public property committed to his charge.’ Thus, as custodian of the court’s funds, respondent had no justification whatsoever for leaving the duty of collecting and issuing receipts for legal fees to other court personnel. 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 regulation thereon.

Under no circumstances can the grant of loans from the court’s collections be justified. It was a clear case of an accountable officer consenting to the improper or unauthorized use of public funds by other persons, which is punishable by law. x x x

Respondent’s continued refusal to heed the numerous directives from the Court aggravated her legal responsibility. From 1998 to present, she ignored no less than six directives from the Court for her to explain and give her side. This continued defiance amounts to an evasion of the investigation process, clearly indicative of her guilt. Her refusal to face head-on the charges against her is contrary to the principle in criminal law that the first impulse of an innocent man when accused of wrongdoing is to express his innocence at the first opportune time (Report on the Financial Conducted at the Municipal Trial Courts of Bani, Alaminos, and Lingayen, Pangasinan, A.M. No. 01-2-18-MTC, 5 December 2003). Her lack of respect for and recognition of the Court’s authority, which is an essential and implicit element in an effective and credible judicial system, is contemptible.

Verily, respondent’s grave misdemeanors justify her severance from the service. Section 56 (a) of CSC Resolution No. 99-1936 dated 31 August 1999 provides that the penalty of dismissal shall result in the permanent separation of the respondent from the service, with or without prejudice to criminal or civil liability, and under Section 58 (a) of the same resolution, it shall carry with it that of cancellation of eligibility, forfeiture of retirement benefits, and the perpetual disqualification for reemployment in the government service, unless otherwise provided in the decision.

In view of the foregoing, respectfully submitted for the consideration of the Honorable Court are our recommendations that:

- Respondent Sylvia R. Yan, Stenographic Reporter and Former OIC, MTC, Brooke’s Point, Palawan be **DISMISSED** from the service for gross misconduct, dishonesty and misappropriation of public funds, with forfeiture of all withheld salaries, allowances and benefits, with prejudice to re-employment in any branch or instrumentality in the government, including government-owned and controlled corporations;
- Respondent Sylvia R. Yan be **DIRECTED** to restitute the amount of Two Hundred Sixty One Thousand and Sixty-Two Pesos and Thirty-Eight Centavos (P261,062.38) representing the shortages in the following: JDF – P3,371.00; General Fund – P2,576.00; and Fiduciary Fund – P255,115.38;
- The Employees Leave Division, Office of Administrative Services – OCA, be **DIRECTED** to compute the balance of the respondent’s earned leave credits and forward the same to the Finance Division, Fiscal Management Office – OCA, which shall compute the money value of the same, the amount, as well as other benefits the respondent may be entitled to, to be included as restitution of the computed shortages; and,
- The Legal Office be **AUTHORIZED** to file criminal charges against respondent before the appropriate court.”

Respondent, through a letter dated January 26, 2005, informed this Court that she is forwarding a postal money order in the amount of P1,000.00 as fine in compliance with our Resolution dated December 14, 2004. She likewise requested a copy of our Resolution dated January 28, 2003 directing her to show cause why no disciplinary action should be taken against her for her failure to file a comment. She prayed that she be given sufficient time to file such comment.

In a Resolution dated March 1, 2005, we noted respondent's letter and required her again to file her comment. Until now, she has yet to comply with our Resolution. We thus considered the case submitted for decision without such comment.

We sustain the findings and the recommendations of Court Administrator Velasco.

Section 3 of this Court's Administrative Circular No. 5-93 provides:

"3. Duty of the Clerks of Court, Officer-in-Charge or accountable officers. – The Clerks of Court, Officers-in-Charge of the Office of the Clerk of Court, or their accountable duly authorized representatives designated by them in writing, who must be accountable officers, shall receive the Judiciary Development Fund collections, issue the proper receipt therefor, maintain a separate cash book properly marked CASH BOOK FOR JUDICIARY DEVELOPMENT FUND, deposit such collections in the manner herein prescribed, and render the proper Monthly Report of Collections for said Fund."

Section 4, Circular No. 50-95, states:

"4. All collections from bailbonds, rental deposits, and other fiduciary collections shall be deposited within twenty-four (24) hours by the Clerk of Court concerned, upon receipt thereof, with the Land Bank of the Philippines."

Corollarily, we have held that Clerks of Court are the custodian of the court's funds and revenues, records, property and premises. Thus, they are liable for any loss, shortage, destruction or impairment of said funds and property. They have always been reminded of their duty to immediately deposit the various funds received by them to the authorized government depositories for they are not supposed to keep funds in their custody.[2]

In *Office of the Court Administrator vs. Fortaleza*,[3] we emphasized the role of the Clerks of Court with regard to the collection of legal fees, thus:

"x x x Clerks of Court are the chief administrative officers of their respective courts; with regard to the collection of legal fees, they perform a delicate function as judicial officers entrusted with the correct and effective implementation of regulations thereon. Even the undue delay in the remittances of amounts collected by them at the very least constitutes misfeasance. On the other hand, a vital administrative function of a judge is the effective management of his court and this includes control of the conduct of the court's ministerial officers. It should be brought home to both that the safekeeping of funds and collections is essential to the goal of an orderly administration of justice and no protestation of good faith can override the mandatory nature of the Circulars designed to promote full accountability for government funds."

As an OIC or Acting Clerk of Court, respondent is duty-bound to use reasonable skill and diligence in the performance of her officially designated duties.[4] She is an accountable officer entrusted with the great responsibility of collecting money belonging to the funds of the Court. This she failed to fulfill. She admitted that she personally used the Fiduciary Fund; and lent the amounts she collected to her co-workers. That she incurred shortages in her collections obviously show that she appropriated the amounts for herself. Those are government funds. She had no right to use them or lend them to others.

Moreover, as aptly observed by the Court Administrator, respondent's continued refusal to heed no less than six (6) Resolutions from the Court aggravated her liability. It should be stressed that a Resolution requiring comment on an administrative complaint against officials and employees of the judiciary should not be construed as a mere request from this Court, nor should it be complied with partially, inadequately or selectively.[5] Any disregard or cavalier attitude towards this Court's lawful directives will not be tolerated because failure to comply with those directives constitutes gross misconduct.[6]

For having misappropriated P261,062.38 and lending her collections to her co-employees, respondent committed

dishonesty. Dishonesty is a “disposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray.”[7] Also, for defying this Court’s Resolutions, she is liable for gross misconduct. Gross misconduct is a flagrant, shameful and inexcusable 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.[8]

Section 52, Rule IV of the Uniform Rules on Administrative Cases in the Civil Service (Resolution No. 99-1936, which took effect on September 27, 1999), provides:

“Section 52. Classification of Offenses. — Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.A. The following are grave offenses with their corresponding penalties:

- Dishonesty — 1st Offense — Dismissal
- Gross Neglect of Duty — 1st Offense — Dismissal
- Grave Misconduct — 1st Offense — Dismissal”

Corollarily, in Re: Ma. Corazon M. Molo,[9] we held:

“No position demands greater moral righteousness and uprightness from the occupant than the judicial office. Those connected with the dispensation of justice bear a heavy burden of responsibility. Clerks of court, in particular, must be individuals of competence, honesty and probity, charged as they are with safeguarding the integrity of the court and its proceedings. This Court has 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.

The Court is left with no choice but to declare the respondent guilty of dishonesty and gross misconduct. Dishonesty alone, being in the nature of a grave offense, carries the extreme penalty of dismissal from the service with forfeiture of retirement benefits, except accrued leave credits, and perpetual disqualification for re-employment in the government service. This penalty is in accordance with Section 52 and Section 58, Rule IV, of the Civil Service Commission Memorandum Circular No. 19, Series of 1999 (Revised Uniform Rules on Administrative Cases in the Civil Service).”

WHEREFORE, respondent Sylvia R. Yan is declared guilty of dishonesty and gross misconduct and is hereby DISMISSED from the service. She is ordered to restitute to this Court the sum of P261,062.38. All her withheld salaries, leave credits, allowances and benefits are ordered forfeited, the same to be applied to her accountabilities, with prejudice to re-employment in any branch or instrumentality in the government, including government-owned and controlled corporations.

The Court Administrator is DIRECTED to refer this case to the Department of Justice for appropriate action.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, and Garcia, JJ., concur.

[1] Requiring Clerks of court, OICs or accountable officers to receive the Judiciary Fund collections, issue receipts therefor, maintain a separate cash book, deposit the same and render monthly report.

- [2] Judge Oscar S. Aquino vs. Ricardo C. Olivares, A.M. No. P-02-1534, March 26, 2003.
- [3] A.M. No. P-01-1524, July 29, 2002, 385 SCRA 293, citing Report on the Financial Audit in the RTC, General Santos City and the RTC & MTC of Polomolok, South Cotabato, 384 Phil. 155 (2000).
- [4] Judge Oscar S. Aquino vs. Ricardo C. Olivares, *supra*.
- [5] Josep vs. Abarquez, A.M. No. MTJ-96-1096, September 10, 1996, 261 SCRA 629.
- [6] Soria and Soria vs. Villegas, A.M. No. RTJ-03-1812, November 19, 2003, 416 SCRA 187.
- [7] Office of the Court Administrator vs. Ibay, A.M. No. P-02-1649, November 29, 2002, 393 SCRA 212.
- [8] Morales vs. People, G.R. No. 144047, July 26, 2002, 385 SCRA 259; Araos vs. Luna-Pison, A.M. No. RTJ-02-1677, (formerly OCA IPI No. 00-1027-RTJ) February 28, 2002, 378 SCRA 246; Virata vs. Supnet, A.M. No. 02-2-12-SC, November 27, 2002, 393 SCRA 12.
- [9] A.M. No. SCC-00-6-P, October 16, 2003, cited in Report on the Financial Audit conducted at the MTC of Bani, Alaminos and Lingayen, Pangasinan, A.M. No. 01-2-18-MTC, December 5, 2003.

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