

REPORT ON THE FINANCIAL AUDIT CONDUCTED AT THE MCTC-MABALACAT, PAMPANGA

A.M. NO. P-05-1989. October 20, 2005

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Unjustified delay in the remittances of collections by clerks of court constitutes grave misconduct. Being next in rank to judges in the courts of justice, clerks of court are reminded that acts of dishonesty, particularly those that amount to malversation of public funds, will be severely sanctioned. Such acts portray the judiciary as a haven of corruption, instead of a bastion of justice.

The Case and the Facts

This administrative case stems from a financial audit of the Municipal Circuit Trial Court (MCTC) of Mabalacat, Pampanga, conducted by an audit team from the Office of the Court Administrator (OCA). The audit covered the periods (1) March 1985 to January 12, 2003, under the accountability of then Clerk of Court Teresita C. Basa; and (2) January 13, 2003, to September 30, 2003, under that of acting Clerk of Court Mercedes C. Catap.

Prior to the financial audit and during the term of Ms Basa, a surprise cash count had been conducted on April 16, 2002, in several courts in Pampanga, including the MCTC of Mabalacat in which the surprise cash count revealed a shortage of thirteen thousand four pesos (P13,004). The shortage remained unpaid and unaccounted for despite a prior directive from this Court for Ms Basa to submit her records and the bank deposit slips as proofs of actual remittances.

Based on the documents presented, the audit team came up with the following findings:

1. On Teresita C. Basa

The audit team found that during the incumbency of Ms Basa from March 1985 to January 31, 2003, she not only had incurred delays in her periodic remittances of the Judiciary Development Fund (JDF), but also had a total shortage of one hundred seventy-one thousand four hundred twenty-eight pesos and forty-six centavos (P171,428.46), which remains unaccounted for. The undeposited JDF collections amounted to P20,702 from 1985 to 1991, and to P202,979.86 from 1994 to 2000. In 2001 to 2003 she tried to make up for the previous unremitted collections by over-remitting P49,391.40.

Records further show that she started collecting fees for the Clerk of Court General Fund (CCGF) in 1999. Prior to that year, those fees had been paid directly to the municipal treasurer of Mabalacat, Pampanga. In her CCGF remittances during the period July 1999 to January 12, 2003, however, she incurred a shortage of forty-nine thousand nine hundred eight pesos (P49,908), which also remains unaccounted for.

There were no collections for the Fiduciary Fund during her term, because those fees were paid directly to the Municipal Treasurer's Office of Mabalacat, Pampanga, as confirmed by Mabalacat Municipal Accountant

Teodoro L. David.

The audit team further found that when she left her post, there was no proper turnover of accountabilities between her and Mercedes C. Catap, her successor-in-office.

2. Merceditas C. Catap

On October 6, 2003, another cash count conducted by the audit team revealed another shortage amounting to nineteen thousand eighty-seven pesos (P19,087), details of which are as follows:

Legal Research Fund

OR Nos. 0104328-0104337 P 300

Judiciary Development Fund

OR Nos. 19079789-19079836 16,962

Fiduciary Fund

OR No. 16320075 6,000

Clerk of Court General Fund

OR Nos. 16320047-19080286;

19080287-19080300 6,945

Undeposited Collections per Audit P30,207

Cash presented 11,120

Shortage P19,087

When asked to explain why she could not produce the amount corresponding to the shortage upon demand, Ms Catap replied that she had misplaced the money and was unaware of the fact until the cash count. The money was eventually produced and deposited the following day, October 7, 2003.

All the receipts issued by the Supreme Court were accounted for. Nevertheless, Ms Catap was advised to issue them in sequential order.

She has reportedly no more pending accountabilities with respect to the JDF and the Fiduciary Fund Collections. Her remaining shortage of ten pesos (P10) in the CCGF remittances was paid on May 3, 2004.

It was found that she had also incurred delays in the remittances of funds; but, as she explained, she was forced to skip days in depositing collections in order to finish all of her work in the court. Her trips to the bank allegedly consumed most of her time because of the heavy traffic brought about by the road construction in their area.

Report and Recommendation of the OCA

Finding retired Clerk of Court Teresita C. Basa guilty of willful violation of this Court's circulars and issuances, resulting in shortages in her remittance of funds, the OCA recommends that a fine of P10,000 be imposed upon her.

Adopting in part the OCA's recommendations, this Court through the Third Division, in its March 28, 2005 Resolution, (1) directed the deduction of JDF and CCGF shortages amounting to P171,428.46 and P49,908,

respectively, from the retirement benefits due Ms Basa; and (2) admonished Mercedes C. Catap for her failure to remit her collections on time and to present, upon demand, the collections that were still undeposited as of the cash count. Since an admonition -- plus a warning that a repetition of the same or a similar act would be dealt with more severely -- had already been meted out to Ms Catap, the only matter to be resolved now is Ms Basa's administrative liability.

The Court's Ruling

The Court agrees with the findings of the OCA but modifies the penalty, consistent with jurisprudence.

Administrative Liability

Time and time again, this Court has stressed that those charged with the dispensation of justice -- from the presiding judge to the lowliest clerk -- are circumscribed with a heavy burden of responsibility. Their conduct at all times must not only be characterized by propriety and decorum but, above all else, must be beyond suspicion. Every employee should be an example of integrity, uprightness and honesty.[1]

Ms Basa miserably failed to live up to these stringent standards. She consistently incurred delays and shortages in the remittances of funds over a period spanning almost 18 years from 1985 to 2003. As far back as June 2002, she was already found to have incurred shortages in her remittances. Despite having been directed by the OCA to submit the necessary documents pertaining to judiciary funds to establish her actual financial accountabilities, she failed to give a satisfactory explanation. Hence, she should be held accountable for those shortages.

In Re: Delayed Remittance of Collections of Odtuha,[2] this Court ruled that an unjustified delay in remitting collections constitutes grave misconduct. The failure of clerks of court to remit funds deposited with them, as well as to give a satisfactory explanation of the failure, constitutes gross dishonesty, grave misconduct and even malversation of public funds.[3] Verily, the conduct of Ms Basa would have warranted the maximum penalty of dismissal, if not for the fact that she has already retired from the service. In Re: Report on Judicial and Financial Audit Conducted in the Municipal Trial Court in Cities, Koronadal City,[4] this Court imposed upon the respondent retired clerk of court a fine equivalent to his six months' salary, for incurring shortages in his remittances to the JDF and the General Fund.

Clerks of court perform delicate functions as designated custodians of the court's funds, revenues, records, properties and premises. As such, they are also the courts' treasurers, accountants, guards and physical plant managers. Hence, they are liable for any loss, shortage, destruction or impairment of those funds and property.[5]

It has oft been repeated that all employees in the judiciary should be examples of responsibility, competence and efficiency. As officers of the court and agents of the law, they must discharge their duties with due care and utmost diligence.[6]

WHEREFORE, retired Clerk of Court Teresita C. Basa is found GUILTY of grave misconduct and FINED in an amount equivalent to her salary for six (6) months, to be deducted from her leave credits.

SO ORDERED.

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

[1] In Re: Report of COA on the shortage of the Accountabilities of Clerk of Court Lilia S. Buena, MTCC, Naga

City, 348 Phil. 1, January 5, 1998; In Re: Delayed Remittance of Collections of Odtuha, 445 Phil. 220, 224, February 11, 2003; Office of the Court Administrator v. Galo, 373 Phil. 483, 490, September 21, 1999; Cosca v. Palaypayon, 273 SCRA 249, 269, September 30, 1994.

[2] Supra, p. 225 (citing Mallare v. Ferry, 414 Phil. 286, July 31, 2001).

[3] Office of the Court Administrator v. Galo, 373 Phil. 483, 492, September 21, 1999.

[4] AM No. 02-9-233-MTCC, April 27, 2005.

[5] Toribio v. Ofilas, 422 SCRA 534, 539, February 13, 2004; Re: Misappropriation of the Judiciary Fund Collections by Juliet C. Banag, Clerk of Court, MTC, Plaridel, Bulacan, 420 SCRA 150, 161, January 20, 2004; In Re: Report on the Judicial and Financial Audit Conducted in the Municipal Trial Court in Cities, Koronadal City, supra.

[6] Aquino v. Lavadia, AM No. P-01-1483, September 20, 2001.

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