

JUDGE LUIS ENRIQUEZ REYES, COMPLAINANT, VS. ERLINDA U. CABRERA, CLERK OF COURT OF MUNICIPAL TRIAL COURT OF GUGUINTO, BULACAN, RESPONDENT,

A.M. NO. P-05-2027. January 27, 2006

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PER CURIAM:

Respondents Erlinda U. Cabrera and Edwin C. Santos are Clerk of Court and Clerk II, respectively, of the Municipal Trial Court (MTC) of Guiguinto, Bulacan. They are charged with misappropriation of judicial funds.

Sometime in June 2004, an audit team from the Commission on Audit (COA) in Region III examined the cash and accounts of respondent Cabrera. The audit covered the period from May 1999 [1] to June 24, 2004. The results of the examination showed that respondent Cabrera had a cash shortage of P1,385,872.85.

On July 12, 2004, the COA sent respondent Cabrera a letter [2] informing her of the details of her deficiency. The COA demanded the immediate liquidation (or surrender) of the missing funds. It also required respondent Cabrera to explain the shortage in writing.

In response, respondent Cabrera gave the following explanation:

July 20, 2004

Sir/Madam:

In compliance [with] your letter dated July 12, 2004 directing the undersigned to submit [an] explanation with regard to the unremitted collections, I humbly ask for an apology for such delay [in] remittance. As of now, I [am] exert[ing] all my efforts to remit said collections [at] the soonest possible time.

For this reason, I kneel to you and [ask] for your mercy and your indulgence that I be given a reasonable period of time within which to deposit all unremitted collections. I promise to make a deposit commencing on August 2004 until such time that the whole amount of unremitted collections be deposited.

I am hoping for your kind consideration.

Thank you.

Very truly yours,

ERLINDA U. CABRERA (sgd.)
Clerk of Court [3]

Respondent Cabrera concealed the matter from Judge Luis Enriquez Reyes, Presiding Judge of MTC-Guiguinto, Bulacan. However, truth had its way of revealing itself. Judge Reyes subsequently learned of respondent Cabrera's cash shortage when COA informed him about it.

Judge Reyes immediately required respondent Cabrera to furnish him copies of the COA's demand letter and respondent Cabrera's explanation. As a preventive measure, he relieved respondent Cabrera of her duties as

collection officer and custodian of funds and books of accounts. Aware of the gravity of the situation, Judge Reyes promptly brought the matter to the attention of the Office of the Court Administrator (OCA).

The OCA formed a judicial audit team to examine the books of accounts of respondent Cabrera. On August 19, 2004, the judicial audit team submitted a report on its financial audit of MTC-Guiguinto, Bulacan. It found that the court incurred the following shortage:

Name of Fund Amount

Clerk of Court General Fund P 54,433.00

Judiciary Development Fund 206,418.85

Fiduciary Fund 1,222,500.00

TOTAL P 1,483,351.85

It also found that, for some time, respondent Santos acted as collecting officer of the court together with respondent Cabrera who recommended him for the job.

Based on the judicial audit report, the Court issued a resolution on October 5, 2004 requiring both respondents Cabrera and Santos to explain the P1,483,351.85 shortage in their collections.

On November 10, 2004, respondent Santos submitted his manifestation and explanation. He stated that he was not the accountable employee responsible for the cash shortage. However, he admitted that, when respondent Cabrera went on sick leave sometime in 1999, he was one of the court personnel tasked to receive collections and issue receipts for the court's daily transactions. [4] Pursuant to the instruction of respondent Cabrera and of Judge Reyes himself, [5] respondent Santos remitted the collections to respondent Cabrera. There was no instruction for him to deposit the money in the bank nor was the passbook or other bank documents turned over to him.

To support his claim, respondent Santos attached a photocopy of the affidavit of MTC-Guiguinto, Bulacan court aide Honorio Polintan in his explanation. Polintan's affidavit attested that respondent Cabrera instructed him to deliver, and he in fact delivered, the court collections to respondent Cabrera at her residence in Masagana Homes Subdivision, Guiguinto, Bulacan while she was on sick leave.

On November 12, 2004, respondent Cabrera submitted a letter to the Court. She admitted responsibility for the missing funds and begged for forgiveness. She asked that she be allowed to retire and her retirement benefits be applied to her accountability. In the alternative, she requested that she be permitted to reconstitute the deficiency by installment. Furthermore, she claimed that respondent Santos and several court employees also misappropriated court funds in 2000 and 2001 while she was on leave.

On June 28, 2005, the Court resolved to refer this case to the OCA for evaluation, report and recommendation.

On October 17, 2005, the OCA submitted its report. [6] It noted respondent Cabrera's admission of guilt. It found that respondent Cabrera took full responsibility for the unaccounted funds in her July 20, 2004 letter to the COA.

The OCA disregarded respondent Cabrera's attempt to downplay her liability by implicating respondent Santos and other unnamed co-employees in her November 12, 2004 letter. The OCA found her effort to be belated and unsubstantiated. Unlike respondent Santos who flatly denied any participation in the anomaly and refuted the charges against him, respondent Cabrera made no such denial but owned up to the misconduct instead.

In view of its findings, the OCA proposed the dismissal of the complaint against respondent Santos. It made the following recommendations in connection with the complaint against respondent Cabrera:

- [Respondent Cabrera] be found GUILTY of dishonesty and gross misconduct and be DISMISSED from the service effective immediately, with FORFEITURE of all withheld salaries, allowances and benefits, as well as retirement benefits, with prejudice to reemployment in any government agency, including government-owned and controlled corporations.
- [Respondent Cabrera] be DIRECTED to restitute the amount of [P1,483,351.85] representing her shortages in the following: J.D.F. – P206,418.85; [G.F.] – P54,433.00; Fiduciary Fund – P1,222,500.00.
- The Legal Office be DIRECTED to file appropriate criminal charges against [respondent Cabrera].
- The Employees Leave Division, OAS-OCA be DIRECTED to compute the balance of earned leave credits of [respondent Cabrera] and forward the same to the Finance Division, FMO-OCA which shall compute the monetary value of the leave credits and other monetary benefits that [respondent Cabrera] is still entitled to receive from the Court, the amount to be included as restitution of the computed shortages.
- ISSUE A HOLD-DEPARTURE ORDER [against respondent Cabrera] to prevent her from leaving the country. [7]

The Court agrees with the findings and recommendations of the OCA.

Respondent Cabrera admitted her liability. The tenor of her July 20, 2004 letter to the COA was clear and categorical. Not only did respondent Cabrera admit the delay in the remittance of her collections, she also promised to return all unremitted court funds. Thus, she recognized that she was indeed in possession of such funds, that she failed to remit these funds on time and that she was under the obligation to remit the amount until entirely accounted for.

Respondent Cabrera's attempt to incriminate respondent Santos and other court employees without providing either specific details or proof of their alleged malfeasance was a mere afterthought to mitigate her liability. It was a desperate attempt to cushion her accountability. It paled in comparison with respondent Santos' straightforward disclaimer of liability coupled with Judge Reyes' certification and the court aide's affidavit.

A clerk of court's failure to make a timely turn-over of cash deposited with him constitutes not just gross negligence in the performance of duty but also gross dishonesty, if not malversation. [8] Misappropriation of judiciary funds is a serious misconduct, a grave offense punishable by dismissal. [9]

Respondent Cabrera should bear in mind that public service requires utmost integrity and strict discipline. Thus, a public servant must bear at all times the highest sense of honesty. [10] This is especially significant for employees in the judiciary. The image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of its personnel, from the judge to the lowest employee. [11] Hence, those involved in the administration of justice must live up to the highest standard of honesty and integrity in the public service. [12]

For failing to live up to these high ethical standards, respondent Cabrera should be dismissed. Her actions placed her behavior under serious doubt. The Court cannot countenance any conduct, act or omission, committed by those involved in administering justice, which violates the norm of public accountability and which diminishes the faith of the people in the judiciary. [13] WHEREFORE, the Court hereby declares the following:

- the complaint against respondent Edwin C. Santos is hereby DISMISSED for insufficiency of evidence and lack of merit.
- respondent Erlinda U. Cabrera is hereby found GUILTY of dishonesty and gross misconduct. She is ordered DISMISSED from the service effective immediately with prejudice to reemployment in any government agency, including government-owned and controlled corporations. All her salaries, allowances and retirement benefits that

have been withheld are forfeited in favor of the government.

- respondent Erlinda U. Cabrera is also hereby ORDERED to restitute within 30 days from her receipt of this resolution the amount of P1,483,351.85 representing her shortage as follows: Judiciary Development Fund – P206,418.85, Clerk of Court General Fund – P54,433 and Fiduciary Fund – P1,222,500.

- the Employees Leave Division, Office of Administrative Services–OCA is hereby DIRECTED to compute the balance of respondent Erlinda U. Cabrera's earned leave credits and forward the same to the Finance Division, Fiscal Management Office–OCA which shall compute its monetary value. Whatever amount, as well as other monetary benefits, she may still be entitled to shall be applied as part of the restitution of the shortage.

- the Office of the Court Administrator is hereby DIRECTED to coordinate with the prosecution arm of the government to ensure the expeditious criminal prosecution of respondent Erlinda Cabrera.

- finally, the Bureau of Immigration is hereby DIRECTED to issue a hold-departure order against respondent Erlinda U. Cabrera to prevent her from leaving the country.

SO ORDERED.

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

[1] The date of last examination.

[2] A.M. No. P-05-2027 Rollo, p. 4.

[3] Letter dated July 20, 2004; A.M. No. P-05-2027 Rollo, p. 6.

[4] He performed this function together with the court interpreter and the court stenographer.

[5] Certification dated August 11, 2004 issued by Judge Reyes.

[6] A.M. No. P-05-2027 Rollo, pp. 33-36.

[7] Id.

[8] Office of the Court Administrator v. Bernardino, A.M. No. P-97-1258, 31 January 2005, 450 SCRA 88.

[9] Id.

[10] Office of the Court Administrator v. Julian, A.M. No. P-01-1515, 10 February 2005, 450 SCRA 588.

[11] Office of the Court Administrator v. Besa, A.M. No. P-02-1551, 11 September 2002, 388 SCRA 558.

[12] Supra note 10.

[13] Id.

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