

RE: REPORT OF ACTING PRESIDING JUDGE WILFREDO F. HERICO ON MISSING CASH BONDS IN CRIMINAL CASE NO. 750 AND CRIMINAL CASE NO. 812.

A.M. NO. 00-3-108-RTC. January 28, 2005

Ponente: AZCUNA, J.

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AZCUNA, J.:

Before the Court are two consolidated cases: (1) The administrative case against Judge Edgar M. Alba (Retired), then Presiding Judge of the Municipal Trial Court (MTC) of Mercedes, Camarines Norte and also the Acting Judge of the Municipal Circuit Trial Court (MCTC) of Capalonga–Sta. Elena, Camarines Norte in connection with the missing cash bonds in two pending criminal cases in the MCTC of Capalonga–Sta. Elena, to wit (a) Criminal Case No. 750 for reckless imprudence resulting in homicide in the amount of P10,000 and (b) Criminal Case No. 812 for theft/violation of Republic Act No. 7832 [“Anti-Electricity and Electric Transmission Lines/Material Pilferage Act of 1994”] in the amount of P20,000 and (2) The financial audit conducted on the cash accounts of Rolando B. Saa and Benjamin Sevilla of the MCTC, Capalonga–Sta. Elena, Camarines Norte.

A.M. No. 00-3-108-RTC:

On February 28, 1999, then Presiding Judge Edgar M. Alba of the MTC of Mercedes, Camarines Norte applied for optional retirement, docketed as A.M. No. 9743-Ret.[1] Pursuant to the resolution of the Court (en banc) dated March 2, 1999, the Court approved his application,[2] but held in abeyance the payment of his retirement benefits subject to whatever penalties the Court may impose relative to another administrative case against him, docketed as A.M. No. MTJ 99-1210,[3] and subject further to the availability of funds and the usual clearance requirements.

Per Administrative Order No. 54-99 dated June 21, 1999 of the Court, Presiding Judge Wilfredo F. Herico of Talisay, Camarines Norte was designated the Acting Presiding Judge of the MTC of Vinzons and the MCTC of Capalonga–Sta. Elena, both in the Province of Camarines Norte.

In a letter dated September 29, 1999, Judge Herico informed the Office of the Court Administrator (OCA) that when he assumed office as Acting Judge of MCTC of Capalonga–Sta. Elena, he discovered that there were missing cash bonds in two pending criminal cases (a) Criminal Case No. 750 for reckless imprudence resulting in homicide in the amount of P10,000 and (b) Criminal Case No. 812 for theft/violation of Republic Act No. 7832 [“Anti-Electricity and Electric Transmission Lines/Material Pilferage Act of 1994”] in the amount of P20,000, and that both cases do not even have any release order on file. He asked the Clerk of Court, Rolando B. Saa, to prepare an inventory of the pending cases and found out that there were violations in the proper custody of exhibits. He also requested that the available funds of the MCTC be advanced to cover the amount of the missing cash bonds which would thereafter have to be paid by the person found guilty of misappropriating the same.

In a Memorandum to the Court dated January 24, 2000, the OCA recommended that Judge Alba be required to submit his comment on the letter-complaint of Judge Herico and that his retirement benefits be withheld. Pertinent

portions of the memorandum read:

It was verified that the salaries of Clerk of Court Rolando Saa had been ordered withheld by the Fiscal Management Office since May 1999 for failure to submit the Report on the Monthly Collection and Withdrawal of Fiduciary Fund. Further verification shows that nevertheless, Mr. Saa, is not remiss in reporting regularly the general fund and JDF collections. No charges have yet been filed against Mr. Saa for his failure to submit the aforesaid report. The withholding of his salaries was done only for the purpose of compliance or compelling Mr. Saa to submit the required report. At present, the Fiscal Monitoring Division, this office, is conducting a financial audit on the collections of Mr. Saa.

Based on the report of Acting Judge Herico, Mr. Saa is pointing the blame to former Acting Judge, Edgar Alba (MTC, Mercedes, Camarines Norte) who optionally retired last February 28, 1999. ...

With respect to the request of Judge Herico to avail of cash fund from the Honorable Court to answer for the missing cash bond, such request cannot be given favorable consideration since cash bonds shall only be withdrawn from the collections of the fiduciary funds per Circular No. 50-95 dated October 11, 1995.

Lastly, relative to the request of Judge Herico for a judicial audit and physical inventory of cases in MCTC, Capalonga-Sta Elena, Camarines Norte, appropriate action is now currently undertaken by this office.

During his recent visit to this office, Mr. Rolando Saa, provided the office with the pertinent copy of the orders and authorization to shed light on the issue regarding the subject missing cash bonds, as follows:

1) An Order dated July 7, 1995 of Acting Presiding Judge Edgar M. Alba in Criminal Case No. 812 for Theft entitled: "People vs. Roger de la Rosa, et al.", which stated that: "A cash bond in the amount of ... P20,000.00 pesos ... was filed by the accused Allan Ba[z]ar y Joven through [his] bondsman Edwin Conrado ... is hereby approved. Finding the bailbond filed by the accused to be in order and satisfactory, the same is hereby approved." (Annex "A")

2) An Order dated January 12, 1996 of Acting Presiding Judge Alba in Criminal Case No. 812 for Violation of R.A. [No.] 7832 entitled: "People vs. Roger de la Rosa, et al.", which stated that "On July 7, 1995 accused Allan Ba[z]ar y Joven filed a cash bond thru his bondsman Edwin Conrado in the amount of Twenty Thousand Pesos, ..., in [the] form of cross[ed] cheque numbered 6115[3]3 and dated July 17, 1995. Said bond was approved by the court on condition that the cheque posted by bondsman Edwin Conrado will be replaced with cash within twenty days from date of its approval. However, up to the present, neither the bondsman nor the accused appeared before this court to effect replacement of the cheque with ... cash. Wherefore, the cash bond filed by Allan Bazar thru his bondsman Edwin Conrado is hereby ordered cancelled and accused Allan Bazar is hereby ordered arrested." (Annex "B")

3) An Authorization Letter dated September 29, 1995 executed by Ms. Isabel S. Liwag, Court Interpreter and Acting Clerk of Court of M[C]TC. Sta. Elena, Camarines Norte, and approved by Acting Presiding Judge Edgar M. Alba, which stated that: "The bearer, Mr. Alejandro M. Pisante, is authorized to encash the PNB Republic Bank Check No. 611533 dated July 17, 1995 in the amount of P20,000.00." (Annex "C")

4) An Authorization Letter dated August 16, 1996, executed by Ms. Ma. Isabel S. Liwag, Court Interpreter and Acting Clerk of Court, and approved by Acting Presiding Judge Edgar M. Alba, which stated that "to authorize the bearer, Mr. Alejandro M. Pisante ... to encash Check No. 0958078 in the amount of ... P20,000.00 under Account No. 5167 at the PNB Republic Bank, [Naga Branch, Naga City]." (Annex "D")

5) An Affidavit dated 16 June 1999 executed by Mr. Alejandro M. Pisante, Utility Worker, MCTC, Capalonga, Sta. Elena, Camarines Norte, with the following allegations: "that sometime October 1995, by virtue of an authorization given to him by Ms. Liwag and Judge Alba, he attempted to encash PNB Republic Bank Check No. 611533 in the sum of P20,000.00 dated July 17, 1995 under Account No. 5167. However, the same bank refused to pay the check since it is a 'cross[ed] check.' Again sometime August 1996, he was given authority

by Ms. Liwag and Judge Alba to encash Check No. 095[8]078 under Account No. 5167. This time, the check was encashed in the sum of P20,000.00 pesos. Thereafter, the aforesaid sum was given to Judge Alba and Ms. Liwag in the presence of some court personnel.” (Annex “E”)

The aforesaid documents are obviously related to the missing cash bonds as reported by Acting Judge Herico. Closer examination of these documents revealed that initially, one of the accused in Criminal Case No. 812 posted a cash bond through his bondsman in the form of a cross[ed] cheque with No. 611533 dated July 17, 1995 under Account No. 5167. Said bond was approved on condition that the cheque will be replaced by cash within twenty (20) days from date of its approval. An authorization was given to Mr. Pisante to encash the cheque. However, the same was denied payment by the bank since it is a cross[ed] check (meaning for deposit only to the payee’s account). Hence, Judge Alba ordered the cancellation of the cash bond and the consequent arrest of accused Allan Bazar. As a result, bondsman Edwin Conrado issued a new Check No. 0958078 in the sum of P20,000.00 under Account No. 5167 in lieu of the earlier mentioned cross[ed] check, which was subsequently encashed by Mr. Pisante by virtue of an authority granted him by Ms. Liwag and Judge Alba.

Analyzing the entire scenario of the reported irregularities in MCTC, Capalonga-Sta. Elena, Camarines Norte, the matter poses a serious problem in the latter court particularly with the present Acting Judge and the Clerk of Court who is the accountable officer of the court. Right now, the Acting Judge cannot just merely order the release of the cash bond since there is no more cash bond to speak of. Retired Judge Edgar M. Alba must be made answerable to the missing cash bond. With respect to Ms. Isabel Liwag, it was verified that since January 1995, she was considered on AWOL.

In view of the foregoing. It is respectfully recommended that:

- 1) Retired Judge Edgar M. Alba, MTC, Mercedes and former Acting Presiding Judge of MCTC, Capalonga-Sta. Elena, both in the Province of Camarines Norte, be DIRECTED to explain in writing within ten (10) days from notice about reported missing cash bonds in the following cases: Criminal Case [No. 750] for Reckless Imprudence Resulting to Homicide with a cash bond of P10,000.00 and Criminal Case No. 812 with a cash bond of P20,000.00.
- 2) The payment of the retirement benefits of Judge Alba be WITHHELD pending the outcome of this administrative matter.[4]

On February 1, 2000, Judge Alba submitted a letter-answer/comment (addressed to Judge Herico) stating that the July 8, 1994 order he issued merely approved the P10,000 bail bond posted by the accused, but did not state that he and Ma. Isabel S. Liwag would keep the amount in their custody. He added that per Official Receipt No. 2854940, the P10,000 paid by one Jerry Duazo for the bail of the accused, had been received by two of his staff, Perfidia J. Parale, as evidenced by her initials “PJP,” and Ma. Isabel Liwag, whose signature also appeared therein. In seeking to be absolved from any liability, Judge Alba insisted that the ones supposed to be held liable are Isabel Liwag, Perfidia Parale, and Clerk of Court Rolando B. Saa who failed to audit the two in 1995.

On June 19, 2000, the Court (First Division) issued a resolution directing Judge Alba to explain in writing within ten (10) days from notice regarding the missing cash bonds in the two criminal cases and withholding payment of his retirement benefits pending the outcome of this present case.

In another letter dated July 17, 2000 (addressed to the First Division of the Court), Judge Alba again sought the dismissal of the case against him and requested the release of his retirement benefits. He reiterated that he had nothing to do with the missing cash bonds. He pointed out that Isabel Liwag and Perfidia Parale should be made liable as they were the ones authorized to collect, receive, and issue official receipts for cash bonds, trust funds, and other payments made by party-litigants.

Both letters of Judge Alba were noted by the Court (First Division) on July 31, 2000 and the case was referred to the OCA for evaluation, report, and recommendation.

In a Memorandum to the Court dated October 16, 2000, the OCA stated:

After a careful evaluation of the aforesaid comment-explanation of Judge Edgar M. Alba, it appears that his reasons and arguments do not warrant the outright dismissal of the present matter at bar.

Although the aforesaid court employees may be considered as accountable officers in the Court [and] they could be held answerable for the subject missing funds, there is no doubt that retired Judge Alba has an active participation in the whereabouts of the missing cash bonds. It should be noted that in the authorization given to Mr. Alejandro Pisante, retired Judge Alba's signature appeared as the one who approved the encashment of the check payment for the cash bond in Criminal Case No. 812 in the sum of P20,000.00. Besides, Judge Alba could no longer pinpoint Ms. Liwag as the one responsible for the said bonds. After being AWOL for sometime, Ms. Liwag finally tendered her resignation which was later on accepted by Judge Alba. Not only that, Judge Alba also cleared Ms. Liwag from all money and property accountabilities. Since this matter also involves financial liability, the prayer for the release of the retirement benefits cannot be granted.

The Fiscal Monitoring Division of the Court Management Office, OCA had conducted financial audit on the pertinent financial records of the MCTC, Capalonga-Sta. Elena, Camarines Norte. The audit covers the period of time when retired Judge Alba was the Acting Judge in the latter court. A separate report shall be submitted as soon as the financial documents necessary for the audit are submitted and completed.

Independent of the findings of the said office, the present matter should be further investigated as it appears that the affidavits and other documentary evidence on hand are not sufficient to attach administrative liability to the herein Judge. Nevertheless, the clearance given by Judge Alba to Ms. Liwag further bolsters the suspicion that it was the former who is the one responsible for the missing bonds.

...

In view thereof, it is respectfully submitted for the consideration of the Honorable Court with the recommendation that:

(a) the prayer of retired Judge Edgar M. Alba, MTC, Mercedes, Camarines Norte in his letter-comment dated July 17, 2000 to dismiss the present matter and release his retirement benefits, be DENIED;

(b) the matter be referred to the Executive Judge of the RTC, Daet, Camarines Norte for investigation, report and recommendation within sixty (60) days from receipt of the records.[5]

On December 13, 2000, the Court (First Division) denied the request of Judge Alba that the instant case be dismissed and referred the matter to the Executive Judge of the Regional Trial Court (RTC), Daet, Camarines Norte for investigation, report, and recommendation within sixty (60) days from receipt of the records.

On July 12, 2001, Executive Judge Jose G. Dy of the RTC of Daet, Camarines Norte submitted a report to the OCA recommending that Judge Alba be allowed to receive his retirement benefits, thus:

Per investigation conducted by the undersigned on April 18, 2001 regarding the missing cash bond in the amount of P10,000.00 in Criminal Case No. 750 for Reckless Imprudence resulting to Homicide, pending before the Municipal Circuit Trial Court of Capalonga-Sta. Elena, Camarines Norte, it was shown that a collection officer of the MCTC of Sta. Elena had on July 7, 1994 received the amount as shown in the [Official] Receipt No. 2854940. It was also revealed by Mr. Saa, the Acting Clerk of Court of MCTC Capalonga, that the collecting officer will have to deposit the amount with the Municipal Treasury but there is no evidence to prove said allegation. The undersigned takes notice of the fact that in the year 1994 and even up to the present, the town of Capalonga is still considered a remote place with bad roads and limited means of transportation. In fact, one has to travel no less than four (4) hours to reach Labo or Daet. As admitted by Mr.

Saa, it was only in the year 1999 that the missing cash bonds were discovered, and that from 1994 onwards, he has not visited the MCTC [of] Capalonga.

As there is no clear evidence that it was Judge Edgar Alba who received the said amount from the payor, Jerry Duazo, it is therefore respectfully submitted that there is insufficient factual basis to hold Judge Alba liable for the missing P10,000.00.

Insofar as the P20,000.00 cash bond in Criminal Case No. 812 is concerned, Court Utility Worker, Alejandro P[i]sante testified on April 18, 2001 that while he place[d] the amount of P20,000.00 on the table of Judge Alba, he did not see Judge take the amount, but it was Mrs. Maria Isabel Liwag who took the said amount in the presence of Perfidia Talento. The foregoing fact was confirmed by Mrs. Talento, who likewise, testified on said date. xxx

Considering that it was Mrs. Liwag who was designated to receive the said amount as Acting Clerk of Court, she is the one who should be made to explain and answer for the whereabouts of the said P20,000.00. Unfortunately, she already retired several years ago.

Incidentally, no additional evidence was submitted by Judge Wilfredo Herico to strengthen the complaint against Judge Alba on the two missing cash bonds.

Premises considered, it is respectfully recommended that Judge Edgar Alba be allowed to receive his retirement benefits unless he is charged in some other administrative complaint.[6]

A.M. No. 00-11-260 MCTC:

Pursuant to a financial audit conducted on the cash accounts of MCTC-Capalonga-Sta. Elena, Camarines Norte, an administrative case was filed against two court personnel, Rolando B. Saa and Benjamin Sevilla (who assumed the position of Officer-in-Charge when Ma. Isabel Liwag resigned on April 19, 1997). Per resolution of the Court (en banc) dated November 28, 2000, this case was consolidated with A.M. No. 00-3-108-MTC. It also directed the Financial Management Office of the OCA to release the withheld salaries and other allowances of Rolando B. Saa from May 1999 to present; to forfeit in favor of the government all benefits due Ma. Isabel S. Liwag; and to withhold the retirement benefits of Judge Alba pending the resolution of both cases. Further, together with A.M. No. 00-3-108-MTC, this case was referred to the Executive Judge of the RTC of Daet, Camarines Norte for investigation, report, and recommendation.

Meanwhile, the Accounting Division, Fiscal Management Office of the OCA recommended that the salary of Rolando B. Saa be withheld effective May, 1999 for non-submission of Fiduciary Fund Reports of Collections, Deposits, Withdrawals, and Disbursements while the salary checks of Benjamin Sevilla from October 16, 1999 to November 30, 1999 be returned to the Cash Disbursements Division for being Absent Without Official Leave (AWOL).

In the Memorandum to the Court, dated October 11, 2000, the OCA found that per financial audit conducted, both Rolando B. Saa (Clerk of Court, MCTC of Capalonga-Sta. Elena) and Benjamin Sevilla (former Officer-in-Charge of Sta. Elena) had no cash shortage or accountabilities. However, Ma. Isabel Liwag had shortages of P42,237 for the Judiciary Development Fund and P56,400 for the Fiduciary Fund. The report showed:

Based on the documents submitted by Mr. Saa to this office on January 4, 2000, the following are our findings for the account of:

JUDICIARY DEVELOPMENT FUND:

MCTC
Capalonga
(Mr. Saa)

MCTC
Sta.Elena
(Ms.Liwag)

TOTAL**TOTAL COLLECTIONS:**

Per Cashbooks (October 1996-September 1999)

P37,874.00

P10,510.00

P48,384.00

Per Official Receipts issued (May 1985-June 1997)

17,453.00

13,735.00

31,188.00

Forfeited bonds per Inventory of Court Orders

9,637.00

30,900.00

40,537.00

Total

P64,964.00

P55,145.00

P120,109.00

LESS: TOTAL REMITTANCES FOR
THE SAME PERIOD

64,464.00

12,907.80

77,371.80

BALANCE

P 500.00

P42,237.20

P 42,737.20

Less: Deposits made under SC OR No. 13326609 Dated 9/8/00

500.00

-0-

500.00

SHORTAGE

P -0-

P42,237.20

P 42,237.20

GENERAL FUND:

MCTC
Capalonga
1996-1999

MCTC
Sta. Elena
1997-1999

TOTAL

TOTAL COLLECTIONS:

P 8,526.00

P11,919.00

P20,445.00

LESS: REMITTANCES

8,526.00

11,919.00

20,445.00

BALANCE OF ACCOUNTABILITY P -0- P -0- P -0-

FIDUCIARY FUND:

MCTC
Capalonga
(10/86-1999)
Mr. Sa

MCTC
Sta. Elena
(1991-1996)
Ms. Liwag

MCTC
Sta. Elena
(5/1/98-1999)
Mr. Sevilla

TOTAL

COLLECTIONS

P42,700.00

P107,400.00

P88,300.00

P238,400.00

Less: Withdrawals made

8,500.00

33,000.00

14,400.00

55,900.00

Unwithdrawn Fiduciary Fund as of 9/30/99 P34,200.00 P74,400.00 P73,900.00 P182,500.00

Less: Deposits with MTO 33,600.00 18,000.00 73,900.00 182,500.00

ACCOUNTABILITY P 600.00 P56,400.00 P -0-
P57,000.00

Less: Deposits with MTO OR# 7063750

Dated 9/25/00

600.00 -0- -0- 600.00

FINAL ACCOUNTABILITIES P -0-

P56,400.00 P -0-

P56,400.00

Note: Subject to amendment upon return of the corrected Statement of Unwithdrawn Fiduciary fund from the MTO-Sta. Elena.

The collections and remittances of the funds mentioned above were divided into two (2) stations, one for MCTC-Capalonga and that of Sta. Elena to establish the correct accountabilities.

Wayback in 1991, Judge Edgar M. Alba designated Ms. Ma. Isabel S. Liwag, Court Interpreter as the Acting Clerk of Court of the station in Sta. Elena as per attached affidavit executed by Mr. Alejandro M. Pisante, Utility Worker and Mrs. Perfida Parale-Talento, Stenographer of MCTC-Capalonga-Sta. Elena, Camarines Norte and [required] that all fiduciary funds must be given to Ms. Liwag. Ms. Liwag ignored the incumbency of Mr. Saa as the Clerk of Court of MCTC-Capalonga-Sta. Elena, Camarines Norte and continued doing the task as OIC as per instruction of Judge Alba.

Ms. Liwag as the designated Officer-in-Charge of Judge Alba went on AWOL sometime in 1996 and eventually filed her resignation effective April 29, 1997. Mr. Saa, aware that Ms. Liwag was the designated OIC of Sta. Elena, did not sign her clearance as to money and property accountabilities copy hereto attached. Judge Alba accepted the resignation of Ms. Liwag as Interpreter I, although he was aware that being the designated Officer-in-Charge of Sta. Elena, she should have been cleared by this Office as to her financial accountabilities. The reason of Ms. Liwag for resigning was her failing health, but as per affidavit executed by Mr. Saa, she left the country.

A memorandum in Administrative Matter No. 00-3-108-RTC was submitted to the Court recommending that the matter of the accountability of Judge Alba [regarding] missing cash bonds received by Ms. Liwag but encashed upon instruction of Judge Alba be referred to the Executive Judge of the RTC of Daet, Camarines Norte for investigation, report and recommendation.

Mr. Sevilla came into the picture on April 29, 1998 after the resignation of Ms. Liwag. Judge Alba then verbally designated him as the new Officer-in-Charge, vice Ms. Liwag.

Considering the computation presented above, it would be unfair for Mr. Saa to shoulder the shortages incurred by Ms. Liwag.

It is therefore recommended that:

- The Financial Management Office be advised to release the withheld salaries and other allowances of Mr. Saa from May, 1999 to present.
- This matter be consolidated with Administrative Matter No. 00-3-108 RTC and referred to the Executive Judge of RTC, Daet, Camarines Norte for investigation report and recommendation within sixty (60) days from receipt of records.
- All benefits in favor of Ms. Liwag for rendering thirteen years (13) of continuous services as Interpreter I be forfeited in favor of the government; and
- Pending resolution of this administrative matter and A.M. No. 00-3-108 RTC, the retirement benefits of Judge Edgar M. Alba be withheld.[7]

In the Memorandum to the Court for the subject administrative cases (A.M. No. 00-3-108-RTC and A.M. No. 00-11-260-MCTC), dated January 20, 2003, the OCA submitted the consolidated report as follows:

Upon careful study and evaluation of the aforesaid letter of Judge Dy, the transcripts of the hearing conducted in relation to the investigation on the missing cash bonds, the orders and comments of Acting Presiding Judge

Edgar M. Alba, MCTC, Capalonga-Sta. Elena, the manifestations of Judge Herico and Mr. Saa and the affidavits and testimonies of witnesses as well as the financial audit report, this office comes up with the following findings in the two administrative matters:

1. No direct documentary or testimonial evidence shows that Judge Alba took, received or collected and misappropriated the missing cash bonds.

2. The cash bond collection of P10,000.00 was received by Perf[i]dia [J. Parale-] Talento, an employee of the aforesaid circuit court, whose initials "PJP" appeared in the Official Receipt No. 2854940 dated 7 July 1994. A counter-initial/signature belonging to Ms. Liwag also appeared in the said receipt. The bond was paid by a certain Jerry Duazo on 7 July 1994 but the same was not deposited either in the depository bank or in the Office of the Municipal Treasurer.

3. The cash bond of P20,000.00 was taken by Ms. Liwag in the presence of Ms. Talent[o] and Judge Alba at his table from Alejandro M. Pisante, a Utility Worker, at the circuit court, who had earlier encashed the check payment. In his affidavit dated 16 June 1999, Mr. Pisante stated that in August 1996, he was authorized by Judge Alba and Ms. Liwag to encash Check No. 0958078 in the amount of P20,000.00 and that the same was not given any official receipt for deposit or withdrawal by Ms. Liwag. Prior thereto or on 29 September 1995, Mr. Pisante was also authorized by the same persons to encash PNB Republic Bank Check No. 611533 dated 17 July 1995 in the amount of P20,000.00 but the same was not encashed for being a cross[ed] check.

4. It appears that Ms. Liwag is the one who should explain/account for the missing cash bonds, being the accountable officer.

5. Judge Alba is responsible for approving the resignation of Ms. [Liwag] as Court Interpreter and for clearing her of all money and property accountabilities. By reason of his clearance which freed Ms. Liwag from accountabilities, Judge Alba has to assume the responsibilities of restituting the shortages incurred by Ms. Liwag; after all, he was the one who designated her as an accountable officer of the court. This includes her accountabilities in the Fiduciary Fund and in the Judiciary Development Fund.

Likewise, Judge Alba, being the Acting Presiding Judge who has command responsibility over all court personnel, is responsible for his failure to exercise diligence and prudence in the performance of his functions, especially for his acts of designating OIC in Sta. Elena.

6. Mr. Saa should be admonished to be more assiduous in the performance of his regular duties as Clerk of Court. The present problems in this circuit court could have been avoided had he promptly protested the set-up of having an Officer-in-Charge in Sta. Elena and reported the same to the Court, through this office. Records reveal that he yielded to the irregular set-up without much ado.

In view of the foregoing, it is respectfully submitted that the following recommendations be considered:

(1) Retired Judge Edgar M. Alba, then Acting Presiding Judge of 1st Municipal Circuit Trial Court of Capalonga-Sta. Elena, Camarines Norte, be: (1-a) found GUILTY of gross negligence for his failure to exercise diligence in approving the resignation of Court Interpreter Isabel Liwag and in clearing her from all money and property accountabilities even when the financial audit shows that Ms. Liwag had incurred shortages of P42,237.20 pertaining to the Judiciary Development Fund (JDF) and P56,400.00 in the Fiduciary Fund during her incumbency as Officer-in-Charge thereat, and (1-b) directed to RESTITUTE the said shortages;

(2) Mr. Rolando B. Saa, be ADMONISHED to be more assiduous in the performance of his duties as Clerk of Court of MCTC Capalonga-Sta. Elena, Camarines Norte;

(3) The amount of P30,000.00 out of the P56,400.00 from the Fiduciary Fund that may be restituted be DEPOSITED with the Land Bank of the Philippines to answer for any claim pertaining to the bonds in Criminal Cases Nos. 750 and 812; and

(4) The Financial Management Office (FMO), Office of the Court Administrator be directed to [4-a] DEDUCT the amounts of shortages mentioned in paragraph (1-a) from the retirement benefits of Judge Alba to answer for the shortages/accountabilities of Ms. Liwag, and (4-b) RELEASE the balance of the retirement benefits of Judge Alba provided no other legal impediment arises that would warrant the continuous withholding of the same.[8]

The Court finds the recommendation of the OCA in the consolidated cases to be well-taken.

In the Court's Circular No. 50-95, dated October 11, 1995, then Court Administrator Ernani Cruz Paño directed the Judges and Clerks of Courts to comply with the guidelines and procedures in the collections and deposits of the Court Judiciary Funds, thus:

TO: ALL JUDGES AND CLERKS OF COURTS OF REGIONAL TRIAL COURTS, SHARI'A DISTRICT COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURT IN CITIES, MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS AND SHARI'A CIRCUIT COURTS.

SUBJECT: COURT FIDUCIARY FUNDS

The following guidelines and procedures for purposes of uniformity in the manner of collections and deposits are hereby established;

A. Guidelines in Making Deposits:

(1) Deposits of Fiduciary Funds shall be made under a savings account. A current account may also be maintained provided that a savings account is also maintained with automatic fund transfer arrangement.

(2) Deposits shall be made in the name of the Court, with its Clerk of Court and the Executive Judge as authorized signatories.

(3) The Clerk of Court shall be the custodian of the Passbook to be issued by the depository bank and shall report to the Executive Judge for RTC, SDC, MetroTC, MTCC, and the Presiding Judge for MTC, MCTC and SCC, the bank's name, branch and savings/current account number. Xerox copy of the passbook shall be submitted to the Fiscal Audit Division.

B. Guidelines in Making Withdrawals:

(1) Withdrawal slips shall be signed by the Executive/Presiding Judge and countersigned by the Clerk of Court.

(2) No withdrawals, except as specifically provided in the immediately preceding paragraph, shall be allowed unless there is a lawful order from the Court that has jurisdiction over the subject matter involved.

(3) When maintaining a current account, withdrawals shall be made by check. Signatories on the check shall likewise be the Executive/Presiding Judge and the Clerk of Court.

(4) All collections from bail bonds, 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.

(5) Interest earned on these deposits and any forfeited amounts shall accrue to the general fund of the national government. Within two (2) weeks after the end of each quarter, the Clerk of Court shall withdraw such interest and forfeited amounts and shall remit the same to the National Treasury under a separate, remittance advice, duplicate copy thereof to be furnished the Chief Accountant of the Supreme Court for record and control purposes.

(6) Only one depository bank shall be maintained and the bank must be formally informed by the

Executive/Presiding Judge as to who are the authorized signatories to the withdrawal slips and that every withdrawal slip must be accompanied by a court order authorizing the withdrawal of the amount indicated thereat.

(7) Except in instances specifically mentioned in the immediately succeeding paragraph, all fiduciary collections currently deposited with the local treasurers/ and other depositories shall be withdrawn therefrom and deposited with the savings/current accounts maintained by the court for these collections.

(8) In localities where there are no branches of the Land Bank of the Philippines, fiduciary collections shall be deposited by the Clerk of Court with the Provincial, City or Municipal Treasurer.

(9) Within two (2) weeks after the end of each quarter, all Clerks of Court are hereby required to submit to the Chief Accountant of the Supreme Court, copy furnished the Office of the Court Administrator, a quarterly report indicating the outstanding balance maintained with the depository bank or local treasurer, and the date, nature and amount of all deposits and withdrawals made within such period.

Circulars that are inconsistent herewith are considered revoked.

This Circular shall take effect on November 1, 1995.

In the Court's Circular No. 26-97, dated May 5, 1997, then Court Administrator Alfredo L. Benipayo directed the Judges and Clerks of Courts of the Lower Courts to observe the procedures with regard to monies received by the collecting officers of the courts:

TO: ALL JUDGES AND CLERKS OF COURTS OF REGIONAL TRIAL COURTS, SHARI'A DISTRICT COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURT IN CITIES, MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS, SHARI'A CIRCUIT COURTS

SUBJECT: LEGAL FEES FORM FOR LOWER COURTS

To eradicate the practice of some clerks of court of retaining the original copy of the official receipt issued in acknowledgment of payment for file with the record of the case instead of issuing the same to payor, JUDGES and CLERKS OF COURT are hereby DIRECTED TO:

1) Compel their collecting officials to strictly comply with the provisions of the AUDITING AND ACCOUNTING MANUAL, Art. VI, Secs. 61 and 113, to wit:

ARTICLE VI — Accountable Forms

Sec. 61. Kinds of Accountable Forms — (a) Official Receipts — For proper accounting and control of collections, collecting officers shall promptly issue official receipts for all monies received by them. These receipts may be in the form of stamps or officially numbered receipts. xxx (Italics supplied.)

Sec. 113. Issuance of official receipt — For proper accounting and control of revenues, no payment of any nature shall be received by a collecting officer without immediately issuing an official receipt in acknowledgment thereof. This receipt may be in the form of stamps ... or officially numbered receipts, subject to proper custody and accountability. (Italics supplied.)

2) Cause the attachment of the Legal Fees Form for lower courts (Annex "A"), which is to be provided by the Property Division of the Office of the Court Administrator, to the record of the case in lieu of the official receipt.

Non-compliance with this CIRCULAR shall be dealt with administrative sanctions.

Annex "A" of Circular No. 26-97

REPUBLIC OF THE PHILIPPINES

RTC/SDC/METC/MTCC/MTC/MCTC/SCC

LEGAL FEES FORM

Case No. _____

RECEIVED this _____ day of _____, 19__ the following payments:

1. General fund

a. Clerk of Court P _____ O.R. No. _____

General Fund

b. Sheriff's

General Fund P _____ O.R. No. _____

2. Judiciary Development

Fund P _____ O.R. No. _____

3. Fiduciary Fund P _____ O.R. No. _____

4. Sheriff's Trust Fund P _____ O.R. No. _____

5. Legal Research Fund

Fee P _____ O.R. No. _____

6. Land Registration Fee P _____ O.R. No. _____

7. Victims Compensation

Fee P _____ O.R. No. _____

Total: _____

Paid By: Received By: _____

(Note: _____)

Moreover, the "adjudicative support functions" of a Branch Clerk of Court in the First Level Courts, i.e., Metropolitan Trial Court, Municipal Trial Court in Cities, Municipal Trial Court, and Municipal Circuit Trial Court, state that he:

1. Attends all court sessions;
2. Supervises the withdrawal of all records of cases to be heard and the preparation of the notices of hearings, court's calendar, reports, minutes, monthly reports, inventory of cases, index of exhibits, and paging of records of cases;
3. Sees to it that all returns of notices are attached to the corresponding evidence properly marked during the hearing as collected in an exhibit folder; and
4. Signs notices of orders and decisions for service to the parties, release papers of detained prisoners who are acquitted and/or who filed their corresponding bail bonds duly approved by the presiding judge."[9]

The Judiciary Development Fund and the Fiduciary Fund partake of the nature of trust funds. Facts show that Perfidia J. Talento, who was appointed as the Court Stenographer and designated as the Assistant Clerk of the MCTC of Sta. Elena, Camarines Norte, initialed "PJP" on Official Receipt No. 2854940 dated July 7, 1994 with

regard to the cash bond of P10,000 posted by one Jerry Duazo for the accused Mario Zamala y Dasco in Criminal Case No. 750 for reckless imprudence resulting in homicide. Ma. Isabel Liwag, Court Interpreter I and designated as Acting Clerk of Court of MCTC of Sta. Elena, Camarines Norte, affixed her counter-initial/signature in the same receipt. The aforesaid amount had not been deposited either in the depository bank or in the Office of the Municipal Treasurer.

In Criminal Case No. 812, Alejandro M. Pisante, a Utility Worker of the MCTC of Sta. Elena, Camarines Norte, after encashing the check, handed the P20,000, cash bond to Ma. Isabel Liwag in the presence of Perfidia J. Talento and Judge Alba. In his affidavit dated June 16, 1999, Alejandro M. Pisante stated that on September 29, 1995, he was authorized by Judge Alba and Liwag to encash PNB Republic Bank Check No. 611533 dated July 17, 1995 in the amount of P20,000 but the same was not encashed for being a crossed check. Thereafter, in August 1996, he was authorized by the two to encash Check No. 0958078 (as replacement for the prior check) in the amount of P20,000, but Liwag failed to issue any official receipt corresponding to the deposit or withdrawal thereof.

Clerks of Court are the custodians of all bail bonds, rental deposits and other fiduciary collections. In the ordinary course of proceedings, Judges have nothing to do with the collections, because Clerks of Court are the officers mandated to deposit them with an authorized government depository bank. Hence, Judges cannot be directly faulted if these funds are not immediately deposited, especially since they would not normally know exactly when the Clerks of Court received them. To repeat, the Clerks of Court are the ones responsible for such matters.[10] Section 14, Rule 114 of the Rules of Court states:

SEC. 14. Deposit of cash as bail. — The accused or any person acting in his behalf may deposit in cash with the nearest collector of internal revenue or provincial, city, or municipal treasurer the amount of bail fixed by the court, or recommended by the prosecutor who investigated or filed the case. Upon submission of a proper certificate of deposit and a written undertaking showing compliance with the requirements of Section 2 of this Rule, the accused shall be discharged from custody. The money deposited shall be considered as bail and applied to the payment of fine and costs while the excess, if any, shall be returned to the accused or to whoever made the deposit.

A Judge is not one of those authorized to receive the deposit of cash as bail, nor should such cash be kept in the office of the Judge. The proper procedure in the handling of cash submitted or given to the municipal court as bail bond is for the court to direct the Clerk of Court to officially receive the cash and to immediately deposit it with the municipal treasurer's office. The transaction must not only be properly receipted for but should also appear in the records of the case.[11] On the part of Judges, they are required to compel their collecting officials, such as Clerks of Court, to promptly issue official receipts for all monies received by them.[12]

Verily, being designated the Acting Clerk of Court or Officer-in-Charge of MCTC of Sta. Elena by Judge Alba in 1991, Liwag had the duties and responsibilities of a Branch Clerk of Court. As such, it was her duty to collect and receive, by herself or through a duly appointed cashier, all monies in payment of all legal fees, as well as to receive deposits, fines, and dues. A Clerk of Court, or an Acting Clerk of Court, has the duty to ensure full compliance with the circulars of this Court and the Court Administrator on deposits or collections of court funds as set forth in Circular Nos. 50-95 and 26-97.[13] Clearly, it should be Liwag, being an accountable officer, and not Judge Alba, who should be made liable for the missing cash bonds. She should have made sure that the bail bonds posted by the accused in the two criminal cases had been immediately deposited, upon receipt thereof, with the City, Municipal, or Provincial Treasurer where the court was located should there be no branch of the Land Bank of the Philippines in the locality. Failure to remit the funds to the Municipal Treasurer would warrant administrative sanctions.

By reason of Judge Alba's designation of Ma. Isabel Liwag as the Acting Clerk of Court of MCTC-Sta. Elena, she performed the functions of an Officer-in-Charge, including the accountability of fiduciary funds of MCTC-Sta. Elena despite the fact that Rolando B. Saa was the incumbent Clerk of Court of MCTC-Capalonga-Sta. Elena, Camarines Norte. Per office procedure, Rolando B. Saa, being the Clerk of Court of MCTC-Capalonga-Sta. Elena, should be the one to sign the clearance of Liwag as to money and property accountabilities. However, Judge Alba accepted the resignation of Liwag, due to health reasons, as Interpreter I of MCTC-Capalonga-Sta. Elena.

It bears stressing that as the designated Acting Clerk of Court (Officer-in-Charge) of MCTC-Sta. Elena, who is an accountable officer, Liwag should have sought clearance with the OCA as to her financial accountabilities before she retired. In lieu thereof, it was Judge Alba who made a letter[14] addressed to then Chief Justice Andres R. Narvasa stating:

January 16, 1998

HON. ANDRES R. NARVASA
Chief Justice
Supreme Court
Manila

THRU: HON. [ALFREDO] BENIPAYO

Court Administrator
Supreme Court, Manila

Sir:

This is to certify that Ms. MA. ISABEL S. LIWAG, Court Interpreter I of Municipal Circuit Trial Court of Capalonga-Sta. Elena, Camarines Norte has tender[ed] her resignation [in] May, 1997.

For purposes of declaring the position of MCTC Court Interpreter I as VACANT by virtue of said resignation of Ms. Ma. Isabel S. Liwag and for the purpose of filling up such vacant position, the undersigned Presiding Judge hereby accepts said resignation. However, this acceptance should mean to be interpreted that said Ma. Isabel S. Liwag is free from all money & property accountabilities of the Office of the Municipal Circuit Trial Court of Capalonga-Sta. Elena, Camarines Norte.

This certification is being issued only for the purpose above mentioned.

Very respectfully yours,
(signed)
EDGAR M. ALBA
Judge

Administrative Circular No. 1, dated January 28, 1988 provides, among others, that the Presiding Judge of a court must, upon assumption of office, and every semester thereafter on June 30th and December 31st of every year conduct a physical inventory of their dockets for the purpose of determining the actual number of cases pending in their salas. The inventory shall indicate the cases pending trial, the cases submitted for decision, and the cases that have been archived. Said inventory shall be submitted to the Supreme Court, through the Court Administrator.

As found by the OCA, while no direct documentary or testimonial evidence will establish the fact that Judge Alba took, received, collected, misappropriated, or in any way handled the missing cash bonds, yet due diligence dictates that as the Acting Judge of the MCTC of Capalonga-Sta. Elena, Camarines Norte, he should have taken the necessary steps to ensure that the correct procedure in the collections and deposits of court funds were

dutifully carried out before he retired. Further, he should have prepared an inventory of the cases, both active and archived, for an effective docket control. In so doing, Judge Alba would have discovered the missing cash bonds in the two pending criminal cases before issuing a certification clearing Liwag of all cash and property accountabilities. The Court agrees with the finding of the OCA that by clearing Liwag from all accountabilities, Judge Alba should be made to assume the responsibility of restituting the shortages incurred by her. Even after Judge Alba retired on February 28, 1999, he may still be held administratively accountable for the negligence and inefficiency committed during his incumbency. Accordingly, since Judge Alba may no longer be dismissed or suspended by reason of his retirement, restitution of the amount lost may be deducted from his retirement pay and benefits.

In view of the foregoing, Judge Alba is ordered to pay the following amounts representing the shortage in the funds of the MCTC of Capalonga-Sta. Elena, Camarines Norte, to wit: P42,237.20 (for the Judiciary Development Fund) and P56,400 (for the Fiduciary Fund), or the total amount of P98,637.20. Of the P56,400 (for the Fiduciary Fund) to be restituted by Judge Alba, P30,000 representing the total amount for the two missing cash bonds, i.e., (a) Criminal Case No. 750 for reckless imprudence resulting in homicide in the amount of P10,000 and (b) Criminal Case No. 812 for theft/violation of Republic Act No. 7832 [“Anti-Electricity and Electric Transmission Lines/Material Pilferage Act of 1994”] with a cash bond of P20,000, shall be deposited with the Land Bank of the Philippines. Since Judge Alba had already retired from the service, the Financial Management Office of the Office of the Court Administrator is directed to deduct the amount of P98,637.20, representing the total amount of the shortage to be restituted, from the retirement pay and benefits due him and to release the remainder of the retirement pay and benefits due him unless he is charged in some other administrative complaint or the same is otherwise withheld for some lawful cause.

This serves as a reminder to Judges. For the orderly administration of justice, trial court Judges are bound to keep a record of the proceedings in their respective courts to ensure the proper, systematic, and efficient management of their court dockets. In this regard, circulars of this Court shall be strictly complied with to protect the safekeeping of funds and collections and to establish full accountability of government funds.

Finally, the recommendation of the OCA that Rolando B. Saa should be admonished is in order. As Branch Clerk of Court of MCTC-Capalonga-Sta. Elena, Rolando B. Saa is the administrative officer exercising control and supervision over all subordinate personnel of the court.[15] He should have brought to the attention of the OCA any irregularity in the designation of duties and functions within the court even if the same was by the authority of Judge Alba. Judge Alba’s designation of Liwag from 1991 until her retirement in May 1997 as the Acting Clerk of Court or Officer-in-Charge of MCTC-Sta. Elena, thereby splitting the MCTC into MCTC-Capalonga and MCTC-Sta. Elena, respectively, and having thus the duties and responsibilities of a Branch Clerk of Court, was a clear irregularity too glaring not to be noticed by Saa.

WHEREFORE, in view of the foregoing, Judge Edgar M. Alba (Retired), former Presiding Judge of the Municipal Trial Court of Mercedes, Camarines Norte and likewise, then Acting Presiding Judge of the Municipal Circuit Trial Court of Capalonga-Sta. Elena, Camarines Norte, is found GUILTY of gross negligence and inefficiency. He is ORDERED to reconstitute the following amounts representing the shortage in the funds of the Municipal Circuit Trial Court of Capalonga-Sta. Elena, Camarines Norte, to wit: P42,237.20 from the Judiciary Development Fund and P56,400 from the Fiduciary Fund, or the total amount of P98,637.20.

Of the P56,400 from the Fiduciary Fund to be restituted by Judge Alba, P30,000 shall be deposited with the Land Bank of the Philippines to defray any claim pertaining to the bonds in Criminal Cases Nos. 750 and 812. Considering that Judge Alba had already retired from the service, the Financial Management Office, Office of the Court Administrator is DIRECTED to deduct the amount of P98,637.20, representing the total amount of the

shortage to be restituted, from the retirement pay and benefits due him and to release the remainder of the retirement pay and benefits due him unless he is charged in some other administrative complaint or the same is otherwise withheld for some lawful cause.

Rolando B. Saa, Clerk of Court of the Municipal Circuit Trial Court of Capalonga-Sta. Elena, Camarines Norte is ADMONISHED to be more circumspect, diligent and cautious in the performance of his duties with a WARNING that a repetition of the same or similar shortcoming shall be dealt with more severely.

Benjamin Sevilla, former Officer-in-Charge of the Municipal Circuit Trial Court of Sta. Elena, Camarines Norte is ABSOLVED from any liability and cash accountability.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Quisumbing, Ynares-Santiago, and Carpio, JJ., concur.

[1] “Re: Application for optional retirement of Judge Edgar M. Alba,” Rollo, p. 6.

[2] Under Republic Act No. 910, as amended.

[3] Formerly OCA-IPI No. 97-376-MTJ, entitled “Jerbert Yao v. Judge Edgar M. Alba” for the following charges: gross misconduct, knowingly rendering patently erroneous decision, irregularities and dereliction of duty, gross ignorance of the law, immorality, harassment, and oppression re: Criminal Case No. 12065.

However, in a resolution dated October 22, 2003 in A.M. No. MTJ 99-1210, the Court (Second Division), upon the recommendation of Deputy Court Administrator Jose P. Perez, in his Memorandum dated September 29, 2003, granted the request of Judge Alba for the release of his retirement benefits, subject to the retention of P20,000 to guarantee whatever administrative penalty may be imposed upon him; directed the Fiscal Management Office of the Office of the Court Administrator to release the retirement benefits of Judge Alba and retain the amount of P20,000 to answer for whatever administrative penalty may be imposed upon him; and directed Justice Pedro Ramirez (Retired) to resolve the investigation of A.M. No. MTJ 99-1210 with dispatch.

[4] Rollo, pp. 2-4.

[5] Rollo, pp. 22-23.

[6] Rollo, pp. 44-45.

[7] Rollo, pp. 1-3.

[8] Memorandum of the OCA dated January 20, 2003, pp. 2-3.

[9] The 2002 Revised Manual for Clerks of Court, Vol. I, p. 622, prepared by The 2001 Ad Hoc Committee for the Revision of the Manual for Clerks of Court, April 2002.

[10] Relova v. Rosales, 392 SCRA 585 (2002).

[11] Report on the Judicial Audit Conducted in the Municipal Trial Court in Cities of Palayan City, 403 SCRA 350 (2003), citing Agulan, Jr. v. Fernandez, 356 SCRA 162 (2001), Daag v. Serrano, 118 SCRA 381 (1982).

[12] Taran v. Jacinto, Jr., 400 SCRA 464 (2003).

[13] Refer also to Circular No. 13-92 dated March 1, 1992, Circular No. 8-A-93 dated June 21, 1993, and Circular No. 32-93 dated July 9, 1993.

[14] A.M. No. 00-3-108-RTC, Rollo, p. 37.

[15] Office of the Court Administrator v. Perlez, 349 SCRA 417 (2001).

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