

RE: WITHHOLDING OF OTHER EMOLUMENTS OF THE FOLLOWING CLERKS OF COURT: ELSIE C. REMOROZA OF THE MUNICIPAL TRIAL COURT (MTC) OF MAUBAN, QUEZON; ELENA P. REFORMADO OF THE MTC OF GU...*A.M. No. 01-4-133-MTC. August 26, 2003*

Ponente: PANGANIBAN, J.

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Illness may impair the ability to perform official functions. It will not, however, completely exonerate the present respondent from administrative liability for her continuous violations of rules and regulations over a long period of time. Being aware of her serious health condition, she should have reported it to higher authorities and asked for relief from responsibilities she could not discharge by reason thereof.

The Case and the Facts

This administrative case is rooted in acting Court Administrator Zenaida N. Elepaño's written Memorandum,[1] which imputes neglect of duty to the following clerks of courts: Elsie C. Remoroza of the Municipal Trial Court (MTC) of Mauban, Quezon; Elena P. Reformado of the MTC of Guinayangan, Quezon; Eugenio Sto. Tomas of the MTC of Cabuyao, Laguna; Maura D. Campaño of the MTC of San Jose, Occidental Mindoro; Eleanor D. Flores of the Municipal Circuit Trial Court (MCTC) of Taytay, Palawan; and Jesusa P. Benipayo of the MCTC of Ligao, Albay.

It was Mrs. Antonina Soria, officer-in-charge of the Financial Management Office of the Office of the Court Administrator (OCA), who discovered the failure of the aforementioned court officers to submit their required monthly reports on time. These were reports of monthly collections for the judiciary development fund, the fiduciary fund and the general fund, pursuant to Section 122 of Presidential Decree No. 1445 and Supreme Court (SC) Circular No. 32-93.[2] While the OCA had already withheld the salaries of these officers, it requested authority to withhold other emoluments due them, pending their full compliance with SC Circular No. 32-93.

In a Resolution[3] dated May 4, 2001, the Court en banc resolved, among other courses of action, to direct the OCA to conduct an immediate audit of the cash and accounts of these court officers; to withhold further emoluments due them; and to impose administrative sanctions on them for their continued defiance of SC Circular No. 32-93.

In a subsequent Resolution[4] dated August 7, 2001, upon the recommendation of the OCA, the Court suspended the erring clerks of court without pay, until they would have fully complied with SC Circular No. 32-93.

On September 28, 2001, Elsie C. Remoroza, clerk of court of the MTC of Mauban, Quezon, moved for a reconsideration of the Court's August 7, 2001 Resolution by filing a Motion to Lift Suspension and Withholding of Other Emoluments.[5] She explained that her failure to submit her reports on time was due to her poor health. She averred that at the time of the filing of her Motion, she had already submitted the required monthly reports. In

an en banc Resolution[6] dated December 11, 2001, the Court noted her Motion, pending her full compliance with SC Circular No. 32-93.

In a Memorandum[7] dated March 14, 2002, Deputy Court Administrator Jose P. Perez submitted a summary of the audit findings on the accounts of Clerk of Court Remoroza as follows:

"A. JUDICIARY DEVELOPMENT FUND (JDF)

(Period covered: March 1985-August 31, 2001)

Total Collections P125,363.10

Less: Total Remittances 66,065.10

Balance of Accountabilities

as of 8/31/01 59,298.00

Restitute on 11/20/01 under

LBP SA #0591-0116-34 65,664.00

Over remittance P(6,366.00)

"As per entries reflected on the Subsidiary Ledger of the Accounting Division, FMO-OCA, the last Monthly Report of Collections and Deposits submitted for JDF was for the month of November 1998. Collections for 2000 and 2001 were remitted thru Manager's Checks only on November 20, 2001 in the amount of SIXTY FIVE THOUSAND SIX HUNDRED SIXTY FOUR PESOS (P65,664.00).

"B. CLERK OF COURT GENERAL FUND (CCGF)

(Period Covered: May 1997-August 31, 2001)

Total Collections

P190,200.00

Less: Total Remittances

0

Balance of Accountabilities

190,200.00

Paid under LBP

SA #0012-2222-20

dated 11/20/01 183,630.00

Paid under LBP

SA #0012-2222-20

dated 1/15/02 200.00

Paid under SC

OR No. 12513751

dated 1/22/02 6,370.00 190,200.00

Final Accountability

P 0

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"As per entries reflected on the Subsidiary Ledger of the Accounting Division, FMO-OCA, she never submitted her Monthly Report of Collections and Deposits for Clerk of Court General Fund from May 1997 up to August 31, 2001. Collections for these periods were remitted on a staggered basis only on November 20, 2001 @ P183,630; January 22, 2002 @ P200.00; and January 22, 2002 @ P6,370.00 a total of ONE HUNDRED NINETY THOUSAND AND TWO HUNDRED PESOS (P190,200.00) thereby showing no accountabilities for this fund.

"C. CLERK OF COURT FIDUCIARY FUND (CCFF)

(Period Covered: August 1997-August 31, 2001)

Total Collections from August 1997 to
P 298,000.00

June 29, 1998 covered by Official

Receipts of MTC, Mauban, Quezon

Less: Total Withdrawals
168,500.00

Total Unwithdrawn Fiduciary Fund
P 129,500.00

receipted by MTC, Mauban, Quezon

Less: Deposits made to MTO from
0

August 1997 to June 29, 1998

Shortage as of 8/31/2001
P 129,500.00

Restitution of shortage deposited

to MTO on 9/20/01
129,500.00*

Balance of Accountability
P 0

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Total Unwithdrawn Fiduciary Funds

as of August 31, 2001
P 234,800.00

Less: Fiduciary Fund Collections

directly deposited with MTO

from September 14, 1994 to

July 1997 and July 1998 to

August 31, 2001 P105,300.00

Fiduciary Fund Collections

receipted by MTC,

Mauban, Quezon and

Restituted on Sept 30,

P234,800.00

2001 P129,500.00*

Balance of Accountability

P 0

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"There were no entries reflected on the Subsidiary Ledger of the Accounting Division showing that she never submitted her Monthly Report of Collections and Withdrawals from August 1997 to August 31, 2001.

"The above-cited presentation shows that guidelines set forth in the administration of these funds were clearly violated." [8]

On April 10, 2002, the Court issued another Resolution[9] directing Remoroza to explain in writing why she should not be charged administratively for her failure to remit collections on time. These collections amounting to P385,364 were for the judiciary development fund, the general fund and the fiduciary fund. She was also relieved of her duties and responsibilities as accountable officer.

In her Explanation dated May 22, 2002,[10] she averred that her failure to remit the collections promptly was due to "factors beyond her control." She reasoned thus:

"Her failure to function efficiently i.e. erratically and below par in her duties and responsibilities as Accountable Officer from the middle of 1999 and onward was attributable mainly and unmistakably to no other but her gastric lymphoma (cancer of the stomach). The coincidence of her service faltering and her medication especially her surgery and chemotherapy x x x can be proved by documents x x x.

x x x x x x x x x

"x x x [I]n spite of [the hassle of medication and surgery and lingering after-effects of chemotherapy], she still tried very hard to keep her [act] together to at least [discharge] her administrative duties even if below par, aware of her responsibilities as Accountable Officer.

"Such that even if she was supposed to be still on leave by doctor's order until March 2000 and better still until 2001 because of continuing treatment, she acceded to the request of the Presiding Judge to report for work already in April 2000 to at least arrest the worsening mess which was not remedied with his designation of Clerk of Court Edwin Romero on 28 January 2000 as he was still a neophyte and could find nobody to do the work of undersigned. And work she did even with difficulty for the sake of the service until she was suspended on 7 July 2001.

"At this point in time, all the delayed required reports have been submitted, likewise the amount of P385,364.50 representing collections for the Judiciary Development Fund, General Fund and Fiduciary Fund have been accounted for." [11]

Meanwhile, acting Judge Rodolfo D. Obnamia Jr. of the MTC of Mauban, Quezon, designated Stenographer

Josefina Neri N. Alpajora as officer-in-charge (accountable officer) in place of respondent.[12] This designation was later confirmed by the Court in a Resolution[13] dated April 22, 2003.

Report and Recommendation of the OCA

In its December 5, 2002 Memorandum,[14] the OCA found respondent guilty of misfeasance. It observed:

"While Ms. Remoroza has fully settled her accountability, the non-remittance thereof on time deprived the Court of the interest that may be earned if the said amounts were deposited in bank, as prudently required. She has the duty, being the Clerk of Court, to remit the collections within a prescribed period. x x x.

"It is the Clerk of Court's duty to faithfully perform her duties and responsibilities as such `to the end that there was full compliance with circulars on deposits of collections.' Shortages in the amounts to be remitted and the years of delay in the actual remittance constitute neglect of duty for which she shall be administratively liable." [15]

The OCA recommended that respondent be fined in the amount of P10,000, with a warning that a repetition of the same or a similar act in the future would be dealt with more severely. Further, it recommended that she be directed to submit herself to medical examination in the SC Clinic to determine if she was still physically fit to perform her functions as clerk of court.

The Court's Ruling

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

Administrative Liability of Respondent

The administration of justice is circumscribed with a heavy burden of responsibility. It requires that everyone involved in its dispensation -- from the presiding judge to the lowliest clerk -- live up to the strictest standards of competence, honesty and integrity in the public service.[16]

Clerks of court are officers of the law who perform vital functions in the administration of justice.[17] They keep the records and the seal of the court, issue processes, enter judgments and orders, and give certified copies of records upon request.[18] They are also the designated custodians of the court's funds and revenues, records, properties, and premises.[19] Verily, they are expected to possess a high degree of discipline and efficiency in the performance of these functions.

SC Circular No. 32-93[20] prescribes the guidelines for the collection and the custody of legal fees. This administrative Circular was issued to attain maximum efficiency and accountability in the handling of collections and deposits of court funds. It enjoins all clerks of court and accountable officers to submit "monthly report[s] of collections for all funds x x x not later than the 10[th] day of each succeeding month."

Respondent clearly violated SC Circular No. 32-93. The Financial Management Office of the OCA stated that the last monthly report of collections for the judiciary development fund (JDF) that respondent had submitted was for the month of November 1998. She likewise failed to submit her monthly reports for the clerk of court's general fund (CCGF) from May 1997 to August 31, 2001. Finally, she did not submit her monthly report for the clerk of court's fiduciary fund (CCFF) from August 1997 to August 31, 2001.

SC Circular Nos. 13-92[21] and 5-93[22] provide the guidelines for the proper administration of court funds. Moreover, this Circular mandates that all fiduciary collections "shall be deposited immediately by the Clerk of Court concerned, upon receipt thereof, with an authorized government depository bank."

Furthermore, SC Circular No. 5-93 provides that collections for the JDF "shall be deposited every day with the local or nearest [Land Bank of the Philippines] branch x x x; or if depositing daily is not possible, deposits for the

[f]und shall be every second and third Fridays and at the end of every month[;] provided, however, that whenever collections for the [f]und reach P500, the same shall be deposited immediately even before the days before indicated."

The audit report[23] of the OCA reveals that in making the necessary remittances for all three funds, respondent failed to comply with the said Circulars. As a result, she incurred a shortage totaling P378,998, broken down as follows: JDF-P59,298; CCGF- P190,200; and CCFF- P129,500.

Evidently, the restitution of the shortage was belatedly done by respondent. The Resolution ordering the audit of her books of account was issued on May 4, 2001. In anticipation of the actual audit, she remitted her accountabilities on a staggered basis, only from September 20, 2001 to January 22, 2002.

It is the duty of clerks of court to perform their responsibilities faithfully, so that they can fully comply with circulars on deposits of collections.[24] They are reminded to deposit immediately, with authorized government depositories, the various funds they have collected, because they are not authorized to keep those funds in their custody.[25] Unwarranted failure to fulfill these responsibilities deserves sanction. Not even full payment of collection shortages will exempt the accountable officer from liability.[26]

Respondent does not dispute her shortcomings as custodian of the court's funds. However, she asserts that her failure to perform her tasks efficiently was born, not of malice or bad faith, but of her physical illness. In 1999, she had been diagnosed to have gastric lymphoma or cancer of the stomach, for which she had to undergo chemotherapy. Her medical records support her claim.

We sympathize with the plight of respondent. Nevertheless, her serious illness cannot completely exonerate her from liability. Such illness may have impaired her ability to perform her official functions, but it cannot fully excuse her continuous violation of rules and regulations over a long period of time. The Court has to enforce what is required by law and to impose a reasonable punishment for violations thereof.[27] The OCA correctly observed:

"x x x [H]er failure to remit on time her collections was due to her gastric lymphoma. Her medical records will attest to the veracity of her allegations. Indeed, it is public knowledge how enduring and painful one has to suffer when [one is] afflicted with cancer. What is even worse is the feeling of never-ending agony when [one is] undergoing chemotherapy. These are reasonable enough to mitigate the liability of Ms. Remoroza. While we [sympathize] with Ms. Remoroza in her previous unfortunate condition, the fact remained that she was [remised] in her duties and responsibilities. She could have easily transferred her accountabilities to one of her subordinates but she never did. The records disclosed that she began feeling ill in the month of June 1999. But since May 1997, she already failed to submit the required monthly report and to remit the collections." [28]

Verily, we agree with the recommendation of the OCA that respondent be administratively sanctioned for her neglect of duty. Her failure to observe due diligence as custodian of the court's funds constitutes neglect of duty which, under the Civil Service Law and the Omnibus Rules implementing it,[29] is a less grave offense penalized with suspension of one (1) month and one (1) day to six (6) months for the first offense; and dismissal for the second offense.

However, in determining the applicable penalty in this case, we take into consideration the physical illness[30] and the lack of bad faith[31] of respondent as mitigating circumstances. We also take into account that this is her first infraction, that she has fully remitted all her collections, and that she has no outstanding accountabilities.

We understand the difficult situation in which her serious illness has placed her. Bearing in mind the mitigating circumstances and for humanitarian considerations, we find the imposition of a fine -- instead of a suspension -- a sufficient penalty.

Respondent's Physical Fitness to
Perform Her Functions as
Clerk of Court

We now come to the physical fitness of respondent to continue with her functions as clerk of court. Upon the recommendation of the OCA, the Court ordered her, in a Resolution[32] dated January 21, 2003, to submit herself to medical examination in the SC Clinic.

In a Memorandum[33] dated May 29, 2003, Senior Chief Staff Officer Prudencio P. Banzon Jr. of the SC Clinic Services submitted a report on the medical condition of respondent. He said that on May 19, 2003, she had brought along with her all her medical records and presented herself for a physical examination at the clinic. After the checkup, he was convinced that she had clinically recovered from her illness. He opined thus:

"On the basis of clinical history, medical documents, and physical examination, the undersigned physician is convinced that subject, Ms. Elsie C. Remoroza, has clinically recovered from her operation and illness, 'Non-Hodgkin's Lymphoma.'

"Non-Hodgkin's Lymphoma is a form of malignancy, or cancer, arising out of the lymphatic system of the body. Its clinical course may vary, so that it may either be slow growing or rapidly progressive. In general, relatively young patients, who are diagnosed early and medically managed with proper intervention, including chemotherapy, have a fair chance of survival and longevity which may be true in this case.

"In her present physical condition, the undersigned physician is of the opinion that subject, Ms Elsie C. Remoroza, will be able to engage in any gainful pursuit of occupation, and may be expected to function normally."[34]

Accordingly, we noted Dr. Banzon's findings that respondent was still physically fit to perform her functions as clerk of court of the MTC of Mauban, Quezon.

WHEREFORE, Elsie C. Remoroza, clerk of court of the Municipal Trial Court (MTC) of Mauban, Quezon, is found guilty of simple neglect of duty and is FINED P10,000, with a WARNING that a repetition of the same or similar acts shall be dealt with more severely.

SO ORDERED.

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

[1] Dated April 20, 2001; rollo, pp. 1-2.

[2] Entitled "Guidelines in the Collection of Legal Fees and Submission of Monthly Reports of Collections."

[3] Rollo, p. 6.

[4] Id., p. 9.

[5] Id., p. 53-54.

[6] Id., p. 254.

[7] Id., pp. 317-319.

- [8] OCA Memorandum dated March 14, 2002, pp. 1-2; rollo, pp. 317-318.
- [9] Rollo, p. 320.
- [10] Id., pp. 303-306.
- [11] Respondent's Explanation, pp. 1-2; rollo, pp. 303-304.
- [12] See letter dated May 10, 2002; id., p. 301.
- [13] Rollo, p. 322.
- [14] Id., pp. 309-315.
- [15] OCA Memorandum dated December 5, 2002, p. 5; rollo, p. 313.
- [16] Santos v. Arlegui-Hernandez, AM No. P-02-1556, February 22, 2002.
- [17] Reyes-Domingo v. Morales, 342 SCRA 6, October 4, 2000.
- [18] Office of the Court Administrator v. Saguyod, AM Nos. P-96-1229-30, March 25, 2002.
- [19] §B, Chapter I, Manual for Clerk of Courts.
- [20] Issued on July 9, 1993.
- [21] Issued on March 1, 1992.
- [22] Issued on April 30, 1993.
- [23] See OCA Memorandum dated March 14, 2002; rollo, pp. 317-319.
- [24] Re: Financial Audit Conducted on the Book of Accounts of Clerk of Court Pacita T. Sendin, MTC, Solano, Nueva Vizcaya, AM No. 01-4-119-MTC, January 16, 2002.
- [25] Ferriols v. Hiam, 225 SCRA 205, August 9, 1993; OCA v. Galo, 373 Phil 483. September 21, 1999; Re: Report on the Judicial and Financial Audit of RTC-Br. 4, Panaboa, Davao del Norte, 351 Phil 1, March 13, 1998.
- [26] Re: Report of Regional Coordinator Felipe Kalalo on Alleged Anomalies Involving JDF Collections in MTCC, Angeles City and MCTC, Minalin, Pampanga, 326 Phil 703, May 15, 1996; Office of the Court Administrator v. Galo, supra.
- [27] Office of the Court Administrator v. Quizon, AM No. RTJ-01-1636, February 13, 2002.
- [28] OCA Memorandum dated December 5, 2002, p. 6; rollo, p. 314.
- [29] §52, b(1) of the Uniform Rules on Administrative Cases in the Civil Service.
- [30] Id., §53 (a).
- [31] Id., §53 (b).
- [32] Rollo, p. 316.
- [33] Id., pp. 323-325.
- [34] Memorandum dated May 29, 2003, p. 3; rollo, p. 325.

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