

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
ROSARIO G. JULIAN, COURT INTERPRETER, REGIONAL TRIAL
COURT, BRANCH 24, ECHAGUE, ISABELA, RESPONDENT.**

A.M. NO. P-01-1515 (FORMERLY A.M. NO. 01-9-541-RTC). February 10, 2005

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PER CURIAM:

Rosario G. Julian, Court Interpreter of the Regional Trial Court, Branch 24, Echague, Isabela (RTC for brevity), is charged with misappropriation of the court's fiduciary funds.

The administrative case stemmed from a letter, dated December 14, 1999, of Cesar C. Pascua, Legal Researcher and then Officer-in-Charge of the Office of the Clerk of Court of said RTC, to presiding Judge Bonifacio T. Ong, bringing to his attention the failure of respondent, then concurrently Collecting Cash Clerk, to produce the cashbonds of Fernando Ibarra and company after the criminal case filed against them was dismissed.

On December 16, 1999, Judge Ong referred said letter to the Office of the Court Administrator (OCA for brevity) and requested that an audit be conducted to determine the actual amount misappropriated.

On January 31, 2000, the OCA directed respondent to submit an explanation regarding the letter of Judge Ong.

In a letter dated April 7, 2000, respondent explained that she received the directive only on April 3, 2000 because she was on sick and vacation leave from December 1, 1999 to March 31, 2000. Accordingly, she requested an extension of twenty days from April 7, 2000 to submit her explanation. However, respondent did not file her explanation.

In the meantime, an audit examination conducted on the books of accounts of the RTC revealed that the financial transactions of the court were handled by respondent Rosario G. Julian – from March 25, 1992 to January 18, 2000.

The Audit Team found that the account with the Land Bank of the Philippines was opened only on March 13, 2000 for the court's fiduciary fund through the initiative of Atty. Michelle I. Gumpal. Prior thereto, the fiduciary funds were deposited by respondent with the Rural Bank of Echague (Isabela), Inc. Verification with the said bank revealed that the account was in the name of respondent, instead of the court. In order to establish the balance of Atty. Gumpal, the Audit Team demanded that respondent reconstitute the amount of P540,500.21, representing the amount she misappropriated, inclusive of interests. On March 31, 2000 and March 5, 2001, respondent deposited the amounts of P240,000.00 and P300,500.21, respectively, or a total of P540,500.21, to the Land Bank of the Philippines.

When directed by the OCA to explain why no administrative should be imposed upon her for misappropriation and for ignoring the earlier directive to submit an explanation regarding the letter of Judge Ong, respondent instead sent a letter, dated March 7, 2001, informing the Court that the total amount of unwithdrawn fiduciary fund amounting to P424,683.40 tallied with the bank as reflected in the outstanding balance as of March 5, 2001 and all funds over which she has been responsible from 1992 to 1999 are all accounted for and turned-over to the

Clerk of Court.

Subsequently, respondent submitted a Sworn Statement, dated July 12, 2001 stating that on March 31, 2000 and March 5, 2001 she deposited the amounts of P240,000.00 and P300,500.21, respectively, or a total of P540,500.21, to the Land Bank of the Philippines which represents collections on fiduciary funds for the period beginning 1992 to February 10, 2001 which she had in her possession and which she deposited with the Rural Bank of Echague (Isabela), Inc.

In a letter, dated March 30, 2001, Judge Ong requested the OCA to forego any administrative sanction against respondent since she was able to liquidate the amount earmarked as cashbond and instead allow her to file for optional retirement.

In a Resolution dated June 10, 2003, the Court resolved to refer the Report of the Audit Team to the OCA for evaluation, report and recommendation thereon within sixty days from receipt of notice thereof.[1]

On October 23, 2003, the OCA submitted its evaluation report.[2] However, in a Resolution dated January 27, 2004, the Court referred back the administrative matter to the Court Administrator for further investigation.[3]

On October 29, 2004, Court Administrator Presbitero J. Velasco, Jr. submitted his Memorandum recommending the dismissal from service of respondent.[4] His recommendation is based on the following findings:

Hereunder is the schedule of collections and withdrawals from 1994 to February 2000, or during the period wherein which Julian, acting as the cash collecting officer, deposited the court's cashbond collections with the Rural Bank of Echague, (Isabela), Inc. under her own name, to wit:

Schedule of Collections and Withdrawals

YEAR COLLECTIONS WITHDRAWALS BALANCE

1994 P 90,000.00 P 48,000.00 P 42,000.00

1995 180,000.00 20,000.00 160,000.00

1996 31,000.00 32,000.00 (1,000.00)

1997 354,000.00 61,000.00 293,000.00

1998 386,000.00 65,000.00 321,000.00

1999 361,200.00 655,700.00 (294,500.00)

Feb 2000 - 0 - - 0 - - 0 -

TOTAL P 1,402,200.00 P 881,700.00 P 520,500.00

Julian closed the account with the Rural Bank of Echague under passbook/account no. 7542 (in lieu of the filled up passbook no. 7045) on January 17, 2001 with a cash withdrawal amounting to P7,768.60 (inclusive of interests earned). An examination of the passbook which was certified as a true copy by Conrado J. Yap, Jr., Accountant, revealed that the last transaction before the account was closed on January 17, 2001 was a withdrawal on November 25, 1999 (except for interests earned) amounting to P60,000.00 leaving a bank balance of only P7,447.45.

A comparison with the cashbook balancen for the same period (see schedule) which amounted to P520,500.00 disclosed that there was an undeposited collection as of February 2000 of P513,052.55 (P520,500.00 less P7,447.45). It was established that during the incumbency of Julian as cash collecting officer, withdrawals were made anytime even without the presentation of the lawful court orders and proper signatories in the

withdrawal slips considering that the account was opened under her name. In addition, total monthly withdrawals reflected/posted in the bank do not tally with or equal to the total monthly withdrawals reported in the cashbook and monthly reports, to wit:

Month/Year	Withdrawals per cashbook	Withdrawals per bank	Over Withdrawal
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June 1999	P 84,000.00	P 95,000.00	P 11,000.00
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October 1999	20,000.00	118,378.08	98,378.08
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TOTAL	P 104,000.00	P 213,378.08	P 109,378.08
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The Court, through the initiative of Atty. Gumpal-Valdez, started depositing its cashbond collections with the Land Bank of the Philippines (LBP), Santiago City branch under Savings Account No. 1361-1046-64 on March 13, 2000 with an initial deposit of P15,000.00.

Further, the examination of the schedule shows that the amount that should be deposited under the court's trust fund account amounted to P520,500.00 or the balance of collections less withdrawals as of February 2000. The amount actually remitted by Julian with the LBP totaling to P540,500.21 (which should include the interests earned), was deposited on two separate dates as reflected in the passbook:

Date	Amount Deposited
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March 31, 2000	P 240,000.00
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March 5, 2001	30,000.00
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	4,173.46
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	4,459.75
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	4,000.00
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	257,867.00
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TOTAL	P 540,500.21
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The amount of cash shortage found during the audit examination is an indication of mismanagement on her part as cash collecting officer of the court. Even if respondent has faithfully and completely restituted the judiciary funds which she misappropriated for her personal use, it still deprived the government of the interest earned that would have accrued had the collections been deposited within the prescribed period.

...

Aside from having misappropriated her collections for her personal use, Julian has also blatantly violated the provisions of Circular No. 50-95 which established the guidelines and procedures for purposes of uniformity in the manner of collections and deposits of court fiduciary funds. Before she actually opened an account with the Land Bank, which she could have done several years ago, she maintained a personal savings account with the Rural Bank of Echague, Isabela purportedly for the court's fiduciary fund. Julian was the only person who had the direct and free access to the said account when in fact it should be the Clerk of Court and the Executive/Presiding Judge. By using the court's money for her personal gain and benefit, Julian should not go unpunished as her wrongful act is something which the Court shall never countenance. She committed an act which is tantamount to gross dishonesty and grave misconduct in office. ...

The findings and recommendation of the OCA are well taken.

SC Circular No. 50-95, which took effect on November 1, 1995, provides the guidelines for the proper administration of court fiduciary funds. Among others, it mandates that deposits of fiduciary funds shall be made in a savings account in the name of the Court, with its Clerk of Court and the Executive judge as authorized signatories; withdrawal slips shall be signed by the Executive/Presiding Judge and countersigned by the Clerk of Court; no withdrawals shall be allowed unless there is a lawful order from the Court that has jurisdiction over the subject matter involved; all collections from bail bonds, rental deposits and other fiduciary collections shall be deposited with the Land Bank of the Philippines by the Clerk of Court concerned, within twenty-four hours upon receipt thereof; and, 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. These provisions are mandatory and designed to promote full accountability for government funds.[5] It is worth emphasizing that the safekeeping of funds and collections is essential to the goal of an orderly administration of justice.[6]

Considering her admissions and the findings of the OCA, there is no doubt that respondent violated SC Circular No. 50-95 by using her cash collections for her personal needs. She deposited the court's fiduciary funds in her personal account with the Rural Bank of Echague (Isabela), Inc., instead of depositing the funds in the Land Bank of the Philippines for the account of the court. She was able to withdraw amounts therein as she pleases, without previous authority or order of the Executive Judge. She misappropriated a substantially large amount, in the sum of P540,500.21, inclusive of interests earned, for her personal needs. The interest earned on the deposit should have accrued to the general fund of the government instead of accruing to the personal account of respondent, to the detriment of the former. Time and again we have stressed that the Fiduciary Fund is in the nature of a trust fund which should not be withdrawn without authority of the court.[7] Its use for other purposes constitutes a misappropriation of public funds placed in the care of the public officer concerned.

We have repeatedly reminded court personnel tasked with collections of court funds, such as Clerks of Courts and cash clerks, to deposit immediately with authorized government depositaries the various funds they have collected because they are not authorized to keep those funds in their custody.[8] The unwarranted failure to fulfill these responsibilities deserves administrative sanction and not even the full payment, as in this case, will exempt the accountable officer from liability.[9]

We commiserate and sympathize with respondent for her personal sufferings, but our concern is the greater wrong inflicted on the public interest. Respondent's affliction with cancer, the dire needs of her children and the departure from the Philippines of her husband are not valid excuses for her actions nor can they serve to mitigate her administrative liability. Harsh and callous as it may seem, public service and public interest must always take precedence over personal considerations.[10] The Code of Conduct and Ethical Standards For Public Officials and Employees provides that every public servant shall at all times uphold public interest over his or her personal interest.[11]

In resolving this case, this Court emphasizes that public service requires the utmost integrity and strictest discipline. Thus, a public servant must exhibit at all times the highest sense of honesty and integrity. No less than the Constitution sanctifies the principle that a public office is a public trust, and enjoins all public officers and employees to serve with the highest degree of responsibility, integrity, loyalty and efficiency.[12]

Indeed, those involved in the administration of justice must live up to the strictest standard of honesty and integrity in the public service. For the image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women thereat, from the judge to the least and lowest of its personnel.[13] This Court will not tolerate dishonesty for the judiciary expects the best from all its employees who must be paradigms in the

administration of justice.[14]

For failing to live up to these high ethical standards, respondent should be dismissed. Her actions placed her honesty and integrity under serious doubt. We cannot countenance any conduct, act or omission, committed by those involved in administering justice, which violate the norm of public accountability and which diminish the faith of the people in the Judiciary.[15] This is not the first time the Court has ordered the dismissal of court personnel for failure to deposit fiduciary funds in authorized government depository as required by rules and regulations.[16]

WHEREFORE, respondent Rosario G. Julian having been found guilty of misappropriation of fiduciary funds, is **DISMISSED** from the service effective immediately, with **FORFEITURE** of all benefits, except accrued leave credits if any, with prejudice to her reemployment in any branch or service of the government including government-owned and controlled corporations.

SO ORDERED.

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

[1] Id., p. 19.

[2] Id., p. 22.

[3] Id., p. 26.

[4] Id., p. 35.

[5] *Alintana de Pacete vs. Garillo*, August 20, 2003, 409 SCRA 386, 391; *Pace vs. Leonardo*, August 6, 2003, 408 SCRA 359, 363.

[6] *Casimiro vs. Fernandez*, A.M. No. MTJ-04-1525, January 29, 2004; *Alintana de Pacete vs. Garillo*, *supra*; *Cabato-Cortes vs. Agtarap*, February 7, 2003, 397 SCRA 102, 108.

[7] *Casimiro vs. Fernandez*, *supra*; *Pace vs. Leonardo*, *supra*.

[8] *Misajon vs. Feranil*, A.M. No. P-02-1565, October 18, 2004; *Toribio vs. Ofilas*, A.M. No. P-03-1714, February 13, 2004; *Re: Misappropriation of the Judiciary Fund Collections by Ms. Juliet C. Banag*, Clerk of Court, MTC, Plaridel, Bulacan, January 20, 2004, 420 SCRA 150, 159-160.

[9] *Misajon vs. Feranil*, *supra*; *Re: Misappropriation of the Judiciary Fund Collections by Ms. Juliet C. Banag*, Clerk of Court, MTC, Plaridel, Bulacan, *supra*.

[10] *Court Administrator vs. Abdullahi*, March 20, 2002, 379 SCRA 521, 531.

[11] Section 2 of Republic Act No. 6713 provides:

SECTION 2. Declaration of Policies. — It is the policy of the State to promote a high standard of ethics in public service. Public officials and employees shall at all times be accountable to the people and shall discharge their duties with utmost responsibility, integrity, competence, and loyalty, act with patriotism and justice, lead modest lives, and uphold public interest over personal interest.

[12] Section 1, Article XI of the 1987 Constitution.

[13] Office of the Court Administrator vs. Besa, September 11, 2002, 388 SCRA 558, 566; Office of the Court Administrator vs. Sumilang, April 18, 1997, 271 SCRA 316, 326.

[14] De Guzman vs. Delos Santos, December 18, 2002, 394 SCRA 210, 218; Ibay vs. Lim, September 11, 2000, 340 SCRA 107, 112.

[15] Re: Audit Conducted on the Books of Accounts of Former Clerk of Court Mr. Wenceslao P. Tinoy, MCTC, Talakag, Bukidnon, August 7, 2002, 386 SCRA 459, 464.

[16] Office of the Court Administrator vs. Besa, *supra*; Re: Audit Conducted on the Books of Accounts of Former Clerk of Court Mr. Wenceslao P. Tinoy, MCTC, Talakag, Bukidnon, *supra*; Rangel-Roque vs. Rivota, February 2, 1999, 302 SCRA 509, 521; Re: Report on the Judicial and Financial Audit of RTC-Br. 4, Panabo, Davao del Norte, March 13, 1998, 287 SCRA 510, 530.

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