

IN RE: DELAYED REMITTANCE OF COLLECTIONS OF TERESITA LYDIA R ODTUHAN, OFFICER-IN-CHARGE, REGIONAL TRIAL COURT, BRANCH 117, PASAY CITY.

A.M. No. 02-10-598-RTC. February 11, 2003

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Employees and officials involved in the administration of justice should always conduct themselves in an honorable manner. Unreasonable delay in the remittance of fiduciary collections constitutes grave misconduct that warrants sanction from this Court.

The Case

Before us is an administrative case that arose from the July 19, 2001 Memorandum[1] issued by Atty. Dolores D. Rillera, branch clerk of court of the Regional Trial Court (RTC), Branch 117, Pasay City, charging Teresita Lydia R. Odtuhan with delay in the remittance of her fund collection to the Land Bank of the Philippines, in violation of Circular No. 50-95.

The Facts

On September 22, 1998, Presiding Judge Henrick F. Gingoyon of the RTC, Branch 117, Pasay City, issued an Order to sell by public auction all the properties that were the subject of Special Proceedings No. 98-4297 entitled “In the Matter of Petition for Voluntary Insolvency of Heraldina C. Lee, doing business under the name and style of HCL Collection.” By December 1998, the series of sales summed up to P12,705.

On January 1, 1999, Odtuhan, who was officer-in-charge (OIC) of the Office of the Branch Clerk of Court, took custody of the collection. Because she had not accomplished the required deposit form, she failed to deposit the fiduciary funds with the Land Bank of the Philippines, the authorized bank.

As a result, Dolores P. Rillera, branch clerk of court, RTC, Pasay City, issued a Memorandum[2] dated July 19, 2001, requiring Odtuhan to explain why no administrative and criminal charges should be filed against the latter for failure to deposit the fiduciary collection within 24 hours from receipt thereof. Her failure to do so was a violation of Circular No. 50-95 dated October 11, 1995.

In her August 3, 2001 letter,[3] Odtuhan explained the reason for the delay. She said that, as instructed by the former OIC of the Office of the Branch Clerk of Court, she waited to collect other receivables until she took a leave of absence for the 2000 bar examinations. She added that although the collection had always been in her possession, she had no intention to keep it for herself and would gladly turn it over immediately.

After more than eight months, her immediate remittance of the collection was again demanded in a letter[4] dated April 17, 2002, sent by Pepito S. Celestino, Clerk of Court VI of the Office of the Clerk of Court, RTC, Pasay City. Upon receipt of this letter, she finally remitted the full amount.

Thereafter, in a Memorandum[5] dated May 2, 2002, Deputy Court Administrator Christopher O. Lock directed Odtuhan to explain why no administrative sanction should be imposed upon her for her long delay in turning over the collection. In her June 25, 2002 letter,[6] she explained that on March 4 & 11, 2002, she had been diagnosed with ovarian cancer, for which she began undergoing treatment starting April 2002. Furthermore, she was allegedly having a difficult relationship with her presiding judge, who had charged her with accumulating millions of pesos at his expense.

Report and Recommendation of the Court Administrator

In its August 26, 2002 Report,[7] the Office of the Court Administrator (OCA) found Odtuhan remiss in her duty of promptly remitting the P12,705 collection to the proper custodian, in violation of Circular No. 50-95. She remitted the amount only after a lapse of about three years from the date of collection and only after several demands or directives from the clerks of court and from the OCA.

Her reasons for the delayed remittance were found to be unsatisfactory. Accordingly, the OCA recommended that she suffer the penalty of one-month suspension without pay, with a stern warning that a repetition of the same or a similar act in the future would be dealt with more severely.[8]

This Court's Ruling

We agree with the OCA's findings but modify the penalty, consistent with jurisprudence.

Administrative Liability of Respondent

Time and time again, we have stressed that the behavior of all employees and officials involved in the administration of justice, from the judge to the most junior clerk, is circumscribed with a heavy responsibility.[9] Their conduct must be guided by strict propriety and decorum at all times, in order to merit and maintain the public's respect for and trust in the judiciary.[10]

The failure of Odtuhan to remit her collection within 24 hours from receipt thereof was unjustifiable. In her August 3, 2001 reply[11] to Atty. Rillera's letter, she admitted that she had kept the collection inadvertently. She added that she had no intention of keeping it for herself and was ready to remit it immediately. Yet, after taking custody of the collection on January 1, 1999, she let more than three years elapse before finally remitting it, and only after she had received two Notices[12] from the clerks of court of the RTC of Pasay City.

Thereafter, in a Memorandum[13] dated May 2, 2002, the OCA ordered her to explain why no administrative sanctions should be imposed upon her. In her Reply[14] dated June 25, 2002, she averred that she failed to remit the collection within the deadline, because she was suffering from cancer and was having a difficult relationship with her presiding judge.

We find her explanation inadequate and inconsistent, because it contradicted her earlier inaction. Though we empathize with her battle with cancer, we cannot ignore her culpable act, which was unrelated to her illness.

Paragraph B (4) of Circular No. 50-95 provides that 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 24 hours upon receipt thereof. We have held in *Mallare v. Ferry*[15] that unjustifiable delay in remitting collections constitutes grave misfeasance, if not malversation of funds. Likewise, *Lirios v. Oliveros*[16] and *Re: Report on Audit and Physical Inventory of the Records of Cases in MTC of Peñaranda, Nueva Ecija*[17] held that the unreasonable delay in the remittance of fiduciary funds constituted serious misconduct. "No protestation of

good faith can override the mandatory nature of the circulars designed to promote full accountability for government funds.”[18]

The failure of Odtuhan, while acting as branch clerk of court, to remit her collection within 24 hours from receipt thereof constituted a serious breach of duty. Even more culpable was her failure to remit it immediately after receiving notice of her infraction from the clerks of court of the RTC of Pasay City. She only remitted the collection after more than three years had elapsed from the supposed remittance date. In her desire to evade liability, she offered futile excuses that bore no relation to her misdeed. Her unreasonable delay in remitting fiduciary collection constituted serious misconduct, for which a penalty must be imposed.

In *Re: Gener C. Endona*,[19] the Court found the respondent clerk of court remiss in the performance of his duties. He deposited the collections for the month of June 1994 on August 1, 1994; and for the months of July and August 1994, on September 16, 1994. The delays were deemed unreasonable and violative of Administrative Circular No. 5-93. He was ordered to pay a fine of P2,000.

In *Lirios v. Oliveros*,[20] the Court held that a clerk of court’s unreasonable delay in turning over Judicial Development Fund (JDF) remittances amounted to grave misfeasance, if not malversation of funds. The clerk of court therein was also found guilty of appropriating for himself the typewriter and the electric fans requisitioned from the Court, when he brought them home and kept them there for an unreasonable period of time. He was found guilty of grave misconduct and was fined P10,000.

For similar acts, the Court has likewise imposed on several occasions the extreme penalty of dismissal.[21]

For humanitarian reasons, however, the Court has in the past mitigated the administrative penalties imposed upon erring judicial officers and employees. In the present case, dismissal from the service may be too harsh. In further consideration of the subsequent remittance by Odtuhan of the entire amount and her affliction with ovarian cancer, a fine would be in order.

WHEREFORE, this Court finds Teresita Lydia R. Odtuhan, court legal researcher of the Regional Trial Court, Branch 117, Pasay City, guilty of serious misconduct in office and imposes upon her a FINE of P10,000, with a STERN WARNING that a repetition of the same or a similar act will be dealt with more severely.

SO ORDERED.

Puno, (Chairman), Sandoval-Gutierrez, Corona, and Carpio-Morales, JJ., concur.

[1] Rollo, p. 10.

[2] *Ibid.*

[3] *Id.*, p. 9.

[4] *Id.*, p. 8.

[5] *Id.*, p. 7.

[6] *Id.*, p. 5.

[7] *Id.*, pp. 1-4.

[8] *Id.*, p. 4.

[9] *Caguioa v. Flora*, 360 SCRA 12, June 28, 2001; *In Re: Incident Report of the Security Division*, Supreme

Court, on the Alleged Unlady-like Manner of Ms Edna S. Cesar, RTC, Branch 171, Valenzuela City, AM No. 00-11-526-RTC, September 16, 2002.

[10] Ibid.

[11] Rollo, p. 9.

[12] See the July 19, 2001 Memorandum and the April 17, 2002 Notice; id., pp. 10 and 8.

[13] Id., p. 7.

[14] Id., p. 5.

[15] 362 SCRA 19, July 31, 2001.

[16] 253 SCRA 258, February 6, 1996.

[17] 319 SCRA 507, December 2, 1999.

[18] Mallare v. Ferry, supra.

[19] 241 SCRA 237, February 13, 1995.

[20] Supra.

[21] Mallare v. Ferry, supra; Re: Report on the Judicial and Financial Audit of RTC-Br. 4, Panabo, Davao del Norte, 287 SCRA 510, March 13, 1998; Re: Report on Audit and Physical Inventory of the Records of Cases in MTC of Peñaranda, Nueva Ecija, supra.

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