

THE OFFICE OF THE COURT ADMINISTRATOR PETITIONER, VS. DEVELYN GESULTURA RESPONDENT.

A.M. No. P-04-1785 [Formerly A.M. No. 03-11-671-RTC]. April 02, 2013

Ponente: LEONEN, J.

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LEONEN, J.:

This case concerns the administrative liability of Develyn A. Gesultura, Cashier II, Office of the Clerk of Court, Regional Trial Court Pasig City, for an anomaly involving the Judiciary Development Fund and the General Fund.

The Facts

On June 17, 2003, Paz M. Facun, an officer of the Land Bank of the Philippines (LBP), informed the Chief of Office of the Supreme Court Fiscal Management and Budget Office (FMBO), Corazon M. Ordoñez, that an investigation conducted by the LBP Internal Audit Group showed discrepancies between LBP records and FMBO records on the Judiciary Development Fund (JDF) deposit account of the Regional Trial Court of Pasig City (the account).[1] On July 29, 2003, Ordoñez obtained permission from Chief Justice Hilario G. Davide, Jr. to examine the deposits made by the Office of the Clerk of Court of RTC-Pasig City (OCC RTC-Pasig City) on the account.[2]

On August 11, 2003, FMBO accountant Rogelio M. Valdezco, Jr. submitted a Reconciliation Report stating that the account was missing Three Million Seven Hundred Seven Thousand Four Hundred Seventy One Pesos and Seventy Six Centavos (P3,707,471.76) for the period of January 2001 to June 2003.[3]

On August 26, 2003, Chief Justice Davide directed Deputy Court Administrator Christopher O. Lock to determine the officer accountable for the missing amount.[4]

In a November 10, 2003 memorandum[5] titled “Anomaly in the Deposit of Judiciary Development Fund in the OCC, RTC, Pasig City” and addressed to DCA Lock, CMO Judicial Staff Head Nicandro A. Cruz observed that while the January 2001 to June 2003 records of the OCC RTC-Pasig City indicated its total JDF collection and deposit to be Eight Million Nine Hundred Two Thousand One Hundred Eighty Seven Pesos and Ninety Five Centavos (P8,902,187.95), the amount actually deposited in the account was Five Million One Hundred Ninety Four Thousand Seven Hundred Sixteen Pesos and Twenty One Centavos (P5,194,716.21). Cruz identified Develyn A. Gesultura (Gesultura) as the person responsible for the discrepancy:

The person responsible for the loss was the head of the Cashier's section at the OCC, Ms. DEVELYN A. GESULTURA. Ms. Gesultura had earlier confessed her transgression to RTC Executive Judge JOSE R. HERNANDEZ and Clerk of Court GRACE S. BELVIS. She executed an affidavit to that effect (Annex “L”) and has been relieved of her duties as cashier.

The undersigned together with the team of the Fiscal Monitoring Division of the OCA interviewed Ms. Gesultura and the latter admitted taking money from the JDF collection. She also described how she was able to balance her books and escape detection inspite of the audit conducted by the COA last October 2001. Lately,

Ms. Gesultura has not reported for work since 15 September 2003.

Ms. Gesultura, Cashier II, was in charge of depositing the JDF daily collections with the Land Bank of the Philippines, Capitol Branch, Pasig City and she alone signs the deposit slips. She stated during the interview above mentioned that she deposits with the LBP a smaller amount than that collected in a particular day and pockets the difference. In order to avoid detection, she accomplishes another deposit slip that states the correct amount and dispose[s] of the deposit slip she actually presented to the bank. This way, her JDF book would tally with the total amount stated in all the deposit slips.

She runs the “fake” deposit slips into a computer printer to make it appear that they were validated by the LBP. The font of the validating machine of the LBP is actually different from the font used by Ms. Gesultura. The font Ms. Gesultura used was slightly bigger and the spacing wider than the letters and numbers the LBP uses; but the “fake” deposit slips could pass detection from anybody merely glancing to check whether there was a validation print in the deposit slips

To complete her scheme, she had a rubber stamp made that reads:

“DUPLICATE COPY”

“LAND BANK OF THE PHILIPPINES”

“PASIG CAPITOL BR. FX DEPT.”

“TELLER NO. 2”

She then stamped this to the “fake” deposit slips to make it appear that those were the true duplicate copies of the deposit slips as stamped by the bank.[6]

Attached to Cruz's memorandum was Gesultura's Affidavit dated August 29, 2003,[7] which was subscribed to before Executive Judge Jose R. Fernandez. In the affidavit Gesultura declares as follows:

“5. That I am executing this Affidavit to honestly accept and declare that I am solely liable and answerable to whatever shortages or undeposited collections that may happen or occur during the duration of my term as Ca[s]hier II at the Cash Section, Office of the Clerk of Court, Regional Trial Court, Pasig City and amenable to any punishment rendered against me.”

With the approval of Court Administrator Presbitero J. Velasco, Jr., DCA Lock transmitted Cruz's memorandum to Chief Justice Davide together with his recommendations.[8] On February 2, 2004, the Third Division adopted DCA Lock's recommendations and resolved:

(a)

to RE-DOCKET the report of the Office of the Court Administrator as well as that of Mr. Rogelio Valdezco, Jr. as an administrative complaint against Ms. Develyn A. Gesultura, Cashier II, Office of the Clerk of Court, RTC, Pasig City;

(b)

to PLACE Ms. Develyn A. Gesultura under SUSPENSION pending resolution of this Administrative Matter;

(c)

to DIRECT Ms. Develyn A. Gesultura to RESTITUTE the partial amount of Three Million Seven Hundred Seven Thousand Four Hundred Seventy One Pesos and Seventy Four Centavos (P3,707,471.74) subject to the final outcome of the audit by the Fiscal Monitoring Division;

(d)

to AUTHORIZE Atty. Grace Belvis, Clerk of Court, Office of the Clerk of Court, Regional Trial Court, Pasig

City to FILE the proper criminal complaint against Ms. Gesultura and to DIRECT her to take the necessary steps to recover the amount malversed;

(e)

to AUTHORIZE the Office of the Court Administrator to ISSUE a Circular directing Executive Judges and the Clerks of Courts of the Offices of the Clerk of Court to demand from their LBP depository branch copies of bank confirmation of all General Fund and JDF deposits made therein, to reconcile this bank record with their own record, and to ATTACH said bank confirmation to their monthly report of collections and deposits submitted to the Fiscal Monitoring Division, Court Management Office, Office of the Court Administrator, Supreme Court; and

(f)

to ISSUE a Hold Departure Order against Ms. Gesultura to prevent her from leaving the country.[9]

On June 15, 2004, a Financial Audit Team[10] at the Court Management Office submitted its final report[11] assessing the total undeposited collections of the OCC RTC-Pasig City for the period December 1996 to December 2003 to be in the amount of Five Million Four Hundred Sixty Three Thousand Nine Hundred Thirty One Pesos and Thirty Centavos (P5,463,931.30). The audit team recommended that Gesultura be directed to restitute this amount to the Judiciary Development Fund.[12]

On July 18, 2007, in view of the compulsory retirement of Atty. Grace Belvis, the Court authorized the Assistant Clerk of Court of the OCC RTC-Pasig City, Atty. Minerva I. Velasco, to file the proper criminal complaint against Gesultura.[13]

In a November 26, 2007 memorandum addressed to Chief Justice Reynato S. Puno,[14] Court Administrator Zenaida N. Elepaño reported that the total computed shortages in the Judiciary Development Fund and General Fund collections of the OCC RTC-Pasig City from December 1999 to October 2006 are as follows:[15]

JDF

GF

Tampered Official Receipts

P

184,000.00

159,000.00

Undeposited Collections

5,463,931.30

TOTAL

P

5,647,931.30

159,000.00

Citing In Re: Financial Audit Conducted in the Books of Accounts of Clerk of Court Laura D. Delantar, MTC, Leyte, Leyte, the Court Administrator found that Gesultura had committed acts of dishonesty and misappropriated the collections of judiciary funds. OCA Elepaño's memorandum ended in this wise:

Premises considered, it is respectfully recommended for the Honorable Court's consideration the following recommendations:

1. Ms. DEVELYN A. GESULTURA, Cashier II, Office of the Clerk of Court, Regional Trial Court, Pasig City:

1.1.

be DISMISSED from the service for gross dishonesty with forfeiture of all her benefits and with prejudice to reemployment in any government agency, including government-owned or controlled corporations;

1.2.

be DIRECTED to RESTITUTE the computed shortages on Judiciary Development Fund and General Fund (sic) amounting to Five Million six Hundred Forty Seven Thousand Nine Hundred Thirty One and 30/100 (P5,647,931.30) and One Hundred Fifty Nine Thousand (P159,000.00), respectively.

2. Atty. MINERVA I. VELASCO, Assistant Clerk of Court, Office of the Clerk of Court, Regional Trial Court, Pasig City, be DIRECTED to REPORT to the Office of the Court Administrator her compliance with the Court's resolution dated July 17, 2007.

Respectfully submitted.[16]

The Court noted the memorandum in the Resolution of February 11, 2008.[17]

In a November 28, 2008 Memorandum addressed to Chief Justice Puno, the Office of the Court Administrator reaffirmed Court Administrator Elepaño's recommendations in the November 26, 2007 memorandum in toto.[18]

On March 26, 2010, pursuant to the Court's July 18, 2007 Resolution, Atty. Velasco filed a complaint for malversation of public funds and falsification of official or public documents against Gesultura before the Office of the Ombudsman. The complaint was sworn to before 1st Vice Executive Judge Isagani A. Geronimo.[19]

We are in accord with the OCA insofar as it recommended Gesultura's dismissal from the service.

Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency, act with patriotism and justice, and lead modest lives. Those charged with the dispensation of justice, from justices and judges to the lowliest clerks, should be circumscribed with the heavy burden of responsibility. Not only must their conduct at all times be characterized by propriety and decorum but, above all else, it must be beyond suspicion.[20]

No position demands greater moral righteousness and uprightness from the occupant than does the judicial office. The safekeeping of funds and collections is essential to the goal of an orderly administration of justice.[21] The act of misappropriating judiciary funds constitutes dishonesty and grave misconduct which are grave offenses punishable by dismissal upon the commission of even the first offense.[22] Time and again, we have reminded court personnel tasked with collections of court funds, such as Clerks of Courts and cash clerks, to deposit immediately with authorized government depositories the various funds they have collected, because they are not authorized to keep funds in their custody.[23] In *Re: Deceitful Conduct of Ignacio S. Del Rosario*, Cash Clerk III, Records and Miscellaneous Matter Section, Checks Disbursement Division, FMO-OCA,[24] the Court dismissed from the service cash clerk Ignacio S. Del Rosario who had admitted to misappropriating money entrusted to him by one Noel G. Primo. In *Re: Report of Regional Coordinator Felipe Kalalo on Alleged Anomalies Involving JDF Collections in MTCC, Angeles City and MCTC, Minalin, Pampanga*,[25] the Court found sufficient evidence for the guilt of Records Officer and officer-in-charge of JDF Collections Josephine Calaguas for the misappropriation of P92,737.00 worth of JDF collections; Calaguas had admitted to using the JDF collections for

the medical treatment of her father. She was accordingly dismissed from the service on the ground of dishonesty.

We accept the findings of the Fiscal Management and Budget Office, the Court Management Office, and the Office of the Court Administrator that Gesultura is liable for misappropriating collections for the Judiciary Development Fund. We are convinced that she has committed dishonesty in the service.

After a conscientious review of the record, however, we do not accept the OCA's recommendation with respect to the amount that Gesultura must retribute. It remains uncontroverted that Gesultura stopped reporting for work on September 15, 2003; it is also noteworthy that the Court placed her under suspension by order of the February 2, 2004 Resolution. Hence, we adopt the recommendation of the Court Management Office Financial Audit Team that Gesultura must retribute the undeposited collections of the OCC RTC-Pasig City for the period December 1996 to December 2003, which is Five Million Four Hundred Sixty Three Thousand Nine Hundred Thirty One Pesos and Thirty Centavos (P5,463,931.30). Incidentally, this amount is consistent with Atty. Velasco's complaint against Gesultura for malversation and falsification of official or public documents filed before the Office of the Ombudsman.

WHEREFORE, above premises considered, respondent DEVELYN A. GESULTURA, Cashier II at the Office of the Clerk of Court, Regional Trial Court, Pasig City, is found GUILTY of grave misconduct and dishonesty and is ordered DISMISSED from the service effectively immediately. All her retirement benefits, excluding accrued leave credits, are ordered FORFEITED in favor of the government with prejudice to reemployment in any government office, including government-owned or controlled corporations.

She is further ordered to retribute the amount of Five Million Four Hundred Sixty Three Thousand Nine Hundred Thirty One Pesos and Thirty Centavos (P5,463,931.30).

SO ORDERED.

Sereno, C.J., Carpio, Velasco, Jr., Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr., Mendoza, and Reyes, JJ., concur.

Perez, J., no part. acted on matter as Court Adm.

Perlas-Bernabe, J., on official leave.

[1] Rollo, pp. 11-12

[2] Id. at 8

[3] Id. at 9-10

[4] Id. at 6.

[5] Id. at 3-5.

[6] Id. at 3-4.

[7] Id. at 41.

[8] Id. at 1-2.

[9] Id. at 42. Resolution dated February 2, 2004.

[10] Composed of Management and Audit Analyst IV Soledad R. Ho as Team Leader, Management and Audit Assistant Christopher T. Pablo, Field Auditors Ma. Aimee M. Alto, Kristoffer L. Bugna L. Bugna, Nelson I.

Elento, Jr., Hannah M. Mendoza, Hanziel D. Dimaano, Luzviminda A. Jabagat, Ana Girleeh N. Sampayan as members.

[11] Rollo, pp. 79-84.

[12] Id. at 83.

[13] Id. at 57.

[14] Id. at 74-78.

[15] Id. at 77.

[16] Id. at 78.

[17] Id. at 74.

[18] Id. at 148.

[19] Id. at 155.

[20] Re: Financial Audit on the Books of Account of Ms. Laura D. Delantar, Clerk of Court, MTC, Leyte, Leyte, 520 Phil. 434, 441-442 (2006).

[21] Financial Audit on the Books of Account of Ms. Laura D. Delantar, *supra*, citing Re: Final Report on the Financial Audit Conducted at the Municipal Trial Court of Midsayap, North Cotabato, A.M. No. 05-8-233-MTC, January 31, 2006, 485 SCRA 562.

[22] Concerned Citizen vs. Gabral, Jr., 514 Phil. 209, 220 (2005).

[23] Office of the Court Administrator vs. Penaranda et al., A.M. No. P-07-2355, March 19, 2010, 616 SCRA 178, 187.

[24] A.M. No. 2011-05-SC, September 6, 2011, 656 SCRA 731.

[25] 326 Phil. 703 (1996).

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