

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. ATTY. FERMIN M. OFILAS AND MS. ARANZAZU V. BALTAZAR, CLERK OF COURT AND CLERK IV, RESPECTIVELY, REGIONAL TRIAL COURT, SAN MAT...

A.M. No. P-05-1935 (Formerly A.M. No. 04-10-599-RTC). April 23, 2010

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PER CURIAM:

This administrative matter stemmed from a financial audit conducted by the Office of the Court Administrator (OCA) on the books of accounts of the Office of the Clerk of Court, Regional Trial Court of San Mateo, Rizal. The audit, covering the period from January 1992 to March 4, 2004, bared irregularities in the handling of the financial transactions of the court and a considerable shortage in the financial accountabilities of Atty. Fermin M. Ofilas and Ms. Aranzazu V. Baltazar, then Clerk of Court and Clerk IV, respectively.

FACTUAL AND PROCEDURAL ANTECEDENTS

On September 30, 2004, the OCA Audit Team submitted its preliminary report thru a Memorandum[1] to the then Court Administrator Presbitero J. Velasco Jr., the contents of which are summarized as follows:

1)

Monitoring and inventory of cash collections is not properly administered.

2)

The Clerk of Court, Atty. Fermin Ofilas, delegated the financial transactions of the court to his two subordinates, namely Clerk IV Aranzazu V. Baltazar, former cash clerk of Atty. Ofilas' predecessor; and Olga A. Sacramento, the incumbent cash clerk at the time of the audit who assumed office on May 2001.

3)

Ms. Baltazar was in charge of all funds collected and paid to the court. She issued official receipts for all funds collected, prepared the monthly reports of collections, and made bank deposits and withdrawals for submission to the Accounting Division of the OCA. She was practically the custodian of all court financial records and books of accounts.

4)

Although she was the then cash clerk, Ms. Sacramento merely assisted in the preparation of monthly reports and only issued official receipts in the absence of Ms. Baltazar.

5)

The amount of unremitted cash collections in the possession of Ms. Baltazar did not tally with the amount collected for the respective periods, resulting in an overage of P39,152.00 which was due to

unaccounted/unremitted collections from past years.

6)

Upon discovery of said retained cash, Atty. Ofilas voluntarily executed an affidavit, dated March 11, 2004.[2] He stated that because Executive Judge Elizabeth Balquin-Reyes politely declined to be one of the signatories for the court's bank transactions until the issuance of her official designation, the office adopted the practice of retaining some amount of cash from the collections in order to answer for the refunds of cash bonds of litigants. Thereafter, he relieved Ms. Baltazar of her functions as collecting officer.

7)

The court was not in possession of the triplicate copies of official receipts issued from January 1992 to December 1994 for the Judiciary Development (JDF), Clerk of Court General Fund (CCGF) and Sheriff's fees[3];

8)

Accountable forms such as triplicate copies, official receipts and official cashbooks were in disarray. Some were detached from their respective booklets. Cancelled/spoiled Official Receipts were not properly marked or identified and the original and duplicate copies of the cancelled or spoiled receipts were not attached to the triplicates.

9)

The official cash books were not properly accomplished and contained illegible entries. Daily collections were not regularly entered therein contrary to AC Nos. 3-2000, 22-94 and 32-93.

10)

There were discrepancies and irregularities in the financial transactions as shown in these computations below:

A) Judiciary Development Fund (JDF)

Total collections from Jan. 1992 to Mar. 5, 2004

P28,498,525.19

Less: Deposits/Remittances for the same period

Valid Deposits

P27,778,114.25

Deposits that require bank confirmation

789,360.70

28,567,474.95

Balance of Accountability (overage)

(P68,949.76)

B) Clerk of Court General Fund (CCGF)

Total collections from Jan. 1992 to Dec. 31, 2003

P4,139,765.69

Less: Deposits/Remittances for the same period

Valid Deposits

P3,544,914.50

Deposits that require bank confirmation

595,314.57

4,140,229.07

Balance of Accountability (overage)

(P463.38)

C) Sheriff Fees General Fund (SGF)

Total collections from Jan. 1992 to Dec. 31, 2003

P947,972.43

Less: Total remittances for the same period

939,048.18

Balance of Accountability (overage)

(P8,924.25)

D) Fiduciary Fund (FF)

Beginning Balance

P233,210.76

Total collections from Jan. 1/92 to 3/5/04

14,152,975.35

Total

P14,386,186.11

Less: Total withdrawals (properly documented
) for the same period

7,868,316.36

Unwithdrawn Fiduciary Fund as of 3/5/04

P6,517,869.75

Balance per bank as of March 5,2004

P4,253,224.77

Less: Unwithdrawn interest earned
(net of withholding tax)

280,784.05

Adjusted bank balance as of March 5, 2004

P3,972,476.72

Unwithdrawn Fiduciary Fund as of 3/5/04

P6,517,869.75

Adjusted Bank Balance as of 3/5/04

3,972,476.72

Total undeposited collections as of 3/5/04

P2,545,393.03

Less: Deposits made under LBP CA No. 2722-1006 57
dated 3/9-04

224,317.80

Balance of Accountability (shortage)

P2,321,075.23

Balance of Accountability:

Undocumented withdrawals

P1,182,330.00

Undeposited collections

1,119,145..23

Double Withdrawals

19,600.00

Total Accountability

P2,321,075.23

11)

As to the JDF and CCG, the surplus of P68,949.76 and P463.38 were provisional because the audit team considered the amounts of P789,360.70 and P595,314.57 as valid deposits subject to confirmation. Upon failure of Atty. Ofilas and Ms. Baltazar to secure bank confirmation on the validity of deposits, the amounts of P789,360.70 and P595,314.57 should form part of their accountabilities.

12)

As to the Sheriff Fees-General Fund, a balance of accountability amounting to P8,924.25 was discovered. This was attributed to improper monitoring of collections, delayed remittances, wrong footings of totals in the cashbook, and undeposited prior years' collections.

13)

With respect to the Sheriff's Trust Fund, collections commenced only in October 2000 when the Supreme Court, in a previous case filed by a litigant against Atty. Ofilas,[4] ordered the transfer of redemption money relative to one extra-judicial foreclosure case. Atty. Ofilas was found to have deposited the amount of P3,444,070.00 in his personal account because he was allegedly unfamiliar with the Sheriff Trust Fund Account. Atty. Ofilas was reprimanded and sternly warned by the court.

14)

The biggest amount of shortage at P2,231,075.23 was discovered in the Fiduciary Fund. This amount was inclusive of refunded cash bond without proper documentation amounting to P1,182,330. Granting that Atty. Ofilas could present proper documentation therefor, an enormous amount of shortage at P1,138,754.23 would still remain.

15)

When asked to explain, Ms. Baltazar readily confessed her shortage and willingly executed an affidavit, dated April 5, 2004,[5] wherein she admitted that she had committed grave negligence and malversation of funds when she allowed other court employees to borrow from the court funds in her custody, causing the shortage as discovered by the audit team.

16)

There were cash bonds found to be withdrawn or refunded twice to party litigants amounting to P19,600.00[6];

17)

An aggregate total of P279,200.00 confiscated cash bond was disclosed.[7] Cashbonds with order of confiscation since 1992 were not withdrawn and remitted to the National Treasury (up to November 1999) and to the Judiciary Development Fund (from November 1999).

18)

Interest earned amounting to P280,748.05 from Fiduciary Fund deposits in both the Philippine National Bank and rural bank accounts from April 1992 to December 1998 remained unwithdrawn as of date of audit.

19)

As of March 5, 2004, there were cash bonds collections deposited with the Municipal Treasurer's Office which

were still unwithdrawn.

20)

Marriage certificates on file disclosed unpaid marriage solemnization fees from 1993-1999. According to Atty. Ofilas, it was the presiding judge in Branch 77 of the RTC who was in charge of solemnizing marriage ceremonies.

21)

With respect to records of extra-judicial foreclosure of mortgage, the audit team found it difficult to determine payment of the sheriff's commission because the Official Receipts issued in connection with the applications did not reflect the case numbers and, worse, the receipts were not attached to the records. Out of 2,650 petitions filed as of March 5, 2004, only 2,491 case folders were presented for audit.

Certificates of sale have not been issued in four (4) cases.[8] There were undated certificates issued in three (3) cases,[9] making it impossible to verify if the sheriff's fees thereon were paid accordingly.

22)

In three (3) cases,[10] docket fees were collected based only on the principal amount of indebtedness.

23)

Contrary to Administrative Circular 3-93, the docket fees were not collected at all in five (5) extra-judicial foreclosure cases.[11]

In foreclosures conducted by a notary public, the docket fees paid in eleven (11) cases[12] were allocated to the General Fund instead of the entire amount being deposited to the Judiciary Development Fund. Like in the foreclosures conducted by the sheriff, fees for three (3) cases[13] were assessed based on the amount of the principal indebtedness. The collection of P300.00 as entry fee and P75.00 as advertising fee, as mandated by Administrative Circular 3-2000, were not consistently collected in the other cases.

All the records of extra-judicial foreclosures were not presented to the audit team. Out of the records presented, erroneous collections of foreclosure dues were discovered.

A separate bank account with the Rural Bank of San Mateo,[14] under the name of "Clerk of Court of RTC San Mateo," with Atty. Ofilas as the lone signatory was revealed, purposely for all check payments received in foreclosure proceedings.

24)

A significant number of check payments were converted to cash instead of being directly deposited to the Judicial Development Fund and the General Fund.

The same report bears the OCA recommendations that were eventually adopted by the Court in a Resolution[15] dated January 10, 2005, ordering, among others,

(a) DOCKET the report as a regular administrative matter against Atty. Fermin M. Ofilas and Ms. Aranzazu V. Baltazar;

(b) DIRECT Atty. Fermin M. Ofilas to:

[1] EXPLAIN in writing within a period of ten (10) days from notice the following: (1.1) his failure to exercise close supervision over the financial transactions of the court; (1.2) his failure to monitor the activity of former

Cash Clerk, Ms. Aranzazu Baltazar, relative to the proper handling of collections of legal fees of his court; (1.3) his failure to monitor the remittance of collections on time which resulted in an enormous amount of initial shortage amount to P1,147,670.28; (1.4) the opening of a separate account and lone signatory of SA No. 51-28216-7 Rural Bank, San Mateo, Rizal, intended for checks payment received from Extra Judicial Foreclosure (EJF); (1.5) his failure to strictly enforce the proper collection of filing fees and commission cost on the petitions filed on EJF; (1.6) his failure to submit the quarterly report of Extra Judicial Foreclosures on the status of all EJF petitions filed in his court and the activities of all sheriffs under his supervision; and (1.7) the occurrence of double withdrawals of fiduciary collections on the herein attached listings.

[2] SUBMIT within fifteen (15) days from receipt of notice the following: [2.1] court orders, copies of surrendered official receipts and acknowledgement receipts to support the undocumented withdrawals under Fiduciary Fund amounting to P1,182,330.00, and failure to comply herewith will form part of his accountability aside from the initial shortage found on the Fiduciary Fund account; [2.2] the status of herein attached list (Annex "C") of Extra Judicial foreclosures petitions filed thereat as of March 5, 2004. Said petitions were not presented to the audit team during the entire duration of audit examination; and [2.3] bank confirmation on the invalidated deposit slip for the account of JDF and General Fund respectively, with a copy thereof furnished the Fiscal Monitoring Division, CMO-OCA;

[3] Make a DEMAND LETTER from various banking institutions and/or mortgagees concerned relative to the shortages incurred amounting to P573,750.51, lists of which are hereto attached, due to deficiencies/under collection of filing fees, commission fees, Certificates of Sale, entry fee and advertising fee relative to the Extra-Judicial Foreclosure collections, within ten (10) days from notice, with a copy thereof furnished the Fiscal Monitoring Division of the amount of payment recovered from the herein attached listings;

[4] REMIT, within ten (1) days from notice, the amount of P900.00 representing unpaid marriage solemnization fees, ISSUE corresponding official receipts under Fiduciary Development Fund account thereof and FURNISH the same copies of validated deposit slips to the FMD, CMO, OCA;

[5] WITHDRAW the interest earned amounting to P 286,748.05 from the Fiduciary Fund account covering the period April 1992 to December 1998 and DEPOSIT the same to the account of Special Allowance for Judiciary;

[6] SECURE from the Municipal Treasurer's Office (MTO) an ITEMIZED LIST of the Fiduciary Fund deposits of RTC-San Mateo as of March 5, 2004 and CAUSE the same to be TRANSFERRED to the existing LBP CA No. 2722-1006-57 maintained thereat, listing of which should be furnished the Fiscal Monitoring Division, CMO-OCA; and

[7]WITHDRAW all cash bonds with order of confiscation as of March 5, 2004, REMIT the same to the account of Special Allowance for Judiciary account (confiscation with lawful orders from October 1999 below) and Judiciary Development Fund account (from November 1999 up to the time of audit examination).

(c) DIRECT Ms. Aranzazu V. Baltazar to RESTITUTE the shortages incurred within a NON-EXTENDIBLE PERIOD OF FIFTEEN (15) DAYS from notice on the following accounts:

Sheriff's General Fund

8,924.25

Fiduciary Fund

1,138,745.23

Special Allowance for Judiciary

_____80

TOTAL

P1,147,670.28

(d) WITHHOLD the salaries of Atty. Fermin M. Ofilas until further orders from the Court;

(e) ISSUE A HOLD DEPARTURE ORDER against Ms. Aranzazu V. Baltazar, and DIRECT the Bureau of Immigration and Deportation to ban Ms. Baltazar from leaving the country;

(f) PLACE Ms. Aranzazu V. Baltazar under PREVENTIVE SUSPENSION pending the Court's resolution of the administrative case;

(g) DIRECT the Clerk of Court to make a representation letter with the LBP, Concepcion, Marikina Branch, for the conversion of the existing LBP CA No. 2722-1006-57 non-interest bearing account into interest bearing account, and to inform the Fiscal Monitoring Division, CMO-OCA on the action taken thereat; and

(h) REFER the initial report to the Legal Office, OCA, for filing of the appropriate criminal charges against Atty. Fermin M. Ofilas, Clerk of Court and Ms. Aranzazu V. Baltazar, Clerk IV from OCC, RTC, San Mateo, Rizal.

Compliance of Atty. Fermin M. Ofilas

In his Written Explanation and Report, dated March 15, 2005,[16] Atty. Ofilas refuted the charges against him. He blamed the lack of orientation and proper turnover of responsibilities and accountabilities when he assumed the functions of his office on January 28, 1992. Unaware of the basic procedures of his new office, he decided to let the staff continue what they had been doing, especially Ms. Baltazar who was in charge of the financial transactions of the court from the collection of legal fees, remittance thereof to the depositary bank, safekeeping of the daily collections, and the preparation of monthly financial reports and books of accounts. With this practice, Atty. Ofilas relied on the regular audit conducted by the Commission on Audit and the submission of monthly financial reports to the Supreme Court.

Although Atty. Ofilas was of the view that the missing funds could not be as huge as reported, he offered no denial therefor. He reiterated the admission made by Ms. Baltazar during the audit and claimed that he was never informed of any concern relating to the court's finances especially the practice of retaining varying amounts of cash from daily collections. Atty. Ofilas maintained that "he did not enjoy nor profit from a single centavo out of the legal fees as he never touched them nor were the fees given to him for safekeeping." [17]

Atty. Ofilas presented a copy of Land Bank Inter-Office Credit Advice dated December 1, 1997 evidencing the deposit made therein under the Judiciary Development Fund account in the amount of P12,344.25.[18] However, with respect to undocumented deposits in the bigger amount of P779,341.45 in the said fund and unauthorized withdrawals from the Fiduciary Fund in the amount of P1,182,330.00, Atty. Ofilas could offer no explanation.

Atty. Ofilas informed the Court that the interest earned by the Fiduciary Fund account amounting to P286,745.05 had already been transferred to the Special Allowance for Judiciary account, as directed by the Court.[19]

With respect to his act of opening a separate bank account in the Rural Bank of San Mateo, Atty. Ofilas explained that it was a practical remedy which helped him solve the problem of allocating extra-judicial foreclosure fees. He deposited check payments to the bank, withdrew cash and then allocated the money to the Judicial Development Fund and the General Fund. He denied ill-motive and gave emphasis to the fact that "the account or passbook was not registered in the name of FERMIN M. OFILAS; it was opened in the name of the "THE CLERK OF COURT, RTC SAN MATEO RIZAL." Although he contended that convenience of the petitioners in the court was the only consideration for the procedure, he apologized for his unintentional breach of an existing circular.

As to his failure to enforce the collection of filing fees and commission fees on extrajudicial foreclosure cases, Atty. Ofilas admitted that "his focus was never on the correct computation of legal fees" and he "relied much on his Cash Clerk's ability to perform correct arithmetical computation." [20] He claimed that he paid more attention to the substantial aspects of the petitions like publication requirements and bidding procedures. He was unaware of Administrative Circular No. 31-90 which took effect on October 19, 1990 requiring the collection of advertising fees. The required quarterly report on the status of extrajudicial foreclosure petitions and the activities of the sheriffs under his supervision was only made known to him by the SC Financial Audit Team.

As to the directive to send demand letters to the mortgagees/petitioners in extrajudicial foreclosure proceedings to collect deficiencies in filing fees, Atty. Ofilas said that some accounts were already reviewed but other records would have to be thoroughly checked to avoid mistakes and embarrassment. As to the status of the petitions for extra-judicial foreclosure, 159 case records of which have been found but others had yet to be traced. The marriage solemnization fees amounting to P900.00 were already collected from Branch 77. [21]

As to over-payment of cash bond, Atty. Ofilas went on to explain that in all five cases, [22] he had no participation in the processing of claims because it was Ms. Baltazar herself who prepared and signed the vouchers in his name. He opined that the persons who received the overpayment must be required to return the money to the court. Otherwise, it should be Ms. Baltazar who must pay, as she alone made the erroneous refund.

As directed by the court, Atty. Ofilas also withdrew the confiscated cash bonds and deposited the same to the JDF account and the Special Allowance for the Judiciary account.

In the meantime, Atty. Ofilas begged the court in a letter dated January 24, 2006, [23] to lift the directive withholding his salary. Attached to this letter was the affidavit executed by Ms. Baltazar wherein she reiterated that Atty. Ofilas had no participation in, or knowledge of, the irregularities found in the financial transactions of the court, and neither did he tolerate them. After several requests for extension and warnings from the Court, Atty. Ofilas, by way of Motion and Compliance dated September 5, 2006, [24] furnished the court with thirty-one (31) orders in civil and criminal cases directing the release of posted bonds, official receipts issued for posted cash bonds, and acknowledgment receipts of the cash bond signed by the accused or complainants. Once again he pleaded for the release of his salaries informing the court of his need of medical treatment for prostate cancer.

On the said letter, the court resolved to direct the immediate release of the salaries of Atty. Ofilas and his re-inclusion in the payroll, in a Resolution dated November 18, 2006. He was, however, still ordered to submit documents to support the unverified withdrawals from the Fiduciary Fund within ten (10) days from notice.

In a Memorandum dated April 2, 2008, [25] the OCA took account the Motion and Compliance filed by Atty. Ofilas and reported that the previous amount of undocumented withdrawals was reduced from P1,182,330.00 to P1,049,930.00. The documentation for P132,400.00 was presented by Atty. Ofilas.

In a Resolution dated June 16, 2008, [26] the Court resolved to furnish Atty. Ofilas with an amended itemized list of withdrawn or refunded Fiduciary Fund deposits without proper documentation and directed him to submit the needed documents in order for him to be cleared of his financial accountability. In his Compliance and Further Plea for Mercy dated November 28, 2008, [27] Atty. Ofilas submitted copies of court orders authorizing the release of the cash bonds as attached. In turn, the Fiscal Monitoring Division of the OCA took the documents into account and notified the court, in a Memorandum dated March 26, 2009, [28] that the undocumented withdrawals had been reduced to P456,355.00.

Atty. Ofilas, however, failed to present documents relative to the undeposited collections amounting to P1,119,145.23 and the unexplained double withdrawals at P19,600.00, both with respect to the Fiduciary Fund.

Position of Clerk IV Aranzazu Baltazar

Insofar as Aranzazu Baltazar is concerned, she admitted her guilt even prior to the completion of the audit. After she had received the Resolution dated January 10, 2005, she filed a Motion for Reconsideration dated February 21, 2005[29] informing the Court that the amount of P8,924.25 corresponding to the shortage in the Sheriff's Fee-General Fund had already been restituted. She manifested her willingness to bear whatever sanction the Court might impose on her because she would "surrender" herself for dismissal from government service.

Explanation of Judge Elizabeth Balquin-Reyes

For her part, Judge Elizabeth Balquin-Reyes alleged in her Explanation[30] that her predecessor as Executive Judge, now Justice Jose Reyes, Jr., of the Court of Appeals, did not leave any instructions relative to the financial transactions of the court. Out of delicadeza, she did not go over the financial records of the Clerk of Court as she still had to await her designation as the Executive Judge.

RECOMMENDATION BY THE OCA

In compliance with the Court's Resolution dated January 19, 2009, the Office of the Court Administrator submitted the following recommendations in a Memorandum to the Chief Justice dated January 19, 2010:

1)

Ms. Aranzazu V. Baltazar, Clerk of Court IV, Regional Trial Court, San Mateo, Rizal, be FOUND GUILTY of gross inefficiency, gross dishonesty and grave misconducts and that she be DISMISSED from the service with accessory penalties of forfeiture of retirement benefits and disqualification for re-employment in any government agency or government-owned/controlled corporation.

2)

The financial Management Office, Office of the Court Administrator, be DIRECTED to process the terminal leave pay of Ms. Aranzazu V. Baltazar, dispensing with the usual documentary requirements and to apply the same to the shortage in the Fiduciary Fund of the Regional Trial Court of San Mateo, Rizal;

3)

Ms. Aranzazu V. Baltazar be DIRECTED to restitute the balance of the shortage in the Fiduciary Fund in the amount of P1,496,133.38;

4)

Atty. Fermin M. Ofilas, former Clerk of Court, Regional Trial Court, San Mateo, Rizal, be FOUND GUILTY of gross inefficiency and that his retirement benefits, except his terminal leave pay, be FORFEITED and that he be DISQUALIFIED from re-employment in any government agency or government-owned or controlled corporation;

5)

Judge Elizabeth Balquin-Reyes, Executive Judge, Regional Trial Court, San Mateo, Rizal be REMINDED to keep herself abreast of this Court's issuances regarding Executive and Vice-Executive Judges; and

6)

The Legal Office, Office of the Court Administrator, be DIRECTED to initiate criminal proceedings against Ms. Aranzazu V. Baltazar.

THE COURT'S RULING

The Court adopts the findings and recommendations of the OCA.

No less than the Constitution mandates that "public office is a public trust." Service with loyalty, integrity and efficiency is required of all public officers and employees, who must, at all times, be accountable to the people. In a long line of cases, the Court had untiringly reminded employees involved in the administration of justice to faithfully adhere to their mandated duties and responsibilities. Whether committed by the highest judicial official or by the lowest member of the workforce, any act of impropriety can seriously erode the people's confidence in the Judiciary. "Verily, the image of a court of justice is necessarily mirrored in the conduct of its personnel. It is their sacred duty to maintain the good name and standing of the court as a true temple of justice." [31] Corollary to this, failure to live up to their avowed duty constitutes a transgression of the trust reposed on them as court officers and inevitably leads to an exercise of disciplinary authority. Thus, the Court "condemns and would never countenance any conduct, act or omission on the part of all those involved in the administration of justice which would violate the norm of public accountability and would diminish or even just tend to diminish the faith of the people in the Judiciary." [32] The Judiciary expects the best from all its employees who must be paradigms in the administration of justice. [33]

The outright admission of Clerk IV Aranzazu Baltazar to committing malversation of funds shows her blatant disregard for these principles she had sworn to uphold and thereby eroding public trust. Her admission however, does not exculpate Clerk of Court Atty. Fermin Ofilas of his own negligence.

As clerk of court, Atty. Ofilas is one of the ranking officers of the judiciary. Next to the judge, the clerk of court is the chief administrative officer charged with preserving the integrity of court proceedings. A number of non-judicial concerns connected with trial and adjudication of cases is handled by the clerk of court, demanding a dynamic performance of duties, with the prompt and proper administration of justice as the constant objective. The nature of the work and of the office mandates that the clerk of court be an individual of competence, honesty and integrity. For "xxx in relation to the judge, a [clerk of court] occupies a position of confidence which should not be betrayed; and that with the prestige of the office goes the corresponding responsibility to safeguard the integrity of the court and its proceedings, to earn respect therefor, to maintain loyalty thereto and to the judge as the superior officer, to maintain the authenticity and correctness of court records, and to uphold the confidence of the public in the administration of justice." [34]

"That clerks of courts perform a delicate function as designated custodians of the court's funds, revenues, records, properties and premises can never be overemphasized. They wear many hats - those of treasurer, accountant, guard and physical plant manager of the court, hence, are entrusted with the primary responsibility of correctly and effectively implementing regulations regarding fiduciary funds. They are, thus, liable for any loss, shortage, destruction or impairment of such funds and property." [35]

A previous case shares a similar factual milieu with the case at bench. In Report on the Financial Audit in RTC v. General Santos City and the RTC and MTC of Polomolok, South Cotabato, [36] the clerk of court, after an audit, was shocked to learn of the irregularities in the handling of court funds committed by a social worker officer cum cash clerk, to whom he delegated his responsibilities because he "did not know accounting procedures and he did not want to antagonize the members of his staff by changing the system already in place upon his assumption to office." The clerk therein admitted the shortage of funds and that "she loaned money taken from her collection to her co-employees because otherwise they would fall prey to loan sharks or usurers charging interest rate ranging from 10% to 21%."

In this case, we find the respondent, Atty. Ofilas, seriously remiss in the performance of his duties. The

explanation proffered by him largely involves apology, denial and claims of ignorance. For the remaining shortage of court funds, he shifts the liability to Ms. Baltazar. What he failed to explain to the satisfaction of the Court, however, is the underlying issue of his failure to carry out the primordial responsibilities of his office.

Atty. Ofilas utterly failed to perform his duties with the degree of diligence and competence expected of him. Atty. Ofilas played his role in a perfunctory manner, relying heavily on Ms. Baltazar's supposed ability and honesty to handle the finances of the court. This is a reprehensible display of inefficiency which cannot be justified by good faith, naivety or inexperience. Atty. Ofilas' lack of orientation or training prior to his assumption of office is no excuse to delegate his essential duties to Ms. Baltazar especially those concerning financial matters.

From 1992 until the arrival of the audit team, Atty. Ofilas had been complacent as he merely allowed another person to perform his tasks, absent the initiative to learn the functions of the office he had sworn to hold and fulfill with zeal. Neither the records nor Atty. Ofilas' statements provide the slightest indication that he at least exerted efforts to take the reins from Baltazar or to introduce improvements in the conduct of office procedures. Granting there was a lack of orientation or formal turnover of responsibilities, he could have consulted the Manual for Clerks of Court, particularly his duties as provided in Chapter VII, Section B thereof. Unfortunately, Baltazar's substitute performance proved adequate for him that even supervision, which was incumbent upon him to exercise over other court personnel, was lost over time.

His admission or pretension that he had no knowledge of accounting rules and regulations does not justify his dependence on Baltazar. Atty. Ofilas was glaringly unmindful of the ruling in *Office of the Court Administrator v. Sylvia R. Yan*[37] that the collection of legal fees, by its nature, is a delicate function of clerks of court as judicial officers entrusted with the correct and effective implementation of the regulations thereon. Functionally, the work involves the examination and verification of every pleading and document to determine with accuracy the amount of collectible revenues or fees which by law properly belong to the Government. It is likewise incumbent upon him "to personally attend to the collection of the fees, the safekeeping of the money thus collected, the making of the proper entries thereof in the corresponding book of accounts, and the deposit of the same in the offices concerned." [38]

Succinctly put, Atty. Ofilas' performance as an officer of the court is clearly wanting. Throughout this case, he would bank on his alleged ignorance of the irregularities obtaining in the court and pass on the liability to Ms. Baltazar alone. Time and again, the Court has ruled that the clerk of court is primarily accountable for all funds that are collected for the court, whether received by him personally or by a duly appointed cashier who is under his supervision and control. Thus, Atty. Ofilas is liable for any loss, shortage, destruction or impairment of such funds and property.

Atty. Ofilas' failure to enforce the collection of the correct fees cannot be excused by his limited knowledge of arithmetic computation or by his attention on the substantive requirements in extrajudicial foreclosure cases. "To credit such defense would set similarly situated employees to lightly discharge their duty of employing reasonable skill and diligence and thus evade administrative liability xxx.[39] Safekeeping of funds and collections is essential to an orderly administration of justice, and no protestation of good faith can override the mandatory nature of the circulars designed to promote full accountability for government funds.[40] Atty. Ofilas' claim that he was not aware of circulars relative to collection of fees is unacceptable.

Anent his excuses for delayed deposit of funds and withdrawal of interest, Atty. Ofilas again failed to convince us with his invocation of good faith. The reasoning of the OCA is well-taken. No amount of convenience or expediency can justify this infraction of the rules. It is the duty of the clerks of court to fully comply with the circulars on deposits of collections.

SC Circular Nos. 13-92 and 5-93, as incorporated into the 2002 Revised Manual for Clerks of Court provide the guidelines for the accounting of court funds. All fiduciary collections shall be deposited immediately by the Clerk of Court concerned, upon receipt thereof, with an authorized government depository bank. In SC Circular No. 5-93, the Land Bank was designated as the authorized government depository. Court personnel tasked with collections of court funds, such as clerk of court and cash clerks, should deposit immediately with authorized government depositories the various funds they have collected because they are not authorized to keep funds in their custody. Delayed remittance of cash collections constitutes gross neglect of duty because this omission deprives the court of interest that may be earned if the amounts are deposited in a bank. In the same vein, clerks of court are required by SC Circular No. 13-92 to withdraw interest earned on deposits, and to remit the same to the account of the Judiciary Development Fund (JDF) within two (2) weeks after the end of each quarter.[41] Atty. Ofilas did not comply with any of the requirements.

In a line of decisions, the Court ruled that the "failure of a public officer to remit funds upon demand by an authorized officer constitutes prima facie evidence that the public officer has put such missing funds or property to personal use." [42] Hence, even when there is restitution of funds, "unwarranted failure to fulfill these responsibilities deserves administrative sanction and not even the full payment of the collection shortages will exempt the accountable officer from liability." [43] There is more room for application of said rules in this case where neither of the respondents was able to offer a plausible explanation of the blatant infractions they had committed.

With respect to the act of opening a bank account with the Rural Bank of San Mateo, Atty. Ofilas can no longer invoke ignorance of existing regulations pertinent to his office. He was previously reminded by the Court to keep abreast of all applicable laws, jurisprudence and administrative circulars pertinent to his office. It is highly regrettable that Atty. Ofilas took this warning lightly and without due importance, resulting in a greater indiscretion. Hence, his excuse of depositing check payments from extra-judicial foreclosure cases to his account because he had no way of allocating the payment between the Judiciary Development Fund and the General Fund is unacceptable. The OCA presented a logical refutation: "In the first place, the computation of the docket fee to be paid must already include the respective amounts to be allocated to the JDF and the GF so that the petitioners will know that they have to issue two (2) checks. Second, if payment of the docket fee is made through a single check, the remedy is not to accept the payment."

Based on the foregoing findings, Atty. Ofilas had clearly failed to live up to the standards of competence and integrity expected of an officer of the court. Mediocrity is not at all fit for a member of a complement tasked to dispense justice. His failure to exhibit administrative leadership and ability renders Atty. Ofilas guilty of negligence, incompetence, and gross inefficiency in the performance of his official duty as the Clerk of Court. Thus, the penalty of dismissal from service is proper considering his failure to exercise supervision on Ms. Baltazar's work and to educate himself on the financial aspects of his office resulting in an improper delegation of his duties. However, in view of Atty. Ofilas' compulsory retirement on August 18, 2007, the imposition of accessory penalties including the forfeiture of his retirement benefits is justified.

As for Judge Balquin-Reyes, the Court finds it inexcusable that she assumed her functions as an Executive Judge with manifest delay. As the Vice-Executive Judge, she should have exercised the duties and functions of an Executive Judge without need for her official designation as such. This is precisely what a Vice-Executive Judge must do: to take over in the absence of the Executive Judge. Lack of instructions from her predecessor does not justify the great risk she took by leaving the financial matters of the court to be handled without her supervision and monitoring. Simply put, had Judge Balquin-Reyes observed the Guidelines in Making Withdrawals provided in SC CIRCULAR NO 13-92,[44] unauthorized withdrawals of court funds could have been prevented.

Judge Balquin-Reyes deserves admonition from the Court to monitor strict compliance of circulars in the proper handling of judiciary funds and to keep herself abreast of the Court's issuances relative to the Office of Executive and Vice-Executive Judges.

With respect to Ms. Baltazar, she was grossly inefficient in handling the finances of the court. Her bare admission that she performed duties relative to the collection and remittance of fees and had indeed allowed other employees to borrow from the court funds, shows her extensive participation in the irregularities reported by the audit team. There is no doubt that these acts constitute a grave offense.[45] Gross dishonesty, grave misconduct and gross neglect of duty, warrant the maximum penalty of dismissal from service as provided in Section 9, Rule XIV of the Civil Service Rules:

"The penalty of dismissal shall carry with it cancellation of eligibility, forfeiture of leave credits and retirement benefits, and the disqualification for reemployment in the government service. Further, it may be imposed without prejudice to criminal or civil liability."

Ms. Baltazar's leave credits totaling 215.362 days amounting to a terminal leave pay of P98,966.85 (per computation of the Leave Division, Office of Administrative Services) and the salaries which she had earned until her separation from service should be forfeited and be applied to the payment of her liability. Further, the Court agrees that Ms. Baltazar's must be prosecuted for malversation of public funds under Article 217 of the Revised Penal Code. Her plea for time extensions in order to repay the amount of shortage can neither mitigate nor exculpate her from criminal prosecution.

WHEREFORE, Ms. Aranzazu V. Baltazar, Clerk IV of Regional Trial Court, San Mateo, Rizal is hereby found GUILTY for gross dishonesty, grave misconduct and conduct prejudicial to the best interest of the public and is hereby DISMISSED from the service with forfeiture of all retirement benefits and with prejudice to re-employment in the government, including government-owned or controlled corporations. Further, Ms. Aranzazu V. Baltazar is hereby ORDERED to reconstitute the balance of the shortage and unauthorized withdrawals in the Fiduciary Fund in the amount of P1,496,133.38.

The Civil Service Commission is hereby ORDERED to cancel the civil service eligibility of Ms. Aranzazu V. Baltazar, if any, in accordance with Section 9, Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292.

The Financial Management Office, Office of the Court Administrator, is hereby DIRECTED to process the terminal leave pay of Ms. Aranzazu V. Baltazar, dispensing with the usual documentary requirements and to apply the same to the shortage in the Fiduciary Fund of the Regional Trial Court of San Mateo, Rizal;

Atty. Fermin M. Ofilas, former Clerk of Court, Regional Trial Court, San Mateo, Rizal is hereby found GUILTY of gross inefficiency with FORFEITURE of all his retirement benefits, except his terminal leave pay. Further, he is DISQUALIFIED from re-employment in any branch or instrumentality in the government, including government-owned and controlled corporations.

Executive Judge Elizabeth Balquin-Reyes, Regional Trial Court, San Mateo, Rizal is hereby ADMONISHED to monitor strict compliance of circulars in the proper handling of judiciary funds and to keep herself abreast of the Court's issuances relative to Executive and Vice-Executive Judges.

The Legal Office, Office of the Court Administrator, is hereby DIRECTED to coordinate with the prosecution arm of the government to initiate and ensure the expeditious prosecution of the criminal liability of Ms. Aranzazu V. Baltazar.

SO ORDERED.

Puno, C.J., Carpio, Corona, Carpio Morales, Nachura, Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, and Mendoza, JJ., concur.

Velasco, Jr., J., no part due o prior action in OCA.

[1] Rollo, p. 31.

[2] Id. at 49.

[3] Id. at 53.

[4] Carlomagno Toribio v. Atty. Fermin M. Ofilas, AM No. P-03-1714, February 13, 2004.

[5] Supra note 1 at 78.

[6] Id. at 86.

[7] Id. at 87-88

[8] Civil Cases 057-92, 058-92, 059-92, 062-92, all filed in November 1992.

[9] Civil Cases 037-94, 041-94, 045-94, all filed in 1994.

[10] Civil Cases 215-01, 015-00np, 014-00np.

[11] EF Cases 004-00, 004-00, 005-01, 005-01, 078-03.

[12] Supra note 1 at 91.

[13] Id. at 41.

[14] Id. at 108.

[15] Id. at 116-119.

[16] Id. at 162-180.

[17] Id. at 165.

[18] Id. at 217-218.

[19] Id. at 222.

[20] Id. at 167-168.

[21] Id. at 219-221.

[22] Criminal Cases 2237-93; 2498; 2074; 2589; 119-97 and 120-97.

[23] Supra note 1 at 250.

[24] Id. at 365.

[25] Id. at 440-441.

[26] Id. at 471.

[27] Id. at 486.

[28] Id. at 552.

[29] Id. at 143-144.

[30] Id. at 141-142.

[31] Yu-Asensi v. Villanueva, MTC, A.M. No. MTJ-00-1245, January 19, 2000, 322 SCRA 255.

[32] Mendoza v. Mabutas, A.M. No. MTJ-88-142, June 17, 1993, 223 SCRA 411.

[33] Atty. Eduardo E. Francisco v. Liza O. Galvez, OIC Clerk of Court, A.M. No. P-09-2636, December 4, 2009.

[34] Rudas v. Acedo, A.M. No. P-93-931, August 14, 1995, 247 SCRA 237.

[35] OCA v. Marlon Roque and Anita G. Nunag, Clerks of Court Branch 3, OCC, MTCC, Angeles City, A.M. No. P-06-2200, February 4, 2009.

[36] A.M. No. 96-1-25-RTC, April 18, 1997.

[37] A.M. No. P-98-1281, April 27, 2005.

[38] Office of the Court Administrator v. Atty. Jose R. Bawalan, Clerk of Court, Regional Trial Court, Branch 23, Trece Martires City, A.M. No. P-93-945, March 24, 1994.

[39] Supra note at 35.

[40] OCA v. Bernardino, A.M. No. P-97-1258, January 31, 2005, 450 SCRA 88, 111.

[41] Effective March 1, 1992.

[42] Re: Financial Report on the Audit Conducted in the MCTC Apalit- San Simon, Pampanga, AM 08-1-30-MCTC, April 10, 2008.

[43] Judge Misajon, MTC San Jose, Antique vs. Clerk of Court Lagrimas A. Feranil, AM MTJ-02-1565, October 18, 2004.

[44] Withdrawal slips shall be signed by the Executive Judge and countersigned by the Clerk of Court.

[45] Section 52, Rule IV of the Uniform Rules on Administrative Cases in the Civil Service

Classification of Offenses— Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.

A. the following are grave offenses with their corresponding penalties:

- Dishonesty-1[st] offense-Dismissal
- Gross Neglect of Duty-1[st] offense-Dismissal
- Grave Misconduct-1[st] offense-Dismissal

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