OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. MACARIO C. VILLANUEVA, CLERK OF COURT, MUNICIPAL TRIAL COURT, BONGABON, NUEVA ECIJA, RESPONDENT.

A.M. No. P-04-1819 (Formerly A.M. No. 04-6-133-MTC). March 22, 2010

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PER CURIAM:

In a memorandum dated May 20, 2004,[1] the Office of the Court Administrator (OCA) reported the result of the financial audit conducted at the Municipal Trial Court (MTC) of Bongabon, Nueva Ecija in November 2003. In particular, the audit showed that respondent Macario C. Villanueva, clerk of court of MTC Bongabon, incurred cash shortages.[2]

The Court resolved to treat the findings of the audit team as an administrative complaint against respondent and directed the following:

> (a) restitution and deposit to the respective accounts of the following amounts and, thereafter, submission to the OCA of the validated deposit slips as proof of payment:
>
> FUND
>
> SHORTAGES
>
> I. Fiduciary Trust Fund
>
> P35,249.70
>
> II. Judiciary Development Fund
>
> 32,119.56
>
> III. General Fund
>
> 4,680.60
>
> IV. VCF & LRF
>
> 875.00
>
> TOTAL
>
> P72,924.86
>
> (b) withdrawal from the Judiciary Fund of the amounts of P807.02 and P4,000, representing the interest earned and confiscated cash bond, respectively, to be deposited to the JDF with the submission of validated deposit slips to the OCA;
>
> (c) withdrawal from the Fiduciary Fund of the amount of P27,750, representing the amount erroneously transferred to the court, remittance of the same to the municipal treasurer's office (MTO) and submission to the

OCA of the acknowledgment receipt from the MTO;

(d) submission of acknowledgment receipts of the following refunded cash bonds:

LITIGANT

O.R. NUMBER

CASE NUMBER

AMOUNT

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2667

P1,000

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2676

2,000

Arthur Sincon

MTC-6474215

2867

6,000

Carlito Marcelo

4643042

3039

10,000

TOTAL

P19,000

(e) accounting for 10 missing official receipt booklets with serial numbers 678501 to 679000 and

(f) explanation by respondent why no administrative sanction should be imposed on him for the above infractions.[3]

Furthermore, respondent was placed under suspension pending the resolution of this administrative matter.[4]

By way of explanation respondent submitted a letter[5] dated July 15, 2004 praying that the salaries and other emoluments withheld from him be applied to his cash accountabilities.

Acting on respondent's prayer, the OCA informed the Court via memorandum dated September 22, 2004[6] that an examination of additional documents pertaining to the accountabilities of respondent showed that he actually

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incurred a cash shortage amounting to P159,424.86 broken down as follows:

FUND

SHORTAGES

1. Judiciary Development Fund

P32,119.56

2. General Fund

4,680.60

3. Victim Compensation Fund

205.00

4. Legal Research Fund

670.00

5. Fiduciary Fund

121,749.70

TOTAL

P159,424.86

The OCA recommended that respondent be made to pay the said amounts and deposit these to their respective accounts and, thereafter, to submit validated deposit slips as proofs of payment. It also proposed that respondent be made to submit the following: the corresponding court orders and acknowledgment receipts pertaining to unwithdrawn cash bonds amounting to P221,700 as proof that they were duly refunded to the bondsmen; the corresponding court orders on withdrawn cash bonds totaling P31,000 and the acknowledgment receipts on withdrawn cash bonds amounting to P164,000.[7]

The Court approved the recommendations of the OCA.[8]

By way of compliance, respondent submitted a list of cases with the cash bonds and the status of the bail bonds, whether withdrawn or unwithdrawn, together with the certification of the MTO, affidavits, court orders and acknowledgment receipts.[9] He then requested that his suspension be lifted and reiterated his prayer that the salaries and other emoluments withheld from him be applied to his cash accountabilities.[10]

Despite respondent's compliance, the OCA stated in a memorandum dated May 4, 2006 that respondent still had a cash shortage of P46,674.86, broken down as follows:[11]

FUND

SHORTAGES

1. Judiciary Development Fund

P27,293.56

2. General Fund

2,286.60

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3. VCF & LRF

650.00

4. Fiduciary Fund

8,999.70

5. Discrepancies on the Filing Fees Collected

7,445.00

TOTAL

P46,674.86

The OCA reported that the said cash shortage could be fully covered by the money value of respondent's total terminal leave benefits of P417,693.13.[12]

In the same memorandum, the OCA informed the Court that it received an affidavit of a certain Evelyn O. Mercado alleging that, when certain criminal cases[13] pending in the MTC of Bongabon were dismissed due to amicable settlement, the cash bonds posted by the accused (which were supposed to be remitted to the complainants to satisfy the respective obligations of the accused) were applied by respondent as payment for outstanding filing fees without issuing any receipt therefor.[14]

Accordingly, the OCA recommended that respondent be directed to comment on the affidavit of Mercado and to submit the corresponding acknowledgment receipts relating to cash bonds to prove that these had been duly refunded to the bondsmen.[15] While the OCA also recommended the denial of respondent's request for the lifting of his suspension, it proposed that his request for the release of salaries and other emoluments withheld from him prior to his suspension be granted.[16]

In a resolution dated June 20, 2006,[17] the Court approved the recommendations of the OCA.

In his comment,[18] respondent denied the allegations contained in the affidavit of Mercado. He also presented an affidavit dated July 28, 2006 of purportedly the "real" Evelyn Mercado denying that she had accused respondent of failing to issue receipts for filing fees.[19]

Due to the nature of respondent's allegations in his comment, the Court resolved to refer to Judge Corazon D. Soluren, executive judge of the Regional Trial Court (RTC) of Palayan City, the matter of the "conflicting affidavits" of Mercado.[20]

In her investigation report dated March 20, 2007,[21] Judge Soluren stated that the affidavits dated November 12, 2003 and July 26, 2006 were executed by the same person. She noted that the affiant Mercado appeared during the hearing and admitted that respondent was actually her kumpadre. The 2006 affidavit was executed three years after the execution of the first affidavit in 2003. Respondent himself secured the 2006 affidavit.

After evaluating the investigation report of Judge Soluren, the OCA submitted its report and recommendation.[22] The OCA adopted Judge Soluren's finding that the 2003 and 2006 affidavits had been executed by one and the same person. The OCA concluded that respondent himself secured the 2006 affidavit as a desperate attempt to insulate himself from the additional charge of not issuing receipts, a matter alleged in the 2003 affidavit.

The 2003 affidavit showed that Mercado intended to file an administrative complaint against respondent but respondent persuaded her to recant the same. Respondent even tried to fabricate a scenario wherein the 2003 affidavit was supposedly executed by a fictitious person to confuse the Court. Notwithstanding the fact that the

author of the two affidavits was identified, however, the charge of not issuing receipts was not proven.

Nonetheless, respondent is not entirely without any liability as there still remains the matter of the shortages he incurred.

The OCA proposed that respondent be held liable for incurring various cash shortages. That respondent was able to pay a portion of his shortages does not absolve him from the consequences of his wrongdoing. The fact remains that he incurred cash shortage as a result of misappropriation of court funds. Such misappropriation constituted dishonesty, gross neglect of duty and grave misconduct which are grave offenses punishable by dismissal for the first offense.[23]

Thus, the OCA recommended the following:

> (a)
>
> dismissal of respondent from the service, with forfeiture of his retirement benefits, excluding accrued leave credits, and perpetual disqualification from reemployment in the government or in any government-owned or controlled corporation;
>
> (b)
>
> computation by the Financial Management Office-OCA of the final money value of all the respondent's accrued leave credits, dispensing with the usual documentary requirements, and to apply the same to the shortage incurred by the respondent, observing the following order of preference: Fiduciary Fund, Special Allowance for the Judiciary and Clerk of Court Fund and
>
> (c)
>
> restitution by respondent of the portion of the shortage not covered by the money value of his accrued leave credits.

We agree with the findings and recommendations of the OCA.

The Court's authority -- possessed of neither purse nor sword -- ultimately rests on sustained public confidence in its moral sanction.[24] The judiciary is intended be the source for secular moral authority in our Republic. That is why all court personnel have the duty to preserve and promote the integrity of the judiciary. As we declared in Judge de la Peña v. Sia:[25]

> Persons involved in the administration of justice ought to live up to the strictest standard of honesty and integrity in the public service. The conduct of every personnel connected with the courts should, at all times, be circumspect to preserve the integrity and dignity of our courts of justice. As forerunners in the administration of justice, they ought to live up to the strictest standards of honesty and integrity, considering that their positions primarily involve service to the public.

Clerks of court, in particular, are the chief administrative officers of their respective courts. They must show competence, honesty and probity, having been charged with safeguarding the integrity of the court and its proceedings.[26] Furthermore, they are judicial officers entrusted with the role of performing delicate functions with regard to the collection of legal fees, and are expected to correctly and effectively implement regulations. Hence, as custodians of court funds and revenues, they have always been reminded of their duty to immediately deposit the various funds received by them to the authorized government depositories for they are not supposed to keep funds in their custody.[27]

The clerk of court is primarily accountable for all funds that are collected for the court, whether personally received by him or by a duly appointed cashier who is under his supervision and control.[28] As the custodian of

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court funds, revenues, records, properties and premises, he is liable for any loss, shortage, destruction or impairment of said funds and properties. A clerk of court found short of money accountabilities may be dismissed from the service.[29]

In this case, the financial audit conducted in the MTC of Bongabon, Nueva Ecija showed that respondent incurred cash shortages. While he was able to reduce his accountability by producing the required documents, he could not account for the balance. This indicated two things: (1) respondent's gross negligence and very poor management of the records of collected fees and (2) his failure to account for the remainder which gave rise to the presumption that he misappropriated the same for his personal use. He failed to fully account for the funds despite the ample time he was given to do so.

His continued failure to remit court funds and to give a satisfactory explanation for such failure constitutes grave misconduct, dishonesty and even malversation.[30] These, as well as his gross negligence, are all grave offenses that merit the supreme penalty of dismissal even for the first offense.

As every court employee is a cog in the judicial machinery and plays a vital role in the administration of justice, no breakdown in any part may be allowed if the judicial machinery is to function effectively and efficiently. The same principle holds true for the integrity of all the employees and officers of the judiciary. Grave misconduct and dishonesty have no place in the judicial system if its ethos, its integrity as an institution, which is the foundation of the judiciary's moral authority, is to be preserved.

WHEREFORE, the respondent Macario C. Villanueva is hereby found GUILTY of dishonesty, gross neglect of duty and grave misconduct. He is DISMISSED from the service, his retirement benefits (excluding accrued leave credits) are FORFEITED and he is PERPETUALLY DISQUALIFIED from reemployment in the government or in any government-owned or controlled corporation.

The Financial Management Office of the Office of the Court Administrator is directed to COMPUTE the final monetary value of all the respondent's accrued leave credits, dispensing with the usual documentary requirements, and to APPLY the same to the shortage incurred by the respondent, observing the following order of preference: Fiduciary Fund, Special Allowance for the Judiciary and Clerk of Court Fund.

Finally, respondent is ordered to RESTITUTE the portion of the shortage not covered by the money value of his accrued leave credits, if any. If he fails to do so within a non-extendible period of one (1) month from receipt of the resolution, the OCA is hereby directed to commence criminal and civil proceedings against respondent for the recovery of the amounts due.

SO ORDERED.

Puno, C.J., Carpio, Corona, Carpio Morales, Nachura, Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Abad, Perez, and Mendoza, JJ., concur.
Velasco, Jr., J., no part due to prior action n OCA.
Villarama, Jr., J., on official leave.

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[1] Rollo, pp. 2-3.

[2] Id.

[3] Id.

[4] Id.

[5] Id., pp. 22-23.

[6] Id., pp. 32-38.

[7] Id.

[8] Resolution dated October 19, 2004. Id., pp. 39-42.

[9] Letter dated January 3, 2005 with attachments. Id., pp. 50-128.

[10] Id.

[11] Id., pp. 145-156. In a manifestation dated May 26, 2009, respondent informed the Court that he deposited a total amount of P17,934 to satisfy his accountabilities. The amount represented the following P1,500 for the Fiduciary Fund (under Land Bank of the Philippines [LBP] Cabanatuan Branch Savings Account No. 0021333310, P14,414 for the Judiciary Development Fund (under LBP Cabanatuan Branch Savings Account No. 0591011634) and P2,020 for the Special Allowance for the Judiciary Fund (under LBP Cabanatuan Branch Savings Account No. 0591174428). This further reduced respondent's cash shortage to P28,740.86. Id., pp. 356-361.

[12] This was based on a computation made by the Office of Administrative Services-OCA and Financial Management Office-OCA. Id.

[13] Particularly, Criminal Case Nos. 3159, 3161 and 3162 (People v. Lena Lachica for estafa); Criminal Case Nos. 3147-3150 (People v. Fernandez for estafa); Criminal Case No. 3168 (People v. Resma Reguyal for estafa) and People v. Annie Binuya (docket number was not specified). Id.

[14] Id.

[15] Id.

[16] Id.

[17] Id., pp. 182-184.

[18] Dated July 29, 2006. Id., pp. 203-224.

[19] Id., pp. 206-224.

[20] Resolution dated December 5, 2006. Id., pp. 232-233.

[21] Id., pp. 253-258.

[22] Memorandum dated July 11, 2008. Id., pp. 349-353.

[23] Section 52, Rule IV, Uniform Rules on Administrative Cases in the Civil Service (Resolution No. 99-1936 which took effect on September 27, 1999).

[24] Baker v. Carr, 369 U.S. 186, 267 (1962), Frankfurter, J., dissenting.

[25] A.M. No. P-06-2167, 27 June 2006, 493 SCRA 8.

[26] Id.

[27] Id.

[28] OCA v. Atty. Dureza-Aldevera, A.M. No. P-01-1499, 26 September 2006, 503 SCRA 18.

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[29] Id.

[30] Judge De La Cruz v. Atty. Luna, A.M. No. P-04-1821, 02 August 2007, 529 SCRA 34.

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