

RE: FINANCIAL AUDIT CONDUCTED IN THE MUNICIPAL CIRCUIT TRIAL COURT, RAGAY-DEL GALLEG0, CAMARINES SUR

A.M. NO. P-05-1949 (Formerly A.M. No. 04-9-255-MCTC). September 27, 2006

Ponente: TINGA, J.

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TINGA, J.:

This disposes of the administrative case against Darius Ramon C. Abengoza (Abengoza), Officer-in- Charge (OIC)/Acting Clerk of Court of the Municipal Circuit Trial Court (MCTC) of Ragay-del Gallego, Camarines Sur.

It appears that Abengoza was designated as OIC/Acting Clerk of Court in a memorandum dated May 6, 2002 of Hon. Manuel E. Contreras (Judge Contreras), Acting Presiding Judge of the said court, due to the indefinite leave of absence of Clerk of Court II, Ricardo Roehl P. Ocfemia (Ocfemia).[1] On October 17, 2002, however, Judge Contreras relieved Abengoza of his designation due to the latter's failure to make the necessary remittances of his cash collections and to submit the required financial reports on time. Subsequently, Judge Contreras requested that a financial and judicial audit of his court be immediately conducted.[2]

It was discovered during the financial audit that collections on the Judiciary Development Fund (JDF), Clerk of Court General Fund, and Fiduciary Fund for the months of August to October 16, 2002 with an aggregate amount of P62,934.80 were not reported and remitted on time to their corresponding depository accounts, and salary checks of employees amounting to P19,095.00 were encashed from court collections in violation of existing Supreme Court administrative circulars. As a result, the Office of the Court Administrator (OCA) recommended that Abengoza be fined in the amount of P5,000.00 and disqualified from being an accountable officer of any first and second level court.[3]

The matter was referred to the Executive Judge of the Regional Trial Court (RTC), Libmanan, Camarines Sur, for investigation, report and recommendation. Accordingly, Executive Judge Cecilia R. Borja-Soler (Judge Borja-Soler) conducted an investigation and submitted a Report[4] dated December 23, 2005.

The Report reveals that Abengoza admitted his lapses but attributed them to his lack of training for the designated post. According to Abengoza, he tried his best to diligently perform his duties as OIC/Acting Clerk of Court apart from his regular duties as Clerk II.[5] He divulged that he committed an error when he deposited the amount of P19,095.00 to the JDF when it was supposed to have been deposited to the Fiduciary Fund. From then on, he opted to keep the cash collections inside Ocfemia's drawer, hoping that the latter would soon resume his regular work.[6]

Avengoza also admitted having allowed the encashment of the salary checks of his officemates from the court's cash collection but claimed that the practice was done in good faith.[7]

In view of Avengoza's admission of his mistakes and plea for the Court's understanding, Judge Borja- Soler recommends that he be fined the amount of P3,000.00 and disqualified from being an accountable officer of any first and second level court.[8]

We are in accord with the findings and recommendation of Judge Borja-Soler.

Clerks of court are officers of the law who perform vital functions in the prompt and sound administration of justice. Their office is the hub of adjudicative and administrative orders, processes and concerns. They perform a delicate function as designated custodians of the court's funds, revenues, records, properties and premises. As such, they generally are also the treasurer, accountant, guard and physical plant manager thereof. They are liable for any loss, shortage, destruction or impairment of such funds and property.[9]

It is the duty of clerks of court to perform their responsibilities faithfully, so that they can fully comply with the circulars on deposits of collections. They are reminded 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. The 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.[10]

Abengoza's practice of keeping the court's cash collections inside Ocfemia's drawer was imprudent and foolhardy. His action was in complete violation of Administrative Circular No. 3-2000 dated June 15, 2000 which commands that all fiduciary collections shall be deposited immediately by the Clerk of Court concerned, upon receipt thereof, with an authorized government depository bank. The procedural guidelines of this circular provide:

II. Procedural Guidelines

A. Judiciary Development Fund

x x x x

3. Systems and Procedures.

x x x x

c. In the RTC, MeTC, MTCC, MTC, MCTC, SDC and SCC. - The daily collections for the Fund in these courts shall be deposited everyday with the nearest LBP branch for the account of the Judiciary Development Fund, Supreme Court, Manila - SAVINGS ACCOUNT NO. 0591-0116-34 or if depositing daily is not possible, deposits for the Fund shall be at the end of every month, provided, however, that whenever collections for the Fund reach P500.00, the same shall be deposited immediately even before the period above-indicated.

x x x x

Collections shall not be used for encashment of personal checks, salary checks, etc. x x x

x x x x B. General Fund (GF) (1.) Duty of the Clerks of Court, Officer-in-Charge or Accountable Officers.-The Clerks of Court, Officers-in-Charge of the Office of the Clerk of Court, or their accountable duly authorized representatives designated by them in writing, who must be accountable officers, shall receive the General Fund collections, issue the proper receipt therefor, maintain a separate cash book properly marked CASH BOOK FOR CLERK OF COURT'S GENERAL FUND AND SHERIFF'S GENERAL FUND, deposit such collections in the manner herein prescribed, and render the proper Monthly Report of Collections and Deposits for said Fund.

x x x x

Further, Abengoza's act of allowing the encashment of salary checks from the court's collections directly contravenes the same circular.

The excuse of lack of prior training and orientation in administering fiduciary fund collections and eventual restitution and deposit of these collections on October 24, 2002 do not absolve Abengoza from liability.

In Re: Gener C. Endona,[11] the clerk of court was fined the amount of P2,000.00 for belatedly depositing the court's collections. The Court held that strict observance of the rules and regulations regarding the remittance of these funds is necessary to safeguard them against the possibility of loss or misuse and to ensure that the government is not deprived of its interest earnings.[12] In Re: Financial Audit of Accounts of Clerk of Court Pacita T. Sendin,[13] on the other hand, the Court imposed a higher fine of P5,000.00 on the clerk of court because of the shortages in the amounts to be remitted and the years of delay she incurred before actual remittance.

Given that the delay in depositing the cash collections in this case was less than three (3) months only and the fact that this is Abengoza's first infraction, we are inclined to adopt Judge Borja- Soler's recommendation.

WHEREFORE, Darius Ramon C. Abengoza is hereby ordered to pay a FINE of P3,000.00 payable to this Court within five (5) days from notice hereof. He is likewise DISQUALIFIED from being an accountable officer of any first and second level court.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, and Carpio Morales, JJ., concur.
Verlasco, Jr. , J. (no part due to prior action in OCA)

[1] Rollo, p. 51.

[2] Id. at 52.

[3] Id. at pp. 1-3; Memorandum dated September 10, 2004.

[4] Id. at 51-55.

[5] Id. at 52-53.

[6] Id.

[7] Id.

[8] Id. at 55.

[9] Misajon v. Feranil, A.M. No. P-02-1565, A.M. No. MTJ-02-1408, A.M. No. P-04-1900, October 18, 2004, 440 SCRA 315, 327-328.

[10] Id. at 328.

[11] A.M. No. 94-12-111-MeTC, February 13, 1995, 241 SCRA 237.

[12] Id. at 239.

[13] 424 Phil. 406 (2002).

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