

RE: FINANCIAL AUDIT ON THE BOOKS OF ACCOUNT OF MS. LAURA D. DELANTAR, CLERK OF COURT, MTC, LEYTE, LEYTE,

A.M. NO. 06-2-43-MTC. March 30, 2006

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PER CURIAM:

In the course of the financial audit conducted on the books of account of Clerk of Court Laura D. Delantar of the Municipal Trial Court of Leyte, Leyte, covering the period November 11, 1989 up to September 30, 2004, the audit team noted several deficiencies, to wit: (a) entries in the official receipts pertaining to collections for the solemnization and filing fees were tampered; (b) entries in the duplicate and triplicate copies of the official receipts were written in ink in violation of Circular No. 22-94 which requires that the duplicate and triplicate copies should be carbon reproduction; (c) the official receipts were not properly maintained; (d) entries in the official receipts were illegible and incomplete; (e) the collections for the Judiciary Development Fund (JDF) and General Fund (GF) were erroneously recorded; (f) the cashbooks were not properly maintained; (g) some collections were not recorded in the cash book; (h) the monthly reports were not filed; (i) the remittances of collections were delayed; (j) the collections for the Fiduciary Fund (FF) were not deposited in the savings account; and (k) the bail bond for Case No. 3692 has no collection.

The breakdown of the cash accountabilities of Delantar are as follows:

Judiciary Development Fund:

Total Collections (Nov. 1989 — Sept. 30, 2004)

P115,410.00

Less: Total Remittances

53,123.75

Shortage

P 62,286.25

Deposited on November 11, 2004 P 35,000.00

Deposited on February 21, 2005 27,286.25 62,286.25

Initial Accountability

P 0.00

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Special Allowance for the Judiciary Fund:

Total Collections (Nov. 2003 — September 30, 2004)

P 5,430.00

Less: Total Remittances

3,980.00

Shortage

P 1,450.00

Deposited on February 21, 2005

1,450.00

Initial Accountability

P 0.00

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Fiduciary Fund:

Total Collections (July 1992 — Sept. 30, 2004)

P266,930.00

Less: Total Withdrawals

205,000.00

Unwithdrawn Fiduciary Fund

P 61,930.00

Less: Adjusted Bank Balance as of Sept. 30, 2004

Bank balance as of Sept. 30, 2004 P 11,575.10

Add: Deposit in transit — Oct. 6, 2004 21,000.00

Total P 32,575.10

Less: Unwithdrawn interest (net of tax) 1,052.40 31,522.70

Shortage

P 30,407.30

Deposited on October 19, 2004 P 18,407.30

Deposited on February 21, 2005 12,000.00 30,407.30

Initial Accountability

P 0.00

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In a Memorandum dated January 28, 2005, Judge Antonio A. Abilar was directed to investigate and submit his report and recommendation; to designate the personnel who will handle the collections; and to monitor the handling of the judiciary funds.

Judge Abilar required Delantar to comment and set the reception of evidence on March 7, 2005; however, before the scheduled hearing, Delantar submitted her comment where she unqualifiedly admitted the findings of the audit team. Thereafter, Judge Abilar proceeded with the examination of documents to determine the extent of Delantar's liabilities and found thus:

1. Marriages from 1990 to July 2004:

YEAR UNDER INVESTIGATION ACTUAL REPORTED DISCREPANCIES

1990 TO April 2000 976 79 897

May 2000 to July 2004 153 49 104

Government Losses on Marriage Solemnization:

1990 to April 2000 — 897 x P50/solemnization

P44,850.00

May 2000 to July 2004 — 104 x P300/solemnization 31,200.00

TOTAL P76,050.00

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2. Jurat Processed from 1990 to September 2004:

YEAR UNDER INVESTIGATION ACTUAL REPORTED DISCREPANCIES

1990-1993 409 48 361

1994-1999 580 158 422

2000 TO Sept. 2004 504 111 393

Government losses on Jurat Processing:

1990 to 1993 (361 x P3/jurat)

P 1,083.00

1994 to 1999 (422 x P10/jurat) 4,220.00

2000 to Sept. 2004 (393 x P25/jurat) 9,825.00

TOTAL P15,128.00

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3. Acknowledgment from 1990 to 2004:

YEAR UNDER INVESTIGATION ACTUAL REPORTED DISCREPANCIES

1990-1993 211 79 132

1994-1999 167 83 84

2000 TO Sept. 2004 21 21 0

Government losses on Acknowledgment Processing:

1990 to 1993 (132 x P5/acknowledgment)

P 660.00

1994 to 1999 (84 x P20/acknowledgment) 1,680.00

TOTAL P2,340.00

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4. Fines collected but not reported:

1. Crim. Case No. 3464 (P v. Garcia)

No OR issued and no amount reflected in the cash book. P 400.00

2. Crim. Case No. 3633 (P v. Elatico & Carbo)

SAmount reflected in the cash book is only P500.00. P 1,000.00

3. Crim. Case No. 3628 (P v. Monesit)

No OR issued and not recorded in the cash book. P 505.00

4. Crim. Case No. 3577 (P v. Caballero & Sulla)

The total fine is P1,010.00 but only P500 was reported. P 510.00

5. Crim. Case No. 3572 (P v. Ebina)

The total fine is P1,010.00 but only P200 was reported. P 810.00

6. Crim. Case No. 3637 (P v. Mansueto & Delantar)

Total fine imposed was P1,000.00 but only P500.00 was recorded. P 500.00

7. Crim. Case No. 3651 (P v. Delantar & Abilar)

Total fine imposed was P1,000.00 but only P500 was recorded. P 500.00

8. Crim. Case No. 3654 (P v. Lanosa & Burre)

Only P10.00 was reported when P500.00 was collected. P 490.00

9. Crim. Case No. 3653 (P v. Corpin)

Only P20 was reported when P1,500.00 was collected. P1,480.00

10. Crim. Case No. 3682 (P v. Espina)

Only P20 was reported. Bail bond fee was P300.00. P 280.00

TOTAL P6,475.00

5. Bail bond receipted but not reported:

1. OR No. 3914770 issued to Roger Canete; not reflected in the cash book. P 4,500.00

2. OR No. 3914788 issued to Ismael Millos; reflected in the cash book but for P50.00 only instead of P15,000.00 and without a name. P15,000.00

3. OR No. 3914788 issued to Edgardo Delantar; same OR as above; not reflected in the cash book. P 4,000.00

4. OR No. 3914788 issued to Jannette Solayao for P10,000; same OR as above but the P10,000 was already withdrawn by Solayao.

5. OR No. 3914780 issued to Tiny Muertigue for P12,000; cash not deposited; records falsified that property bond was approved in lieu of cash bond. P12,000.00

TOTAL P35,500.00

The total misappropriated funds amounts to P135,493.00 broken down as follows:

Marriages P 76,050.00

Jurat 15,128.00

Acknowledgment 2,340.00

Fines 6,475.00

Cash Bond 35,500.00

TOTAL P135,493.00

The investigating judge found Delantar guilty of gross neglect of duty and dishonesty and recommended that she be dismissed from the service or, in the alternative, she should be allowed to retire considering her admission of the irregularities, her willingness to reconstitute the misappropriated funds, and her 25 years of service in the judiciary.

The Office of the Court Administrator (OCA), however, opined that Delantar's partial restitution of the shortages and her admission are not enough to overcome the gravity of her infractions spanning a long period of time. The OCA thus recommended:

- to docket the audit report as a regular administrative complaint against Delantar;
- to immediately suspend Delantar from office while undergoing investigation;
- to dismiss Delantar from the service effective immediately with forfeiture of retirement benefits except accrued leave credits, and with prejudice to reemployment in any branch of the government or any of its agencies or instrumentalities including government-owned and controlled corporations;
- to withhold the accrued leave credits and apply the same to the final shortages established for Judiciary Development Fund and Special Allowance for the Judiciary Fund amounting to P29,229.75 and P7,027.00, respectively, if Delantar fails to reconstitute the said shortage per directive of this Office;
- to direct the Legal Office, OCA to file the appropriate criminal charges against Delantar; and
- to issue a Hold Departure Order against Delantar.

We agree with the findings and recommendation of the OCA.

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 the 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.[1]

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 and no protestation of good faith can override the mandatory nature of the Circulars designed to promote full accountability for government funds. The failure to remit the funds in due time constitutes gross dishonesty and gross misconduct which cannot be countenanced by the Court for they diminish the faith of the people in the Judiciary. The act of misappropriating judiciary funds constitutes dishonesty and grave misconduct which are grave offenses punishable by dismissal even if committed for the first time.[2]

Clerks of court perform delicate functions as designated custodians of the court's funds, revenues, records, properties and premises. As such, they are also the court's treasurers, accountants, guards and physical plant managers. Hence, they are liable for any loss, shortage, destruction or impairment of those funds or property.[3]

Delantar took advantage of her position as branch clerk of court and misappropriated the collections for the judiciary funds. The infractions, i.e., tampering of the official receipts; tampering of the cash book; failure to record and remit collections; and failure to file monthly reports, were committed not by mere inadvertence but with conscious and deliberate efforts which evince a malicious and immoral propensity. Her unqualified admission and partial restitution could not, therefore, be considered as indicia of good faith; her acts of misappropriating the judiciary funds and altering the entries are inconsistent with good faith.

We note that after partial restitutions by Delantar, the shortage now only amounts to P29,229.75 and P7,027.00 representing the misappropriated Judiciary Development Fund and Special Allowance for the Judiciary Fund. This sum may be disproportionate vis-a-vis the imposable penalty of dismissal; however, the penalty is not contingent on the amount misappropriated, but is imposed because there was misappropriation of government funds. For those who have fallen short of their accountabilities, we have not hesitated to impose the ultimate penalty. This Court had never and will never tolerate nor condone any conduct which would violate the norms of public accountability, and diminish, or even tend to diminish, the faith of the people in the justice system.[4]

WHEREFORE, in view of the foregoing, respondent Laura D. Delantar, Clerk of Court of the Municipal Trial Court of Leyte, Leyte, is found GUILTY of grave misconduct and dishonesty and is ordered DISMISSED from the service effective 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 RESTITUTE the amounts of P29,229.75 and P7,027.00 representing the misappropriated Judiciary Development Fund and Special Allowance for the Judiciary Fund.

The Employees Leave Division, Office of Administrative Services — OCA is DIRECTED to compute the balance of respondent's accrued leave credits and forward the same to the Finance Division, Fiscal Management Office —OCA for the computation of its monetary value. The resulting amount, as well as other monetary benefits Delantar may be entitled to shall be applied as part of the restitution of the shortage.

The Legal Office, OCA is DIRECTED to coordinate with the Department of Justice to ensure the expeditious filing and prosecution of the criminal charges against respondent. The Bureau of Immigration is DIRECTED to issue a Hold-Departure Order against respondent to prevent her from leaving the country.

SO ORDERED.

Panganiban, C.J., Puno, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, and Garcia, JJ., concur.

[1] 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.

[2] Id.

[3] Report on the Financial Audit Conducted at the MCTC-Mabalacat, Pampanga, A.M. No. P-05-1989, October 20, 2005.

[4] Re: Complaint against Atty. Wilfredo B. Claveria for Misappropriation of Judiciary Funds, Adm. Matter No. P-02-1626 & Adm. Matter No. P-03-1759, July 7, 2004, 433 SCRA 495, 501, citing Office of the Court Administrator v. Galo, 373 Phil. 483 (1999).

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