

COLLECTION OF FEE FOR TRANSPORTATION ALLOWANCE WITHOUT PROPER RECEIPT BY CLERK OF COURT MARCIANA APAS-PILAPIL, MUNICIPAL CIRCUIT TRIAL COURT (MCTC), LILOAN, CEBU, IN CIVIL CASE ...

A.M. No. P-08-2434 (Formerly A.M. No. 07-6-152-MCTC). March 03, 2008

Ponente: NACHURA, J.

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NACHURA, J.:

The Judiciary, being the institution charged with the dispensation of justice – through the Supreme Court and the lower courts, from the presiding judge to the lowest clerk – must be circumscribed with a heavy burden of responsibility. 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 must be punished so as to deter a repetition of the like.

In the case at bench, the Court reiterates the standard of conduct that our court employees ought to observe in the exercise of their functions as agents of justice.

The Facts

In a letter[1] dated December 28, 2006, Atty. Jose Wayne C. Lawas alleges that when he filed on behalf of his client, a Complaint[2] for unlawful detainer with the Municipal Circuit Trial Court, Liloan-Compostela, Liloan, Cebu, docketed as Civil Case No. 605-R entitled Gliceria C. Lawas v. Veneranda Longakit, et al., the clerk of court, Ms. Marciana Apas-Pilapil (Ms. Pilapil), collected and received from him the amount of P4,427.00 representing payment of the Judiciary Development Fund (JDF), Special Allowance for Justices and Judges (SAJ), Legal Research Fund (LRF) and Transportation Allowance (TA). A summary[3] of the fees collected and received was personally handwritten by Ms. Pilapil, thus:

JDF - P1,006.00 SAJ - 2,064.00

LRF - 307.00

TA - 1,050.00

but while Ms. Pilapil issued official receipts for the JDF,[4] SAJ[5] and LRF,[6] she failed to issue an official receipt for the TA.

Atty. Lawas was surprised with the collection of the TA because the two (2) official receipts bearing O.R. No. 3868905 and O.R. No. 3868879 already reflected the payment of fees for service of summons.

In a letter[7] dated January 30, 2007, Court Administrator Christopher O. Lock required Ms. Pilapil to explain why she did not issue an official receipt for the P1,050.00 collected as transportation allowance, and why she collected an amount more than what is required under Section 10, Rule 141 of the Rules of Court.

In her Comment[8] dated February 19, 2007, Ms. Pilapil admitted that she was aware of Section 10(1), Rule 141

of the Revised Rules of Court, requiring the deposit of P1,000.00 upon filing of the complaint “to defray the actual travel expenses of the Sheriff/Process Server.” As to why she collected the amount of P1,050.00 without issuing an official receipt therefor, she explained, thus:

- She has “no account” for the Sheriff’s Trust Fund;
- The Sheriff’s Trust Fund is not among the fees she collects;
- It takes her at least an hour to get to the depository bank (Land Bank) in Mandaue City, and another three (3) to four (4) hours to finish her bank transactions;
- She does not collect transportation allowance for her travel to the depository bank;
- There are seven (7) defendants in Civil Case No. 605-R, and the cost of the service of summons upon each defendant was P150.00;
- She collected the transportation allowance from Atty. Lawas on behalf of the process server, Alfredo M. Noval, because the latter is a relative of the plaintiff and one of the defendants, Lolita Cabahug, as well as of Atty. Lawas; and
- She merely acceded to the request of Mr. Noval to collect said allowance.

Ms. Pilapil also took exception to the action taken by Atty. Lawas in bringing the matter to the attention of the Court Administrator, considering that Atty. Lawas paid an amount for the JDF and SAJ less than what he ought to have paid.

In a Certification[9] attached to the letter-comment of respondent, Process Server Alfredo M. Noval, Jr. confirmed that he indeed requested respondent to collect the transportation allowance to defray the expenses in serving the summons upon the defendants in Civil Case No. 605-R.

The OCA Findings and Recommendation

For failure of Ms. Pilapil to abide by the provision of Section 10 (I), Rule 141, Revised Rules of Court and Supreme Court Circular No. 26-97, the OCA recommended that the complaint lodged against Ms. Pilapil be docketed as a regular administrative matter, and that she be fined in the amount of Five Thousand Pesos (P5,000.00) for simple misconduct, with a warning that a repetition of the same or similar offense be dealt with more severely.[10]

This Court’s Ruling

We adopt the findings and recommendations of the Office of the Court Administrator.

The procedural requirement for travel allowance is provided in Section 10 (I) of Rule 141, thus:

In addition to the fees hereinabove fixed, the amount of One Thousand (P1,000.00) Pesos shall be deposited with the Clerk of Court upon filing of the complaint to defray the actual travel expenses of the sheriff, process server or other court-authorized persons in the service of summons, subpoena and other court processes that would be issued relative to the trial of the case. In case the initial deposit of One Thousand (P1,000.00) Pesos is not sufficient, then the plaintiff or petitioner shall be required to make an additional deposit. The sheriff, process server or other court- authorized person shall submit to the court for its approval a statement of the estimated travel expenses for service of summons and court processes. Once approved, the clerk of court shall release the money to said sheriff or process server. After service, a statement of liquidation shall be submitted to the court for approval. After rendition of judgment by the court, any excess from the deposit shall be returned to the party who made the deposit.

The required One Thousand Peso (P1,000.00) deposit is primarily intended to defray the actual travel expenses of

the sheriff, process server or other court-authorized persons in the service of summons, subpoena and other court processes to be issued relative to the trial of the case. However, before the amount can be availed of, an estimate of the travel expenses for service of summons and court processes should first be submitted by the sheriff or process server. A statement of liquidation shall also be submitted to the court for approval after the summons or court processes have been served.

In this case, not only did Ms. Pilapil grossly ignore the procedural requirement in the collection and disbursement of travel allowance, she also failed to issue an official receipt for the amount she collected. This violated Supreme Court Circular No. 26-97 dated May 5, 1997, reiterating Article VI of the Auditing and Accounting Manual which provides:

For proper accounting and control of revenues, no payment of any nature shall be received by a collecting officer without immediately issuing an official receipt in acknowledgment thereof. This receipt may be in the form of stamps x x x or officially numbered receipts, subject to proper custody and accountability.

We agree with the findings of the OCA that the explanation of Ms. Pilapil for her failure to issue an official receipt for the transportation allowance she collected and received from Atty. Lawas is inadequate and does not justify her disregard of the above requirements.

Ms. Pilapil, as Clerk of Court and as custodian of the court's funds and revenues among others, performs a very delicate function. She assumes a high degree of responsibility relative to these funds, and is accountable not only to the courts but to the litigants and their counsels as well. Her act of collecting the amount of One Thousand and Fifty Pesos as transportation allowance in violation of Section 10 (I), Rule 141 of the Revised Rules of Court and her failure to issue an official receipt in violation of Supreme Court Circular No. 26-97 are matters which this Court cannot tolerate.

When Ms. Pilapil took exception to Atty. Lawas' complaint and pointed out that counsel paid an amount for the JDF and SAJ less than what he ought to have paid, she merely underscored her neglect and failure to dutifully collect the exact fees from the litigants. She herself admitted in her comment[11] that she collected only Fifty-Six (P56.00) Pesos for the JDF and One Hundred Forty-Four (P144.00) Pesos for the SAJ which left a balance of Three Hundred Thirty-Six (P336.00) Pesos and Eight Hundred Sixty-Four (P864.00) Pesos, respectively, or a total of One Thousand Two Hundred (P1,200.00) Pesos.

It is worth noting that the Judiciary Development Fund and the Fiduciary Fund partake of the nature of trust funds.[12] The JDF is being collected for the benefit of the members and personnel of the Judiciary to help ensure and guarantee the independence of the Judiciary in the administration of justice. It is also intended to augment the allowances of the members and personnel of the Judiciary and to finance the acquisition, maintenance and repair of office equipment and facilities.[13] The fund answers for the continuing development of our courts as channels of justice and as guardian of rights. In ensuring the faithful collection of this fund, the Clerks of Court as collecting officers exercise a very vital role.

Thus, Ms. Pilapil is entrusted with the primary responsibility of correctly and effectively implementing regulations regarding fiduciary funds. Her assertion of good faith cannot override the mandatory nature of the above requirements essentially designed to promote full accountability for government funds.[14]

Strict adherence to the Rules of Procedure is a matter we expect from litigants and their counsels when they seek redress and justice in courts. This very same measure of faithfulness we demand from court officials and employees in the performance of their duties for the effective and efficient administration of justice.

The acts complained of against Ms. Pilapil, having a direct relation to, and being connected with the performance

of, her official duties, constitute misconduct.[15] Misconduct is defined as a transgression of some established and definite rule of action.[16] For her failure to abide by the provision of Section 10(l), Rule 141, Revised Rules of Court and Supreme Court Circular No. 26-97 dated May 5, 1997, Ms. Pilapil should be held liable for simple misconduct. Under Section 22, Rule XIV of the Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws, simple misconduct is classified as less grave offense with a penalty ranging from suspension for one (1) month and one (1) day to six (6) months, for the first offense, to dismissal, for the second offense. Nonetheless, considering the severity of the prescribed penalties, coupled with the fact that this is her first infraction, it is only proper that the penalty to be imposed on her be reduced.

WHEREFORE, in light of the foregoing, respondent Marciana Apas-Pilapil is found GUILTY of simple misconduct for which she is FINED the sum of Five Thousand Pesos (P5,000.00) and WARNED that the commission of a similar offense shall be dealt with more severely.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Chico-Nazario, and Reyes, JJ., concur.

[1] Rollo, p. 6.

[2] Id. at 14-19.

[3] Id. at 7.

[4] Id.

[5] Id. at 8.

[6] Id.

[7] Id. at 9.

[8] Id. at 10-11.

[9] Id. at 20.

[10] Memorandum dated June 4, 2007, pp. 4-5; id. at 4-5.

[11] Comment of Ms. Marciana Apas-Pilapil, dated February 19, 2007, pp. 10-11.

[12] Re: Report of Acting Presiding Judge Wilfredo F. Herico on Missing Cash Bonds in Criminal Case No. 750 and Criminal Case No. 812, A.M. No. 00-3-108-RTC, and Re: Financial Audit on the Cash Accounts of Messrs. Rolando B. Saa and Benjamin Sevilla of MCTC of Capalonga-Sta. Elena, Camarines Norte, A.M. No. 00-11-260-MCTC, January 28, 2005, 449 SCRA 407, 429.

[13] Section 1, P.D. 1949: The Judiciary Development Fund.

[14] Report on the Financial Audit on the Books of Accounts of Mr. Delfin T. Polido, Former Clerk of Court, MCTC, Victoria-La Paz, Tarlac, A.M. No. 05-11-320-MCTC, February 17, 2006, 482 SCRA 571, 576.

[15] Teodulo V. Largo v. Court of Appeals, et al., G.R. No. 177244, November 20, 2007.

[16] Vidallon-Magtolis v. Salud, A.M. No. CA-05-20-P, September 9, 2005, 469 SCRA 439, 469.

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