

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
GREGORIO B. SADDI, CLERK OF COURT, MTC, SASMUAN,
PAMPANGA, RESPONDENT.**

A.M. No. P-10-2818 (Formerly A.M. No. 10-4-54-MTC). November 15, 2010

Ponente: VILLARAMA, JR., J.

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VILLARAMA, JR., J.:

This administrative matter stemmed from a financial audit conducted by the Court Management Office on the cash and accounts of the Clerk of Court and OIC/Clerks of Court of the Municipal Trial Court (MTC), Sasmuan, Pampanga, covering the period September 1, 2007 to October 31, 2009. The examination was prompted by the request of Judge Janice R. Yulo-Antero, Acting Presiding Judge therein, for an urgent financial audit of MTC, Sasmuan, Pampanga.

In a Memorandum[1] dated March 26, 2010, the audit team reported to Court Administrator Jose Midas P. Marquez, that it was able to account for 12 booklets and 103 pieces of unused official receipts as of the audit cut-off date, October 31, 2009. The cash count conducted on November 9, 2009 revealed no shortage or overage. No shortage was likewise noted during the period of accountability of the OIC/Clerks of Court Albert M. David and Nelia U. Lacsá. Shortages were only discovered for the periods of accountability of Clerk of Court Gregorio B. Saddi from October 24, 2007 to December 31, 2007 and July 11, 2008 to August 31, 2009.

In particular, the audit team computed a shortage because Saddi failed to deposit collections in the following court funds: P20,105.00 in the Judiciary Development Fund (JDF), P33,352.20 in the Special Allowance for the Judiciary Fund, P16,000.00 in the Sheriff's Trust Fund, P65,100.00 in the Fiduciary Fund, and P12,000.00 in the Mediation Fund, or a total of P146,557.20. Saddi received a copy of the Memorandum dated November 27, 2007, which required him to explain in writing why no administrative charge should be filed against him for the delay in remitting the collections, but he did not comply. A previous audit of MTC-Sasmuan, Pampanga also revealed that Saddi had previously incurred a shortage of P217,367.00 for the period of November 1, 2003 to August 31, 2007, although he later restituted the amount in full on October 5, 2007.

The audit team further reported that Saddi did not prepare and submit monthly financial reports of his collections to the Court in violation of OCA Circular No. 113-2004.[2] Thus, the audit team recommended that Saddi be held liable for gross neglect of duties, dishonesty as an accountable officer in charge of collecting money belonging to the court, and for violating SC Administrative Circular No. 5-93,[3] as amended by Administrative Circular No. 3-2000, and SC Circular No. 50-95.[4]

The audit team also disclosed that in a letter dated January 4, 2010, Judge Yulo-Antero informed Executive Judge Pamela Ann A. Maximo that Saddi had issued a handwritten receipt on August 25, 2009 for the amount of P500.00 which he received as execution fee from the plaintiff in Civil Case No. 794. He failed to issue the necessary writ of execution pending appeal and was ordered by Judge Yulo-Antero on November 9, 2009, to explain in writing why he only issued a handwritten receipt. Saddi, however, submitted no explanation.

Further, the audit team called the Court Administrator's attention to an earlier administrative case involving Saddi, docketed as A.M. No. 07-10-260-MTC.[5] In said case, the Court resolved to drop Saddi from the rolls effective January 2, 2007 for having been absent without official leave (AWOL). The Court later granted Saddi's motion for reconsideration and resolved, instead, to suspend him for two months for absenteeism with a stern warning that a repetition of the same or similar act shall be dealt with more severely.

Despite the Court's warning, however, Saddi incurred further absences without official leave. In a letter dated October 23, 2009 addressed to Executive Judge Pamela Ann A. Maximo, Judge Yulo-Antero disclosed that Saddi did not report to work from September 2, 2009 to October 9, 2009. Again, he offered no explanation for his absences. Hence, Judge Yulo-Antero recommended that Saddi be dropped from the rolls.

Upon the foregoing facts, the audit team recommended that:

1. This report be docketed as a regular administrative complaint against Mr. Gregorio B. Saddi, Clerk of Court, MTC, Sasmuan, Pampanga for dishonesty, gross neglect of duty and grave misconduct;

2. MR. GREGORIO B. SADDI, Clerk of Court, be DIRECTED within ten (10) days from receipt of notice to:

2.1. RESTITUTE the shortages incurred on the following funds:

Special Allowance for the

Judiciary Fund

P 33,352.20

Schedule 1

Judiciary Dev't. Fund

20,105.00

Schedule 2

Sheriff's Trust Fund

16,000.00

Schedule 3

Fiduciary Fund

65,100.00

Schedule 4

Mediation Fund

12,000.00

Schedule 5

Total

P 146,557.20

2.2. PAY a FINE of TEN THOUSAND PESOS (P10,000.00) for the delayed remittances of his collections

which should have earned interest if the same were remitted on time;

2.3. PAY Five Hundred Pesos (P500.00) for deposit to the JDF Account pertaining to the amount collected from the plaintiff in Civil Case No. 794 for the payment of execution fee wherein no writ of execution pending appeal was issued; and

2.4. SUBMIT to the Fiscal Monitoring Division, FMO-OCA the copies of the machine validated deposit slips, all within ten (10) days from receipt of notice as proof of compliance in items 2.1 and 2.3.

3. MR. GREGORIO B. SADDI be DISMISSED from the service for gross dishonesty, gross neglect of duty and grave misconduct with forfeiture of all benefits except accrued leave credits and with prejudice to reemployment in any branch or instrumentality of the government including government owned or controlled [corporations] or in case of failure to reconstitute the shortages amounting to P146,557.20 and P500.00, including fine of P10,000.00, the money value of his accrued leave credits shall be applied to his accountabilities dispensing with the usual documentary requirements;

4. FINANCIAL MANAGEMENT OFFICE, OFFICE OF THE COURT ADMINISTRATOR be DIRECTED

4.1. to APPLY the computed Terminal Leave Pay Benefits of [Mr.] Gregorio B. Saddi to the shortages found on [his] books of accounts in the order of priority as follows:

Fund

Amount

For Deposit/ Payable to

Fiduciary Fund

P 65,100.00

Fiduciary Fund Acct. of MTC-Sasmuan

Sheriff's Trust Fund

16,000.00

STF Account of MTC-Sasmuan

Special Allowance for the Judiciary Fund

33,352.20

SAJF Account

Judiciary Dev't. Fund

20,105.00

JDF Account

Mediation Fund

12,000.00

MF Account

Total

P146,557.20

4.2. to INFORM the Fiscal Monitoring Division, Court Management Office, Office of the Court Administrator on the action taken [thereon] so the said Office can finalize this audit on the accountabilities of Mr. Saddi and likewise advise the incumbent Clerk of Court [of the] procedure on how or when to deposit the amount deducted from the Terminal leave Pay of Mr. Saddi;

5. MS. NELIA U. LA[C]SA and MR. ALBERT M. DAVID, OIC-Clerk of Court and former OIC-Clerk of Court, respectively, be CLEARED of their financial accountability as of October 31, 2009 is concerned; and

6. Acting Presiding Judge JANICE R. YULO-ANTERO be DIRECTED to STRICTLY MONITOR the financial transactions of MTC, Sasmuan, Pampanga in strict adherence to the issuances of the Court to avoid the incurrence of violations committed by Mr. Gregorio B. Saddi and institute reforms that will strengthen the internal control system in the management of judiciary funds otherwise she will be held equally liable for the infractions committed by the employees under her command/supervision.[6]

On March 26, 2010, the Court Administrator issued a Memorandum[7] to the Chief Justice adopting in toto as the OCA's recommendation, the recommendations of the audit team.

We sustain the findings and recommendation of the OCA.

The OCA correctly found cause to hold Saddi administratively liable for the following infractions: (1) incurring a cash shortage due to undeposited collections in the amount of P146,557.20 during his period of accountability; (2) failure to prepare a monthly report of his collections; (3) issuing a handwritten receipt in the amount of P500.00 as payment for the execution fee in Civil Case No. 794; and (4) going on AWOL from September 2, 2009 to October 9, 2009. For all these, Saddi gave no explanation.

Clerks of court, as the chief administrative officers of their respective courts, must act with competence, honesty and probity in accordance with their duty of safeguarding the integrity of the court and its proceedings. They are judicial officers entrusted to perform delicate functions with regard to the collection of legal fees, and as such, are expected to implement regulations correctly and effectively. As custodians of court funds, they are constantly reminded to deposit immediately the funds which they receive in their official capacity to the authorized government depositories for they are not supposed to keep such funds in their custody.

In particular, SC Administrative Circular No. 3-2000 provides for the duty of the clerk of court to receive JDF collections in their respective courts, issue the proper receipt therefor and maintain a separate cash book properly marked as "CASH BOOK FOR JUDICIARY DEVELOPMENT FUND." The clerk of court shall deposit such collections every day and render the proper Monthly Report of Collections and Deposits for said Fund within 10 days after the end of every month.

Collection shall be deposited in the designated depository bank, the Land Bank of the Philippines (LBP) or its branches. In the absence of an LBP branch, Postal Money Orders payable to the Chief Accountant, OCA, shall be purchased from the local post office and sent to the latter for deposit to the JDF Savings Account. The daily collections for the Fund shall be deposited every day with the nearest LBP branch for the account of the JDF or, if depositing daily is not possible, deposits for the Fund shall be made 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 indicated. These procedural guidelines apply in like manner to the General Fund received by clerks of court.

Meanwhile, SC Circular No. 50-95 provides that all collections from bailbonds, rental deposits and other fiduciary collections shall be deposited with the LBP by the clerk of court concerned within 24 hours from receipt. In

localities where there are no branches of LBP, fiduciary collections shall be deposited by the clerk of court with the provincial, city or municipal treasurer. Complimentary to these, OCA Circular No. 113-2004 requires clerks of court to submit monthly reports for three funds, namely, JDF, Special Allowance for the Judiciary Fund and Fiduciary Fund.

In a Memorandum dated November 27, 2007, the OCA directed Saddi to explain why he should not be administratively charged for the delayed remittances of the judiciary funds in his custody. Similarly, on November 9, 2009, he was ordered by Judge Yulo-Antero to explain in writing the handwritten receipt he issued for the payment of the execution fee in Civil Case No. 794. On both occasions, however, Saddi failed to comply. And while Saddi had restituted in full the shortages found during a previous audit, the same will not absolve him of administrative liability.[8]

The Court enjoins clerks of court to strictly observe the rules and regulations relative to the management of court funds received by them. Saddi's failure to turn over up to this time the full amount of his collections from October 24, 2007 to December 31, 2007 and July 11, 2008 to August 31, 2009 and to adequately explain and present evidence thereon constitute gross dishonesty, grave misconduct, and even malversation[9] of public funds.[10] On the other hand, the delayed remittance of his cash collections for November 1, 2003 to August 31, 2007, and failure to submit monthly reports of court funds he received constitute gross neglect of duty.[11] The failure to submit monthly reports of the court funds he received further constitutes violations of SC Circular No. 50-95 and OCA Circular No. 113-2004.

As regards the handwritten receipt he issued, Saddi likewise violated SC Circular No. 26-97. Said circular provides,

TO: ALL JUDGES AND CLERKS OF COURTS OF THE REGIONAL TRIAL COURTS, SHARI'A DISTRICT COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS, SHARI'A CIRCUIT COURTS

SUBJECT: LEGAL FEES FORM FOR LOWER COURTS

To eradicate the practice of some clerks of court of retaining the original copy of the official receipt issued in acknowledgment of payment for file with the record of the case instead of issuing the same to the payor, JUDGES and CLERKS OF COURT are hereby DIRECTED to:

1) Compel their collecting officials to strictly comply with the provisions of the AUDITING AND ACCOUNTING MANUAL, Art. VI, Sec[s]. 61 and 113, to wit:

ARTICLE VI - Accountable Forms

Sec. 61. Kinds of Accountable Forms -

(a) Official Receipts - For proper accounting and control of collections, collecting officers shall promptly issue official receipts for all monies received by them. These receipts may be in the form of stamps or officially numbered receipts xxx.

Sec. 113. Issuance of official receipt - 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. Th[ese] receipts may be in the form of stamps xxx or officially numbered receipts, subject to proper custody and accountability.

2) Cause the attachment of the Legal Fees Form for lower courts x x x which is to be provided by the Property Division of the Office of the Court Administrator, to the record of the case in lieu of the official receipt.

Non-compliance with this CIRCULAR shall be dealt with administrative sanctions. (Emphasis supplied.)

Saddi's act of issuing a handwritten receipt for the payment of the execution fee did not satisfy the requirement of SC Circular No. 26-97 for a clerk of court to issue official receipts promptly for all monies received by him. The circular specifically provides for the form which said official receipts may take, that is, either in the form of stamps or officially numbered receipts - never handwritten. Moreover, there is no indication that Saddi properly accounted for, remitted and reported such payment under the JDF Account.

By these deplorable acts of gross dishonesty, grave misconduct and gross neglect of duty, Saddi has, no doubt, undermined the people's faith in the courts and, ultimately, in the administration of justice.[12] Dishonesty alone, being in the nature of a grave offense, carries the extreme penalty of dismissal from the service with forfeiture of retirement benefits, except accrued leave credits, and perpetual disqualification for reemployment in the government service. Dishonesty has no place in the Judiciary.[13] Gross neglect of duty and grave misconduct, likewise, carry the same penalty.

In this case, however, we can no longer impose the penalty of dismissal upon Saddi, who was dropped from the rolls effective August 3, 2009 for being AWOL. Nonetheless, the forfeiture of his benefits except accrued leave credits, restitution of his undeposited collections and payment of interest that said collections would have earned had they been deposited on time are in order.

WHEREFORE, the Court finds and declares:

(1) Gregorio B. Saddi, Clerk of Court, MTC, Sasmuan, Pampanga GUILTY of Gross Dishonesty, Grave Misconduct, Gross Neglect of Duty and of violating SC Circular No. 26-97. Let all his retirement benefits be forfeited, except accrued leave credits, with prejudice to reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations. He is further DIRECTED to:

(a) RESTITUTE the amount of P146,557.20, representing the amount of shortage in his collections from October 24, 2007 to December 31, 2007 and July 11, 2008 to August 31, 2009, and the amount of P500.00, representing the execution fee in Civil Case No. 794;

(b) PAY the amount of INTEREST which the Court would have earned had the collections been deposited on time. The money value of his accrued leave credits shall be applied to his accountabilities dispensing with the usual documentary requirements;

(c) SUBMIT to the Fiscal Monitoring Division, Court Management Office, OCA, copies of the machine-validated deposit slips, all within 10 days from receipt of notice as proof of compliance with (a) and (b) above.

(2) The Financial Management Office, OCA is ORDERED to:

(2.1) APPLY the computed terminal leave pay benefits of Gregorio B. Saddi to the shortage found on his books of accounts in the following order of priority:

Fund

Amount

For Deposit/ Payable to

Fiduciary Fund

P 65,100.00

Fiduciary Fund Acct. of MTC-Sasmuan

Sheriff's Trust Fund

16,000.00

STF Account of MTC-Sasmuan

Special Allowance for the Judiciary Fund

33,352.20

SAJF Account

Judiciary Dev't. Fund

20,105.00

JDF Account

Mediation Fund

12,000.00

MF Account

Total

P146,557.20

(2.2) INFORM the Fiscal Monitoring Division, Court Management Office, OCA on the action taken thereon so the said Office can finalize this audit on the accountabilities of Mr. Saddi and likewise advise the incumbent Clerk of Court of the procedure on how or to which account the amount deducted from the Terminal Leave Pay of Saddi shall be deposited;

(3) The Fiscal Monitoring Division, Court Management Office, OCA is directed to DETERMINE the exact amount of interest which respondent is liable for;

(4) Nelia U. Lacsá and Albert M. David, OIC-Clerk of Court and former OIC-Clerk of Court, respectively, are CLEARED of their financial accountability as of October 31, 2009; and

(5) The Office of the Court Administrator is directed to FILE the appropriate criminal charges against Gregorio B. Saddi.

SO ORDERED.

Carpio Morales, (Chairperson), Brion, Bersamin, and Sereno, JJ., concur.

[1] Rollo, pp. 10-21.

[2] The circular prescribes that all monthly reports of collections, deposits and withdrawals shall be submitted not later than the 10[th] day of each succeeding month to the Chief Accountant of the Supreme Court.

[3] SC Circular No. 5-93 mandates that collections for the Judiciary Development Fund (JDF) shall be deposited

every day with the local or nearest Land Bank of the Philippines (LBP) branch.

[4] SC Circular No. 50-95 provides that all collections of funds must be deposited within twenty-four (24) hours by the Clerk of Court concerned, upon receipt thereof, to the nearest depository bank.

[5] Re: Absence Without Official Leave (AWOL) of Mr. Gregorio B. Saddi, Clerk of Court II, MTC, Sasmuan, Pampanga, December 13, 2007, 540 SCRA 39, 41.

[6] Rollo, pp. 18-20.

[7] Id. at 1-3.

[8] Id. at 15.

[9] Art. 217 of the Revised Penal Code provides:

ART. 217. Malversation of public funds or property - Presumption of malversation. - Any public officer who, by reason of the duties of his office, is accountable for public funds or property, shall appropriate the same, or shall take or misappropriate or shall consent, or through abandonment or negligence, shall permit any other person to take such public funds or property, wholly or partially, or shall otherwise be guilty of the misappropriation or malversation of such funds or property, shall suffer:

x x x x

The failure of a public officer to have duly forthcoming any public funds or property with which he is chargeable, upon demand by any duly authorized officer, shall be prima facie evidence that he has put such missing funds or property to personal uses.

[10] Report on the Financial Audit Conducted on the Books of Accounts of the Municipal Circuit Trial Court, Mondragon-San Roque, Northern Samar, A.M. No. P-09-2721 (Formerly A.M. No. 09-9-162-MCTC), February 16, 2010, 612 SCRA 509, 531.

[11] See Sollesta v. Mission, A.M. No. P-03-1755 (Formerly OCA I.P.I. No. 02-1328-P), April 29, 2005, 457 SCRA 519, 534.

[12] Id. at 536.

[13] Dela Peña v. Sia, A.M. No. P-06-2167 (Formerly OCA I.P.I. No. 04-2079-P), June 27, 2006, 493 SCRA 8, 20.

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