OFFICE OF THE COURT ADMINISTRATOR (OCA), COMPLAINANT, VS. ATTY. TEOTIMO D. CRUZ, FORMER OFFICER-IN-CHARGE, OFFICE OF THE CLERK OF COURT, REGIONAL TRIAL COURT, SAN MATEO, RIZAL, ...

A.M. No. P-11-2988 (Formerly A.M. No. 11-8-154-RTC). December 12, 2011

Ponente: MENDOZA, J.

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MENDOZA, J.:

This administrative case arose from the financial audit conducted by the Court Management Office (CMO) of the books of account of Atty. Teotimo D. Cruz (Atty. Cruz), former Officer-in-Charge of the Office of the Clerk of Court, Regional Trial Court, San Mateo, Rizal (RTC), covering the period from August 21, 2007 to August 31, 2010. Atty. Cruz compulsorily retired on April 15, 2011.

Atty. Cruz succeeded Atty. Fermin M. Ofilas (Atty. Ofilas) who compulsorily retired on August 17, 2007. Atty. Cruz's term ended when Atty. Aris Z. Bautista was designated as Officer-in-Charge by Executive Judge Josephine Zarate-Fernandez effective September 1, 2010.

The audit conducted by the CMO disclosed that there was a cash shortage in the amount of P928,534.24. Of the said amount, P12,000.00 was incurred during the term of Atty. Cruz while P916,534.24 was carried over from the term of Atty. Ofilas and which formed part of the financial accountability of former Clerk IV Aranzazu V. Baltazar per Decision[1] of the Court in A.M. No. P-05-1935 dated April 23, 2010.

The audit team found out that the cash shortage of P12,000.00 was the result of a double withdrawal of cash bond posted in Criminal Case Nos. 6182 and 6183 under Official Receipt No. 13480917 dated July 21, 2002, which was previously withdrawn and confiscated during the term of Atty. Ofilas but was again withdrawn during Atty. Cruz' term.

The records likewise revealed that Atty. Cruz incurred a delay in the remittances of his collections in violation of Administrative Circular No. 5-93. Per computation, the non-remittances of court collections deprived the Court of the interest in the amount of P34,578.17 had the collections been deposited on time.[2]

In its report, the Office of the Court Administrator (OCA) adopted the recommendations of the Audit Team, to wit:

> - This report be DOCKETED as a regular administrative matter against ATTY. TEOTIMO D. CRUZ, former Officer-in-Charge, Office of the Clerk of Court, Regional Trial Court, San Mateo, Rizal;
>
> - A FINE of P5,000.00 be IMPOSED upon Atty. Teotimo D. Cruz for not depositing his collections within the prescribed period;
>
> - The Finance Division, FMO, OCA, be DIRECTED to process the money value of terminal leave benefits of Atty. Teotimo D. Cruz subject to the submission of the documentary requirements and to DEDUCT there from

> the cash shortage of P12,000.00 in the Fiduciary Fund, the FINE of P5,000.00 and the amount of P34,578.17 representing interests that could have been earned had the collections [been] deposited within the prescribed period;
>
> - The Cashier Division, FMO, OCA be DIRECTED to DEPOSIT the amount of P5,000.00 to the account of the Special Allowance for the Judiciary Fund and the P34,578.17 to the Judiciary Development Fund and FURNISH the Fiscal Monitoring Division, CMO, OCA with copies of machine validated deposit slips as proof of compliance thereof;
>
> - Atty. Aris Z. Baustista, Officer-in-Charge, Office of the Clerk of Court, RTC, San Mateo, Rizal be DIRECTED to DEPOSIT the amount of P12,000.00 to the Fiduciary Fund account within five (5) days from receipt of the check from the Checks Disbursement Division, FMO, OCA and FURNISH immediately the FMD, CMO, OCA with machine validated deposit slip as proof that the amount of P12,000.00 was deposited to the fiduciary fund account; and
>
> - Hon. Executive Judge Josephine Zarate-Fernandez be DIRECTED to STRICTLY MONITOR the incumbent Officer-in-Charge in the strict compliance with the circulars and issuances of the Court particularly in the handling of judiciary funds, otherwise she shall be held equally liable for the infraction committed by the employee under her command/supervision.[3]

The Court agrees with the OCA and adopts its recommendations.

Clerks of Court are officers of the law who perform vital functions in the prompt and sound administration of justice.[4] They are the courts' treasurers, accountants, guards and physical plant managers.[5] As custodian of court funds and revenues, it is 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.[6]

Atty. Cruz' belated turnover of cash deposited with him is inexcusable and will not exonerate him from liability. His failure to remit his cash collections on time is violative of Administrative Circular No. 3-2000 which mandates that all fiduciary collections shall be deposited immediately by the Clerk of Court concerned, upon receipt thereof, with the Land Bank of the Philippines, the authorized government depository bank. It provides:

> 3. Systems and Procedures. --
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> x x x x
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> (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.
>
> A separate set of official receipts shall be used for the collections for the Fund. The official receipt issued for the Fund shall invariably indicate the prefix initial of the name of the Fund, "JDF," followed immediately by the description of the kind and nature of the collection. Official receipts for the Fund shall be provided by the Supreme Court.

Collections shall not be used for encashment of personal checks, salary checks, etc., Only Cash, Cashier's Check and Manager's Check are acceptable as payments.

The unwarranted failure to faithfully perform this responsibility deserves administrative sanction. Ordinarily, unreasonable delay in the remittances of collections constitutes neglect of duty punishable by suspension of one

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month and one day to six months for the first offense and dismissal for the second offense.[7] Considering, however, that Atty. Cruz has retired from the service and considering that this is his first infraction, the Court finds the OCA's recommended penalty of ?5,000.00 fine to be in order.

This Court has stressed that the behavior of all employees and officials involved in the administration of justice, from the judge to the most junior clerk, is circumscribed with a heavy responsibility. Their conduct must be guided by strict propriety and decorum at all times, in order to merit and maintain the public's respect for, and trust in the Judiciary.[8] The Court will not tolerate any conduct, act or omission on the part of those who will violate the norm of public accountability and diminish or even just tend to diminish the faith of the people in the Judiciary.[9]

WHEREFORE, Atty. Teotimo D. Cruz is FINED in the amount of P5,000.00. He is likewise ordered to RESTITUTE the shortages in his collections in the total amount of P12,000.00 and to PAY P34,578.17 representing the interests which could have been earned had the collections been deposited within the prescribed period.

The Financial Management Office is directed to deduct from his retirement benefits the sum of P51,578.17.

The Financial Management Office is ordered to deposit the amount of P5,000.00 to the Special Allowance for the Judiciary Fund and P34,578.17 to the Judiciary Development Fund, and to furnish the Fiscal Monitoring Division, Court Management Office, Office of the Court Administrator, copies of machine validated deposit slips as proof of compliance.

The Financial Management Office is likewise directed to issue a check in the amount of P12,000.00 to Atty. Aris Z. Bautista, Officer-in-Charge, Office of the Clerk of Court, Regional Trial Court, San Mateo, Rizal for the latter to deposit to the Fiduciary Fund account within five (5) days from receipt thereof and, thereafter, furnish the Fiscal Monitoring Division, Court Management Office, Office of the Court Administrator with copies of machine-validated deposit slips as proof of compliance.

Lastly, Executive Judge Josephine Zarate-Fernandez is directed to strictly monitor the incumbent Officer-in-Charge in the strict compliance with the circulars and issuances of the Court particularly in the handling of judiciary funds.

SO ORDERED.

Velasco, Jr., (Chairperson), Peralta, Abad, Mendoza, and Perlas-Bernabe, JJ., concur.

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[1] Entitled "Office of the Court Administrator v. Atty. Fermin M. Ofilas and Aranzazu V. Baltazar, Clerk of Court and Clerk IV, respectively, Regional Trial Court, San Mateo, Rizal, A.M. No. P-05-1935 (Formerly A.M. No. 04-10-599-RTC), 619 SCRA 13.

[2] Rollo, pp. 5-6.

[3] Id. at 1-2.

[4] Escañan v. Monterola II, 404 Phil. 32, 39 (2001).

[5] Report on the Financial Audit conducted at the MCTC-Mabalacat, Pampanga, 510 Phil. 237, 242 (2005).

[6] Report on the Financial Audit on the Books of Accounts of Mr. Delfin T. Polido, 518 Phil. 1, 5 (2006).

[7] Id. at 6.

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[8] In Re: Delayed Remittance of Collections of Teresita Lydia R. Odtuhan, 445 Phil. 220, 224 (2003).

[9] Office of the Court Administrator v. Juliet C. Banag, A.M. No. P-09-2638, December 7, 2010, 637 SCRA 18, 37.

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