

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. MS. VIVENCIA K. LANGUIDO, CLERK OF COURT II, MUNICIPAL CIRCUIT TRIAL COURT, PRES. ROXAS-ANTIPAS-ARAKAN, NORTH COTABATO, RESPO...

A.M. No. P-12-3084 [Formerly A.M. No. 12-4-33-MCTC]. August 22, 2012

Ponente: MENDOZA, J.

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MENDOZA, J.:

The February 12, 2009 Memorandum[1] of the Financial Management Office, Office of the Court Administrator (FMO-OCA) reported that several clerks of court of the lower courts failed to submit their Monthly Financial Reports and recommended that an immediate financial audit be conducted on them by the Fiscal Monitoring Division, Court Management Office (FMD-CMO). As recommended, FMD-CMO conducted an on-the-spot audit, examination and reconciliation of the book of accounts of Vivencia K. Languido (Languido), Clerk of Court, Municipal Circuit Trial Court, Pres. Roxas-Antipas-Arakan, North Cotabato (MCTC), covering the period from April 19, 1985 to September 30, 2009.

On March 14, 2002, FMB-CMO submitted its report that Languido incurred delay in the remittances of her collections and had a cash shortage in the total amount of Four Hundred Ninety One Thousand Nine Hundred Ten Pesos and 70/100 (P491,910.70). Of the said amount, Languido restituted Eighty Seven Thousand Nine Hundred Sixty Nine Pesos and 10/100 (P87,969.10) leaving a balance of Four Hundred Three Thousand Nine Hundred Forty One Pesos and 60/100 (P403,941.60).

Moreover, only one passbook under Savings Account No. 0741-1432-91 could be presented covering the period from 2003 to 2009 because Languido claimed to have lost the earlier passbook.

Furthermore, it was disclosed that Languido failed to issue a receipt and remit to its proper account the bet money confiscated during an arrest in violation of P.D. No. 1602 and forfeited in favor of the government. She explained that she did not know that the money should be deposited in the Special Allowance for the Judiciary Fund.

It was also discovered that Languido had been collecting and disbursing the Sheriffs Trust Fund since 2004 but did not issue the corresponding official receipts or deposit the amounts collected. Neither did she maintain an official cash book nor prepare/submit monthly reports to the Accounting Division, FMO-OCA. For these shortcomings, Languido explained that there were no instructions on how to handle the trust fund.

For her infractions, the OCA withheld her salaries and other benefits. Judge Jose T. Tabosares, MCTC Presiding Judge, relieved her as financial custodian of the court funds, and designated Juliet B. Degutierrez, as the temporary financial custodian.

In a Memorandum,[2] dated March 14, 2012, the matter was referred to the OCA for evaluation, report and recommendation.

The OCA, in its March 23, 2012 Memorandum,[3] adopted the recommendations of the audit team, as follows:

1. This report be docketed as an administrative complaint against Ms. Vivencia K. Languido, Clerk of Court, MCTC, pres. Roxas- Antipas-Arakan, North Cotabato, for non-remittance of collections and non-submission of Monthly Financial Reports in violation of Administrative Circular No. 3-2000 and OCA Circular 113-2004 dated June 15, 2000 and September 16, 2004, respectively;

2. The withheld salaries of Ms. Vivencia K. Languido from May 2008 to date be FORFEITED and APPLIED to the computed liabilities giving priority on the Fiduciary Fund account;

3. Ms. Vivencia K. Languido be DIRECTED within fifteen (15) days from receipt of notice to:

3.1. SUBMIT pertinent documents to the Fiscal Monitoring Division, Court Management Office, this Office, to wit:

3.i.a.

Xerox copy of Fiduciary Fund passbook under Savings Account No. 0741-1432-91 for the period October 2009 to present for verification on the source of Thirty - Nine Thousand Pesos (P39,000.00) unremitted cash bonds which were released after the audit cut-off.

3.1.b.

Valid documents evidencing the following undocumented Fiduciary Fund withdrawals totaling to Twenty -Four Thousand Pesos (P24,000.00).

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3.2 EXPLAIN in writing why administrative sanction shall not be imposed against her for non-submission of Monthly Financial Reports and for the shortages incurred in the following funds:

Fund

Shortages

Restitution

Balance

Date

Amount

Judiciary Development

Fund

P 109,045.60

10.5.09

P 1,719.60

P 105,850.00

11.3.09

1,476.00

Special Allowance for the Judiciary Fund

52,877.00

10.5.09

2,384.40

0.00

10.30.09

49,774.60

11.5.09

718.00

General Fund

1,277.60

1,277.60

Sheriffs General Fund

72.00

72.00

Fiduciary Fund

278,000.00

278,000.00

Sheriffs Trust Fund

2,855.00

11.5.09

2,855.00

0.00

Mediation Fund

26,500.00

11.3.09

26,500.00

0.00

Victim's Compensation Fund

345.00

11.3.09

345.00

0.00

Legal Research Fund

3,516.50

11.3.09

1,516.50

0.00

Confiscated Bet Money

19,422.00

10.1.09

680.00

18,742.00

TOTAL

P491,910.70

P87,969.10

P 403,941.60

4. Ms. Vivencia K. Languido be placed under preventive suspension without pay considering that the acts committed involve gross dishonesty and grave misconduct and be FINED in the amount of Ten Thousand Pesos (P10,000.00) for not remitting the collections and depriving the Court of interest income, with a STERN WARNING that a similar act will be dealt with more severely in the future;

5. The Finance Division, Financial Management Office, Office of the Court Administrator is DIRECTED to:

5.1. APPLY the cash shortages incurred by Ms. Vivencia K. Languido against her withheld salaries, net of mandatory deductions, from May 2008 to date totaling Four Hundred Three Thousand Nine Hundred Forty-One Pesos and 60/100 (P403,941.60) tabulated in 3.1 above;

5.2. REMIT to its respective accounts the deducted shortages referred in 5.1;

5.3. INFORM the Fiscal Monitoring Division, Court Management Office, Office of the Court Administrator of the action taken on the immediately preceding directive;

6. Ms. Juliet B. Degutierrez, Clerk II and Officer-in-charge, MCTC, Pres. Roxas-Antipas-Arakan, North Cotabato be DIRECTED to:

6.1. STRICTLY ADHERE and FOLLOW the issuances of the Court on the proper handling and reporting of judiciary funds particularly the prescribed period within which to remit court collections;

6.2 UPDATE daily the recording of financial transactions in the official cashbooks maintained for each fund and CERTIFY at the end of every month the correctness of the entries therein;

7. Judge JOSE T. TABOSARES be DIRECTED to MONITOR the financial transactions of MCTC, Pres.

Roxas-Antipas-Arakan, North Cotabato in strict observance of the issuances of the Court to avoid recurrence of irregularity in the collection, deposit and withdrawal of court funds otherwise, he will be held equally liable for the infractions committed by the erring employee of the court under his command; and

8. A Hold Departure Order be ISSUED to Ms. Vivencia K. Languido to prevent her from leaving the country.

Clerks of court are officers of the law who perform vital functions in the prompt and sound administration of justice. They perform a delicate function as designated custodians of the court's funds, revenues, records, properties and premises.[4] As such, 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.[5]

Time and again, the Court has been reminding court personnel tasked with collection of court funds, such as clerks of courts and cash clerks, to deposit immediately with authorized government depositories the various funds they have collected because they are not authorized to keep funds in their custody.[6] 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.[7]

In the case at bench, Languido undoubtedly had been remiss in the performance of her duties. As clerk of court, she is duty-bound to use reasonable skill and diligence in the performance of her officially designated duties.[8] Records show that Languido failed to do the following: submit financial reports, remit the funds/collections on time, record her cash transactions in the cash books, and did not issue official receipts on several transactions particularly with regard to the confiscated and forfeited bet money and the collection and disbursement of the Sheriffs Trust Fund.

Languido's excuse of lack of knowledge and orientation in administering fiduciary funds and collections, and the absence of instructions on how to handle the Sheriffs Trust Fund does not absolve her of liability. Safekeeping of funds and collections is essential to 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.[9]

Languido's delay in remitting court collections was in complete violation of SC Circular Nos. 13-92 and 5-93, which provide the guidelines for the proper administration of court funds. These circulars mandate that all fiduciary collections shall be deposited immediately by the Clerk of Court concerned, upon receipt thereof, with an authorized government depository bank. Her failure to observe these circulars, which resulted in losses, shortage, destruction or impairment of court funds and properties, makes her liable therefor.

In the case of *Re: Initial Report on the Financial Audit Conducted in the Municipal Trial Court of Pulilan, Bulacan*,^[10] the Court found the respondent clerk of court remiss in the performance of his duties for his failure to remit his collections on JDF and COC General Fund, when he failed to record the daily transactions in the official cash books, to submit monthly reports of collections and deposits and withdrawals to the Accounting Division, CMO, and to follow the circulars issued by the Court in the handling of the fiduciary funds. The respondent was found guilty of dishonesty, gross misconduct and malversation of public funds, and was dismissed from the service.

In *Report On The Financial Audit Conducted On The Books Of Accounts Of OIC Melinda Deseo, MTC, General Trias, Cavite*,^[11] the Court said that the undue delay in the remittances of amounts collected by clerks of court, at the very least, constitutes misconduct. The respondent in this case was meted the penalty of suspension for six (6) months and one (1) day without pay.

In the case of *Office of the Court Administrator v. Nini*,^[12] the Court stated that delay in the remittances of collection as mandated constituted neglect of duty. The clerk of court therein was found guilty of gross neglect of

duty and was suspended for a period of six (6) months and fined in the amount of P5,000.00.

On several occasions and for like offense, the Court has imposed the extreme penalty of dismissal from the service even if committed for the first time. In a more recent case, however, the Court mitigated the penalties imposed on erring officers and employees for humanitarian reasons.¹⁴

WHEREFORE, the Court finds Vivencia K. Languido, Clerk of Court II, Municipal Circuit Trial Court, Pres. Roxas-Antipas-Arakan, North Cotabato, GUILTY of Gross Neglect of Duty and imposes upon her the penalty of SUSPENSION for six (6) months and a FINE of THIRTY THOUSAND PESOS (P30,000.00) with a STERN WARNING that a repetition of the same or similar act will be dealt with more severely.

The Finance Division, Financial Management Office, Office of the Court Administrator is DIRECTED to APPLY the cash shortages incurred by Vivencia K. Languido in the total amount of Four Hundred Three Thousand Nine Hundred Forty One Pesos and 60/100 (P403,941.60) against her withheld salaries and REMIT the said amount to its respective accounts 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.

Juliet B. Degutierrez, Clerk II and Officer-in-Charge, MCTC, Pres. Roxas- Antipas-Arakan, North Cotabato, is DIRECTED to strictly adhere and follow the issuances of the Court on the proper handling and reporting of judiciary funds and to daily update the recording of financial transactions in the official cash book maintained for each fund and certify the correctness of the entries therein at the end of every month.

Lastly, Presiding Judge Jose T. Tabosares is DIRECTED and ENJOINED to strictly monitor the financial transactions of MCTC, Pres. Roxas-Antipas-Arakan, North Cotabato, in strict compliance with the issuances of the Court, to avoid recurrence of irregularity in the collection, deposit and withdrawal of court funds; otherwise, he will be held equally liable for the infractions committed by the erring employee under his supervision.

SO ORDERED.

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

[1] Rollo, pp. 17-18.

[2] Id. at 4-16.

[3] Id. at 1-3.

[4] Re: Financial Audit Conducted in the Municipal Circuit Trial Court, Ragay- Del Gallego, Camarines Sur, 534 Phil. 490, 493 (2006).

[5] In Re: Delayed Remittance of Collections of Teresita Lydia R. Odtuhan, OIC, RTC, Branch 117, Pasay City, 445 Phil. 220, 224 (2003).

[6] Re: Report on the Financial Audit Conducted in the MTCC-OCC, Angeles City, 525 Phil. 548, 560, (2006).

[7] Office of the Court Administrator v. Elumbaring, A.M. No. P-10-2765 (Formerly A.M. No. 09-11-199-MCTC), September 13, 2011, 657 SCR A 453., 464.

[8] Office of the Court Administrator v. Ramos. 516 Phil. 243, 249 (2005).

[9] Office of the Court Administrator v. Nini, A. M. No. P-I 1-3002, April 11, 2012.

[10] A.M. No. 01-11-291-MTC, July 7. 2004. 433 SCRA 486.

[11] 392 Phil. 122 (2000).

[12] Supra note 9.

[13] Office of the Court Administrator v. Elumharing, supra note 7; Office of the Court Administrator v. Dion, A.M. No. P-10-2799, January 18, 2011, 639 SCRA 640; and Office of the Court Administrator v. Redo, A.M. No. P-04-1813 (Formerly A.M. No. 04-5-119-MeTC), May 31, 2011, 649 SCRA 552.

[14] Office of the Court Administrator v. Nini, supra note 9; Office of the Court Administrator v. Almirante, A.M. No. P-07-2297, March 21, 2011, 645 SCRA 671.

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