OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. ATTY. RODRIGO B. GALO, CLERK OF COURT, RTC-BR. 30, BAMBANG, NUEVA VIZCAYA, RESPONDENT.

A.M. No. P-93-989 (Formerly A.M. No. 93-433-OMB). September 21, 1999

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PER CURIAM:

On 31 January 1989 the Office of the Provincial Auditor of Nueva Vizcaya conducted an audit examination of the cash and accounts of Atty. Rodrigo B. Galo, Clerk of Court, RTC-Br. 30, Bambang, Nueva Vizcaya, covering the period from 1 October 1983, that is, the date Atty. Galo assumed office as Clerk of Court, to 31 January 1989, the date of the audit. The examination yielded the following findings:

> 1. The accountable officer, Atty. Rodrigo B. Galo, incurred a total cash shortage in the amount of P29,131.20 broken down as follows:
> (a) Legal Research Fund ----------P2,903.20
> (b) Judiciary----------10,103.00
> (c) Land Registration Commission----------2,890.00
> (d) Sheriff's Fee----------1,837.00
> (e) Judiciary Development Fund----------11,398.00
>
> TOTAL---------- P29,131.20

2. Two (2) booklets of one hundred (100) pieces of official receipts serially numbered 8710001-8710100 were missing;

3. The accountable officer used temporary receipts in his collection of legal fees and official receipts were not promptly issued for collections received in violation of Section 68 of P.D. 1445.

4. Some official receipts were issued out of numerical sequence violating internal control procedure in the collection of cash.

5. The accountable officer did not deposit/remit his collections regularly and had not deposited his collections since February 1986 in violation of COA/MOF Joint Circular No. 1-81 dated January 1, 1981.

6. Cash examination period was prolonged because of unupdated cashbooks and other accounting records.

On 13 February 1989 Ms. Florentina N. Sagabaen, State Auditor I of the Office of the Provincial Auditor, wrote Atty. Galo demanding the restitution of the missing P29,131.20 as well as submission within seventy-two (72) hours from receipt of a written explanation on how the shortage occurred in the first place. In response, Atty. Galo appealed for humane consideration and asked for a grace period of not less than thirty (30) days within which to comply.[1] However, on 7 April 1989 Auditor Sagabaen finally informed the Provincial Auditor that Atty. Galo had not restored the missing funds as of that date. Hence, in her Final Report dated 28 April 1989 she recommended the filing of appropriate charges against Atty. Galo.

On 11 August 1989 the records of Atty. Galo's case were forwarded to the Provincial Prosecutor of Nueva Vizcaya for preliminary investigation. Atty. Galo neither filed a counter-affidavit nor presented evidence in his favor. Therefore, on 2 May 1990 the Provincial Prosecutor issued a Resolution finding a prima facie case against Atty. Galo for (a) malversation of public funds committed on or about the various months of 1985 to 31 January 1989 in violation of Art. 217 of the Revised Penal Code; (b) failure of accountable officer to render accounts committed during the same period, in violation of Art. 218 of the same Code; and, (c) violation of Sec. 68 of P.D. No. 1445 known as the "Government Auditing Code of the Philippines."

On 13 January 1993 an information for malversation of public funds[2] was filed against Atty. Galo before the Sandiganbayan which was docketed as Crim. Case No. 18458. In addition, the Office of the Special Prosecutor/Ombudsman referred Atty. Galo's case to this Court for appropriate action.

In our Resolution of 25 May 1993 we (a) authorized the Office of the Court Administrator (OCA) to send an audit team to the RTC-Br. 30, Bambang, Nueva Vizcaya, to determine the total cash shortage of Atty. Galo and, thereafter, motu proprio file an administrative complaint against him; and, (b) placed Atty. Galo under preventive suspension effective immediately and continuing until further orders from the Court.

On 6 January 1994 the OCA filed an administrative complaint charging Atty. Rodrigo B. Galo with grave misconduct and conduct prejudicial to the best interest of the service, thus reiterating the findings of the Provincial Auditor of Nueva Vizcaya. In addition, the OCA imputed another cash shortage against respondent in the amount of P33,700.00 representing unwithdrawn fiduciary fund not properly deposited with the PNB. This cash shortage was discovered during the audit examination conducted by the Fiscal Audit Division, Field Finance Operations Division, this Court, covering the period from 1 February 1989[3] to 31 March 1993.[4]

In his Answer with Special and Affirmative Defenses respondent alleged that he already paid the total cash shortage of P29,130.20 on two (2) separate dates, i.e., on 21 May 1990 for P24,103.00 and on 14 April 1993 for P5,028.20; that he had already released P31,700.00 of the alleged unwithdrawn fiduciary fund in the total amount of P33,700.00 upon proper demand by the parties concerned; and, that he was ready and willing to do the same with respect to the remaining P2,000.00. However, respondent did not present proof that the P31,700.00 was indeed released as he alleged. Finally, respondent insisted that he did not maliciously intend to commit so grave a wrong but only acted in "good faith due to honest mistake and excusable neglect being a mere human being prone to commit mistakes and succumb to temptations."[5]

On 4 August 1994, upon Atty. Galo's request, we authorized the OCA to manifest before the Sandiganbayan our amenability to Atty. Galo's desire to plea bargain in Crim. Case No. 18458, i.e., change his plea of "not guilty" to the crime of malversation of public funds to "guilty" to the lesser offense of failure to render accounts, provided "that his obligation be paid in full and that he be considered resigned from the service."[6]

Respondent Atty. Galo did so on 28 September 1994, hence, was considered effectively resigned on said date.[7] However, in the same Resolution of 24 November 1994 we stressed that the final resolution of this case would be held in abeyance pending submission by respondent of concrete proofs that his other accountabilities in the amount of P33,700.00 representing unwithdrawn fiduciary fund had in fact been paid.

Thus, in our Resolution of 6 June 1995 we required respondent to submit the required proofs within fifteen (15) days from notice. However, respondent failed to comply even long after 22 August 1995, the expiration of the period allotted him. Hence, we ordered him to show cause why no disciplinary action should be taken against him for his non-compliance.[8] Still with no compliance forthcoming, we imposed a P500.00 fine and ordered respondent's imprisonment for five (5) days in the event of non-payment of the fine.[9]

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On 8 October 1996 respondent requested for an extension within which to present the required proofs on the P33,700.00 unwithdrawn fiduciary fund, reasoning that he had been in great financial distress ever since he was considered by the Court as resigned from the service. We granted the request for extension in our Resolution of 12 November 1996. However, in his Partial Compliance dated 11 October 1996 respondent accounted for only P12,900.00 of the P33,700.00 by attaching Acknowledgement Receipts dated 16 June 1986 and 15 January 1991 for P9,400.00 and P3,500.00, respectively, issued by Rodolfo Manalac[10] and Fructuoso Villanueva, Jr.[11]

On 11 November 1997, more than one (1) year after respondent promised to fully account for the remaining P20,800.00, we issued another show-cause resolution on account of his failure to complete his compliance as promised. In response, Atty. Galo manifested that he had been encountering difficulties in producing the P20,800.00 because he was jobless.[12] Consequently, on 24 February 1998 we directed the Fiscal Management Officer of the OCA to just deduct the amount from respondent's receivable terminal leave pay leaving a balance of P141,961.62. In its Memorandum dated 21 April 1999 the OCA recommended that (a) authority be given to Atty. Galo to work on his clearance so that the same could be processed; and, (b) that the balance of Atty. Galo's terminal leave pay be released to him.

Considering however that full payment of shortage from collections does not exempt the accountable officer from liability,[13] we simply cannot accept the recommendation of the OCA that the balance of respondent's terminal leave pay be just released to him.

We have said time and again that those involved in the administration of justice from the highest official to the lowest clerk must live up to the strictest standards of honesty and integrity in the public service[14] bearing in mind that the image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women who work thereat.[15] More particularly, we have repeatedly warned Clerks of Court, being next in rank to judges in courts of justice, that dishonesty, particularly that amounting to malversation of public funds, will not be countenanced as they definitely reduce the image of courts of justice to mere havens of thievery and corruption.[16] Hence, as custodian of court funds and revenues[17] Clerks of Court have always been reminded of their duty to immediately deposit the various funds received by them to the authorized government depositories[18] for they are not supposed to keep funds in their custody.[19] For those who have fallen short of their accountabilities, we have not hesitated to impose the ultimate penalty.[20] 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.[21]

Atty. Galo incurred unexplained cash shortages in the amount of P29,131.20 from 1983 to 1989, failed to produce the same immediately upon demand by the Provincial Auditor of Nueva Vizcaya on 13 February 1989, and failed to satisfactorily explain the reason for the shortage in the first place, up to now. Atty. Galo only paid the amount on two (2) separate dates on 21 May 1990 and 14 April 1993 for P24,103.00 and P5,028.20, respectively. With respect to his other cash shortage in the amount of P33,700.00, only P12,900.00 had been satisfactorily accounted for. Respondent neither offered any explanation nor presented evidence with respect to the remaining P20,800.00 that would exculpate him from responsibility.

Thus, although respondent was considered effectively resigned since 28 September 1994[22] forfeiture of his terminal leave pay in the amount of P141,961.62 is clearly warranted under the circumstances. Failure of a Clerk of Court to turn over money deposited with him and to explain and present evidence thereon constitutes gross dishonesty, grave misconduct and even malversation of public funds[23]for which dismissal from the service with forfeiture of all leave credits and of retirement privileges[24] and with prejudice to reappointment are clearly appropriate.[25]

WHEREFORE, premises considered, the balance of respondent Atty. Rodrigo B. Galo's terminal leave pay in the amount of P141,961.62 as well as any other retirement benefit that may be due him is ordered FORFEIT in favor of the government for his Gross Dishonesty and Grave Misconduct committed while in office. Furthermore, respondent is declared disqualified from reemployment in the government or in any government-owned or controlled corporation.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, and Ynares-Santiago, JJ., concur.

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[1] Rollo, p. 19.

[2] The charge of failure to render accounts, in violation of Art. 218 of the Revised Penal Code, was considered by the Office of the Special Prosecutor as absorbed by the more serious offense of malversation of public funds under Art. 217 of the same Code.

[3] The audit examination conducted by the Office of the Provincial Auditor of Nueva Vizcaya covered the period up to 31 January 1989

[4] Day before Atty. Alejandro Reeda assumed his duties as Officer-in-Charge of RTC-Br. 30, Bambang, Nueva Viscaya, on 1 April 1993 in place of Atty. Galo.

[5] Rollo, p. 182.

[6] Resolution dated 4 August 1994; Rollo, p. 193.

[7] Resolution dated 24 November 1994; id., p. 199.

[8] Resolution dated 13 February 1996; id., p. 213.

[9] Resolution dated 6 August 1996; id., p. 214.

[10] Id., p. 221.

[11] Id., p. 222.

[12] Manifestation dated 5 June 1998; id., pp. 225-226.

[13] Judiciary Planning Development and Implementation Office v. Calaguas, A.M. No. P-95-1155, 15 May 1996, 256 SCRA 690, 694; Gano v. Leonen, A.M. No. P-92-756, 3 May 1994, 232 SCRA 98, 102; Office of the Court Administrator v. Soriano, A.M. No. 2864-P, 16 May 1985, 136 SCRA 461, 464.

[14] Solidbank v. Capoon, Jr., A.M. No. P-98-1266, 15 April 1989, 289 SCRA 9, 13-14.

[15] Cajot v. Cledera, A.M. No. P-98-1262, 12 February 1998, 286 SCRA 238, 243.

[16] Re: Report on the Judicial and Financial Audit of RTC-Br. 4, Panabo, Davao del Norte, A.M. No. 95-4-143-RTC, 13 March 1998, 287 SCRA 510, 530.

[17] Office of the Court Administrator v. Lucio, P-96-1206, 11 June 1996, 257 SCRA 287, 292.

[18] Judiciary Planning Development and Implementation Office v. Calaguas, A.M. No. P-95-1155, 15 May 1996, 256 SCRA 690, 693-694.

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[19] Ferriols v. Hiam, A.M. No. P-90-414, 9 August 1993, 225 SCRA 205, 209.

[20] RE: Report on the Judicial and Financial Audit of RTC-Br. 4, Panabo, Davao del Norte, A.M. No. 95-4-143-RTC, 13 March 1998, 287 SCRA 510; Gano v. Leonen, A.M. No. P-92-756, 3 May 1994, 232 SCRA 98; Office of the Court Administrator v. Soriano, A.M. No. 2864-P, 16 May 1985, 136 SCRA 461; Estenzo v. Dejano, A.M. No. P-2082, 20 September 1979, 93 SCRA 218; In re: Carlito U. Alvizo, A.M. No. 818-TEL., 18 April 1979, 89 SCRA 426.

[21] Re: Report on the Judicial Audit, RTC-Br. 117, Pasay City, A.M. No. 96-5-163-RTC, 18 June 1998, 291 SCRA 1, 8.

[22] See Note 8.

[23] Report on Audit and Physical Inventory of the Records of Cases in the MTC, Peñaranda, Nueva Ecija, A.M. No. 95-6-55-MTC, 28 July 1997, 276 SCRA 257, 274; Lirios v. Oliveros, A.M. No. P-96-1178, 6 February 1996, 253 SCRA 258, 263; Ferriols v. Hiam, A.M. No. P-90-414, 9 August 1993, 225 SCRA 205, 210.

[24] Ibid.; see also Estenzo v. Dejano, A.M. No. P-2082, 20 September 1979, 93 SCRA 218, 219.

[25] Lumiqued v. Exevea, G.R. No. 117565, 18 November 1997, 282 SCRA 125, 148.

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