

JDF ANOMALY IN THE RTC OF LIGAO ALBAY

A.M. No. 95-1-07-RTC. March 21, 1996

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PER CURIAM:

On October 20, 1994, retired Court of Appeals Justice Felipe B. Kalalo, Regional Coordinator of the Judiciary Planning and Development Implementation Office (JPDIO), submitted a report informing the Court of shortages in Judiciary Development Fund Collections in the four branches of the Regional Trial Court of Ligao, Albay.

On the morning of October 13, 1994, Justice Felipe B. Kalalo visited and monitored the Office of the Clerk of Court of the four regional trial court branches at Ligao, Albay. On the basis of his examination of the Judiciary Development Fund cashbook, Justice Kalalo reported the following irregularities:

1. The last entry made in the JDF cashbook was September 23, 1994. Upon inquiry, Mrs. Aurora Llanto, the cash clerk in charge of the JDF cashbook, informed him that there were collections from September, 1994 and thereafter but the same have not yet been entered in the cashbook and that the amount of the same can not be determined as she still had to examine all the corresponding receipts.
2. The total amount collected for the JDF from September 1 to September 23, 1994 amounted to P5,971.00. Upon inquiry, Mrs. Lianto, could not show any deposit slip. Instead, she showed two checks, the first, postdated October 14, 1994 in the amount of P5,076.48 representing the salary of Clerk of Court Pedro Santayana and another check dated October 3, 1994 in the amount of P2,500.00 representing Atty. Santayana's RATA. Mrs. Lianto explained that her cash collections from September 1 to 23, 1994 and part of her collections thereafter were given to Atty. Santayana in exchange for the value of the 2 checks.
3. Further examination of the JDF cashbook showed that there had been collections from the month of March to August 1994 and the same had already been deposited with the proper bank as indicated by the annotation in the cashbook. However, Mrs. Llanto could only produce the deposit slip for February, 1994. She was called to produce the deposit slips for the months of March to August, 1994, but could not produce the same.

[*]4 Based upon the entries in the JDF cashbook, the total collections from March to August 1994 amounted to P25,292.35 broken down as follows:

March

P4,397.25

April

6,130.90

May

2,644.50

477.50

June

3,610.00

452.80

July

3,777.40

August

3,802.00

TOTAL

P25,292.35

[**]5 When confronted on the apparent anomaly, Clerk of Court Santayana could say nothing which implied that he tolerated the practice of Mrs. Llanto to use the JDF collections to encash salaries of court personnel in exchange for the value of the checks.

Thereafter, the Court resolved to:

(1) note the special report of Justice Kalalo and to treat it as an administrative matter against Cash Clerk Ms. Aurora Llanto and Clerk of Court Pedro Santayana;

(2) require Ms. Llanto to explain why she should not be held administratively liable for the amount of the shortage, within ten (10) days from notice and Clerk of Court Pedro Santayana to explain within the same period, why he should not be held administratively accountable for his failure to discover/report the irregularity and his having used the JDF collection to encash his salary and RATA checks;

(3) place Mrs. Llanto under preventive suspension for a period not exceeding ninety (90) days;

(4) direct the Fiscal Management and Budget Office of this Court to withhold the salary of Mrs. Llanto and for Executive Judge Emmanuel Real, Regional Trial Court, Ligao, Albay to designate a senior employee thereof to take the place of Ms. Llanto as Cash Clerk; and

(5) authorize an audit team from the Office of the Court Administrator to conduct an on-the-spot audit of the funds of the Regional Trial Court, Ligao, Albay and to submit its report thereon, within thirty (30) days upon completion of audit

(pp. 12-13, Rollo)

On February 24, 1995 respondent Llanto submitted her compliance/explanation admitting that the JDF collections from September 1 to September 23, 1994 were not deposited. She claimed that she knew it was wrong to encash checks against the JDF collections but averred that it was hard for her not to accommodate her superior, referring to Clerk of Court Santayana, because of the latter's moral ascendancy over her as a subordinate.

Respondent Llanto likewise admitted that the collections for the months of March to August, 1994 were not deposited in due time because of overload of work. She claimed that the subject JDF collections were immediately deposited with the Land Bank the next working day after Justice Kalalo had left for Manila.

[*]In a letter dated February 28, 1994, Acting Clerk of Court Angel A. Tadeo informed the Court of the death of Clerk of Court Pedro Santayana on February 11 1995.

On May 31, 1995, the Fiscal Audit Division submitted its report which the Office of the Court Administrator summarized as follows:

1. Fiduciary Fund Collections - As of April 30, 1994 (cut-off date), the total withdrawn Fiduciary Fund collections is P306,971.76 as shown in the balance per books, SA No. 3772 of the Rural Bank of Nabua (Ligao). Prior to the account with the Rural Bank of Nabua, the Court had 3 savings account with the PNB, namely SA Nos. 42333, 501155 and 520850-9. Only the passbook SA No. 520850-9 is on file and the corresponding interest earned under this account which is P4,868.38 was withdrawn and remitted to the National Treasury. Under SA No. 501155 per xerox copy of the PNB Ledger submitted by Atty. Buendia reveals that the total interest earned amounted to P4,999.37. However, the amount remitted to the Supreme court under OR 90731 dated April 13, 1992 was only P4,980.25 or a difference of P19. 12.

Further examination reveals that there were several delays in the deposit of collections. For instance, a bond received on October 23, 1991 under OR 5131485 for P4,500.00 was deposited on June 8, 1992 or 3 months and 10 days after; forfeited bonds received December 3, 1991 under OR Nos. 5 13482-83 for P8,000.00 were remitted to the National Treasury only June 8, 1992.

2. Judiciary Development Fund Collections - As of April 30, 1995, total collections and remittances as recorded in the cashbook amounts to P297,746.91 and P297,726.61, respectively, showing an unremitted JDF collection of P20.30. However, this difference was due to error of addition which can be traced back to the period of accountability of Atty. Santayana. Moreover, collections for May, 1989 to December 1992 amounting to P100,982.80 were remitted only on October 18, 21, 26, 28 and November 3, 1994, starting the week after Justice Kalalo audited the Regional Trial Court.

The JDF collections for March to August, 1994 totaling P25,750.55 were remitted on October 18, 1994 (as per JPDIO findings the amount is P25,292.95). Part of the collections for the months of September 1994 (P285.00) and October 1994 (P2,410.00) were also remitted on said date making a total remittance of P28,445.55. Coincidentally on October 18, 1994, the personal bankbook of respondent Atty. Santayana which was retrieved from the safety vault, discloses that the latter withdrew P29,000.00.

3. Clerk of Court General Fund and Sheriff General Fund since November 1971. As of April 30, 1995 total collections for Clerk of Court General Fund was P398,420.83 and the amount of remittance was P398,393.88 showing a difference of P21.95. The collections for Sheriff General Fund amounting to P17,864.70 were found to be in order.

Moreover, an examination of the subsidiary ledger maintained by the Revenue Section, Accounting Division, Supreme Court showed that no reports for the period January 1990 to December 1992. Also from the file copies of the RTC, Ligao, Albay, it was discovered that JDF monthly reports for January 1990 to December 1992 (3 years) were submitted to the Accounting Division, this Court, only on December 19, 1994.

4. Sheriff's fund - As of April 30, 1995 balance for cashbook was P3,920.00 which was deposited with the Provincial Treasurer on June 1977.

5. Legal Research Fund, Land Registration Commission's and Victim's Compensation Fund were all found to be in order.

(pp. 58-59, Rollo.)

The Report also confirmed the death of Clerk of Court Pedro Santayana.

On October 17, 1995, the Court Resolved to:

(1) DISMISS the case against the late Atty. Pedro Santayana for being moot and academic; and

(2) require Mrs. Lianto to manifest whether or not she is now submitting this case for decision on the basis of

her Compliance/Explanation.

(p. 67, Rollo)

On November 29, 1995, respondent Llanto submitted her manifestation alleging that she was rattled and confused by Justice Kalalo's questioning to the extent that she could not remember whether she made the confession admitting that the monies collected from March to August, 1994 were spent on her mother's illness.

The Fiscal Audit Report reveals that there were shortages and long delays in the remittances of JDF collections. A thorough examination of the JDF transactions revealed that collections for May, 1989 to December, 1992 (3 years and 8 months) amounting to P100,982.80 were remitted only on October 21, 26, 28, and November 3, 1994, a delay of 5 1/2 years from the earliest collection, and this, only after Justice Kalalo visited that court. Collections for the months of March to August 1994, part of collections for September and October, 1994 were remitted only on October 18, 1994, five days after the visitation was made.

Respondent's defense that she was overloaded with work is hardly 'tenable. Justice Kalalo's examination of the JDF cashbook indicates that there were notations in the cashbook reading that the amounts collected had already been deposited despite the fact that no deposits were made. This could only show that the failure to deposit was with malice rather than a mere act of omission on the part of respondent Llanto.

Besides, a cash clerk's position is essentially limited to the collections of court funds and does not generally entail dealing with court records or the personnel's attendance nor office equipment. Nevertheless, if respondent's claim is true, she should have asked her presiding judge to relieve her from such duties.

Moreover, in *Tanggote vs. Sandiganbayan* (236 SCRA 273 [1994]), we held:

The failure of the public officer to have duly forthcoming such public funds properly, upon demand by duly authorized officer, shall be prima facie evidence that he has put such missing funds or property to personal use.

Administrative Circular No. 31-90 dated October 15, 1990 provides that daily collections for JDF shall be deposited everyday with the local or nearest PNB branch (now LBP) "for the account of the Judiciary Development Fund, Supreme Court, Manila" or if depositing daily is not possible, deposit for the fund shall be every second and third Fridays and 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 days above-indicated. If there is no LBP branch at the station of the judge concerned, the collections shall be sent by postal money order payable to the Chief Accountant of the Supreme Court.

Likewise, Administrative Circular No. 13-92 provides that all collections for bailbonds, rental deposits, and other fiduciary collections shall be deposited immediately by the Clerk of Court concerned, upon receipt thereof, with the authorized government depository bank (LBP). Should there be no LBP branches in the locality, the Clerk of Court shall deposit all collections with any Rural Bank in the area, furnishing the Accounting Division of Supreme Court such information.

Respondent was grossly negligent in the performance of her duty for failing to deposit the JDF and Fiduciary collections in accordance with the above mentioned Administrative Circulars. We also find respondent dishonest for falsifying the JDF cashbook by noting therein that the cash collected from March to August of 1994 was deposited with the proper bank despite the fact that no deposits had yet then been made.

As regards the JDF collection for the month of September, 1994, it is evident that respondent committed acts constituting grave misconduct when she encashed the check of Pedro Santayana using her collections. This was admitted by Mrs. Llanto herself. The fact that the restitution of the whole amount was made can not erase her

administrative liability.

In *Gano vs. Leonen* (232 SCRA 98 [1994]), the Court held:

Public service requires the utmost integrity and strictest discipline. Thus, a public servant must exhibit at all times the highest sense of honesty and integrity. No less than the Constitution sanctifies the principle that a public office is a public trust, and enjoins all public officers and employees to serve with the highest degree of responsibility, integrity, loyalty and efficiency. The Code of Conduct and Ethical Standards for Public Officials and Employees additionally provides that every public servant shall at all times uphold public interest over his or her personal interest.

Pursuant to Section 23, Rule XIV of the Omnibus Rules implementing Book V of Executive Order 292, gross negligence in the performance of duty, dishonesty and grave misconduct are all classified as grave offenses for which the penalty of dismissal is imposed. Section 9 of the same rule provides:

The penalty of dismissal shall carry with it the cancellation of eligibility, forfeiture of leave credits and retirement benefits and the disqualification for reemployment in the government service. Further, it may be imposed without prejudice to criminal or civil liability.

ACCORDINGLY, respondent Aurora Llanto is hereby ordered DISMISSED from the service with forfeiture of all leave credits and retirement benefits, with prejudice to reemployment in any government agency including government owned or controlled corporations. Her civil service eligibility, if any, is also cancelled.

SO ORDERED.

Narvasa, C.J., Padilla, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Francisco, Hermosisima, Jr., and Panganiban, JJ., concur.

[*] Figure "5" is being changed to number "4".

[**] Figure "6" is being changed to number "5".

[*] "February 28, 1994" is being changed to "February 20, 1995" "on February 11, 1995" is deleted while "which letter was noted in the Court resolution of March 4, 1995" is inserted.

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