

REPORT ON THE STATUS OF THE FINANCIAL AUDIT CONDUCTED IN THE REGIONAL TRIAL COURT, TARLAC CITY

A.M. NO. P-06-2124. December 19, 2006

Ponente: TINGA, J.

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TINGA, J.:

This involves a financial audit by the Office of the Court Administrator (OCA) conducted in the Regional Trial Court (RTC) of Tarlac City.

The audit of the books of accounts of Atty. Roberto Q. Tuquero, Clerk of Court of RTC, Tarlac City, disclosed that:

- 1) Official receipts with serial nos. 8984951-8984976 remain unaccounted; and
- 2) Reconciliation of the fiduciary fund disclosed an unaccounted amount of P6,953,714.77.[1]

Several violations were likewise committed with regard to the implementation of court circulars on the timely deposit of court collections, as the Judiciary Development Fund (JDF) collections from 18 to 23 November 2003 amounting to P167,835.91 were deposited only on 1 December 2003, as well as on the use of the court collections to encash personal checks.[2] Clerk of Court Atty. Tuquero disputed the findings and instead ascribed liability to Mr. Honorato Q. Manguera, the cash clerk. However, due to the principle of command responsibility and being the one primarily accountable, Atty. Tuquero was required to submit the necessary documents to justify the unaccounted amount of P6,953,714.77. Atty. Tuquero's clearance was held in abeyance in the meantime, resulting in the delay in the release of his retirement benefits.[3]

A final submission of compliance was made on 18 October 2005 and both Atty. Tuquero and Mr. Manguera requested that the remaining unaccounted amount be divided equally between them and the same to be deducted from their respective money value of leave credits.[4] Moreover, Mr. Manguera intimated that while he may have incurred delay in the deposit of court collections, he has not taken a single centavo from the court's money. He likewise claimed that the filing and keeping of the records were also not properly maintained because of the lack of available storage space. This deficiency, he asserted, has contributed to the loss of some documents.[5]

After considering the documents presented, the established accountability was reduced to P573, 047.04, the composition of which is as follows:

Particulars Amount

Unauthorized withdrawals P235,500.00*

Interest transferred to RTC-Paniqui 24,705.25**

Balance of Beginning Inventory 146,124.36***

Unidentified Withdrawals 169,750.00****

Overwithdrawal of interest 467.43*****

Over deposit 3,500.00*****

TOTAL 573,047.04

*Withdrawals which have no supporting documents, i.e., acknowledgment receipt and court order

**Interest for cash bond deposited with RTC-Tarlac City but withdrawn together with the principal amount in violation of SC Circular No. 50-95

***Beginning inventory which appeared in the SL of Accounting but without details. Allegedly deposited with the Provincial Treasurer's Office (PTO) but the accountable officer was not able to present the official receipts issued by the PTO as proof of deposit.

****Withdrawals appearing in the passbook but could not be identified for lack of necessary documents.

*****Interest on fiduciary fund deposits which was withdrawn without deducting the withholding tax

*****Deposits exceeded the collections.[6]

Yet, Atty. Tuquero and Mr. Manguera could no longer account for the missing official receipts.

On 22 November 2005, the OCA submitted to then Chief Justice Hilario G. Davide, Jr., a Report on the status of the Financial Audit conducted in the RTC of Tarlac City. The OCA found that Atty. Tuquero failed to perform his duties and functions as an accountable officer, especially his duty to monitor the financial transactions in the court. It also found that Mr. Manguera failed to deposit court collections on time and used court collections to encash personal checks.[7] In our Resolution[8] dated 30 January 2006, we adopted the OCA's recommendation, quoted as follows:

(a) to DIVIDE the shortage amounting to Five Hundred Seventy Two Thousand Five Hundred Seventy Nine Pesos and Sixty-One Centavos (P572,579.61) equally between Atty. Roberto Q. Tuquero and Mr. Honorato Q. Manguera and to ALLOW the same to be deducted from the money value of their respective leave credits;

(b) to DEPOSIT the said amount (P572,579.61) in the Fiduciary Fund Account of RTC-Tarlac City (LBP SA#0071-0925-42) subject to refund to Atty. Roberto Q. Tuquero and Mr. Honorato Q. Manguera upon submission of the required documents;

(c) to DIRECT:

(1) Atty. Roberto Q. Tuquero to deposit the amount of P467.43 (amount of the interest overwithdrawn) to the Fiduciary Fund Account maintained by the Regional Trial Court of Tarlac City; and

(2) Atty. Shalane Go-Palomar to assist Atty. Roberto Q. Tuquero and Mr. Honorato Q. Manguera in complying with the unsubmitted documents; and

(d) to RE-DOCKET this case as a regular administrative complaint against Roberto Q. Tuquero and Mr. Honorato Q. Manguera and to impose upon them a FINE in the amount of FIVE THOUSAND PESOS (P5,000.00) each, in the case of Atty. Tuquero, for his failure to perform his duties and functions as [an] accountable officer—especially his failure to monitor the financial transactions in the court and, that of Mr. Honorato Q. Manguera, for his failure to deposit court collections on time and for using of court collections in encashing personal checks.[9]

In our Resolution[10] dated 25 September 2006, the Court clarified that in issuing the above-cited Resolution, we merely intended to take note of and approve only recommendations of the OCA, to wit: (a) that the shortage of P572,579.61 be divided equally between Atty. Roberto Q. Tuquero and Mr. Honorato Q. Manguera, to be

deducted from the money value of their leave credits, (b) that the amount of P572,579.61 be deposited in the Fiduciary Fund Account of the RTC-Tarlac City subject to refund to Atty. Roberto Q. Tuquero and Mr. Honorato Q. Manguera upon submission of the required documents; (c) that Atty. Roberto Q. Tuquero deposit the amount of interest overwithdrawn totaling P467.43 to the Fiduciary Fund account of the RTC, Tarlac City; and (d) that the Report be redocketed as a regular administrative complaint.

The Court never intended to rule on the question on the administrative liability of the respondents. For this reason, the Court in said resolution required respondents to comment on the recommendation of the OCA that each of them be fined. Thus, the Court in its Resolution dated 25 September 2006 required respondents to manifest their willingness to submit the case for resolution based on the pleadings filed.[11]

Atty. Tuquero filed his Manifestation[12] dated 23 October 2006 stating that he has no objection to the recommendation of the OCA that he and Mr. Manguera be fined. He likewise manifested that he had already settled the fine imposed on him. Mr. Manguera similarly filed his Manifestation[13] dated 24 October 2006 stating his willingness to submit the case for resolution.

The evidence shows that Atty. Tuquero and Mr. Manguera incurred a total shortage of Five Hundred Seventy Two Thousand Five Hundred Seventy Nine Pesos and Sixty-One Centavos (P572,579.61).

Even if said amount was restituted, nonetheless, its non-remittance on time deprived the Court of the interest that may be earned if the amounts were deposited in a bank as prudently required. Pertinently, Supreme Court Administrative Circular No. 3-2000 provides:

x x x x

3. Duty of the Clerks of Court, Officers-in-Charge or Accountable Officers.—The Clerks of Court, Officers-in-Charge of the Office of the Clerk of Courts, or their accountable duly authorized representatives designated by them in writing, who must be accountable officers, shall receive the Judiciary Development Fund collections, issue the proper receipt therefor, maintain a separate cash book properly marked CASH BOOK FOR JUDICIARY DEVELOPMENT FUND, deposit such collections in the manner herein prescribed, and render the proper Monthly Report of Collections for said Fund.

x x x x

3. Systems and Procedures:

x x x x

(c) In the RTC, MeTC, MCTC, SDC and SCC. —The daily collections for the Fund in these courts shall be deposited everyday with the local or 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 the collections for the Fund shall reach P500.00, the same shall be deposited immediately even before the days above-indicated:

x x x x

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

x x x x

Correlatively, Supreme Court Circular No. 50-95[14] mandates that "all collections from bailbonds, rental deposits and other fiduciary collections shall be deposited within twenty four (24) hours by the Clerk of Court concerned, upon receipt thereof."

As clerk of court and cash clerk respectively, Atty. Tuquero and Mr. Manguera are accountable officers entrusted with great responsibility of collecting money belonging to the funds of the court. Both have been remiss in their duty to remit the collections within a prescribed period and are liable for keeping funds in their custody—Tuquero as the one responsible for monitoring the court's financial transactions and Manguera as the one in whom such functions are reposed. Atty. Tuquero and Mr. Manguera violated the trust reposed in them as disbursement officers of the judiciary. Thus, they should be held liable for the shortages mentioned above. Moreover, as held in *Re: Financial Audit of Accounts of Clerk of Court Pacita T. Sendin*,^[15] shortages in the amount to be remitted as well as the delay in the actual remittance constitute neglect of duty for which the responsible officers shall be administratively liable.^[16]

Clerks of courts should be reminded that they are the chief administrative officers of their respective courts. They are judicial officers entrusted to perform delicate functions with regard to the collection of fees and are expected to correctly and effectively implement regulations such that even undue delay in the remittances of amounts collected by them at the very least constitutes misfeasance. Being the custodian of the court's funds and revenues, records, property and premises, the Clerk of Court is likewise liable for any loss, shortage, destruction or impairment of said funds and property.^[17]

In *Re: Report on the Judicial and Financial Audit of RTC-Br. 4, Panabo, Davao Del Norte*,^[18] we held that failure of the Clerk of Court to remit the court funds collected to the Municipal Treasurer constitutes gross neglect of duty, dishonesty and grave misconduct prejudicial to the best interest of the service. Under Rule IV, Section 52-A of the Civil Service Uniform Rules on Administrative Cases in the Civil Service, these are grave offenses punishable by dismissal even committed for the first time.

However, considering that both Attys. Tuquero and Manguera had retired from the service, we find the Court Administrator's recommended penalty of P5,000.00 fine on both Atty. Tuquero and Mr. Manguera in order.

WHEREFORE, retired Clerk of Court Roberto Q. Tuquero and Honorato Q. Manguera are each FINED in the amount of Five Thousand Pesos (P5,000.00) and ordered to jointly and equally restitute the shortage in the collections in the total amount of P572,579.61.

The Financial Management Office is DIRECTED to DEDUCT equally from Roberto Q. Tuquero and Honorato Q. Manguera's money value of their leave credits the sum of Five Hundred Seventy

Two Thousand Five Hundred Seventy Nine Pesos and Sixty-One Centavos (P572,579.61).

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio-Morales, and Velasco, Jr., JJ., concur.

[1] Rollo, p. 3.

[2] Id. at 3.

[3] Atty. Tuquero retired on November 2003.

[4] Id. at 4.

[5] Id. at 5.

[6] Supra.

[7] Id. at 1-2.

[8] Id. at 9-10.

[9] Id.

[10] Id. at 39-40.

[11] Id.

[12] Id. at 41 and 42.

[13] Id. at 43, 44 and 45. Rollo, p. 42.

[14] Dated 11 October 1995.

[15] Re: Financial Audit of Accounts of Clerk of Court Pacita T. Sendin, 424 Phil. 406 (2002).

[16] Id. at 410.

[17] Re: Initial Report on the Financial Audit Conducted in the Municipal Trial Court of Pulilan, Bulacan, A.M. No. 01-11-291-MTC, 7 July 2004, 433 SCRA 486, 494.

[18] 351 Phil. 1 (1998).

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