

OFFICE OF THE COURT ADMINISTRATOR, VS. JUDGE DEOGRACIAS K. DEL ROSARIO, (FORMER CLERK OF COURT, RTC, SAN JOSE, ANTIQUE), RESPONDENT.

A.M. No. MTJ-94-949. December 13, 1994

Ponente: MELO, J.

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MELO, J.:

In a letter dated June 10, 1992 addressed to the Hon. Ernani Cruz Pano, Court Administrator, Mr. Ramon O. de Vera, State Auditor V, referred a letter dated January 10, 1992 of Mr. Jose C. Cabarles, Provincial Auditor, Commission on Audit, San Jose, Antique, reporting on the results of the examination made on October 1, 1991 concerning the cash and accounts of Atty. Deogracias K. del Rosario, then Clerk of Court, Regional Trial Court, San Jose, Antique.

In the subject examination, it was disclosed that one (1) piece of official receipt, General Form 13-A with SN 9797272 is missing. Respondent is the accountable officer in custody thereof. A letter of demand dated October 4, 1991 was issued by the audit team requiring respondent to produce the missing form and to submit an explanation why the said form was not presented for audit.

Mr. Ramon de Vera reported further that per verification on the accounts of respondent based on the records, the following were noted:

1. The latest report of collections and deposits recorded in the subsidiary ledger for the General Fund and Fiduciary accounts are for the months of May 1989 and December 1988, respectively;
2. There was no record of collections and deposits on the JDF for the years 1987 to 1990, January to March 1991 and June 1991. The latest report of collections and deposits recorded is as of July 1991 only;
3. Only the Sheriff Fund's Report of Collections and Deposits have been regularly submitted to the Accounting Division;
4. The subject missing accountable form (O.R. No. 9797272) was not included in the series of the accountable forms (General Form 13 A) issued by the Property Division, Supreme Court to the Office of said accountable officer, to wit: Gen. Form 13 A SN-27001 to 288000 and 845001 to 84600, issued on Jan. 8, 1987 and May 19, 1988, respectively.

(pp. 2-3, Vol. II, Rollo.)

Meanwhile, respondent was appointed judge of the Municipal Circuit Trial Court of Patnongon-Valderama, Antique.

Mrs. Antonina A. Soria, Director III, Field Audit Division (this Court) in a Memorandum dated June 17, 1992 addressed to Court Administrator Ernani Cruz Pano recommended that respondent should first settle his accountability before he is given clearance to assume his new position. The failure of respondent to respond to

this memorandum, was reported by Mrs. Soria in another memorandum dated June 8, 1993 and she repeated her request for respondent to submit all the documents required with the appropriate explanation on the problem of subject accountability. Again, respondent ignored this request.

Upon receipt of Mrs. Soria's memorandum, Deputy Court Administrator Juanito A. Bernad directed respondent in a letter dated July 2, 1992, to explain and reconcile the alleged inconsistencies in his records. Another letter, this time from Deputy Court Administrator Reynaldo L. Suarez, dated Sept. 15, 1993 reiterated the directive with a warning of an administrative charge should respondent again fail to respond.

In his memorandum dated March 18, 1991, Deputy Court Administrator Bernardo P. Abesamis, taking into consideration the repeated refusals of Atty. del Rosario to comply with the foregoing requests and directives to explain and clear his accountabilities, recommended a fine of One Thousand Pesos (P1,000.00) with an order to submit all pertinent documents relative to his accountabilities.

The Court in an En Banc resolution dated April 14, 1994 directed the Court Administrator to file the proper charges against Atty. del Rosario within ten (10) days from notice thereof.

Pursuant thereto, the Office of the Court Administrator filed the corresponding formal charge against Atty. del Rosario for grave misconduct and/or negligence committed as follows:

1. While he was still the Clerk of Court of the Regional Trial Court of San Jose, Antique, one piece of Official Receipt, General Form 13-A with SN 9797272, which was under his custody as accountable officer, was found to be missing when an examination in his cash and accounts was made by the Commission on Audit on October 1, 1994;
2. Despite the directives of both this office and the Commission on Audit, he has failed up to the present to produce the said accountable form and to report to this Court in order that a "Notice of Loss" or "Circular" could be issued to prevent the fraudulent use of such accountable form; and
3. As appearing in the subsidiary ledger of the Accounting Division of this Court he is not submitting regularly the required monthly report of collections and deposits for Fiduciary Fund, General Fund for Clerk of Court, Sheriff Trust Fund, and the Judiciary Development Fund. This matter was also verified by the COA per its letter dated June 10, 1992.

In his comment dated July 22, 1994, respondent asserts his clear conscience, stating inter alia that he thought that when he was required to attend the Seminar for Judges and finished the same, that already served as his clearance to assume the duties of a judge and probably cleared him also his accountabilities with the COA.

Respondent, further states that he officially assumed office (as Clerk of Court) on June 9, 1984 without a formal turn-over from his predecessor Tomas Huelar; that he discharged his duties until his appointment on October 9, 1991 as Municipal Circuit Trial Court Judge; that upon his assumption as Clerk of Court there were many "loose ends" such as not having received the Official Cash Book for the JDF although all pertinent transactions were entered in the Blue Record Book; that due to lack of proper official receipts at times, those requisitioned from the Provincial Government were the ones used; that sometime in 1988, the office was ransacked; that on June 24, 1991, O.R. No. 9797272 was found missing; that investigation showed that two other receipts, O.R. No. 9797271 and 9797273, were issued by Mrs. Merlinda Villavert, their Court Aide; that since his assumption as Clerk of Court there were already seven cash and accounts examinations/audits conducted by the COA of Antique and there were no shortages incurred by him except that of the missing receipt which is in violation of COA Circular NO. 84233 dated August 21, 1984; that if ever there was no regular reporting of the collections and deposits for Fiduciary Fund, General Fund for Clerk of Court, Sheriff Trust Fund, and the Judiciary Development Fund it was

due to "personnel inefficiency" he being too soft on his personnel; that he believed that his having written to the Provincial Auditor explaining the missing O.R. No. 9797272 (General Form No. 13-A) was enough compliance with Ms. Eleanor Q. Mena's (State Auditor II) requirement; that he is a family man and prays that he be now paid his salary as MCTC judge.

The Office of the Court Administrator in a memorandum dated October 24, 1994 made the following findings and recommendation:

This office is amazed at the cavalier manner respondent treated all the communications requiring him to explain his questioned accountabilities as former Clerk of Court of San Jose, Antique.

His reasons of burglary of his office sometime in 1988, inefficiencies of his personnel, "no formal turn-over of duties and accountabilities" from the former Clerk of Court to him, ransacking of his office in 1988 but without proofs thereof, are self-serving defenses.

Respondent judge has been in government service of ten years so he should be familiar with government rules and will be retiring on March 2, 2014.

IN VIEW WHEREOF, there is every reason for this Office to reiterate its recommendation in its memorandum dated March 18, 1994 that: "(1) Deogracias K. del Rosario, then Clerk of Court, RTC, San Jose, Antique, now Presiding Judge, MCTC, Patnongon-Valderama, Antique, be held liable for gross misconduct and/or negligence and a) a FINE of TEN THOUSAND (P10,000.00) PESOS be imposed upon him; b) he be DIRECTED to submit to this Court all pertinent documents relating to his accountabilities as then Clerk of Court, RTC, San Jose, Antique within fifteen days from notice with STERN WARNING that failure to comply therewith will be DEALT WITH MORE SEVERELY.

(pp. 4-5, Vol. I, Rollo.)

After a careful examination of the records of this case we find no reason to depart from the conclusion reached by the Office of the Court Administrator that respondent is indeed liable for gross misconduct and/or negligence. His wanton refusal to comply with the directives of the Office of the Court Administrator and of the Commission on Audit shows his defiance to superiors amounting to gross misconduct and/or negligence which must be meted with sanction if only to remind him that the conduct and behavior of everyone connected with an office charged with the dispensation of justice should be circumscribed with the heavy burden of responsibility.

COA Circular No. 84-233 dated August 21, 1984 reiterating GAO Memorandum Circular No. 318 dated February 11, 1957 states:

Effective upon receipt of this circular, any loss of accountable forms in the custody of collecting and property officers shall immediately be reported by the accountable officers concerned to their respective chiefs of offices or heads of government entities who, in turn, will at once issue a circular or notice of loss for the information and guidance of all collecting and disbursing officers, provincial, city and municipal treasurers, bureau, provincial and city auditors and other concerned in preventing against the possible fraudulent use of such accountable forms. The notice to be issued shall specify the kind, quantity and inclusive serial numbers of the lost accountable forms and the place or places where, and approximate date or dates when, the same were lost.

(p. 24, Vol. II, Rollo.)

As an accountable officer, respondent cannot profess ignorance of the above-cited circular for it is required that he must update his knowledge with whatever laws or any memorandum circular that may be issued by the Commission on Audit as he has to deal from time to time with its auditors, especially in the audit of his cash and accounts.

The purpose of the aforesaid circular is to prevent the fraudulent use of the missing form. Records, however, show that the subject missing form was not utilized despite the lapse of more than three (3) years now from the time its loss was discovered wayback in October 1991. There being no damage sustained by the government or by anyone for that matter, the recommended fine of P10,000.00 appears to be a bit harsh. The Court believes that a fine of P5,000.00 is more reasonable.

PREMISES CONSIDERED, respondent Deogracias K. del Rosario is hereby found guilty of misconduct and negligence for which he is ordered to pay a fine of Five Thousand Pesos (P5,000.00). He is further ordered to submit to this Court all pertinent documents relating to his accountabilities as then Clerk of Court, RTC, San Jose, Antique, within fifteen (15) days from notice, with stern warning that failure to do so will be dealt with more severely.

SO ORDERED.

Bidin, Romero, and Vitug, JJ., concur.
Feliciano, J., (Chairman), on leave.

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