

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
MELECIO T. RAMOS, FORMER CLERK OF COURT, MTCC,
TUGUEGARAO CITY, RESPONDENT.**

A.M. NO. P-05-1966. October 20, 2005

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

On February 1, 2005, the Office of the Court Administrator (OCA) submitted to Mr. Chief Justice Hilario G. Davide, Jr. a Report on the Financial Audit on the Books of Account of herein respondent Melecio T. Ramos, former Clerk of Court of the Metropolitan Courts in Cities (MTCC), Tuguegarao City.

The report states the following:

On May 28, 1998, respondent retired as Clerk of Court of the MTCC, Tuguegarao City. As Clerk of Court, he was in charge of handling the Clerk of Court General Fund, Fiduciary Fund and the Judiciary Development Fund. Before any clearance could be issued to him, an examination of his cash collections and accounts was conducted by the Fiscal Monitoring Division of the OCA to determine whether he has no pending cash accountabilities. He was then required to submit the pertinent documents for audit purposes, such as cashbooks, file copies of validated deposit slips, file copies of monthly reports of collections and deposits, passbooks, etc.

Based on the documents submitted by respondent and the entries on the Subsidiary Ledger maintained by the Accounting Division of the OCA, the accounts for the Clerk of Court General Fund and the Judiciary Development Fund (JDF) were found to be in order. For the Fiduciary Fund, the audit shows that he incurred a shortage of Forty-Eight Thousand Four Hundred Seventy-Two Pesos and Two Centavos (P48,472.02), computed as follows:

Total collections for the period August 1995-May 21,1998

-P5,929,506.00

Less:Withdrawals for the same period

- 2,944,418.00

Total Unwithdrawn Fiduciary Fund

-P2,985,088.00

Less:Total bank deposits for the same period

- 2,936,615.96

Final Accountability

-P 48,472.02

The audit likewise shows that respondent maintained five (5) depository accounts with Land Bank, one for the Office of the Clerk of Court and one each for the four (4) Branches of the MTCC. He was also the sole signatory on all bank transactions of the said court.

On September 6, 2004, respondent sent a letter to the OCA appealing for the release of the monetary value of his leave credits, submitting a Certificate of Settlement and Balance issued by the Office of the Auditor, Tuguegarao City.

In its reply of October 4, 2004, the OCA informed respondent that the Certificate of Settlement and Balance issued by the Office of the Auditor of Tuguegarao City cannot be used as basis for his clearance; and that the clearance cannot be issued until the Statement of Unwithdrawn Fiduciary Fund is submitted. He was directed to settle the shortage of P48,472.02 and to explain in writing: (a) why he maintained five (5) depository accounts for the Fiduciary Fund, in violation of Supreme Court Circular No. 50-95; and (b) why he failed to submit the required Statement of Unwithdrawn Fiduciary Fund.

On November 4, 2004, respondent submitted his explanation as follows:

"1. That he maintained five (5) depository accounts for the Fiduciary Fund because since he started collecting Fiduciary Fund in 1993, he was unaware of the existence of Circular No. 50-95. It was also his honest belief that since the four branches of the court and the Office of the Clerk of Court are different offices, each should have a separate passbook. Thus, he opened five (5) depository passbooks, one each for the four branches and one for the Office of the Clerk of Court. He further stated that under this set-up, the judges never questioned him and that if there was any inquiry regarding the Fiduciary Fund of any branch, he could easily present them to the Judge.

2. That he failed to submit the Statement of Unwithdrawn Fiduciary Fund because when he retired, he did not have the necessary forms and when he was able to secure them, he gave the same to the cash clerk for completion. However, due to the volume of work and the bulk of transactions of the Fiduciary Fund, the Statement of Unwithdrawn Fiduciary Fund was completed and forwarded to the Fiscal Monitoring Division in 2001."

In a letter dated November 15, 2004, respondent reiterated his request for the early release of his retirement benefits, asking that the shortage of P48,472.02 be deducted from his terminal leave pay. He prayed for this Court's assistance so he can enjoy his retirement benefits after seven (7) years of waiting.

In the same Report, the OCA made the following recommendation:

"1. This report be docketed as a regular administrative matter against Mr. Melecio Ramos for failure to deposit the correct amount of collection causing a shortage in his collection; and a fine of Five Thousand Pesos (P5,000.00) be imposed upon him for such infraction; the said fine to be deducted from his retirement benefits.

2. The Financial Management Office, OCA be DIRECTED to deduct the amount of FORTY-EIGHT THOUSAND FOUR HUNDRED SEVENTY-TWO PESOS and FOUR CENTAVOS (P48,472.04) from the retirement benefits of Mr. Ramos as payment of the shortage in the latter's collection and coordinate with the Fiscal Monitoring Division, Court Management Office, OCA before releasing the said amount to the Clerk of Court/Officer-in-Charge, Municipal Trial Court, Tuguegarao City, Cagayan for deposit to the Fiduciary Fund account.

3. The Clerk of Court/Officer-in-Charge, Municipal Trial Court, Tuguegarao City, Cagayan be DIRECTED to furnish the Fiscal Monitoring Division, CMO, OCA with the machine validated deposit slip, as proof that the amount deducted from the Terminal Leave Pay of Mr. Ramos was deposited to the Fiduciary Fund account,

within five (5) days after receipt of the check from the Checks Disbursement Division, Financial Management Office, OCA."

We find respondent administratively liable for dishonesty and gross misconduct.

Section 4 of Supreme Court Circular No. 50-95 states:

"4. 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, with the Land Bank of the Philippines."

The same Circular also mandates that all deposits of fiduciary funds should be made in the name of the court, with its Clerk of Court and the Executive Judge as authorized signatories. Only one depository bank shall be maintained. As explained by respondent, he maintained five (5) depository accounts for the Fiduciary Fund because he is unaware of the existence of Circular No. 50-95. He further stated that the judges never questioned him about his five (5) accounts and that if there was any inquiry regarding the Fiduciary Fund of any Branch, he could easily present it to the Judge.

In "Report on the Financial Audit Conducted on the Books of Accounts of OIC Melinda Deseo, MTC, General Trias, Cavite,[1] we rejected a similar excuse for the mishandling of the Fiduciary Fund collections. We held:

"Mrs. Deseo's alleged lack of prior training and orientation in administering Fiduciary Fund collections cannot relieve her of administrative liability. Her collections and deposits of other funds (Judiciary Development Fund and General Fund) are in order. Her responsibilities for these funds are substantially the same as her responsibility for the Fiduciary Fund. It is difficult to believe that she was ignorant of the provisions of Circular No. 50-95. She might, in the beginning, have been unaware of the circular, but surely she could not have remained so far the three years that she was the OIC."

Clerks of Court are the chief administrative officers of their respective courts. With regard to the collection of legal fees, they perform a delicate function as judicial officers entrusted with the correct and effective implementation of regulations thereon.[2]

As Clerk of Court, respondent is duty-bound to use reasonable skill and diligence in the performance of his officially designated duties.[3] He is an accountable officer entrusted with the great responsibility of collecting and depositing money belonging to the funds of the Court. This he failed to fulfill. That he incurred a shortage in the Fiduciary Fund obviously shows that he appropriated the amounts for himself. Those are government funds. He has no right to use them.

For incurring a shortage of P48,472.02 in the Fiduciary Fund, respondent committed dishonesty. Dishonesty is a "disposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray." [4] Moreover, for defying Supreme Court Circular No. 50-95, he is also liable for gross misconduct. Gross misconduct is a flagrant, shameful and inexcusable unlawful conduct on the part of a person concerned in the administration of justice prejudicial to the rights of parties or to the right determination of the cause.[5]

Section 52, Rule IV of the Revised Uniform Rules on Administrative Cases in the Civil Service provides:

"Section 52. Classification of Offenses. - Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.

A. The following are grave offenses with their corresponding penalties:

1. Dishonesty - 1[st] Offense - Dismissal

2. Gross Neglect of Duty - 1[st] Offense - Dismissal

3. Grave Misconduct - 1[st] Offense - Dismissal"

Corollarily, in Re: Ma. Corazon M. Molo,[6] we held:

"No position demands greater moral righteousness and uprightness from the occupant than the judicial office. Those connected with the dispensation of justice bear a heavy burden of responsibility. Clerks of court, in particular, must be individuals of competence, honesty and probity, charged as they are with safeguarding the integrity of the court and its proceedings. This Court has consistently held that persons involved in the administration of justice ought to live up to the strictest standards of honesty and integrity in the public service. The conduct required of court personnel, from the presiding judge to the lowliest clerk, must always be beyond reproach.

The Court is left with no choice but to declare the respondent guilty of dishonesty and gross misconduct. Dishonesty alone, being in the nature of a grave offense, carries the extreme penalty of dismissal from the service with forfeiture of retirement benefits, except accrued leave credits, and perpetual disqualification for re-employment in the government service. This penalty is in accordance with Section 52 and Section 58, Rule IV, of the Civil Service Commission Memorandum Circular No. 19, Series of 1999 (Revised Uniform Rules on Administrative Cases in the Civil Service)."

In the instant case, the penalty of dismissal from the service is no longer imposable as respondent had already reached the compulsory age of retirement as early as May 28, 1998. A fine of P40,000.00 is deemed in order.

Wherefore, former Clerk of Court Melecio T. Ramos of the MTCC of Tuguegarao City is fined P40,000.00, the same to be deducted from his retirement benefits, with prejudice to re-employment in any branch or instrumentality in the government, including government-owned and controlled corporations.

The OCA is further directed to deduct the amount of P48,472.02, also from his retirement benefits, as reimbursement for the shortage in his collections for the Fiduciary Fund.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio Morales, Callejo, Sr., Azcuna, Tinga, and Garcia, JJ., concur.

Chico-Nazario, J., on leave.

[1]A.M. No. 99-11-157-MTC, August 7, 2000, 337 SCRA 347.

[2] Report on the Financial Audit in the RTC, General Santos City, etc., A.M. No. 96-1-26-RTC, March 8, 2000, 327 SCRA 414.

[3] Office of the Court Administrator vs. Yan, A.M. No. P-98-1281, April 27, 2005, citing Aquino vs. Olivares, A.M. P-02-1534, March 26, 2003.

[4] Office of the Court Administrator vs. Ibay, A.M. No. P-02-1649, November 29, 2002, 393 SCRA 212, citing Black's Law Dictionary, Sixth Ed., p. 468, 1990.

[5] Office of the Court Administrator vs. Yan, supra, citing Morales vs. People, 385 SCRA 259 (2002).

[6] A.M. No. SCC-00-6-P, October 16, 2003, cited in Report on the Financial Audit conducted at the MTC of Bani, Alaminos and Lingayen, Pangasinan, A.M. No. 01-2-18-MTC, December 5, 2003.

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