

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
CLARITA QUINTANA-MALANAY, CLERK OF COURT, METC,
PATEROS, METRO MANILA, RESPONDENT.**

A.M. No. P-04-1820. August 06, 2008

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PER CURIAM:

This administrative matter stemmed from the financial audit of the Metropolitan Trial Court of Pateros, Metro Manila (MeTC-Pateros), conducted by the Court Management Office (CMO) under the Office of the Court Administrator (OCA). The audit covered the periods October 2003 to January 29, 2004 and concerned the accountability of respondent Clerk of Court Clarita Quintana-Malanay.

The audit team reported that the preliminary cash count revealed an initial cash shortage of P9,438.00,[1] as the team was able to count only P8,652.00[2] of the P18,090.00[3] total undeposited collections for the periods October 2003 to January 29, 2004. When the audit team attempted to conduct a more detailed and comprehensive financial audit on all the books of accounts of the court, it noted that respondent Malanay was apprehensive in providing them the pertinent documents needed to make a thorough audit. The audit team requested respondent Malanay to produce all the case folders of these cases in which the cash bonds were reported to have been withdrawn already, but of the 229 case folders the audit team requested, only two (2) folders were given. Respondent Malanay also failed to present the passbook and submit the list of unwithdrawn cash bonds. She requested a one-day extension to update the court records but it took her seven days to produce the requested documents. In view of respondent Malanay's uncooperativeness, Judge Marilou Runes-Tamang relieved her as Officer-in-Charge and designated Roselyn L. Villano as replacement.[4]

The audit team likewise reported the following:

- The Fiduciary Trust Fund Savings Account which was opened for MeTC-Pateros was under the personal name of respondent Malanay with her as the sole signatory.[5]
- A confirmation with the depository bank, Land Bank of the Philippines-Pasig Branch, disclosed that the cash-in-bank balance as of January 29, 2004, for said account was only P20,066.05, inclusive of P10,066.05 interest earned from the date it was opened.[6]
- In five cases, respondent Malanay forged the signature of then Presiding Judge Lorifel Lacap-Pahimna in court orders attached to the case folders.[7]
- In Criminal Cases Nos. 5172-96, 5264-97 and 5327-97 which were supposedly archived with their respective cash bonds ordered confiscated by Judge Pahimna, respondent Malanay attached and certified duplicate copies of court orders dismissing the said cases and released the posted cash bonds without Judge Pahimna's signature.[8] No original court orders dismissing these cases were found on file.
- In 19 cases, the respective cash bonds totaling to P55,500.00 were withdrawn without court orders specifically signed by the presiding judge. Instead, a copy of an order stamped "original signed" was attached. However, no original court orders were found in the case folders. Likewise, said court orders lacked the initials

of the staff who typed the same, contrary to the usual practice of typing the staff's initials in the court order.[9]

- In 35 cases where their cash bonds totaling P108,100.00 were ordered confiscated, no deposits were found in the accruing account of the government and yet the same were reported as withdrawn.[10]

- In 5 cases, cash bonds were withdrawn without direct court orders to release the same. Furthermore, there were no acknowledgment receipts to prove that said cash bonds were received by the bondsmen or their authorized representative. Likewise, no motions were filed by the accused to withdraw the cash bond posted.[11]

- The collections pertaining to the Fiduciary Trust Fund amounting to P1,044,421.75 were not reported to the Accounting Division, Office of the Court Administrator and were not reflected in the Clerk of Court Cash Book for Fiduciary Trust Fund.[12]

- Thirty-six case folders[13] were not submitted to the audit team upon respondent Malanay's claim that the records can no longer be found in the court's custody.[14]

- The cash bond in Criminal Case No. 5710 with Official Receipt (O.R.) No. 8033806 dated June 18, 1999 amounting to P3,000.00 was withdrawn without a court order and acknowledgment receipt to support its withdrawal.[15]

- In Criminal Case No. 5696, a cash bond amounting to P1,000.00 was ordered by Judge Pahimna to be withdrawn and to be remitted to the Judiciary Development Fund as payment of court fine imposed on the accused. No remittance was made but the amount was reported as withdrawn.[16]

- In Criminal Case No. 4850-94, there were no acknowledgment receipts found in the records to prove that the cash bonds amounting to P6,000.00 were received by the bondsman.[17]

- The collections pertaining to the JDF, for the periods 1985 to 2004, revealed a shortage of P5,095.00. However, the team failed to verify the transactions reported from 1985 to 1993 due to missing triplicate copies of official receipts.[18] There were also instances where the amounts reflected in the official receipts were greater than the amounts actually reported/recorded. Some official receipts were issued not according to its sequence. Furthermore, the collections were deposited on a monthly basis.[19]

- As to the collections pertaining to the General Fund for the periods 1995 to 2003, the collections revealed a shortage of P50,137.00.[20]

- Respondent Malanay did not report in the cash book the transactions involving O.R. No. 15395438 pertaining to Criminal Case No. 5251-97 amounting to P50,000.00 as fine imposed by Judge Tamang on the accused.[21]

- The team also noted respondent Malanay's late submission of monthly reports, late remittances of collections, incorrect cash book footings of collections resulting to under remittances, and missing booklet of official receipts with series 5058101 to 5058150.[22]

- As per collections pertaining to the Victims Compensation Fund, the audit revealed a shortage of P150.00. Moreover, most of the collections were remitted beyond the required schedule.[23]

- As to the Legal Research Fund, the audit team found a shortage of P235.00. The official receipts supporting the collections from July 31, 2002 to December 31, 2003 were unavailable. Likewise, collections amounting to P270.00 were not reflected in the cash book and were not remitted to UP Law Center.[24]

- Fees amounting to P2,100.00 for seven marriage solemnizations were unsupported by official receipts.[25]

- From 2001 to 2003, filing fees in eight estafa cases were not collected.[26]

In sum, the accountabilities/cash shortages of respondent Malanay found by the audit team were as follows:

PARTICULARS

AMOUNT

I. Fiduciary Trust Fund

P 640, 751.75

II. Judiciary Development Fund

P 5, 095.00

III. General Fund

P 50, 137.00

IV. Special Allowance of Justices & Judges

0.00

V. Victims Compensation Fund

P 150.00

VI. Legal Research Fund

P 295.00[27]

VII. Others (Marriage Solemnization)

P 2,100.00

TOTAL

P 698,528.75[28]

The audit team failed to compute the actual interest which should have accrued to the Court since the audit was substantially affected by numerous missing documents.

On the basis of the foregoing findings and the documents at hand, the OCA recommended on May 20, 2004[29] that the audit report be treated as an administrative complaint against respondent Malanay.

On June 8, 2004, acting on the report and recommendation of the OCA, the Court resolved to

(a) DOCKET the subject report as A.M. No. P-04-1820 (Office of the Court Administrator vs. Clerk of Court Clarita Quintana-Malanay);

(b) DIRECT Clerk of Court Clarita Quintana-Malanay to

(1) DEPOSIT to the Fiduciary Fund the total amount of P345,930.00, representing cash in bank shortages, falsified withdrawals, and confiscated cash bonds which were not remitted to the JDF, and SUBMIT to the Fiscal Monitoring Division, OCA, the validated deposit slips, both within thirty (30) days from notice hereof;

(2) WITHDRAW from the Fiduciary Fund the amounts of P10,066.05 and P108,000.00, representing interest earned and confiscated cash bond, respectively; DEPOSIT the same to the JDF account; and SUBMIT to the Fiscal Monitoring Division, OCA, the validated deposit slips, all within thirty (30) days from notice hereof;

(3) SUBMIT, within ten (10) days from notice hereof, the original Court Orders in the following cases where bonds were refunded with unsigned court orders;

CASE NUMBER

LITIGANTS

BOND POSTED

5336 to 5338; 5342

Gilson Roque

P4,000.00

5469

Salvador Arento, et al.

5,000.00

5469

Leandro Santiago

5,000.00

5650 to 5651

Benjamin Reymundo

1,500.00

5874-00

Dominador S. Yumal

4,000.00

5820-99

Vicente Sumapit, Jr.

6,000.00

6152

Arnold Paros

2,000.00

6173

Daniel Torres

2,000.00

6303

Ernesto Roces

3,000.00

6333-03

Jorge Copia

5,000.00

6334-03

Jayson Manzano

5,000.00

6334-03

Jorge Copia

5,000.00

6325-03

Elias Millis

2,000.00

6350

Danilo Sandoval

3,000.00

6351

George Villanueva

3,000.00

TOTAL

P55,500.00

(4) SUBMIT to the Court, within (10) days from notice hereof, the Court Order authorizing the refund of the cash bond posted in Criminal Case No. 5710;

(5) DEPOSIT the amounts of P55,095.00, P137.00, P150.00 and P295.00, representing the balance of her accountability in the Judiciary Development Fund, General Fund, Victims Compensation Fund and Legal Research Fund, respectively, and SUBMIT to the Fiscal Monitoring Division, OCA, the validated deposit slips, both within ten (10) days from notice hereof;

(6) REMIT, within ten (10) days from notice hereof, the amount of P2,100.00 representing solemnization fees which were not receipted;

(7) ACCOUNT, within ten (10) days from notice hereof, for the missing Official Receipts which pertains to the Judiciary Development Fund covering the period of 1985 to 1993, and part of the series issued for the General Fund covering the period of 1 February 1997 to 31 August 1997; and

(8) PRODUCE, within ten (10) days from notice hereof, the case folders of the following thirty six (36) criminal cases:

DATE

O.R. NUMBER

CASE NUMBER

AMOUNT

3/__/96

4127030

4985 to 4993

9,000.00

3/30/95

4127031

5019 to 5022

8,000.00

9/24/96

5058154

96-126 to 96-128

6,000.00

2/11/97

5058192

529 to 5249

28,000.00

4/18/97

5058303

257-97

2,000.00

7/9/97

5058309

5321

30,000.00

9/4/97

5058319

5353

2,000.00

3/27/98

5058344

1002-96

1,812.50

3/27/98

5058345

1003-96

2,718.75

3/27/98

5058346

1004-96

2,718.50

3/27/98

5058347

1005-96

2,900.00

3/27/98

5058348

1006-96

2,185.00

3/27/98

5058349

1007-96

2,625.00

3/27/98

5058350

1005-96

1,087.00

6/6/98

8033207

38-042195-96

8,000.00

6/10/98

8033209

5522

10,000.00

6/11/98

8033210

94818

2,000.00

9/11/98

8033221

5406 to 5407

2,000.00

1/2/99

8033229

5647

5,000.00

1/12/99

8033232

5648

5,000.00

3/15/99

8033245

5682

10,000.00

7/9/99

8033808

5764

3,000.00

8/10/99

8033813

5764

3,000.00

10/4/99

8033828

10406

1,125.00

10/5/99

8033829

1073

1,300.00

11/26/99

8033834

5838

3,000.00

11/26/99

8033835

5838

3,000.00

11/26/99

8033836

5838

3,000.00

4/27/00

11498652

1151-99

3,250.00

4/27/00

11498653

1152-99

2,600.00

4/27/00

11498654

1153-99
1,950.00
4/27/00
11498655
1154-99
4,550.00
7/24/00
11498669
5916
2,000.00
8/2/00
11498671
5918
4,000.00
8/2/00
11498672
5918
4,000.00
4/30/02
11498776
5149
3,000.00
TOTAL
185,821.75

(c) DIRECT Presiding Judge Marilou Runes-Tamang to (1) OPEN a new and interest-bearing savings account in the Land Bank of the Philippines under the name of MeTC Pateros, with her and designated OIC, Roselyn L. Villano, as authorized signatories; (2) REQUIRE the concerned parties to file a separate motion to withdraw cash bond posted by the accused if the same was not provided in the order; and (3) INVESTIGATE the circumstances regarding the eight (8) cases where the decisions were falsified, and SUBMIT her report and recommendation thereon within thirty (30) days from notice hereof, to wit: Cases Nos. 4996-5001, 5132, 5133, 5134, 5137, 5172, 5264 and 5327;

(d) DIRECT the Legal Office, OCA, to FILE the appropriate criminal charges against Clerk of Court Clarita Quintana-Malanay;

(e) PLACE Clerk of Court Quintana-Malanay under SUSPENSION pending resolution of this administrative matter; and

(f) ISSUE a hold departure order against Clerk of Court Clarita Quintana-Malanay to prevent her from leaving the country.

For her part, respondent Malanay submitted several comments and motions for extension. She explained that since she was relieved as accountable officer of the court, it was impossible for her to make the necessary withdrawals in order to reconstitute the shortages.[30] She claimed having exerted effort to comply with the Court's directives but due to her suspension, she was not able to comply fully because she could not even secure a loan from private persons as she had no income to pay them.[31] She claimed that her suspension was very harsh considering that it was her first offense after rendering 37 years of satisfactory service to the Court.[32] Respondent Malanay also insisted that her suspension should be lifted and her salaries be released or she should be allowed to apply for early retirement. If allowed to retire, the cash shortages would be deducted from her retirement benefits.[33]

In a Resolution dated June 14, 2005, the Court resolved to defer the filing of a criminal action against respondent Malanay until the administrative case against her had been finally resolved.

On September 18, 2007, the Court reiterated its earlier directive to respondent Malanay in the Resolution dated June 8, 2004.

On November 26, 2007, respondent Malanay attempted to comply/explain in the following manner:

As to Directive No. 1 - Respondent Malanay begged for the Court's leniency since she is a first time offender and has not been charged for dishonesty during her almost 37 years of service in the Judiciary. She pleaded that she be allowed to settle the alleged shortages through her leave credits with a cash equivalent of P799,400.00,[34] which is sufficient to cover the shortages.

As to Directive No. 2 - Respondent Malanay explained that she was advised that she could only deposit but not withdraw amounts from the Fiduciary Funds. She prayed that the present cash clerk of MeTC- Pateros, be directed to withdraw P10,066.65 representing interest earned and P108,000.00 representing the alleged confiscated bond from the Fiduciary Fund and deposit the same to the JDF Account, as required by the Court.

As to Directive No. 3 - Respondent Malanay coordinated with the OIC for the retrieval of the alleged original unsigned orders in Criminal Cases Nos. 5335-38-45 (Gilson Roque), 5469 (Salvador Arento), 5469 (Leonardo Santiago), 5650-51 (Benjamin Raymundo), 5874 (Dominador Yumul), 6173 (Daniel Torres), 6303 (Ernesto Roces), 633-6334-03 (Jorge Copia and Nayson Manzano), 6350 (Danilo Sandoval) and 6351 (George Villanueva). However, despite diligent efforts, only those pertaining to 5874 and 633-6334-03 were located.

As to Directive No. 4 - Respondent Malanay explained that the accused in Criminal Case No. 5710 pleaded guilty and was sentenced to pay a fine of P1,000.00 to be deducted from the cash bond he posted; thereafter, the bond was released to the said accused. Respondent Malanay claimed that it was an honest mistake that she did not notice that the court order failed to allow the release of the bond since it was the usual practice that after the accused pleaded guilty, the fine will be deducted from the bond and thereafter released to the accused.

As to Directive No. 5 - Respondent Malanay suggested that the alleged shortages in the cashbook of JDF amounting to P55,095.00 be settled from her leave credits.

As to Directive No. 6 - Respondent Malanay alleged that the missing used OR's could no longer be retrieved despite diligent efforts. Respondent Malanay reiterated that she started as accountable officer for the JDF Fund only in 1987 and for the General Fund in 1995. She further explained that the COA conducted an audit sometime in 2000 to 2002 on the cashbooks of the JDF Fund and General Fund but no adverse findings were

reported.

As to Directive No. 7 - As to the alleged falsified orders, Respondent Malanay claimed that she already made a personal dialogue with then Presiding Judge Pahimna. She claimed that Judge Pahimna noted her explanation with compassion since she was suffering from hypertension, migraine with vertigo and was even confined at the Makati Medical Center during those times. She pleaded that those instances were her unguarded moments for which she committed some lapses and human mistakes. She added that since the cash bonds were already released to the corresponding accused, the same should be deducted from her accountabilities.

On January 22, 2008, the Court referred respondent Malanay's compliance to the OCA for evaluation, report and recommendation.

On February 26, 2008, the OCA recommended the dismissal of respondent Malanay from service. The OCA also came up with the following final cash accountabilities of respondent Malanay after considering the pertinent documents and case records she submitted:

PARTICULARS

PREVIOUS ACCOUNTABILITIES & BEFORE COMPLIANCE

FINAL ACCOUNTABILITIES

I. Fiduciary Trust Fund

P 640, 751.75

P 591,851.75

II. Judiciary Development Fund

5, 095.00

5,095.00

III. General Fund

50, 137.00

50,000.00

IV. Special Allowance for Justices & Judges

0.00

0.00

V. Victims Compensation Fund

150.00

0.00

VI. Legal Research Fund

295.00[35]

0.00

VII. OTHERS (Marriage Solemnization)

2,100.00

0.00

TOTAL

P 698,528.75

P 646,946.75

On March 18, 2008, the Court resolved to

(a) DIRECT the incumbent Clerk of Court or Officer-in-Charge to DEPOSIT the checks representing restitution of the shortages incurred in the following funds: Fiduciary Fund, General Fund and Judiciary Development Fund, within twenty-four (24) hours after receipt thereof of checks [for the money value of respondent Malanay's leave credits] from the Checks Disbursement Division, FMO-OCA, and SUBMIT to the Fiscal Monitoring Division, Court Management Office (CMO), within two (2) days copy(ies) of machine validated deposit slips as proof of compliance thereof;

(b) DIRECT respondent Clarita Quintana-Malanay, within ten (10) days from notice without extension, to ACCOUNT and SUBMIT to the Fiscal Monitoring Division, CMO, OCA, the following missing Official Receipts:

NUMBER OF OFFICIAL RECEIPTS NOs.:

BOOKLETS

2558501-2559000

10

2299001-2299500

10

5058101-5058150

1

15395851-15395900

1

15396151-15396200

1

TOTAL

23

(c) DIRECT Hon. Lorifel Lacap Pahimna, RTC, Branch 69, Pasig City, Metro Manila, to COMMENT within ten (10) days from receipt hereof, on the five (5) incidents of forgery during her term as Presiding Judge of

Metropolitan Trial Court of Pateros, Metro Manila, where her signatures on top of her name appeared on Court Orders in the following criminal cases, dismissing the cases and authorized the release of cash bond to its respective bondsmen, to wit:

Criminal Case No.:

5132

5133

5134

5137

4996-5001

(d) DIRECT ANEW Presiding Judge Marilou Runes-Tamang to

(i) CONDUCT an investigation concerning the following criminal cases, where decisions dismissing the case were falsified and signatures of the deciding judge were forged; and submit the report and recommendation within thirty (30) days from receipt hereof:

Criminal Case No.:

5132

5133

5134

5137

4996-5001

5172

5264

5327

(ii) EXPLAIN why she issued a new order dated August 17, 2004 authorizing the release of cash bond posted by Elias Milis, accused in Criminal Case No. 6325-03, when in fact there was a previous order on May 5, 2003. Although the earlier order was just stamped "ORIGINAL SIGNED," the same cash bond was withdrawn on May 5, 2003 and August 23, 2004 as evidenced by Annexes B, B-1, C and C-1 resulting to double withdrawal.

(e) DIRECT the Legal Office to file the appropriate criminal charges against Mrs. Clarita Quintana-Malanay.[36]

In her Compliance,[37] Judge Tamang averred that she was not yet the presiding judge of MeTC-Pateros when the subject cases, except Criminal Case No. 6325-03, were decided.

After an evaluation of the court records, except for Criminal Case Nos. 5172, 5264 and 5327 which are still missing, Judge Tamang concluded that the questioned decisions/resolutions in the subject criminal cases were indeed falsified and the signatures of Judge Pahimna therein were forged. She also discovered that except for Criminal Case Nos. 4996-96 to 5001-96, all the subject criminal cases were not listed as decided cases contrary to what appeared in the questioned orders but were merely archived or sent to the files due to the non-arrest of the accused. Judge Tamang also observed that in all the four subject cases, on the dates on which the accused were

supposed to have been arraigned as alluded to in the questioned orders, no minutes of the proceedings were attached to each case record. Judge Tamang also noted that the questioned orders of arraignment with the supposed directive to release cash bonds and the money evidence, did not contain any proof at all that copies of the said questioned orders were served on the parties either personally or by mail. Thus, Judge Tamang believed that the orders archiving the case genuinely issued by the court were deliberately detached from the record and new ones that were falsified were attached thereto to justify the release of the cash bonds and the money evidence.

Judge Tamang did not directly point to respondent Malanay as the perpetrator of the forged signatures. However, she stressed that in respondent Malanay's Comment dated May 8, 2008, she admitted her responsibility for the anomalous releases of evidence and cash bonds and attributed her mistakes to mere lapses of judgment. She also pointed out that as the sole accountable officer in the court, respondent Malanay kept the cash bonds posted by the accused and released the same upon termination of the case.

As to the two orders issued in Criminal Case No. 6325-03 resulting in double withdrawal of the accused's cash bond, Judge Tamang disputed that she issued two separate orders authorizing the withdrawal of the cash bond. As evidenced by the case records, it was only on August 17, 2004 that she ordered upon motion of the defense, the release of the cash bond under O.R. No. 11498832 dated April 15, 2003 in the sum of P2,000.00 in favor of the accused. Judge Tamang denies any knowledge of the questioned May 5, 2003 Order that allegedly ordered the release of the cash bond. She averred that it was highly improbable that she would authorize the withdrawal of the cash bond because the case was even scheduled for pre-trial. Judge Tamang claimed that the unauthorized withdrawal of the cash bond in Criminal Case No. 6325-03 was just one of the unexplained withdrawals charged against respondent Malanay by the audit team.

Upon a thorough review of the records of this case, the Court agrees with the findings and recommendations of the OCA that respondent Malanay be dismissed from the service.

Time and time again, this Court has stressed that those charged with the dispensation of justice -- from the presiding judge to the lowliest clerk -- are circumscribed with a heavy burden of responsibility. Their conduct at all times must not only be characterized by propriety and decorum but, above all else, must be beyond suspicion. Every employee should be an example of integrity, uprightness and honesty.[38]

There is no question as to the guilt of respondent Malanay. The records speak for themselves and it is clearly shown therein that she failed to (1) submit monthly reports of collections, deposits and withdrawals; (2) account for the total amount of P646,946.75 representing funds pertaining to the Court; (3) account for missing official receipts; (4) deposit/remit collections on time; (5) present court orders to support her withdrawals of cash bonds; (6) remit interest earned from the Fiduciary Fund deposits to the account of the Judiciary Development Fund (JDF); and (7) explain the forged signatures of Judge Pahimna.

As reported by the audit team, the withdrawals of cash bonds were not signed by the presiding judge. Neither was there any order from the court allowing such withdrawals. These were gross violations of Circular No. 50-95.[39] Moreover, respondent Malanay, as the Clerk of Court, had the duty to remit the collections within the prescribed period.[40] Shortages in the amounts to be remitted and the years of delay in the actual remittances constitute neglect of duty for which she should be administratively liable. More so, since she failed to give a satisfactory explanation for said shortages.

Clerks of court perform a delicate function as designated custodians of the court's funds, revenues, records, properties and premises. As such, they are generally regarded as treasurer, accountant, guard and physical plant manager thereof.[41] They are the chief administrative officers of their respective courts. It is also their duty to ensure that the proper procedures are followed in the collection of cash bonds.

Clerks of court have always been reminded of their duty to immediately deposit the various funds received by them to the authorized depository banks. The Court has issued several circulars regarding court funds. Collectibles accruing to the JDF should be deposited daily with the Land Bank of the Philippines.[42] If depositing daily is not possible, deposits 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. These circulars are mandatory in nature as they are designed to promote full accountability for government funds, and no protestation of good faith can override such mandatory nature. Failure to observe these circulars resulting in loss, shortage, destruction or impairment of court funds and properties makes respondent Malanay administratively liable.

By failing to properly remit the cash collections constituting public funds and by withdrawing cash bonds without an order from the court, respondent Malanay violated the trust reposed in her as disbursement officer of the judiciary. Her failure to explain the fund shortage and unauthorized withdrawals, and to reconstitute the shortage and fully comply with the Court's directives leave us with no choice but to hold her liable for gross dishonesty and grave misconduct in office, and to order her dismissal from office. The Court condemns any conduct, act or omission which violates the norm of public accountability or diminishes the faith of the people in the judiciary.[43]

A failure to turn over on time cash deposited with accountable public officers constitutes gross neglect of duty and gross dishonesty, if not malversation. Gross neglect of duty and gross dishonesty are grave offenses punishable by dismissal under Section 52,[44] Rule IV of the Uniform Rules on Administrative Cases in the Civil Service.[45]

The fact that some of respondent Malanay's accountabilities were later on deposited do not divest her of administrative liability since the unreasonable delay in the remittance of fiduciary funds constitutes serious misconduct.[46]

This Court has in fact accorded leniency to respondent Malanay. For over four years now, she failed to fully comply with several Court directives to submit all financial documents as well as case records regarding the court's funds in order to determine her exact accountability and to reconstitute the unremitted funds. Neither did she offer any satisfactory explanation justifying her non-compliance. Failure of a public officer to remit funds upon demand by an authorized officer constitutes prima facie evidence that the public officer has put such missing fund or property to personal use.[47]

As to the forged signatures of Judge Pahimna, respondent Malanay's explanation fails to convince this Court. Even assuming that she was able to settle the anomaly after conferring with Judge Pahimna, she failed to recognize that her obligation is not to Judge Pahimna, but rather to the Court, the parties concerned and the public. Neither can she excuse herself from liability on the pretext of lapse of judgment. The moment she accepted her appointment as Clerk of Court, it is presumed that she likewise accepted the corresponding duties and responsibilities attached to it.

This Court has not hesitated to impose the ultimate penalty on those who have gravely fallen short of their accountabilities. No less than the Constitution enshrines the principle that a public office is a public trust. The supreme law of the land commands all public officers and employees to be at all times accountable to the people; and to serve them with utmost dedication, honesty and loyalty.[48]

Worth stressing, dishonesty is a malevolent conduct that has no place in the judiciary.[49] Pertinent here is the following admonition:

x x x [this Court] tries to devise the appropriate action to strengthen the moral fiber and strength of character of the employees and officers that constitute the judiciary, this [C]ourt shall never be less strict in applying only

the highest standards of propriety, decorum, integrity, uprightness and honesty from the highest judicial officer of the land to the humblest court employee, for the ultimate power of this court lies in its incorruptibility.[50]

WHEREFORE, respondent CLARITA QUINTANA-MALANAY, Clerk of Court, MeTC, Pateros, Manila, is hereby found GUILTY of gross neglect of duty, dishonesty and grave misconduct. She is ordered DISMISSED from the service with forfeiture of all retirement benefits and with prejudice to re-employment in the government, including government-owned or controlled corporations. The Employees Leave Division, Office of Administrative Services, OCA, is DIRECTED to compute the balance of respondent Malanay's earned leave credits and forward the same to the Finance Division, Fiscal Management Office, OCA, which shall compute its monetary value. The amount, as well as other benefits she may be entitled to, shall be applied as restitution of the shortage.

The Court further REMINDS Judge Marilou Runes-Tamang and Judge Lorifel Lacap-Pahimna to exercise effective supervision over the personnel of their respective courts, especially those charged with collection of the Fiduciary Fund and other trust funds (Judiciary Development Fund and Trust Fund).

The OCA is also ORDERED to coordinate with the prosecution arm of the government to ensure the expeditious prosecution of the criminal culpability of respondent Malanay.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio Morales, Chico-Nazario, Velasco, Jr., Nachura, Reyes, Leonardo-De Castro, and Brion, JJ., concur.

Azcuna, and Tinga, JJ., on official leave.

Velasco, Jr., J., No part due to prior action in OCA.

* On official leave.

[1] Re: Report on the Financial Audit Conducted at the MeTC, Pateros, M.M. dated May 11, 2004, p. 1.

[2] Id.

[3] Id.

[4] Id. at 3; Memorandum Order No. 003-04 dated February 2, 2004.

[5] Report on the Financial Audit Conducted at the Metropolitan Trial Court, Pateros, M.M. dated May 11, 2004, p. 2.

[6] Id. at 3.

[7] Id. at 4.

[8] Id. at 5.

[9] Id. at 6, par. (a).

[10] Id. at 7, par. (b).

[11] Id. at 8, par. (d).

[12] Id., par. (e).

[13] Amounting to P185,821.75.

[14] Report on the Financial Audit Conducted at the Metropolitan Trial Court, Pateros, M.M. dated May 11, 2004, p. 8, par. (f).

[15] Id. at 8, par. (c).

[16] Id. at 9, par. (g).

[17] Id. at 9, par. (h).

[18] Id. at 10, par. II.

[19] Id.

[20] Id. at 10, par. III.

[21] Id. at 11.

[22] Id.

[23] Id., par. V.

[24] Id., par. VI.

[25] Id. at 12, par. VI.

[26] Id. at 12.

[27] Id. at 11, par. VI (Initially reported as P235.00.)

[28] Id. at 12-13.

[29] Memorandum for Hon. Hilario G. Davide, Re: Report on the Financial Audit Conducted at the Metropolitan Trial Court, Pateros, Metro Manila, pp. 1-4.

[30] Partial Compliance/Answer and/or Comments with Omnibus Motion dated October 29, 2004.

[31] Respondent's Ex-Parte Motion for Reconsideration dated February 3, 2005.

[32] Respondent's Motion for Reconsideration dated August 2, 2007.

[33] Id.; Supplemental Partial Compliance with Motion/Prayers dated April 11, 2007.

[34] Certification from the Finance Division, Financial Management Office, OCA, Supreme Court.

[35] Supra note 27.

[36] Resolution, dated March 18, 2008, pp. 1-2.

[37] Report, Recommendation, and Explanation, dated June 2, 2008.

[38] *Marasigan v. Buena*, 348 Phil. 1, 10 (1998); *In Re: Delayed Remittance of Collections of Odtuha*, 445 Phil. 220, 224 (2003); *Office of the Court Administrator v. Atty. Galo*, 373 Phil. 483, 490 (1999); *Cosca v. Palaypayon, Jr.*, A.M. No. MTJ-92-721, September 30, 1994, 237 SCRA 249, 269.

[39] SUBJECT: COURT FIDUCIARY FUNDS

The following guidelines and procedures for purposes of uniformity in the manner of collections and deposits are hereby established:

- Guidelines in Making Deposits:

x x x x

(2) Deposits shall be made in the name of the Court, with its Clerk of Court and the Executive Judge as authorized signatories.

x x x x

- Guidelines in Making Withdrawals:

(1) Withdrawal slips shall be signed by the Executive/Presiding Judge and countersigned by the Clerk of Court.

(2) No withdrawals, except as specifically provided in the immediately preceding paragraph, shall be allowed unless there is a lawful order from the Court that has jurisdiction over the subject matter involved.

Took effect on November 1, 1995.

[40] Administrative Circular No. 5-93.

SUBJECT: LAND BANK OF THE PHILIPPINES, LIKEWISE THE AUTHORIZED GOVERNMENT DEPOSITORY BANK FOR THE JUDICIARY DEVELOPMENT FUND (JDF)

x x x x

- 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 Court, 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

April 30, 1993.

[41] Re: Misappropriation of the Judiciary Fund Collections by Ms. Juliet C. Banag, Clerk of Court, MTC, Plaridel, Bulacan, A.M. No. P-02-1641, January 20, 2004, 420 SCRA 150, 157-158.

[42] Administrative Circular No. 5-93.

SUBJECT: LAND BANK OF THE PHILIPPINES LIKEWISE THE AUTHORIZED GOVERNMENT DEPOSITORY BANK FOR THE JUDICIARY DEVELOPMENT FUND (JDF)

x x x x

c. In the RTC, SDC, MetTC, MTCC, MTC, MCTC and SCC. - The daily collections for the Fund in these courts shall be deposited every day with the local or nearest LBP branch "For the account of the Judiciary Development Fund, Supreme Court, Manila - SAVINGS ACCOUNT NO. 159-01163-1; or if depositing daily is not possible, deposits 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 before indicated.

x x x x

Issued on April 30, 1993.

[43] Re: Complaint Against Atty. Wilfredo B. Claveria for Misappropriation of Judiciary Funds, Adm. Matter Nos. P-02-1626 and P-03-1759, July 7, 2004, 433 SCRA 495, 501.

[44] 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:

- Dishonesty

1[st] offense- Dismissal

- Gross Neglect of Duty

1[st] offense- Dismissal

x x x x

August 31, 1999.

[45] Re: Report on the Financial Audit Conducted in the Municipal Trial Court (MTC), Sta. Cruz, Davao del Sur, A.M. No. 05-2-41-MTC, September 30, 2005, 471 SCRA 143, 150.

[46] See *Lirios v. Oliveros*, Adm. Matter No. P-96-1178, February 6, 1996, 253 SCRA 258, 263.

[47] *Office of the Court Administrator v. Besa*, 437 Phil. 372, 380-381 (2002).

[48] *Id.* at 381.

[49] Re: Administrative Case for Dishonesty Against Elizabeth Ting, Court Sec. I & Angelita C. Esmerio, Clerk III, Off. Clerk of Court, A.M. No. 2001-7-SC & No. 2001-8-SC, July 22, 2005, 464 SCRA 1, 15.

[50] *Sy v. Mongcupa*, 335 Phil. 182, 187 (1997).

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