OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. MARLON ROQUE, CLERK OF COURT, BRANCH 3, MTCC, ANGELES CITY AND ANITA G. NUNAG, CLERK OF COURT, OCC, MTCC, ANGELES CITY, RESPO...

A.M. No. P-06-2200 [Formerly OCA IPI No. 06-2-51-MTCC]. February 04, 2009

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

By Resolution of June 26, 2006, this Court, in A.M. No. P-05-2140,[1] dismissed Cashier I Aurelia C. Lugue (Aurelia) of the Angeles City Municipal Trial Court in Cities (MTCC) for dishonesty. In the same Resolution, the Court directed herein respondents

> . . . Clerk of Court Marlon Roque, MTCC, Branch 3, as former OIC, MTCC; and Clerk of Court Anita G. Nunag, OCC, MTCC, Angeles City to explain in writing, within 10 days from receipt of herein resolution, why they should not be disciplinary dealt with for failure to:
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> - exercise close supervision over the financial transactions of the court;
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> - monitor the activities of Cashier I, Aurelia C. Lugue, relative to the proper handling of collections of legal fees; and
>
> - monitor the proper remittance of collections on time which resulted to many instances of delayed remittances[2] (Emphasis and underscoring supplied),

and ordered "this administrative matter against Clerks of Court Roque and Nunag be given a separate docket number and re-raffled."[3]

Hence, the present case against Marlon Roque (Roque) and Anita Nunag (Nunag).

Roque submitted his Compliance[4] dated July 17, 2006 while Nunag submitted her Explanation[5] dated July 18, 2006.

Roque, who acted as Officer-in-Charge (OIC) of the Office of the Clerk of Court of the Angeles City MTCC from December 26, 2002 up to August 15, 2003, proffers the following explanation:

When he assumed as OIC, he merely followed the procedures observed by his predecessor Jesus Miranda who retired on December 25, 2002, without prejudice to the implementation of necessary changes or modifications. To the best of his knowledge and despite his limited background in accounting, he did his "very best" to closely supervise the financial transactions of the office. In the discharge of this duty, he never noted any discrepancy reflected in the Monthly Reports of Collections. And since the Auditors of the Commission on Audit (COA) did not find any shortages incurred by Aurelia, he had no reason to suspect that she was not remitting cash collections for the Fiduciary Fund.

Nunag, for her part, explained as follows:

When she assumed as Clerk of Court, she was not thoroughly familiar with accounting procedures and had no exposure to bookkeeping and accounting work. She continued the accounting procedures and the practice of Roque and Aurelia, confident that there was nothing irregular therewith, given that the COA audit conducted in April 2003 and on January 14, 2004 showed no adverse findings. She daily checked and physically counted the collections received by Aurelia, and at the end of each month, she counterchecked the entries in the Monthly Reports of Collections, bankbooks and books of accounts to determine if they tallied.

In its April 29, 2008 Memorandum,[6] the Office of the Court Administrator (OCA) found respondents guilty of Simple Negligence in light of the following evaluation:

> Respondents stand charged for negligence in their duty to monitor and supervise Cashier Aurelia Lugue in the management of court funds. Their failure to monitor the financial transactions of the Court had resulted in the shortage in the Fiduciary Fund (FF) account in the amount of P605,025.00.
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> . . . They failed to detect that Cashier Lugue was misappropriating her collections in the FF account through the "lapping technique". They failed to discover the modus operandi of Ms. Lugue because they have very limited knowledge in accounting and have no experience in detailed audit. Further, they both relied on the findings of the COA Auditors that there were no shortages incurred by Ms. Lugue.
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> In its Audit Report dated 03 February 2006, the OCA Audit Team stated that Cashier Lugue employed the "lapping technique" in delaying the remittance of the Fiduciary Fund. Official Receipts Nos. 15156288 to 15156433 totaling 145 official receipts indicated the total shortage of P605,025.00. The audit team noted that the remittances of almost all the collections in the Fiduciary Fund were delayed.
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> x x x x
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> The audit team observed that respondents could have discovered this machinations of Cashier Lugue had they set in place a proper system of internal control like routinely examining the details of collections and comparing the same with validated bank deposits slips; crosschecking the details of official receipts and matching them with the entries in the cash book; and reviewing bank statements for prior months to determine if the deposits tally with the collections. Respondents merely relied on the fact that the amounts deposited were equal to the amounts collected and the entries in the Monthly Reports which could be easily manipulated.
>
> We find the respondents remiss in the performance of their duties. As accountable officers and custodians of the court's funds, respondents were duty-bound to use reasonable skill and diligence in the performance of their duties. It was their responsibility to ensure the correctness and legitimacy of every financial transaction within their responsibility. The trust they reposed ob Cashier Lugue cannot be a valid defense. It was their duty to see to it that their subordinates performed their functions properly.
>
> For failure to exercise diligence in the performance of their duties as officers of the court, this Office finds respondent guilty of simple neglect of duty.
>
> x x x x[7] (Emphasis and underscoring supplied)

In recommending the imposition of a fine of P5,000 upon each of the respondents, the OCA explained:

> Under Section 23, Rule XIV of the Omnibus Civil Service Rules and Regulations, (simple) neglect of duty is punishable by suspension of one month and one day to six months for the first offense. Under Section 19, Rule XIV of the same Rules, the penalty of fine (instead of suspension) may also be imposed in the alternative. Considering th[at] this is respondents' first offense and following the Court's ruling in several cases involving neglect of duty, we find the penalty of fine in the amount of P5,000.00 just and reasonable.[8] (Emphasis and underscoring supplied)

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The evaluation cum recommendation of the OCA is well-taken.

"Lapping" is

> . . . a concealment technique where the subtraction of money from one customer is covered by applying the payment of a different customer. For example, a cashier may steal a payment from customer A and cover it by applying a payment from customer B to customer A's account. Then when customer C pays, that amount is applied to customer B['s account] and so on. Smart crooks would never lap accounts receivable, but amateurs do not realize that the technique requires constant monitoring to avoid detection. Most lapping schemes don't last long because of the continuous manual intervention required.[9]

It appears that respondents' supervision as well as monitoring of the financial transactions of the court was merely perfunctory, relying in the main on the Monthly Reports and the fact that the amounts deposited matched the amount of collections.

Respondents' lack or limited knowledge of accounting procedures does not exonerate them. To credit such defense would set similarly situated employees to lightly discharge their duty of employing reasonable skill and diligence and thus evade administrative liability.

That clerks of courts perform a delicate function as designated custodians of the court's funds, revenues, records, properties and premises can never be overemphasized. They wear many hats - those of treasurer, accountant, guard and physical plant manager of the court, hence, are "entrusted with the primary responsibility of correctly and effectively implementing regulations regarding fiduciary funds."[10] They are thus liable for any loss, shortage, destruction or impairment of such funds and property.[11]

WHEREFORE, the Court finds respondents Marlon Roque and Anita G. Nunag guilty of Simple Neglect of Duty and are each FINED the amount of Five Thousand (P5,000) Pesos.

Respondent Nunag is admonished to closely monitor, and study and implement procedures to strengthen internal control over the financial transactions of the MTCC, Angeles City.

Both respondents are warned that a repetition of the same or similar offense shall be dealt with more severely.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Austria-Martinez, Corona, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., Nachura, and Leonardo-De Castro, JJ., concur.
Carpio, J,.on official leave.
Brion, and Peralta, JJ., on leave.

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[1] Re: Report on the Financial Audit Conducted in the MTCC-OCC, Angeles City, AM No. P-06-2140, June 26, 2006, 492 SCRA 469.

[2] Id. at 484.

[3] Ibid.

[4] Rollo, pp. 78-83.

[5] Id. at 24-31.

[6] Id. at 110-114.

[7] Id. at 113-114.

[8] Id. at 114.

[9] Joseph T. Wells, CPA, CFE. Skimming: The Achilles Heel of the Audit. Association of Certified Fraud Examiners, based in the USA. (visited on January 8, 2009).

[10] Re: Misappropriation of the Judiciary Fund Collections, 465 Phil. 24, 37 (2004).

[11] Re: Misappropriation of the Judiciary Fund Collections, 465 Phil. 24, 34 (2004).

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