

**DINNA CASTILLO, COMPLAINANT, VS. ZENAIDA C. BUENCILLO,
LEGAL RESEARCHER AND OIC, RESPONDENT.***Adm. Mat. No. P-97-1241. March 20, 2001*

Ponente: MELO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/ed17b53068f2/>**MELO, J.:**

Dinna Castillo was private complainant in Criminal Case No. 9060-SP for Estafa entitled, "People vs. Ronnie Zabella and Angelita Zabella," before the Regional Trial Court, Branch 30, San Pablo City, Laguna. During its hearing on May 31, 1995, the accused offered P70,000.00 as settlement for the civil aspect of the case. Castillo was reluctant to accept the amount for being insufficient, prompting the counsel for the accused to suggest that the money be left with the court. Presiding Judge Zorayda H. Salcedo agreed and ordered herein respondent Zenaida Buencillo, OIC-Branch Clerk of Court, to receive the amount from the accused. Fearful that the money might be lost if left in the office steel cabinet which had no lock, respondent deposited the same in her personal bank account at the Homeowner's Savings and Loan Bank.

On July 24, 1995, the criminal case was provisionally dismissed for lack of interest on the part of private complainant Castillo. Accused Zabella settled the civil aspect, giving Castillo postdated checks as payment for his obligation, including the P70,000.00 already deposited in court. Castillo then requested Buencillo to give her the P70,000.00. Buencillo remitted to Castillo by way of a withdrawal slip authorization the amount of P50,000.00, retaining in her possession the amount of P20,000.00. It is this P20,000.00 that triggered the instant administrative complaint filed by Castillo against Buencillo for alleged serious misconduct and dishonesty.

Respondent contends that the P20,000.00 was voluntarily left by complainant, along with three (3) postdated checks received from Zabella, to answer for the latter's monetary obligation in connection with a paluwagan system complainant participated in.

Complainant, however, contends that respondent refused to give the P20,000.00, and that complainant accepted the withdrawal slip of P50,000.00 because it was better than receiving nothing. She claimed she tried to collect the amount several times, but respondent still refused to hand over the remaining P20,000.00. Complainant's lawyer sent respondent a demand letter on January 17, 1996, but the latter ignored the same. Complainant filed an administrative complaint on January 29, 1996 against respondent for alleged serious misconduct and dishonesty.

The story does not end here. Complainant filed a supplemental complaint, alleging that respondent has been operating a canteen within the premises of the Dizon Hall of Justice in San Pablo City since 1993, moving it beside the Hall of Justice in 1996 and succeeding in stealing electricity and water from the city government through illegal connections. Complainant charged that respondent's acts violated Supreme Court Administrative Circular No. 3-92 on the prohibition against the use of the Halls of Justice for residential or commercial purposes.

Respondent, in her comment, denied that she is the owner of the canteen located beside the Dizon Hall of Justice, the canteen being registered under the name of Nelson V. Cavero, Jr., her son-in-law. She also claimed that the administrative complaint was filed to harass and malign her, complainant hoping to secure leverage in two

criminal complaints filed by respondent against complainant for violation of Batas Pambansa Blg. 22. The resolution of the prosecutor of these criminal complaints was promulgated on January 23, 1996, six days before the administrative complaint against respondent was filed by complainant.

Four issues are to be resolved in determining whether or not respondent indeed committed misconduct and dishonesty. First, whether or not respondent may validly deposit the P70,000.00 in her personal bank account; second, whether or not respondent may retain the P20,000.00 and apply the same to offset the paluwagan debt of complainant to the former; third, whether or not paluwagan is gambling; and fourth, whether or not the operation of the canteen mentioned in the second complaint is violative of Supreme Court Circular 3-92.

Concerning the deposit of the P70,000.00 in respondent's personal bank account, the Court believes that even if this were done in good faith, still it was not appropriate and without justification. Every public officer is bound to exercise prudence and caution in the discharge of his duties, acting primarily for the benefit of the public. If the office steel cabinet had no lock, respondent should have informed the presiding judge of the circumstance so that proper arrangements could have been made. If it were at all necessary to deposit the money in a bank, it should have been made in a bank account in the name of the court (Adm. Cir. 13-92, March 1, 1992), the amount being in the nature of a fiduciary fund. The interest earned on the deposit should have accrued to the general fund of the government instead of accruing to the personal account of respondent, to the detriment of the former.

However, respondent's act does not constitute misappropriation. Complainant is in error when she contends that the P70,000.00 given by the accused Zabella to the court turned into property in custodia legis, making respondent liable for misappropriation of funds. There is a distinction between property in custody and property in custodia legis. Custody of things means to have them in charge of safekeeping, and merely implies temporary control; and does not connote domination or supremacy of authority (People vs. Diaz, 06740-CR, April 20, 1970, cited in F.B. Moreno, Philippine Law Dictionary, 3[rd] edition). On the other hand, for property to be in custodia legis, it must have been lawfully seized and taken by legal process and authority, and placed in the possession of a public officer such as a sheriff, or an officer of the court empowered to hold it such as a receiver (Don vs. Moya, SP-14833, March 10, 1983, cited in F.B. Moreno, Philippine Law Dictionary, 3[rd] edition). In the case at bar, the P70,000.00 was deposited in court voluntarily by a private person, the accused Zabella in Criminal Case No. 9060-SP, not pursuant to a seizure order by the court. Although the P70,000.00 was in the custody of the court, it was not in custodia legis and never became public fund. There was, therefore, no misappropriation.

Turning to the second issue, the alleged irregularity in the withholding of the P20,000.00 by the respondent, complainant admits that she owed respondent money for her participation in the paluwagan, but contends that she did not want to use the P20,000.00 for payment, instead giving respondent three postdated checks of P8,000.00 each, totaling P24,000.00. However, the refusal of respondent to turn over the P20,000.00 was never brought to the attention of the trial court. Complainant's first recourse should have been to report to the trial judge that the money remitted to her was incomplete. Surely the judge would have been able to see from the record that P70,000.00 was turned over to respondent and complainant was entitled to the full amount. There was no action of this sort on the part of complainant. She further testified:

. . . my remaining obligation to Mrs. Buencillo at that time was only P20,000.00...

(tsn, Jan. 7, 2000, p. 13.)

It would, therefore, appear that it was not necessary for complainant to leave additional checks with respondent since complainant was already aware that respondent refused to turn over the P20,000.00. In effect, complainant left P47,000.00 with respondent on July 24, 1995, indicating that complainant actually owed respondent more than P20,000.00 at that time. Also, respondent's issuance of a certification on January 16, 1996 that she received

P70,000.00 and proceeded to deposit the same amount in her personal bank account clearly demonstrated that respondent had nothing out of the ordinary to hide.

There may, indeed have been an understanding between complainant and respondent that the P20,000.00 would be used to offset complainant's monetary obligation to respondent in the paluwagan. However, respondent should be reminded that her private dealings and businesses should not be mixed with her public duties. While private individuals may normally offset their obligations upon agreement, public officials hold a different position in society and must always bear in mind that their actions reflect their status as such. Public officials and employees should always uphold public interest over and above personal interest (Section 4[a], R.A. 6713, Code of Conduct and Ethical Standards for Public Officials and Employees). They are enjoined to respond to the call of their duties with the highest degree of dedication often beyond their own interests (Re: Report of Senior Staff Officer Antonina A. Soria, 299 SCRA 63 [1998]). It is for this reason that the Court agrees with the recommendation of the Office of Court Administrator that the P20,000.00 be returned to complainant, without prejudice to respondent's right to file an appropriate action to recover complainant's obligation to respondent.

As to the third issue, complainant also charged respondent with engaging in paluwagan, a form of gambling, in violation of the law. The Court does not agree. Paluwagan is not a form of gambling or lottery. It is not a game of chance where one wins while the others lose; it is a scheme where the members agree to put their money in a common fund, each one of them receiving the total amount collected from all the members for a given period at a specified time designated as their particular schedule to receive the same (Evaluation of the Office of the Court Administrator, August 17, 2000, p. 11). It does not involve wagering, gambling, or betting penalized under the Revised Penal Code (Record, p. 112). Respondent did not violate any law in engaging in paluwagan.

Lastly, complainant alleges that respondent is engaged in the business of operating a canteen within the Halls of Justice, in violation of Administrative Circular 3-92. Aside from conflicting testimony offered by both parties, no direct evidence was presented that a canteen was operated by respondent within the Halls of Justice. Administrative Circular 3-92 is not applicable. As to the canteen that is operated beside the Hall of Justice, evidence shows that the same has been registered since 1996 in the name Nelson V. Cavero, Jr., respondent's son-in-law, as its owner, not respondent. There is also no evidence of alleged illegal use of electricity.

The Court has enough reason to believe, however, that respondent should have refrained from pursuing activities which interfered with the official functions of her office. Whether she is owner or merely helping manage the canteen is irrelevant. Respondent's frequent absence from her post during office hours so as to attend to personal matters undermines her efficiency as a court employee. As OIC and legal researcher whose duties are essential to the speedy administration of justice, respondent is obligated to devote her time and full attention that her position demands.

In all these allegations, respondent does not seem to be directly liable for the violations or irregularities committed. However, she cannot avoid responsibility for her acts and still needs to be disciplined. Public office is a public trust (Sec. 1, Art. XI, 1987 Constitution). Public officers are servants of the people, not their rulers. Every official or employee connected with an office charged with the dispensation of justice, from the presiding judge to the lowliest clerk, is circumscribed with a heavy burden of responsibility (Office of the Court Administrator vs. Alvarez, 287 SCRA 325 [1998]). Their conduct must be above suspicion (Office of the Court Administrator v. Alvarez, *supra*), and their action must at all times be characterized by propriety and decorum (Quiroz v. Orfila, 272 SCRA 324 [1997]). They should be examples of integrity, uprightness and honesty (Eamiguel vs. Ho, 287 SCRA 79 [1998]; Court Administrator vs. Sevillejo, 270 SCRA 190 [1997]; Estreller vs. Manatad, Jr., 268 SCRA 608 [1997]). They must serve with responsibility, integrity, loyalty and efficiency (Office of the Court Administrator vs. Sumilang, 271 SCRA 316 [1997]; PNP Criminal Investigation Command vs. Landicho-Lintao,

282 SCRA 76 [1997]; Gacho vs. Fuentes, Jr., 291 SCRA 474 [1998]; Quiroz v. Orfila, supra), and must at all times be accountable to the people (Gacho vs. Fuentes, Jr., supra). They must strive to render service with utmost diligence and efficiency (Philex Mining Corporation vs. CIR, 294 SCRA 6870 [1998]).

Respondent failed to live up to these high ethical standards. She undermined the integrity of the service and jeopardized the public's faith in the courts. Her actions placed her honesty and integrity under serious doubt (Villaluz vs. Mijares, 288 SCRA 594 [1998]). Considering, however, that this is respondent's first administrative case in her 37 years of service in the judiciary, the Court cannot accept and approve the recommendation of the Office of the Court Administrator that respondent be suspended from office for one year without pay.

WHEREFORE, this Court finds respondent ZENAIDA BUENCILLO guilty of simple misconduct for the following acts:

1)

depositing amount entrusted to her by the court in her personal bank account instead of in an account under the court's name; and

2)

attending to personal matters during court hours, preventing her to perform her functions as OIC-Branch Clerk of Court and Legal Researcher effectively

for which she is fined in the amount of Five Thousand Pesos (P5,000.00). She is further ordered to return to complainant the amount of P20,000.00 plus interest earned from May 31, 1995 until its date of return. Needless to say, this comes with a warning that a similar infraction will warrant a more severe penalty.

SO ORDERED.

Panganiban, Gonzaga-Reyes, and Sandoval-Gutierrez, JJ., concur.
Vitug, J., in the result.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.