

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
JINGKEY NOLASCO, CLERK OF COURT, MUNICIPAL TRIAL COURT,
SAN JOSE, ANTIQUE, RESPONDENT.**

A.M. No. P-06-2148. March 04, 2009

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PER CURIAM:

This administrative matter arose from an examination conducted by the Commission on Audit (COA) on the cash and accounts of respondent Jingkey B. Nolasco, Clerk of Court II, Municipal Trial Court (MTC)-San Jose, Antique.

On March 21, 2005, the Fiscal Monitoring Division of the Court Management Office (FMD-CMO) received a letter from Judge Monina S. Misajon, Presiding Judge, MTC-San Jose, Antique, informing then Chief Justice Hilario G. Davide, Jr. of the initial results of a COA examination of the cash and accounts kept by Nolasco. The COA audit disclosed that as financial custodian of said court, Nolasco had undeposited collections in the amount of P563,683.35, and undocumented/unauthorized withdrawals from the Fiduciary Fund Account (FFA) amounting to P128,317.64.[1] Upon advice of the COA Audit Team, Judge Misajon relieved Nolasco of her duties as financial custodian on February 14, 2005 and designated Court Interpreter Arlyn Minguez in her stead.[2]

Acting on the reported financial irregularities in the MTC-San Jose, the Office of the Court Administrator (OCA) sent an audit team to conduct its own investigation on the matter. Relative to Nolasco's accountabilities, the audit team discovered that she incurred shortages in the following amounts:

Special Allowance for the Judiciary Fund (SAJF) P 49,265.60

General Fund (GF) 3,187.00

Judiciary Development Fund (JDF) 113,428.04

Sheriff Trust Fund (STF) 7,000.00

Fiduciary Fund (FF) 614,999.95

GRAND TOTAL 787,880.59

With respect to the FFA, the audit team found that Nolasco had undeposited collections in the amount of P441,199.95, and unauthorized withdrawals specified as follows:[3]

Over Withdrawal of Cash Bonds:

Case No.

Court Or.

Date

Bondsman

OR No.

OR Date

Amount

Amount

Withdrawn

Over

Withdrawal

6837

6/7/2002

Renita Gabo

7685287

9/10/99

6,000.00

7774

6/7/2002

Daniel G. Rafil

14699310

5/27/00

3,000.00

30,000.00

21,000.00

6230

2/7/2003

Azuena Parreno

4987422

03/03/97

6,000.00

5749

2/5/2003

Emilie Pelago

3853607

09/28/94

4,200.00

6642

2/12/2003

Ricardo Britania

9128867

12/14/98

10,000.00

7696

2/20/2004

Dina Hiponia

14699298

2/18/2002

10,000.00

6983

2/12/2003

Marieta De Guzman

11807178

02/15/00

2,000.00

60,000.00

27,800.00

6934

8/12/2004

Lynlyn Ziga

12557461

6/22/04

6,000.00

8322

8/19/2004

Ricky Gutierrez

16196862

3/12/04

10,000.00

44,000.00

28,000.00

8322

8/19/2004

Ricky Gutierrez

16196862

3/12/04

10,000.00

14,000.00

4,000.00

Total

67,200.00 148,000.00 80,800.00

Withdrawal Without Supporting Documents

Case No.

Bondsman

Date Withdrawn

Court Or.

Acknowledgment

Receipt

Amount Withdrawn

7/2/2004

x

X

60,000.00

7574

Rochie Gutierrez

1/31/2005

x

X

3,000.00

6717

Delia Noble

1/31/2005

x

X

2,000.00

Total

65,000.00

Withdrawal of Bail Bond not Deposited with SA NO-0771-0101-33

Case No.

Court Or. Date

Bondsman

Court Or.

Date Withdrawn

Amount

7939

1/20/2003

Ma. Bella Lim

5611841

4/14/00

12,000.00

6238

3/24/2004

Raymundo Jungco

11307167

12/24/02

16,000.00

Total

28,000.00

The audit team further observed that the withdrawal slips and passbook indicating the foregoing withdrawals from the FFA, under Land Bank of the Philippines (LBP) Savings Account (SA) No. 0771-0107-33, were signed by Judge Misajon and countersigned by Nolasco.

On August 12, 2005, the OCA issued a Memorandum[4] directing Judge Misajon to explain why the foregoing withdrawals from the FFA were allowed. Likewise, the OCA directed respondent Nolasco to:

- EXPLAIN in writing why she should not be administratively charged with incurring the total initial shortage of SEVEN HUNDRED EIGHTY SEVEN THOUSAND EIGHT HUNDRED EIGHTY & 59/100 (P787,880.59) x x x.
- PAY/DEPOSIT the initial shortages in the SAJF, GF, JDF, STF and FF amounting to P49,265.60, P3,187.00, P113,428.04, P7,000.00 and P614,999.95 respectively and SUBMIT to the FMD-CMO the proof of remittance thereof.
- EXPLAIN why withdrawals from the Fiduciary Fund were made:
- In excess of the cash bond deposited;
- Without the court orders/acknowledgment receipts; and
- (Why some) Cash bonds (were) not deposited with SA No. 0771-0107-33.[5]

In compliance with the OCA directive, Nolasco sent an undated letter to then Court Administrator Presbitero J. Velasco, Jr., reporting on her efforts to reconstitute the shortages, thus:

With regards the Special Allowance for the Justices Fund (SAJF) as well as the General Fund (GF), I have already restituted the amount of P56,274.30. It was so because on the initial findings of the Commission on Audit-Region VI, there was a shortage of P45,342.30 for the SAJF and P9,748.00 for the STF, supposedly SGF or Sheriff's General Fund which is also remitted in the SAJF account which totals to P55,090.30 but lately Miss Bonifacia Lee informed me that my total shortage for the SAJF account amounted to P56,272.30 hence; an additional remittance was made. I could no longer deposit Your Honor, the amount of P3,187.00 for the General Fund (GF) in the account of the Treasurer of the Philippines considering that there was a Circular to remit the collections from the Treasurer of the Philippines to SAJF Fund, so I would humbly beg that the same be credited Your Honor since the total accountability I have as per findings of the Supreme Court Audit Team amounted to P52,452.60. As to Judiciary Development Fund (JDF), please find attached deposit slip as to the restitution of P73,910.40. Again, Your Honor, in the COA findings, I was short of P77,431.00 which prompted me to remit additional amount of P4,520.60. As to the interest income of P39,517.64, that need to be deposited

with the JDF account, could it be possible Your Honor that the over remittance I have with the JDF account in the amount of P4,520.60 and SAJF account in the amount of P3,821.70 for a total sum of P8,342.30 be offset and/or deducted to the amount of P39,517.64 so that I will only remit P31,175.34 instead?

The Sheriff's Trust Fund (STF) Your Honor in the amount of P7,000.00 was received by Ms. Arlyn Minguez, Court Interpreter and Designated Financial Custodian from the undersigned on April 22, 2005 and the same was deposited on even date at the account of STF-MTC, San Jose, Antique.[6]

With regard to the undeposited collections in the FFA, Nolasco stated that, during a chamber conference held on May 4, 2005, she already admitted her failure to deposit collections amounting to more than P400,000.00 before then Deputy Court Administrator Zenaida Elepaño, Atty. Thelma Bahia and Judge Misajon. She expressed willingness to restitute the amount if given ample time.[7]

On the other hand, Nolasco explained the unauthorized withdrawals from the FFA, as follows:

As to OVERWITHDRAWALS, in the amount of P80,800.00, please be informed Your Honor that in the withdrawn amount of P30,000.00, the amount was withdrawn per instruction of Judge Ma. Monina S. Misajon, for that time she needed the money in going home to Cebu City, her native town to partition her properties. Indeed, I have knowledge and consented to said withdrawal even though I knew it was wrong since the authorized amount to be withdrawn is only P9,000.00, but I was ordered by her, who am I to refuse a judge, Your Honor? Nonetheless, the Supreme Court Audit Team must have noted that the amount of P21,000.00 excess of the authorized amount withdrawn, it was restituted on June 18, 2002 because even the COA-Regional Office findings would reveal that there was an over deposit of P21,000.00 for the year 2002. Vivid perusal of Annex 12 would show that said amount was deposited/restituted by Judge Misajon herself because the penmanship in the amount of P21,000.00 was hers, she let me sign the deposit slip that I was the depositor and place the total amount of P21,000.00 but it was her handwriting on the amount of 42 pieces of 500 bills and the figures P21,000.00 and she personally deposited the amount at Land Bank of the Philippines, San Jose, Antique branch. x x x

On the second amount of P60,000.00, Your Honor, the authorized amount to be withdrawn is only P32,200 for it represents the forfeited bonds to be deposited to the JDF Account but again, I extended another favor for Judge Misajon since she told me that she badly needed the money to be used for the cremation of her sister who died in Cebu City. x x x she paid me P32,200.00 on June 18, 2004 to be deposited to the JDF account for I told her, I need to make a report thereon. The remaining amount of P27,800 was never returned by her Your Honor.

In another withdrawal of P44,000.00, the authorized amount to be withdrawn is only P12,000.00 representing the cash bond of Ricky Gutierrez and Consolita Veñegas in the amount of P6,000.00 each. The amount of P32,000.00 representing the cash bond of the Licanda family was withdrawn because their cases were dismissed by the Court but the prosecution filed an appeal to the Order of dismissal, hence, said amount should have been returned to the Fiduciary Fund, but I wasn't able to redeposit the same Your Honor for again, I used said amount. x x x In effect, the OVERWITHDRAWAL of cash bond in the amount of P80,800.00 should be reduced to P59,800 for that is the total amount not restituted Your Honor.[8]

Nolasco alleged that the P60,000.00 withdrawal on July 4, 2004 which the audit team found to be unsupported by any documents was again made at the instance of Judge Misajon. Even though she knew that the same was unauthorized, Nolasco consented to the withdrawal since it was her superior who asked her to do so. She also admitted that she had a personal interest in granting Judge Misajon's request because she was then aiming for a promotion and was courting the judge's favor. As for the other withdrawals without supporting documents amounting to P5,000.00, the same were actually covered by court orders and acknowledgment receipts which Nolasco attached as annexes to her letter.

With respect to the withdrawal of bail bonds not deposited in the FFA, Nolasco stated that the P16,000.00 cash bond in the Jungco case was withdrawn and turned over to the bondsman upon dismissal of the same by Judge Sylvia Jurao of Branch 10, RTC-San Jose, Antique. On the other hand, the cash bond in the amount of P12,000.00 in the Lim case was erroneously withdrawn together with the bond posted by the same accused in another case that was dismissed at the same time. At any rate, the amount is covered by an acknowledgment receipt issued by the accused-bondsman.[9]

Meanwhile, Judge Misajon explained in a letter[10] dated September 23, 2005, that she did not allow the unauthorized withdrawals and asserted that Nolasco schemed and deliberately withdrew the amounts to pay for her debts and maintain an affluent lifestyle. Judge Misajon surmised that the amounts in the withdrawal slips she signed must have been altered by Nolasco, as shown by an examination of the withdrawal slips. She asserted that she signed the withdrawal slips in good faith, as she had full trust and confidence in Nolasco.

In a Memorandum[11] dated January 16, 2006, the OCA recommended that the report be docketed as a regular administrative matter against Nolasco, and that the same be referred to Judge Rudy Castrojas for further investigation, report and recommendation, in view of the conflicting allegations of Judge Misajon and Nolasco.

On March 14, 2006, Judge Misajon wrote the OCA requesting that steps be taken by the Court to prevent Nolasco from leaving the country and evading her accountabilities.[12] On March 28, 2006, the Court thus issued a resolution immediately suspending Nolasco from office and ordering the issuance of a hold departure order against her.[13]

On June 5, 2007, the Court adopted the recommendation of the OCA and docketed the audit report as A.M. No. P-06-2148. The administrative matter was then referred to Judge Rudy Castrojas of Branch 12, RTC-San Jose, Antique, for further investigation.

In the meantime, Judge Misajon compulsorily retired from the service on June 12, 2007.

After conducting several hearings in which respondent Nolasco and Judge Misajon were allowed to testify and present their respective witnesses, Judge Castrojas terminated his investigation and submitted his report and recommendation[14] to this Court on October 30, 2007. The investigating judge found that there were three unauthorized withdrawals from the FFA that were allegedly made at the instance of Judge Misajon, thus:

- The amount of P30,000.00 was withdrawn from the Fiduciary Fund on June 14, 2002, as shown by the withdrawal slip marked Exh. "A"-Misajon, and Exh. "1"-Nolasco.
- P60,000.00 was also withdrawn from the same fund on June 11, 2004, evidenced by Exh. "C"-Misajon which is also Exh. "3"-Nolasco.
- Another P60,000.00 was withdrawn on July 2, 2004, as reflected in a withdrawal slip marked Exh. "5"-Nolasco.
- All the said withdrawal slips were signed by Judge Ma. Monina S. Misajon and Jingkey Nolasco.[15]

With regard to the first withdrawal on June 14, 2002, Nolasco claimed that only P9,000.00 was authorized to be withdrawn, but she nonetheless withdrew P30,000.00 because Judge Misajon allegedly borrowed P21,000.00 out of the said amount. To prove her allegation, Nolasco presented a deposit slip on which Judge Misajon supposedly wrote the figures "21,000.00" and "42", the latter being the number of five hundred peso bills which Judge Misajon personally deposited with the LBP as payment for the borrowed amount. Judge Misajon strongly denied that it was her handwriting appearing on the said deposit slip.

As for the withdrawals made on June 11, 2004 and July 2, 2004, Judge Misajon offered several theories to justify

why she signed the withdrawal slips. First, she surmised that Nolasco probably added the letters "ty" to the word "six" and a "0" to "6,000.00" to make it appear that the amount to be withdrawn was P60,000.00 instead of only P6,000.00. It was also possible that Nolasco presented four copies of withdrawal slips for her signature, with two copies left blank. As Judge Misajon was always busy or under time constraint, Nolasco most likely took advantage of the situation and had her sign blank or incomplete forms. Finally, Judge Misajon speculated that Nolasco could have used withdrawal slips that were signed in connection with other criminal cases, but remained unused and kept by Nolasco for future fraudulent use.

For her part, Nolasco claimed that she withdrew the amount of P60,000.00 on June 11, 2004 after she was told by Judge Misajon that the latter needed money for the cremation of her sister who passed away in Cebu City. At that time, Nolasco had to withdraw P32,200.00 in forfeited cash bonds from the FFA and transfer the same to the Judiciary Development Fund (JDF) Account. Believing that Judge Misajon would need P60,000.00, Nolasco withdrew P60,000.00 and gave the entire amount to Judge Misajon. Since Nolasco had to make a report on the JDF Account by the end of the month, Judge Misajon returned the amount of P32,200.00 on June 18, 2004, but never returned the balance of P27,800.00.

As for the last withdrawal on July 4, 2004, Nolasco maintained that she withdrew P60,000.00 at Judge Misajon's behest, but she never knew what the judge did with the money.

Between the conflicting accounts of the parties regarding the unauthorized withdrawals from the FFA, the investigating judge gave more credence to the version of Nolasco. On the first withdrawal, Judge Castrojas made the following findings:

In order to be guided who between the two contending parties tell the truth on the issue, Judge Misajon was requested to write twice on a piece of paper the figure P21,000.00 x x x. It was observed that Judge Misajon tried to differ the figures she wrote from figure P21,000.00 appearing on the deposit slip dated June 18, 2002 x x x by not connecting the zeroes. This notwithstanding, it is noted that the way or manner the numbers "2", "1" and the last zeroes (0s) written by her on the piece of paper have distinct similarities on the "2", "1" and "0" in the P21,000.00 appearing on the deposit slip x x x.

It is observed that in one of the copies of the cash deposit slip x x x the lower end of figure 1 in the 21,000.00 allegedly written by Judge Misajon goes beyond the lower portion of figure 2. And, in the four 21,000.00 written by Judge Misajon during the investigation x x x three out of four numbers one (1) also exceed the lower portions of the three twos (2s). Considering the marked similarities on how they were written, it appears that the contention of Jingkey Nolsaco that it was Judge Misajon who wrote the 21,000.00 in the deposit slips x x x and deposited the said amount with the Land Bank in payment for what she borrowed from the Fiduciary Fund on June 14, 2002, seems to be credible.

x x x x

To strengthen her stand that she was not the one who wrote the figure 21,000.00 on the cash deposit slip x x x Judge Misajon testified that it was her staff, Caroline Magno, who wrote the same. Unfortunately for her, when Caroline Magno was called to testify, she (Magno) denied that the 21,000.00 was her handwriting.[16]

Judge Castrojas also observed that the withdrawal slips for the two other transactions in the amount of P60,000.00 each were regular on their faces. Contrary to Judge Misajon's assertion, no modifications or intercalations appeared to have been made in the figures written thereon. Judge Misajon's other theory that she may have signed incomplete or blank withdrawal slips while she was busy or under time constraint was also unacceptable, considering that it was incumbent upon her to be cautious about these matters, as she was dealing with court funds. Thus, even assuming Judge Misajon's theory to be true, it did not render her unaccountable, since she failed to exercise ordinary diligence in the discharge of her duties.

Nevertheless, Judge Castrojas concluded that Nolasco was undeserving of any sympathy. She was motivated by personal ambition when she acceded to Judge Misajon's instructions even if she knew that the withdrawals were unauthorized. In fine, Judge Misajon and Nolasco cooperated with each other in effecting the unauthorized withdrawals and should both be faulted for the same.

Consequently, the investigating judge recommended that Judge Misajon and Nolasco be ordered to jointly and severally pay the amount of P87,800.00. He also recommended that Nolasco be dismissed from the service in view of the seriousness of her offense. However, since Judge Misajon had already compulsorily retired while the investigation was still pending, her dismissal from the service was no longer possible.

On November 13, 2007, the Court referred the investigation report to the OCA for further evaluation. In a Memorandum[17] to this Court dated August 4, 2008, the OCA adopted the factual findings of Judge Castrojas except for the recommended penalty, thus:

IN VIEW OF THE FOREGOING, it is respectfully recommended to the Honorable Court that:

- Respondent Jingkey Nolasco, Clerk of Court, MTC, San Jose, Antique be DISMISSED from the service for dishonesty and grave misconduct and directed to reconstitute the amount of P595,999.95 representing the amount of shortages in her collections. The Office of Administrative Services, OCA be directed to compute respondent's leave credits and forward the same to the Finance Division, Fiscal Management Office-OCA which shall compute the money value of the same, the amount as well as other benefits she may be entitled to, dispensing with the usual documentary requirements and to apply the same to the shortages in the following order of preference: Fiduciary Fund, Judiciary Development Fund, Special Allowance for the Judiciary and Clerk of Court General Fund;
- Legal Office, OCA (be) directed to file criminal charges against respondent Jingkey Nolasco before the appropriate court.
- Appropriate graft and corruption case be initiated by the Legal Office, OCA against Judge Ma. Monina Misajon before the Office of the Ombudsman.[18]

According to the OCA, while Judge Misajon could no longer be held administratively liable due to her compulsory retirement from the service, a criminal case may nonetheless be initiated against her based on the findings in these administrative proceedings. On the other hand, apart from being dismissed from the service on the grounds of dishonesty and grave misconduct, a criminal case may likewise be brought against Nolasco whose acts amount to malversation of public funds under Article 217 of the Revised Penal Code.

We agree with the recommendations of the OCA.

Nolasco is administratively liable for the shortages which she incurred in her cash collections. She failed to immediately deposit the various funds collected with the authorized government depository bank, in violation of pertinent court circulars[19] which direct the same. She also admitted that she misappropriated the money for her personal use without specifically explaining the reasons for her actions, and has yet to reconstitute the total amount of P625,175.29,[20] broken down as follows:

Judiciary Development Fund (May 1, 2001 to February 13, 2005)

Collections P 572,775.64

Less: Deposits 459,347.60

Reported Balance of Accountability P 113,428.04

Less: Restitutions 78,431.00

Balance of Accountability P 34,997.04

Special Allowance for the Judiciary Fund

(November 11, 2003 to February 13, 2005)

Collections P 128,185.60

Less: Deposits 78,920.00

Balance of Accountability P 49,265.60

Less: Restitutions 56,274.30

Balance of Accountability (Excess Deposit) (7,008.70)

General Fund (May 1, 2001 to November 10, 2003)

Collections P 60,639.00

Less: Deposits 57,452.00

Reported Balance of Accountability P 3,187.00

Less: Restitutions -

Balance of Accountability 3,187.00

Sheriff's Trust Fund (May 1, 2001 to February 13, 2005)

Collections P 38,000.00

Less: Withdrawals 31,000.00

Unwithdrawn Sheriff's Trust Fund P 7,000.00

Less: Cash Presented -

Reported Balance of Accountability P 7,000.00

Less: Restitution 7,000.00

Balance of Accountability -

Fiduciary Fund (May 1, 2001 to February 13, 2005)

Unwithdrawn Fiduciary Fund, 5/4/2001 P 775,810.35

Add: Collections 2,526,299.40

Total P 3,302,109.75

Less: Withdrawals 2,089,409.75

Unwithdrawn Fiduciary Fund, 2/13/05 P 1,212,700.00

Less: Balance of Fiduciary Fund Bank

Net of Unwithdrawn Interest-

Account Balance, 2/13/05

P 649,826.11

Less: Deposit, 2/21/05

2,000.00

Total

P 651,826.11

Less: Unwithdrawn Interest

33,126.06

Total

P 618,700.05

Reported Balance of Accountability P 593,999.95

Less: Restitution -

Balance of Accountability P 593,999.95

TOTAL BALANCE OF ACCOUNTABILITY P 625,175.29[21]

As clerk of court, Nolasco was duty-bound to use reasonable skill and diligence in the performance of her duties. She was an accountable officer entrusted with the responsibility of collecting and depositing money belonging to the court.[22] She obviously failed to fulfill this responsibility and even converted the court's funds for her personal use. Her failure to account for the money entrusted to her, and to adequately explain and present evidence thereon, constitutes gross dishonesty, grave misconduct and even malversation of public funds which this Court will never countenance.[23]

Clerks of Court must be individuals of competence, honesty and probity, charged as they are with safeguarding the integrity of the court and its proceedings. They perform a delicate function as designated custodians of the court's funds, revenues, records, properties and premises. As such, they are responsible for ensuring that the court's funds are promptly deposited with an authorized government depository bank. They are thus liable for any loss, shortage, destruction or impairment of such funds and property.[24]

Indeed, no position demands greater moral righteousness and uprightness from the occupant than does the judicial office. The safekeeping of funds and collections is essential to the goal of an orderly administration of justice, and no protestation of good faith can override the mandatory nature of the circulars designed to promote full accountability for government funds. The failure to remit the funds in due time amounts to dishonesty and grave misconduct, which the Court cannot tolerate for they diminish the people's faith in the judiciary. The act of misappropriating judiciary funds constitutes dishonesty and grave misconduct which are punishable by dismissal from the service, even if committed for the first time.[25]

As for Judge Misajon, we find no reason to depart from the findings of the OCA and Judge Castrojas that she instructed Nolasco to withdraw unauthorized amounts from the FFA so that she could borrow the same. By simply comparing the deposit slip pertaining to the first withdrawal with her sample handwriting, this Court is left without any doubt that the penmanship on the deposit slip is in fact Judge Misajon's, as asserted by Nolasco.

Judge Misajon even had the temerity to point to one of her other staff members as having filled up the deposit slip, which said staff member denied. It is thus evident that Judge Misajon was not forthright about the matter and did not tell the truth during her testimony before the investigating judge.

At this point, it is well to state that the function of evaluating the credibility of witnesses in administrative cases is primarily lodged in the investigating judge. The rule which concedes due respect, and even finality, to the assessment of credibility of witnesses by trial judges in civil and criminal cases where preponderance of evidence and proof beyond reasonable doubt, respectively, are required, applies a fortiori in administrative cases where the quantum of proof required is only substantial evidence. The investigating judge is in a better position to pass judgment on the credibility of witnesses, having personally heard them when they testified and observed their deportment and manner of testifying.[26] In the case of Judge Misajon, we simply find no reason to disregard this rule.

Needless to say, Judge Misajon had the responsibility of seeing to it that Nolasco, as clerk of court, performed her duties and complied with circulars issued by the Supreme Court on the handling and safekeeping of court funds.[27] Had she supervised and managed her court in the manner that was expected of her as a judge, she could have discovered earlier that Nolasco was misappropriating funds and prevented the misappropriated amount from ballooning to such a large sum. It is even probable that Nolasco was emboldened to convert court collections for her personal use, as Judge Misajon herself dipped her hands into the court funds. By "borrowing" money from the collections of the court, she knowingly made the clerk of court violate circulars on the proper administration of court funds[28] and, in the process, became complicit in Nolasco's own wrongdoing.

Judge Misajon compulsorily retired from the service without any formal administrative charges brought against her. Despite the clear misconduct which she committed, the Court cannot impose administrative sanctions against her, since she no longer falls within the administrative supervision of the Court. The Court, however, is not without recourse. As pointed out by the OCA, her act of inducing or persuading respondent Nolasco to violate duly promulgated rules on the administration of court funds may well constitute a violation of Section 3(a), Republic Act No. 3019.[29] Thus, a criminal case may be initiated against Judge Misajon on the basis of the findings in this administrative matter.

Time and 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 of the judiciary should be an example of integrity, uprightness and honesty. Sadly, respondent Nolasco and Judge Misajon failed to live up to these stringent standards.[30]

WHEREFORE, in view of the foregoing, respondent Jingkey B. Nolasco is found GUILTY of gross dishonesty and grave misconduct and is hereby DISMISSED from the service with forfeiture of retirement and all other benefits, and with prejudice to reemployment in any branch, agency or instrumentality of the government, including government-owned and controlled corporations. She is directed to RESTITUTE the amount of P625,175.29 representing the amount of shortages in her collections. The Office of Administrative Services (OAS)-OCA is directed to compute her leave credits and forward the same to the Finance Division, FMO-OCA which shall compute the money value of the same, and to apply the same to her accountabilities in the following order of preference: Fiduciary Fund, Judiciary Development Fund, Special Allowance for the Judiciary and Clerk of Court General Fund.

The Legal Office-OCA is further directed to INITIATE the filing of criminal charges against respondent Nolasco and (Ret.) Judge Ma. Monina S. Misajon before the appropriate court or body.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Corona, Carpio-Morales, Chico-Nazario, Nachura, Leonardo-De Castro, Brion, and Peralta, JJ., concur.

Austria-Martinez, and Tinga, JJ., on official leave.

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

[1] Rollo, p. 11.

[2] Id. at 12.

[3] Id. at 73.

[4] Id. at 72.

[5] Id. at 1.

[6] Id. at 86.

[7] Id.

[8] Id. at 87; citations omitted.

[9] Id. at 88.

[10] Id. at 74-79.

[11] Id. at 12-21.

[12] Id. at 3.

[13] Id. at 27.

[14] Id. at 430-439.

[15] Id. at 435; citations omitted.

[16] Id. at 436-437; citations omitted.

[17] Id. at 495-505.

[18] Id. at 504-505.

[19] Circular No. 50-95 (October 11, 1995) and Administrative Circular No. 3-2000 (June 15, 2000).

[20] Determined by the FMO-OCA as of February 2008.

[21] Rollo, pp. 506-507.

[22] Office of the Court Administrator v. Ramos, A.M. No. P-05-1966, October 20, 2005, 473 SCRA 463, 469.

[23] Racho v. Dulatre, A.M. No. P-01-1468, February 10, 2005, 450 SCRA 568, 576.

[24] Office of the Court Administrator v. Cunting, A.M. No. P-04-1917, December 10, 2007, 539 SCRA 494, 509-510.

[25] Re. Financial Audit on the Books of Account of Ms. Laura D. Delantar, Clerk of Court, MTC, Leyte, Leyte, A.M. No. 06-2-43-MTC, March 30, 2006, 485 SCRA 562, 570.

[26] Melecio v. Tan, A.M. No. MTJ-04-1566, August 22, 2005, 467 SCRA 474, 479-480.

[27] Re: Report on the Judicial & Financial Audit Conducted in MTCs, Bayombong & Solano & MCTC, Aritao-Sta.Fe, Nueva Vizcaya, A.M. No. 05-3-83-MTC, October 9, 2007, 535 SCRA 224, 239.

[28] Id. at 240.

[29] SECTION 3. Corrupt practices of public officers. - In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

x x x x

(a) Persuading, inducing or influencing another public officer to perform an act constituting a violation of rules and regulations duly promulgated by competent authority or an offense in connection with the official duties of the latter, or allowing himself to be persuaded, induced or influenced to commit such violation or offense.

x x x x

[30] Report on the Financial Audit Conducted at the MCTC-Mabalacat, Pampanga, A.M. No. P-05-1989, October 20, 2005, 473 SCRA 456, 461.

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