



Republic of the Philippines  
Supreme Court  
Manila

EN BANC

COMMISSION ON AUDIT,  
represented by ATTY.  
FRANCISCO R. VELASCO,  
Complainant,

A.M. No. P-11-2965  
[Formerly OCA I.P.I. No. 08-3029-P]

A.M. No. P-10-2752  
[Formerly A.M. No. 09-10-173-MTC]

Present:

- versus -

ARLENE B. ASETRE, Clerk of  
Court, Municipal Trial Court,  
Ocampo, Camarines Sur,  
Respondent.

CARPIO, J., Senior Member,  
VELASCO, JR.,  
LEONARDO-DE CASTRO,  
BRION,  
PERALTA,  
BERSAMIN,  
DEL CASTILLO,  
ABAD,  
VILLARAMA, JR.,  
PEREZ,  
MENDOZA,\*  
SERENO,  
REYES, and  
PERLAS-BERNABE, JJ.

X-----X  
RE: FINANCIAL AUDIT  
CONDUCTED IN THE  
MUNICIPAL TRIAL COURT,  
OCAMPO, CAMARINES SUR.

Promulgated:  
JULY 31, 2012

X-----X

DECISION

PER CURIAM:

For our resolution are two consolidated cases, namely, (1) Administrative Complaint, docketed as A.M. No. P-11-2965 (OCA I.P.I. No. 08-3029-P), filed by the Commission on Audit (COA), represented by Atty. Francisco R. Velasco against respondent Arlene B. Asetre, Clerk of Court,

\* On official leave.

Municipal Trial Court, Ocampo, Camarines Sur, for malversation of public funds; and (2) Administrative Complaint, docketed as A.M. No. P-10-2752 (OCA I.P.I. No. 09-10-173-MTC) against the same respondent.

**A.M. No. P-11-2965 (formerly  
 A.M. OCA I.P.I. No. 08-3029-P)  
*Commission on Audit,  
 represented by Atty. Francisco R.  
 Velasco v. Arlene B. Asetre,  
 Clerk of Court, Municipal Trial  
 Court, Ocampo, Camarines Sur.***

In an Indorsement dated December 3, 2008, the Office of the Deputy Ombudsman for Luzon referred to the Office of the Court Administrator (OCA) for appropriate action the complete records of CPL-L-08-2120 entitled “*COA v. Arlene B. Asetre*” relative to the charges of Malversation of Public Funds, Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service against Arlene B. Asetre, Clerk of Court, Municipal Trial Court (MTC), Ocampo, Camarines Sur. The charges originated from the findings of the Audit Team of the Commission on Audit that respondent Asetre incurred cash shortage of One Hundred Fifty Thousand and Four Pesos (₱150,004.00), representing unremitted cash collections from December 8, 2003 to November 13, 2009, to the prejudice of the government.

The shortage was accounted for as follows:

|   |            |                                 |
|---|------------|---------------------------------|
| Beginning Balance as of December 8, 2003              |            | ₱ 2,006.00                      |
| Add: Undep. Collections, Dec. 8, 2003 to Nov. 6, 2009 |            |                                 |
| Fiduciary Fund  | ₱89,000.00 |                                 |
| JDF   | 20,972.90  |                                 |
| GF/SAJ  | 27,842.10  |                                 |
| VCF   | 60.00      |                                 |
| MF  | 10,500.00  | <u>148,375.00</u>               |
| Total   |            | ₱ 150,381.00                    |
| Less: Cash counted                                    |            | <u>377.00</u>                   |
| <b>Total Shortage</b>                                 |            | <b>₱ 150,004.00<sup>1</sup></b> |

<sup>1</sup> Rollo (A.M. No. P-11-2965), p. 127.

The COA report alleged that respondent did not remit/deposit her collections on time to the authorized depository bank, which resulted to the accumulation of the cash in her custody and that she even admitted that she utilized the collections for personal use. The delays incurred in remitting such collections ranged from one (1) day to 866 days.

On January 8, 2009, the OCA directed respondent to comment on the complaint against her.

Respondent admitted that she misappropriated the money for her personal gain due to her financial problems and begged the indulgence of the Court to allow her to restitute the shortages. She likewise pleaded for compassion and clemency, and in the alternative, she be allowed to retire with full benefits to be able to pay all her financial obligations.

In a Memorandum<sup>2</sup> dated October 14, 2009, the OCA recommended that the resolution of the instant case be held in abeyance pending the outcome of the financial audit conducted by the Court Management Office of the OCA (CMO-OCA) in the MTC, Ocampo, Camarines Sur.

In a Resolution<sup>3</sup> dated December 7, 2009, the Court resolved to hold in abeyance the resolution of the administrative case against respondent pending the outcome of the financial audit conducted in the MTC, Ocampo, Camarines Sur by the Fiscal Monitoring Division.

**A.M. No. P-10-2752 (formerly  
A.M. No. 09-10-173-MTC) *Re:*  
*Financial Audit Conducted in  
the Municipal Trial Court,  
Ocampo, Camarines Sur.***

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<sup>2</sup> *Id.* at 126-129.

<sup>3</sup> *Id.* at 130-131.

Prompted by the audit findings made by the COA which showed shortages in the accountabilities of respondent Asetre, the CMO-OCA conducted a financial audit of the financial accounts of the MTC, Ocampo, Camarines Sur covering the accountability period of Clerk of Court Mrs. Arlene B. Asetre, from March 1, 2004 to July 16, 2009. While the COA examination covered only the period December 8, 2003 to November 13, 2006 and the CMO Audit Team covered the period March 1, 2004 to July 16, 2009, it appeared that the shortages for the period covered by the COA team on all funds were almost the same as that found by the Audit Team of the CMO.

Based on the available documents, the audit report yielded the following results:

1. SUMMARY OF COLLECTIONS AND DEPOSITS AND ACCOUNTABILITIES ON JUDICIARY DEVELOPMENT FUND (JDF) FOR THE PERIOD COVERED MARCH 1, 2004 TO JULY 16, 2009

| <u>Month/Year</u>  | <u>Collections</u> | <u>Deposits</u> | <u>Over)/Under Remittance</u> |
|--------------------|--------------------|-----------------|-------------------------------|
| Jan.-Dec. 2004     | ₱ 20,982.60        | ₱ 17,640.00     | ₱ 3,342.60                    |
| Jan.-Dec. 2005     | ₱ 16, 977.80       | ₱ 2,526.00      | ₱ 14,451.80                   |
| Jan.-Dec. 2006     | ₱ 7,885.10         | ₱ 3,121.00      | ₱ 4,764.10                    |
| Jan.-Dec. 2007     | ₱ 25,544.60        | ₱ 4,377.00      | ₱ 21,167.60                   |
| Jan.-Dec. 2008     | ₱ 9,365.60         | ₱ 0.00          | ₱ 9,365.60                    |
| Jan.-July 16, 2009 | ₱ 7,633.60         | ₱ 0.00          | ₱ 7,633.60                    |
| Total              | ₱ 88,389.30        | ₱ 0.00          | ₱ 60,725.30                   |

2. SUMMARY OF COLLECTIONS AND DEPOSITS AND ACCOUNTABILITIES ON SPECIAL ALLOWANCE FOR THE JUDICIARY FUND (SAJF) FOR THE PERIOD COVERED MARCH 1, 2004 TO JULY 16, 2009

| <u>Month/Year</u>   | <u>Collections</u> | <u>Deposits</u> | <u>(Over)/Under Remittance</u> |
|---------------------|--------------------|-----------------|--------------------------------|
| Jan.-Dec. 2004      | ₱ 4,652.40         | ₱ 3,227.20      | ₱ 1,425.20                     |
| Jan.-Dec. 2005      | ₱ 21,659.40        | ₱ 1,687.60      | ₱ 19,971.80                    |
| Jan.-Dec. 2006      | ₱ 11,514.90        | ₱ 4,044.00      | ₱ 7,470.90                     |
| Jan.-Dec. 2007      | ₱ 44,895.20        | ₱ 4,500.00      | ₱ 40,395.20                    |
| Jan.-Dec. 2008      | ₱ 12,364.40        | ₱ 0.00          | ₱ 12,364.40                    |
| Jan.-July. 16, 2009 | ₱ 9,971.00         | ₱ 0.00          | ₱ 9,971.00                     |
| Total               | ₱105,057.30        | ₱ 13,458.80     | ₱ 91,598.50                    |

3. SUMMARY OF COLLECTIONS AND DEPOSITS AND ACCOUNTABILITIES ON MEDIATION FUND (MF) FOR THE PERIOD COVERED JULY 2005 TO JULY 16, 2009

| <u>Month/Year</u>   | <u>Collections</u> | <u>Deposit</u> | <u>(Over)/Under Remittance</u> |
|---------------------|--------------------|----------------|--------------------------------|
| Jan.-Dec. 2005      | ₱ 8,500.00         | ₱ 0.00         | ₱ 8,500.00                     |
| Jan.-Dec. 2006      | ₱ 2,000.00         | ₱ 0.00         | ₱ 2,000.00                     |
| Jan.-Dec. 2007      | ₱ 4,000.00         | ₱ 0.00         | ₱ 4,000.00                     |
| Jan.-Dec. 2008      | ₱ 2,000.00         | ₱ 0.00         | ₱ 2,000.00                     |
| Jan.-July. 16, 2009 | <u>₱ 3,000.00</u>  | <u>₱ 0.00</u>  | <u>₱ 3,000.00</u>              |
| Total               | ₱ 19,500.00        | ₱ 0.00         | ₱ 19,500.00                    |

4. SUMMARY OF COLLECTIONS AND DEPOSITS AND ACCOUNTABILITIES ON VICTIM'S COMPENSATION FUND (VCF) FOR THE PERIOD COVERED MARCH 1, 2007 TO JULY 16, 2009

| <u>Month/Year</u>   | <u>Collections</u> | <u>Deposit</u> | <u>(Over)/Under Remittance</u> |
|---------------------|--------------------|----------------|--------------------------------|
| Jan.-Dec. 2007      | ₱ 75.00            | ₱ 0.00         | ₱ 75.00                        |
| Jan.-Dec. 2008      | ₱ 5.00             | ₱ 0.00         | ₱ 5.00                         |
| Jan.-July. 16, 2009 | <u>₱ 15.00</u>     | <u>₱ 0.00</u>  | <u>₱ 15.00</u>                 |
| Total               | ₱ 95.00            | ₱ 0.00         | ₱ 95.00                        |

5. SUMMARY OF COLLECTIONS/DEPOSITS AND WITHDRAWALS ACCOUNTABILITIES ON FIDUCIARY FUND (FF) FOR THE PERIOD COVERED MARCH 1, 2004 TO JULY 16, 2009

|   |                                |
|---|--------------------------------|
| Unwithdrawn Fiduciary Fund, Beginning                                 | ₱ 47,800.00                    |
| Add: Total Collections for the period March 2004<br>to July 16, 2009  | <u>286,500.00</u>              |
| Total   | ₱ 334,300.00                   |
| Less: Total Withdrawals for the period March 2004<br>to July 16, 2009 | <u>₱ 281,500.00</u>            |
| <b>Unwithdrawn Fiduciary Fund as of July 16, 2009</b>                 | <b><u>₱ 52,800.00</u></b>      |
| Unwithdrawn Fiduciary Fund as of July 16, 2009                        | ₱ 52,800.00                    |
| Add: Unwithdrawn Interest (net of withholding tax)                    | 1,161.43                       |
| Bank Balance, July 16, 2009   |                                |
| (LBP SA No. 0041-1282-67)   | <u>0.00</u>                    |
| <b>Balance of Accountability/Shortage</b>                             | <b>₱ 53,961.43<sup>4</sup></b> |

Below are the comparative findings of the COA and the undersigned Audit Team from the Fiscal Monitoring Division (FMD) which showed similarities:

<sup>4</sup> Rollo (A.M. No. P-10-2752), pp. 9-10. (Emphasis supplied.)

| Fund Name | Period Covered  | Collections |           | Deposits  |           | Shortages |                        |
|-----------|-----------------|-------------|-----------|-----------|-----------|-----------|------------------------|
|           |                 | Per COA     | Per FMD   | Per COA   | Per FMD   | Per COA   | Per FMD                |
| JDF       | 3/1/04-12/31/04 | 20,982.60   | 20,982.60 | 17,260.00 | 17,640.00 | 3,722.60  | 3,342.60               |
|           | 1/1/05-12/31/05 | 16,977.80   | 16,977.80 | 2,526.00  | 2,526.00  | 14,451.80 | 14,451.80              |
|           | 1/1/06-11/13/06 | 7,577.50    | 7,577.50  | 3,121.00  | 3,121.00  | 4,456.50  | 4,456.50               |
| SAJF      | 3/1/04-12/31/04 | 4,652.40    | 4,652.40  | 2,546.00  | 2,546.00  | 2,106.40  | 2,106.40               |
|           | 1/1/05-12/31/05 | 21,669.00   | 21,669.00 | 1,687.60  | 1,687.60  | 19,981.40 | 19,981.40              |
|           | 1/1/06-11/13/06 | 11,022.50   | 11,022.50 | 4,044.00  | 4,044.00  | 6,978.50  | 6,978.50               |
| MF        | 7/1/05-12/31/05 | 8,500.00    | 8,500.00  | 0         | 0         | 8,500.00  | 8,500.00               |
|           | 1/1/06-11/13/06 | 2,000.00    | 2,000.00  | 0         | 0         | 2,000.00  | 2,000.00               |
| TOTAL     |                 | 93,381.80   | 93,381.80 | 31,184.60 | 31,564.60 | 62,197.20 | 62,817.20 <sup>5</sup> |

The FMD Audit Team discovered that respondent incurred shortages on all legal fees collections of the court. Beginning March 2004 to December 2006, remittances/deposits were not remitted in full which resulted to the shortages uncovered. Respondent’s transgressions became very obvious when she failed to remit all her collections from January 2008 to July 2009. Below is the summary of her accountabilities.

|  |                                |                  |
|--|--------------------------------|------------------|
| FUND   | JDF                            | CASH SHORTAGE    |
| PERIOD COVERED                               | March 1, 2004 to July 16, 2009 |                  |
| COLLECTIONS                                  | 88,389.30                      |                  |
| DEPOSITS                                     | (27,664.00)                    |                  |
| SHORTAGE                                     | <b>60,725.30</b>               |                  |
| CASH ON HAND PRESENTED DURING OUR CASH COUNT | (4,648.25)                     |                  |
| FINAL SHORTAGE (OVERAGE)                     | <b>56,077.05</b>               | <b>56,077.05</b> |
| DATE DEPOSITED                               | UNSETTLED TO DATE              |                  |
| DEPOSITORY AGENCY                            | LBP-JDF Acct. No. 0591-0116-34 |                  |

<sup>5</sup> *Id.* at 10-11.

|                    |                                 |                  |
|--------------------|---------------------------------|------------------|
| FUND               | SAJF                            | CASH SHORTAGE    |
| PERIOD COVERED     | March 1, 2004 to July 16, 2009  |                  |
| COLLECTIONS        | 105,057.30                      |                  |
| DEPOSITS           | (13,458.80)                     |                  |
| SHORTAGE (OVERAGE) | <b>91,598.50</b>                | <b>91,598.50</b> |
| DATE DEPOSITED     | UNSETTLED TO DATE               |                  |
| DEPOSITORY AGENCY  | LBP-SAJF Acct. No. 0591-1744-28 |                  |

|                    |                                 |                  |
|--------------------|---------------------------------|------------------|
| FUND               | MF                              | CASH SHORTAGE    |
| PERIOD COVERED     | July 2005 to July 16, 2009      |                  |
| COLLECTIONS        | 19,500.00                       |                  |
| DEPOSITS           | 0.00                            |                  |
| SHORTAGE (OVERAGE) | <b>19,500.00</b>                | <b>19,500.00</b> |
| DATE DEPOSITED     | UNSETTLED TO DATE               |                  |
| DEPOSITORY AGENCY  | LBP-PMCF Acct. No. 3472-1000-28 |                  |

|                    |                                |               |
|--------------------|--------------------------------|---------------|
| FUND               | VCF                            | CASH SHORTAGE |
| PERIOD COVERED     | March 2007 to July 16, 2009    |               |
| COLLECTIONS        | <b>95.00</b>                   |               |
| DEPOSITS           | 0.00                           |               |
| SHORTAGE (OVERAGE) | <b>95.00</b>                   | <b>95.00</b>  |
| DATE DEPOSITED     | UNSETTLED TO DATE              |               |
| DEPOSITORY AGENCY  | LBP-VCF Acct. No. 0592-1022-42 |               |

|                                |                                |                  |
|--------------------------------|--------------------------------|------------------|
| FUND                           | FF                             | CASH SHORTAGE    |
| PERIOD COVERED                 | March 1, 2004 to July 16, 2009 |                  |
| BEGINNING BALANCE              | 47,800.00                      |                  |
| COLLECTIONS                    | 286,500.00                     |                  |
| WITHDRAWALS                    | (281,500.00)                   |                  |
| UNWITHDRAWN BALANCE            | <b>52,800.00</b>               |                  |
| LBP SA No. 0041-1282-67        | 0.00                           |                  |
| NET INTEREST PREVIOUSLY EARNED | 1,161.43                       |                  |
| SHORTAGE                       | <b>53,961.43</b>               | <b>53,961.43</b> |
| DATE DEPOSITED                 | UNSETTLED TO DATE              |                  |

|                      |                               |
|----------------------|-------------------------------|
| TOTAL CASH SHORTAGES | <b>221,231.98<sup>6</sup></b> |
|----------------------|-------------------------------|

<sup>6</sup> *Id.* at 11-12.

From March 2004 onwards, respondent purposely failed to deposit material portion of her collections on JDF, SAJF, MF, VCF and FF for seemingly personal reason/s, thus, her total undeposited collections went up to Two Hundred Twenty-Five Thousand Eight Hundred Eighty Pesos and 23/100 (₱225,880.23) as against the cash on hand amounting to Four Thousand Six Hundred Forty-Eight Pesos and 25/100 Centavos (₱4,648.25) which she presented during the cash count on July 16, 2009.

It was also discovered that monthly reports of collections, deposits and/or withdrawals on Judiciary Development Fund, Clerk of Court General Fund/Special Allowance for the Judiciary fund, Fiduciary Fund and Mediation Fund were not regularly submitted to the Accounting Division of the OCA.

In fact, due to respondent's failure to deposit the fiduciary fund collections to Land Bank of the Philippines Savings Account No. 0041-1282-67, it resulted to the account's closure due to bank charges and for failing to meet the required minimum balance.

Likewise, respondent did not collect Sheriff's Trust fund as mandated in Revised Rule 141, Rules of Court in Supreme Court Administrative Matter No. 04-2-04-SC effective August 16, 2004.

In a Resolution<sup>7</sup> dated November 25, 2009, the Court resolved, among other things, to:

1. Direct the Office of the Court Administrator (OCA) to DOCKET the report of the Financial Audit Team as a regular administrative complaint against Mrs. Arelene B. Asetre for violation of the circulars and other issuances of the Court on the proper handling of Judiciary collections which has resulted in the shortages incurred on the different fund accounts of the Court, and consolidate the audit report with OCA IPI No. 08-3029-P;

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<sup>7</sup> *Rollo* (A.M. No. P-10-2752), pp. 43-46.



2. DIRECT Mrs. Arlene B. Asetre, Clerk of Court of the MTC of Ocampo, Camarines Sur to:

(a) RESTITUTE within ten (10) days from notice, her incurred shortages on the following funds and to deposit the same to their corresponding fund bank accounts, copy furnished the Fiscal Monitoring Division, Court Management Office of the Office of the Court Administrator (OCA) with the duly validated deposit slips as proof of compliance;

| Name of Fund                             | Period Covered                 | Amount              | Schedule |
|--|--------------------------------|---------------------|----------|
| Judiciary Development Fund               | March 1, 2004 to July 16, 2009 | ₱ 56,077.05         | 1        |
| Special Allowance for the Judiciary Fund | March 1, 2004 to July 16, 2009 | 91,598.50           | 2        |
| Mediation Fund                           | March 1, 2004 to July 16, 2009 | 19,500.00           | 3        |
| Victim's Compensation Fund               | March 1, 2007 to July 16, 2009 | 95                  | 4        |
| Fiduciary Fund                           | March 1, 2004 to July 16, 2009 | 53,961.43           | 5        |
| <b>Total</b>                             |                                | <b>₱ 221,231.98</b> |          |

(b) EXPLAIN in writing within ten (10) days from notice why:

(b.1) she should not be administratively and criminally charged for failure to deposit her collections in their corresponding fund bank accounts which is a clear violation of the circulars and other issuances of the Court on the proper handling of Judiciary funds;

(b.2) she failed to collect the One Thousand Pesos (₱1,000.00) from the plaintiff upon filing of the complaint to defray the annual travel expenses of the Sheriff, Process Server or Court-Authorized Persons in the service of summons, subpoena and other court processes that would be issued relative to the trial of the case as mandated in A.M. No. 04-2-04-SC, effective August 16, 2004 Re: Proposed Revision of Rule 141 of the Revised Rules of Court on Legal Fees; and

(b.3) she failed to submit regularly Monthly Reports of Collections, Deposits and/or Withdrawals on Judiciary

Development Fund, Clerk of Court General Fund/Special Allowance for the Judiciary Fund, Fiduciary Fund and Mediation Fund to the Accounting Division, Financial Management Office of the OCA and to the Financial Management Office, Finance Division of the Philippine Judicial Academy;

3. DIRECT Ms. Editha I. Calupit, designated Officer-in-Charge as Financial Custodian and Collecting Officer of MTC, Ocampo, Camarines Sur to:

a. Collect the One Thousand Pesos, (₱1,000.00) from the plaintiff upon filing of the complaint to defray the actual travel expenses of the Sheriff, Process Server or Court-Authorized Persons in the service of summons, subpoena and other court processes that would be issued relative to the trial of the case as mandated in A.M. No. 04-2-04-SC effective August 16, 2004 Re: Proposed Revision of Rule 141 of the Revised Rules of Court on Legal Fees; and;

b. STRICTLY FOLLOW the circulars and other issuances of the Court on the proper handling of Judiciary funds to avoid the occurrence of infractions committed by Asetre.

4. DIRECT Hon. Manuel E. Contreras, Presiding Judge of Municipal Trial Court, Ocampo, Camarines Sur to (a) EXPLAIN in writing, within ten (10) days from notice why he should not be administratively dealt with for failure to comply with the recommendation of the Commission on Audit in their Audit Observation Memorandum No. 2006-036-101 (06) dated 5 January 2007 and letter dated 27 November 2006 for the immediate relief of Mrs. Asetre from collecting functions which could have prevented further shortages incurred with Judiciary funds; and (b) PROPERLY MONITOR the financial transactions of Ms. Editha I. Calupit, designated collecting officer, to ensure strict adherence to circulars and other issuances of the Court regarding the proper handling of Judiciary funds.<sup>8</sup>

In her letter dated January 25, 2010, respondent admitted all the allegations against her except her alleged failure to submit Monthly Reports of Collections, Deposits and/or Withdrawals on Judiciary Development Fund, which she claimed to have complied with.

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<sup>8</sup>

*Id.* at 43-45.

Respondent absolved Judge Contreras and claimed that the latter had no knowledge that she was not properly remitting all her collections and that she misappropriated her collections for personal use.

Anent her failure to collect ₱1,000.00 from plaintiffs upon filing of a complaint to defray the actual travel expenses of the Sheriff, respondent claimed good faith as she merely followed the practice of the former clerk of court of collecting small sums of money based on the kilometrage fee estimated by the plaintiffs, and further claimed that the settings and notices were made in open court and sometimes coursed through the municipal police; hence, the services of sheriff are no longer needed.

Respondent apologized to the Court and begged to be given a second chance with a promise not to repeat the same acts and further requested that all her withheld salaries from February 2009 up to the present be applied as payment of her accountabilities and whatever balance remains, she expressed her willingness to settle the same.

Judge Contreras, on the other hand, in his letter dated January 27, 2010, averred that he did not take any action to relieve respondent Asetre from her collecting functions because as Presiding Judge of the first level court, his authority to supervise and monitor the performance of duties of respondent Asetre is limited to her adjudicative and administrative functions. He explained that he has no authority to relieve respondent Asetre in performing her financial functions, unless he is authorized by the Financial Management Office of the OCA (FMO-OCA). Thus, he recommended that the audit findings should be communicated instead to the FMO-OCA and to the Executive Judge of the Regional Trial Court, Pili, Camarines Sur.

In a Resolution dated August 9, 2010, the Court directed the OCA to submit a consolidated evaluation, report and recommendation on the instant cases.

In a Memorandum dated March 8, 2011, the OCA found respondent Arlene B. Asetre guilty of Dishonesty, Conduct Prejudicial to the Best Interest of the Service and recommended her dismissal from the service. The OCA likewise recommended that Judge Manuel E. Contreras be fined in the amount of ₱2,000.00 for simple negligence.

In a Resolution dated August 10, 2011, the Court resolved to re-docket both complaints as a regular administrative matter.

### ***RULING***

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.<sup>9</sup> It is the clerks of court's duty to faithfully perform their duties and responsibilities as such "to the end that there was full compliance with function, that of being the custodian of the court's funds and revenues, records, properties and premises."<sup>10</sup> 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. Thus, their failure to do so makes them liable for any loss, shortage, destruction or impairment of such funds and property.

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<sup>9</sup> *Re: Misappropriation of the Judiciary Fund Collections by Juliet C. Banag, Clerk of Court, MTC, Plaridel, Bulacan*, 465 Phil. 24, 34 (2004).

<sup>10</sup> *Office of the Court Administrator v. Fortaleza*, A.M. No. P-01-1524, July 29, 2002, 385 SCRA 293, 303, citing *Office of the Court Administrator v. Bawalan*, A.M. No. P-93-945, March 24, 1994, 231 SCRA 408 and *Office of the Court Administrator v. Galo*, A.M. P-93-989, September 21, 1999, 314 SCRA 705.

Respondent miserably failed to live up to these stringent standards. She consistently incurred delays and shortages in the remittances of funds over long periods of time and offered no satisfactory explanation to justify her transgressions.

In the instant case, respondent's failure to remit court collections was in complete violation of Administrative Circular No. 3-2000, dated June 15, 2000, which commands that all fiduciary collections shall be deposited immediately by the Clerk of Court concerned, upon receipt thereof, with an authorized government depository bank. The procedural guidelines of this Circular provide:

x x x x

II. Procedural Guidelines  
A. Judiciary Development Fund

x x x x

3. Systems and Procedures.

x x x x

c. In the RTC, MeTC, MTCC, MTC, MCTC, SDC and SCC. – **The daily collections for the Fund in these courts shall be deposited everyday with the nearest LBP branch for the account of the Judiciary Development Fund, Supreme Court, Manila – SAVINGS ACCOUNT NO. 0591-0116-34 or if depositing daily is not possible, deposits for the Fund shall be 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 period above-indicated.**

x x x x

**Collections shall not be used for encashment of personal checks, salary checks, etc. x x x**

x x x x

B. General Fund (GF)

(1) *Duty of the Clerks of Court, Officer-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 General Fund collections, issue the proper receipt therefor, **maintain a separate cash book properly marked CASH BOOK FOR CLERK OF COURT'S GENERAL FUND AND SHERIFF'S GENERAL FUND, deposit such collections in the manner herein prescribed, and render the proper Monthly Report of Collections and Deposits for said Fund.**

x x x (Emphases and underscoring ours.)

These Circulars are mandatory in nature, 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 to loss, shortage, destruction or impairment of court funds and properties makes Asetre liable thereto.

It is the duty of clerks of court to perform their responsibilities faithfully, so that they can fully comply with the circulars on deposits of collections. They are reminded to deposit immediately, with authorized government depositaries, the various funds they have collected because they are not authorized to keep those funds in their custody. The unwarranted failure to fulfill these responsibilities deserves administrative sanction and not even the full payment of the collection shortages will exempt the accountable officer from liability.

By failing to properly remit the cash collections constituting public funds, respondent violated the trust reposed in her as disbursement officer of the Judiciary. Her failure to deposit the said amount upon collection was prejudicial to the court, which did not earn interest income on the said amount or was not able to otherwise use the said funds.<sup>11</sup> Her transgressions and her failure to satisfactorily explain her conduct, leave us no choice but to hold her liable for dishonesty, 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.

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<sup>11</sup> See *Report on the Financial Audit Conducted on the Books of Accounts of Mr. Agerico P. Balles, MTCC-OCC, Tacloban City*, A.M. No. P-05-2065, April 2, 2009, 583 SCRA 50, 61.

Under Section 22 (a), (b) and (c) of Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws, Dishonesty is classified as a grave offense. The penalty for this offense is dismissal even for the first offense.<sup>12</sup>

On the other hand, we remind Judge Contreras that he is mandated to perform administrative and supervisory functions, effective management of the court's day-to-day operations, including the supervision of their subordinates especially the safekeeping of funds. In this case, there is no doubt that Judge Contreras failed to exercise the required duty of monitoring the financial transactions of MTC, Ocampo, Camarines Sur, in strict compliance with the pertinent issuances and circulars of the court. Considering that the COA had already notified him of certain irregularities committed by respondent, Judge Contreras should have exercised prudence in immediately taking the necessary measures to prevent the latter from further diverting the court's fund.

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.<sup>13</sup> Thus, this Court has not hesitated to impose the ultimate penalty on those who have fallen short of their accountabilities.

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<sup>12</sup> *Id.*

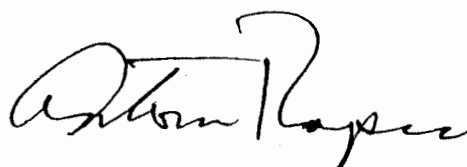
<sup>13</sup> *In Re: Report of COA on the Shortage of the Accountabilities of Clerk of Court Lilia S. Buena, MTCC, Naga City*, 348 Phil. 1, 9 (1998); *In Re: Delayed Remittance of Collections of Odtuha*, 445 Phil. 220, 224 (2003); *Office of the Court Administrator v. Galo*, 373 Phil. 483, 490 (1999); *Cosca v. Palaypayon*, A.M. No. MTJ-92-721, September 30, 1994, 273 SCRA 249, 269.

**WHEREFORE**, respondent **ARLENE B. ASETRE**, Clerk of Court, Municipal Trial Court, Ocampo, Camarines Sur, is hereby found **GUILTY** of **DISHONESTY**. She is ordered **DISMISSED** from the service with forfeiture of all retirement benefits, except accrued leave credits, and with prejudice to re-employment in the government, including government-owned or controlled corporations. Respondent is further **ORDERED** to **RESTITUTE** immediately the amount of Two Hundred Twenty-One Thousand Two Hundred Thirty-One Pesos and Ninety-Eight Centavos (**₱221,231.98**),<sup>14</sup> representing the total shortages she incurred during her incumbency.

The Employees Leave Division, Office of Administrative Services, OCA, is **DIRECTED** to compute the balance of respondent Asetre's earned leave credits and forward the same to the Finance Division, Financial Management Office, OCA, which shall compute its monetary value. The resulting amount, as well as other monetary benefits Asetre may still be entitled to, shall be applied as part of the restitution of the shortage.

Judge Manuel E. Contreras is likewise **ADMONISHED** for failure to take the necessary measures to prevent overages in the court's collection with a reminder to closely monitor, strictly implement court policies, circulars and procedures to strengthen internal control over the financial transactions of the Municipal Trial Court, Ocampo, Camarines Sur.

**SO ORDERED.**




**ANTONIO T. CARPIO**  
Senior Associate Justice  
(Per Section 12, R.A. 296,  
The Judiciary Act of 1948, as amended)

<sup>14</sup>

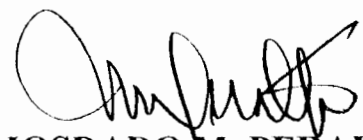
Resolution dated November 25, 2009.



  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice


*Teresita Leonardo de Castro*  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

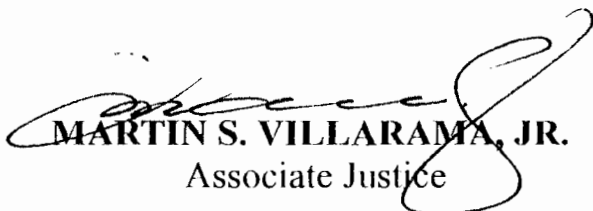
  
**ARTURO D. BRION**  
Associate Justice

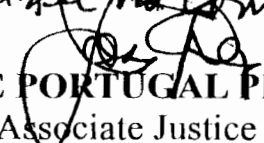
  
**DIOSDADO M. PERALTA**  
Associate Justice

  
**LUCAS P. BERSAMIN**  
Associate Justice

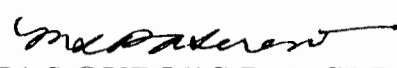
  
**MARIANO C. DEL CASTILLO**  
Associate Justice

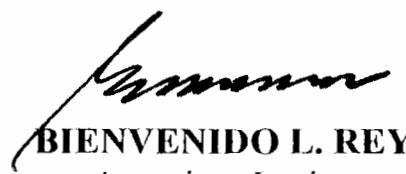
  
**ROBERTO A. ABAD**  
Associate Justice


  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice

*No part. Acted on the matter as Gov. Adm.*  
  
**JOSE PORTUGAL PEREZ**  
Associate Justice

On official leave  
**JOSE CATRAL MENDOZA**  
Associate Justice

  
**MARIA LOURDES P. A. SERENO**  
Associate Justice

  
**BIENVENIDO L. REYES**  
Associate Justice

  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice