



Republic of the Philippines
Supreme Court
Manila

EN BANC

OFFICE OF THE COURT
ADMINISTRATOR,
Complainant,

A.M. No. P-04-1903
(Formerly A.M. No. 04-10-597-RTC)

Present:

- versus -

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

DONABEL M. SAVADERA, MA.
EVELYN M. LANDICHO and
CONCEPCION G. SAYAS, all of the
RTC, OCC, Lipa City, Batangas,
ATTY. CELSO M. APUSEN and
ATTY. SHEILA ANGELA P.
SARMIENTO,

Respondents.

Promulgated:

SEPTEMBER 10, 2013

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DECISION

PER CURIAM:

This administrative matter originated from the financial audit conducted from March 8 to 26, 2004 of the Court Management Office of the Office of the Court Administrator (CMO-OCA) on the books of accounts of the Office of the Clerk of Court (OCC), Regional Trial Court of Lipa City (RTC Lipa City). The audit covered the transactions of Atty. Celso M. Apusen, former Clerk of Court VI, for the period June 1, 1987 to September 1, 2002, and that of his successor, Atty. Sheila Angela Palo-Sarmiento, Officer-in-Charge (OIC), Clerk of Court V, RTC Lipa City, Branch 85, for

the period of September 2, 2002 up to the audit dates. Atty. Sarmiento was appointed OIC after Atty. Apusen’s leave of absence from September 2, 2002 and eventual optional retirement effective January 2, 2003. On September 10, 2002, the appointment of Atty. Sarmiento was confirmed by the OCA.¹

It appears that as Atty. Sarmiento was preoccupied with her duties as Branch Clerk, she delegated the collections of all legal fees to respondent Donabel M. Savadera (Savadera), Cash Clerk II. Savadera collected and deposited various collections of the court and recorded the same in their respective cashbooks. She also signed on behalf of Atty. Sarmiento the monthly report of collections and deposits prepared by respondent Ma. Evelyn M. Landicho (Landicho), Clerk III. If Savadera was absent, Landicho and respondent Concepcion G. Sayas (Sayas), Social Worker, received the court collections.²

The audit team discovered that there were cash shortages and that some official receipts (ORs) were missing or tampered with. It also found some tampered deposit slips. The findings of the audit team are summarized as follows:

As of March 8, 2004, the RTC Lipa City had outstanding collections amounting to ₱661,684.26. Of said amount, however, Savadera was able to present only ₱94,560.75 in cash, thereby having a cash shortage in the amount of ₱567,123.51. When Savadera was directed to produce the shortage, she told the audit team that aside from the cash on hand presented to them, she also had check collections in her locked table drawer. She, however, could not show them the said check collections at that time as she forgot to bring her key. Savadera assured them that all her outstanding collections will be deposited within the day.³

Based on the duplicate/triplicate copies of ORs presented to the audit team, Savadera’s shortage may be reduced to ₱85,505.03 as she has check collections in the total amount of ₱481,618.48, to wit:

[OR] No.	Check No.	Date of Check	Amount
19287261	LBP 09087	11-20-03	₱ 2,300.00
19287263	LBP 06954	09-19-03	2,900.00
19287266	Prudential 0248795	10-23-03	9,075.00
19287267	Prudential 0249474	11-12-03	24,380.00
19287286	LBP 070960	11-28-03	2,000.00
19287287	UCPB 5858158	09-09-03	45,020.00
19287288	UCPB 5190789	11-14-03	18,286.78
19287297	Keppel Bank 17833	11-27-03	377,656.70
Total			₱ 481,618.48⁴

¹ Rollo, p. 3.
² Id.
³ Id. at 4-5.
⁴ Id. at 5.

Savadera and Atty. Sarmiento were then reminded of their accountabilities for the missing funds. Savadera was also advised to deposit the cash on hand immediately as well as the checks allegedly locked inside her drawer.⁵

On the fourth day of the audit, Landicho presented to the audit team several deposit slips given to her by Savadera supposedly representing full restitution of the cash shortages. A careful perusal of the deposit slips, however, revealed that except for the Keppel Bank check amounting to ₱377,656.70, all other checks that were supposed to be outstanding at the time of the audit were not the ones deposited. Instead, the checks deposited totaling ₱87,507.16, turned out to be the succeeding collections of the court and the checks allegedly in the accountable officer's possession at the time of the audit had already been deposited beforehand to the Judiciary Development Fund (JDF)/General Fund account but yet to be recorded in the cashbook and to be reported to the Accounting Division of the OCA.⁶

The audit team also found that the dates in the ORIGINAL copies of the receipts are different from those in the DUPLICATE/TRIPPLICATE copies. Savadera, Landicho and Sayas did not indicate the date of collection on the duplicate and triplicate copies of the receipt whenever a collection was made. As the space for the date is located in the upper portion of the receipt, they deliberately pulled down the carbon paper in the set of ORs so that what was written in the original will not be reflected in the duplicate and triplicate copies. The collecting officer would then put a later date in the duplicate and triplicate copies of the receipt by using a dater when they are about to submit a monthly report of collections and deposits to this Court. The audit team concluded that this practice was resorted to in order to conceal the accountable officers' misappropriations. Based on the monthly reports of collections submitted to the Court, what was reported were the equivalent collections of only what they had deposited on a certain period.⁷

Landicho also presented to the audit team six booklets of issued ORs coming from the table drawer of Savadera. Several used ORs were also found in the booklets of unissued receipts. Said receipts represent collections from the period December 2003 to March 8, 2004 which were neither recorded in the cashbook nor reported to the Accounting Division of the OCA. The audit team found that although some of them had already been deposited, the deposits were made to cover up the cash collections previously misappropriated. Thus, on March 22, 2004, the audit team demanded from Savadera, Landicho and Sayas the immediate restitution of an initial cash shortage totaling to ₱1,212,086.33 comprising the six booklets and the several ORs mentioned above. The three collecting officers were also required to submit a written explanation within 72 hours on why a cash shortage occurred. Upon discovery of the shortage, Executive Judge Jane Aurora C.

⁵ Id.

⁶ Id. at 5-6.

⁷ Id. at 6.

Lantion likewise immediately relieved Savadera, Landicho and Sayas of their functions and detailed them to the other offices of the court and designated as cash clerks her three regular branch clerks on March 11, 2004.⁸

In their explanations, Savadera, Landicho and Sayas did not deny the existence of a cash shortage. Landicho even admitted having taken ₱80,000 from her collections. She and Savadera however accused each other for the incurred shortage. Savadera acknowledged having received all of Sayas’ collections so the latter’s liability will be limited only to her connivance with Savadera and Landicho to defraud the court of its revenues since she allowed herself to be a party to the issuance of undated receipts and her failure to report the cash shortage despite her awareness of its existence as early as February 2001.⁹

On March 16, 2004, the three collecting officers executed a Joint Affidavit¹⁰ absolving Atty. Sarmiento of any financial accountability during her term as OIC. Because of this, the audit team decided not to demand from her the restitution of the shortage, but believed that she cannot escape administrative liability for not closely supervising the personnel of the OCC during her term as OIC.¹¹

The audit team likewise discovered two deposit slips that have been tampered with to cover up a shortage in the amount of ₱336,765.64 which was discovered in January 2001 when the Commission on Audit (COA), Batangas City conducted an examination of the books of accounts of the OCC. The said shortage was settled per deposit slip dated February 13, 2001. It was however discovered that the ₱200,000 used to settle part of the shortage came from the succeeding collections of the court from a Bank of the Philippine Islands (BPI) check amounting to ₱193,202.63 which Landicho was able to re-discount into cash and deposit to her own account. Landicho apparently drew her personal check to settle part of the shortage.¹² To conceal the fact that the succeeding collections were used to cover the shortage, they made it appear that the BPI check previously rediscounted into cash, as well as the other collections, were deposited by them by tampering two deposit slips as follows:

<i>Date of Deposit</i>	<i>Amount as Presented</i>	<i>Correct Amount</i>	<i>Difference</i>
February 15, 2001	₱ 193,202.63	₱ 3,202.63	₱ 190,000.00
March 30, 2001	56,664.33	6,664.33	50,000.00
TOTAL	₱ 249,866.96	₱9,866.96	₱240,000.00 ¹³

The audit team also found that as of the examination date, the net interest income of ₱551,692.50 on fiduciary deposits from the time of Atty.

⁸ Id. at 6-7, 27.
⁹ Id. at 7, 17-25.
¹⁰ Id. at 26.
¹¹ Id. at 7.
¹² Id.
¹³ Id. at 8.

Apusen up to the time of Atty. Sarmiento remained intact in the court's Fiduciary Fund account instead of being withdrawn and deposited to the account of the JDF in violation of OCA Circular No. 50-95¹⁴ which states that "all collections from bailbonds, rental deposits and other fiduciary collections shall be deposited within 24 hours by the Clerk of Court concerned, upon receipt thereof, with the Landbank of the Philippines."

The audit of the JDF account also disclosed numerous irregularities committed by the collecting officers which contributed to the accumulation of a cash shortage of ₱2,422,687.94 covering the period 1987-2004. The audit team discovered irregularities for the JDF such as tampering of ORs and deposit slips, late recording/reporting of judiciary collections, and juggling of collection.¹⁵

Aside from the ₱240,000 accountability arising from the tampered deposit slips, Savadera and Landicho also have unaccounted/unrecorded JDF collections for the period December 1, 2003 to March 8, 2004 totaling ₱1,229,158.73. There is also an under deposit of ₱144,024.71 that was uncovered based on the deposits extracted from the bank statements provided by Land Bank. Thus, Savadera and Landicho have a combined accountability of ₱1,613,183.44 and Atty. Apusen should be held accountable only for the unaccounted collections during his term amounting to ₱809,504.50.¹⁶

An examination of the General Fund account also revealed a cash shortage of ₱34,333.76 covering the period 1987-2003. Of this amount, Atty. Apusen is accountable for ₱22,789.27 while Savadera and Landicho are liable for ₱11,544.49.¹⁷

There is also a shortage of ₱73,734.45 for the Special Allowance for the Judiciary (SAJ) Fund which includes the shortages in the SAJ collections of Savadera and Landicho in the amount of ₱65,594.35 which are unaccounted/unrecorded as of examination date.¹⁸

As to the court's fiduciary fund, the audit revealed a cash shortage amounting to ₱1,251,650.32 which was incurred during the term of Atty. Apusen as some of his collections were not deposited.¹⁹

Twenty-nine booklets and 127 pieces of ORs requisitioned from the Property Division, Supreme Court were also unaccounted for.²⁰

¹⁴ Id.

¹⁵ Id. at 9-10, 13.

¹⁶ Id. at 10, 13, 31-36.

¹⁷ Id. at 10-11, 13.

¹⁸ Id. at 11, 13, 37.

¹⁹ Id. at 12, 13.

²⁰ Id. at 12-13.

Below is the summary of the respective cash accountabilities of Savadera, Landicho, Sayas and Apusen as of March 8, 2004:

[Collecting Officer]	JDF	[General Fund]	SAJ	[Fiduciary Fund]	TOTAL
Ms. Savadera and Ms. Landicho	1,613,183.44	11,544.49	73,734.45	-	₱1,698,462.38
Ms. Sayas	-	-	-	-	-
Atty. Apusen	809,504.50	22,789.27	-	1,251,650.32	2,083,944.09
Grand Total	2,422,687.94	34,333.76	73,734.45	1,251,650.32	₱ 3,782,406.47 ²¹

Thus, the audit team recommended that

1. [The audit] report be **DOCKETED** as a regular administrative matter against Ms. Donabel M. Savadera, Ms. Evelyn M. Landicho and Ms. Concepcion G. Sayas.
2. **Ms. Donabel M. Savadera** and **Ms. Evelyn M. Landicho**, Cash Clerk II and Clerk III, respectively be **DIRECTED** to:
 - a. **RESTITUTE** the shortages incurred in Judiciary Development Fund, General Fund and Special Allowance for the Judiciary Fund amounting to ₱1,613,183.44, ₱11,544.49, and ₱73,734.45, respectively, or a total of ₱1,698,462.38; and
 - b. **ACCOUNT** for the missing Official Receipts with Serial Nos. 11594552, 15436651-15436662 and 15436665-15436700.
3. **Ms. Donabel M. Savadera** and **Ms. Evelyn M. Landicho** be **SUSPENDED** from Office pending resolution of this administrative matter.
4. Former Clerk of Court VI, **Atty. Celso M. Apusen** be **DIRECTED** to:
 - a. **RESTITUTE** the shortages incurred in the Judiciary Development Fund, General Fund and Fiduciary Fund amounting to ₱809,504.50, ₱22,789.27 and ₱1,251,650.32, respectively, or a total of ₱2,083,944.09; and
 - b. **ACCOUNT** for the missing Official Receipts with Serial Nos. 1778751-1778950; 2240551-2240600; 2241601-2241634; 2241851-2241950; 2614851-2615000; 3277351-3277500; 3321401-3321450; 3321501-3321600; 3941501-3941650; 3941701-3941734; 3943001-3943050; 4448601-4448750; 6027851-6027950; 6869901-6869950; 11620951-11620960; 11594401-11594450 and 11594551-11594600.
5. **Atty. Sheila Angela P. Sarmiento**, incumbent Officer-in-Charge be **DIRECTED** to:
 - a. **EXPLAIN** in writing within a period of ten (10) days from notice why no administrative sanction shall be imposed upon her for her failure to exercise close supervision over Ms. Donabel M. Savadera, Ms. Evelyn M. Landicho and Ms. Concepcion G. Sayas which resulted [in] the misappropriation

²¹ Id. at 13.

of judiciary funds amounting to ₱1,698,462.38 during her period as Officer-in-Charge;

- b. **WITHDRAW** the interest earned from fiduciary fund deposits for the period June 30, 1994 to December 31, 2003 amounting to ₱551,692.50 and deposit the same to the JDF account; and
 - c. **FURNISH** the Fiscal Monitoring Division, CMO, OCA of the machine validated copy of deposit slip of the transfer of ₱551,692.50 to JDF account as proof of remittance thereof.
6. **Hon. Executive Judge Jane Aurora C. Lantion** be **DIRECTED** to properly monitor the incumbent OIC to ensure strict adherence to circulars and other issuances of the Court to avoid commission of similar irregularities in the future.
 7. **Hold Departure Order** be **ISSUED** against Ms. Donabel M. Savadera, Ms. Evelyn M. Landicho and Atty. Celso M. Apusen to prevent them from leaving the country without settling the shortages found.
 8. The **LEGAL OFFICE** be **DIRECTED** to file appropriate criminal charges against Ms. Donabel M. Savadera, Ms. Evelyn M. Landicho, Atty. Celso M. Apusen and Ms. Concepcion G. Sayas.²²

Said recommendation was approved by then Court Administrator (now Supreme Court Justice) Presbitero J. Velasco, Jr. and was duly endorsed by Memorandum dated September 22, 2004 for approval of the Court.²³

By Resolution²⁴ dated October 19, 2004, the Court resolved to adopt the recommendation of the OCA. On even date, a Hold Departure Order²⁵ was issued against Savadera, Landicho and Atty. Apusen.

Savadera, in a letter²⁶ filed with the OCA on November 18, 2004, acknowledged receipt of the October 19, 2004 Resolution and requested that she be allowed to determine how the ₱1,698,462.38 was arrived at and be given the chance to comment on the result of the audit report. She averred that she submitted an answer to the head of the audit team but did not admit that the cash shortages were due to her fault. She also requested that she be given ten days from receipt of the requested documents to comment on the October 19, 2004 Resolution.

Landicho, in her letter²⁷ dated November 22, 2004, stated that it would be unfair to direct her to restitute the amount of ₱1,698,462.38 when she only admitted responsibility for the amount of ₱80,000. She also alleged that there was no evidence to hold her responsible for the amount in excess of ₱80,000. As to the missing ORs that she was directed to account for, she claimed that she never received any of them; is not their custodian; and is

²² Id. at 13-15.

²³ Id. at 1-2.

²⁴ Id. at 38-40.

²⁵ Id. at 41-44.

²⁶ Id. at 45.

²⁷ Id. at 56-57.

not an accountable officer. She prayed that she be allowed to restitute ₱80,000 only; be spared from accounting for any of the missing ORs; and that her suspension from office be lifted.

Sayas, in her Motion for Reconsideration²⁸ dated November 24, 2004, alleged that she was merely constrained to receive payments and issue ORs in the absence of Savadera. She averred that the money was immediately remitted to Savadera to be deposited in Land Bank, Lipa City Branch. She claimed that she has no knowledge on how financial transactions are being undertaken. Sayas also added that the conduct of financial audit by the COA in February 2001 revealed a shortage in the JDF collection amounting to ₱200,000. Said shortage was paid using a rediscounted personal check which was later on paid using the collections under the JDF. Sayas contended that she was not an accountable officer and was clueless that such act was in violation of the accounting rules.

In Atty. Sarmiento's letter-explanation²⁹ dated November 2, 2004, she stated that concurrent with her position as Branch Clerk of Court, she was also appointed administrative officer. She had an agreement with then Executive Judge Jane Aurora C. Lantion that she would not be involved in the fiscal activities for the reason that there was no audit yet and the accountabilities of Atty. Apusen were yet to be determined. To the best of her abilities, she, together with Judge Lantion, monitored daily the transactions of the OCC, all of which appeared to be regular. She stated that the schemes of the three court personnel involved were evidently premeditated to ensure that the irregularities will not be discovered. She also noted that the familiarity of the three court personnel with the ins and outs of the transactions enabled them to make them appear regular and an outsider could easily be convinced that everything was in order. She likewise claimed that during her incumbency, she acted on all pending matters which needed action promptly and it was never her intention to be remiss in her duties as OIC but she can only do so much under the circumstances.

In a Resolution³⁰ dated January 25, 2005, the Court granted Savadera's request to inspect the pertinent documents in the determination of the shortages and submit her comment within 10 days from receipt thereof.

In a letter³¹ dated March 30, 2005, Landicho made a request similar to Savadera's. The same was granted by the Court by a Resolution³² dated May 10, 2005.

By letter³³ dated July 13, 2005, Savadera made another request this time that she be furnished copies of the audit report and other relevant

²⁸ Id. at 53-54.

²⁹ Id. at 213-215.

³⁰ Id. at 58-59.

³¹ Id. at 62.

³² Id. at 66-67.

³³ Id. at 68.

documents. This was again granted by the Court in a Resolution³⁴ dated August 9, 2005.

In another letter³⁵ dated October 5, 2005, Landicho requested that she be given 30 more days to file a comment as she received an eviction notice from the Government Service Insurance System. This request was again granted by the Court in a Resolution³⁶ dated November 8, 2005.

By letter³⁷ dated September 25, 2007, Sayas inquired about the status of the case and requested a copy of a resolution, if any. She reiterated said request in her letter³⁸ dated October 4, 2007.

On October 16, 2007, this Court resolved to

(a) **DENY WITH FINALITY** the Letter (by way of motion for reconsideration of the resolution of October 19, 2004) dated November 22, 2004 filed by Evelyn M. Landicho, Clerk III, RTC-OCC, Lipa City, and **REITERATE** the directive to file the required comment;

(b) **NOTE** the Letter dated September 25, 2007 filed by Concepcion Galotia-Sayas inquiring about the status of her case, and **GRANT** her request for a copy of [a] resolution in the above case, if any; and

(c) **GRANT** the Motion for Reconsideration of the resolution of October 19, 2004 filed by Concepcion Galotia-Sayas praying that the filing of the administrative and criminal cases against her be reconsidered.³⁹

For failure of Landicho to submit her comment despite the extensions granted to her, the Court resolved to require her to show cause why she should not be disciplinarily dealt with.⁴⁰ Instead of complying, however, she wrote another letter requesting another 30 days extension. This request was denied by the Court, but the Court gave her a non-extendible period of five days within which to submit her comment.⁴¹

On September 16, 2008, Landicho finally submitted her comment.⁴² She alleged that the controversy stemmed from the audit conducted by the Provincial Audit Group of Batangas City in 2001 when a shortage amounting to ₱230,000 was discovered. After the audit, since Savadera did not report for work, she was constrained to receive collections on Savadera's behalf. Her collections for the JDF amounted to ₱193,202.63 in check and

³⁴ Id. at 69.

³⁵ Id. at 70.

³⁶ Id. at 74.

³⁷ Id. at 82.

³⁸ Id. at 107.

³⁹ Id. at 90.

⁴⁰ Id. at 92.

⁴¹ Id. at 94-96.

⁴² Id. at 112-116.

₱30,000 in cash. Landicho claimed that she immediately turned over the collections to Savadera when the latter went back to work.

Landicho also narrated that in a previous letter dated March 23, 2004 to the head of the audit team, John Ferrera, she admitted that she convinced someone to convert the ₱193,202.63 check to cash upon the request of Sayas and Savadera. She likewise admitted that she deposited the proceeds of the converted check and her other collections totaling ₱200,000 to her newly opened account in the Development Bank of the Philippines, Lipa City branch. Thereafter, she immediately issued a check payable to cash which was properly endorsed by Savadera with the understanding that such amount will cover the cash shortage of their office. Subsequently, the audit team from the CMO-OCA conducted an examination in March 2004 and to her biggest surprise the audit uncovered a shortage amounting to ₱1,212,086.33.

Landicho admitted having borrowed ₱80,000 from the cash collection but this was with Savadera's consent. She further pointed out that it has been the practice of people in their office to borrow from the collections and Savadera even kept a list of all the loans, among which was that of Sayas who obtained a loan of around ₱200,000 for the construction of her house.

As to the missing ORs, Landicho denied any knowledge of their whereabouts or the circumstances leading to their loss.

In a Resolution⁴³ dated September 30, 2008, this Court recalled paragraph (c) of the October 16, 2007 Resolution granting Sayas' motion to reconsider the directive to the Legal Office, OCA to file the appropriate criminal charges against her. We also required Savadera to submit a comment. To date however, no comment from Savadera has been filed as the notice to her was returned and the Court is yet to receive a report regarding her current address.

In its Memorandum⁴⁴ dated July 13, 2012, the OCA recommended that:

1. Atty. Celso M. Apusen, former Clerk of Court VI, Office of the Clerk of Court, Regional Trial Court, Lipa City, Batangas, be found **GUILTY** of Dishonesty and Grave Misconduct and all his retirement benefits be ordered forfeited in favor of the government;
2. Atty. Celso M. Apusen be directed to **RESTITUTE** the amount of P1,823,725.91⁴⁵ for the shortages incurred in the Fiduciary Fund, Judiciary Development Fund, and the General Fund. Further, the Financial Management Office, Office of the Court Administrator, be **DIRECTED** to apply the monetary value of the total earned leave

⁴³ Id. at 119-120.

⁴⁴ Id. at 210-212.

⁴⁵ The amount was arrived at after deducting the amount of ₱260,218.18 or the monetary value of Atty. Apusen's leave credits as of January 31, 2003 from his total accountabilities amounting to ₱2,083,944.09. Id. at 201-202.

credits of Atty. Apusen, dispensing with the documentary requirements, to the incurred shortage in the Fiduciary Fund in the Office of the Clerk of Court, Regional Trial Court, Lipa City, Batangas;

3. Ms. Donabel M. Savadera, Cash Clerk II, Office of the Clerk of Court, Regional Trial Court, Lipa City, Batangas be held administratively liable and be **DISMISSED** from the service effective immediately for Dishonesty and Grave Misconduct and that all her monetary benefits be ordered forfeited in favor of the Judiciary Development Fund, with prejudice to reemployment in any government office, including government-owned and controlled corporations;
4. Ms. Ma. Evelyn M. Landicho, Clerk III, Office of the Clerk of Court, Regional Trial Court, Lipa City, Batangas be held administratively liable and be **DISMISSED** from the service effective immediately for Dishonesty and Grave Misconduct and that all her monetary benefits be ordered forfeited in favor of the Judiciary Development Fund with prejudice to reemployment in any government office, including government-owned and controlled corporations;
5. Ms. Concepcion G. Sayas (now Concepcion Duma[n]geng Galotia), Social Worker, Office of the Clerk of Court, Regional Trial Court, Lipa City be held administratively liable and be **DISMISSED** from the service effective immediately for Dishonesty and Grave Misconduct and her retirement benefits be ordered forfeited in favor of the Judiciary Development Fund, with prejudice to reemployment in any government office, including government-owned and controlled corporations;
6. Mesdames Donabel M. Savadera, Ma. Evelyn M. Landicho and Concepcion G. Sayas (now Concepcion Duma[n]geng Galotia) be directed to **RESTITUTE** the amount of P1,365,475.12⁴⁶ representing the shortages in the Judiciary Development Fund, Special Allowance for the Judiciary Fund and the General Fund. Further, the Financial Management Office, Office of the Court Administrator be **DIRECTED** to apply the monetary value of the total earned leave credits of Donabel M. Savadera, Ma. Evelyn M. Landicho and Concepcion G. Sayas (now Concepcion Duma[n]geng Galotia), dispensing with the documentary requirements, to the incurred shortage in the Judiciary Development Fund; and
7. The Legal Office, Office of the Court Administrator be **DIRECTED** to proceed with the filing of the appropriate criminal cases against Atty. Celso M. Apusen, Donabel M. Savadera, Ma. Evelyn M. Landicho and Concepcion G. Sayas (now Concepcion Duma[n]geng Galotia).⁴⁷

As regards respondent Sarmiento, the OCA noted that records show that the Fiscal Monitoring Division, OCA previously cleared respondent Sarmiento of any financial accountability when she transferred to the Department of Justice on October 4, 2005 on account of the Joint Affidavit

⁴⁶ The amount was arrived at after deducting the monetary value of the leave credits of respondent Savadera (P31,228.43), respondent Landicho (P75,644.57), respondent Sayas (P226,114.26) from the total amount of their accountabilities (P1,698,462.38). Id.

⁴⁷ Id. at 211-212.

executed by Savadera, Sayas and Landicho on March 16, 2004 which absolved respondent Sarmiento from any financial accountability. Thus the OCA recommended that she be cleared of any liability in connection with the present administrative matter.

We agree with the recommendations of the OCA.

As to Atty. Apusen, we agree with the OCA that he failed to exercise his duties as clerk of court. As clerk of court, he is primarily accountable for all funds collected for the court, whether personally received by him or by a duly appointed cashier who is under his supervision and control. As custodian of court funds, revenues, records, properties and premises, he is liable for any loss, shortage, destruction or impairment of said funds and properties.⁴⁸

Despite a directive from the Court for him to restitute the shortages and account for the missing ORs discovered for the period over which he was accountable, he did not bother to file a comment to dispute the same. The natural instinct of man impels him to resist an unfounded claim or imputation and defend himself. It is totally against our human nature to just remain reticent and say nothing in the face of false accusations. Hence, silence in such cases is almost always construed as implied admission of the truth thereof.⁴⁹ We can only interpret Atty. Apusen's continued silence as an acknowledgment of the truthfulness of the charges against him. Moreover, his failure to remit these collections upon demand by the Court constitutes *prima facie* evidence that he has put such missing funds to personal use.⁵⁰ Atty. Apusen's failure to comply with the order of restitution constitutes gross dishonesty⁵¹ which this Court cannot countenance.

We likewise agree with the OCA's finding on Savadera's liability. Being a cash clerk, Savadera is an accountable officer entrusted with the great responsibility of collecting money belonging to the funds of the court.⁵² Clearly, she miserably failed in such responsibility upon the occurrence of the shortages. Moreover, like Atty. Apusen, after a mere denial of her liability on the incurred shortages after she received a copy of the October 19, 2004 Resolution, she did not anymore file a comment despite the fact that the Court granted her request to inspect the audit documents before she will file her comment. Worse, records show that she has already left her last known address and the Court is yet to receive a update as to her current address. We can only interpret this as Savadera's way of evading her liability. Her flight is a clear indication of her guilt.⁵³

⁴⁸ *Office of the Court Administrator v. Villanueva*, A.M. No. P-04-1819, March 22, 2010, 616 SCRA 257, 266-267.

⁴⁹ *Grefaldeo v. Judge Lacson*, 355 Phil. 266, 271 (1998).

⁵⁰ *Office of the Court Administrator v. Recio*, A.M. No. P-04-1813, May 31, 2011, 649 SCRA 552, 567.

⁵¹ *Office of the Court Administrator v. Remoroza*, A.M. Nos. P-05-2083 & P-06-2263, September 6, 2011, 656 SCRA 740, 745.

⁵² *Office of the Court Administrator v. Recio*, supra note 50, at 571.

⁵³ *Office of the Court Administrator v. Bernardino*, 490 Phil. 500, 531 (2005).

As to Landicho, though it was not among her official duties to receive court collections, this cannot exempt her from liability. Having handled court funds, she is deemed an accountable officer who should answer for the shortages that occurred.⁵⁴ Moreover, she admitted to having taken ₱80,000 from her collections, a clear case of malversation.

As to respondent Sayas, she cannot escape liability by simply claiming that she is a mere social worker who has no knowledge of accounting rules. While she shifts liability to Savadera and Landicho, she admitted that she was aware as early as February 2001 that there was a shortage. However, Sayas kept mum about the discovered shortage and did not report it to the court.

Time and again, we have held that no position demands greater moral righteousness and uprightness from its holder than a judicial office. Those connected with the dispensation of justice, from the highest official to the lowliest clerk, carry a heavy burden of responsibility. As frontliners in the administration of justice, they should live up to the strictest standards of honesty and integrity. They must bear in mind that the image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women who work there.⁵⁵

Respondents Apusen, Savadera, Landicho, and Sayas failed to offer a valid explanation as to how or why the shortages occurred or where the missing ORs are. Either they kept silent or just pointed fingers at each other. The long delay in the remittance of the court's funds, as well as the unexplained shortages that remained unaccounted for, raises grave doubts regarding their trustworthiness and integrity. Their failure to remit the funds in due time constitutes gross dishonesty and gross misconduct. It diminishes the faith of the people in the Judiciary. Dishonesty, being in the nature of a grave offense, carries the extreme penalty of dismissal from the service even if committed for the first time.⁵⁶ As provided under the Uniform Rules on Administrative Cases in the Civil Service, forfeiture of retirement benefits was likewise properly recommended by the OCA.

WHEREFORE, respondent Atty. Celso M. Apusen, former Clerk of Court VI, Office of the Clerk of Court, Regional Trial Court, Lipa City, Batangas is found liable for gross dishonesty and grave misconduct. In view of his retirement from the service, a fine of ₱20,000 is imposed on him. All his retirement benefits are **FORFEITED** in favor of the government, with prejudice to his reemployment in any branch or instrumentality of the government, including government-owned and -controlled corporations. He is further ordered to **RESTITUTE** the amount of ₱1,823,725.91 for the shortages incurred in the Fiduciary Fund, Judiciary Development Fund, and

⁵⁴ See *Office of the Court Administrator v. Laya*, 550 Phil. 432, 443 (2007).

⁵⁵ *Office of the Court Administrator v. Nacuray*, 521 Phil. 32, 38 (2006).

⁵⁶ See *Office of the Court Administrator v. Caballero*, A.M. No. P-05-2064, March 2, 2010, 614 SCRA 21, 39.

the General Fund. Further, the Financial Management Office, Office of the Court Administrator, is **DIRECTED** to apply the monetary value of the total earned leave credits of Atty. Apusen, dispensing with the documentary requirements, to the incurred shortage in the Fiduciary Fund in the Office of the Clerk of Court, Regional Trial Court, Lipa City.

Respondents Donabel M. Savadera, Cash Clerk II, Ma. Evelyn M. Landicho, Clerk III, and Concepcion G. Sayas (now Concepcion Dumangeng Galotia), Social Worker, all of the Office of the Clerk of Court, Regional Trial Court, Lipa City, Batangas, are found liable for gross dishonesty and grave misconduct and are **DISMISSED** from the service effective immediately. All their monetary benefits are **FORFEITED** in favor of the government and their dismissal is held to be with prejudice to reemployment in any government office, including government-owned and -controlled corporations. They are further ordered to **RESTITUTE** the amount of ₱1,365,475.12 representing the shortages in the Judiciary Development Fund, Special Allowance for the Judiciary Fund and the General Fund. Further, the Financial Management Office, Office of the Court Administrator, is **DIRECTED** to apply the monetary value of the total earned leave credits of respondents Donabel M. Savadera, Ma. Evelyn M. Landicho and Concepcion G. Sayas (now Concepcion Dumangeng Galotia), dispensing with the documentary requirements, to the incurred shortage in the Judiciary Development Fund in the Office of the Clerk of Court, Regional Trial Court, Lipa City, Batangas. If the monetary value of their leave credits is insufficient, Savadera, Landicho and Sayas are **DIRECTED** to pay, jointly and severally, in cash the resulting deficiency.

The Legal Office, Office of the Court Administrator, is likewise **DIRECTED** to proceed with the filing of the appropriate criminal cases against Atty. Celso M. Apusen, Donabel M. Savadera, Ma. Evelyn M. Landicho and Concepcion G. Sayas (now Concepcion Dumangeng Galotia).

Atty. Sheila Angela P. Sarmiento is hereby **CLEARED** of any liability for the shortages incurred by Savadera, Landicho and Sayas in judiciary funds during her period as Officer-in-Charge, Office of the Clerk of Court, Regional Trial Court, Lipa City, Batangas.

This Decision is immediately **EXECUTORY**.

SO ORDERED.



MARIA LOURDES P. A. SERENO
Chief Justice



ANTONIO T. CARPIO
Associate Justice

No part due to relationship to a party

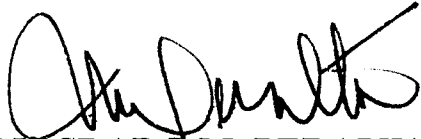
PRESBITERO J. VELASCO, JR.
Associate Justice



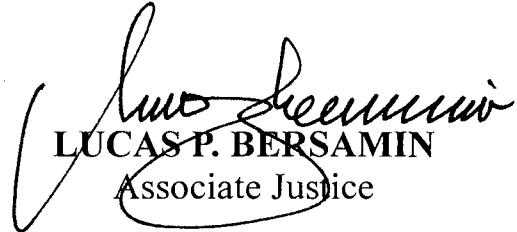
TERESITA J. LEONARDO-DE CASTRO
Associate Justice



ARTURO D. BRION
Associate Justice



DIOSDADO M. PERALTA
Associate Justice



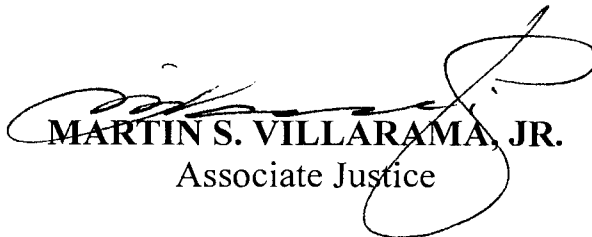
LUCAS P. BERSAMIN
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice

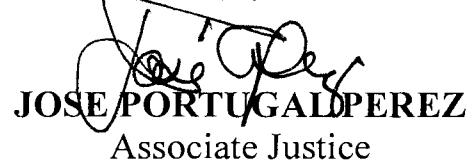


ROBERTO A. ABAD
Associate Justice



MARTIN S. VILLARAMA, JR.
Associate Justice

No part. Acted on matter at DCA.



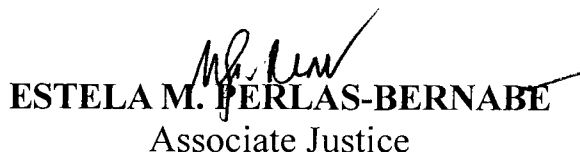
JOSE PORTUGAL PEREZ
Associate Justice



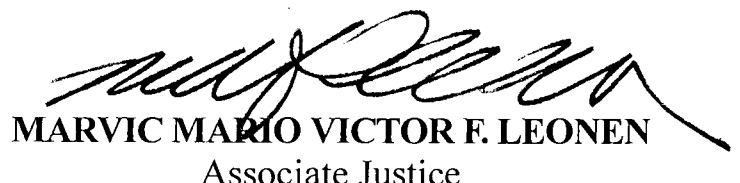
JOSE CATRAL MENDOZA
Associate Justice



BIENVENIDO L. REYES
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice



MARVIC MARIO VICTOR F. LEONEN
Associate Justice