



Republic of the Philippines  
**Supreme Court**  
 Manila

**FIRST DIVISION**

**THE OFFICE OF THE COURT  
 ADMINISTRATOR,**  
 Complainant,

**A.M. No. P-12-3074**  
 (Formerly A.M. No. 12-6-48-  
 MCTC)

Present:

- versus -

SERENO, C.J.,  
*Chairperson,*  
 LEONARDO-DE CASTRO,  
 BERSAMIN,  
 VILLARAMA, JR., and  
 REYES, JJ.

**CLARITA R. PEREZ, CLERK OF  
 COURT II, MUNICIPAL CIRCUIT  
 TRIAL COURT, SAN TEODORO-  
 BACO-PUERTO GALERA,  
 ORIENTAL MINDORO,**  
 Respondent.

Promulgated:

**MAR 17 2014**

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**RESOLUTION**

**REYES, J.:**

This administrative case stemmed from the financial audit report<sup>1</sup> dated June 20, 2012 of the Court Management Office, Office of the Court Administrator (CMO-OCA) on the books of accounts of Clarita R. Perez (respondent), Clerk of Court II, of the Municipal Circuit Trial Court (MCTC) of San Teodoro-Baco-Puerto Galera, Oriental Mindoro covering the accountability period of July 1, 2009 to March 31, 2012. The audit was prompted by the respondent's non-remittance of collections and non-submission of her monthly financial reports.

<sup>1</sup> Rollo, pp. 3-9.

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The report revealed that the respondent incurred cash inventory shortages amounting to ₱34,313.80 due to undeposited collections from October 2011 to April 23, 2012. She also incurred shortages in collected fees and under-remittances in the following amounts:

Judiciary Development Fund (JDF)	-	₱ 27,040.00
Special Allowance for the Judiciary Fund (SAJF)	-	₱ 28,872.00
Mediation Fund	-	₱ 24,500.00
Fiduciary Fund	-	<u>₱ 71,000.00</u>
Total	-	₱ 151,412.00

In the course of the audit, the respondent's other infractions were discovered. She failed to collect, as well as issue receipts, for all marriages solemnized by Honorable Edgardo M. Padilla (Judge Padilla), Presiding Judge of the MCTC of San Teodoro, resulting in the uncollected total amount of ₱11,400.00. The respondent also failed to issue and collect receipts for all documents notarized by Judge Padilla yielding a total uncollected amount of ₱42,100.00 which should be deposited to the SAJF account. She further failed to collect and issue receipts for the cash bond fee of twenty-eight (28) criminal cases which if collected and receipted will generate the amount of ₱13,800.00, the ₱8,400.00 portion of which shall be deposited to the SAJF account while the remaining ₱5,400.00 shall be deposited to the JDF account. She likewise failed to submit her Monthly Reports of Collections, Deposits and Withdrawals.

On April 25, 2012, or merely two days after the cash count made by the audit team, the respondent remitted her shortages for the JDF, SAJF and Mediation Fund.<sup>2</sup> The uncollected marriage solemnization fees were likewise paid the same day.<sup>3</sup>

In a Resolution<sup>4</sup> dated July 9, 2012, the Court, adopting the recommendations of the OCA, ordered that the report be docketed as a regular administrative case, that the respondent be suspended pending the resolution thereof and that she pay a ₱10,000.00 fine. She was also directed to explain her infractions and to pay and deposit the following amounts to their specific accounts, *viz*:

- (a) unearned interest of ₱11,216.78 computed at six percent (6%) *per annum* for the following judiciary funds which she belatedly deposited:

<sup>2</sup> Id. at 10.

<sup>3</sup> Id. at 22.

<sup>4</sup> Id. at 23-25.

<b>Fund</b>	<b>Amount</b>
JDF	₱4,491.63
SAJF	₱6,725.15
<b>Total</b>	<b>₱11,216.78</b>

(b) ₱42,100.00 representing uncollected and unreceipted amount of notarial fees to the SAJF; and

(c) ₱8,400.00 to the JDF and ₱5,400.00 to the SAJF representing uncollected and unreceipted cash bond fees in the criminal cases filed before the MCTC.

On September 6, 2012, the respondent filed her explanation<sup>5</sup> stating that she failed to remit her collections on time because she had to attend to her brother who was diagnosed with brain tumor. She admitted converting part of her court collections for his medical expenses. Her brother died on February 25, 2011 and she used the proceeds of his insurance to pay for the converted amounts. She promised that a similar infraction will not be repeated. She declared that she has already complied with the Court Resolution dated July 9, 2012 by paying and depositing the amounts stated therein and by submitting her Monthly Reports of Collections, Deposits and Withdrawals. Attached to the explanation were proofs of the deposits made by the respondent.

On February 15, 2012, the respondent filed before the OCA a Motion for Early Resolution<sup>6</sup> praying that her suspension be lifted and her withheld salaries be released in view of her complete compliance with all the directives of the Court by depositing the following amounts:

a) FIVE THOUSAND SIX HUNDRED PESOS (₱5,600.00) on May 21, 2012 in SAJF Account No. 0591174428 as payment for the ₱5,400.00 uncollected and unreceipted cash bond fees;

b) EIGHT THOUSAND ONE HUNDRED PESOS (₱8,100.00) on May 21, 2012 in JDF Account No. 0591011634 as partial payment for the ₱8,400.00 uncollected and unreceipted cash bond fees;

c) THREE HUNDRED PESOS (₱300.00) on September 17, 2012 in JDF Account No. 0591011634 as full payment of the ₱8,400.00 uncollected and unreceipted cash bond fees;

<sup>5</sup> Id. at 26.

<sup>6</sup> Id. at 64-65.

d) ELEVEN THOUSAND TWO HUNDRED TWENTY PESOS (₱11,220.00) on September 4, 2012 in JDF Account No. 0591011634 as payment for the ₱11,216.78 unearned interest;

e) FORTY-TWO THOUSAND ONE HUNDRED PESOS (₱42,100.00) on September 6, 2012 in SAJF Account No. 0591174428 for the uncollected and unreceipted notarial fees; and

f) TEN THOUSAND PESOS (₱10,000.00) on September 18, 2012 in JDF Account No. 0591011634 as payment for the fine imposed.

The respondent alleged that the Fiscal Monitoring Division, CMO-OCA has issued a Certification<sup>7</sup> dated February 8, 2013 confirming the above restitutions. In the same motion, she admitted failing to submit her reports and deposit her collections on time. She begged for compassion and leniency considering that this is her first infraction in her entire 37 years of government service.

In a Resolution<sup>8</sup> dated September 18, 2013, the Court referred the matter to the OCA for evaluation, report and recommendation. On February 4, 2014, the OCA submitted its Memorandum<sup>9</sup> finding the respondent guilty of misconduct for her failure to timely remit the judiciary funds in her custody and submit the Monthly Reports of Collections, Deposits and Withdrawals. The OCA recommended that a ₱40,000.00 fine be imposed upon the respondent and that she be sternly warned that the commission of similar acts in the future will be dealt with more severely.

### **The Court Ruling**

The Court agrees with the findings and recommendations of the OCA.

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. 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 faithfully

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<sup>7</sup> Id. at 68.

<sup>8</sup> Id. at 86-87.

<sup>9</sup> Id. at 88-98.

perform their duties makes them liable for any loss, shortage, destruction or impairment of such funds and property.<sup>10</sup>

Under the Supreme Court (SC) Circular No. 13-92, clerks of courts are mandated to immediately deposit their fiduciary collections upon receipt thereof, with an authorized government depository bank. Section 3, in relation to Section 5 of SC Administrative Circular No. 5-93, specifically designates the Land Bank of the Philippines (LBP) as the authorized government depository of the JDF. The provision reads:

3. Duty of the Clerks of Court, Officers-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 Judiciary Development Fund collections, issue the proper receipt therefor, maintain a separate cash book properly marked x x x, deposit such collections in the manner herein prescribed and render the proper Monthly Report of Collections for said Fund.

x x x x

5. Systems and Procedures:

x x x x

c. In the RTC, SDC, MeTC, MTCC, MTC, MCTC and SCC. – The daily collections for the Fund in these courts shall be deposited every day with the local or nearest LBP branch “For the account of the Judiciary Development Fund, Supreme Court, Manila Savings Account No. 159-01163-1; or if depositing daily is not possible, deposits [of] the Fund shall be every second and third Fridays and at the end of every month, provided, however, that whenever collections for the Fund reach ₱500.00, the same shall be deposited immediately even before the days above indicated.

Where there is no LBP branch at the station of the judge concerned, the collections shall be sent by postal money order payable to the Chief Accountant of the Supreme Court, at the latest before 3:00 P.M. of that particular week.

x x x x

d. Rendition of Monthly Report. – Separate “Monthly Report of Collections” shall be regularly prepared for the Judiciary Development Fund, which shall be submitted to the Chief Accountant of the Supreme Court within ten (10) days after the end of every month, together

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<sup>10</sup> *Office of the Court Administrator v. Elumbaring*, A.M. No. P-10-2765, September 13, 2011, 657 SCRA 453, 461-462.

with the duplicate of the official receipts issued during such month covered and validated copy of the Deposit Slips.

The aggregate total of the Deposit Slips for any particular month should always equal to, and tally with, the total collections for that month as reflected in the Monthly Report of Collections.

If no collection is made during any month, notice to that effect should be submitted to the Chief Accountant of the Supreme Court by way of a formal letter within ten (10) days after the end of every month.

In the present case, not only did the respondent incur delay in the remittance of her fiduciary collections but she also used the money for her personal use.

While the Court empathizes with the respondent in her predicament concerning her brother's medical needs, her wrongdoing cannot be excused. As custodian of the court's funds and revenues, she was entrusted with the primary responsibility of correctly and effectively implementing regulations regarding fiduciary funds. She was an accountable officer entrusted with the great responsibility of collecting money belonging to the funds of the court. She was, therefore, liable for any loss, shortage, destruction, or impairment of said funds and property.<sup>11</sup> She was not supposed to keep those funds in her possession or worse appropriate them for her personal use.

The respondent should have diligently observed SC Circular No. 13-92. Since there was no LBP branch near the court's station and the nearest branch is located an hour away in Calapan City, the respondent should have deposited the funds *via* Postal Money Order (PMO). According to the report of the CMO-OCA audit team, the respondent attributed the delay in the remittance of her fiduciary collections to the non-availability of PMOs in the Local Post Office of San Teodoro, Oriental Mindoro. However, the audit team was able to verify from the Local Postmaster that PMOs are always available. Stocks of PMOs run out only when the amount to be deposited reaches the maximum allowable amount of ₱10,000.00. Further, according to the Local Post Office, "as soon as the PMOs are exhausted, replenishment of the same is done immediately *via* the Post Office of Calapan City, which takes not more than a month."

The respondent's subsequent restitution of the amounts did not alter the fact that she was remiss in the discharge of her duties. Shortages in the amounts to be remitted and the years of delay in the actual remittance

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<sup>11</sup> *Office of the Court Administrator v. Fontanilla*, A.M. No. P-12-3086, September 18, 2012, 681 SCRA 17, 23-24.

constitute gross neglect of duty for which the clerk of court shall be administratively liable.<sup>12</sup>

By failing to timely remit the cash collections constituting public funds, she violated the trust reposed in her as disbursement officer of the Judiciary.<sup>13</sup> Delay in the remittance of collection is a serious breach of duty. It deprives the Court of the interest that may be earned if the amounts are promptly deposited in a bank. It constitutes dishonesty which carries the extreme penalty of dismissal from the service even if committed for the first time.<sup>14</sup>

However, jurisprudence on administrative cases abounds with instances wherein the Court has refrained from imposing the actual penalties in view of mitigating circumstances. Certain conditions such as length of service, the respondent's acknowledgement of his or her transgressions and feeling of remorse, family circumstances, humanitarian and equitable considerations have altered the implications of a respondent's infractions.<sup>15</sup>

Likewise, it has been a guiding principle for the Court that where a penalty less punitive would suffice, whatever missteps may be committed by labor ought not to be visited with a consequence so severe. It is not only for the law's concern for the workingman; there is, in addition, his family to consider. Unemployment brings untold hardships and sorrows on those dependent on wage earners.<sup>16</sup>

Prior to this administrative case, the respondent's 37 years of government service is unblemished. She expressed remorse over her transgressions. She gave her full cooperation to the audit team and she was able to produce the shortages in her cash collections immediately upon demand. Hence, as correctly proposed by the OCA and following verdict in the recent case of *Office of the Court Administrator v. Fontanilla*,<sup>17</sup> a fine of ₱40,000.00 is an appropriate penalty.

**WHEREFORE**, the Court finds Clarita R. Perez, Clerk of Court II, Municipal Circuit Trial Court, San Teodoro-Baco-Puerto Galera, Oriental Mindoro, **GUILTY** of grave misconduct for her failure to make timely remittance of judiciary funds in her custody, and to timely submit her Monthly Reports of Collections, Deposits and Withdrawals. Accordingly,

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<sup>12</sup> *Report on the Financial Audit Conducted on the Books of Accounts of the Municipal Circuit Trial Court, Mondragon-San Roque, Northern Samar*, A.M. No. P-09-2721, February 16, 2010, 612 SCRA 509, 531.

<sup>13</sup> *Supra* note 10, at 464.

<sup>14</sup> *Supra* note 11, at 24.

<sup>15</sup> *See Office of the Court Administrator v. Aguilar*, A.M. No. RTJ-07-2087, June 7, 2011, 651 SCRA 13, 25-29; *Arganosa-Maniego v. Salinas*, A.M. No. P-07-2400, June 23, 2009, 590 SCRA 531, 544-545; *De Guzman, Jr. v. Mendoza*, 493 Phil. 690 (2005).

<sup>16</sup> *Arganosa-Maniego v. Salinas*, *id.* at 547.

<sup>17</sup> A.M. No. P-12-3086, September 18, 2012, 681 SCRA 17.

the Court hereby orders her to **PAY** a FINE of ₱40,000.00 with a **STERN WARNING** that a repetition of the same or similar act will be dealt with more severely.

The Finance Division, Fiscal Management Office, Office of the Court Administrator, is **DIRECTED** to **RELEASE** the withheld salary of Clarita R. Perez after deducting therefrom the amount representing the payment of the fine.

**SO ORDERED.**

  
**BIENVENIDO L. REYES**  
Associate Justice

**WE CONCUR:**

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice  
Chairperson

  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

  
**LUCAS P. BERSAMIN**  
Associate Justice

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