



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

OFFICE OF THE COURT
ADMINISTRATOR,

Complainant,

A.M. No. P-15-3335

[Formerly A.M. No. 15-04-98-RTC]

Present:

- versus -

CARPIO,* J.,
PERALTA,** *Acting Chairperson*,
MENDOZA,
LEONEN, and
MARTIRES, JJ.

ATTY. JEROME B. BANTIYAN,
Clerk of Court VI and ERLINDA
G. CAMILO, former OIC/Court
Interpreter, both of the Regional
Trial Court, Branch 34, Banaue,
Ifugao,

Respondents.

Promulgated:

28 JUN 2017

X ----- *H. Cabalag* ----- X

DECISION

MENDOZA, J.:

This administrative case stemmed from a Financial Audit conducted by the Financial Monitoring Division (*FMD*), Court Management Office (*CMO*), Office of the Court Administrator (*OAS*) on the books of accounts of the Regional Trial Court, Branch 34, Banaue, Ifugao (*RTC*).

The audit was conducted due to the failure of Atty. Jerome B. Bantiyan (*Atty. Bantiyan*), Clerk of Court VI, RTC, to update his financial reports in violation of Circular No. 50-95. The audit covered the period of accountability of Erlinda G. Camilo (*Camilo*), former Officer-in-Charge-Clerk of Court from April 1, 2011 to February 9, 2012 and of Atty. Bantiyan from February 10, 2012 to November 8, 2013.

* On Official Leave.

** Per Special Order No. 2445 dated June 16, 2017.

The Report¹ of the audit team disclosed that both Camilo and Atty. Bantiyan incurred shortages in the various funds of the court. An examination of the Fiduciary Fund (*FF*) revealed that Atty. Bantiyan incurred a shortage amounting to ₱211,000.00, thus, depriving the Court of unearned interest in the amount of ₱9,215.84. On the Judiciary Development Fund (*JDF*), it was found that both Atty. Bantiyan and Camilo incurred shortages in the amounts of ₱7,140.25 and ₱580.00, respectively, due to over/under remittances. With respect to the Special Allowance for the Judiciary Fund (*SAJF*), Atty. Bantiyan and Camilo sustained deficiencies amounting to ₱11,437.40 and ₱760.00, respectively, due to under-remittances. Lastly, on the Mediation Fund (*MF*), Atty. Bantiyan incurred a shortage of ₱1,976.00 as a result of over and under remittances of his collections, while Camilo's shortage amounting to ₱2,000.00 was due to unremitted collections for the months of June 2011 and February 2012 amounting to ₱500.00 and ₱1,500.00, respectively.

The shortages were immediately restituted by Atty. Bantiyan and Camilo as shown by the Land Bank Deposit Slips,² dated November 12 and 13, 2013. The shortages incurred by Atty. Bantiyan and Camilo were summarized as follows:

Fund	Shortages	Restitutions		Balance
		Date	Amount	
Respondent Bantiyan				
FF	211,000.00	11/12/13	211,000.00	0.00
JDF	7,140.25	11/12/13	8,202.05	(1,061.80)
SAJF	11,437.40	11/12/13	5,415.97	
		11/13/13	6,021.43	0.00
MF	1,976.00	11/12/13	8,530.00	(6,554.00)
VCF	125.00	11/12/13	70.00	
		11/13/13	55.00	0.00
LRF ³	2,280.00	11/12/13	2,350.00	(70.00)
Total	233,958.65		241,644.45	(7,685.80)
Respondent Camilo				
JDF	580.00	11/13/13	580.00	0.00
SAJF	760.00	11/13/13	760.00	0.00

¹ *Rollo*, pp. 5-16

² *Id.* at 28-35.

³ Legal Research Fund.

MF	2,000.00	11/13/13	2,000.00	0.00
LRF	1,167.10	11.13.13	1,168.10	(0.90)
Total	4,507.10		4,508.10	(0.90)⁴

The audit team claimed that Atty. Bantiyan may have misappropriated his judiciary collections for his personal use because when the audit team required him to produce the total shortage of ₱233,958.65, he presented only the amount of ₱650.00.

The audit likewise disclosed that Camilo and Atty. Bantiyan had been remiss in the submission of the Monthly Reports and they had not been updating entries in the official cashbooks of each fund.

Further, the audit team discovered that the RTC had no collection for the Sheriff's Trust Fund (*STF*) as certified by Atty. Bantiyan, a violation of Section 10 of the Amended Administrative Circular No. 35-2004.

Thus, in a Resolution,⁵ dated July 15, 2015, the Court, upon the recommendation of the OCA, ordered as follows:

1. **DOCKET** this report as a regular administrative matter against Atty. Jerome B. Bantiyan and Ms. Erlinda G. Camilo, Clerk of Court VI and former OIC/Court Interpreter, both of the RTC, Banaue, Ifugao for violation of OCA Circular No. 50-95, Circular No. 32-93, Administrative Circular No. 3-2000, OCA Circular No. 113-2004, and Amended Administrative Circular No. 35-2004;

2. **DIRECT** Atty. Jerome B. Bantiyan, Clerk of Court VI, RTC, Banaue, Ifugao to **EXPLAIN** the following findings:

a. Failure to present during the cash examination on 11 November 2013 the undeposited collections totaling ₱233,958.65;

b. Non-remittances and/or delayed remittances of the following judiciary collections:

Fund	Shortages
FF	211,000.00
JDF	7,140.25
SAJF	11,437.40
MF	1,976.00

⁴ Id. at 479.

⁵ Id. at 43-45.

VCF	125.00
LRF	2,280.00
Total	233,958.65

c. Non-Submission of Monthly Reports and failure to update the Official Cash Book which is a clear violation of Circular No. 32-93 and OCA Circular No. 113-2004;

Fund	Deficient Reports
Fiduciary Fund	No reports
Judiciary Development Fund	December 2012 – October 2013
Mediation Fund	No reports

d. Failure to collect the required One Thousand Pesos (₱1,000.00) Sheriff's Trust Fund for every civil case filed in court pursuant to Section 10 of the Amended Administrative Circular No. 35-2004.

3. **DIRECT** Ms. Erlinda G. Camilo, former OIC/Court Interpreter, RTC, Banaue, Ifugao, to **COMMENT** on the following audit findings:

a. Non-remittances and/or delayed remittances of the following judiciary collections:

Fund	Shortages
JDF	580.00
SAJF	760.00
MF	2,000.00
LRF	1,167.10
Total	4,507.10

b. Non-submission of Monthly Reports and failure to update the Official Cash Book which is a clear violation of Circular No. 32-93 and OCA Circular No. 113-2004.

Fund	Deficient Reports
Fiduciary Fund	No reports
Mediation Fund	No reports

4. **DIRECT** Mr. Jonathan D. Nasdoman, Clerk II and designated financial accountable officer, RTC, Banaue, Ifugao to:

a. **COLLECT** the mandatory One Thousand Pesos (₱1,000.00) Sheriff's Trust Fund for every civil case filed in court pursuant to Section 10 of the Amended Administrative

Circular No. 35-2004 and **STRICLY ADHERE** with the procedural guidelines in the handling of the Sheriff's Trust Fund;

b. **OPEN** a separate account for the Sheriff's Trust Fund in line with the OCA Circular No. 99-2014 dated 31 July 2014, Re: Reduction of Initial/Opening Deposit and Maintaining Balance of Regular Savings Account from ₱10,000.00 to ₱1,000.00 for the Fiduciary and Sheriff's Trust Fund Accounts;

c. **UPDATE** regularly the recording of financial transactions for each fund in the official cashbooks and **CERTIFY** at the end of every month the correctness of entries therein; and

d. **STERNLY ADHERE** and **FOLLOW** the issuances of the Court on the proper handling and reporting of judiciary funds, particularly the prescribed period within which to remit court collections as well as the proper collection and allocation of [filing] fees; and

5. **DIRECT** Hon. Ester P. Flor to **MONITOR** the financial transactions of the RTC, Banaue, Ifugao, to ensure strict observance of the issuances of the Court in order to avoid any irregularity in the collections, deposits and withdrawals/disbursements of court funds.⁶

Explanation of Camilo

In a Letter,⁷ dated January 15, 2016, Camilo explained that her shortages in the JDF, SAJF, MF, and Legal Research Fund (*LRF*) were due to oversight and miscalculation. She explained that she computed the collections based on the official receipts issued for the current month and collected from the issuer without reference to the previous reports; that the funds were not re-calculated because she presumed that the amounts she received were exact for deposits; and, that the *LRF* receipted collections were not included in the computation because she thought that the collections were less than ₱100.00.

On her failure to update the cashbook, Camilo averred that the cashbooks were not monitored because she confidently relied on Jonathan Nasdoman (*Nasdoman*) who was in charge of the entries during the time of Atty. Dennis Dimalnat. She stated that the entries in the cashbooks were completed just after the conclusion of the audit.

⁶ Id. at 43-45.

⁷ Id. at 46-56.

On the failure to submit the monthly reports, Camilo alleged that she had submitted the reports by mail to the OCA and even showed to the audit team the office files which they used as basis for comparison with the official receipts issued monthly. She attached a machine copy of the registry receipts to prove that the reports were actually mailed to the proper office.

Explanation of Atty. Bantiyan

For his part, Atty. Bantiyan narrated that when he assumed office in January 2012, the staff was uncooperative, unruly and resistant, making it hard for him to attend with dispatch to the clerical aspect of a financial accountable officer. Further, Nasdoman, who was in-charge of the financial matters, begged to be relieved of the financial responsibility because of health reasons. Thus, Atty. Bantiyan had no choice but to assume the bulk of the work as no one in the staff was willing to help. It was then that he discovered that Nasdoman was not preparing the financial reports and updating the cashbooks. According to him, he immediately instructed Camilo and Nasdoman to accomplish the reports and update the cashbooks, but they were not able to comply soon enough so he decided to update the cashbooks and draft the reports himself.

On his failure to present the undeposited collections totaling ₱233,958.65, Atty. Bantiyan denied that he misappropriated the said amount. He explained that during the audit, he readily admitted to the audit team leader that the collection was in his possession. He also informed the audit team leader that it was not his practice to keep a large amount of money in the office because the safety vault therein was being utilized to store the object evidence submitted in court and it was usually full. When the new cabinet with safety vault was delivered in 2012, the key attached on its top was missing. Atty. Bantiyan further explained that he was not able to get the money from Lagawe and present it to the audit team leader because he could not leave the office as he was busy attending to the audit team. He averred that he no longer brought the money to the court the following day as he opted to deposit the same with the Land Bank of the Philippines (*LBP*) and he just presented the deposit slips to the audit team.

Atty. Bantiyan asserted that daily deposit with the bank was not possible because the court was understaffed; that the LBP-Lagawe branch was an hour away; and that it usually took thirty (30) minutes to one (1) hour of waiting before a public utility vehicle would be available. He added that the Lagawe-Banaue road was not safe due to the incidents of highway robberies, and, in fact, the municipal treasurer of Banaue was robbed of ₱800,00.00 while on his way to the court to pay the salaries of the LGU staff. Thus, he devised a way to keep the money safe until it was deposited in the LBP.

On the failure to collect the ₱1,000.00 STF, Atty. Bantiyan averred that he was made aware of it only during the Orientation Seminar for Clerks of Court; and that when he assumed office in January 2012, there was no record of such STF being collected because the court was created only in 1995. He said that when he found out about the STF, he talked to the Presiding Judge, but he was told that the court did not have the required amount of ₱10,000.00 to open a STF account and that he could not use the other funds of the court for that purpose. Nonetheless, when the initial deposit to open a STF account was reduced to ₱1,000.00, the court immediately opened a STF account and transferred the STF collections from the FF account.

Atty. Bantiyan explained that he encountered difficulties in preparing the financial reports because he was new to the court and he had been discharging most of the work. He further averred that the situation was aggravated by the lack of cooperation from the staff. Atty. Bantiyan offered his apology and promised to be more committed to his work.⁸

The OCA Recommendation

In a Memorandum,⁹ dated October 24, 2016, the OCA found Camilo guilty of simple neglect of duty and recommended that she be fined in the amount of ₱10,000.00. With respect to Atty. Bantiyan, the OCA found him guilty of gross neglect of duty but recommended that the penalty be reduced to one (1) month suspension, considering that he immediately restituted the shortages and that it was his first offense.

The Court's Ruling

Liability of Atty. Bantiyan

Without a quibble, Atty. Bantiyan failed to perform with utmost diligence his financial and administrative responsibilities. Records show that he was remiss in his duties of depositing the court collections on time, updating the entries in the official cashbooks, and regularly submitting his monthly reports.

Administrative Circular No. 3-2000 mandates that all fiduciary collections shall be deposited immediately by the Clerk of Court concerned, upon receipt thereof, with the Land Bank of the Philippines (*LBP*), the authorized government depository bank. The Circular provides:

⁸ Id. at 293-304.

⁹ Id. at 476-490.

W

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.

A separate set of official receipts shall be used for the collections for the Fund. The official receipt issued for the Fund shall invariably indicate the prefix initial of the name of the Fund, "JDF", followed immediately by the description of the kind and nature of the collection. Official receipts for the Fund shall be provided by the Supreme Court.

Collections shall not be used for encashment of personal checks, salary checks, etc., Only Cash, Cashier's Check and Manager's Check are acceptable as payments.

Cash Book for the Judiciary Development Fund can be requisitioned from the Property Division, Office of the Court Administrator.

(d) Rendition of Monthly Report.- Separate "Monthly Report of Collections and Deposits" shall be regularly prepared for the Judiciary development Fund which shall be submitted to the Chief Accountant, FMO OCA copy furnished the FMBO Supreme Court, the Fiscal Monitoring Division within ten [10] days after the end of every month. Duplicate copies of the official receipts issued during such month covered and validated copy of the Deposit Slips, should likewise be submitted. Deposit slips that are not machine validated shall not be considered as deposits.

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

x x x x

h

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.**

(2) Depository Bank of the GF.- The amounts accruing to the Fund shall be deposited for the account of the General Fund, Bureau of Treasury by the Clerks of Court, Officers-in-Charge of the office of the Clerk of Court in an authorized government depository bank. For this purpose, the depository bank for the GF shall be the LAND BANK OF THE PHILIPPINES (LBP) or its branches. In the absence of a LBP Branch, Postal Money Orders (PMOs) payable to the Chief Accountant, SC (OCA) can be purchased from the Local Post Office and sent to the Chief Accountant, SC (OCA) for deposit to the Bureau of Treasury. [Emphases supplied]

Moreover, Circular No. 32-93 requires all Clerks of Court/Accountable Officers to submit to the Court a monthly report of collections for all funds not later than the 10th day of each succeeding month. For the RTC Fiduciary Fund, the monthly report should include the original copy of report of deposits and withdrawals and validated duplicate copy of official receipts and deposit slips; and, in cases of withdrawals, a copy of the order of the court duly authenticated with the court's seal and a copy of the acknowledgment receipt.

These circulars are mandatory in nature and designed to promote full accountability for government funds. Failure to observe these circulars, resulting in loss, shortage, destruction, or impairment of court funds and properties, makes the clerk of court or accountable officer liable.¹⁰

In the case at bench, Atty. Bantiyan readily admitted his failure to deposit the court collections on time and offered several excuses for his omission among which are the safety of the personnel and the distance of the court from the bank which is located in Lagawe. Nevertheless, his mandate was clear. He is not allowed to keep funds in his custody as the same should be immediately deposited in the nearest LBP branch. In case daily deposits of cash collections are not possible, the deposit shall be made at the end of every month. But if the collection exceeds ₱500.00, the deposit shall be

¹⁰ *Office of the Court Administrator v. Caballer*, 627 Phil. 648, 665-666 (2010).

W

made immediately. Notwithstanding the guidelines, Atty. Bantiyan failed to make the necessary deposit for the fiduciary fund for the months of February, April, August, and September 2013, which amounted to ₱15,000.00, ₱26,000.00, ₱90,000.00, and ₱80,000.00, respectively. If there was indeed a problem with the transportation, the matter should have been brought to the attention of the court.¹¹ Moreover, if Atty. Bantiyan was truly scared to make the daily deposit on account of distance and safety issues, why did he keep the money in his house in Lagawe, the same place where the LBP was located.

Atty. Bantiyan was equally remiss in the keeping of the official cashbooks and in his obligation to send the required reports of deposits and withdrawals to the OCA. From the time he assumed office in January 2012, the audit team discovered that the official cashbooks had not been updated and that Atty. Bantiyan failed to submit a single report to the OCA.

Atty. Bantiyan explained that his shortcomings were due to his being new to the court, lack of cooperation from the staff and heavy workload. These excuses, however, are not acceptable. Atty. Bantiyan could not hide behind the incompetence of his subordinates. For failing to keep proper records of all collections and remittances and to submit the monthly reports, he should not shift the blame to the staff in-charge. As the clerk of court, he has general supervision over all court personnel and it is his duty to see to it that his subordinates have been faithfully performing their duties and responsibilities to ensure full compliance with circulars issued by the Court.¹² It is incumbent upon him to personally attend to the collection of the fees, the safekeeping of the money collected, the making of the proper entries thereof in the corresponding book of accounts, and the deposit of the same in the offices concerned.¹³ In the case of *OCA v. Bernardino*,¹⁴ the Court held:

Again, we state that good faith and lack of malice are not excuses for failure to comply with the mandatory provisions of circulars regarding the remittances of court funds.

Unfamiliarity with procedures because he is new to the job will likewise not exempt respondent from liability. As a Clerk of Court, she is expected to keep abreast of all applicable laws, jurisprudence and administrative circulars pertinent to her office. Being new to her job, she should have been more diligent in the performance of her duties.¹⁵

¹¹ *Report on the Financial Audit in RTC, General Santos City; and the RTC & MTC of Polomolok, South Cotabato*, 338 Phil. 13, 22 (1997).

¹² *Re: Report on the Judicial and Financial Audit of RTC-BR. 4, Panabo, Davao Del Norte*, 351 Phil. 1, 20 (1998).

¹³ *Office of the Court Administrator v. Bernardino*, 490 Phil. 500, 529 (2005).

¹⁴ *Id.* at 500.

¹⁵ *Id.* at 525-526.

Evidently, Atty. Bantiyan failed to perform his duties with the degree of diligence and competence expected of him. His apparent good faith, his admission of the infractions and immediate restitution of the cash shortages, though mitigating, cannot exculpate him from liability. The Court has to enforce what is mandated by the law and to impose a reasonable punishment for violations thereof.¹⁶

In determining the applicable penalty, the Court had, in a number of cases, mitigated the administrative penalties imposed on erring judicial officers and employees.¹⁷ In this case, considering that the shortage amounting to ₱233,958.65 was accounted for and was immediately restituted in full in November 2013, as evidenced by the deposit slips submitted by Atty. Bantiyan, and taking into account that this is his first offense, the OCA recommended that Atty. Bantiyan be meted the penalty of suspension for one (1) month. Under the circumstances, the Court believes that a fine of ₱20,000.00 would be more appropriate.

Liability of Camilo

As for Camilo, the OCA's recommendation is well-taken.

Camilo failed to monitor the entries in the official cashbooks because she relied heavily on Nadosman who was assigned by the Presiding Judge to perform such duty since the tenure of the former Clerk of Court. Though the updating of the court's cashbooks was delegated to Nadosman, it was her responsibility, being the OIC-Clerk of Court, to oversee the work of her subordinate. As the court's administrative officer, Camilo must ensure that her subordinates are performing their tasks properly, promptly and efficiently.

Camilo likewise incurred shortages in the various funds of the court amounting ₱4,407.10 as a result of over-remittances and delayed remittances. These shortages, as found by the OCA, were the results of an honest mistake in the computation of collections and were all accounted for in the Court's financial records. Time and again, the Court has stressed that safekeeping of funds and collections is essential to 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.¹⁸ Camilo's failure to exercise diligence in the performance of her duty deserves administrative sanction.

¹⁶ *Re: Misappropriation of the Judiciary Fund Collections by Ms. Juliet C. Banag, Clerk of Court, MTC, Plaridel, Bulacan*, 465 Phil. 24, 37 (2004).

¹⁷ *Id.* at 38.

¹⁸ *Office of the Court Administrator v. Nini*, 685 Phil. 340, 349 (2012).

Delay in the remittances of collections constitutes neglect of duty on the ground that failure to remit the court collections on time deprives the court of interest that may be earned if the amounts are deposited in a bank.¹⁹ Shortages in the amounts to be remitted and the years of delay in the actual remittance constitute neglect of duty for which the respondent shall be administratively liable.²⁰ Under the Uniform Rules on Administrative Cases in the Civil Service,²¹ simple neglect of duty is a less grave offense punishable by suspension of one month and one day to six months, even for the first offense.

Although unintentional mistake and good faith are not valid defenses, the fact that Camilo readily acknowledged her transgression, sought forgiveness and rectified her error, and considering further that this is also her first infraction, the Court finds the recommended penalty of fine in the amount of ₱10,000.00 in order.

WHEREFORE, the Court resolves to declare Atty. Jerome B. Bantiyan, Clerk of Court VI, Regional Trial Court, Branch 34, Banaue, Ifugao, **GUILTY** of Gross Neglect of Duty for which he is **FINED** in the amount of Twenty Thousand Pesos (₱20,000.00), with a **WARNING** that a repetition of the same or similar offense shall be dealt with more severely.

Respondent Erlinda G. Camilo, former Officer-in-Charge/Court Interpreter, Regional Trial Court, Branch 34, Banaue, Ifugao, is found **GUILTY** of Neglect of Duty and **FINED** in the amount of Ten Thousand Pesos (₱10,000.00) and **WARNED** that a repetition of the same or similar offense shall be dealt with more severely.

SO ORDERED.


JOSE CATRAL MENDOZA
Associate Justice


¹⁹ *In-House Financial Audit conducted in the books of accounts of Khalil B. Dipatuan, RTC-Malabang, Lanao Del Sur*, 578 Phil. 387, 392-393 (2008).

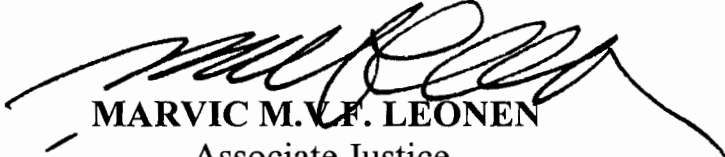
²⁰ *Report on the Financial Audit on the Books of Accounts of Mr. Delfin T. Polido, Former Clerk of Court of Municipal Circuit Trial Court, Victoria-La Paz, Tarlac*, 518 Phil. 1, 6 (2006).

²¹ Civil Service Commission Memorandum Circular No. 19-99.

WE CONCUR:

(On Official Leave)
ANTONIO T. CARPIO
Associate Justice


DIOSDADO M. PERALTA
Associate Justice
Acting Chairperson


MARVIC M.V.F. LEONEN
Associate Justice


SAMUEL R. MARTIRES
Associate Justice

h