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THIRD DIVISION

[A.M. No. P-11-2970. September 14, 2011]
(Formerly OCA I.P.I. No. 10-3568-P)

DOLORES C. SELIGER, *complainant, vs.* **ALMA P. LICAY, Clerk of Court, Municipal Circuit Trial Court, San Juan, La Union,** *respondent.*

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; PUBLIC OFFICERS AND EMPLOYEES; COURT PERSONNEL; CLERKS OF COURT; RULE LAID DOWN IN SECTION 10(1) OF RULE 141 OF THE RULES OF COURT, VIOLATED IN CASE AT BAR.— The Court agrees with the OCA that respondent violated the rule laid down in Section 10 (l) of Rule 141 which provides: In addition to the fees hereinabove fixed, the amount of One Thousand (₱1,000.00) Pesos shall be deposited with the Clerk of Court upon filing of the complaint to defray the actual travel expenses of the sheriff, process server or other court-authorized persons in the service of summons, subpoena and other court processes that would be issued relative to the trial of the case. In case the initial deposit of One Thousand (₱1,000.00) Pesos is not sufficient, then the plaintiff or petitioner shall be required to make an additional deposit. The sheriff, process server or other court-authorized person shall submit to the court for its approval a statement of the estimated travel expenses for service of summons and court processes. Once approved, the clerk of court shall release the money to said sheriff or process server. After service, a statement of liquidation shall be submitted to the court for approval. After rendition of judgment by the court, any excess from the deposit shall be returned to the party who made the deposit. While it is true that Section 10 (l) of Rule 141 allows the deposit of ₱1,000.00 pesos to defray the actual travel expenses of the sheriff, process server or other court-authorized persons in the service of summons, subpoenas and other court processes to be issued relative to the trial of the

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case, the rule requires said court personnel to first make an estimate of the travel expenses before they can collect the said amount, and, thereafter, submit before the court, a statement of liquidation.

2. ID.; ID.; ID.; ID.; ID.; SUPREME COURT CIRCULAR NOS. 26-27 WHICH MANDATES THE ISSUANCE OF OFFICIAL RECEIPTS FOR PAYMENTS RECEIVED, VIOLATED IN CASE AT BAR.— When respondent decided to issue an acknowledgement receipt instead of an official receipt, she violated Supreme Court Circular Nos. 26-27 dated May 5, 1997 which mandates the issuance of official receipts for payments received. The said circular states: Section 113. Issuance of official receipt – for proper accounting and control of revenues, no payment of any nature shall be received by a collecting officer without immediately issuing an official receipt in acknowledgment thereof. This receipt may be in the form of stamps x x x or officially numbered receipts, subject to proper custody and accountability. Her explanation that the acknowledgment receipt was sufficient since the process server fee she collected was not part of the JDF, SAJ or subjected to any fund allocation was not a valid justification for her non-compliance with the court circular. She violated the trust and confidence reposed in her as cashier and disbursement officer of the court. The Court will not tolerate any conduct, act or omission by any court employee violating the norm of public accountability and diminishing or tending to diminish the faith of the people in the Judiciary.

3. ID.; ID.; ID.; LESS GRAVE OFFENSES; SIMPLE MISCONDUCT; PENALTY IN CASE AT BAR.— Under Section 22, Rule XIV of the Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws, simple misconduct is classified as less grave offense with a penalty ranging from suspension for one (1) month and one (1) day to six (6) months, for the first offense, to dismissal, for the second offense. Considering that this is the first infraction of respondent, the Court deems it proper to reduce the penalty.

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D E C I S I O N

MENDOZA, *J.*:

This administrative case stemmed from an affidavit-complaint filed by Dolores C. Seliger *(complainant)* on December 13, 2010 with the Office of the Court Administrator *(OCA)* charging Alma P. Licay *(respondent)*, Clerk of Court, Municipal Circuit Trial Court, San Juan, La Union *(MCTC)*, with misconduct, irregularity in the performance of duty, violation of Republic Act *(R.A.)* No. 3019 otherwise known as The Anti-Graft and Corrupt Practices Act, fraud, and illegal exaction.

In her affidavit-complaint,[1] complainant alleged that respondent was the wife of Venecio A. Licay *(Venecio)*, the defendant in Civil Case No. 510 for collection of sum of money with damages, which she had filed in court where respondent worked as Clerk of Court; that respondent collected and received from her the amount of One Thousand (₱1,000.00) Pesos purportedly as process server fee; and that instead of issuing an official receipt, respondent issued an acknowledgment receipt.

She further averred that respondent slept on her job and deliberately delayed the service of summons to Venecio.

In its 1st Indorsement[2] dated October 5, 2009, the OCA directed the respondent to comment on the affidavit-complaint.

In her Comment,[3] respondent admitted collecting the said amount and reasoned out that Section 10 of Administrative Circular No. 35-2004, as amended, provides for the payment of ₱1,000.00 to defray the actual travel expenses of the sheriff, process server or other court-authorized persons in the service of summons, subpoenas and other court processes that would be issued relative to the trial of the case. She further explained that since the process server fee did not fall under the Judiciary

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[1] *Rollo*, pp. 2-3.

[2] *Id.* at 14.

[3] *Id.* at 18-19.

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Development Fund *(JDF)* or the Special Allowance for the Judiciary *(SAJ)* or subject to any fund allocation, the issuance of an acknowledgment receipt was sufficient.

Respondent claimed that she had no corrupt motive in issuing the acknowledgment receipt and insisted that she did not appropriate the said amount for her personal benefit.

Furthermore, respondent asserted that she had no wrongful intent to delay the proceedings relative to Civil Case No. 510. While it was part of her duty to issue the service of summons, the actual service of summons was the responsibility of the process server.

The OCA, in its Report dated May 17, 2011, found respondent guilty of simple misconduct and recommended that the administrative complaint be docketed as a regular administrative matter and that she be fined in the amount of ₱1,000.00, with a warning that a repetition of the same offense would be dealt with more severely.

In the same report, the OCA stated that complainant failed to substantiate her charges relating to corruption and to the alleged deliberate delay in the service of summons to Venecio.

After careful consideration, the Court adopts the findings and recommendations of the OCA.

The Court agrees with the OCA that respondent violated the rule laid down in Section 10 (l) of Rule 141 which provides:

> In addition to the fees hereinabove fixed, the amount of One Thousand (₱1,000.00) Pesos shall be deposited with the Clerk of Court upon filing of the complaint to defray the actual travel expenses of the sheriff, process server or other court-authorized persons in the service of summons, subpoena and other court processes that would be issued relative to the trial of the case. In case the initial deposit of One Thousand (₱1,000.00) Pesos is not sufficient, then the plaintiff or petitioner shall be required to make an additional deposit. The sheriff, process server or other court-authorized person shall submit to the court for its approval a statement of the estimated travel expenses for service of summons and court processes. Once approved, the clerk of court shall release the money to said sheriff

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or process server. After service, a statement of liquidation shall be submitted to the court for approval. After rendition of judgment by the court, any excess from the deposit shall be returned to the party who made the deposit.

While it is true that Section 10 (l) of Rule 141 allows the deposit of ₱1,000.00 pesos to defray the actual travel expenses of the sheriff, process server or other court-authorized persons in the service of summons, subpoenas and other court processes to be issued relative to the trial of the case, the rule requires said court personnel to first make an estimate of the travel expenses before they can collect the said amount, and, thereafter, submit before the court, a statement of liquidation.

As Clerk of Court of MCTC, respondent performs a very delicate function.[4] She acts as cashier and disbursement officer of the court, and is entrusted to collect and receive all monies paid as legal fees, deposits, fines and dues, and controls the disbursement of the same.[5] Corollary, she is expected to possess a high degree of discipline and efficiency in the performance of these functions.[6]

When respondent decided to issue an acknowledgement receipt instead of an official receipt, she violated Supreme Court Circular Nos. 26-27 dated May 5, 1997 which mandates the issuance of official receipts for payments received. The said circular states:

Section 113. Issuance of official receipt – for proper accounting and control of revenues, no payment of any nature shall be received by a collecting officer without immediately issuing an official receipt in acknowledgment thereof. This receipt may be in the form of stamps x x x or officially numbered receipts, subject to proper custody and accountability.

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[4] *Collection of fee for transportation allowance without proper receipt by Clerk of Court Marciana Apas-Pilapil, Municipal Circuit Trial Court, Liloan, Cebu, in Civil Case No. 605-R,* A.M. No. P-08-2434, March 3, 2008, 547 SCRA 303, 308.

[5] *Office of the Court Administrator v. Pacheco,* A.M. No. P-02-1625, August 4, 2010, 626 SCRA 686, 697.

[6] *Neri v. Hurtado,* A.M. No. RTJ-00-1584, February 18, 2004, 423 SCRA 200, 204.

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Her explanation that the acknowledgment receipt was sufficient since the process server fee she collected was not part of the JDF, SAJ or subjected to any fund allocation was not a valid justification for her non-compliance with the court circular. She violated the trust and confidence reposed in her as cashier and disbursement officer of the court. The Court will not tolerate any conduct, act or omission by any court employee violating the norm of public accountability and diminishing or tending to diminish the faith of the people in the Judiciary.[7]

A public office is a public trust and all public officers and employees must at all times be accountable to the people, and this Court cannot countenance any act or omission which diminishes or tends to diminish the faith of the people in the judiciary.[8]

Under Section 22, Rule XIV of the Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws, simple misconduct is classified as less grave offense with a penalty ranging from suspension for one (1) month and one (1) day to six (6) months, for the first offense, to dismissal, for the second offense. Considering that this is the first infraction of respondent, the Court deems it proper to reduce the penalty.

WHEREFORE, the Court finds respondent Alma P. Licay, Clerk of Court, Municipal Circuit Trial Court, San Juan, La Union, *GUILTY* of simple misconduct and imposes on her the penalty of *FINE* in the amount of One Thousand (₱1,000.00) Pesos with a *STERN WARNING* that a repetition of the same or similar act will be dealt with more severely.

SO ORDERED.

Velasco, Jr. (Chairperson), Peralta, Abad, and *Sereno,*[*] *JJ.,* concur.

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[7] *Rebong v. Tengco*, A.M. No. P-07-2338, April 7, 2010, 617 SCRA 460, 471.

[8] *Lirios v. Oliveros,* 323 Phil. 318, 323 (1996).

[*] Designated as additional member of the Third Division per Special Order No. 1028 dated June 21, 2011.