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FIRST DIVISION

[A.M. No. RTJ-00-1584. February 18, 2004]
(Formerly A.M. OCA IPI No. 97-419-RTJ)

EPIFANIA M. NERI, *complainant, vs.* **JUDGE BRAULIO L. HURTADO, JR., Regional Trial Court, Branch 22, Kabacan, North Cotabato,** *respondent.*

SYNOPSIS

Complainant is a party in a civil case in RTC Koronadal, Cotabato. Because of an adverse decision, complainant deposited with respondent who was then the Clerk of Court of said court, the amount of ₱3,000 as repurchase price. On appeal to the Court of Appeals, the decision was reversed and the complaint was dismissed on August 29, 1985. The decision became final and executory on January 8, 1986. Complainant on October 17, 1993 wrote respondent asking for the return of the ₱3,000 because of the decision of the Court of Appeals. Respondent, who later became Judge of RTC Kabacan, North Cotabato, Branch 22, allegedly refused to return the amount prompting complainant to file a complaint against him for dishonesty , in the Office of the Ombudsman, Mindanao which, in turn, was indorsed to the Court Administrator, Supreme Court. Asked to comment, respondent admitted that the amount of ₱3,000 was paid by complainant as repurchase price in accordance with the judgment of the court but failed to substantiate his claim that the amount was given to the adverse party.

The Office of the Court Administrator found respondent judge guilty of gross misconduct and recommended that be fined ₱40,000 to be deducted from his retirement benefits because he was compulsorily retired from the service.

The Supreme Court found respondent guilty of simple misconduct and fined ₱5,000.

SYLLABUS

1. POLITICAL LAW; CONSTITUTIONAL LAW; SUPREME COURT SUPERVISION OVER COURT PERSONNEL; RETIREMENT

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DOES NOT RENDER AN ADMINISTRATIVE CASE MOOT; CASE AT BAR. — Where an administrative complaint was filed against respondent Judge Hurtado in 1997 but he was compulsorily retired on August 27, 2002, his compulsory retirement does not render this administrative case against him moot.

2. ID.; ID.; ID.; DUTIES OF THE CLERKS OF COURT. — Clerks of court are officers of the law who perform vital functions in the administration of justice. They keep the records and the seal of the court, issue processes, enter judgment and orders, and give certified copies of records upon request. They are also the designated custodians of the court's funds and revenues, records, properties and premises. As such, they are liable for any loss, shortage, destruction, or impairment of such funds and property. Thus, they are expected to possess a high degree of discipline and efficiency in the performance of these functions. For those who have fallen short of their accountabilities, we have not hesitated to impose the ultimate penalty. Even undue delay in the remittances of amounts collected by them at the very least constitutes misfeasance. We will not tolerate or condone any conduct that violates the norms of public accountability and diminish the faith of the people in the judicial system.

3. ID.; ID.; ID.; ID.; RESPONDENT REMISS IN HIS DUTIES IN THE CASE AT BAR. —As then clerk of court, Judge Hurtado was duty-bound to make the proper entry in the corresponding books of account of the court upon receipt of payment by Neri and thereafter, to issue the corresponding official receipt in the latter's name. Likewise, payment to the adverse party made by the clerk of court must be entered in the book of account. Judge Hurtado, however, failed to perform his bounden-duty as then clerk of court.

4. ID.; ID.; ID.; ID.; ID.; NATURE OF OFFENSE; PENALTY. — His failure to return the money he received from Neri while he was still a clerk of court constitutes simple misconduct which is a less grave offense punishable by suspension for one month and one day to six months. However, Judge Hurtado has already compulsorily retired from the service. Consequently, a fine of ₱5,000 is proper.

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DECISION

CARPIO, *J.*:

The Case

This administrative complaint stemmed from the 1st Indorsement dated 31 July 1997 signed by Margarito P. Gervacio, Jr., Deputy Ombudsman for Mindanao, indorsing to the Office of the Court Administrator ("OCA") the complaint filed by Epifania M. Neri ("Neri") against respondent Judge Braulio L. Hurtado, Jr. ("Judge Hurtado"). Judge Hurtado was then the presiding judge of the Regional Trial Court of Kabacan, North Cotabato, Branch 22 ("RTC-Branch 22").

The Facts

In the complaint,[1] Neri alleges that the Regional Trial Court of Koronadal, South Cotabato ("RTC-Koronadal"), rendered a judgment in Civil Case No. 577. Based on the judgment, Neri deposited in court on 1 October 1981 the amount of ₱3,000 as repurchase price. Judge Hurtado, who was at the time the clerk of court,[2] received the ₱3,000. On 29 August 1985, the Court of Appeals reversed the appealed decision and dismissed the complaint. The Court of Appeals' decision became final and executory on 8 January 1986. In a letter dated 17 October 1993, Neri wrote Judge Hurtado asking for the return of the ₱3,000 to her because of the Court of Appeals' dismissal of her complaint. Judge Hurtado allegedly refused to return the ₱3,000 prompting Neri to file a complaint against Judge Hurtado for dishonesty before the Office of the Ombudsman Mindanao.

When asked to comment, Judge Hurtado stated that he assumed office as presiding judge of RTC-Branch 22 on 5 September 1994. During his incumbency as clerk of court, Neri,

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[1] Dated 28 April 1997.

[2] Annex "A" of the Complaint.

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the prevailing party in Civil Case No. 577, paid the ₱3,000 as repurchase price in accordance with the judgment of the court. Neri paid the ₱3,000 through the office of the clerk of court in favor of Uldarico Medina, the losing party. Judge Hurtado expressed surprise why Neri waited for one and a half decades before inquiring on the repurchase price when she could have done so immediately after the losing party had perfected his appeal.

The Office of the Ombudsman-Mindanao indorsed the complaint against Judge Hurtado, being a presiding judge, to the OCA.

On 16 February 1999, the OCA directed Judge Hurtado to submit proof that the adverse party received the ₱3,000 that Neri deposited with Judge Hurtado when he was still clerk of court. On 8 September 1999 and 16 December 1999, OCA again reminded Judge Hurtado to respond to its earlier directive to submit proof of receipt by the adverse party of the ₱3,000. Judge Hurtado did not respond.

In the Resolution dated 4 September 2000, this Court resolved to redocket the case as a regular administrative matter and required the parties to manifest if they were willing to submit the case for resolution based on the pleadings filed. In his letter dated 3 March 2003, Judge Hurtado prayed for the dismissal of the administrative case. In a subsequent letter dated 28 July 2003, he manifested that he was willing to submit the case based on the pleadings filed. Neri did not file any manifestation.

OCA Report and Recommendation

Judge Hurtado admitted having received the ₱3,000 but claimed that the amount was already paid to the adverse party. Aside from his bare allegation, however, Judge Hurtado failed to substantiate his claim. The failure of Judge Hurtado to show proof that the adverse party indeed received the ₱3,000 only means that he was remiss in his duty as a clerk of court and as custodian of court funds to properly account for funds he

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held in trust for litigants. Being then the clerk of court and an accountable officer, Judge Hurtado was duty-bound to account for funds deposited with him for safekeeping. If indeed Judge Hurtado paid the ₱3,000 to the adverse party, the records of the office of the clerk of court should readily support his claim.

Judge Hurtado: issued to Neri merely a ***temporary receipt,*** instead of an official government receipt, making his receipt of the money irregular and highly suspicious. The OCA opines that Judge Hurtado committed "gross misconduct" in office while a clerk of court of RTC-Koronadal. Judge Hurtado violated the procedure of properly handling and accounting for funds entrusted to him. Thus, for his failure to account for Neri's payment of the ₱3,000, the repurchase price in Civil Case No. 577, the OCA found Judge Hurtado guilty of "gross misconduct." The OCA recommended that Judge Hurtado be fined ₱40,000 to be deducted from his retirement benefits.

The Court's Ruling

Neri filed the present administrative complaint in 1997 when Judge Hurtado was already the presiding judge of RTC-Branch 22. Judge Hurtado compulsorily retired from the service on 27 August 2002. However, his retirement does not render this administrative case moot. As we have stated:

> x x x [T]he jurisdiction that was Ours at the time of the filing of the administrative complaint was not lost by the mere fact that the respondent public official had ceased to be in office during the pendency of his case. The Court retains its jurisdiction either to pronounce the respondent official innocent of the charges or declare him guilty. thereof. A contrary rule would be fraught with injustices and pregnant with dreadful and dangerous implication. x x x If innocent, respondent official merits vindication of his name and integrity as he leaves the government which he has served well and faithfully;

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[3] *Gallo v. Cordero*, 315 Phil. 210 (1995) cited in *Sy Bang v. Judge Mendez*, 350 Phil. 524 (1998).

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if guilty, he deserves to receive the corresponding censure and a penalty proper and imposable under the situation.[3]

The act complained of in this case occurred in 1981 when Judge Hurtado was still the clerk of court of RTC-Koronadal, although the complaint was filed after Judge Hurtado's appointment as presiding judge of RTC-Branch 22. Judge Hurtado admitted receiving the ₱3,000 from Neri on 1 October 1981 while he was still the clerk of court. The OCA gave Judge Hurtado the opportunity to show proof that he paid the ₱3,000 to the adverse party.[4] The OCA reiterated this directive in the letters dated 8 September 1999 and 16 December 1999. Judge Hurtado failed to comply with the directive. If Judge Hurtado had indeed given the ₱3,000 to the adverse party, the records of the case in the office of the clerk of court of RTC-Koronadal should readily reflect not only the receipt of Neri's payment but also the receipt of payment of the ₱3,000 to the adverse party. Having failed to submit proof of payment to the adverse party, it is safe to conclude that Judge Hurtado, as then clerk of court, was indeed remiss in his duty of safekeeping and accounting of court funds. As then clerk of court, Judge Hurtado was duty-bound to record in the books of account the money given to him by Neri as well as record the payment of the money to the adverse party. As we have ruled:

> The Office of the Clerk of Court performs a very delicate function, that of being the custodian of the court's funds and revenues, records, properties and premises. Being the custodian thereof, the clerk of court is liable for any loss, shortage, destruction or impairment of said funds and properties. x x x Section 7, Rule 136 of the Rules of Court requires that 'the clerk shall safely keep all records, papers, files, exhibits and public property committed to his charge x x x.'[5]

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[4] Letter dated 16 February 1999 of then Court Administrator Alfredo L. Benipayo.

[5] *Office of the Court Administrator v. Bawalan*, A.M. No. P-93-945, 24 March 1994. 231 SCRA 408.

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As custodian of court funds, Judge Hurtado had the duty to attend personally to the collection of fees, the safekeeping of the money collected, the making of the proper entries in the corresponding book of accounts, and the deposit of the same in the offices concerned.

Judge Hurtado merely issued to Neri a temporary receipt, which did not bear the seal of the court, stating that he received from Neri the ₱3,000 as repurchase price in Civil Case No. 577. This is irregular since Judge Hurtado should have issued an official government receipt.

Clerks of court are officers of the law who perform vital functions in the administration of justice. They keep the records and the seal of the court, issue processes, enter judgment and orders, and give certified copies of records upon request. They are also the designated custodians of the court's funds and revenues, records, properties and premises.[6] As such, they are liable for any loss, shortage, destruction, or impairment of such funds and property.[7] Thus, they are expected to possess a high degree of discipline and efficiency in the performance of these functions. For those who have fallen short of their accountabilities, we have not hesitated to impose the ultimate penalty.[8] Even undue delay in the remittances of amounts collected by them at the very least constitutes misfeasance.[9] We will not tolerate or condone any conduct that violate the norms of public accountability and diminish the faith of the people in the judicial system.

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[6] *Re: Withholding of Other Emoluments of the following Clerks of Court: Elsie C. Remoroza, etc., et al.*, A.M. No. 01-4-133-MTC. 26 August 2003.

[7] *Elena F. Pace v. Reno M. Leonardo, Clerk of Court II, MCTC, Branch 5, Odiongan, Romblon*, A.M. No. P-03-1675. 6 August 2003.

[8] *Re: Report on the Judicial and Financial Audit of RTC-Branch 4, Panabo, Davao del Norte*, 351 Phil. 1 (1998).

[9] *Report on the Financial Audit in RTC, General Santos City*, 384 Phil. 155 (2000).

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As then clerk of court, Judge Hurtado was duty-bound to make the proper entry in the corresponding books of account of the court upon receipt of payment by Neri and thereafter, to issue the corresponding official receipt in the latter's name. Likewise, payment to the adverse party made by the clerk of court must be entered in the book of account. Judge Hurtado, however, failed to perform his bounden-duty as then clerk of court. His failure to return the money he received from Neri while he was still a clerk a court constitutes simple misconduct which is a less grave offense punishable by suspension for one month and one day to six months.[10] However, Judge Hurtado has already compulsorily retired from the service. Consequently, a fine of ₱5,000[11] is proper.

WHEREFORE, respondent Judge Braulio L. Hurtado, Jr., is found guilty of *SIMPLE MISCONDUCT* and *FINED* Five Thousand Pesos (₱5,000) to be deducted from his retirement benefits. He is further ordered to return to complainant, Epifania M. Neri, the amount of Three Thousand Pesos (₱3,000) which he admitted receiving in Civil Case No. 577.

SO ORDERED.

Davide, Jr., C. J. (Chairman), Panganiban, Ynares-Santiago, and *Azcuna, JJ.*, concur.

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[10] Omnibus Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws, Rule XIV, Sec. 22.

[11] *Guillen v. Constantino*, 347 Phil. 267 (1997).