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3. ORDERING Escobar to pay Hanil the remainder of the amount of temperate, exemplary and bond premium damages — which cannot be fully covered by the attachment bond — in the sum of ONE HUNDRED SIXTY-FIVE THOUSAND SEVEN HUNDRED EIGHTY PESOS AND FIFTY CENTAVOS (₱165,780.50).

4. ORDERING Escobar to pay bondsman Sanpiro by way of reimbursement under their Indemnity Agreement the sum of ONE MILLION THREE HUNDRED FORTY-ONE THOUSAND SEVEN HUNDRED TWENTY-SEVEN PESOS AND FORTY CENTAVOS (₱1,341,727.40).

Costs against Escobar.

SO ORDERED.

Kapunan, Pardo, and *Ynares-Santiago, JJ.*, concur.

Davide, Jr., C.J. (Chairman), on official leave.

EN BANC

[A.M. No. P-00-1381 and A.M. No. P-00-1382. July 31, 2001]

JUDGE EFREN B. MALLARE, MTC-Sto. Domingo, Nueva Ecija, *complainant, vs.* **RONALD ALLAN A. FERRY, Clerk of Court II, MTC – Sto. Domingo, Nueva Ecija,** *respondent.*

SYNOPSIS

Judge Efren B. Mallare of the Municipal Trial Court of Sto. Domingo, Nueva Ecija, filed 2 administrative complaints against his Clerk of Court, respondent Ronald Allan A. Ferry. The first complaint charged respondent with Grave Misconduct, Insubordination, Tardiness, and Non-Observance of the Eight-Hour

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Workday for his alleged non-observance of regular work hours by leaving the office at 4:00 o'clock in the afternoon from 2 to 27 March 1998 and at 10:00 o'clock in the morning of 20 March 1998 without returning to office while complainant was attending a seminar in Cabanatuan City; refusal to sign the logbook; taking out from the court monthly reports of cases without permission; and, continued defiance of several memoranda issued by complainant calling respondent's attention to the foregoing infractions. The second complaint charged respondent with Grave Misconduct and Gross Dishonesty for his failure to deposit with the official depositary bank of the court amounts received as cash bonds in several cases. Complainant alleged that respondent's refusal to surrender the MTC's LBP Savings Account Passbook despite complainant's memoranda was in order to cover up his misappropriations. The matter was referred to the Executive Judge of the RTC, Sto. Domingo, Nueva Ecija, for investigation, report and recommendation. In her Investigation Report dated 22 August 2000 Executive Judge Cholita B. Santos recommended that respondent be dismissed from the service.

The Supreme Court adopted the findings of the Investigating Judge and ordered the dismissal of respondent from the service. According to the Court, Clerks of Court may not keep funds in their custody. All collections from bailbonds, rental deposits, and other fiduciary collections shall be deposited within twenty-four (24) hours by the Clerk of Court concerned, upon receipt thereof, with the Land Bank of the Philippines and the failure of a Clerk of Court to turnover money deposited with him and to explain and present evidence thereon constitutes gross dishonesty, grave misconduct, and even malversation of public funds. The Court also considered respondent's acts of repeatedly ignoring complainant's memoranda for him to attend flag ceremonies, wear appropriate office uniform, sign the logbook, and observe complete office hours which indicated not only his lack of respect for and insubordination of his presiding Judge but also betrayed his lack of regard for the reasonable office rules and regulations which every civil servant is bound to observe. Respondent's liability is compounded by the fact that as Clerk of Court, hence, administrative assistant to the Presiding Judge having administrative supervision over his co-employees, he was expected to be the role model for his co-employees to be emulated in the performance of their duties as well as in their conduct and behavior as civil servants.

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SYLLABUS

1. **POLITICAL LAW; ADMINISTRATIVE LAW; PUBLIC OFFICERS; COURT PERSONNEL; RESPONDENT'S ACTS OF REPEATEDLY IGNORING COMPLAINANT'S MEMORANDA FOR HIM TO ATTEND FLAG CEREMONIES, WEAR APPROPRIATE OFFICE UNIFORM, SIGN THE LOG BOOK AND OBSERVE COMPLETE OFFICE HOURS INDICATE NOT ONLY HIS LACK OF RESPECT FOR AND INSUBORDINATION OF HIS PRESIDING JUDGE BUT ALSO BETRAY HIS LACK OF REGARD FOR THE REASONABLE OFFICE RULES AND REGULATIONS WHICH EVERY CIVIL SERVANT IS BOUND TO OBSERVE.**— Every employee in the judiciary should be an example of integrity, uprightness and honesty. Not only is he expected to be well-mannered, civil and considerate in his actuations, official or otherwise, but more than anybody else, he is also bound to manifest to his superiors, more particularly to the presiding Judge, utmost respect and obedience to the latter's orders and instructions issued pursuant to the duties of the office the Judge holds. Respondent's acts of repeatedly ignoring complainant's memoranda for him to attend flag ceremonies, wear appropriate office uniform, sign the logbook, and observe complete office hours indicate not only his lack of respect for and insubordination of his presiding Judge but also betray his lack of regard for the reasonable office rules and regulations which every civil servant is bound to observe. Respondent's liability is compounded by the fact that as Clerk of Court, hence, administrative assistant to the presiding Judge having administrative supervision over his co-employees, respondent was expected to be the role model for his co-employees to be emulated in the performance of their duties as well as in their conduct and behavior as civil servants.

2. **ID.; ID.; ID.; ID.; UNDUE DELAY IN REMITTING COLLECTIONS AMOUNTS NO LESS TO GRAVE MISFEASANCE IF NOT MALVERSATION OF FUNDS.**— We have already said that Clerks of Court may not keep funds in their custody. All collections from bailbonds, rental deposits, and other fiduciary collections shall be deposited within twenty-four (24) hours by the Clerk of Court concerned, upon receipt thereof, with the Land Bank of the Philippines. Undue delay in remitting collections amounts no less to grave misfeasance if not malversation of funds. No protestation of good faith can override the mandatory nature of

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the circulars designed to promote full accountability for government funds

3. **ID.; ID.; ID.; ID.; FAILURE OF A CLERK OF COURT TO TURN OVER MONEY DEPOSITED TO HIM AND TO EXPLAIN AND PRESENT EVIDENCE CONSTITUTES GROSS DISHONESTY, GRAVE MISCONDUCT AND EVEN MALVERSATION OF PUBLIC FUNDS.—** Evidence on record shows that a check for ₱1,040.00 payable to the MTC-Sto. Domingo, Nueva Ecija, issued by the Land Bank of the Philippines, Talavera Branch, on 6 April 1998 to cover filing fees in Civil Cases Nos. 1589 to 1596 was never deposited in the MTC's account. Evidence further discloses that the check was used personally by respondent to pay his loan to a certain "Chato," whose real name is Glenda Geronimo, a neighbor. "Chato" or Glenda Geronimo, in turn, paid the check to a grocery store owned by a valued client of Solidbank who thereafter deposited the check at the bank. Respondent never appeared during the investigation of his case despite due notice to him. He never appeared to rebut the charges against him by complainant. As we held in one case, failure of a Clerk of Court to turnover money deposited with him and to explain and present evidence thereon constitutes gross dishonesty, grave misconduct, and even malversation of public funds which this Court will never countenance as they indubitably diminish the faith of the people in the judiciary.

DECISION

***PER CURIAM*:**

These are two (2) administrative cases filed by Judge Efren B. Mallare of the Municipal Trial Court of Sto. Domingo, Nueva Ecija, against his Clerk of Court II, respondent Ronald Allan A. Ferry.

The first, A.M. No. P-00-1381,[1] charged respondent with *Grave Misconduct, Insubordination, Tardiness, and Non-Observance of the Eight-Hour Workday* for his alleged non-observance of regular work hours by leaving the office at 4:00 o'clock in the afternoon from 2 to 27 March 1998 and at 10:00 o'clock in the morning of 20

[1] Filed 6 April 1998.

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March 1998 without returning to office while complainant was attending a seminar in Cabanatuan City; refusal to sign the logbook; taking out from the court monthly reports of cases without permission; and, continued defiance of several memoranda issued by complainant calling respondent's attention to the foregoing infractions. Complainant likewise accused respondent of violating SC Circular No. 50-95[2] for the late deposit of a ₱5,000.00 cash bond received from one Yolanda Ramos on 26 February 1998, which was deposited with the Land Bank only on 10 March 1998.

In his Answer dated 27 July 1998 respondent denied any insubordination on his part and alleged that he diligently performed all his duties and responsibilities in the short time he had been appointed as Clerk of Court in December 1997 as shown by the records and technical performance of the court from January to March 1998; that although he sometimes forgot to sign the logbook it did not mean that he was tardy since he always arrived before the start of hearings and there was never any delay in the issuance of required processes; that all the Monthly Reports of Collections and of Cases from January to March 1998 were submitted to the Supreme Court on time; that he took home drafts of monthly reports to check and print them in his personal computer for better presentation; and, that the affidavits executed by his co-employees in the MTC and submitted by complainant attesting to respondent's alleged infractions were not executed voluntarily but only out of fear of complainant who is very powerful.

The second case, A.M. No. P-00-1382,[3] charged respondent with *Grave Misconduct and Gross Dishonesty* for his failure to deposit as of 6 April 1998 the following amounts: ₱4,000.00 received from Aurora Gruspe on 9 March 1998 under O.R. No. 4684455; ₱3,000.00 received as cash bond from Rogelio Asuncion on 10 March 1998 under O.R. No. 4684456; ₱3,000.00 likewise received as cash bond from Michael del Rosario on 11 March 1998 under O.R. No. 4684457; and, ₱6,000.00 received from Resty Pangilinan on 3 April 1998 under O.R. No. 4684458. Complainant alleged

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[2] Re: Court Fiduciary Funds; took effect 1 November 1995.

[3] Filed 20 April 1998.

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that respondent's refusal to surrender the MTC's LBP Savings Account Passbook despite complainant's memoranda dated 7 and 15 April 1998 was in order to cover up the above misappropriations.

In his Affidavit-Answer dated 9 June 1998 respondent alleged that he did not comply with complainant's directive for him to surrender the LBP Passbook and all accountable forms because the order was irregular, illegal and a clear manifestation of abuse of authority; that the ₱16,000.00 mentioned by complainant in his affidavit-complaint was duly deposited on 5 May 1998 as shown by the LBP Passbook; that he did not immediately deposit the cash received by him since it was not practical to travel everyday twenty (20) kilometers more or less from the MTC to the Land Bank, Talavera Branch. He instead maintained ready cash for reimbursement to save time, effort and gasoline. Finally, respondent alleged that complainant's accusation that he misappropriated the amounts mentioned in the affidavit-complaint was baseless and borne out of complainant's desire to replace him in his position with somebody else.

Subsequently, on 30 September 1998 complainant informed the Court of his recent discovery of a malversation by respondent of the amount of ₱1,040.00 covered by Check No. CC 0000000448 dated 6 April 1998 issued by the Land Bank of the Philippines in payment of its filing fees in Civil Case Nos. 1589 to 1596, *Land Bank of the Philippines v. Ricardo Sobrepena, et al.*

On 5 April 2000 we referred these cases to the executive Judge of the RTC, Sto. Domingo, Nueva Ecija, for investigation, report and recommendation within sixty (60) days from receipt.

In her Investigation Report dated 22 August 2000 Executive Judge Cholita B. Santos recommended that respondent be dismissed from the service on the basis of the following findings -

> Evidence in support of the charges for grave misconduct, insubordination, tardiness, non-observance of the 8-hour work day and violation of SC Circular and dishonesty against the respondent x x x shows that *as early as January 7, 1998; January 23,1998; January 27,1998; March 17,1998; and March 30, 1998* (Exhibits BB, CC, DD, EE and B, respectively), *complainant Judge Efren B. Mallare had issued memorandum (sic) as guidelines and orders for his newly appointed Clerk*

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of Court, the herein respondent, for the latter to follow like the non-bringing out of records, wearing a uniform, attending to (sic) the flag raising ceremonies, observance of the 8-hour work a (sic) day. Despite receipt of all these memoranda, respondent defied them by his failure to attend the flag raising ceremonies as certified by Mr. Arsenio Valdez, SB Secretary of Sto. Domingo, Nueva Ecija as well as by the testimonies of Rufino Duque and Mary Noveras, Court Interpreter and Clerk of Court Designate, respectively, of the Municipal Trial Court of Sto. Domingo, Nueva Ecija who executed their respective affidavits (Exhibits D to D-2 and E to E-2) as well as the joint affidavits of Mr. Duque and Mrs. Noveras with their other co-employees (Exhibits W to W-8), the joint affidavits of Evelyn Ragel, Marivic Ragel and Nonilo Alejo (Exhibits F to F-4) and the affidavit of Nestor Natividad (Exhibits G to G-2). Respondent's failure to sign the logbook is evidenced by the court's logbook for March 1998 (Exhibits X to X-5). Further evidence of his insubordination is shown by his failure to file his formal leave of absence despite the order for him to do so in the complainant's letter dated April 7, 1998 (Exhibit L) x x x Instead of complying x x x he not only refuses to file his leave of absence but also refuses x x x up to the present to surrender to the court monies, official receipts, keys, the MTC passbook with the Land Bank of the Philippines, Talavera Branch, monthly report of cases and all properties in his possession x x x

The respondent is also culpable of dishonesty and grave misconduct x x x as shown by the testimonies of Mary Noveras, Rizza Carlos and Lorinda Viloria. The respondent who is an accountable officer and clothed with authority to collect and receive fees pursuant to the Rules of Court had received from the Land Bank of the Philippines, Talavera Branch, the amount of ₱1,040.00 represented by Cashier's Check No. 0000000448 dated April 6, 1998 (Exhibit I) to cover filing fees; JDF in the amount of ₱480.00 under O.R. No. 9274019 (Exhibit J), GF for ₱480.00 under O.R. No. 1929459 (Exhibit J-1) and the amount of ₱80.00 as LRF under O.R. No. 3037829 (Exhibit J-2), respectively. *Despite receipt of these amounts in the total of ₱1,040.00 x x x from the Land Bank of the Philippines, Talavera Branch in payment of these fees in Civil Case Nos. 1589 to 1596 entitled Land Bank of the Philippines versus Ricardo Sobrepena, et al. x x x the respondent never deposited the amount x x x to (sic) the depository bank, the Land Bank of the Philippines, Talavera Branch as this amount is never reflected in the MTC passbook (Exhibit GG). Instead, x x x respondent used the check for his own personal use to pay his loan to a neighbor named Chato whose real name is Glenda Geronimo and this Chato in turn paid the check to a grocery store owned by a valued client*

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of Solid Bank, Cabanatuan City Branch and this valued client was the one who negotiated and deposited the check at Solid Bank.

These facts were reported to the Court Administrator by the complainant on September 30, 1998 (Exhibits HH to HH-1) wherein a copy of the complainant's inquiry dated August 26, 1998 on how the check was encashed to the Solid Bank was made from the manager of the Solid Bank (Exhibit II). In the answer of the Solid Bank dated September 21, 1998 (Exhibit JJ), it appears that the name Chato appearing therein is one Glenda Geronimo x x x Up to the present, respondent had not restituted this ₱1,040.00 to the court to the damage of the judiciary x x x

Respondent had (sic) also violated SC Circular No. 50-95, par. 4(b) dated October 11, 1995 in (sic) not depositing the Fiduciary Fund within twenty-four (24) hours from receipt because an amount of ₱5,000.00 x x x received by him on February 26, 1998 as bailbond paid by one Yolanda Ramos under O.R. No. 4684453 was x x x only deposited on March 10, 1998. This fact was evidenced by the respondent's monthly report of collections of February 1998 (Exhibit K). When complainant discovered these (sic), he gave the respondent a memorandum (Exhibit T) for the latter to explain why administrative charge for violation of SC Circular should not be filed against him, which respondent never answered.

Complainant, who went to the Land Bank of the Philippines, Talavera Branch on April 15, 1998, discovered the *amounts of ₱4,000.00 paid by one Aurora Grospe on March 9, 1998 and received by the respondent under O.R. No. 4684455 (Exhibit M); ₱3,000.00 paid on March 11, 1998 by one Michael del Rosario as cash bond under O.R. No. 4684457 (Exhibit M-1); ₱3,000.00 cash on March 10,1998 by one Rogelio Asuncion under O.R. No. 4684456 (Exhibit M-2); and cash bond of ₱6,000.00 paid by one Resty Pangilinan on April 3, 1998 under O.R. No. 4684458 (Exhibit M-3) were never deposited by the respondent on the day he received them nor on March 31, 1998 as these amounts were not reflected in the copy of the MTC's LBP Passbook No. 2901-0029-19 (Exhibit N) as certified to by Rizza Carlos, Land Bank of the Philippines Talavera Branch's Cash Clerk.* Instead respondent made a withdrawal of ₱6,000.00 (Exhibit N-1) and also as evidenced by the withdrawal slips (Exhibits N-4 and N-5) though it appears that he deposited ₱5,000.00 on March 10, 1998 as evidenced by cash deposit slip (Exhibit N-3), this deposit does not refer to his receipt of ₱3,000.00 on March 9, 1998 as shown by a copy of the passbook (Exhibit GG).

Only on May 5, 1998 did the respondent make a deposit of ₱16,000.00 which corresponds to the total of the receipts (Exhibits M to M-3) at

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Cabanatuan City. He did not use the passbook. This fact is evidenced by the cash deposit slips (Exhibits O and O-1) presented by Lorinda Viloria of Land Bank of the Philippines, Cabanatuan City who testified that the deposit was effected without the presence of a passbook and the respondent only went later to the Talavera Branch to update the passbook x x x

Despite his request in the ultimate paragraph of his answer dated July 27, 1998 x x x that he be given an opportunity to prove that he is morally, technically, mentally and physically fit for his job with a prayer that the charges against him be dismissed for being arbitrary and predicated in bad faith, the respondent, as shown by the records, did not take the opportunity given him during the hearing of these cases, instead he waived the same by failing to attend the hearing despite notice and warnings failing to present evidence to dispute, controvert the charges levelled against him.

We adopt the findings of the Investigating Judge as they are supported by the evidence on record as well as her recommendation that respondent be dismissed from the service.

Every employee in the judiciary should be an example of integrity, uprightness and honesty.[4] Not only is he expected to be well-mannered, civil and considerate in his actuations, official or otherwise, but more than anybody else, he is also bound to manifest to his superiors, more particularly to the presiding Judge, utmost respect and obedience to the latter's orders and instructions issued pursuant to the duties of the office the Judge holds.[5] Respondent's acts of repeatedly ignoring complainant's memoranda for him to attend flag ceremonies, wear appropriate office uniform, sign the logbook, and observe complete office hours indicate not only his lack of respect for and insubordination of his presiding Judge but also betray his lack of regard for the reasonable office rules and regulations which every civil servant is bound to observe. Respondent's liability is compounded by the fact that as Clerk of Court, hence, administrative assistant to the presiding Judge having administrative supervision over his co-employees, respondent was

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[4] *Ferrer v. Gapasin, Jr.*, A.M. No. P-92-736, 16 November 1993, 227 SCRA 764.

[5] *Quimsing v. Bugho*, A.M. No. 592-CFI, 28 September 1977, 79 SCRA 151.

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expected to be the role model for his co-employees[6] to be emulated in the performance of their duties as well as in their conduct and behavior as civil servants.

Even far more serious than the foregoing however was respondent's undue delay in depositing cash bonds which he received in February, March and April 1998. Evidence on record shows that a ₱5,000.00 cash bond from one Yolanda Ramos was received by him on 26 February 1998 but was deposited only on 10 March 1998, while cash bonds in the amounts of ₱4,000.00 received from Aurora Grospe on 9 March 1998, ₱3,000.00 from Rogelio Asuncion on 10 March 1998, another ₱3,000.00 from Michael del Rosario on 11 March 1998, and ₱6,000.00 from Resty Pangilinan on 3 April 1998 were all deposited on 5 May 1998, or after a delay varying from one (1) to two (2) months.

We have already said that Clerks of Court may not keep funds in their custody.[7] All collections from bailbonds, rental deposits, and other fiduciary collections shall be deposited within twenty-four (24) hours by the Clerk of Court concerned, upon receipt thereof, with the Land Bank of the Philippines.[8] Undue delay in remitting collections amounts no less to grave misfeasance if not malversation of funds.[9] No protestation of good faith can override the mandatory nature of the circulars designed to promote full accountability for government funds.[10]

In addition, evidence on record shows that a check for ₱1,040.00 payable to the MTC-Sto. Domingo, Nueva Ecija, issued by the Land Bank of the Philippines, Talavera Branch, on 6 April 1998 to cover filing fees in Civil Cases Nos. 1589 to 1596 was never deposited in the MTC's account. Evidence further discloses that

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[6] *Office of the Court Administrator v. Cabe,* A.M. No. P-96-1185, 26 June 2000.

[7] *Ferriols v. Hiam*, A.M. No. P-90-414, 9 August 1993, 225 SCRA 205.

[8] Circular No.50-95 Re Court Fiduciary Funds, par. B(4).

[9] *Lirios v. Oliveros*, A.M. No. P-96-1178, 6 February 1996, 253 SCRA 258.

[10] Report on the Financial Audit in RTC, General Santos City and the RTC & MTC of Polomolok, South Cotabato, A.M. No. 96-1-25-RTC, 8 March 2000.

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the check was used personally by respondent to pay his loan to a certain "Chato," whose real name is Glenda Geronimo, a neighbor. "Chato" or Glenda Geronimo, in turn, paid the check to a grocery store owned by a valued client of Solidbank who thereafter deposited the check at the bank.[11]

Respondent never appeared during the investigation of his case despite due notice to him. He never appeared to rebut the charges against him by complainant. As we held in one case,[12] failure of a Clerk of Court to turnover money deposited with him and to explain and present evidence thereon constitutes gross dishonesty, grave misconduct, and even malversation of public funds which this Court will never countenance as they indubitably diminish the faith of the people in the judiciary.[13]

WHEREFORE, for *Insubordination,* Violation of SC Circular No. 50-95, *Gross Dishonesty*, and *Grave Misconduct Amounting to Conduct Prejudicial to the Best Interest of the Service,* respondent RONALD ALLAN A. FERRY, Clerk of Court II, Municipal Trial Court, Sto. Domingo, Nueva Ecija, is *DISMISSED* from the service with forfeiture of all leave credits and retirement benefits and with prejudice to re-employment in any government office or agency including government-owned or controlled corporations.

SO ORDERED.

Bellosillo (Acting C.J.), Puno, Vitug, Kapunan, Mendoza, Quisumbing, Pardo, Gonzaga-Reyes, Ynares-Santiago, and *De Leon, Jr., JJ.*, concur.

Davide, Jr., C.J., Melo, Panganiban, Buena, and *Sandoval-Gutierrez, JJ.*, on official business.

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[11] Exh. "JJ", Letter dated 21 September 1998 of Solidbank to Judge Efren B. Mallare; *Rollo* of A.M. No. P-00-1381, p. 125.

[12] *Office of the Court Administrator v. Galo*, A.M. No. P-93-989, 21 September 1999, 314 SCRA 705.

[13] *Re: Report on the Judicial and Financial Audit of RTC-Br. 4, Panabo, Davao del Norte,* A.M. No. 95-4-143-RTC, 13 March 1998, 287 SCRA 510.