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[A.M. No. MTJ-03-1473. August 20, 2003]
(Formerly OCA IPI No. 01-1153-MTJ)

MYRA M. ALINTANA DE PACETE, *complainant, vs.* **JUDGE JOSEFINO A. GARILLO, MCTC-Calintaan, Occidental Mindoro**, *respondent.*

SYNOPSIS

Respondent judge received a total of ₱78,000 from Ricardo Pacete in connection with a civil case pending before respondent's sala. While respondent acknowledged receipt of the amount, he claimed that he lost the money as it was stolen from him.

Respondent judge violated Supreme Court Circular No. 50-95 which requires that all court collections be deposited with the Land Bank or the local treasurer within 24 hours from receipt thereof. Although he denied misappropriating the amount and that he was a victim of theft, his liability for the violation of the circular cannot be denied. He received the consignation of money at his home and thereafter failed to remit the amounts officially for deposit to the authorized bank. Allegedly, he lost the sealed envelope of money placed on top of a glass counter at a gasoline station. There was, however, no serious attempt to recover the amount. Thus, the Court ruled that respondent judge was guilty of gross misconduct and for having violated Supreme Court Circular No. 50-95, that warranted the penalty of dismissal from the service.

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; SUPREME COURT CIRCULAR NO. 50-95; ALL COURT COLLECTIONS MUST BE DEPOSITED TO THE LAND BANK WITHIN 24 HOURS FROM RECEIPT THEREOF. — [Circular No. 50-95] provides that all collections from bail bonds, rental deposits and other fiduciary collections shall be deposited with the Land Bank of the Philippines by the Clerk of Court concerned, within 24 hours upon receipt thereof. In localities where there are no branches

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of the Land Bank of the Philippines, fiduciary collections shall be deposited by the Clerk of Court with the Provincial, City, or Municipal Treasurer. Deposits shall be made in the name of the Court, with its Clerk of Court and the Executive Judge as authorized signatories. These provisions are mandatory and designed to promote full accountability for government funds. It is worth emphasizing that the safekeeping of funds and collections is essential to the goal of an orderly administration of justice.

2. **ID.; ID.; ID.; VIOLATED BY RECEIVING CONSIGNATION MONEY IN ONE'S HOME.** — By his own admissions, it is clear that the respondent violated the mandatory provisions of Circular No. 50-95 concerning fiduciary funds. Although he denies having misappropriated the amount, claiming that he was the victim of theft, his liability for the violation cannot be denied. The records of this case contradict, rather than support, respondent's claim of good faith. For one, it was highly improper and irregular for the respondent to receive the consignation of money at his home and thereafter fail to remit the amounts officially for deposit to the authorized bank. For another, the respondent's story surrounding the loss of the money simply taxes one's gullibility. Respondent claims that he lost the money from complainant because he negligently left the sealed envelope bulging with so many bills on top of a glass counter, in a public place with nobody to watch over it while he was shopping at a gasoline station. Yet after he discovered that the money was gone, he did not report the matter to the police. In fact, by his own admission, all he did was to make an inquiry from the sales clerk of the store. There was no serious attempt by the respondent to recover the amount, if indeed he lost it at the time and place as he would like us to believe. No detailed account of who, what, where and when of the loss is presented to this Court, to underscore that his actuations were those of a responsible and cautious official of the court.

3. **JUDICIAL ETHICS; JUDGES; CODE OF JUDICIAL CONDUCT; REQUIRED DECORUM.** — Time and again, this Court has emphasized that it will neither tolerate nor condone any conduct which would violate the norms of public accountability, and diminish the faith of the people in the justice system. A judge should always be a symbol of rectitude and propriety, comporting

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himself in a manner that will raise no doubt whatsoever about his honesty. He should ever strive to preserve the good name of the court on which he sits and avoid any indiscretion that will defile its probity. Canon 1 of the Code of Judicial Conduct requires judges to uphold the integrity and independence of the Judiciary. Canon 2 of the same code requires him to avoid impropriety and the appearance of impropriety in all activities.

4. **ID.; ID.; GROSS MISCONDUCT; PRESENT THROUGH JUDGE'S MISAPPROPRIATION OF MONEY ENTRUSTED BY LITIGANTS IN CONNECTION WITH PENDING CASE IN HIS COURT.** — [B]ecause of his actuations, respondent has impaired the image of the judiciary. Rather than keep it at all times unsullied, always worthy of the people's trust, he has damaged it beyond easy repair. He is guilty of gross misconduct for misappropriating money entrusted to him by litigants in connection with a case pending in his court. No less importantly, the respondent has also caused pecuniary damage to complainant, who has yet to recover the sum entrusted to respondent.

5. **ID.; ID.; ID.; ID.; PROPER PENALTY IS DISMISSAL.** — As previously held, any appearance of criminal violation of the law, in any way or capacity, directly or indirectly, principal or accessing, will warrant the judge to be disrobed. By his conduct, the respondent has demonstrated culpability subversive of the time-honored principle that a public office is a public trust. The penalty of dismissal, as recommended by OCA, is proper.

RESOLUTION

***PER CURIAM*:**

Respondent, Judge Josefino A. Garillo, of the Municipal Circuit Trial Court, Calintaan, Occidental Mindoro, is charged of dishonesty, violation of the Anti-Graft and Corrupt Practices Act,[1] and violation of the Code of Judicial Conduct.

In her complaint,[2] Myra Alintana de Pacete averred that sometime in 1994, her father-in-law, Ricardo Pacete, mortgaged three (3) hectares of agricultural land to one of his daughters-in-law,

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[1] Republic Act No. 3019.

[2] *Rollo*, pp. 1–5.

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Kemimakrin V. Pacete, on the condition that Ricardo would redeem his land after five (5) years. Subject of the mortgage is a land located at Barangay Salvacion, Rizal, Occidental Mindoro.

When the redemption date neared, Ricardo Pacete borrowed from complainant ₱47,000 to pay to Kemimakrin. To obtain the amount Ricardo needed, the complainant secured ₱40,000 from the Salvacion United Farmer's Cooperative and supplied ₱7,000 from her own funds. On the redemption date, however, Kemimakrin refused to accept the ₱47,000, contending that she had earlier paid off a prior mortgage on the land.[3]

Failing to arrive at an amicable settlement of the dispute after undergoing conciliatory proceedings under the *Katarungang Pambarangay*, the parties were given a certification allowing them to file a civil action.[4]

The complainant alleged that it was then that she approached the respondent judge. Respondent required her to deposit with him the ₱47,000 so he can issue summons to Kemimakrin. She complied and gave said amount to respondent at his residence in San Jose, Occidental Mindoro.[5]

On May 31, 2000, Ricardo Pacete formally filed his complaint for tender of payment and consignation[6] before respondent's sala. The case was docketed as Civil Case No. 76. After Kemimakrin filed her answer,[7] respondent required Ricardo Pacete to deposit an additional amount of ₱31,000. Since Ricardo Pacete did not have the required amount, he approached complainant and borrowed said amount. Ricardo then personally handed the P31,000 cash to respondent.[8]

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[3] *Id.* at 1.

[4] *Id.* at 2, 6.

[5] *Id.* at 2.

[6] *Id.* at 10-11.

[7] *Id.* at 12-13.

[8] *Supra*, note 5.

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Contrary to his protestations, according to complainant, the respondent failed to give the deposited sums of money (totaling ₱78,000) to Kemimakrin. According to the complainant, the respondent also never returned to his sala where they waited for him. Later, she demanded the return of the money.[9]

On October 5, 2000, respondent wrote the Salvacion United Farmer's Cooperative acknowledging receipt of the ₱78,000 from the complainant. He explained that the money was stolen from him and asked for some consideration. In a second letter, the respondent wrote that he was going to attend a convention in Manila and that he would have money ready by the time he returned. Failing to make good his promise, respondent again wrote another letter on March 26, 2001 promising to pay complainant after two (2) weeks. Again, he still failed to pay. In his fourth letter to her, the respondent made another promise. Yet again, he failed to pay.[10]

Complainant stated that the interest on her loan from the Salvacion United Farmer's Cooperative continues to accrue, and she is slowly being buried in debt.[11]

In his comment[12] dated May 24, 2002, respondent admitted having received a total of ₱78,000 deposited with him as redemption price for the mortgaged property subject of Civil Case No. 76 pending before his court. He also admitted having lost the money, but declared that he did not misappropriate it. He explained that on his way to the town of Rizal, he stopped at a gasoline station to fill the tank of his service jeep. He went to the counter to pay for the gasoline and placed the envelope containing the records of the case and the money over the glass counter. He then went to look for other items he needed inside the store and when he returned to the counter, he was surprised to discover that the envelope had vanished. His efforts to locate the money inside the store proved futile. It was then that it dawned upon him that he had been the victim of larceny.

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[9] *Ibid.*

[10] *Id.* at 3, 14-17.

[11] *Id.* at 3.

[12] *Id.* at 24-25.

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For his negligence, the respondent begged for this Court's indulgence and promised to pay the complainant the ₱78,000 with interest.

In its report[13] dated November 22, 2002, the Office of the Court Administrator (OCA), through Court Administrator Presbitero J. Velasco Jr., found the respondent liable for violating Supreme Court Circular No. 50-95 and the Code of Judicial Conduct, and recommended the penalty of dismissal.

On January 15, 2003,[14] this Court resolved to re-docket the case as a regular administrative matter.

This Court agrees with the findings of the OCA that the respondent violated Circular No. 50-95.[15] Said Circular provides that all

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[13] *Id.* at 26-28.

[14] *Id.* at 30.

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[15] CIRCULAR NO. 50-95

TO: ALL JUDGES AND CLERKS OF COURT OF THE REGIONAL TRIAL COURTS, SHARI'A DISTRICT COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS AND SHARI'A CIRCUIT COURTS.

SUBJECT: COURT FIDUCIARY FUNDS

The following guidelines and procedures for purposes of uniformity in the manner of collections and deposits are hereby established:

A. *Guidelines in Making Deposits*:

(1) Deposits of fiduciary funds shall be made under a savings account. A current account may also be maintained provided that a savings account is also maintained with automatic fund transfer arrangement.

(2) Deposits shall be made in the name of the Court, with its Clerk of Court and the Executive judge as authorized signatories.

(3) The Clerk of Court shall be the custodian of the Passbook to be issued by the depository bank and shall report to the Executive Judge for RTC, SDC, MetroTC, MTCC and the Presiding Judge for MTC, MCTC

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collections from bail bonds, rental deposits, and other fiduciary collections shall be deposited with the Land Bank of the Philippines by the Clerk of Court concerned, within 24 hours upon receipt

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and SCC, the bank's name, branch and savings/current account number. Xerox copy of the passbook shall be submitted to the Fiscal Audit Division.

B. *Guidelines in Making Withdrawals*

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(4) 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.

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(6) Only one depository bank shall be maintained and the bank must be formally informed by the Executive/Presiding Judge as to who are the authorized signatories to the withdrawal slips and that every withdrawal slip must be accompanied by a court order authorizing the withdrawal of the amount indicated thereat.

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(8) In localities where there are no branches of the Land Bank of the Philippines, fiduciary collections shall be deposited by the Clerk of Court with the Provincial, City or Municipal Treasurer.

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Circulars that are inconsistent herewith are considered revoked.

This Circular shall take effect on November 1, 1995.

October 11, 1995.

(SGD.) ERNANI CRUZ PAÑO

Court Administrator

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thereof.[16] In localities where there are no branches of the Land Bank of the Philippines, fiduciary collections shall be deposited by the Clerk of Court with the Provincial, City, or Municipal Treasurer.[17] Deposits shall be made in the name of the Court, with its Clerk of Court and the Executive Judge as authorized signatories.[18]

These provisions are mandatory and designed to promote full accountability for government funds.[19] It is worth emphasizing that the safekeeping of funds and collections is essential to the goal of an orderly administration of justice.[20]

By his own admissions, it is clear that the respondent violated the mandatory provisions of Circular No. 50-95 concerning fiduciary funds. Although he denies having misappropriated the amount, claiming that he was the victim of theft, his liability for the violation cannot be denied.

The records of this case contradict, rather than support, respondent's claim of good faith. For one, it was highly improper and irregular for the respondent to receive the consignation of money at his home and thereafter fail to remit the amounts officially for deposit to the authorized bank. For another, the respondent's story surrounding the loss of the money simply taxes one's gullibility. Respondent claims that he lost the money from complainant because he negligently left the sealed envelope bulging with so many bills on top of a glass counter, in a public place with nobody to watch over it while he was shopping at a gasoline station. Yet after he discovered that the money was

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[16] *Ibid.*

[17] *Ibid.*

[18] *Ibid.*

[19] *Report on the Financial Audit Conducted on the Books of Accounts of OIC Melinda Deseo, MTC, General Trias, Cavite*, A.M. No. 99-11-157-MTC, 7 August 2000, 337 SCRA 347, 353; *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, 327 SCRA 414, 425.

[20] *Report on the Financial Audit Conducted on the Books of Accounts of OIC Melinda Deseo, MTC, General Trias, Cavite, ibid.*

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gone, he did not report the matter to the police. In fact, by his own admission, all he did was to make an inquiry from the sales clerk of the store. There was no serious attempt made by respondent to recover the amount, if indeed he lost it at the time and place as he would like us to believe. No detailed account of who, what, where and when of the loss is presented to this Court, to underscore that his actuations were those of a responsible and cautious official of the court.

Weighed against complainant's detailed averment that the respondent misappropriated the money, respondent's bare denial of the charge cannot prevail. That he wrote the complainant admitting having received the money and asking for time to repay it is no reason to exculpate him from his liability. Records reveal that the respondent's first letter informing the complainant of the alleged theft of the money occurred months after the supposed incident, and quite a while after repeated demands from the complainant,[21] for the money's return.

Time and again, this Court has emphasized that it will neither tolerate nor condone any conduct which would violate the norms of public accountability, and diminish the faith of the people in the justice system.[22] A judge should always be a symbol of rectitude and propriety, comporting himself in a manner that will raise no doubt whatsoever about his honesty.[23] He should ever strive to preserve the good name of the court on which he sits and avoid any indiscretion that will defile its probity.[24] Canon 1 of the Code of Judicial Conduct requires judges to uphold the integrity and independence of the Judiciary. Canon 2 of the same code requires him to avoid impropriety and the appearance of impropriety in all activities. Because of his actuations, respondent has impaired the image of the judiciary.

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[21] See *Rollo*, pp. 3, 14, 25.

[22] *Office of the Court Administrator v. Fortaleza*, A.M. No. P-01-1524 (Formerly A.M. No. 01-2-14-MTC), 29 July 2002, p. 13.

[23] *Office of the Court Administrator v. Barron*, 358 Phil. 12, 28 (1998); *Yuson v. Noel*, A.M. No. RTJ-91-762, 1 October 1993, 227 SCRA 1, 7.

[24] *Yuson v. Noel, ibid.*

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Rather than keep it at all times unsullied, always worthy of the people's trust, he has damaged it beyond easy repair. He is guilty of gross misconduct for misappropriating money entrusted to him by litigants in connection with a case pending in his court. No less importantly, the respondent has also caused pecuniary damage to complainant, who has yet to recover the sum entrusted to respondent.

As previously held, any appearance of criminal violation of the law, in any way or capacity, directly or indirectly, principal or accessing, will warrant the judge to be disrobed.[25] By his conduct, the respondent has demonstrated culpability subversive of the time-honored principle that a public office is a public trust. The penalty of dismissal, as recommended by OCA, is proper.[26]

WHEREFORE, for violation of Supreme Court Circular No. 50-95 and for gross misconduct, respondent JUDGE JOSEFINO A. GARILLO, of the Municipal Circuit Trial Court, Calintaan, Occidental Mindoro, is *DISMISSED* from the service with forfeiture of all benefits, except accrued leaves if any, and with prejudice to re-employment in any branch, agency, or instrumentality of the government including government-owned or controlled corporations. This Resolution shall take effect immediately upon its promulgation.

SO ORDERED.

Bellosillo, Puno, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Azcuna, and *Tinga, JJ.*, concur.

Davide, Jr., C. J., Austria-Martinez, Corona, Carpio Morales, and *Callejo, Sr., JJ.*, on official leave.

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[25] *Office of the Court Administrator v. Sanchez*, A.M. No. RTJ-99-1486, 26 June 2001, 359 SCRA 577, 579.

[26] See also RULES OF COURT, Rule 140, Section 11 (A)(1).