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**EN BANC**

[A.M. No. 97-1-03-MTC. February 15, 1999]

# REPORT OF THE FINANCIAL AUDIT CONDUCTED ON THE ACCOUNTS OF CLERK OF COURT ZENAIDA GARCIA, MTC, BAROTAC NUEVO, ILOILO.

## SYNOPSIS

A financial audit was conducted on the accounts of Clerk of Court Zenaida Garcia of the Municipal Trial Court, Barotac, Nuevo, Iloilo. It was found, among others, that she had no cashbook where the daily collections and deposits are supposed to be recorded; some original copies of official receipts were not given to the payors/depositors; collections for Fiduciary, General and Judiciary Development Funds were mixed-up; some official receipts were altered, there were instances wherein temporary receipts were issued instead of official receipts; and she had total accountabilities in the amount of P160,595.40 as of February 19, 1996. However, since February 27, 1996 she was considered AWOL, and as per information, she was transferring from one place to another in order to escape her monetary liabilities. Hence, the Office of Court Administrator (OCA) recommended her dismissal from the service.

The Court fully agreed with the OCA that Zenaida Garcia should be dismissed from the service. She committed gross dishonesty, grave misconduct, and conduct highly prejudicial to the best interest of the service. Then, she left the service without seeking permission or informing her superior of her whereabouts, thereby rendering it difficult for the Government to locate her. In misappropriating public funds, abandoning her office, and never reporting back to work, she openly disregarded the public trust character of her office.

## SYLLABUS

1. **CONSTITUTIONAL LAW; SUPREME COURT; ADMINISTRATIVE SUPERVISION OVER COURT PERSONNEL; COURT EMPLOYEES; MUST FAITHFULLY ADHERE TO THE PRINCIPLE THAT A PUBLIC OFFICE IS A PUBLIC**

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**TRUST.**— This Court had said before, and reiterates it here, that the administration of justice is a sacred task. By the very nature of their duties and responsibilities, all those involved in the administration of justice, from the highest official to the lowliest clerk, must faithfully adhere to, hold inviolate, and invigorate the principle solemnly enshrined in Section 1 of the Article XI of the Constitution that a public office is a public trust. All public officers and employees must at all times be accountable to the people; serve them with utmost responsibility, integrity, loyalty, and efficiency; act with patriotism and justice; and lead modest lives.

2. **ID.; ID.; ID.; ID.; MUST UPHOLD THE INTEGRITY OF THE JUDICIARY.**— The Court condemns and will never countenance any conduct, act, or omission on the part of all those involved in the administration of justice which will violate the norm of public accountability and diminish or tend to diminish the faith of the people in the Judiciary. (*Sy v. Academia and Padre v. Academia,* 198 SCRA 705,717 [1991]).

## RESOLUTION

***PER CURIAM:***

Pursuant to our Resolution of 11 November 1997, the Office of the Court Administrator (OCA) submitted a Memorandum dated 24 March 1998. It summarized the antecedent facts as follows:

...[I]n a Memorandum dated 23 September 1996, Senior Chief Staff Officer Antonina A. Soria informed then Acting Court Administrator Reynaldo L. Suarez of the results of the financial audit conducted on the accounts of Clerk of Court Zenaida Garcia of MTC, Barotac, Nuevo, Iloilo. Ms. Garcia was considered AWOL on 27 February 1996 and since then her whereabouts have not been known.

The Audit Report submitted that:

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1) There is no available cashbook where daily collections and deposits are supposed to be recorded;

2) Some original copies of official receipts were not given to payors/depositors for they were still intact in the booklets;

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3) Collections for Fiduciary, General and Judiciary Development Funds were mixed-up by reason of her issuing official receipts coming from one booklet;

4) Some official receipts were altered. Amount in the original copy is different from the duplicate copy. For example, the amount in the original copy is P20.00 while amount in the duplicate is only P10.00;

5) There were instances wherein temporary receipts were issued instead of official receipts; and

6) Total collections per official receipts and other documents presented amounted to P60,445.65 while remittances total only to P33,367.15 leaving unremitted collections of P27,078.50.

FOR FIDUCIARY FUND

1) There is no available cashbook where transactions must be recorded;

2) No record of remittance/deposit of collections;

   In Criminal Cases Nos. 86258, 86259 and 2626, the Judge ordered the release of the cashbond deposits, unfortunately, no refund can be made for there were no deposits made with the bank nor with the local treasurer; and

3) Per available records, we were able to account only for the total sum of P116,500.00 as unwithdrawn fiduciary fund from June 1988 to February 1996.

FOR GENERAL FUND

Verification from the documents presented showed that she did not collect fees for General Fund. However, we were able to trace fines and forfeitures which should accrue to this fund. The total amount, as computed, summed up to P17,016.90 but there is no showing that this amount has been remitted.

Her total accountabilities for these three (3) accounts as of February 19, 1996 amounted to P160,595.40. Part of this amount belongs to private persons who should be refunded upon completion/termination of the obligation for which the bond or deposit was required. We cannot claim for the fidelity fund insurance of the government because Ms. Garcia, as records will show, is not bonded.

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The Honorable Court in a Resolution dated 3 December 1996 in A.M. No. 96-11-149-MTC dropped Zenaida C. Garcia from the service due to absence without official leave. However, in a Resolution dated 11 February 1997 in the instant administrative matter, the Court *En Banc* recalled the resolution and temporarily suspended action on the AWOL charge until after the issues relative to her accountabilities were settled. The criminal aspect of the case was referred to the Office of the Ombudsman for the filing of an appropriate criminal action against Garcia, and the same resolution directed the National Bureau of Investigation (NBI) to locate and inform the Court of Garcia's whereabouts. The Chief of Accounting Division, this Court, was also directed to explain why respondent Clerk of Court was not bonded.

In a REPORT forwarded to the Honorable Court, Director Santiago Y. Toledo, National Bureau of Investigation (NBI) informed the Office that respondent Zenaida Garcia had been an employee of MTC, Barotac, Nuevo, Iloilo for about 17 years prior to her absence. Two (2) years before she absconded, her salaries were ordered withheld for her failure to remit her collections to the Supreme Court. Garcia's co-employees however opined that respondent's salaries/differential for these two (2) years have been more than enough to cover her unremitted collections. Evelyn G. Billena, Court Stenographer and Acting Clerk of Court, also revealed that Garcia had been transferring from one place to another and has made no attempt to return to her family and her place of work since 27 February 1996 to escape her monetary liabilities.

Other NBI sources additionally revealed that the problem of respondent Garcia started when her husband was murdered sometime in 1980. Because of financial difficulties, Garcia failed to pay her debts resulting in the filing of estafa cases against her. A standing warrant of arrest has been issued as a result of a complaint filed against her by First Women Credit Corporation. This explains why Garcia does not stay for long in one place and keeps on changing her safehouses even if it means being separated from her children. Respondent's mother confirmed this fact.

Policarpio G. Felicidario, Jr., Acting Chief, Accounting Division, this Court, in his COMPLIANCE dated 15 January 1998 claimed that it is the Finance Division which takes charge of the "proper procedure for bonding accountable officers" and that it was Jess Makasiar (now with the Office of the Court Administrator) who prepared the documents relative to the bondings of Clerks of Court.

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Upon inquiry, Mr. Makasiar, now with OCA in charge of bonds for RTC, Clerks of Court, revealed that it has been the practice in the past to require bonds only from the Clerks of Court of Regional Trial Courts owing to the large amounts of their collections. Clerks of Court of MTCs were not strictly bonded then. Isaac Aribas, Jr., in charge of bondings of MTC Clerks of Court since April 1996, claims that it was only when the case against Atty. Marcela M. Baleares, Clerk of Court, MeTC, Makati City (A.M. No. P-95-1166) was filed that all Clerks of Court of first level courts were strictly required to be bonded. Unfortunately, Zenaida Garcia was already AWOL at that time.

The OCA declared that Zenaida Garcia's misappropriation of the funds for her personal benefit constitutes dishonesty which is punishable both administratively and criminally. It then recommends that (a) she be dismissed from the service with forfeiture of all retirement benefits and leave credits and be disqualified for reemployment in the government service, including government–owned or controlled corporations; and (b) the OCA through the Fiscal Management Office be directed to "make representations" with the Office of the Ombudsman for the expeditious disposition of the preliminary investigation and the initiation in the proper court, if warranted, of appropriate criminal proceedings against her.

In its Memorandum of 1 October 1998, the OCA found satisfactory the explanation of Mr. Makasiar. Indeed, Mr. Makasiar was not yet assigned to handle the task of bonding accountable MTC officers at the time Ms. Garcia was supposed to be bonded. Besides, the requirement of posting of bond by Clerks of Courts of the MTC, MCTC, and MeTC came only after Atty. Marcela Baleares of MeTC, Makati City, was charged with, among other things, Grave Misconduct under A.M. No. P-94-1103. It likewise reiterated its recommendation of dismissal of Zenaida Garcia from the service.

We fully agree with the OCA that Zenaida Garcia should be dismissed from the service. She committed gross dishonesty, grave misconduct, and conduct highly prejudicial to the best interest of the service. Then, she left the service without seeking permission or informing her superior of her whereabouts, thereby rendering it difficult for the Government to locate her. In misappropriating public funds, abandoning her office, and never reporting back to

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work, she openly disregarded the public trust character of her office. This Court had said before, and reiterates it here, that the administration of justice is a sacred task. By the very nature of their duties and responsibilities, all those involved in the administration of justice, from the highest official to the lowliest clerk, must faithfully adhere to, hold inviolate, and invigorate the principle solemnly enshrined in Section 1 of Article XI of the Constitution that a public office is a public trust. All public officers and employees must at all times be accountable to the people; serve them with utmost responsibility, integrity, loyalty, and efficiency; act with patriotism and justice; and lead modest lives. The Court condemns and will never countenance any conduct, act, or omission on the part of all those involved in the administration of justice which will violate the norm of public accountability and diminish or tend to diminish the faith of the people in the Judiciary. (*Sy v. Academia* and *Padre v. Academia,* 198 SCRA 705, 717 [1991]).

**WHEREFORE**, for dishonesty, grave misconduct, and conduct prejudicial to the best interest of the service, ZENAIDA GARCIA, Clerk of Court of the Municipal Trial Court of Barotac Nuevo, Iloilo, is ordered DISMISSED from the service, with forfeiture of all benefits due or may be due her by reason of such employment or prior employment in the government; and with prejudice to reinstatement or reemployment in the government or any of its agencies or instrumentalities, including government-owned or controlled corporations. She is further ordered to refund or restitute to the Government the sum of P160,595.40 with interest thereon at 6% per annum from 27 February 1996 until the finality of this resolution, and 12% per annum from such finality until she shall have fully restituted the said amount.

The Office of the Court Administrator shall coordinate with the prosecution arm of the Government to ensure the expeditious prosecution of the criminal aspect of this case against Zenaida Garcia.

**SO ORDERED.**

*Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena,* and *Gonzaga-Reyes, JJ.,* concur.