Supreme Court E-Library

WHEREFORE, the petition is *DISMISSED*, and the resolution of the COMELEC *en banc* in SPC No. 98-129, SPC No. 98-142, and SPC No. 98-169 is hereby *AFFIRMED*.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Purisima, Buena, Gonzaga-Reyes, Ynares-Santiago, and De Leon, Jr., JJ. concur.

Pardo, J., no part.

EN BANC

[A.M. No. 96-1-25-RTC. March 8, 2000]

REPORT ON THE FINANCIAL AUDIT IN RTC, GENERAL SANTOS CITY AND THE RTC & MTC OF POLOMOLOK, SOUTH COTABATO.

SYNOPSIS

This case was related to the Court's decision dated April 18, 1997 returning to the Office of the Court Administrator (OCA) its audit report for re-evaluation with instruction to submit a report and recommendation with respect to its financial audit report made to the Municipal Trial Court of Polomolok, South Cotabato. The OCA found the following: (a) that clerk of Court Evelyn Trinidad kept her collections in her bag and deposited them once a month and deposited fiduciary collections in time deposit accounts; (b) not all fiduciary collections for the period of May 1994 to July 1995 were deposited in the bank; (c) she issued only one receipt for the entire collection in a day, and for one year (April 1993 to April 1994) gave no official receipts at all for fiduciary collections; (d) she incurred a shortage of

Supreme Court E-Library

₱1,752.39 in the Judiciary Development Fund (e) she allowed respondent Judge to keep custody of her collections. In view of these findings, the OCA submitted its memorandum recommending the suspension for six months and one day of Ms. Evelyn Trinidad, Clerk of Court of the MTC of Polomolok for dereliction of duty, inefficiency and incompetence, as well as her prosecution for malversation, and the imposition of a fine of ₱10,000.00 on Judge Orlando Oco for negligence in managing his court and for ignorance of the circulars of the Court.

The Court found the recommendation of the Office of the Court Administrator proper. The Court ruled that indeed, respondent clerk of court violated several Administrative Circulars issued by the Court as found by the OCA. With regard to the liability of respondent Judge, the Court said Judge Oco should be held liable for mismanagement and for ignorance of the circulars of the Court regarding deposits of collections. Accordingly, The Court affirmed the recommendation submitted by OCA.

SYLLABUS

1. **POLITICAL LAW; ADMINISTRATIVE LAW; COURT PERSONNEL; ADMINISTRATIVE CIRCULAR NO. 5-93; CLERKS OF COURT MANDATED TO DEPOSIT EVERYDAY WITH THE LAND BANK THE DAILY COLLECTIONS OF THE JUDICIARY DEVELOPMENT FUND.**— Administrative Circular No. 5-93, which embodies the rules and regulations concerning the collection of the Judiciary Development Fund, provides: "5. *Systems and Procedures:* "c. *In the RTC, SDC, MeTC, MTCC, MTC, MCTC and SCC.* The daily collections for the Fund in these courts shall be deposited every day with the local or nearest *LBP* branch 'For the account of the Judiciary Development Fund, Supreme Court, Manila – SAVINGS ACCOUNT NO. *159-01163-1;* or if depositing daily is not possible, deposits for the Fund shall be every second and third Fridays and at the end of every month, provided, however, that whenever collections for the fund reach ₱500.00, the same shall be deposited immediately even before the day indicated.'"

Supreme Court E-Library

2. **ID.; ID.; ID.; ADMINISTRATIVE CIRCULAR NO. 13-92; FIDUCIARY COLLECTIONS MUST BE DEPOSITED UNDER A SAVINGS ACCOUNT; CASE AT BAR.** — Circular No. 13-92 requires, with regard to fiduciary funds, that "All collections from bailbonds, rental deposits and fiduciary collections shall be deposited immediately by the Court concerned, upon receipt thereof, with an authorized government depository bank." Ms. Trinidad does not explain why she could not deposit her collections, if not daily, at least every second and third Fridays and at the end of every month as provided in Administrative Circular No. 5-93. At any rate, if the performance of her other duties as clerk of court made it physically impossible for her to comply with the aforesaid Circulars, she could have requested the Court to appoint a cash clerk to help her, instead of complaining only after she was found guilty of violation of the Circulars. Ms. Trinidad does not deny that she put fiduciary collections in a time deposit account in violation of Circular No. 13-92, which plainly requires that — "1. Deposits shall be made under a *savings account*. Current account can also be maintained provided that it is on an automatic transfer of current account from savings. 2. Deposits shall be made in the name of the Court. 3. The Clerk of Court shall be the custodian of the Passbook to be issued by the depository bank and shall advise the Executive Judge of the bank's name, branch and savings/current account number."

3. **ID.; ID.; ID.; ISSUANCE OF ONLY ONE RECEIPT FOR THE ENTIRE COLLECTION IN A SINGLE DAY IS A VIOLATION OF CIRCULAR NO. 32-93.** — On the finding that she issued only one receipt for the entire collection in a single day, Ms. Trinidad explains she had run out of official receipts which are sent to her from the Supreme Court. In order to economize on receipts, she issued only one receipt for the entire day's collection. xxx. Even assuming that she had to issue only one receipt for her collections in one day because she had run out of official receipts, Ms. Trinidad has not explained why she could not have requisitioned for them before they were exhausted. Further, even if Ms. Trinidad's failure to issue individual receipts for her collections in a day was excusable, what about her failure to issue official receipts for fiduciary collections for one entire year, from April 1993 to

Supreme Court E-Library

April 1994? Indeed, it is because of the rampant disregard by a number of clerks of court of the requirement to issue receipts for their collections and to deposit them promptly that the Court was led to issue Circular No. 32-93, which reads: "CIRCULAR 32-93 "In spite of the issuances by the Court of Circulars and Memoranda to attain maximum efficiency in the proper handling of collections and deposits, there are still Clerks of Court who have not been submitting regularly their monthly report of collections and deposits while others are not remitting at all their collections. In view hereof, all Clerks of Court/ Accountable Officers are enjoined to follow strictly the guidelines prescribed hereunder: 1) Submission of monthly report of collections for all funds should be sent to this Court not later than the 10th day of each succeeding month and should include the following: .... e) Original copy of Report of Collections and Deposits; duplicate official receipts issued and a copy of the validated deposit slip or the postal money order stub if remittance is by PMO."

4. **ID.; ID.; ID.; ALLOWING A JUDGE TO KEEP CUSTODY OF THE CLERK OF COURT'S COLLECTIONS CONSTITUTES NEGLECT OF DUTY.** — As to why she allowed Judge Oco to keep custody of her collections, Ms. Trinidad claims that it was because Judge Oco has a drawer in his desk which had sturdier locks. What Ms. Trinidad has done constitutes neglect of duty. The matter of lack of a safe place where she could keep her collections has never been brought to the attention of the Court by Ms. Trinidad who, as clerk of court, functions as the cashier and disbursement officer. She collects and receives, as custodian of court funds and revenues, all monies paid by way of legal fees, deposits, fines and dues. For the faithful discharge of these duties, she alone is responsible. Judge Oco's duty is to see to it that these functions are performed faithfully and well. On the other hand, Judge Oco explained that this procedure was adopted to assure litigants who deposit money by way of bailbonds, rental deposits, and the like, that their money was in the bank as shown by the Certificates of Time Deposits which the judge was ready to show to them on demand. The flaw in this reasoning is that it assumes that the only interest at issue is that of litigants, when the fact is that Judge Oco and Ms. Trinidad acted contrary to Circulars

Supreme Court E-Library

prescribing the proper procedure in handling funds that come under the custody of the clerk.

5. **ID.; ID.; DUTIES OF CLERKS OF COURT AND JUDGES IN RELATION TO COLLECTION OF LEGAL FEES.** — Indeed, clerks of court are the chief administrative officers of their respective courts; with regard to the collection of legal fees, they perform a delicate function as judicial officers entrusted with the correct and effective implementation of regulations thereon.[16] Even the undue delay in the remittances of amounts collected by them at the very least constitutes misfeasance. On the other hand, a vital administrative function of a judge is the effective management of his court and this includes control of the conduct of the court's ministerial officers. It should be brought home to both that the safekeeping of funds and collections is essential to the goal of an orderly administration of justice and no protestation of good faith can override the mandatory nature of the Circulars designed to promote full accountability for government funds.

DECISION

***PER CURIAM*:**

This is a sequel to our decision[1] of April 18, 1997 in this case in which, with respect to the Municipal Trial Court of Polomolok, South Cotabato, we returned to the Office of the Court Administrator (OCA) its audit report "for reevaluation, with instruction to submit a report and recommendation within 90 days from notice hereof."

We now have the memorandum of the OCA, dated February 12, 1998, recommending the suspension of Ms. Evelyn Trinidad, Clerk of Court of the MTC of Polomolok, for dereliction of duty, inefficiency, and incompetence, for six (6) months and one (1) day, as well as her prosecution for malversation, and the imposition of a fine of ₱10,000.00 on Judge Orlando A. Oco for negligence in managing his court and for ignorance of the Circulars of this Court regarding deposit of collections.

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[1] 271 SCRA 302 (1997).

Supreme Court E-Library

The memorandum of the OCA is based on the result of its audit conducted from July 20 to 24, 1995, which found the following:[2]

"(a) Clerk of Court Evelyn Trinidad kept her collections in her bag and deposited them once a month. She likewise deposited fiduciary collections in time deposit accounts;

"(b) She issued only one receipt for the entire collection in a day and, for one year (from April, 1993 to April, 1994), gave no official receipts at all for fiduciary collections;

"(c) Not all the fiduciary collections for the period May 1994 to July 1995 were deposited in the bank, as shown by the fact that the total amount shown in the receipts exceeded the amounts recorded in the cashbook and the amounts deposited in the bank. There was an overwithdrawal of deposits of the fiduciary fund as even the interests earned by the deposits were withdrawn;

"(d) Ms. Trinidad incurred a shortage of ₱1,752.39 in the Judiciary Development Fund; and

"(e) She allowed Judge Orlando A. Oco to keep custody of her collections."

The Court required both Ms. Trinidad and Judge Oco to comment on these findings and below is their explanation.

First. Ms. Trinidad admits having kept the collections which she deposited in the Land Bank of the Philippines only once a month. She claims, however, that she did so because it was too taxing for her to deposit her collections daily as required by regulation, considering that the bank is located at some distance from the MTC, and she has other duties as clerk of court. She explains that the court has no safety vault where she could keep her collections.[3]

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[2] *Rollo*, pp. 34-36.

[3] *Id.*, p. 34.

Supreme Court E-Library

Administrative Circular No. 5-93,[4] which embodies the rules and regulations concerning the collection of the Judiciary Development Fund, provides:

"5. *Systems and Procedures:*

"c. *In the RTC, SDC, MeTC, MTCC, MTC, MCTC and SCC.* The daily collections for the Fund in these courts shall be deposited every day with the local or nearest LBP branch 'For the account of the Judiciary Development Fund, Supreme Court, Manila - SAVINGS ACCOUNT NO. 159-01163-1; or if depositing daily is not possible, deposits for the Fund shall be every second and third Fridays and at the end of every month, provided, however, that whenever collections for the Fund reach ₱500.00, the same shall be deposited immediately even before the day indicated.'"

On the other hand, Circular No.13-92 requires, with regard to fiduciary funds, that "All collections from bailbonds, rental deposits and fiduciary collections shall be deposited immediately by the Court concerned, upon receipt thereof, with an authorized government depository bank."

Ms. Trinidad does not explain why she could not deposit her collections, if not daily, at least every second and third Fridays and at the end of every month as provided in Administrative Circular No. 5-93. At any rate, if the performance of her other duties as clerk of court made it physically impossible for her to comply with the aforesaid Circulars, she could have requested the Court to appoint a cash clerk to help her, instead of complaining only after she was found guilty of violation of the Circulars.

Ms. Trinidad does not deny that she put fiduciary collections in a time deposit account in violation of Circular No. 13-92, which plainly requires that —

"1. Deposits shall be made under a *savings account*. Current account can also be maintained provided that it is on an automatic transfer of current account from savings.

2. Deposits shall be made in the name of the Court.

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[4] Effective April 30, 1993.

Supreme Court E-Library

3. The Clerk of Court shall be the custodian of the Passbook to be issued by the depository bank and shall advise the Executive Judge of the bank's name, branch and savings/ current account number." (Italics supplied)

When Ms. Trinidad was asked why she deposited the fiduciary collections in time deposit accounts instead of a savings account, Judge Oco, answered in her behalf. Judge Oco explained that they had to accept cash deposits from litigants in settlement of their obligations for delivery to the other party. Pending termination of litigation, the money was deposited in time deposit accounts so that they would earn higher interest.[5] Judge Oco's only justification for this is that he and Ms. Trinidad did not know this was contrary to the Circulars.[6] This is inexcusable considering that the circulars in question are precisely addressed to clerks of court in connection with their handling of funds. With these Circulars judges and their clerks of court are expected to be familiar.

Second. On the finding that she issued only one receipt for the entire collection in a single day, Ms. Trinidad explains she had run out of official receipts which are sent to her from the Supreme Court. In order to economize on receipts, she issued only one receipt for the entire day's collection.[7]

On the other hand, with regard to the finding that, for one year (April 1993 to April 1994), his court issued no official receipts at all for fiduciary collections, Judge Oco states:

"Ms. Trinidad had been telling me that there are special forms of receipts for fiduciary funds which she termed trust receipts. She used to say that she was expecting to receive anytime from the supply department those trust receipts and in the meanwhile she could not use the ordinary receipts she had in her possession because according to her they are used for receipting fees, fines or any cash payment. She termed these later receipts as cash receipts. She feared that if

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[5] *Rollo*, p. 34.

[6] *Id.*, p. 73.

[7] *Id.*, p. 163.

Supreme Court E-Library

she used cash receipts for fiduciary funds the money will be considered payment to the government and so the depositor could not get back his funds.

"I believed her contention after all I seem to recall that when this duty had been with the municipal treasurer the latter had been issuing trust receipts. I say trust receipts because the printed wordings in the receipts state that the bail are trust funds.

"In the cash receipts handled by Mrs. Trinidad, there is no printed word or phrase indicating that the money for bail is a trust fund, so I thought Mrs. Trinidad was right in her contention. Moreover, because handling of funds is her duty, I thought she was knowledgeable.

"I could not refuse releasing an accused or refuse issuing a writ of preliminary mandatory injunction just because the Clerk of Court could not issue a trust receipt.

"So what I had been doing, with respect to bails, was to let the bondsman or accused sign the personal bailbond then I would issue an order of release stating that accused having deposited a specific amount of money he is ordered released. Bondsman and accused are given copies of the bailbond and order of release and the rest of the copies are kept with the records. In the meanwhile the Clerk of Court would deposit the funds with the Land Bank.

"So in so far as the Court is concerned it could not be said that the bondsman or accused holds no written evidence or receipt that he has money with the Court. Of course in this situation the Clerk of Court has no formal receipt to speak of but I submit that her misapprehensions were in good faith. Much later she learned she had been wrong all the time so thereafter she learned issuing formal receipts."[8]

Even assuming that she had to issue only one receipt for her collections in one day because she had run out of official receipts, Ms. Trinidad has not explained why she could not have requisitioned for them before they were exhausted. Further, even if Ms. Trinidad's failure to issue individual receipts for her collections in a day was excusable, what about her failure

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[8] *Id.*, pp. 70-71.

Supreme Court E-Library

to issue official receipts for fiduciary collections for one entire year, from April 1993 to April 1994?

Indeed, it is because of the rampant disregard by a number of clerks of court of the requirement to issue receipts for their collections and to deposit them promptly that the Court was led to issue Circular No. 32-93, which reads:

"CIRCULAR 32-93

"In spite of the issuances by the Court of Circulars and Memoranda to attain maximum efficiency in the proper handling of collections and deposits, there are still Clerks of Court who have not been submitting regularly their monthly report of collections and deposits while others are not remitting at all their collections.

"In view hereof, all Clerks of Court/Accountable Officers are enjoined to follow strictly the guidelines prescribed hereunder:

"1) Submission of monthly report of collections for all funds should be sent to this Court not later than the 10th day of each succeeding month and should include the following:

". . . . . .

"e) Original copy of Report of Collections and Deposits; duplicate official receipts issued and a copy of the validated deposit slip or the postal money order stub if remittance is by PMO."

Third. Even more serious is the OCA's finding[9] that the interests earned from the time deposit accounts were not remitted to the General Fund of the Supreme Court and that Ms. Trinidad failed to account for all cash items. Ms. Trinidad denies this and says that interest earnings were remitted to the government, submitting for this purpose the certification from the branch head of the Land Bank of the Philippines in Polomolok to the effect that the MTC of Polomolok had been remitting its collections to said bank.[10]

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[9] *Id.*, p. 115.

[10] *Id.*, p. 163.

Supreme Court E-Library

The only thing which the certification proves is that interest payments were remitted. Whether all the interest payments due the government from the fiduciary accounts were remitted is another matter since, in the absence of the official receipts, it is almost impossible to determine the exact amount of the fiduciary funds received by Ms. Trinidad and Judge Oco during the period in question.

The audit report further shows the following:

	Per O.R.	Per Cashbook	Per Bankbook
Total Collections from 5/94 to 7/26/95	₱527,500.00	₱521,400.00	₱264,109.40
Total Withdrawals From 5/94 to 7/26/95	—	294,500.00	264,359.50
Balance		₱226,900.00	(₱250.10)

As the OCA points out, these figures show that not all collections were deposited in the bank or recorded in the cashbook; that, of the total amount receipted (₱527,500.00), only ₱264,109.40 was deposited; and that there was an overwithdrawal of deposits so much so that even the interests earned from deposits were withdrawn.

Judge Oco's comment is as follows:

"Before April 1994, because of the apprehension about cash or trust receipts, fiduciary funds had not been properly receipted but they were in savings bank although the bulk were in time deposits but soon as per instruction of Mrs. Soria these time deposits were terminated and added to our existing savings account. But our receipts started to be issued only after April of 1994. I could imagine that the Court has more funds than those indicated in our receipts."[11]

The veracity of this claim is for the Ombudsman to determine in the contemplated case for malversation against Ms. Trinidad

[11] *Id.*, p. 150.

Supreme Court E-Library

and Judge Oco. As far as this case is concerned, these uncertainties could have been avoided had Ms. Trinidad issued proper receipts in accordance with the circulars.

Fourth. As to the alleged shortage of ₱1,782.39 in the Judiciary Development Fund, Ms. Trinidad explains that such finding was due to "faulty addition" of the Audit Team and that in any event she has paid the amount.[12] This explanation is unsatisfactory. As the OCA observes, Ms. Trinidad's payment of the amount only serves to reinforce the Audit Team's findings that Ms. Trinidad had incurred a shortage. Indeed, it is unusual for an accountable government employee to pay with alacrity out of her own pocket a claim of deficiency unless in fact she has incurred a deficiency.

Fifth. As to why she allowed Judge Oco to keep custody of her collections, Ms. Trinidad claims that it was because Judge Oco has a drawer in his desk which had sturdier locks.[13]

What Ms. Trinidad has done constitutes neglect of duty. The matter of lack of a safe place where she could keep her collections has never been brought to the attention of the Court by Ms. Trinidad who, as clerk of court, functions as the cashier and disbursement officer.[14] She collects and receives, as custodian of court funds and revenues, all monies paid by way of legal fees, deposits, fines and dues.[15] For the faithful discharge of these duties, she alone is responsible. Judge Oco's duty is to see to it that these functions are performed faithfully and well.

On the other hand, Judge Oco explained that this procedure was adopted to assure litigants who deposit money by way of bailbonds, rental deposits, and the like, that their money was in

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[12] *Ibid.*

[13] *Id.*, p. 163.

[14] *Office of the Court Administrator vs. Lucion,* 257 SCRA 287 (1996).

[15] *Office of the Court Administrator vs. Galo*, A.M. No. P-93-989, September 21, 1999.

Supreme Court E-Library

the bank as shown by the Certificates of Time Deposits which the judge was ready to show to them on demand.

The flaw in this reasoning is that it assumes that the only interest at issue is that of litigants, when the fact is that Judge Oco and Ms. Trinidad acted contrary to Circulars prescribing the proper procedure in handling funds that come under the custody of the clerk.

Indeed, clerks of court are the chief administrative officers of their respective courts; with regard to the collection of legal fees, they perform a delicate function as judicial officers entrusted with the correct and effective implementation of regulations thereon.[16] Even the undue delay in the remittances of amounts collected by them at the very least constitutes misfeasance. On the other hand, a vital administrative function of a judge is the effective management of his court and this includes control of the conduct of the court's ministerial officers.[17] It should be brought home to both that the safekeeping of funds and collections is essential to the goal of an orderly administration of justice and no protestation of good faith can override the mandatory nature of the Circulars designed to promote full accountability for government funds.

WHEREFORE, the Court RESOLVED as follows:

(1) To find Ms. Evelyn Trinidad, clerk of court, guilty of gross neglect of duty, inefficiency and incompetence in the performance of her duties, and order her suspension for six (6) months and one (1) day;

(2) To find Judge Orlando A. Oco guilty of mismanagement of his court and order him to pay a FINE of ten thousand (₱10,000.00) pesos;

(3) To order the OCA to take appropriate steps for the possible criminal prosecution of Ms. Evelyn Trinidad and Judge Orlando A. Oco for malversation of public funds, as may be warranted

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[16] Manual for Clerks of Court, p. 187 (1991).

[17] Rules of Court, Rule 135, Sec. 5, par. (a).

Supreme Court E-Library

by the facts, and to report the action taken thereon within ninety (90) days from notice.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Buena, Gonzaga-Reyes, Ynares-Santiago, and *De Leon, Jr., JJ.,* concur.

Pardo, J., abroad, on official leave.

EN BANC

[A.M. No. RTJ-99-1446. March 9, 2000]

CONCERNED EMPLOYEES OF THE RTC OF DAGUPAN CITY, *complainants, vs.* **JUDGE ERNA FALLORAN-ALIPOSA, in her capacity as Presiding Judge, Regional Trial Court, Branch 41, Dagupan City,** *respondent.*

SYNOPSIS

Respondent, an RTC judge, was denounced by the "Concerned Employees of the RTC of Dagupan City" for serious acts of corruption. The Deputy Court Administrator who, in his long years of service, had never encountered the gravity and seriousness of the charges, recommended to the Court the immediate referral of the case to an Associate Justice of the Court of Appeals and the immediate suspension of respondent. Investigation was conducted by Associate Justice Marina Buzon to whom the case was referred to. Five employees of respondent gave sworn statements against her. Disclosed were the following: 1) that respondent, thru her staff, solicited ₱500 from practicing lawyers to shoulder expenses of the breakfast of visitors on the scheduled dialogue of the Chief Justice with the Judges of the Region. Atty. Mario Cera gave his statement