

EN BANC

[A.M. NO. P-05-1933, September 09, 2005]

**JACLYN CHUA, COMPLAINANT, VS. REY F. PAAS, CLERK III,
METROPOLITAN TRIAL COURT, OFFICE OF THE CLERK OF COURT,
PASAY CITY, RESPONDENT.**

DECISION

PER CURIAM:

This is an administrative complaint against Rey F. Paas, Clerk III, Metropolitan Trial Court (MeTC), Office of the Clerk of Court (OCC), Pasay City. The charges are contained in Jaclyn Chua's Complaint-Affidavit dated October 16, 2002.

The complainant alleged that on October 16, 2002, she, together with Anne Bergonio, went to the OCC, Pasay City, to pay the corresponding filing fees for I.S. Nos. 01F-3365-73 to 01-3050-53 for 13 counts of violation of *Batas Pambansa* (B.P.) Blg. 22, now consolidated into Criminal Case Nos. 02-2750-62 entitled "*People v. Judy Te Co.*"

As the complainant approached the respondent, the latter convinced her to entrust P30,000.00 to him for the payment of the filing fees (amounting to P29,565.00), claiming that it will take some time to process such payment. The respondent assured her that he would facilitate the transaction and the issuance of a warrant of arrest. Believing the respondent, the complainant entrusted the P30,000.00 to him. The respondent told her to return on October 22, 2002 to get the official receipt and warrant of arrest.

The complainant then informed her counsel, Atty. Antonio H. Tan, of her transaction with the respondent. Atty. Tan told the complainant that the said transaction was anomalous and irregular, and instructed her to go back to the court to retrieve the amount. The complainant did as she was told, and demanded the return of the money from the respondent. Instead of returning the money, the respondent signed a note acknowledging his receipt of the P30,000.00 for the payment of the filing fees. The complainant and her representative went back to the OCC, MeTC to get the official receipt, or the P30,000.00, but their efforts proved futile.

For his part, the respondent denied the allegations. He claimed to have met the complainant sometime in May 2002, when the complainant introduced herself as a financier/lender to government employees. Sometime thereafter, he was able to secure a P5,000.00 loan from the complainant, which, after successive loans, went up to P30,000.00. He further claimed that in October 2002, the complainant went to the OCC, MeTC of Pasay City, and asked him if she could apply his P30,000.00 loan to the payment of the docket fees of a B.P. Blg. 22 case, where the latter was an interested party. The respondent informed the complainant that he could not do so. According to the respondent, the complainant threatened to file charges against

him, which constrained him to sign a note evidencing receipt of P30,000.00.

The respondent added that sometime in November 2002, a certain Perlito Ortiz, who introduced himself as an agent of the complainant, went to the OCC, MeTC to collect from him the amount of P60,000.00; the P30,000.00 loan had ballooned to P60,000.00 because of the P30,000.00 receipt which he signed in October 2002.

In a Resolution^[1] dated February 9, 2005, the Court resolved to refer the matter to Executive Judge Caridad Grecia Cuervo of the Regional Trial Court of Pasay City, Branch 113, for investigation, report and recommendation.

The case was set for hearing on May 13 and June 10, 2005, respectively, and on both occasions, the respondent failed to appear to present his defense. As per the letter of Atty. Teresita Pablo, Clerk of Court IV, MeTC, OCC, Pasay City, the respondent had been absent without official leave as of November 19, 2004.

The findings and recommendation of the Executive Judge in her Report dated June 30, 2005 are as follows:

The respondent's claim that his transaction with the complainant was purely in the form of a loan is self-serving, bereft of merit and a mere afterthought considering that it took him one year and nine months to come up with such a defense. This was neither substantiated by an evidence nor corroborated by any witness. Mention must also be made that on several occasions, the respondent was given the opportunity to present his defense in the interest of justice and fair play. Unfortunately, the respondent opted not to appear in hearings and investigations conducted by the Office of the Executive Judge, Regional Trial Court of Pasay City. Although respondent filed his COUNTER-AFFIDAVIT on September 21, 2004, the same is construed as a disrespect and mockery of the proceedings considering that it was undertaken with an unreasonable and unexplained delay of one (1) year and nine (9) months.

The acts of respondent in not reporting [for] work without official leave since November 19, 2004 and deserting his apartment in Quezon City as shown by the PROCESS SERVER'S RETURN without leaving any forwarding address, during the pendency of the controversy, are indicative of his guilt.

Thus, the Executive Judge found that the respondent should be held accountable for misappropriating the amount of P30,000.00, intended for the payment of the filing fees:

The respondent, in receiving the amount of P30,000.00, completely violated [Canon III, Section 2(a) of the Code of Conduct for Court Personnel]. A scrutiny of the records shows that the required filing fee is only P29,565.00. However, respondent received P30,000.00 on the representation that he will facilitate the payment of the filing fees and the issuance of a warrant of arrest. [Worse], the respondent was not able to rebut the allegation of the complainant that the former failed to return the amount of P30,000.00 or issue the official receipt pertinent thereto.