

EN BANC

[A.M. No. P-07-2354 (Formerly A.M. No. 07-5-140-MTC), February 04, 2020]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
MILA A. SALUNOY, COURT STENOGRAPHER AND CESAR D. UYAN,
SR., FORMER CLERK OF COURT, MUNICIPAL TRIAL COURT, MATI,
DAVAO ORIENTAL, RESPONDENTS.**

DECISION

PER CURIAM:

In view of the retirement of Cesar D. Uyan, Sr. (Uyan), Clerk of Court II of the Municipal Trial Court (MTC) of Mati, Davao Oriental, the Fiscal Monitoring Division, Court Management Office (CMO), directed him to submit documents relative to his financial transactions for the period of February 1995 to June 2004.^[1]

In compliance thereto, Uyan personally appeared at the CMO, Office of the Court Administrator (OCA) to submit the following documents: (1) Judiciary Development Fund (JDF) Reports for December 1993 to December 2003; (2) Fiduciary Fund Reports for the period December 1995 to December 1998; (3) List of Fiduciary Fund Collections covering the period December 1995 to December 2001; (4) JDF Cashbook for September 1995 to June 2004; (5) General Fund Cashbook for December 1995 to November 2003; (6) Special Allowance for the Judiciary Cashbook for December 2003 to June 2004; and (7) Fiduciary Fund Cashbook for December 1995 to June 2004.^[2]

An audit proceeding, thus, ensued. Thelma Bahia, Chief of the CMO-OCA, identified several irregularities and shortages in the accounts of Uyan, to wit:

1. For the [JDF]	P800,339.49
Total Collections	[-]
Total Deposits	<u>787,565.09</u>
Balance of	P 12,774.40
Accountability -	
shortage	
2. For the General	203,642.52
Fund (GF)	[-]
Total Collections	<u>119,578.50</u>
Total Deposits	P[8]4,064.02
Balance of	
Accountability -	
shortage	
3. For Special	3,313.00
Allowance for	[-] <u>1,453.20</u>
the Judiciary	Pp 1,860.60
Fund (SAJF)	

Total Collections	
Total Deposits	
Balance of	
Accountability -	
shortage	
4. For Fiduciary	3,481,865.38
Fund	[-]
Total Collections	<u>2,236,026.30</u>
Total	P1,245,839.00
Withdrawals	
Total	
Unwithdrawn	
Fiduciary Fund	
Balance per	P 553,403.11
Bank as of	
6/30/04	
Less: Interest	P57,851.24
Earned as	
of June	
30, 2004	
Less:	34,372.79 [-] <u>23,478.45</u>
Withdrawn	
Interest	
Bank Balance as	P 529,924.66
of 6/30/04	
Total	P1,245,839.00
Unwithdrawn	[-]
Fiduciary Fund	<u>529,924.66</u>
Adjusted Bank	P 715,914.34
Balance as of	
6/30/04	
Balance of	
Accountability -	
shortage	

The shortage in the Fiduciary Fund resulted from the following:

Undeposited	P669,411.00
Collections	170,000.00
Withdrawn Cash	(126,217.38)
bonds without	1,500.00
Deposits	<u>1,220.72</u>
Unidentified	P
Withdrawals	715,914.34 ^[3]
Over	
withdrawals of	
Cash bonds	
Bank Debit	
Memo - Cost of	

Checks
Total

Later on, Uyan appeared at the Fiscal Monitoring Office (FMO) and brought with him an Affidavit^[4] of Mila Luna A. Salunoy (Salunoy), Court Stenographer of MTC, Mati, Davao Oriental, admitting that she appropriated some missing funds from the Fiduciary Fund for her personal use.

The records show that Uyan started working with the Judiciary Branch on January 4, 1971 and retired from service on July 21, 2004. As he served for a total of 33 years, 6 months and 18 days, he incurred a terminal leave of 472.816 days with estimated money value of P385,613.89.^[5] However, as he was not yet completely cleared from his accountabilities, Uyan has yet to receive his retirement pay.

The OCA issued a Memorandum^[6] dated March 30, 2007. Relying on the findings of the CMO, the OCA established that there were shortages in the account of Uyan. The unexplained withdrawals also in the amount of P76,399.00 and P4,455.33 were likewise noted. Although it recognized the admission of Salunoy as the individual who misappropriated the missing funds, the OCA likewise found Uyan to be remiss in his duties as clerk of court, whose responsibility is to supervise the financial transactions of the court. Consequently, the OCA submitted the following recommendations:

Premises considered, we submit the following recommendations for the approval of the Honorable Court, to wit:

1. This report be docketed as a regular administrative complaint against Ms. Mila Luna A. Salunoy, Court Stenographer, Municipal Trial Court, Mati, Davao Oriental.
2. Mr. Cesar Uyan and Ms. Mila Luna A. Salunoy, retired Clerk of Court and Court Stenographer, respectively, of Municipal Trial Court, Mati, Davao Oriental be DIRECTED to:

- a. RESTITUTE the following amounts representing the shortages in their respective fund, to wit:

General Fund	
Special	
Allowance for	P 4,064.02
Judiciary	1,860.60
Judiciary	12,774.40
Development	<u>721,414.78</u>
Fund	P
Fiduciary Fund	740,113.80
Total	

And submit to the Fiscal Monitoring Division, Court Management Office, OCA, the machine validated deposit slip evidencing such restitution;

3. Ms. Mila Luna A. Salunoy be DIRECTED to explain [as to] why no disciplinary action shall be taken against her for the above shortages.

4. Mr. Cesar D. Uyan, Retired Clerk of Court II, MTC, Mati, Davao Oriental, be DIRECTED to:

- a. EXPLAIN within ten (10) days from notice why no administrative sanction shall be imposed upon him for failure to monitor and properly account the financial transaction of the court.
- b. PRODUCE the valid and authenticated documents within ten (10) days from notice supporting the unidentified withdrawals and deposits amounting to [P]76,399.00 and [P]4,455.33, respectively.

5. Officer-in-Charge Maturan B. Magdabay be DIRECTED to STRICTLY comply with all court circulars and issuances in the proper handling of Judiciary Fund.

Respectfully submitted.^[7]

Such Memorandum was reworded in a Resolution^[8] dated July 18, 2007 of this Court.

To this, Uyan filed his letter-response which basically denied his liability alleging that it was Salunoy who misused the court funds.^[9]

In a Resolution^[10] dated November 28, 2007, this Court noted the letter-explanation of Uyan and likewise referred the same to the OCA for evaluation, report, and recommendation.

In compliance thereto, the OCA issued a Memorandum^[11] dated March 5, 2008 which reiterated its directive to Salunoy to file her comment and to Uyan to produce valid and authenticated documents supporting the unidentified withdrawals and deposits.

Salunoy filed her belated Written Comment/Explanation,^[12] which essentially averred that: (1) she was not the sole collector of the court funds as Uyan was likewise designated to perform such function in case of her absence; and (2) Uyan started to demand money from her out of the collection which was paid to the court.

Salunoy's letter was noted in a Resolution^[13] dated July 23, 2008 and was referred to the OCA for evaluation, report, and recommendation.

The OCA issued a Memorandum^[14] dated December 2, 2008, which included Uyan as respondent together with Salunoy in an administrative matter; and referred to Executive Judge Niño A. Batingana the case for investigation, report, and recommendation.

Said Memorandum was reiterated in a Resolution^[15] dated January 19, 2009.

Said administrative case was subsequently referred to Executive Judge Loida S. Posadas-Kahulugan.^[16] This directive was echoed in a Resolution^[17] dated December 7, 2009.

The case, however, was once again transferred to Acting Executive Judge Albert S. Axalan (Investigating Judge Axalan) as investigator. In an Order dated August 5,

2010, Investigating Judge Axalan ordered the parties to appear before the court for preliminary conference.^[18]

The OCA presented as witness Romulo Tamanu, Jr., (Tamanu) a Management Audit and Analyst IV of the Supreme Court, who was tasked to conduct an audit as to the financial accounts of Uyan in view of his retirement. Tamanu testified that after the conduct of an audit, he discovered the shortages of unremitted collections from February 1995 to June 2004 in the amount of P740,113.80. In his findings, Tamanu found that such shortages came about mainly from undeposited fiduciary fund collections.^[19] Moreover, Tamanu narrated that the cash bond collections especially for the period of January 2002 to June 2004 were not deposited on time and in full-amount.^[20]

For her part, Salunoy averred that she is a court stenographer of MTC, Mati City, Davao Oriental; and was designated as cashier by Uyan on July 1, 2001. As acting cashier, she collected the General Fund, Special Allowance for Judiciary Fund, Judicial Development Fund, and Fiduciary Funds. At first, she deposited all fees collected at the end of the week, but this practice was cut short after Uyan questioned her as to why she would deposit all collections for the week every Friday. Uyan suggested to Salunoy to deposit the collected amounts on some other dates. Complying with the order of Uyan, Salunoy was forced to bring home her collections as she has no vault in the office. Salunoy alleged that some of the undeposited collected fees were placed in the hands of Uyan with a promise that he will return the same the following week. However, Uyan sometimes failed to keep such promise. As the practice continued, the unreturned money relative to the collection of the previous weeks was "covered" by the amount recently collected that will be deposited in the bank, making it appear as if the collection was for the past week. There would be a time, to Salunoy's recollection, that the new collection could no longer cover the previous collection that is now reflected in the corresponding cash book.^[21]

Moreover, Salunoy testified that she lent the funds of the court to her other co-employees and that the names of such employee-borrowers were indicated at the back of the receipts which she issued way back in 2001. Such employees included Uyan and late Presiding Judge Isabelo Rabe.^[22]

Salunoy denied having voluntarily executed the Affidavit which Uyan presented to the FMO.^[23]

On the other hand, Uyan denied Salunoy's allegation that he borrowed money from the collected court fees and reiterated that it was Salunoy who is responsible for the incurred shortages.^[24]

In view of Salunoy's admission, Investigating Judge Axalan issued a Partial Report and Recommendation,^[25] placing Salunoy under preventive suspension. Moreover, Investigating Judge Axalan ordered the conduct of a separate investigation regarding the undetermined amount of funds which may have been lost because of the unauthorized borrowings.

In a Final Report and Recommendation,^[26] Investigating Judge Axalan found both Salunoy and Uyan administratively liable for the shortages. As to Uyan, the Investigating Judge found that he is accountable for such loss being the designated