

EN BANC

[A.M. No. P-09-2649 [Formerly A.M. No. 09-5-219-RTC], August 01, 2017]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
EDUARDO T. UMBLAS, LEGAL RESEARCHER, AND ATTY.
RIZALINA G. BALTAZARAQUINO, CLERK OF COURT IV, BOTH OF
THE REGIONAL TRIAL COURT, BRANCH 33, BALLESTEROS
CAGAYAN, RESPONDENTS.**

DECISION

PER CURIAM:

The instant administrative case arose from a Memorandum^[1] dated January 15, 2009 filed before the complainant Office of the Court Administrator (OCA) by then Deputy Court Administrator Reuben P. De La Cruz (DCA De La Cruz) reporting the commission of malversation thru falsification of official documents committed by employees of the Regional Trial Court of Ballesteros, Cagayan, Branch 33 (RTC-Cagayan Br. 33).^[2]

The Facts

To verify DCA De La Cruz's report, an audit and investigation was conducted in the RTC-Cagayan Br. 33 covering the financial transactions of the court's former Officer-in-Charge, respondent Legal Researcher Eduardo T. Umblas (Umblas), from February 1997 to July 31, 2005 and respondent Clerk of Court Atty. Rizalina G. Baltazar-Aquino (Atty. Baltazar-Aquino) from August 2005 to January 31, 2009.^[3]

The results thereof were contained in a Memorandum^[4] dated May 12, 2009 submitted before the OCA. In said Memorandum, the audit and investigation team discovered that during respondents Umblas and Atty. Baltazar-Aquino's (respondents) respective periods of accountability, they have committed various irregularities in the collections and deposits of the Judiciary Development Fund, General Fund, Sheriffs General Fund, Special Allowance for the Judiciary Fund, Fiduciary Fund, Legal Research Fund, Publication, and Sheriff's Trust Fund. It was likewise found out that there have been cases of uncollected and/or understated fees, tampered official receipts, and collections without issuing official receipts.^[5] After collating all the relevant data, the audit and investigation team concluded that Umblas had total initial shortages amounting to P1,334,784.35,^[6] while Atty. Baltazar-Aquino's total initial shortages amounted to P796,685.20.^[7]

Adopting the recommendation of the audit and investigation team, the Court issued a Resolution^[8] dated July 6, 2009 which, *inter alia*: (a) docketed the report as a regular administrative complaint against respondents; (b) ordered respondents to explain in writing their shortages as well as various irregularities they committed as accountable officers; and (c) ordered respondents to pay and deposit their

shortages.^[9]

In her Compliance^[10] dated November 24, 2009, Atty. Baltazar-Aquino explained as follows: (a) for the Publication shortage amounting to P25,000.00, she issued an acknowledgement receipt in lieu of an official receipt, believing that the same is not part of the funds of the judiciary as it was turned over to the concerned publisher; (b) for the Sheriffs Trust Fund shortage of P48,000.00, she did not issue any receipt as the same was disbursed to the RTC-Cagayan Br. 33 Sheriff to cover expenses for delivering summonses and other court processes; and (c) for the P248,000.00 shortage in Fiduciary Fund, the cash bond amounting to P200,000.00 received in Criminal Case No. 33-611-33, entitled *People v. Wilfreda Uclos*, was already withdrawn upon the case's dismissal, while the remaining P48,000.00 should not be imputed to her as the transaction transpired from July to December 2005 and that the Fiduciary Fund account was only turned over to her by Umblas in January 2006. Further, Atty. Baltazar-Aquino requested for a copy of the financial audit report to enable her to explain all her remaining accountabilities.^[11]

Accordingly, the Court ordered the OCA to furnish Atty. Baltazar Aquino with the detailed list of the tampered official receipts, copies of acknowledgement receipts she issued in lieu of official receipts, and the detailed accounting of all funds audited and the corresponding shortages.^[12] Despite this, Atty. Baltazar-Aquino repeatedly failed to submit her written explanation. As such, she was fined twice for such failure, and was even warned of being arrested should she fail to comply with the directives of the Court.^[13] Finally, Atty. Baltazar-Aquino submitted a Compliance^[14] dated April 14, 2014 voluntarily and unconditionally admitting to be the author of and thus, guilty of the falsifications, tampering, erasures, and shortages of funds imputed against her. In this regard, she expressed remorse over her actions, expressed willingness to return her incurred shortages, and pleaded for the Court to exercise some degree of compassion and mercy towards her.^[15]

On the other hand, Umblas requested for additional periods to file his written explanation, but despite the periods given him, he never did so, and thus, was fined twice for such omission.^[16]

The OCA's Report and Recommendation

In a Memorandum^[17] dated May 5, 2016, the OCA recommended that: (a) respondents be found guilty of Dishonesty, Grave Misconduct, and Gross Neglect of Duty, and accordingly, be meted the penalty of dismissal with forfeiture of all retirement benefits excluding leave credits, with prejudice to re-employment in any government office, including government-owned and controlled corporations; (b) Atty. Baltazar-Aquino be made to explain why she should not be disbarred for violations of Canons 1 and 7 and Rule 1.01 of the Code of Professional Responsibility; (c) the Leave Division of the Office of Administrative Services, OCA be directed to compute each of respondents' accrued leave credits; (d) the Financial Management Office, OCA be directed to apply the monetary value of respondents' leave credits to their respective cash shortages, and should the same prove to be insufficient, to order respondents to reconstitute the balance; and (e) the proper criminal charges be filed against respondents.^[18]

As for Atty. Baltazar-Aquino, the OCA found that her voluntary and unconditional admission to falsifying and tampering various official receipts reveals a serious depravity in her character and integrity which has no place in the judiciary. The OCA added that she disregarded her mandated duty to safeguard court funds, thereby undermining the public's faith in the courts and in the administration of justice as a whole. Moreover, the OCA pointed out that Atty. Baltazar-Aquino did not collect initial sheriff's fees pursuant to Section 10 of Rule 141 of the Rules of Court nor issued official receipts for sheriff's fees she received, in violation of the directives contained in Circular Nos. 22-94 and 26-97. With regard to her Fiduciary Fund shortage, the OCA opined that Atty. Baltazar-Aquino was able to substantiate her claim that the cash bond in the amount of P200,000.00 posted in Criminal Case No. 33-611-33, entitled *People v. Wilfreda Uelos*, was already withdrawn after the case was dismissed. However, the remaining P48,000.00 was found to have been withdrawn within the period of her accountability, hence, she remained liable therefor. Thus, the total shortages incurred by Atty. Baltazar-Aquino should be pegged at P596,685.20.^[19]

Finally, the OCA opined that Atty. Baltazar-Aquino's actuations not only ruined the image of the judiciary, but also put her moral character in serious doubt, thus, rendering her unfit to continue in the practice of law. As such, she should be made to explain why she should not be disbarred.^[20]

As for Umblas, the OCA found that aside from various shortages in his books of account, there were also unreceipted collections, series of official receipts which were not reflected in the cashbook and monthly reports of collections and deposits, use of separate receipts, and various alterations/erasures in official receipts. In this regard, his failure to: (a) file any written explanation to controvert the aforesaid findings despite his numerous requests for additional periods to submit the same; and (b) comply with the Court's show cause resolutions, constitute not only an admission of guilt of the charges imputed against him, but also exhibits an act of defiance to a lawful order and lack of respect to authority which has no place in the judiciary.^[21]

The Issue Before the Court

The essential issue in this case is whether or not respondents should be held administratively liable for Dishonesty, Grave Misconduct, and Gross Neglect of Duty.

The Court's Ruling

The Court concurs with the OCA's findings and recommendations, with modification holding respondents also administratively liable for Conduct Prejudicial to the Best Interest of the Service.

"Dishonesty is the disposition to lie, cheat, deceive or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray."^[22]

On the other hand, "[m]isconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. To warrant dismissal from the service, the misconduct must be

grave, serious, important, weighty, momentous, and not trifling. The misconduct must imply wrongful intention and not a mere error of judgment and must also have a direct relation to and be connected with the performance of the public officer's official duties amounting either to maladministration or willful, intentional neglect, or failure to discharge the duties of the office. In order to differentiate gross misconduct from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule, must be manifest in the former."^[23]

Finally, and "as compared to Simple Neglect of Duty which is defined as the failure of an employee to give proper attention to a required task or to discharge a duty due to carelessness or indifference, Gross Neglect of Duty is characterized by want of even the slightest care, or by conscious indifference to the consequences, or by flagrant and palpable breach of duty."^[24]

"Needless to say, these constitute [C]onduct [P]rejudicial to the [B]est [I]nterest of the [S]ervice as they violate the norm of public accountability and diminish - or tend to diminish - the people's faith in the Judiciary."^[25]

Jurisprudence outlined the following acts that constitute this offense, such as: misappropriation of public funds, abandonment of office, failure to report back to work without prior notice, failure to keep in safety public records and property, making false entries in public documents, and falsification of court orders.^[26]

"In order to sustain a finding of administrative culpability under the foregoing offenses, only the quantum of proof of substantial evidence is required, or that amount of relevant evidence which a reasonable mind might accept as adequate to support a conclusion."^[27]

In this case, Atty. Baltazar-Aquino, being the Clerk of Court of RTC-Cagayan Br. 33, is considered to be the chief administrative officer of said court. With respect to the collection of legal fees, she performs a delicate function as the judicial officer entrusted with the correct and effective implementation of regulations thereon. Even the undue delay in the remittances of amounts collected by her at the very least constitutes misfeasance. Moreover, as a Clerk of Court, she is the custodian of court funds with the corresponding duty to immediately deposit various funds received by her and not keep the funds in her custody.^[28] In *OCA v. Acampado*,^[29] it was held that a Clerk of Court's failure to perform the aforementioned duties exposes him/her to administrative liability for Gross Neglect of Duty, Grave Misconduct, and also Serious Dishonesty, if it is shown that there was misappropriation of such collections, viz.:

Clerks of Court are the custodians of the courts' "funds and revenues, records, properties, and premises." They are liable for any loss, shortage, destruction or impairment" of those entrusted to them. **Any shortages in the amounts to be remitted and the delay in the actual remittance "constitute gross neglect of duty for which the clerk of court shall be held administratively liable."**

Respondent Acampado committed gross neglect of duty and grave misconduct when she failed to turn over the funds of the Judiciary that

were placed in her custody within the period required by law. We said in *[OCA] v. Fueconcillo* [(585 Phil. 223 [2008])] **that undue delay by itself in remitting collections, keeping the amounts, and spending it for the respondent's "family consumption,** and fraudulently withdrawing amounts from the judiciary funds, **collectively constitute gross misconduct and gross neglect of duty.**" Such behaviour should not be tolerated as it denigrates this Court's image and integrity.

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Respondent Acampado's actions of misappropriating Judiciary funds and incurring cash shortages in the amounts of 1) Twenty-three Thousand Seven Hundred Twelve Pesos and Fifty-three Centavos (P23,712.53) for the Judiciary Development Fund; 2) Fifty-eight Thousand Two Hundred Eighty-five Pesos and Eighty Centavos (P58,285.80) for the Special Allowance for the Judiciary; and 3) Five Thousand Pesos (P5,000.00) for the Mediation Fund (MF), totaling to Eighty-six Thousand Nine Hundred Ninety-eight Pesos and Thirty-three Centavos (P86,998.33) **are serious acts of dishonesty that betrayed the institution tasked to uphold justice and integrity for all.** Moreover, respondent Acampado's act of repeatedly falsifying bank deposit slips is patent dishonesty that should not be tolerated by this Court. **Restitution of the misappropriated amounts will not relieve respondent Acampado of her liability.**^[30] (Emphases and underscoring supplied)

Here, Atty. Baltazar-Aquino voluntarily and unconditionally admitted that she authored the various acts of falsifying and tampering official receipts, resulting in cash shortages in her accountabilities. More importantly, she expressed her willingness to return the amount comprising such shortages, thereby impliedly admitting that she misappropriated the same for her personal use.^[31] Clearly, the foregoing admissions rendered Atty. Baltazar-Aquino administratively liable for the same.

Meanwhile, while Umblas was only a Legal Researcher, it must nevertheless be pointed out that he acted as RTC-Cagayan Br. 33's Officer-in-Charge from February 1997 to July 31, 2005 and was therefore an accountable disbursement officer thereof. In fact, during this period, he incurred cash shortages, all of which were left unexplained as he failed to file his written explanation despite his requests for numerous extensions of time to do so. As succinctly put by the OCA, his inexplicable silence on the matter can already be viewed as an admission of guilt on his part, warranting the imposition of administrative liabilities against him.

With respect to the proper penalty to be imposed on them, the Uniform Rules on Administrative Cases in the Civil Service (URACCS)^[32] classifies the offenses of Dishonesty, Grave Misconduct, Gross Neglect of Duty, and Conduct Prejudicial to the Best Interest of the Service as Grave Offenses, with the first three punishable with Dismissal for the first offense, while the last one punishable with Suspension for a period of six (6) months and one (1) day to one (1) year for the first offense and Dismissal for the second offense.^[33] Applying Section 55^[34] of the URACCS, respondents should be meted the supreme penalty of Dismissal from the service. Corollary thereto, they shall likewise suffer the accessory penalties of cancellation of