

EN BANC

[**A.M. No. P-15-3361 [Formerly OCA IPI No. 10-3381-P], February 23, 2016**]

ATTY. JOHN V. AQUINO, PETITIONER, VS. ELENA S. ALCASID, CLERK III, REGIONAL TRIAL COURT, OFFICE OF THE CLERK OF COURT, OLONGAPO CITY, RESPONDENT.

DECISION

PER CURIAM:

Before the Court is an administrative complaint^[1] filed by Atty. John V. Aquino (Atty. Aquino) with the Office of the Court Administrator (OCA) against respondent Elena S. Alcasid (Alcasid), Clerk III at the Office of the Clerk of Court (OCC), Regional Trial Court (RTC) of Olongapo City, for grave misconduct and serious dishonesty.

The Facts

Atty. Aquino is a Clerk of Court VI at the OCC in the RTC of Olongapo City. He alleged that the release of the checks of all the employees of the RTC of Olongapo City was the duty of Jennifer Decano (Decano), Clerk IV at the RTC of Olongapo City. It had been the standard operating procedure in their office that upon receipt of the checks, Atty. Aquino would personally open the envelopes or assign another employee to open the same under his supervision. The checks would then be counted and, if no payroll is attached, a document containing a list of all employees, their respective check numbers, and the amount thereof would be prepared. The employees of the RTC of Olongapo City would then personally receive their checks at the OCC.

Atty. Aquino claimed that sometime in January 2008, while Decano was on leave, Alcasid volunteered to release the checks of the employees of the RTC of Olongapo City. That since March 2008 up to March 2010, Victoria Meru and Rosalyn Bayona, Utility Worker and Clerk III, respectively, in the RTC of Olongapo City, were assigned to count the checks while Alcasid prepared the list. All unclaimed checks were entrusted to and kept by Alcasid.

When Felix Mores (Mores), an employee of the RTC of Olongapo City, died in September 2009, Atty. Aquino instructed Alcasid to give the checks intended for Mores to Decano so that she may formally return the checks to the Court. Atty. Aquino claimed that Alcasid failed to turn over the checks to Decano.

Sometime in March 2010, Arlene Batalla (Batalla), Mediation Staff Officer V at the RTC of Olongapo City, approached Atty. Aquino informing him that she had not received the check for her salary for the period of June 16 to 30, 2009. Atty. Aquino asked Alcasid to look for Batalla's check, but the latter could not produce the same.

Atty. Aquino, with the help of Decano, immediately conducted an investigation on Batalla's missing check. Upon scrutiny of the payrolls and the unclaimed checks, Atty. Aquino discovered that, aside from Batalla's missing check, the checks intended for Mores and the deceased Ludivine Mapili (Mapili) were missing. The missing check that was issued to Batalla for her salary for the period of June 16 to 30, 2009 amounted to P3,361.94. There were five missing checks that were issued to Mapili with an aggregate amount of P24,017.00. On the other hand, there were also five missing checks that were issued to Mores, three of which amounted to P13,771.42. Two of the missing checks that were issued to Mores were for unknown amounts.

On March 19, 2010, Atty. Aquino sent Alcasid a Memorandum,^[2] requiring her to explain the loss of the said checks and to return the same. In her letter^[3] to Atty. Aquino, Alcasid claimed that she placed the missing checks inside the cabinet where the docket books and notarial documents are kept. That it was only in the first week of March 2010 that she learned that the said checks were already missing and that she could no longer find the same despite diligent efforts.

Upon further inquiry from the Fiscal Management Office (FMO) of the Court, Atty. Aquino found out that the missing check that was issued to Batalla was discounted at Aligan Sarmiento Store in San Narciso, Zambales. Alejandro Aligan (Aligan), the owner of the Aligan Sarmiento Store, who issued a sworn affidavit^[4] and positively identified Alcasid as the one who discounted several checks issued to different persons starting in July 2009. Atty. Aquino claimed that of all the employees in the OCC of the RTC of Olongapo City, it is only Alcasid who lives in San Narciso, Zambales. He further alleged that the missing checks were either discounted or deposited in a bank account in United Coconut Planters Bank (UCPB), Olongapo Branch.

Atty. Aquino also found out that the check that was issued to Nilda Suarez (Suarez), a Stenographer in the RTC of Olongapo City, Branch 73, was likewise missing but the latter did not report the incident to the OCC since Alcasid promised her that she would just pay the amount of the check.

In her Comment,^[5] Alcasid denied that she discounted and/or deposited in her account the said missing checks. She insisted that she placed the missing checks, which were all unclaimed, inside the cabinet in their office. She insisted that she was not the only one who had access to the cabinet where she placed the missing checks. She pointed out that it was unfair to put the blame on her just because she resides in San Narciso, Zambales; that there are other employees of the RTC of Olongapo City who reside therein.

She likewise presented a handwritten letter,^[6] dated July 1, 2010, supposedly signed by Aligan, stating that he does not know who discounted the missing check that was issued to Batalla. Alcasid also denied having paid Suarez the amount of the check that was issued to the latter. Alcasid claimed that Suarez borrowed from her the amount of P1,500.00 as she needed to go to Manila.

On November 18, 2013, the Court issued a Resolution,^[7] which referred the case to the Executive Judge of the RTC of Olongapo City for investigation, report and

recommendation.

Findings of the Executive Judge

On December 22, 2014, Executive Judge Richard A. Paradeza (EJ Paradeza) issued a Report and Recommendation,^[8] recommending that Alcasid be held administratively liable for grave misconduct and dishonesty. EJ Paradeza pointed out that the missing checks were indeed entrusted by Atty. Aquino to Alcasid, which the latter did not deny. He averred that upon verification with the FMO of the Court, the missing check that was issued to Batalla was discounted at the Aligan Sarmiento Store in San Narciso, Zambales, where Alcasid resides. That Aligan identified Alcasid, through a picture shown to him, as the one who discounted the missing check issued to Batalla. EJ Paradeza opined that, with Aligan's positive identification of Alcasid, the logical conclusion is that it was Alcasid who took and discounted the missing check issued to Batalla.^[9]

As regards the July 1, 2010 handwritten letter of Aligan, wherein he supposedly denied knowing the person who discounted the missing check issued to Batalla, EJ Paradeza pointed out that Aligan had satisfactorily explained why he wrote the letter.^[10] Aligan explained that the contents of the said letter were dictated to him by Alcasid; that Alcasid would not leave his store unless he writes the said letter; and that he conceded so that Alcasid would stop disturbing his store operations.^[11]

On March 16, 2015, the Court referred the Report and Recommendation of EJ Paradeza to the OCA for evaluation, report and recommendation.^[12]

Findings of the OCA

On June 16, 2015, the Court Administrator issued a Memorandum,^[13] which similarly recommended that Alcasid be found guilty of grave misconduct, serious dishonesty, conduct unbecoming a court employee and inefficiency and incompetence in the performance of official duties. The Court Administrator pointed out that there is sufficient evidence to establish that the missing check of Batalla was unlawfully encashed by Alcasid for her own benefit.^[14]

The Court Administrator clarified that Alcasid could not be held accountable for the deposit of the other missing checks in a single UCPB account since there is no direct evidence showing that the said UCPB account is Alcasid's bank account. Nevertheless, the Court Administrator opined that Alcasid should be held accountable for the loss of the said missing checks since the same were in her custody.^[15]

The Issue

The issue for the Court's resolution is whether Alcasid is guilty of grave misconduct and dishonesty.

Ruling of the Court

After a careful review of the records of this case, the Court adopts the findings and