

FIRST DIVISION

[A.M. No. P-12-3074 (Formerly A.M. No. 12-6-48-MCTC), March 17, 2014]

**THE OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT,
VS. CLARITA R. PEREZ, CLERK OF COURT II, MUNICIPAL
CIRCUIT TRIAL COURT, SAN TEODORO-BACO-PUERTO GALERA,
ORIENTAL MINDORO, RESPONDENT.**

RESOLUTION

REYES, J.:

This administrative case stemmed from the financial audit report^[1] dated June 20, 2012 of the Court Management Office, Office of the Court Administrator (CMO-OCA) on the books of accounts of Clarita R. Perez (respondent), Clerk of Court II, of the Municipal Circuit Trial Court (MCTC) of San Teodoro-Baco-Puerto Galera, Oriental Mindoro covering the accountability period of July 1, 2009 to March 31, 2012. The audit was prompted by the respondent's non-remittance of collections and non-submission of her monthly financial reports.

The report revealed that the respondent incurred cash inventory shortages amounting to P34,313.80 due to undeposited collections from October 2011 to April 23, 2012. She also incurred shortages in collected fees and under-remittances in the following amounts:

| | | |
|-------------------|---|------------------|
| Judiciary | | P |
| Development | - | 27,040.00 |
| Fund (JDF) | | |
| Special Allowance | | P |
| for the Judiciary | - | 28,872.00 |
| Fund (SAJF) | | |
| Mediation Fund | - | P |
| | | 24,500.00 |
| Fiduciary Fund | - | P |
| | | <u>71,000.00</u> |
| Total | - | P |
| | | 151,412.00 |

In the course of the audit, the respondent's other infractions were discovered. She failed to collect, as well as issue receipts, for all marriages solemnized by Honorable Edgardo M. Padilla (Judge Padilla), Presiding Judge of the MCTC of San Teodoro, resulting in the uncollected total amount of P11,400.00. The respondent also failed to issue and collect receipts for all documents notarized by Judge Padilla yielding a total uncollected amount of P42,100.00 which should be deposited to the SAJF account. She further failed to collect and issue receipts for the cash bond fee of twenty-eight (28) criminal cases which if collected and receipted will generate the amount of P13,800.00, the P8,400.00 portion of which shall be deposited to the

SAJF account while the remaining P5,400.00 shall be deposited to the JDF account. She likewise failed to submit her Monthly Reports of Collections, Deposits and Withdrawals.

On April 25, 2012, or merely two days after the cash count made by the audit team, the respondent remitted her shortages for the JDF, SAJF and Mediation Fund.^[2] The uncollected marriage solemnization fees were likewise paid the same day.^[3]

In a Resolution^[4] dated July 9, 2012, the Court, adopting the recommendations of the OCA, ordered that the report be docketed as a regular administrative case, that the respondent be suspended pending the resolution thereof and that she pay a P10,000.00 fine. She was also directed to explain her infractions and to pay and deposit the following amounts to their specific accounts, *viz*:

(a) unearned interest of P11,216.78 computed at six percent (6%) *per annum* for the following judiciary funds which she belatedly deposited:

| Fund | Amount |
|--------------|-------------------|
| JDF | P4,491.63 |
| SAJF | P6,725.15 |
| Total | P11,216.78 |

(b) P42,100.00 representing uncollected and unreceipted amount of notarial fees to the SAJF; and

(c) P8,400.00 to the JDF and P5,400.00 to the SAJF representing uncollected and unreceipted cash bond fees in the criminal cases filed before the MCTC.

On September 6, 2012, the respondent filed her explanation^[5] stating that she failed to remit her collections on time because she had to attend to her brother who was diagnosed with brain tumor. She admitted converting part of her court collections for his medical expenses. Her brother died on February 25, 2011 and she used the proceeds of his insurance to pay for the converted amounts. She promised that a similar infraction will not be repeated. She declared that she has already complied with the Court Resolution dated July 9, 2012 by paying and depositing the amounts stated therein and by submitting her Monthly Reports of Collections, Deposits and Withdrawals. Attached to the explanation were proofs of the deposits made by the respondent.

On February 15, 2012, the respondent filed before the OCA a Motion for Early Resolution^[6] praying that her suspension be lifted and her withheld salaries be released in view of her complete compliance with all the directives of the Court by depositing the following amounts:

a) FIVE THOUSAND SIX HUNDRED PESOS (P5,600.00) on May 21, 2012 in SAJF Account No. 0591174428 as payment for the P5,400.00 uncollected and unreceipted cash bond fees;

b) EIGHT THOUSAND ONE HUNDRED PESOS (P8,100.00) on May 21, 2012 in JDF Account No. 0591011634 as partial payment for the P8,400.00 uncollected and unreceipted cash bond fees;

c) THREE HUNDRED PESOS (P300.00) on September 17, 2012 in JDF Account No. 0591011634 as full payment of the P8,400.00 uncollected and unreceipted cash bond fees;

d) ELEVEN THOUSAND TWO HUNDRED TWENTY PESOS (P11,220.00) on September 4, 2012 in JDF Account No. 0591011634 as payment for the P11,216.78 unearned interest;

e) FORTY-TWO THOUSAND ONE HUNDRED PESOS (P42,100.00) on September 6, 2012 in SAJF Account No. 0591174428 for the uncollected and unreceipted notarial fees; and

f) TEN THOUSAND PESOS (P10,000.00) on September 18, 2012 in JDF Account No. 0591011634 as payment for the fine imposed.

The respondent alleged that the Fiscal Monitoring Division, CMO-OCA has issued a Certification^[7] dated February 8, 2013 confirming the above restitutions. In the same motion, she admitted failing to submit her reports and deposit her collections on time. She begged for compassion and leniency considering that this is her first infraction in her entire 37 years of government service.

In a Resolution^[8] dated September 18, 2013, the Court referred the matter to the OCA for evaluation, report and recommendation. On February 4, 2014, the OCA submitted its Memorandum^[9] finding the respondent guilty of misconduct for her failure to timely remit the judiciary funds in her custody and submit the Monthly Reports of Collections, Deposits and Withdrawals. The OCA recommended that a P40,000.00 fine be imposed upon the respondent and that she be sternly warned that the commission of similar acts in the future will be dealt with more severely.

The Court Ruling

The Court agrees with the findings and recommendations of the OCA.

Clerks of Court perform a delicate function as designated custodians of the court's funds, revenues, records, properties and premises. As such, they are generally regarded as treasurer, accountant, guard and physical plant manager thereof. They are the chief administrative officers of their respective courts. It is also their duty to ensure that the proper procedures are followed in the collection of cash bonds. Thus, their failure to faithfully perform their duties makes them liable for any loss, shortage, destruction or impairment of such funds and property.^[10]

Under the Supreme Court (SC) Circular No. 13-92, clerks of courts are mandated to immediately deposit their fiduciary collections upon receipt thereof, with an authorized government depository bank. Section 3, in relation to Section 5 of SC Administrative Circular No. 5-93, specifically designates the Land Bank of the Philippines (LBP) as the authorized government depository of the JDF. The provision reads:

3. Duty of the Clerks of Court, Officers-in-Charge or accountable officers. The Clerks of Court, Officers-in-Charge of the Office of the Clerk of Court, or their accountable duly authorized representatives designated by them