

EN BANC

[A.M. No. P-06-2161 (Formerly A.M. No. OCA IPI No. 05-2115-P), September 25, 2012]

ATTY. DENNIS A. VELASCO, PETITIONER, VS. MYRA L. BATERBONIA, RESPONDENT.

[A.M. NO. P-07-2295 (FORMERLY A.M. NO. 07-1-16-RTC)]

IN RE: REPORT ON THE FINANCIAL AUDIT CONDUCTED IN THE RTC BRANCH 38, ALABEL, AND MCTC OF MALUNGON, BOTH IN SARANGANI PROVINCE.

D E C I S I O N

PER CURIAM:

A cash clerk of a trial court who defrauds the Judiciary is guilty of the most serious administrative offense that warrants her dismissal from the service. She should also be criminally prosecuted for *estafa* through falsification.

This administrative case stemmed from the complaint dated January 19, 2005 filed by Atty. Dennis A. Velasco (Velasco),^[1] then the Clerk of Court VI of Branch 38 of the Regional Trial Court (RTC) in Alabel, Sarangani Province, against RTC Cash Clerk Myra L. Baterbonia (Baterbonia).

In his complaint,^[2] Velasco averred that Baterbonia had short-changed the Government on several occasions by not remitting the full amounts of the judicial fees paid by the litigants; that her *modus operandi* had involved a clandestine effort to record in the duplicate and triplicate copies of the official receipts (ORs) amounts smaller than what had actually appeared on the ORs issued to the litigants; that he had discovered her scheme while he was checking the filing fees for a petition for notarial commission to serve as basis for the filing fees to be assessed in the filing of a new petition; that he had then found that what had appeared as paid on the duplicate and triplicate copies of OR No. 21459326 had been the amount of only P6.40 for a certified photocopy, instead of the proper amount of P1,532.00, and that she had made only the amount of P3.60 appear on the duplicate and triplicate copies of OR No. 21459376 covering the payment of a certified photocopy instead of the correct amount of P468.00;^[3] that his discovery of the fraud had made probe further, resulting in his unearthing other falsified transactions relating to 18 civil actions (*namely*, Civil Case No. 9997, Civil Case No. 2000, Civil Case No. 2001, Civil Case No. 2002, Civil Case No. 2003, Civil Case No. 2004, Civil Case No. 2005, Civil Case No. 2006, Civil Case No. 2007, Civil Case No. 2008, Civil Case No. 2009, Civil Case No. 2011, Civil Case No. 2012, Civil Case No. 2013, Civil Case No. 2014, Civil Case No. 2015, Civil Case No. 2018, Civil Case No. 2019);^[4] that she had thereby misappropriated the total sum of P43,964.80;^[5] and that she had voluntarily

admitted and confessed to her misdeeds upon confrontation.^[6]

Atty. Velasco requested the conduct of an audit of all the financial records of Branch 38 of the RTC by the Office of the Court Administrator (OCA); and prayed that Baterbonia be punished for her acts of malversation, falsification, dishonesty, and grave misconduct.

Acting upon the recommendation of then Court Administrator Presbitero J. Velasco Jr., the Court ordered: (a) that a financial audit and investigation of the accounts handled by Baterbonia be conducted and a report be submitted within 60 days from completion of the investigation; and (b) that Baterbonia be preventively suspended pending the conduct of the investigation.^[7]

Findings of the Audit Team

The OCA audit team found Baterbonia primarily responsible for discrepancies between the legal fees received from party litigants and the amounts she had written in the duplicate and triplicate copies of the ORs,^[8] as follows:

	Per Legal Fees Form	Recorded Amount per duplicate and triplicate copies	Difference of unrecorded/unreceipted amount
For JDF:			
Civil Cases	P213,996.24	P115,451.84	P98,544.40
Miscellaneous Cases	25,300.00	9,508.00	15,792.00
Special Proceedings	5,232.00	2,801.80	2,430.20
Special Civil Actions	21,064.15	11,722.00	9,342.15
Extra-Judicial Foreclosure	157,842.31	98,531.20	59,311.11
TOTAL	423,434.70	238,014.84	185,419.86
For the General Fund			
Civil Cases	31,152.06	20,835.06	10,317.00
Miscellaneous Cases	5,250.00	0.00	5,250.00
Special Proceedings	360.00	328.00	32.00
Special Civil Actions	2,620.00	1,770.00	850.00
Extra-Judicial Foreclosure	6,873.39	3,639.86	3,233.53
For SAJF			
Civil Cases	35,877.06	10,585.60	25,291.46

Miscellaneous Cases	8,254.00	1,899.00	6,355.00
Special Proceedings	3,508.00	1,853.20	1,654.80
Special Civil Actions	6,588.53	3,478.00	3,110.53
Extra-Judicial Foreclosure	15,727.98	7,790.07	7,937.91
TOTAL	69,955.57	25,605.87	44,349.70
For Sheriff's General Fund			
Civil Cases	14,820.00	11,400.00	3,420.00
Miscellaneous Cases	1,460.00	0.00	1,460.00
Special Proceedings	420.00	420.00	0.00
Special Civil Actions	600.00	300.00	300.00
TOTAL	17,300	12,120.00	5,180.00
GRAND TOTAL	P 556,945.72	P 302,313.63	P 254,632.09

The audit team also found that Baterbonia had not deposited either in the Judicial Development Fund (JDF) or in the Sheriff's General Fund (GF) the amount of P36,000.00 representing the withdrawn confiscated bonds.

At this juncture, minor mathematical errors have been detected in summing up the discrepancies uncovered by the audit team. The amount defrauded was only P231,699.03.

Atty. Anthony A. Barluado, then the Branch Clerk of Court of Branch 38 of the RTC, was similarly subjected to the audit, and was found to have sufficiently explained all the accountability issues relevant to certain withdrawals. Hence, the matter concerning his withdrawals was deemed closed and terminated.

Findings and Recommendations of the OCA

In its Memorandum dated August 23, 2011, the OCA adopted the findings of the audit team and recommended the following disciplinary actions to be taken, to wit:

1. The letter-compliance dated 14 July 2011 of Atty. Anthony A. Barluado, Clerk of Court VI, Regional Trial Court, Branch 38, Alabel, Sarangani Province, in compliance to the Resolution dated 23 June 2008, submitting certified photo machine copies of the following: a) the two (2) withdrawal slips in the amount of P10,000.00 each duly validated by the Land Bank of the Philippines, both dated 21 March 2000, for Election Case No. 98-10 entitled "Flora L. Benzonan vs. Enrique Yap" and Election Case No. 98-11 entitled "Roselito Wong, et al. vs. Venancio Wata, et al."; b) two (2) Orders to withdraw said amounts both dated 21 March 2000; c) Acknowledgement Receipts dated 21 March 2000; and d) a photocopy

of the LBP Passbook (Fiduciary Fund) with account no. 2071-0148-97 evidencing that only two withdrawals in the amount of P10,000.00 each were made on that date, be NOTED.

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4. Respondent Myra L. Baterbonia, Clerk III, RTC Branch 38, Alabel, Sarangani province, be found GUILTY of dishonesty and gross misconduct, and the penalty of DISMISSAL from the service and forfeiture of retirement and all other benefits, except accrued leave credits, with prejudice to re-employment in any government agency, including government-owned and controlled corporations, be imposed upon her.

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7. Atty. Anthony A. Barluado, Clerk of Court VI, Regional Trial Court, Branch 38, Alabel, Sarangani Province, be ADMONISHED for his failure to supervise Acting Cash Clerk Myra L. Baterbonia, which resulted to the mishandling of the court's judiciary funds and be STERNLY WARNED that a repetition of the same infraction shall be dealt with more severely;

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Ruling

We find the foregoing recommendations of the OCA to be warranted by the evidence on record.

Section 1, Article XI of the 1987 Constitution of the Philippines declares that a public office is a public trust, and mandates public officers and employees at all times to be accountable to the people, to serve the people with utmost responsibility, integrity, loyalty and efficiency, to act with patriotism and justice, and to lead modest lives.

In enforcing the constitutional declaration, the Court has been constant and unceasing in reminding all its judicial officers and other workers in the Judiciary to faithfully perform the mandated duties and responsibilities of their respective offices. The Court is ever aware that any act of impropriety on their part, be they the highest judicial officers or the lowest members of the workforce, can greatly erode the people's confidence in the Judiciary. This, because their conduct, good or bad, necessarily reflects on the image of the Judiciary as the temple of justice and right. It is, therefore, the sacred duty of every worker in the Judiciary to maintain before the people the good name and standing of the courts.^[9]

Based on the findings of the OCA, Baterbonia failed to measure up to the standards of conduct prescribed for her office. As an accountable employee charged with the safekeeping of fees collected from litigants and the rest of the public dealing with the court she was serving, she was expected to exercise honesty and fidelity in the discharge of that duty of safekeeping because she would thereby ensure the flow of judicial funds so essential to the orderly administration of justice.^[10] Yet, she frequently violated the trust and confidence reposed in her position by committing