

EN BANC

[A.M. No. P-07-2364, January 25, 2011]

**REPORT ON THE FINANCIAL AUDIT CONDUCTED ON THE BOOKS
OF ACCOUNT OF SONIA L. DY AND ATTY. GRACIANO D.
CUANICO, JR., REGIONAL TRIAL COURT, CATARMAN, NORTHERN
SAMAR.**

A.M. NO. P-11-2902 (FORMERLY OCA I.P.I. NO. 08-2790-P)

**VIRGILIO O. GALLANO, COMPLAINANT, VS. ATTY. GRACIANO D.
CUANICO, JR., CLERK OF COURT, AND SONIA L. DY, SOCIAL
WELFARE OFFICER II, BOTH FROM THE OFFICE OF THE CLERK OF
COURT, REGIONAL TRIAL COURT, CATARMAN, NORTHERN
SAMAR, RESPONDENTS.**

D E C I S I O N

PER CURIAM:

Before this Court are two administrative cases, arising from the following factual antecedents:

A.M. No. P-07-2364

In 2007, a Financial Audit Team (OCA Audit Team) from the Office of the Court Administrator (OCA) conducted an audit of the books of account of Sonia L. Dy (Dy), Social Worker II and former Officer-in-Charge, and Atty. Graciano D. Cuanico, Jr. (Cuanico), incumbent Clerk of Court, of the Regional Trial Court (RTC) of Catarman, Northern Samar. The audit on Dy's accountability covered the period from July 2002 to July 31, 2003, while that of Cuanico's covered the period from August 2003 until February 28, 2007.^[1]

The OCA Audit Team's objective was to determine whether the amounts collected were correctly and completely recorded in the books of the respective accountable officers, and whether the collections were deposited with the Land Bank of the Philippines within the prescribed period.

During the audit, the OCA Audit Team found that there were shortages in the Judiciary Development Fund (JDF) and Fiduciary Fund (FF). In its audit report, it made the following recommendations:^[2]

1. The Report be docketed as a regular administrative complaint against Ms. Sonia L. Dy, Social Welfare Officer II and former Officer-in-Charge, Regional Trial Court [(RTC)] , Catarman, Northern Samar;

2. MS. SONIA L. DY, former Officer-in-Charge, Office of the Clerk of Court of the Regional Trial Court (RTC), Catarman, Northern Samar be:

(a) DIRECTED to:

- a.1 RESTITUTE the amounts of P356.20 and P2,686,840.62 representing the shortages in the JDF and Fiduciary Fund, respectively, by depositing said amounts to their respective accounts, furnishing the Fiscal Monitoring Division, [Court Management Office] (CMO)-OCA, with the machine validated deposit slips as proof of remittance and subject to refund totaling to P1,126,703.36 upon the proper presentation of the appropriate documents as shown in Schedule V and Annex "V-2," computed as follows[:]

x x x x

- a.2 EXPLAIN in writing within a period of fifteen (15) days from notice why she incurred the above shortages in her collections

3. ATTY. GRACIANO D. CUANICO, JR, incumbent Clerk of Court of RTC, Catarman, Northern Samar be DIRECTED within fifteen (15) days from notice to:

- 1.1 EXPLAIN in writing why he should not be administratively charged for failure to detect the anomalous transactions perpetrated by Ms. Sonia L. Dy and for delayed remittance;
- 1.2 Pay and Deposit the amount of P5,443.97 and P11,708.62 for the JDF and SAJF, respectively, by depositing said amounts to their respective accounts, furnishing the Fiscal Monitoring Division, CMO-OCA, with the machine validated deposit slips as proof of remittance thereof, computed as follows:

x x x

x

- 1.3 COLLECT the amount of P39,500.00 listed in (Annex "I-3") from the litigants for the unpaid bond fee and allocate the amount collected to P23,700.00 and P15,800.00 for JDF and SAJF respectively and SUBMIT the machine validated deposit slips and the [official receipts] issued to the Fiscal Monitoring Division, Court Management Office, this Office as proof of its transfer[.]

4. MRS. DIVINA D. MENDEZ, ^[3] Cash Clerk of RTC, Catarman, Northern Samar be DIRECTED within fifteen (15) days from notice to: EXPLAIN in writing why she should not be administratively charged for the shortages found in JDF &

- SAJF account and the falsification of official receipts of JDF account;
5. MRS. HELEN C. ANAVISO, be DIRECRED within fifteen (15) days from notice to: EXPLAIN in writing why she should not be administratively charged for the unremitted collection amounting to P5,000.00 under OR No. 1807562 as mentioned by Ms. Sonia L. Dy in her affidavit (Annex "T-2");
- [6.] HON. NORMA MEGENIO CARDENAS, Executive Judge, same court, be DIRECTED to
- (a) INVESTIGATE the extent of responsibilities of Ms. Sonia L. Dy and Ms. Divina D. Mendez in the falsification of official receipts for Fiduciary Fund and Judiciary Development Fund, respectively, and SUBMIT her report and recommendation within thirty (30) days from receipt of notice; and
 - (b) MONITOR the incumbent Clerk of Court and to advise said COC to strictly follow the Supreme Court Circulars on the proper handling of judiciary funds.
- [7.] A hold Departure Order be ISSUED to prevent Ms. Sonia L. Dy from leaving the country.

Annexed to the report was an unnotarized Affidavit^[4] dated January 8, 2007, executed by Dy. In it, she averred that she was pleading guilty to all the anomalies in the FF. However, she alleged that receipts were altered "to accommodate the financial needs of [the] late Judge Ernesto Corocoto (Judge Corocoto) as directed[.] " The late judge, Dy said, was to pay the amount back, but that the former died before he could do so. She also alleged that, on isolated circumstances, she was forced to lend money to several persons she owed *utang na loob* to, but that she paid these back, "except for minimal amounts[.] "

In a Resolution dated August 29, 2007, the Court adopted the OCA Audit Team's recommendations. The employees involved were required to comply with the Court's directives. Only Cuanico, Divina D. Mendez (Mendez), and Helen C. Anaviso (Anaviso) filed their respective explanations.

In her explanation, Anaviso denied the allegations against her. She narrated that, on September 12, 2003, one Juanita F. Estacio came to the Office of the Clerk of Court to post a P5,000.00 cash bond. Since Dy was not around, Anaviso received the amount and issued the official receipt. Anaviso claimed that she could not deposit the amount because she did not know the bank account number and she was not authorized to make the deposit. Upon Dy's return, Anaviso turned over the amount to her. Dy then stamped the official receipt "cancelled." When the case was dismissed, the bondswoman filed a motion for the release of the P5,000.00 bond. Dy, without any question, released the amount to the bondswoman on October 6, 2003.^[5] Anaviso further claimed that Dy only dragged her into the controversy because the latter had ill-feelings toward her, which fact is known to most of their co-workers.

Cuanico, in his compliance, alleged that it was only on September 19, 2006, when

the Commission on Audit (COA) conducted a confirmation audit, that the discrepancies came to light. Prior to said confirmation audit, he had failed to detect any discrepancy between the amounts reflected in the original copies of the official receipts and those in the duplicate and triplicate copies, because Dy's anomalous transactions were cleverly planned. He narrated that the duplicate and triplicate copies of the official receipts, except those found by the audit team to be missing and those acknowledged by Dy as lost, conformed to the amounts deposited in the office's accounts. Even the COA auditors, in an earlier audit, failed to detect the discrepancies.^[6]

Cuanico also alleged that he had made oral and written demands for Dy to settle her accountability, but the latter has failed to keep her promises to pay.^[7] Further, Cuanico averred that the amounts of P5,443.97 and P11,708.62 were paid and deposited by Mendez as of July 12, 2007, as evidenced by machine validated receipts submitted to the OCA. However, he claimed to have no knowledge of the P39,500.00 in unpaid bonds.^[8]

Mendez also filed her compliance. She narrated that during the period when there were alleged shortages, she was new in her position as cash clerk. She was not performing all the functions of her position and was made to assist Anaviso, who was acting as the cash clerk. Her job was limited to issuing receipts, making deposits, and typing monthly reports.^[9]

Mendez said that, when the COA Regional Office conducted an audit in 2005 and 2006, there were no findings of any shortage in the JDF and Special Allowance for the Judiciary Fund (SAJF) accounts. However, when the Court Management Office (CMO) conducted an audit in March 2007, the team found that monthly reports for 2004 were lacking, but the monthly reports for 2005 and 2006 were complete.^[10]

Mendez claimed that the auditors asked her to look for the missing reports. She found only the report for September 2004. When she examined the report and the deposit slips, she realized that deposit slips representing P11,708.62 in the SAJF collections were missing. Nonetheless, Mendez submitted the September 2004 report to the audit team.^[11]

Mendez further narrated that, when her officemate Anaviso went to the Supreme Court, the audit team told her (Anaviso) to inform Mendez that the latter needed to deposit P11,708.62, the amount missing from the SAJF, and P5,800.17 to the JDF account. Mendez claimed that she had deposited the aforesaid amounts, and that the deposit slips had been submitted to the audit team. Thus, she argued, there was no shortage anymore.^[12]

Mendez also claims that there were times when Dy would instruct her to fill up receipts, but unknown to her, there was no carbon paper underneath to make duplicate and triplicate copies of the receipts. When monthly JDF reports were to be sent to the Supreme Court, she would sometimes discover that some duplicates or triplicates were blank. Dy would instruct her to fill up the duplicate copies to make it appear that the same were issued for court clearances. Mendez claims that she did these without any inkling that the same were anomalous.^[13] She maintains that she was merely "acting in the fulfillment of duty and in obedience to an order issued by

a superior officer."^[14]

The Court, in a Resolution dated December 12, 2007, referred the parties' compliance to the OCA for evaluation, report, and recommendation.^[15]

Meanwhile, Judge Norma Megenio Cardenas (Judge Cardenas) submitted her findings in a letter dated January 11, 2008. She said that she found 41 counts of falsification and tampering of entries in the official receipts of the JDF and FF, for which Dy and Mendez should be held criminally liable.^[16]

In a Resolution dated October 22, 2008, the Court referred Judge Cardenas' report to the OCA for evaluation, report, and recommendation.

On the same day, the Court noted a verified complaint filed against Dy and Cuanico, and resolved to incorporate the same to A.M. No. P-07-2364, considering that the amount claimed was part of the fund under investigation in the latter administrative case.^[17] The verified complaint was docketed as OCA I.P.I. No. 08-2790-P.

OCA I.P.I. No. 08-2790-P

In April 2008, Virgilio Gallano (Gallano) filed a Complaint before this Court, accusing Cuanico and Dy of dishonesty, grave misconduct, and conduct unbecoming of public officers.

In his Complaint, Gallano narrated that he is an employee of the Department of Agrarian Reform in Catarman, Northern Samar. He served as bondsman in a case for frustrated murder, docketed as C-3432, filed before the RTC of Catarman. The case was dismissed on April 11, 2007 and, consequently, the cash bond was cancelled and ordered to be returned to him, as the bondsman.^[18]

Notwithstanding this order, Gallano filed a Motion to Release Bailbond. His motion was referred to then Chief Justice Reynato S. Puno for necessary legal action because of the discovery of a shortage in the FF, from which the cash bond was to be withdrawn.^[19] Gallano claimed that despite demand to release the cash bond, Cuanico refused to release the same. He alleged that he posted the cash bond on January 2, 2006, when Cuanico had already assumed office as clerk of court, and the same was received by Dy, who represented herself as the clerk of court's authorized officer to collect and receive cash bonds.^[20] Cuanico allegedly said that of the P100,000.00 cash bond posted by Gallano, only P10,000.00 was actually deposited to the FF, while the P90,000.00 was misappropriated by Dy.

Gallano argued that Dy was undoubtedly representing the office of the clerk of court, leading to the conclusion that the misappropriation was with the knowledge and consent of Cuanico. Thus, Gallano prayed that Cuanico and Dy be dismissed from the service, with the corresponding loss of benefits, and be ordered to return the P100,000.00 cash bond he paid.^[21]

In separate Indorsements dated April 21, 2008, then Court Administrator Zenaida Elepaño directed Dy and Cuanico to submit their respective comments on the complaint.