

THIRD DIVISION

[A.M. No. P-07-2355 (formerly A.M. OCA IPI No. 01-7-208- MTCC), March 19, 2010]

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. ATTY. MARY ANN PADUGANAN-PENARANDA, OFFICE OF THE CLERK OF COURT, MUNICIPAL TRIAL COURT IN CITIES (MTCC), CAGAYAN DE ORO, MISAMIS ORIENTAL; AND MS. JOCELYN MEDIANTE, RESPONDENTS.

D E C I S I O N

PERALTA, J.:

This administrative matter stemmed from the partial financial audit of the books of accounts of the Municipal Trial Court in Cities of Cagayan de Oro City, Misamis Oriental (MTCC-Cagayan de Oro City), conducted by the Audit Team of the Court Management Office (team) on May 21, 2001. The audit covered the accountability period of Atty. Mary Ann Paduganan-Peñaranda (Peñaranda), Clerk of Court, Office of the Clerk of Court, MTCC, Cagayan de Oro City, from June 1990 as to the Judiciary Development Fund; from April 1996 as to the General Fund and from April 1996 as to the Fiduciary Fund. Jocelyn Y. Mediente (Mediente), Cashier I of the same court, however, was included as respondent for being one of the accountable officers.

In the partial audit report submitted by the team, it appeared that upon initial cash count conducted on the first day of the audit, the cashbook showed a total cash on hand of Sixty-Nine Thousand One Hundred Fifty-Five Pesos (P69,155.00) representing collections for the Judiciary Development Fund, General Fund, Fiduciary Fund and Legal Research Fund. However, the cash on hand presented to the audit team was only Sixty-Four Thousand Three Hundred Fifty-Six and 15/100 (P64,356.15). When questioned about the discrepancy, they claimed that the shortage was due to the failure of Ms. Celedonia Suarez, Cash Clerk, to turn over the collections when she went on leave. To cover the shortage, Peñaranda immediately restituted the missing fund.

In a nutshell, the following findings on the books of account of the MTCC-Cagayan de Oro City were established: (a) a shortage was incurred in the Judiciary Development Fund amounting to P49,589.14; and (b) there was an over-remittance of P269.50 to the General Fund. With regard to the accountabilities pertaining to the Fiduciary Fund, the team instructed Peñaranda to submit the bank statements/passbooks issued by the Land Bank of the Philippines (LBP) in order to determine the exact cash accountabilities for the said fund.

Thus, in a Resolution dated August 20, 2001, the Court resolved to:

(1) REQUIRE [a] Atty. Peñaranda and Ms. Jocelyn Mediente, Court

Cashier, to EXPLAIN within ten (10) days from notice why no administrative sanction shall be imposed upon them for their failure to remit the collections of the Court in the sum of P49,589.14 for the Judiciary Development Fund; [b] Atty. Peñaranda to RESTITUTE immediately the said shortage and to SUBMIT to the Court, through the Office of the Court Administrator, copy of the deposit slip of said payment, all within ten (10) days from notice hereof;

- (2) IMMEDIATELY RELIEVE Atty. Peñaranda and Ms. Mediante of their duties as collecting officers; and
- (3) DIRECT the Executive Judge, MTCC of Misamis Oriental, to appoint an officer-in-charge pending the outcome of the audit.

In compliance with the Court's directive, Judge Dan R. Calderon, then Executive Judge, MTCC, Cagayan de Oro City, issued a Memorandum dated September 26, 2001, relieving Peñaranda and Mediante as collecting officers. In lieu thereof, Ms. Evelyn Subido, Administrative Officer I, and Ms. Isabel Umas-as, Clerk III, were designated to assume the said functions of Peñaranda and Mediante, as collecting officers.

Meanwhile, on September 28, 2001, Peñaranda restituted the amount of P49,589.14 to the Judiciary Development Fund as evidenced by the LBP deposit slip dated September 28, 2001 and Official Receipt No. 8444062.

In her Comment dated March 1, 2002, Mediante explained that when she assumed her duty as cashier in December 1997, her predecessors were not maintaining any cashbook. She claimed that only the cash on hand were accounted for *vis-a-vis* the amount of receipts issued. She also admitted that her functions were to receive cash, issue receipts and deposit the same with the LBP. She, however, clarified that Ms. Gwendolyn J. Pontipetra (Pontipetra), a city employee detailed with the Clerk of Court's Office, was the one tasked to prepare the monthly report of collections and the posting in the cashbooks. Mediante believed that due to this set-up, it became difficult to reconcile the cashbooks/monthly report and the actual cash deposits with the LBP. She further added that they only depended on the Commission on Audit (COA) representatives to audit their books when they visited from time to time. Mediante maintained that all court transactions were duly receipted for and the monthly reports truly reflected the same. Finally, Mediante insisted that, while the full amount of the court collections had been left unremitted at the time the audit was conducted, the shortage was not due to bad faith, but was a result of the loose tracking of accounts, mismanagement, lack of information on the proper accounting system, and/or negligence.

For her part, Peñaranda, in her Letter-Explanation dated February 28, 2002, narrated that at the time she took over as clerk of court, there was no actual and physical turn-over of either property or cash accountability. She added that she merely assumed that since her predecessor was cleared from all liabilities, it followed that the books of accounting were done properly. Peñaranda claimed that she had no prior briefing, no seminar or training when she assumed her position. There was only a designated cashier who made their own record book, logbook and

ledger. There was no bookkeeper, because there was no book to account then.

Peñaranda claimed that it was only sometime in 1996, after being advised by an audit team from the Supreme Court, that they obtained an official book of account from the Supreme Court, since the team was surprised to find out that there was no accounting system at all; no records, no ledger, no bookkeeping, but merely a record book self-made by the designated cashier. She likewise manifested that when a permanent cashier was appointed, *i.e.*, Mediante, she had no way of counter-checking anymore the handling of court collections. Thus, she designated a posting clerk, Pontipendra, to receive the receipts and deposit slips for recording in the books and to check the receipts *vis-à-vis* the deposit slips.

Moreover, Peñaranda stressed that she was not aware of the shortage, since she did not have any actual possession of court collections. The only instance that she could hold cash was when the cashier was on leave and she had to do the cashiering, but she, nevertheless, turned over the same to the cashier and signed the last receipt she issued to show the cut-off of her issuances. She claimed that she signs the deposit slips every day, but whether or not all collections were actually deposited, she was unaware. Peñaranda maintained that assuming there was a fault on her part, it was merely the fact that she gave her staff full confidence and trust.

In a Resolution dated July 24, 2002, the Court resolved to refer the instant administrative matter to the Office of the Court Administrator (OCA) for evaluation, report and recommendation.

The team, after further evaluation of all the documents subsequently presented, found a shortage amounting to Seventy-Two Thousand Seven Hundred Forty-Five Pesos (P72,745.00), which pertained to the Fiduciary Fund. However, the monthly reports of collections, deposits, and withdrawals were found to be in order. The team, likewise, observed that the total collections for certain months were not deposited in full; thus, said collections did not tally with the corresponding deposits for that particular month.

In sum, the accountabilities/cash shortages found by the audit team were as follows:

Balance per bank as of		P
4/30/01		8,859,524.46
Add: Deposit in transit		<u>8,000.00</u>
Total		P 8,867,524.46
Less: Interest earned for the	P	
period 6/96-4/30/01	503,556.49	
Interest withdrawn	<u>P55,892.23</u>	
as of 4/30/01	<u>447,664.26</u>	
Outstanding checks	1,000.00	
Staled checks	6,500.00	
Erroneous deposit	355.00	<u>63,747.23</u>
of JDF collections		

Adjusted bank balance as of 4/30/01	P 8,803,777.23
Collections for the period 4/96-4/30/01	P 18,516,584.73
Less: Withdrawals for the same period	P <u>9,640,062.50</u>
Unwithdrawn Fiduciary Fund as of 4/30/01	P <u>8,876,522.23</u>
Unwithdrawn Fiduciary Fund as of 4/30/01	P 8,876,522.23
Less: Adjusted bank balance as of 4/30/01	P <u>8,803,777.23</u>
Balance of Accountabilities/Shortage	P 72,745.00

On the basis of the foregoing findings, the OCA recommended, on January 9, 2007, among others, that Peñaranda be directed to reconstitute the amount of Seventy-Two Thousand Seven Hundred Forty-Five Pesos (P72,745.00) representing her shortage in the Fiduciary Fund; and that the instant administrative matter be redocketed as a regular administrative complaint against Peñaranda and Mediante.

In a Resolution dated August 1, 2007, the Court resolved to (a) redocket the administrative matter as a regular administrative complaint; (b) direct Peñaranda to reconstitute the amount of P72,745.00 representing her shortage in the Fiduciary Fund; (c) authorize Peñaranda to assume her regular functions as Clerk of Court upon restitution of the shortages; and (d) direct Mediante to assume regular functions as Cashier I upon restitution of the shortages and Judge Eleuteria Badoles-Algodon to monitor the strict compliance with and implementation of the proper handling of the judiciary collection.

In compliance, on October 4, 2007, Mediante reconstituted the amount of P72,745.00 as per Land Bank Official Receipt No. 0025477 and deposit slips all dated October 4, 2007.

However, in her Manifestation dated October 11, 2007, Mediante clarified the fact that there was no shortage of funds in the amount of P72,745.00. Mediante explained that for the month of May 2001, there was over-remittance. She claimed that the total court collections for May 2001 was only P93,950.00; however, a total of P152,300.00, or an excess of P58,350.00 was deposited to the LBP. Mediante also added that the cost of the checkbooks in the amount of P5,185.00, plus another P210.00 as bank charges, was not listed as expenses in the record, thus, adding to the alleged shortage. Mediante attached the deposit slips representing the bank deposits to the LBP for May 2001, which included the court collections for April 2001, to wit:

May 2, 2001 - P 8,000.00
May 4, 2001 - P 10,000.00
May 8, 2001 - P 10,000.00
May 9, 2001 - P 10,850.00