

EN BANC

[A.M. No. P-05-2046 (Formerly No. 05-6-159-MCTC), September 17, 2009]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
CLERK OF COURT FE P. GANZAN, MCTC, JASAAN-CLAVERIA,
MISAMIS ORIENTAL RESPONDENT.**

D E C I S I O N**PER CURIAM:**

This administrative case arose from the Report dated 15 June 2005, submitted by an Audit Team of the Office of the Court Administrator (OCA), containing the results of its financial audit of the 5th Municipal Circuit Trial Court (MCTC) of Jasaan-Claveria, Misamis Oriental, conducted on 11 March 2005. The said financial audit covered the accountability period of Clerk of Court II Fe P. Ganzan (Ganzan) from July 1994 to 28 February 2005.

The OCA Audit Team made the following recommendations in its Report:

1. This report be docketed as a regular administrative matter against Clerk of Court Fe P. Ganzan;
2. Clerk of Court Fe P. Ganzan be DIRECTED within ten (10) days from notice to:
 - a. Pay and Deposit to the respective account the following amounts incurred as shortages, and Submit to this office the validated deposit slips as proof of payment of the same;

FUND	AMOUNT	SEE SCHEDULES
Special Allowance for the Judiciary	P 4,351.10	A
General Fund	5,039.80	B
Judiciary Development Fund	108,639.35	C
Fiduciary Fund	138,500.00	D
Total	256,530.25	

- b. Explain why she should not be held accountable for the uncollected/unreported fines enumerated in Annex "B" amounting to P50,050.00 and cash bonds of undetermined

amount on cases enumerated in Annex "E." The amount was not part of the reported collections.

- c. Account for the missing Official Receipts which were not presented for inventory as neither unissued nor included in the Monthly Reports as issued:

9590551	9590600
9590701	9590750
9590901	9590950
9590951	9591000

- d. Submit the triplicate copies of the following official receipts issued for the particular collections.

From	To	Explanation
5378101	5378118	Included in the Monthly Reports but the triplicate copies were not presented in audit.
5378119	53781150	Not included in the Monthly Reports and the triplicate copies were likewise not presented in audit.

GENERAL FUND		
Period	From	To
Jan. 6 to Jan. 21, 2005	20248201	20248250
May 5 to June 20, 2003	17843801	17843850

JUDICIARY DEVELOPMENT FUND		
Period	From	To
Jan. 6 to Jan. 21, 2005	20248201	20248250
May 5 to June 20, 2003	17843801	17843850
Mar. 1991 to July 1994	7863201	7863500

- e. Submit the original and duplicate copies of cancelled Official Receipts Nos. 4264861, 20247681 and 20247454 or proofs that the same were submitted with the Monthly Reports to the Accounting Division-OCA.

3. Pending resolution of this administrative matter, Ms. Fe P. Ganzan be **SUSPENDED** in order to prevent her from interfering with the court transactions as well as to avoid the commission of similar infraction in the future;

4. A Hold Departure Order be issued against Clerk of Court Fe P. Ganzan to prevent her from leaving the country.
5. The designated Officer-in-Charge be DIRECTED to:
 - a. Withdraw all fiduciary fund collections still deposited with the Municipal Treasurer's Office and deposit/transfer the same to the Fiduciary Fund LBP Savings Account No. 0151-1096-91 pursuant to SC Circular No. 50-95.
 - b. Withdraw the net interest earned from the Fiduciary Fund Account in the amount of P1,153.34 and deposit the same with the JDF Account.
6. Presiding Judge, MCTC, Jasaan, Misamis Oriental, be DIRECTED to strictly monitor the designated Officer-in-Charge and Collecting officer in the strict adherence to the circulars and issuances of the Court particularly in the handling of judiciary funds.

On 15 June 2005, then Court Administrator, now Supreme Court Associate Justice Presbitero J. Velasco, Jr. issued a Memorandum adopting the recommendations of the OCA Audit Team, and recommending to the Court the approval of the same recommendations.

The Court, in a Resolution^[1] dated 27 July 2005, approved and adopted the recommendations of the Court Administrator.

Ganzan filed on 24 August 2005 a Manifestation^[2] in which she prayed for the Court to order the OCA to furnish her with copies of the Schedule/Annex "A" and Schedule/Annex "C" of the Audit Report, and to give her an extension of at least 60 days, reckoned from her receipt of copies of said schedules, within which to file her explanation for the same, as she had a hard time looking for a lawyer to represent her in the case, given her financial constraints.

Acting on Ganzan's Manifestation, the Court issued a Resolution^[3] on 5 December 2005 ordering the OCA to furnish Ganzan copies of the documents she prayed for and granting her a 60-day extension for the filing of her explanation. Although she was already duly furnished copies of the pertinent schedules/annexes of the Audit Report, Ganzan failed to comply with the Resolution dated 27 July 2005 of this Court requiring her to submit her explanation, accounting, and receipts. Thus, the Court issued another Resolution dated 12 March 2007, requiring Ganzan to show cause why she should not be held in contempt of court for such failure and to comply with the earlier Resolution dated 27 July 2005, both within 10 days from notice.

Ganzan, however, still failed to submit to the Court the explanation, accounting, and receipts required by the Resolution dated 27 July 2005, as well as to comply with the show-cause directive under the Resolution dated 12 March 2007. Consequently, the Court issued a Resolution dated 16 January 2008 imposing upon Ganzan a fine of P500.00 and again requiring her to comply with the Resolution dated 27 July

2005 within 10 days from notice.

In the interim, Honorable Marites Filomena Rana-Bernales (Judge Rana-Bernales), Presiding Judge, 5th MCTC of Jasaan-Claveria, Misamis Oriental, wrote the Court a Letter dated 18 March 2008, relaying her perception that Ganzan, based on the latter's actuations, had no intention at all to comply with the Resolutions of the Court. In the same Letter, Judge Rana-Bernales also requested the early resolution of the instant administrative case, since Ganzan had been on preventive suspension since July 2005, and the interest of justice required a regular Clerk of Court to already be appointed in Ganzan's place. The Court noted Judge Rana-Bernales' aforementioned letter.

For Ganzan's continued failure to comply with its directives, the Court issued yet another Resolution^[4] dated 9 July 2008 imposing upon her a fine of P1,000.00, in addition to the fine of P500.00 previously imposed upon her under the Resolution dated 16 January 2008. Ganzan was further ordered to comply with the Resolution dated 16 January 2008, with a warning that should she still fail to pay the fines imposed and comply with the directives of the Court, she would be ordered arrested and detained by the National Bureau of Investigation (NBI) until her compliance or until such time as the Court may order.

On 30 March 2009, the Court referred to the OCA the matter of Ganzan's non-compliance with the Resolution dated 9 July 2008 and required the said office to submit its Report within 30 days from notice.^[5]

The OCA submitted its Report^[6] on 4 June 2009, bearing the following recommendations:

IN VIEW OF ALL THE FOREGOING, it is most respectfully recommended for the consideration of the Honorable Court as follows:

a) Respondent FE P. GANZAN, Clerk of Court, Municipal Circuit Trial Court of Jasaan, Misamis Oriental be found GUILTY of DISHONESTY and the penalty of DISMISSAL from the service with forfeiture of all retirement benefits except leave credits and disqualification for re-employment in any government office including government-owned or controlled corporations be imposed upon her;

b) Respondent be ordered to RESTITUTE the following amounts incurred as shortages within thirty (30) days from notice:

FUND	AMOUNT
Special Allowance for the Judiciary	P 4,351.10
General Fund	5,039.80
Judiciary Development Fund	108,639.35
Fiduciary Fund	138,500.00

or a total of Two Hundred Fifty-Six Thousand Five Hundred Thirty Pesos and Twenty-five centavos (P256,530.25) plus additional amount of Fifty