

THIRD DIVISION

[A.M. No. P-06-2208 (Formerly OCA IPI No. 04-1944-P), August 26, 2008]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
IRENE P. FUECONCILLO, FORMERLY OFFICER-IN-CHARGE AND
INTERPRETER I, MUNICIPAL TRIAL COURT IN CITIES, SCIENCE
CITY OF MUNOZ, NUEVA ECIJA, RESPONDENT.**

R E S O L U T I O N

CHICO-NAZARIO, J.:

Before this Court is an administrative matter involving an audit conducted from 6-10 February 2006 by the Office of the Court Administrator (OCA) on the books of accounts of Ardentor C. Ramos (Ramos) Clerk of Court II; and Irene P. Fueconcillo (Fueconcillo), former officer-in-charge (OIC) and Interpreter I of the Municipal Trial Court in Cities (MTCC) of Science City, Muñoz, Nueva Ecija. Fueconcillo was the OIC of the Office of the Clerk of Court of the MTCC for the period 1 March 1998 up to 31 October 2004, while Ramos assumed the said office beginning 1 November 2004 up to the present. The audit was conducted on account of the failure of Fueconcillo to submit the Monthly Report of Collections starting March 2002, which led to the withholding of her salary since October 2004.

After the audit, the OCA Financial Audit Team made a report with the following recommendations:

1. This report be docketed as a regular administrative matter against former Officer-in-Charge and Interpreter I of MTCC Science City of Muñoz Nueva Ecija, IRENE P. FUECONCILLO and that she be DIRECTED to EXPLAIN why she should not be administratively sanctioned for not remitting her collections on Clerk of Court General Fund, Judiciary Development Fund, Mediation Fund and the unauthorized withdrawal/non-remittance of collections of Fiduciary Fund.
2. MR. ARDENTOR C. RAMOS, Clerk of Court, MTCC Science City of Muñoz be DIRECTED to strictly comply with the issuances of the Court particularly the handling of judiciary funds;
3. HON. ELEANOR TF. MARBAS-VIZCARRA, Presiding Judge, be DIRECTED to:
 - 3.a. EXPLAIN within ten (10) days from notice why she approved the withdrawal made by Ms. Fueconcillo amounting to P20,000.00 when there is no court order to effect the same;
 - 3.b. MONITOR the activities of the Clerk of Court in the "strict"

implementation of the issuances of the court relative to handling of Judiciary funds.^[1]

On 26 July 2006, the First Division of this Court approved the afore-quoted recommendations of the OCA Financial Audit Team,^[2] thus:

(a) NOTE the aforesaid report;

(b) RE-DOCKET this report as a regular administrative matter against former Officer-in-Charge and Interpreter 1 of Municipal Trial Court in Cities, Science City of Munoz, Nueva Ecija, Irene P. Fueconcillo;

(c) DIRECT Ms. Fueconcillo to EXPLAIN within ten (10) days from notice hereof why she should not be administratively sanctioned for not remitting her collections for Clerk of Court General Fund, Judiciary Development Fund, Mediation Fund and the unauthorized withdrawal/non-remittance of collections of Fiduciary Fund;

(d) DIRECT Mr. Ardentor C. Ramos, Clerk of Court, Municipal Trial Court in Cities, Science City of Munoz to STRICTLY COMPLY with the issuances of the Court particularly the handling of judiciary funds;

(e) DIRECT Hon. Eleanor TF. Marbas-Vizcarra, Presiding Judge, Municipal Trial Court in Cities, Science City of Munoz to: (1) EXPLAIN within ten (10) days from notice hereof why she approved the withdrawal made by Ms. Fueconcillo amounting to Twenty Thousand (P20,000.00) Pesos which contain (sic) no court order for the withdrawal of the said fund; and (2) MONITOR the activities of the Clerk of Court in the "strict" implementation of the issuance of the court relative to the handling of Judiciary Funds.

Complying with the order of the Court, Judge Eleanor TF. Marbas-Vizcarra (Judge Vizcarra) submitted her explanation^[3] to the Court on 2 October 2006. She stated therein that upon knowing of the alleged unauthorized withdrawal on 19 June 2002 by Fueconcillo from the judiciary fund, as discovered by the OCA Financial Audit Team, she required Fueconcillo to submit to the Court her explanation the soonest possible time, and to give her (Judge Vizcarra) a copy of said explanation with the withdrawal slip pertaining to the questioned withdrawal.

Judge Vizcarra explicated that considering the more than four years which had passed since the suspicious withdrawal was made on 19 June 2002 and the numerous withdrawal slips she had signed for several courts she was handling at that time, she needed to see first the withdrawal slip of 19 June 2002 to have an idea as to the circumstances surrounding the same. Thus, she directed the present Clerk of Court, Ramos, to secure a copy of the withdrawal slip dated 19 June 2002 from the Land Bank of the Philippines (LBP). However, according to the LBP personnel, it would be very difficult for the bank to locate the withdrawal slip from the year 2002, considering the volume of documents in the bank's archives. Judge Vizcarra then issued an Office Memorandum dated 11 August 2006 to Fueconcillo directing the latter to explain in writing the unauthorized withdrawal. It was only after Fueconcillo received the said Office Memorandum that she gave Judge Vizcarra the withdrawal slip dated 19 June 2002, as well as another withdrawal slip dated 25

September 2002.

Judge Vizcarra explained the standard procedure observed in all the courts being handled by her, as follows: Since her courts give priority to cases with orders of dismissal and for withdrawal of bonds, the corresponding withdrawal slips are prepared on the same day the orders are issued. As one copy is submitted to the bank, another to the Supreme Court and the last is kept for the file of the trial court concerned. Two sets of withdrawal slips are prepared to ensure that all the copies are clear. The withdrawal slips, though, are usually left undated, as they will be dated only on the exact day the claimant returns to the court, especially when the withdrawal slips are for large amounts. This is to prevent the money from being left in the hands of the OIC/Clerk of Court for a long period of time.

In the course of her investigation, Judge Vizcarra discovered that Fueconcillo, then the OIC/Clerk of Court, made two withdrawals based on Judge Vizcarra's Order dated 23 April 2002 provisionally dismissing Criminal Case No. 6656, entitled *People v. Ruben Briones, et al.*, and her corresponding Order of the same date directing the withdrawal of the cash bonds, amounting to P20,000.00, posted by the accused in said criminal case. The first withdrawal was made on 19 June 2002 and the second on 25 September 2002. Fueconcillo took advantage of the standard procedure of the court by twice withdrawing the amount of P20,000.00 from the LBP pursuant to the same order for withdrawal of the bonds issued in Criminal Case No. 6656, and using the extra set of withdrawal slips prepared pursuant to said order. Fueconcillo actually turned over P20,000.00 to the accused only on 25 September 2002.

According to Judge Vizcarra, Fueconcillo admitted that she pocketed the P20,000.00 she withdrew on 19 June 2002 for her personal needs, since her family was facing financial difficulties. Fueconcillo allegedly used the amount for her children's tuition fees; hence, the withdrawal was made only in June 2002 even though the order for the withdrawal of the bonds was issued and the withdrawal slips were prepared in April 2002.

Judge Vizcarra asserted that she would never allow the withdrawal of any amount from the bank without the proper court order. The unauthorized withdrawal by Fueconcillo was a very unfortunate incident, which happened only because of the trust Judge Vizcarra reposed upon her former OIC/Clerk of Court, and which the latter dismally betrayed. Judge Vizcarra then gave assurances that she would strictly monitor the faithful implementation of the issuances of this Court relative to judiciary funds.

On 20 October 2006, Fueconcillo asked for extension of time to submit her explanation on the ground that she was hospitalized from 1-6 October, as evidenced by the attached Medical Certificate.

In her undated Explanation,^[4] received by this Court on 27 October 2006, Fueconcillo admitted the finding of the OCA Financial Audit Team that she incurred the following shortages:

Clerk of Court- P9,919.99
General Fund
JDF - P25,762.00
Fiduciary Fund - P40,000.00

Sheriff's Fee - P9,000.00
TOTAL - P84,681.99

She explained that due to financial difficulties arising from her meager salary, she used the money for her family's sustenance and her children's educational expenses. She claimed that when the OCA Financial Audit Team required her to reconstitute the amount, she readily did so by depositing the amount of P84,681.99 on 9 February 2006.

She likewise admitted the unauthorized withdrawal of P20,000.00 without the knowledge and consent of Judge Vizcarra. She confessed to withdrawing the amount using the Order dated 23 April 2002 issued by Judge Vizcarra for the withdrawal of the bonds posted by the accused in Criminal Case No. 6656. She presented the said Order to the LBP Branch, Science City, Muñoz, Nueva Ecija, twice - on 19 June 2002 and then on 25 September 2002 - together with the pre-signed withdrawal slips. She split the several copies of withdrawal slips signed by Judge Vizcarra to be able to make two withdrawals. She begged for the Court's consideration and understanding on the matter.

The Court, in its 7 February 2007 Resolution, referred the matter to the OCA for evaluation, report, and recommendation.

On 24 September 2007, the OCA submitted its report,^[5] recommending the suspension of Fueconcillo, to wit:

Premises considered, it is respectfully recommended for the consideration of the Honorable Court are our recommendations that: (a) that Ms. Fueconcillo, Interpreter 1 and former Officer-in-Charge of MTCC, Science City of Munoz, Nueva Ecija, be **SUSPENDED** for one (1) year without pay for gross misconduct, gross neglect of duty and gross dishonesty amounting to malversation of public funds with stern warning that a repetition of the same or similar act shall be dealt with more severely; and (b) Judge Eleanor TF. Marbas-Vizcarra be **ADMONISHED** to be more careful in the supervision of personnel handling the court's funds.

On 12 November 2007, the Court required the parties to manifest within 10 days from notice if they were willing to submit the matter for resolution based on the pleadings filed.^[6]

Fueconcillo failed to file a manifestation within the period given by the Court despite notice sent to and received by her; thus, the Court deemed as waived^[7] her submission of supplemental comment/pleadings.

Resultantly, the administrative matter was submitted for decision based on the pleadings filed.

The Court agrees in the findings and recommendations made by the OCA in its report.

Records show that Fueconcillo was the OIC of the Office of the Clerk of Court of the MTCC, Science City, Muñoz, Nueva Ecija, from 1 March 1998 to 31 October 2004. As the accountable officer, she was the designated custodian of the funds, revenues,