

EN BANC

[A.M. No. SCC-05-10-P, October 19, 2007]

ANDY M. BULALAT, COMPLAINANT, VS. KYD ABDULWAHID I. ADIL, CLERK OF COURT, SHARI'A CIRCUIT COURT, KABACAN, NORTH COTOBATO, RESPONDENT.

RESOLUTION

PER CURIAM

In an affidavit-complaint^[1] to the Office of the Court Administrator (OCA), the complainant Andy E. Bulalat charged respondent Kyd Abdulwahid I. Adil, clerk of court, Shari'a Circuit Court of Kabacan, North Cotobato with falsification and dishonesty.

The complainant averred that respondent, for a period of over 10 years, had been collecting fees more than the required amount of P50 for delayed registration of marriages. According to the complainant, respondent was charging P400 to P500. To support his allegation, he submitted copies of official receipt numbers (OR No.) 3793213 and 3793392 issued to Genay D. Mokomad and Dayang K. Malugayak, respectively.

The complainant likewise claimed that, in several instances, respondent did not also issue official receipts for payments made by parties for registration of divorce, conversion or marriages. He added that respondent also pawned the court's typewriters to Lyric R.R. Pawnshop.

In his comment,^[2] respondent denied the allegations and presented the triplicate copies of OR Nos. 3793213 and 3793392 indicating that he only collected P50, not P400 - P500 as the complainant alleged. According to respondent, based on his records, OR No. 3793213 was issued to Sittie I. Baliquat and OR No. 3793392 to Sapia O. Duma. In effect, respondent was saying that he had no clue as to why the receipts presented by complainant were in the names of Genay D. Mokomad and Dayang K. Malugayak. On the allegation that he pawned the court's typewriters, respondent swore that they were never skirted out of the court premises or pawned.

Owing to the fact that the parties submitted contradictory evidence, we adopted the recommendation of the OCA directing Shari'a Court Judge Rasad G. Balindong to conduct an investigation on the matter.^[3]

During the investigation, respondent withdrew his previous denials and admitted his complicity in the unauthorized collection of P400 – P500 fees for delayed registration of marriages. He, however, explained that it was an "honest mistake" caused by his heavy volume of work as clerk of court. He also admitted that there were times he failed to issue official receipts but insisted that it was only because there were no official receipts available for issuance to the parties.

In his report,^[4] Judge Balindong found respondent liable for dishonesty and recommended that he be dismissed from the service. The OCA agreed but added that respondent was also guilty of grave misconduct. It reasoned:

After a careful evaluation of the records of the pleadings and records on file including the investigation report, this Office finds that the recommendation of the Investigating Judge is supported by the record on file.

A review of the transcript of stenographic notes during the hearing conducted by the Investigating Judge revealed that respondent indeed admitted he issued the subject official receipts TWICE. The *first time* was when he issued the original copy to Genay D. Mokomad and Dayang K. Malugayak, then the *second time* was when he issued the triplicate copy to Sittie I. Baliquat and Sapia O. Duma. In issuing the original copy of the subject receipts, respondent admitted that he did not place a carbon paper so that the transaction indicated in the original copy will not [be reflected] in the duplicate and triplicate [copies] of the subject receipts...

Records further revealed that respondent had also admitted his failure to issue official receipts for payments made for the registration of other documents (conversion, divorce, etc...). He claimed that he merely issued temporary receipts whenever he collected payments... [r]espondent claimed that even when he issues temporary receipts, he still deposited the money he collected.

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...[W]hile the respondent claimed that the amount covered by the temporary receipts were remitted, it was difficult to trace them...[I]n conclusion, respondent [had] also pocketed the collections covered by the temporary [receipts].^[5]

The OCA noted that, while the investigation was on-going, respondent informed the investigating judge that he already resigned from his post. Nonetheless, it recommended:

In any event, the resignation of respondent does not render the subject case moot. Resignation is not a way to evade administrative liability when a court employee is facing administrative sanction. xxx

In view of the foregoing, it is most respectfully submitted for the consideration of the Honorable Court the recommendation that respondent be found guilty of dishonesty and [grave] misconduct and that a penalty of DISMISSAL from the service be imposed upon him with a forfeiture of his retirement and all other benefits, except accrued leave credits. Respondent is also disqualified from reemployment in any branch of the government or any of its agencies or instrumentalities including government-owned or controlled corporation[s].^[6]