

EN BANC

[A.M. NO. P-01-1515 (FORMERLY A.M. NO. 01-9-541-RTC), February 10, 2005]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
ROSARIO G. JULIAN, COURT INTERPRETER, REGIONAL TRIAL
COURT, BRANCH 24, ECHAGUE, ISABELA, RESPONDENT.**

D E C I S I O N

PER CURIAM:

Rosario G. Julian, Court Interpreter of the Regional Trial Court, Branch 24, Echague, Isabela (RTC for brevity), is charged with misappropriation of the court's fiduciary funds.

The administrative case stemmed from a letter, dated December 14, 1999, of Cesar C. Pascua, Legal Researcher and then Officer-in-Charge of the Office of the Clerk of Court of said RTC, to presiding Judge Bonifacio T. Ong, bringing to his attention the failure of respondent, then concurrently Collecting Cash Clerk, to produce the cashbonds of Fernando Ibarra and company after the criminal case filed against them was dismissed.

On December 16, 1999, Judge Ong referred said letter to the Office of the Court Administrator (OCA for brevity) and requested that an audit be conducted to determine the actual amount misappropriated.

On January 31, 2000, the OCA directed respondent to submit an explanation regarding the letter of Judge Ong.

In a letter dated April 7, 2000, respondent explained that she received the directive only on April 3, 2000 because she was on sick and vacation leave from December 1, 1999 to March 31, 2000. Accordingly, she requested an extension of twenty days from April 7, 2000 to submit her explanation. However, respondent did not file her explanation.

In the meantime, an audit examination conducted on the books of accounts of the RTC revealed that the financial transactions of the court were handled by respondent Rosario G. Julian – from March 25, 1992 to January 18, 2000.

The Audit Team found that the account with the Land Bank of the Philippines was opened only on March 13, 2000 for the court's fiduciary fund through the initiative of Atty. Michelle I. Gumpal. Prior thereto, the fiduciary funds were deposited by respondent with the Rural Bank of Echague (Isabela), Inc. Verification with the said bank revealed that the account was in the name of respondent, instead of the court. In order to establish the balance of Atty. Gumpal, the Audit Team demanded that respondent reconstitute the amount of P540,500.21, representing the amount she

misappropriated, inclusive of interests. On March 31, 2000 and March 5, 2001, respondent deposited the amounts of P240,000.00 and P300,500.21, respectively, or a total of P540,500.21, to the Land Bank of the Philippines.

When directed by the OCA to explain why no administrative should be imposed upon her for misappropriation and for ignoring the earlier directive to submit an explanation regarding the letter of Judge Ong, respondent instead sent a letter, dated March 7, 2001, informing the Court that the total amount of unwithdrawn fiduciary fund amounting to P424,683.40 tallied with the bank as reflected in the outstanding balance as of March 5, 2001 and all funds over which she has been responsible from 1992 to 1999 are all accounted for and turned-over to the Clerk of Court.

Subsequently, respondent submitted a Sworn Statement, dated July 12, 2001 stating that on March 31, 2000 and March 5, 2001 she deposited the amounts of P240,000.00 and P300,500.21, respectively, or a total of P540,500.21, to the Land Bank of the Philippines which represents collections on fiduciary funds for the period beginning 1992 to February 10, 2001 which she had in her possession and which she deposited with the Rural Bank of Echague (Isabela), Inc.

In a letter, dated March 30, 2001, Judge Ong requested the OCA to forego any administrative sanction against respondent since she was able to liquidate the amount earmarked as cashbond and instead allow her to file for optional retirement.

In a Resolution dated June 10, 2003, the Court resolved to refer the Report of the Audit Team to the OCA for evaluation, report and recommendation thereon within sixty days from receipt of notice thereof.^[1]

On October 23, 2003, the OCA submitted its evaluation report.^[2] However, in a Resolution dated January 27, 2004, the Court referred back the administrative matter to the Court Administrator for further investigation.^[3]

On October 29, 2004, Court Administrator Presbitero J. Velasco, Jr. submitted his Memorandum recommending the dismissal from service of respondent.^[4] His recommendation is based on the following findings:

Hereunder is the schedule of collections and withdrawals from 1994 to February 2000, or during the period wherein which Julian, acting as the cash collecting officer, deposited the court's cashbond collections with the Rural Bank of Echague, (Isabela), Inc. under her own name, to wit:

Schedule of Collections and Withdrawals

YEAR	COLLECTIONS	WITHDRAWALS	BALANCE
1994	P 90,000.00	P 48,000.00	P 42,000.00
1995	180,000.00	20,000.00	160,000.00
1996	31,000.00	32,000.00	(1,000.00)
1997	354,000.00	61,000.00	293,000.00
1998	386,000.00	65,000.00	321,000.00
1999	361,200.00	655,700.00	(294,500.00)

Feb 2000	- 0 -	- 0 -	- 0 -
TOTAL	P 1,402,200.00	P 881,700.00	P 520,500.00

Julian closed the account with the Rural Bank of Echague under passbook/account no. 7542 (in lieu of the filled up passbook no. 7045) on January 17, 2001 with a cash withdrawal amounting to P7,768.60 (inclusive of interests earned). An examination of the passbook which was certified as a true copy by Conrado J. Yap, Jr., Accountant, revealed that the last transaction before the account was closed on January 17, 2001 was a withdrawal on November 25, 1999 (except for interests earned) amounting to P60,000.00 leaving a bank balance of only P7,447.45.

A comparison with the cashbook balancen for the same period (see schedule) which amounted to P520,500.00 disclosed that there was an undeposited collection as of February 2000 of P513,052.55 (P520,500.00 less P7,447.45). It was established that during the incumbency of Julian as cash collecting officer, withdrawals were made anytime even without the presentation of the lawful court orders and proper signatories in the withdrawal slips considering that the account was opened under her name. In addition, total monthly withdrawals reflected/posted in the bank do not tally with or equal to the total monthly withdrawals reported in the cashbook and monthly reports, to wit:

Month/Year	Withdrawals per cashbook	Withdrawals per bank	Over Withdrawal
June 1999	P 84,000.00	P 95,000.00	P 11,000.00
October 1999	20,000.00	118,378.08	98,378.08
TOTAL	P 104,000.00	P 213,378.08	P 109,378.08

The Court, through the initiative of Atty. Gumpal-Valdez, started depositing its cashbond collections with the Land Bank of the Philippines (LBP), Santiago City branch under Savings Account No. 1361-1046-64 on March 13, 2000 with an initial deposit of P15,000.00.

Further, the examination of the schedule shows that the amount that should be deposited under the court's trust fund account amounted to P520,500.00 or the balance of collections less withdrawals as of February 2000. The amount actually remitted by Julian with the LBP totaling to P540,500.21 (which should include the interests earned), was deposited on two separate dates as reflected in the passbook:

Date	Amount Deposited
March 31, 2000	P 240,000.00
March 5, 2001	30,000.00
	4,173.46