

FIRST DIVISION

[A.M. No. 99-6-81-MTCC, June 10, 2003]

REPORT ON THE JUDICIAL AUDIT CONDUCTED IN THE MUNICIPAL TRIAL COURT IN CITIES OF PALAYAN CITY.

R E S O L U T I O N

YNARES-SANTIAGO, J.:

On March 18, 1999, the Judicial Audit team of the Office of the Court Administrator (OCA) submitted a Report on the audit conducted in the Municipal Trial Court in Cities of Palayan City, then presided by Judge Marciano C. Mauricio.^[1] In a Resolution dated June 29, 1999, Judge Mauricio was directed by this Court to comment on a Certification of Mrs. Rosita L. Bagan, Clerk of Court of the Municipal Trial Court in Cities of Palayan City, that the accused in Criminal Case No. 519-520, 523-527, and 528-534 were required to post additional cash bonds.

In the same Resolution, Clerk of Court Bagan was directed to: (1) explain why no administrative sanction should be imposed upon her for failure to take initial appropriate action on Civil Cases No. 459, 462, 504, 505, 509, 512, and 514; (2) ascertain the status of Criminal Case No. 586 and 642 and to submit a report thereon; (3) submit immediately to this Court certified copies of the court orders which required the accused in Criminal Case No. 519 and 520 (Norma Rabara), 523 to 527 (Eduviges Upana), and 528 to 534 (Lourdes Sicat) to post additional cash bonds in the amount of Ten Thousand Pesos (P10,000.00), Fifteen Thousand Pesos (P15,000.00) and Fifteen Thousand Pesos (P15,000.00), respectively; (4) attach regularly to the records of criminal cases all official receipts of cash bonds with a warning that commission of the same infraction will be dealt with more severely; (5) apprise Judge Mauricio on the eighty-two (82) cases that were not further acted on or set in the calendar after the lapse of a considerable length of time; and to submit a report on compliance with the foregoing directives.

Also, the Resolution required Judge Octavio A. Fernandez of the Municipal Circuit Trial Court of Gen. M. Natividad-Lianera, Nueva Ecija to transmit to the Clerk of Court of the Municipal Trial Court in Cities of Palayan City, the original official receipt of the Two Thousand Peso (P2,000.00) cash bond deposited for the provisional liberty of accused Florentino Marcelo in Criminal Case No. 505 and to submit a report on compliance with the foregoing directive.

Finally, the Court, through said Resolution, directed Judge Erlinda P. Buted, Executive Judge of the Regional Trial Court of Palayan City, to submit a report on the investigation of the Ten Thousand Peso (P 10,000.00) cash bond allegedly received by Judge Mauricio in Criminal Case No. 6952-AF. This investigation was prompted by a letter received by the OCA on February 15, 1999 from Efren S. Gabuyo, who claimed that he was the bondsman of Eduardo Pablo, the accused in said case. He further claimed that Judge Mauricio personally received the cash bond and that,

despite the dismissal of Criminal Case No. 6952-AF, Judge Mauricio has not returned said cash bond.^[2] He wrote another letter inquiring about the status of his complaint, and said letter was received by the OCA on August 10, 1999.^[3]

In his "Comment and Manifestation," dated August 19, 1999, Judge Mauricio stated that he required the accused to post the additional cash bonds, allegedly in light of the guidelines set forth in the 1996 Bail Bond Guide.^[4] Furthermore, he alleged that Clerk of Court Bagan could not have known of the deposit of the additional cash bonds, since she was on official leave at the time the money was turned over to him.^[5] He claimed that the additional cash bonds posted by Rabara, Upana, and Sicat were released to them after they were discharged from custody. However, he made no mention of the date of such release nor did he offer in evidence the receipts to prove such remittance.

On September 13, 1999, Judge Fernandez wrote to Clerk of Court Bagan, stating that the original receipt for the cash bond in Criminal Case No. 505 and 506 was *already sent* to the Municipal Trial Court in Cities of Palayan City by his Clerk of Court, Mrs. Teresita Esteban. Bagan wrote back to Judge Fernandez in a letter dated September 23, 1999, inquiring when the said official receipt was sent as well as what mode of service was used. In reply thereto, Esteban informed Bagan that she was not aware of the existence of any such official receipt, considering that Florentino Marcelo, the accused in Criminal Case No. 505 and 506, *never* posted a bond with *her*.

On December 2, 1999, complainant Efren Gabuyo passed away while his complaint was still pending.^[6]

In compliance with the directive of this Court, Bagan submitted an "Explanation," together with the requested certified copies of the Orders requiring additional cash bonds from Rabara, Upana and Sicat. Bagan stated that she had not taken initial action on the seven (7) aforementioned civil cases, all of which involve ejectment, because the defendant-squatters had either moved away, were never residents of the disputed area or have been served with summonses as defendants in an identical case.^[7] Evidently, the City Legal Officer had not yet filed the corresponding Motions to Dismiss. Regarding the status of Criminal Case No. 586 and 642, she averred that the records were actually with Judge Mauricio. She also stated that she had been regularly attaching the official receipts of cash bonds to the corresponding records. Finally, she stated that she had apprised Judge Mauricio of the status of the 82 cases pending in his sala and which had not yet been acted upon.^[8]

The case was then referred to the Executive Judge of the Regional Trial Court of Cabanatuan City for investigation.

In answer to the letter-complaint of the late Efren Gabuyo, Judge Mauricio denied that he received money from the deceased, and stated that it was accused Pablo himself who deposited cash bond with the respondent. In support of this claim, he presented a sworn statement executed by Pablo to that effect which, however, did not specify the date when the latter allegedly deposited the money.

Clerk of Court Bagan, on the other hand, filed a "Compliance," dated March 30,

2000, wherein she confirmed that she could not have known of Judge Mauricio's orders regarding the posting of additional cash bonds, since she was on official leave at the time. Furthermore, she stated that she personally went to the residence of Rabara, Upana, and Sicat to elicit from them whether or not the additional cash bonds they posted were indeed returned to them. As directed by this Court, Bagan secured the unverified, but signed, comments of Rabara, Upana, and Sicat, all of whom maintained that Mauricio had not yet returned to them the additional cash bonds they had posted. Finally, Bagan manifested that she had repeatedly asked Judge Mauricio to return the records of Criminal Case No. 586 and 642, the date of her last request being on March 3, 2000, however, Judge Mauricio had not yet returned the same.

Meanwhile, Judge Fernandez sent a letter to Judge Ballutay, dated May 10, 2000, stating that the release Order and other papers pertinent to Criminal Case No. 505 had been sent to Judge Mauricio. He claims that in signing the release Order, he merely filled in for Judge Mauricio who was ill. It was allegedly Judge Mauricio who received the cash bond, thus, the papers he transmitted to Judge Mauricio *did not* include an official receipt for the same.

On May 22, 2000, Judge Ballutay submitted his "Report and Recommendation," recommending that the complaint against Judge Mauricio be dismissed based on the Affidavit of Desistance executed by the complainant's son, Efren Gabuyo, Jr., on the strength of a Special Power of Attorney furnished by the complainant's widow.

A follow-up judicial audit was conducted in the Municipal Trial Court in Cities of Palayan City from July 9-11, 2001. The audit team found anomalies in the posting of additional cash bonds in Criminal Case No. 542, 642 and 670, all pending in the sala of Judge Mauricio.

The case was thereafter referred to the Office of the Court Administrator for evaluation, report and recommendation. The OCA recommended that (1) Mauricio be fined Fifty Thousand Pesos (P50,000.00) for violating the rule on the posting of cash bond by receiving the money instead of directing the accused or any person acting in his behalf to deposit the cash with the nearest collector of internal revenue or provincial, city or municipal treasurer, (2) the Financial Management Office of the OCA be authorized to deduct the aforementioned amount of Fifty Thousand Pesos (P50,000.00) from the retirement benefits of Mauricio, (3) Clerk of Court Bagan be reprimanded for (a) not exercising diligence in her duties as custodian of court records, (b) not immediately informing the court of the facts as to when the records of Criminal Case No. 586 and 642 were returned by Judge Mauricio, and (c) not immediately submitting a report on the actual status of said cases as soon as the case records were returned by Judge Mauricio, with a warning that a repetition of the same infractions in the future would be dealt with more severely.

This case appears to be on all fours with the case of *Agulan v. Fernandez*^[9] which, coincidentally, involved also Judge Octavio A. Fernandez. In the said case, it was held that a judge is not one of those authorized to receive the deposit of cash as bail, nor should such cash be kept in the office of the judge. The proper procedure in the handling of cash submitted or given to the municipal court as bail bond is for the court to direct the clerk of court to officially receive the cash and to immediately deposit it with the municipal treasurer's office. The transaction must not only be

properly receipted for but should also appear in the records of the case.^[10] Unfortunately, the respondent failed to follow these procedures.

It is settled that clerks of court are the custodians of all bail bonds, rental deposits and other fiduciary collections. In the ordinary course of proceedings, judges have nothing to do with the collections, because clerks of court are the officers mandated to deposit them with an authorized government depository bank.^[11] This policy is the spirit behind the wording of the pertinent provision of Rule 114 of the Rules of Court:

SEC. 14. ***Deposit of cash as bail.*** — The accused or any person acting in his behalf may deposit in cash with the nearest collector of internal revenue or provincial, city, or municipal treasurer the amount of bail fixed by the court, or recommended by the prosecutor who investigated or filed the case. Upon submission of a proper certificate of deposit and a written undertaking showing compliance with the requirements of section 2 of this Rule, the accused shall be discharged from custody. The money deposited shall be considered as bail and applied to the payment of fine and costs while the excess, if any, shall be returned to the accused or to whoever made the deposit.

Furthermore, we are not convinced by Judge Mauricio's bare denials, accused Pablo's uncorroborated statement, or by the desistance of the complainant's heirs, in light of the persistence shown by the complainant in pursuing his claim against the respondent while he was still alive. The records show that the complainant wrote to the OCA twice regarding this matter.^[12]

It is well settled that in administrative cases of this nature, the court may proceed with its investigation and mete out the appropriate penalty against erring officers.^[13] The outcome of administrative actions does not depend upon the will of every complainant who may, for one reason or another, condone a detestable act. Administrative cases against members of the bench are not dismissed on account of withdrawal of charges by the complainant.^[14]

However, most telling of all is the finding of the OCA that, subsequently, respondent's son, Melvin S. Mauricio, accompanied by a lawyer, deposited with Clerk of Court Bagan Forty-Two Thousand Pesos (P42,000.00) in cash. Interestingly, this amount is equal to the aggregate amount of additional cash bond deposited by Marcelo, Rabara, Upana, and Sicat, as ordered by the respondent.

Judge Mauricio's actions constitute gross misconduct, which constitute violation of several provisions of the Canons of Judicial Conduct and their related rules, to wit:

Canon 2. A JUDGE SHOULD AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL ACTIVITIES

Rule 2.01. — A judge should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary.

It is the duty of a member of the bench to avoid any impression of impropriety to protect the image and integrity of the Judiciary. A judge's official conduct should be free from any appearance of impropriety. He must not act in a way that would cast