

SECOND DIVISION

[**A.M. No. P-03-1675 (Formerly OCA IPI No. 02-1407-P), August 06, 2003**]

ELENA F. PACE, COMPLAINANT, VS. RENO M. LEONARDO, CLERK OF COURT II, MCTC, BRANCH 5, ODIONGAN, ROMBLON, RESPONDENT.

RESOLUTION

QUISUMBING, J.:

In a complaint^[1] filed on May 28, 2002, complainant Elena F. Pace charged respondent Reno M. Leonardo, Clerk of Court II, Municipal Circuit Trial Court (MCTC), Odiongan, Romblon, Branch 5, with usurpation of judicial functions and gross ignorance of law.

Complainant was the offended party in Criminal Case No. OD-6516, entitled "*People v. Raf Yap*," for grave slander before said trial court. According to her complaint, the accused, Raf Yap, after posting a cash bond of five thousand pesos (P5,000.00), managed to go abroad. Upon his return nine years later, Yap pleaded guilty to the offense of grave slander as charged. Consequently, on September 13, 2001, the trial court rendered judgment^[2] finding Yap guilty of grave slander and sentenced him to suffer the penalty of imprisonment for four months. This decision was later modified on September 27, 2001,^[3] to include an award of P23,000.00 as damages in favor of complainant.

Thereafter, Yap approached respondent and verbally requested for the release of his cash bond. Respondent, acting on the verbal request but without an order from the court, released the cash bond to Yap.^[4] Thus, the presiding judge, Judge Jessie F. Foja, issued an Order^[5] on October 18, 2001 for the immediate arrest of Yap unless he posted bail of five thousand pesos (P5,000.00) again.

On same day that the order for his immediate arrest was issued, Yap presented to the respondent a deposit slip in the amount of P5,000.00 allegedly deposited in the court's bank account, Account No. 1161-0000-58, with the Land Bank of the Philippines.^[6] Respondent accepted this deposit slip as Yap's cash bond, hence the court lifted the order for Yap's rearrest.^[7]

In his Comment^[8] submitted to this Court on July 24, 2002, respondent claimed that he did not release the cash bond on his own and asserted that he was merely following the verbal directive of the presiding judge, Judge Jessie F. Foja.^[9] Respondent averred that on September 17, 2001, Raf Yap requested the release of the amount of the cash bond he had earlier filed. Because there was no Motion for the Withdrawal of the Cash Bond, respondent refused to process the release of said cash bond. But Yap then went to Judge Jessie F. Foja and begged for the release of

the cash bond, pointing out that he had already applied for probation and that the decision of September 13, 2001 did not provide for any civil liability. Respondent claimed that Judge Foja favorably acted upon Yap's request and verbally ordered him to release Yap's bail bond.^[10]

Respondent denied any irregularity surrounding the release of Yap's cash bond. He claimed that the withdrawal slip^[11] dated September 17, 2001, executed for the release of the cash bond was duly signed by Judge Foja and counter-signed by him as mandated by Supreme Court Circular No. 50-95, which provides for the guidelines and procedures in the manner of collections and deposits of fiduciary funds.^[12]

The respondent asserted that his acceptance of Yap's cash bond, posted pursuant to the Order of October 18, 2001, was also in accordance with said circular because the cash was deposited in the court's account with the Land Bank of the Philippines, Odiongan Branch, under Savings Account No. 1161-0000-58.^[13]

In its memorandum^[14] dated November 7, 2002, the Office of the Court Administrator (OCA) found the respondent liable for usurpation of judicial function and gross ignorance of the law. The OCA recommended that the respondent be ordered to pay a fine of two thousand pesos (P2,000.00), with a stern warning that a repetition of the same or similar offense shall be dealt with more severely.

By Resolution^[15] of this Court dated January 13, 2003, this case was re-docketed as a regular administrative matter. The issue now before us is whether the OCA's recommendation should be sustained.

After a careful review of the records of this case, we are unable to agree with the OCA. There is usurpation of judicial function when a person who is not a judge attempts to perform an act the authority for which the law has vested only upon a judge. Since the release of fiduciary funds is not a purely judicial act, there is no ground to hold the respondent liable for usurpation of judicial function.

As to the charge of ignorance of law, in connection with the allegation that the respondent accepted a deposit slip as cash bond, the OCA's findings are without basis. In this case, the official receipt, O.R. No. 7032068,^[16] issued on October 18, 2001 to Raf Yap clearly shows that what respondent received was P5,000 cash and not a deposit slip evidencing a previous deposit with the court's account with the Land Bank of the Philippines. The deposit slip, in turn, shows that on the same day that the cash bond of five thousand pesos was received from Raf Yap, respondent deposited the amount to the court's account with the Land Bank of the Philippines. Respondent's conduct, including his signature on the deposit slip, is in accord with the authority stated in the 2002 Revised Manual for Clerks of Court allowing the court officer to accept cash bond in criminal cases.^[17] That the deposit slip bore the same date as O.R. No. 7032068 supports respondent's claim that he deposited the P5,000 cash in the court's account with the Land Bank of the Philippines.

Circular No. 50-95 requires the Clerk of Court to deposit with the Land Bank of the Philippines within twenty-four (24) hours from receipt all collections from bailbonds, rental deposits, and other fiduciary collections. An official receipt or certificate of