

## **EN BANC**

**[ A.M. No. P-01-1524, July 29, 2002 ]**

**OFFICE OF THE COURT ADMINISTRATOR, VS. VIRGILIO M. FORTALEZA, CLERK OF COURT, MTC, CATANAUAN, QUEZON; AND ELENA P. REFORMADO, CLERK OF COURT II, MTC, GUINAYANGAN, QUEZON, RESPONDENTS.**

### **D E C I S I O N**

#### **PER CURIAM:**

An audit examination was conducted on the Municipal Trial Court, Guinayangan, Quezon pursuant to the Resolution of the Third Division dated August 2, 2000, directing the Court Management Office of the Office of the Court Administrator (OCA) to immediately conduct a financial audit on Clerk of Court Mrs. Elena P. Reformado due to non-remittance of Judicial collections.

In their Memorandum dated January 24, 2001, the Audit Team reported that upon their arrival at the MTC, Guinayangan, Quezon, the Team was informed that Clerk of Court Reformado was on forced leave although her leave application was not signed by Judge Designate Manuel G. Salumbides. The Team proceeded to the house of Ms. Reformado to inform her about the purpose of their travel and to require her presence in the court for the needed documents, but Ms. Reformado was not around as she was allegedly in Manila to attend to a member of a family who was confined in the hospital.

The Team went back to the court to continue with their examination of the pertinent records/documents involving cash collections/remittances and these were their findings:

xxx the Team was told by the court staff that all records/documents involving cash collections and remittances are not kept in the Court and that Mrs. Reformado is keeping them at home. The documents surrendered during that instance are the Official Receipts under Series Numbers 12589851 to 12589900 and 12589901 to 12589950 being used at present for JDF and General Fund, respectively. The said OR's were left in the custody of Mrs. Fe F. Olivera, Court Stenographer, whose only responsibility is to issue receipts to parties but the total collections for the day are being turned-over to Mrs. Reformado. The Official Receipts used for the collections of Fiduciary Fund were being kept by Mrs. Reformado.

Based on the official receipts presented, the unremitted cash collections at the time of the cash count amounted to Two Thousand Ninety Pesos (P2,090.00) xxx

In order to complete the records and to finalize the audit, the Team gave them a Checklist of Requirements to be forwarded to the Fiscal

Monitoring Division immediately upon the return of Mrs. Reformado.

Records will show that the last audit conducted at the Municipal Trial Court of Guinayangan, Quezon covered the period April 1985 to May 31, 1991 with then Amelita O. Laduan as Clerk of Court and found her cleared of all her accountabilities. The audit covering the incumbency of Elena P. Reformado was confined only to collections/deposits/withdrawals on the Judiciary Development Fund for the period June 1, 1991 to present as well as the Clerk of Court General Fund and the Clerk of Court Fiduciary Fund for the period June 1995 to present.

The legal fees being collected by the subject court are the following:

1. Clerk of Court Fiduciary Fund
2. Clerk of Court General Fund
3. Judiciary Development Fund

Based on the Subsidiary Ledgers of the Accounting Division, Financial Management Office, Office of the Court Administrator, it was found out that Mrs. Reformado is not submitting her monthly reports of collections/deposits/withdrawals for JDF and General Fund since 1997 up to the present and has not submitted a single report for Fiduciary Fund collection.

For the non-submission of her monthly reports, the salaries and other allowances of Mrs. Reformado are being withheld. One would wonder why she was able to survive for more than one and a-half years without receiving her salary and other benefits since May 1999 with children being sent to college and a husband whose only means of income is the earnings derived from being a tricycle driver. Why she is also not so anxious to recover her accumulated salaries by simply complying with all the requirements is a puzzle for us that puts her character in a cloud of doubt.<sup>[1]</sup>

Unable to conduct a full audit on the MTC, Guinayangan, Quezon because of Mrs. Reformado's absence who had in her possession the other pertinent documents, the Financial Audit Team was then instructed by the OCA to join the other judicial audit team assigned to the Municipal Trial Courts of Catanauan, General Luna, Lopez, Mulanay and Unisan and in the Municipal Circuit Trial Courts of San Narciso-Buenavista and San Francisco-San Andres, all within the Bondoc Peninsula of the Province of Quezon.

With respect to these courts, the Team found the inventory of the cash and other cash items in order except in the MTC of Catanauan, Quezon. In the same Memorandum dated January 24, 2001, the following were reported:

Mr. Virgilio M. Fortaleza, the Clerk of Court of the MTC, Catanauan, Quezon was not around when the Team arrived in this Court. Since Mr. Virgilio Fortaleza was not present at that time, Mrs. Norberta Fortaleza, Court Stenographer I, assisted them when they demanded that the official receipts and cash on hand be presented for inventory. It took some time before the cash and other cash items were given. xxx

The cash presented amounted to P66,800.00 as against the unremitted collections amounting to P65,170.00 resulted to an overage amounting to One Thousand Six Hundred Thirty Pesos (P1,630.00). The overage of P1,630.00 per cash count can not as yet be considered as such since the

Team had not done the detailed examination of Mr. Fortaleza's cashbooks and other related documents.

Based on the Subsidiary Ledger of the Accounting Division, Financial Management Office, Office of the Court Administrator, Mr. Fortaleza was observant in the submission of Monthly Report of Collections/Deposits/Withdrawals for all funds.

On the other hand, Mr. Fortaleza was aware that he violated Administrative Circular No. 5-93 dated April 30, 1993 as amended by Administrative Circular No. 3-2000 dated June 15, 2000, Administrative Circular No. 50-95 dated October 11, 1995 and Chapter 4 Article 1 Section 111 (Vol. 1) of the Government Accounting and Auditing Manual. Regarding this matter, the Team advised him to refrain from delaying the deposits/remittance of collections.

Meanwhile, after a week of the surprise audit examination on the MTC, Guinayangan, Quezon, Ms. Reformado personally appeared before Atty. Thelma Bahia and Mrs. Verina Yap at the Office of the Court Administrator to explain her accountabilities. She confessed that she used the money for her personal needs and promised to retribute whatever amount may be established and to submit the needed documents as soon as she returned to her station. Per Audit Team's assessment, Mrs. Reformado's total accountabilities for the JDF and Clerk of Court General Fund amounted to the following:

Judiciary Development  
Fund:

Total Collections for the  
period

from July 1991 to	P
September 4, 2000	100,239.65
Less: Remittances made	33,824.50
for the same period	
Shortage as of September	P
4, 2000	66,415.15

Clerk of Court General  
Fund:

Total Collections for the  
period

from June 1995 to	P
September 4, 2000	82,992.54
Less: Remittance made	81,992.50
for the same period	
Shortage as of September	P
4, 2000	1,070.04 <sup>[2]</sup>

As a result of the aforesaid Report of the Audit Team, the Court issued a Resolution dated February 6, 2001 where the Court Resolved to:

- (a) NOTE the Memorandum dated 24 January 2001 of Court Administrator Alfredo L. Benipayo;
- (b) RELIEVE immediately Mrs. Elena P. Reformado, Clerk of Court, MTC, Guinayangan, Quezon, of her duties as Accountable Officer;
- (c) DIRECT Judge Manuel G. Salumbides to designate forthwith someone from the same court to supervise the handling of collections pertaining to the Judiciary;
- (d) DIRECT Mrs. Reformado to (d-1) RESTITUTE the shortages for JDF and Clerk of Court General Fund amounting to P66,415.15 and P1,070.04, respectively; (d-2) SUBMIT the cashbooks, monthly reports and other documents regarding the collections, deposits, withdrawals, court orders and acknowledgment receipts for Fiduciary Fund to fully determine her total accountabilities for said fund; and (d-3) EXPLAIN why no disciplinary action shall be taken against her for her failure to submit her monthly reports for JDF and General Fund since April 1997 and for Fiduciary Fund since the start of collection, all within ten (10) days) days from notice hereof;
- (e) DIRECT Mr. Virgilio Fortaleza, Clerk of Court, MTC, Catanauan, Quezon, to EXPLAIN within ten (10) days from notice why no disciplinary action should be imposed upon him for keeping in his possession for a long period of time the money collected pertaining to the Judiciary and for his failure to remit the same on time; and
- (f) ADVISE Clerks of Court/Officers-in-Charge of the MTCs of Catanauan, General Luna, Lopez, Mulanay and Unisan and the MCTC of San Narciso-Buenavista and San Francisco-San Andres to follow strictly the Supreme Court circulars on the proper handling of Judiciary collections.”<sup>[3]</sup>

In compliance with the above resolution, Mr. Virgilio M. Fortaleza, Clerk of Court of MTC, Catanauan, Quezon gave his explanation dated March 19, 2001 which was received by the Office of the Court Administrator on March 29, 2001. Mr. Fortaleza reasoned out that he has been actually remitting his Judiciary collections to the Land Bank of the Philippines, Mulanay Branch, Mulanay, Quezon, which is about fifteen (15) kilometers away from his station since there is no Land Bank branch in his town. In order to get there, he would opt to use his own vehicle as an extra precaution to safeguard his collections. While it is true that at the time of the financial audit examination in September, 2000, he still had in his possession the Judiciary collections, this was, however, not for a long time. He explained that he would accumulate the collections first which were sometimes small, and would remit them to the Land Bank at the end of the month in order to save time and effort in traveling considering the distance, not to mention the rough roads he has to travel.

Mrs. Elena Reformado also submitted her explanation dated March 15, 2001 which was received by the OCA on April 25, 2001. She explained that she failed to remit the fees collected because she used the same to save the life of her ailing father who eventually died and to shoulder the cost of education of her three (3) children who are in college and another three (3) in high school. She asked for additional

time to reconstitute the amount due her as she is exhausting all possible efforts to raise the money. She added that she was able to remit to the Supreme Court the amount of P25,000.00 the week after she went to see Atty. Bahia at the Supreme Court.

On July 23, 2001, Ms. Reformado filed another letter requesting for an extension of time for the restitution of the amount as she found it difficult to recover the incurred shortages. At the same time, she prayed for the lifting of the suspension of her salary which started from August, 1999 up to the present in order to alleviate her present financial distress.

All these letters/explanations were referred to the OCA for evaluation and recommendation. Acting on the Memorandum dated October 30, 2001 of the OCA, the Court issued a Resolution on November 27, 2001, with the following actions, to wit:

(a) NOTE the Memorandum dated 30 October 2001 filed by Deputy Court Administrator Jose P. Perez in compliance with the resolution of 26 June and 10 July 2001;

(b) DOCKET the report on the financial audit conducted in the MTC of Guinayangan, Quezon as A.M. No. P-01-1524 (Office of the Court Administrator vs. Virgilio M. Fortaleza, Clerk of Court, MTC, Catanauan, Quezon and Elena P. Reformado, Clerk of Court II, MTC, Guinayangan, Quezon);

(c) REPRIMAND Mr. Fortaleza with warning that a repetition of the same or similar acts in the future shall be dealt with more severely;

(d) ADVISE Mr. Fortaleza to follow strictly the Supreme Court circulars on the proper handling of Judiciary collections;

(e) SUSPEND Mrs. Reformado pending resolution of this administrative matter;

(f) DIRECT Mrs. Reformado to (f-1) fully reconstitute the established shortages for the JDF (P66,415.15 - P24,259.00 = P42,156.15) and the General Fund (P1,070.04); (f-2) submit to the Fiscal Monitoring Division, Court Management Office, OCA, duly validated deposit slip as proof of remittance of the amount of P24,259.00 to the JDF; and (f-3) submit to the Fiscal Monitoring Division the necessary documents for the Fiduciary Fund;

(g) GRANT Mrs. Reformado an extension of sixty (60) days from notice to reconstitute her shortages as directed in the resolution dated 6 February 2001; and

(h) DIRECT Acting Presiding Judge Manuel B. Salumbides, MTC, Guinayangan, Quezon, to submit the necessary documents for the reconciliation of the Fiduciary Fund and to account all the cases filed in the said court involving trust liabilities, including consignment and rental deposits, within thirty (30) days from receipt of notice hereof."<sup>[4]</sup>

In compliance with the aforesaid resolution, particularly paragraph (h), the Acting Clerk of Court of MTC, Guinayangan, Quezon submitted the necessary documents for the reconciliation of the Fiduciary Fund including the list of cases with cash