

EN BANC

[A.M. No. P-02-1551, September 11, 2002]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
EDILTRUDES A. BESA, CASH CLERK II, METROPOLITAN TRIAL
COURT OF PARAÑAQUE CITY, RESPONDENT.**

D E C I S I O N

PER CURIAM:

This administrative case arose from a report on unremitted collections of judiciary funds in the Metropolitan Trial Court ("MeTC" for brevity) of Paranaque City amounting to P154,846.69. Upon verification by the audit team of the Fiscal Monitoring Division of the Office of the Court Administrator, the unremitted collections reached P537,725.41.

On August 17, 2000, Atty. Ramil G. Reyes, Clerk of Court IV of the MeTC Paranaque City, wrote Executive Judge Angelina Domingo Mauricio, informing the Judge of the following:

- (1) Mrs. Ediltrudes A. Besa ("Besa" for brevity), Cash Clerk II, and Mrs. Gloria R. Antiquera ("Antiquera" for brevity), Records Officer I, of MeTC Paranaque City, failed to deposit P138,854.64 covering the collections of the court from March to August 1999;
- (2) these collections were not reflected in the monthly reports submitted to the Supreme Court; and
- (3) Besa and Antiquera incurred a shortage of P15,992.05 representing undeposited collections as of February 28, 1999.

The total shortage amounted to P154,846.69.

On August 18, 2000, Judge Mauricio ordered Besa and Antiquera to explain in writing, within twenty-four hours from notice, why they failed to remit the amounts and to include the deposits in the monthly reports submitted to this Court. Judge Mauricio also directed Rhonel L. Santos, Cashier I of the same court, to assume temporarily the duties and functions of Besa who stopped reporting to work starting August 1, 2000.

On August 24, 2000, Judge Mauricio wrote then Court Administrator Alfredo L. Benipayo requesting for an audit of all the financial accounts of MeTC Paranaque City from January to December 1999. The last audit of the court covered the period from December 1, 1995 to April 30, 1998 with then Clerk of Court, Atty. Rossana Morales-Montojo, and from May 1, 1998 to February 28, 1999 with Officer-in-Charge Mr. Gordon S. Montojo.

Thus, the audit team of the Fiscal Monitoring Division of the Office of the Court Administrator conducted on September 11 to 15, 2000 an on-the-spot audit

examination and reconciliation of the books of accounts of MeTC Paranaque City. The audit team initially found incumbent Clerk of Court, Atty. Ramil G. Reyes, in possession of undeposited and unremitted collections in the amount of P111,000.00 as of September 11, 2000. Upon advice of the audit team, Atty. Reyes deposited the cash and furnished the audit team with copies of the deposit slips as proof of remittance.

The audit team established that the total shortage in the Fiduciary Fund from April 30, 1998 to August 31, 2000 was P537,725.41. The shortages occurred during the time Besa was in charge of the Fiduciary Fund collections. Accordingly, on February 6, 2001 the Court Administrator recommended to this Court, among others, that "Besa be directed to restitute within thirty (30) days from notice, the amount of Five Hundred Thirty Seven Thousand Seven Hundred Twenty Five Pesos and 41/100 Centavos (P537,725.41) to the account of the Fiduciary Fund."

On March 14, 2001, this Court, through its Second Division, issued a Resolution, as follows:

- "1) DIRECT Ms. Ediltrudes Besa to RESTITUTE within thirty (30) days from notice, the amount of Five Hundred Thirty Seven Thousand Seven Hundred Twenty-Five Pesos and 41/100 Centavos (P537,725.41) to the account of Fiduciary Fund under LBP Current Account No. 1562-1011-83; and to EXPLAIN within ten (10) days from notice, why she should not be charged administratively for misappropriating her collections; and
- 2) WITHHOLD the salaries and other emoluments of Ms. Ediltrudes A. Besa, Ms. Gloria R. Antiquera and Atty. Ramil G. Reyes without prejudice to their filing of written positions regarding this matter pending the outcome of a detailed audit on Fiduciary Fund to be conducted for the period December 1995 to present; and
- 3) REQUIRE Atty. Ramil G. Reyes to PRODUCE all available Fiduciary Fund records from December 1995 to present, i.e., Monthly Reports of Collections/Deposits and Withdrawals, Cashbooks, Triplicate Copies of Official Receipts, Bank Pass Books or Bank Statements, Withdrawal Vouchers and court Orders authorizing such withdrawals and SUBMIT the same to the Court Management Office, Office of the Court Administrator within ten (10) days from notice hereof."

In his Position Paper, Atty. Ramil G. Reyes prayed for his exclusion as respondent in the administrative case and from the resolution withholding the salaries and other emoluments of the respondents. He contended that he could not be held liable since the shortages in the Fiduciary Fund are not missing but were misappropriated by Besa as admitted by her in her "Salaysay." Atty. Reyes explained that he failed to notice the shortages in the Fiduciary Fund because the monthly reports were deliberately altered by the person preparing the reports to conceal the shortages.

In her Position Paper, Antiquera claimed that since January 1999 she had no participation in the remittance of collections or in the preparation of monthly reports due to her designation as Records Officer as of January 1999. She further claimed that she was never in charge of the Fiduciary Fund collections. Antiquera also alleged that sometime in April 1998, the Office of the Court Administrator conducted an audit due to the impending transfer of then Clerk of Court, Atty. Rossana Montojo, to the Department of Justice. The audit found nothing irregular for which

reason a clearance was issued to Atty. Montojo. Antiquera argued that because of this clearance, no accountabilities can be attributed to Atty. Montojo or her staff, which included Antiquera, for the period prior to April 30, 1998. Hence, the accounts prior to April 30, 1998 should no longer be subject to further audit. Antiquera prayed for her exoneration from all charges and for her exclusion from the resolution withholding the salaries and emoluments of the respondents.

In the Resolution dated August 20, 2001, this Court granted Besa's motion for extension of sixty days from May 29, 2001 within which to reconstitute to the Fiduciary Fund the amount of P537,725.41. The requests of Atty. Reyes and Antiquera for the release of their salaries were referred to the Office of the Court Administrator for evaluation, report and recommendation.

In her Affidavit of December 13, 2001, Besa made the following revelations:

"7. Sometime in April 1998, in view of the impending transfer of the then Clerk of Court, Atty. Rosanna Montojo to the Department of Justice, an audit was conducted and the corresponding clearance thereof was issued by the Internal Audit Section of the Supreme Court.

8. In 1999, my father got sick and had to be hospitalized. My siblings were still studying and they were all depending on me for support. Due to personal financial problems, I was tempted and in fact, I did, stole (sic) some money from my collections starting early of 1999 up to the time a memorandum was issued relieving me of my duties as Cash Clerk as a result of the discovery of the deficiencies in the money collected concerning the Fiduciary Fund. From thereon, I was not allowed to handle collections anymore.

9. I took the money and I alone benefited therefrom. None of my co-employees ever knew of the same. At that time, I merely intended to borrow the said amount and planned to return the same if my fortune permits.

10. Upon receipt of the payment and issuance of the corresponding receipt to the person who paid, I kept the two remaining copies thereof and thereafter hid them away so that no one will know the said anomaly and hoped that I can return the same before somebody can notice it. Upon audit, I surrendered the said receipts to the Internal Audit of the Supreme Court when they asked me to produce the same.

11. Every end of the day, I remitted my collections to Atty. Ramil Reyes, the Clerk of Court of the Metropolitan Trial Court to be deposited in the Land Bank of the Philippines. The money collected is placed in an envelope with the amount written thereon. The Clerk of Court counts the money and upon seeing that the amount corresponds with the amount written on the envelope, then all that is left to do is to make the report thereon at the end of the month.

12. It was easy to conceal the same because of the trust and confidence my co-employees have afforded me due to the fact that for the duration of my service from 1992, I have never had any bad record nor was I ever involved in any case or controversy.