

## EN BANC

**[ A.M. No. 96-1-25-RTC, March 08, 2000 ]**

### **REPORT ON THE FINANCIAL AUDIT IN RTC, GENERAL SANTOS CITY AND THE RTC & MTC OF POLOMOLOK, SOUTH COTABATO**

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

#### **PER CURIAM:**

This is a sequel to our decision<sup>[1]</sup> of April 18, 1997 in this case in which, with respect to the Municipal Trial Court of Polomolok, South Cotabato, we returned to the Office of the Court Administrator (OCA) its audit report "for reevaluation, with instruction to submit a report and recommendation within 90 days from notice hereof."

We now have the memorandum of the OCA, dated February 12, 1998, recommending the suspension of Ms. Evelyn Trinidad, Clerk of Court of the MTC of Polomolok, for dereliction of duty, inefficiency, and incompetence, for six (6) months and one (1) day, as well as her prosecution for malversation, and the imposition of a fine of P10,000.00 on Judge Orlando A. Oco for negligence in managing his court and for ignorance of the Circulars of this Court regarding deposit of collections.

The memorandum of the OCA is based on the result of its audit conducted from July 20 to 24, 1995, which found the following:<sup>[2]</sup>

- "(a) Clerk of Court Evelyn Trinidad kept her collections in her bag and deposited them once a month. She likewise deposited fiduciary collections in time deposit accounts;
- "(b) She issued only one receipt for the entire collection in a day and, for one year (from April, 1993 to April, 1994), gave no official receipts at all for fiduciary collections;
- "(c) Not all the fiduciary collections for the period May 1994 to July 1995 were deposited in the bank, as shown by the fact that the total amount shown in the receipts exceeded the amounts recorded in the cashbook and the amounts deposited in the bank. There was an overwithdrawal of deposits of the fiduciary fund as even the interests earned by the deposits were withdrawn;
- "(d) Ms. Trinidad incurred a shortage of P1,752.39 in the Judiciary Development Fund; and
- "(e) She allowed Judge Orlando A. Oco to keep custody of her collections."

The Court required both Ms. Trinidad and Judge Oco to comment on these findings and below is their explanation.

**First.** Ms. Trinidad admits having kept the collections which she deposited in the Land Bank of the Philippines only once a month. She claims, however, that she did so because it was too taxing for her to deposit her collections daily as required by regulation, considering that the bank is located at some distance from the MTC, and she has other duties as clerk of court. She explains that the court has no safety vault where she could keep her collections.<sup>[3]</sup>

Administrative Circular No. 5-93,<sup>[4]</sup> which embodies the rules and regulations concerning the collection of the Judiciary Development Fund, provides:

"5. Systems and Procedures:

"c. *In the RTC, SDC, MeTC, MTCC, MTC, MCTC and SCC.* The daily collections for the Fund in these courts shall be deposited every day with the local or nearest LBP branch ~For the account of the Judiciary Development Fund, Supreme Court, Manila - SAVINGS ACCOUNT NO. 159-01163-1; or if depositing daily is not possible, deposits for the Fund shall be every second and third Fridays and at the end of every month, provided, however, that whenever collections for the Fund reach P500.00, the same shall be deposited immediately even before the day indicated.~"

On the other hand, Circular No.13-92 requires, with regard to fiduciary funds, that "All collections from bailbonds, rental deposits and fiduciary collections shall be deposited immediately by the Court concerned, upon receipt thereof, with an authorized government depository bank."

Ms. Trinidad does not explain why she could not deposit her collections, if not daily, at least every second and third Fridays and at the end of every month as provided in Administrative Circular No. 5-93. At any rate, if the performance of her other duties as clerk of court made it physically impossible for her to comply with the aforesaid Circulars, she could have requested the Court to appoint a cash clerk to help her, instead of complaining only after she was found guilty of violation of the Circulars.

Ms. Trinidad does not deny that she put fiduciary collections in a time deposit account in violation of Circular No. 13-92, which plainly requires that -

- "1. Deposits shall be made under a *savings account*. Current account can also be maintained provided that it is on an automatic transfer of current account from savings.
2. Deposits shall be made in the name of the Court.
3. The Clerk of Court shall be the custodian of the Passbook to be issued by the depository bank and shall advise the Executive Judge of the bank's name, branch and savings/current account number." (Italics supplied)

When Ms. Trinidad was asked why she deposited the fiduciary collections in time deposit accounts instead of a savings account, Judge Oco, answered in her behalf. Judge Oco explained that they had to accept cash deposits from litigants in settlement of their obligations for delivery to the other party. Pending termination of litigation, the money was deposited in time deposit accounts so that they would earn higher interest.<sup>[5]</sup> Judge Oco's only justification for this is that he and Ms.

Trinidad did not know this was contrary to the Circulars.<sup>[6]</sup> This is inexcusable considering that the circulars in question are precisely addressed to clerks of court in connection with their handling of funds. With these Circulars judges and their clerks of court are expected to be familiar.

**Second.** On the finding that she issued only one receipt for the entire collection in a single day, Ms. Trinidad explains she had run out of official receipts which are sent to her from the Supreme Court. In order to economize on receipts, she issued only one receipt for the entire day's collection.<sup>[7]</sup>

On the other hand, with regard to the finding that, for one year (April 1993 to April 1994), his court issued no official receipts at all for fiduciary collections, Judge Oco states:

"Ms. Trinidad had been telling me that there are special forms of receipts for fiduciary funds which she termed trust receipts. She used to say that she was expecting to receive anytime from the supply department those trust receipts and in the meanwhile she could not use the ordinary receipts she had in her possession because according to her they are used for receipting fees, fines or any cash payment. She termed these later receipts as cash receipts. She feared that if she used cash receipts for fiduciary funds the money will be considered payment to the government and so the depositor could not get back his funds.

"I believed her contention after all I seem to recall that when this duty had been with the municipal treasurer the latter had been issuing trust receipts. I say trust receipts because the printed wordings in the receipts state that the bail are trust funds.

"In the cash receipts handled by Mrs. Trinidad, there is no printed word or phrase indicating that the money for bail is a trust fund, so I thought Mrs. Trinidad was right in her contention. Moreover, because handling of funds is her duty, I thought she was knowledgeable.

"I could not refuse releasing an accused or refuse issuing a writ of preliminary mandatory injunction just because the Clerk of Court could not issue a trust receipt.

"So what I had been doing, with respect to bails, was to let the bondsman or accused sign the personal bailbond then I would issue an order of release stating that accused having deposited a specific amount of money he is ordered released. Bondsman and accused are given copies of the bailbond and order of release and the rest of the copies are kept with the records. In the meanwhile the Clerk of Court would deposit the funds with the Land Bank.

"So in so far as the Court is concerned it could not be said that the bondsman or accused holds no written evidence or receipt that he has money with the Court. Of course in this situation the Clerk of Court has no formal receipt to speak of but I submit that her misapprehensions were in good faith. Much later she learned she had been wrong all the time so thereafter she learned issuing formal receipts."<sup>[8]</sup>

Even assuming that she had to issue only one receipt for her collections in one day