

EN BANC

[A.M. No. P-97-1253, February 02, 1999]

EXECUTIVE JUDGE AIDA RANGEL-ROQUE, METROPOLITAN TRIAL COURT (METC), MANILA, COMPLAINANT, VS. GERARDO S. RIVOTA, BRANCH CLERK OF COURT, METROPOLITAN TRIAL COURT (METC), BRANCH 11, MANILA, RESPONDENT.

DECISION

PER CURIAM:

This is a complaint charging respondent Gerardo S. Rivota, branch clerk of court, Branch 11 of the Metropolitan Trial Court (MeTC) of Manila, with dishonesty, gross violation of existing rules and regulations, and conduct grossly prejudicial to the best interest of the service. The complaint was filed by Executive Judge Aida Rangel-Roque of the MeTC of Manila, on the basis of a letter, dated January 16, 1997, of Judge Lydia Querubin Layosa, pairing judge of Branch 11 of the MeTC of Manila.

In her letter, Judge Layosa reported that in the course of a hearing on a motion to withdraw rental deposits held in Civil Case No. 128131-CV (*Teofista Pilapil v. Jorge Disuanco*) on December 19, 1996, respondent admitted that he deposited in his personal account in the Land Bank of the Philippines the rentals in the total amount of P170,199.54, covering the period March 1991 to November 1996, which the defendant in that case had consigned in court and that, in another case (Civil Case No. 149361-CV, *Ester V. Manlicon vs. Cetus Development, Inc.*), he did not turn over to the clerk of court the money given to him by the plaintiff as rentals, totalling P8,000.00, for the period from August 1995 to November 1996 until December 20, 1996.

Upon the recommendation of the Office of the Court Administrator (OCA), respondent was required to answer the charges and, in the meantime, was placed under preventive suspension. The matter was likewise referred to the Office of the Ombudsman for possible criminal prosecution of respondent.

In his answer, respondent alleged that he deposited the rentals in Civil Case No. 128131-CV in his personal account upon the insistence of defendant Jorge Disuanco and without objection from the plaintiff Teofista C. Pilapil; that the total amount of P172,444.20 was later paid by him to the plaintiff on January 29, 1997; and that in depositing the rentals in his personal account, he realized he committed a "blunder," but it was made in good faith. Respondent did not answer allegations that, in another case (Civil Case No. 149361-CV), he received rentals for deposit during the period August 1995 to November 1996 but did not turn over the amounts to the clerk of court until December 20, 1996. Respondent pleaded for "mercy," stating that he had been in the government service for thirty years and that an "unblemished record" is his only "legacy to his children." He pointed out that none of the parties in Civil Case No. 128131-CV ever complained against his having

deposited the rentals in his personal account.

In reply, Judge Roque contended that by asking for indulgence from this Court respondent practically admitted his guilt.

On January 14, 1998, the Court referred the case to the Office of the Court Administrator for evaluation, report, and recommendation.

On April 14, 1998, the OCA submitted its report recommending that respondent branch clerk of court be dismissed from the service with forfeiture of his retirement benefits and with prejudice to employment in any branch, agency, or instrumentality of the Government, including any government-owned or controlled corporation.

The Court finds the recommendation well taken.

Circular No. 13-92, which took effect on March 1, 1992, provides in pertinent part:

CIRCULAR NO. 13-92

TO: ALL EXECUTIVE JUDGES AND CLERKS OF COURT OF
THE REGIONAL TRIAL COURTS AND SHARI'A
DISTRICT COURTS.

SUBJECT: COURT FIDUCIARY FUNDS

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Conformably herewith, Circular No. 5, dated November 25, 1982, is hereby revoked and declared of no further force or effect. The following procedure is therefore prescribed in the administration of Court Fiduciary Funds:

Guidelines in Making Deposits

- 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 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.

Guidelines in Making Withdrawals

- 1) Withdrawal slips shall be signed by the Executive Judge and countersigned by the Clerk of Court.
- 2) If maintaining a current account, withdrawals shall be made by checks. Signatories on the check shall

likewise be the Executive Judge and the Clerk of Court.

All collections from bailbonds, rental deposits and other fiduciary collections shall be deposited immediately by the Clerk of Court concerned, upon receipt thereof, with an authorized government depository bank.

Interests earned on these deposits and any forfeited amount shall accrue to the General Fund of the government. Within two (2) weeks after the end of each quarter, the Clerk of Court shall withdraw such interest and forfeited amounts and shall remit the same to the National Treasury under a separate Remittance Advice, duplicate copy thereof to be furnished the Chief Accountant of the Supreme Court for record and control purposes.

No withdrawals, except as specifically provided in the immediately preceding paragraph, shall be allowed unless there is a lawful order from the Court that has jurisdiction over the subject matter involved.

Only one depository bank shall be maintained and said bank must be formally informed by the Executive Judge as to who are the authorized signatories to the withdrawal slips.

The deposit made by respondent in his personal account of money intended as rental deposit was discovered in the course of the hearing in Civil Case No. 128131-CV on plaintiff's Motion to Withdraw Deposits. In that hearing, respondent admitted that during the period March 1991 to December 1996, he received from the defendant Jorge Disuanco monthly rentals of P2,466.66 and that he deposited the rentals in his personal account, first in the Philippine National Bank and later in the Land Bank of the Philippines. He claimed that he later paid to the plaintiff in the case, Teofista Pilapil, the amount of P172,444.20. Pertinent portions of respondent's testimony in Civil Case No. 128131-CV follow:

COURT

So the only question now is, where is the money? Atty. Dinglasan [referring to counsel for defendant Jorge Disuanco], can you ask him if he [referring to defendant Jorge Disuanco] agrees that the total amount now as I have stated is One Hundred Seventy Two Thousand Six Hundred Seventy Six Pesos and Twenty Centavos (P172,676.20) yon ang nasusuma natin.

ATTY. DINGLASAN

Yes Your Honor, he confirms that that is the amount so far that is deposited.

COURT

Basta he admits that he had paid from March 1991 religiously up to December 1996.

ATTY. DINGLASAN

Yes Your Honor.

ATTY. TULLAO, JR.

Only at Two Thousand Four Hundred, Sixty Six and Twenty Centavos (P2,466.20) per month.

COURT

So, saan mo dineposit itong perang tinatanggap mo?

MR. RIVOTA

Sa bangko po.

COURT

In whose name?

MR. RIVOTA

Sa pangalan ko po.

COURT

Why in your name?

MR. RIVOTA

Because I have some amount deposited in that bank also in that account, Your Honor, and I have my own money.

COURT

But why did you deposit it in your own bank account?

MR. RIVOTA

I'm sorry Your Honor, I have no....

COURT

It's not a matter of being sorry, kung mamatay ka anong hahabulin ng gobyerno? Is it deposited in the name of the court or in your name?

MR. RIVOTA

In my name Your Honor.

COURT

In your name alone and together with other personal deposits that you are making?

MR. RIVOTA

Yes Your Honor.

COURT

And what are you referring to as the savings deposit is the savings bank deposit which was already submitted to me.

MR. RIVOTA

Yes Your Honor.

COURT

Witness is referring to Land Bank Savings account no. 19812120-0120-42 opened last May 22, 1996, in the name of Gerardo S. Rivota, No. 522 Makisig St., Bacood Sta. Mesa,

Manila. Are you referring to this savings account passbook? Is this the official account that you opened?

MR. RIVOTA
Yes Your Honor.

COURT
For this bank deposit?

MR. RIVOTA
Yes Your Honor.

COURT
What about the previous monthly deposit since 1991?

MR. RIVOTA
They're included, everything's included.

COURT
No, no. What I mean is previous since the start.

MR. RIVOTA
Yes Your Honor.

COURT
Where are the deposits?

MR. RIVOTA
At the Philippine National Bank.

COURT
In whose name?

MR. RIVOTA
In my name Your Honor.

COURT
In your name also?

MR. RIVOTA
Yes Your Honor.

COURT
Now, why did you close the account?

MR. RIVOTA
No, I transferred it because when the Philippine National Bank was privatized and it is no longer the depository of the government, I transferred it to Land Bank.

COURT
Don't you know that rental deposit is supposed to be a fiduciary fund and anything that you would accept in your capacity as a government employee should not be deposited in your own personal account.