

SECOND DIVISION

[A.M. No. P-94-1039, March 06, 1996]

**JUDGE FE ALBANO MADRID, COMPLAINANT, VS. ATTY.
RAYMUNDO RAMIREZ, CLERK OF COURT V, REGIONAL TRIAL
COURT OF ILAGAN, ISABELA, RESPONDENT.**

DECISION

PUNO, J.:

The present controversy arose from a complaint filed by Judge Fe Albano-Madrid of the Regional Trial Court (Branch XXI), Santiago, Isabela, against Branch Clerk of Court Raymundo Ramirez of Branch XVIII of the Regional Trial Court of Ilagan, Isabela, for his alleged violation of Supreme Court Circular No. 13-92, dated March 1, 1992.

The undisputed facts show that, on October 7, 1993, respondent received a cash bailbond, in the amount of seventeen thousand pesos (P 17,000.00), from a certain Jovita Bernardo, the accused in a criminal case^[1] which was pending before the sala of the complainant.

In an Order, dated December 7, 1993, respondent was directed by complainant to submit the corresponding official receipt evidencing the posting of said cash bond. Respondent did not submit any. Hence, in an Order, dated January 6, 1994, respondent was made to explain why he should not be cited for contempt or administratively charged for not complying with the order of the court.^[2] Again, respondent did not submit the required official receipt. Instead, he sent by registered mail a copy of a current account deposit slip, showing that he deposited the money to the Land Bank of the Philippines (Ilagan-Isabela Branch).^[3]

On January 18, 1994, complainant issued another order, specifying that respondent should submit the official receipt issued by the court for fiduciary funds received by the Clerk of Court. In a letter^[4] addressed to complainant, dated January 20, 1994, respondent explained that the procedure observed in his court when receiving cash bond deposited by an accused is "to immediately deposit the same to the Land Bank of the Philippines" and give a copy of the current account deposit slip to the accused together with a copy of the bailbond duly approved by the Presiding Judge.

Complainant found respondent's explanation unacceptable. Hence, the present complaint. She alleges that respondent's practice is not in accord with Supreme Court Circular 13-92 and, if tolerated, the same would be conducive to misappropriation because of the non-issuance of the official receipt.

In his comment, respondent explains, albeit belatedly, that he opened Current Account No. 1072-1017-54 with Land Bank, in the name of the Regional Trial Court,

as evidenced by a certification^[5] issued by the bank, dated March 16, 1994. He clarifies that he is a branch clerk of court and should not be faulted for the non-issuance of the official receipt since it is the Executive Clerk of Court who is the custodian of the official receipts. He reiterates that it is their practice to deposit cash bonds to the nearest Land Bank branch, in compliance with Administrative Circular No. 5-93,^[6] dated April 30, 1993, amending Circular No. 5, dated February 23, 1985. The Deed of Undertaking would then be approved by Hon. Juan Bigornia, Jr., the Executive Judge, and, thereafter, a copy of the approved cash bond and the Deed of Undertaking is given to the accused.

Considering the allegations of both parties, we referred the case to then Vice Executive Judge Senen C. Casibang of the Regional Trial Court of Ilagan, Isabela, Branch 17, for investigation, report and recommendation.^[7]

During the initial investigation, respondent alleged, for the first time, that he received the subject cash bailbond for and in the absence of the Executive Clerk of Court and, pursuant to Supreme Court Circular No. 5-93, dated April 30, 1993, deposited said amount to the nearest Land Bank branch. Consequently, Judge Casibang recommended that respondent be exonerated from the charge against him.

^[8]

We remanded the case to Judge Casibang for re-investigation in view of his failure to conduct a formal hearing of the case.^[9] The Office of the Court Administrator noted that complainant was not duly subpoenaed and his 2-page report was based only on the evidence adduced by respondent.^[10] In compliance with our resolution, the formal hearing against respondent was conducted on August 18, 1995.^[11] In his Report,^[12] dated September 26, 1995, Judge Casibang made the following findings and recommendation:

"FINDINGS:

Weighing the evidence presented and the testimonies! arguments advanced by the complainant and the respondent, it is crystal clear that **Account No. 1072-1017-54**, where the cash bond put up by the accused Jovita Bernardo and received by the respondent for her provisional liberty, is **the account of the RTC, Branch XVIII, and not the personal account of the respondent** x x x. The undersigned also noticed that Supreme Court Circular No. 13-92 is addressed to Executive Judges and Clerks of Court directing them to issue receipts for money received by them in trust. The respondent is a Branch Clerk of Court assigned to the RTC, Branch XVIII and not the Clerk of Court who is the custodian of official receipts. Thus, the failure of the respondent to issue official receipt when he received the cash bond put up by the accused could not be taken against him as violative to the Circular of the Honorable Supreme Court. In passing, undersigned also noted that the respondent, ATTY. RAYMUNDO A. RAMIREZ, is a Branch Clerk of Court and not an accountable officer as defined and recited under the provisions of the 1987 Constitution. (Italics ours)

RECOMMENDATIONS:

In view of the foregoing, the undersigned hereby recommends that respondent, Atty. RAYMUNDO A. RAMIREZ, be EXONERATED from the charge filed against him."

The Court Administrator disagreed with the foregoing recommendation on the ground that respondent arrogated upon himself the functions of the Clerk of Court when he accepted the cash bailbond. According to the Court Administrator, respondent should have desisted from accepting the cash deposit and, instead, referred the accused to the office of the Clerk of Court. Hence, he recommended that respondent be ordered to pay a fine of P 1,000.00, with stern warning that a repetition of the same act shall be dealt with more severely.

We agree with the Court Administrator.

Supreme Court Circular No. 13-92, dated March 1, 1992, enumerates the guidelines to be followed in making deposits or withdrawals of all collections from bailbonds, rental deposits and other fiduciary collections, viz:

"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

xxx xxx xxx

"x x x 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 automatic transfer of 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.

"Guidelines in Making Withdrawals

"1) Withdrawal slips shall be signed by the Executive Judge and countersigned by the Clerk of Court.

"2) In maintaining a current account, withdrawals shall be made by checks. Signatories on the checks shall likewise be the Executive Judge and the Clerk of Court.

"All collections from bailbonds, rental deposits and other fiduciary