



Republic of the Philippines
 Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
 PUBLIC INFORMATION OFFICE

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RE: REPORT ON THE A.M. No. P-17-3746
 FINANCIAL AUDIT
 CONDUCTED AT THE Present:
 MUNICIPAL TRIAL COURT Present:
 IN CITIES, CEBU CITY.

BERSAMIN, CJ.,
 CARPIO,
 PERALTA,
 PERLAS-BERNABE,
 LEONEN,
 JARDELEZA,
 CAGUIOA,
 A. REYES, JR.,
 GESMUNDO,
 J. REYES, JR.,
 HERNANDO,*
 CARANDANG,
 LAZARO-JAVIER,
 INTING, and
 ZALAMEDA, JJ.

Promulgated:

August 28, 2019

X-----X

DECISION

PER CURIAM:

In this administrative case, We remind members of the Judiciary that they should remain honest in the performance of their duties regardless of their financial circumstances, and exercise the diligence required of them.

In Audit Observation Memorandum No. 15-001 dated October 16, 2015, the Commission on Audit, Regional Office No. VII, Cebu City reported that not all collections of the Municipal Trial Court in Cities (MTCC), Cebu City were deposited on time. Consequently, a team composed of representatives from the Fiscal Monitoring Division (FMD), Court Management Office (CMO), Office of the Court Administrator (OCA)

* On official leave.

(collectively, the team), conducted a financial audit in the Office of the Clerk of Court (OCC), MTCC, Cebu City from November 22, 2015 to October 21, 2016. The audit covered the accountability period of: 1) Teresita S. Remotigue (Remotigue), Clerk of Court IV, from February 1, 2000 to July 31, 2008; 2) Josefina A. Uy (Uy), Clerk of Court III/Officer in Charge, from August 1 to October 31, 2008; and 3) Josephine R. Teves (Teves), Clerk of Court IV, from November 1, 2008 up to the date of the team's audit report.¹ The objectives of the audit were to: 1) determine the accuracy and regularity of the cash transactions; 2) determine if all the judiciary fund collections have been deposited in full within the prescribed period; 3) determine if the filing fees were collected in accordance with the provisions of the Amended Administrative Circular No. 35-2004² dated August 20, 2004; and 4) aid the Clerk of Court on the proper bookkeeping and accounting of the Court's Judiciary funds.³

The team compared the official receipts from the records of the Property Division, Office of the Administrative Services (OAS) and OCA as against the official receipts that the MTCC dispatched. After examining the available duplicate and triplicate copies of the official receipts, the team discovered that alterations and erasures were made on the official receipts of the Judiciary Development Fund (JDF) and the Special Allowance for the Judiciary Fund (SAJF). When the team interrogated Alma Bella S. Macaldo (Macaldo), Records Officer II, and Josefina P. Veraque (Veraque), Cashier I, they admitted that they altered the duplicate and triplicate copies of the official receipts by understating the amount collected and modifying the date of the transaction. Macaldo surrendered photocopies of the duplicate copies of some of the tampered official receipts.⁴ The team's further investigation revealed that Macaldo and Veraque handled the financial transactions of the MTCC and Teves, in full trust and confidence, would just sign the monthly reports.⁵

The team discovered the following discrepancies in the amount collected and the amount reported in the official cashbook and triplicate copy of issued official receipts for cases filed from January 2013 to December 2015:⁶

Item	Amount Collected	Amount Reported	Variance
JDF for BP [Batas Pambansa Bilang (BP)] 22 ⁷	₱616,994.20	₱140,093.60	₱476,900.60
SAJF BP 22	621,417.20	147,747.20	473,670.00

¹ Teresita S. Remotigue, compulsorily retired effective October 10, 2008. *Rollo*, p. 6.

² Guidelines in the Allocation of the Legal Fees, as amended, between the Special Allowance for the Judiciary Fund and the Judiciary Development Fund.

³ *Rollo*, p. 7.

⁴ *Id.* at 11-12.

⁵ *Id.* at 12.

⁶ *Id.* at 16-19.

⁷ An Act Penalizing the Making or Drawing and Issuance of a Check without Sufficient Funds or Credit and for other Purposes.

2013 JDF for Ordinary Cases	678,702.00	209,902.00	468,800.00
2013 SAJF for Ordinary Cases	648,140.00	271,752.00	376,388.00
2014 JDF for Ordinary Cases	506,884.50	185,066.50	321,818.00
2014 SAJF for Ordinary Cases	832,592.50	220,014.50	612,578.00
2015 JDF for Ordinary Cases	820,974.80	284,924.80	536,050.00
2015 SAJF for Ordinary Cases	1,216,160.30	317,872.30	898,288.00
2013-2015 JDF based on the photocopy of the duplicate copies from Macaldo	599,514.60	178,454.60	421,060.00
2013-2015 SAJF based on the photocopy of the duplicate copies from Macaldo	1,198,172.26	378,550.26	819,622.00
TOTAL	7,739,552.36	2,334,377.76	5,405,174.60

Based on the team's observation that the unwithdrawn Fiduciary Fund was ₱48,959,451.94 while the bank balance for the Fiduciary Fund as of October 31, 2015 was only ₱48,930,742.88, there was a noted shortage of ₱28,709.06.⁸

On December 4, 2015, Macaldo executed an affidavit admitting that she received funds from Veraque and used it for personal matters.⁹

From December 28, 2015 to September 28, 2016, Veraque restituted a total amount of ₱550,000.00 each for the JDF and the SAJF. On the other hand, Macaldo paid a total of ₱118,000.00 each for the JDF and the SAJF from September 28, 2016 to May 19, 2017.¹⁰ As for the balance of the shortage, Veraque and Macaldo asked for an extension of time to pay them. They also executed an affidavit stating that Teves had no knowledge of the tampering of the official receipts.¹¹

In its Report dated May 10, 2017, the team recommended the following:

1. **Ms. ALMA BELLA S. MACALDO**, Records Officer II, and **Ms. JOSEFINA P. VERAQUE**, Cashier I, both of the MTCC Cebu City, be:

- a). found **GUILTY** of dishonesty and gross misconduct for tampering the amounts collected in the triplicate copies of official receipts of the JDF and SAJF and deliberate intent to delay the deposit of court's daily collections by way of alterations on the dates of the triplicate copies of official receipts for the Fiduciary Fund;

⁸ *Rollo*, pp. 13-14.

⁹ *Id.* at 20.

¹⁰ *Id.* at 19-20.

¹¹ *Id.* at 20.

b). **DISMISSED** from the service with prejudice to re-employment in any government owned and controlled corporation, and all their withheld salaries, allowances and benefits, if any, excluding the money value of their earned leave credits and whatever claims they may have with the Government Service Insurance System (GSIS) **be ORDERED** forfeited in favor of the JDF and SAJF accounts; and

c). **DIRECTED** to **RESTITUTE** the remaining balance of accountabilities for the JDF and SAJF amounting to Four Million Sixty Nine Thousand One Hundred Seventy-Four Pesos and 60/100 (₱4,069,174.60) summarized as follows:

x x x x

2. The Financial Management Office, OCA be **DIRECTED** to compute the money value of the earned leave credits based on:

- a. Service Record
- b. Certificate of Leave Credits
- c. Notice of Salary Adjustment; and
- d. Notice of Step Increment (if there is any)

provided by the Office of the Administrative Services (OAS-OCA) as well as withheld salaries and other benefits that they may be entitled to receive, to be applied as restitution for the shortages totaling to Four Million Sixty Nine Thousand One Hundred Seventy-Four Pesos and 60/100 (₱4,069,174.60) that they are jointly and severally liable dispensing with the usual documentary requirements.

3. **Ms. JOSEPHINE R. TEVES**, Clerk of Court IV, MTCC Cebu City be:

3.a) **DIRECTED** to **EXPLAIN** in writing within ten (10) days from receipt of notice why she should not be held administratively liable for her failure to take measures to safeguard the judiciary funds against misappropriation of her subordinates;

3.b) **SUSPENDED** indefinitely for gross neglect of duty, inefficiency and incompetence in the performance of her duties; and

3.c) **RESTITUTE** the shortages for Fiduciary Fund amounting to Twenty[-]Eight Thousand Seven Hundred Nine Pesos & 06/100 (₱28,709.06) computed as follows:

x x x x

4. **Hon. PAMELA BARING-UY**, Acting Executive Judge, MTCC, Cebu City, be **DIRECTED** to:

4.a) **MONITOR** the financial transactions of the court to ensure strict observance of the issuances of the Court in order to avoid any irregularity in the collections, deposits and withdrawals/disbursements of court funds, otherwise, she will be held equally liable for the infractions committed by the erring employee under her supervision; and

4.b) **STUDY AND IMPLEMENT** procedures that shall strengthen the internal control system to safeguard the judiciary funds.

5. A **WRIT OF PRELIMINARY ATTACHMENT** be **ISSUED** directing **Hon. PAMELA BARING-UY**, Acting Executive Judge, MTCC, Cebu City, to attach so much of the property of respondents Ms. ALMA BELLA S. MACALDO, Records Officer II, and Ms. JOSEFINA P. VERAQUE, Cashier I, MTCC Cebu City, not exempt from restitution, as may be sufficient to satisfy the total shortages xxx.

6. A **HOLD DEPARTURE ORDER** be **ISSUED** against Ms. JOSEPHINE R. TEVES, Clerk of Court IV, Ms. ALMA BELLA S. MACALDO, Records Officer II and Ms. JOSEFINA P. VERAQUE, Cashier I, all of the MTCC Cebu City, preventing them from travelling abroad without authority from this Court.

7. The Legal Office, OCA, be **DIRECTED** to:

7.a) **COORDINATE** with the Government Service and Insurance System (GSIS) on how to claim the retirement/separation/monetary benefits of a court employee found to have committed malversation of judiciary funds;

7.b) **PREPARE** a Memorandum of Agreement with the GSIS so the judiciary can rightfully claim the benefit due to the dismissed employee of the Court dispensing with the documentary requirements to answer for the shortages incurred by the erring employees.¹²

In a Memorandum dated May 24, 2017, Court Administrator Jose Midas P. Marquez adopted the recommendations of the team and submitted it for the Court's approval.¹³

In her comment,¹⁴ Veraque claims, among others, that: prior to her assumption of Cashier I position, no turn-over or inventory was conducted to

¹² *Id.* at 23-26.

¹³ *Id.* at 1-5.

¹⁴ *Id.* at 161-166.

determine past variance which might have been included in the total shortages; her work is limited to receiving various transmittal remitted to her from the cash clerks which were already accompanied by the issued official receipts to which she had no hand in its preparation; she did not participate in the tampering of receipts; and the amounts she received were duly receipted and kept in her custody except for those that she duly restituted.¹⁵

Macaldo, on the other hand, admits that she accepted money from Veraque. She claims that she used it for the medication of her father and to support her children. She expresses willingness to pay the amount lost but qualified that her only source of income is her salary as Records Officer II. Hence, she prays that she be allowed to continue with her employment and that the balance be deducted from her salary. She asks for the Court's forgiveness and understanding.¹⁶

Teves claims that she took appropriate measures to safeguard the funds of the Court by reconciling the records submitted to her by the cashier and personally depositing the collections to the bank, among others. However, Veraque and Macaldo's scheme was conducted in a professional manner that only professional auditors could discover it. Teves prays that this Court apply the ruling in *Arias v. Sandiganbayan*¹⁷ to the effect that "a head of office is not required to examine every single detail of any transaction from its inception until it is finally approved."¹⁸

We agree with the OCA that both Veraque and Macaldo are liable for grave misconduct and dishonesty. As for Teves, We modify the findings of the OCA and find her liable for simple neglect.

Dishonesty is the disposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray. Misconduct is a transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, unlawful behavior, willful in character, improper or wrong behavior. It is grave when it involves any of the additional elements of corruption, willful intent to violate the law, or to disregard established rules. Tampering of official receipts and over withdrawals from court funds are considered grave misconduct and serious dishonesty.¹⁹

As Cashier I, Veraque was responsible for receiving court collections or payments of legal fees, depositing the amount collected, and recording the financial transactions in the respective official cash books.²⁰ Macaldo, on the other hand, was tasked with issuing official receipts of BP 22 cases, among

¹⁵ *Id.* at 162-164.

¹⁶ *Id.* at 147-149.

¹⁷ G.R. No. 81563, December 19, 1989, 180 SCRA 309.

¹⁸ *Rollo*, p. 155.

¹⁹ *Office of the Court Administrator v. Tomas*, A.M. No. P-09-2633, January 30, 2018, 853 SCRA 343.

²⁰ *Rollo*, p. 13.

others.²¹ According to the audit report, they tampered the duplicate and triplicate copies of the official receipts by changing the date to a later one and reducing the amount paid. Through this, they were able to obtain money which should have been turned over to the Court but was instead used for their personal concerns.²²

Since Macaldo has consistently admitted the charges against her, there is no doubt of her guilt. On the other hand, Veraque, who previously admitted that she is responsible for the tampering of official receipts, casts doubt on the charges against her and claims that she had no participation in the tampering of the receipts.²³ Veraque's belated defenses, however, are unconvincing.

First, Veraque admitted to partial restitution of the amount lost.²⁴ It defies logic why she would pay the same if she has no liability whatsoever for it. Second, Veraque executed a joint affidavit with Macaldo wherein they admitted that they "altered some official receipts to be able to have access to the collection."²⁵ Veraque did not deny that she executed and signed this affidavit. Third, in an informal meeting held on November 27, 2015 with Executive Judge Monalila S. Tecson,²⁶ Veraque admitted that they took money from the collections and tampered the official receipts.

Macaldo and Veraque's act of tampering the receipts constitutes dishonesty as it deceived the Court into believing that lower amounts of JDF and SAJF were collected. It also constitutes grave misconduct since Macaldo and Veraque willfully abused their positions to misappropriate public funds for themselves. Both of them were entrusted with the safekeeping of fees collected from litigants and the rest of the public. They should have exercised honesty and fidelity in the performance of their duty, such being essential to the proper administration of justice.²⁷ That they were motivated by their financial difficulties is of no moment because no personal problem can justify the misuse of public funds.²⁸ Given the gravity of their offense, nothing less than dismissal befits Macaldo and Veraque.²⁹

²¹ *Id.* at 16.

²² *Id.* at 12-13.

²³ *Id.* at 164.

²⁴ *Id.* at 165.

²⁵ *Id.* at 143.

²⁶ *Id.* at 63-68.

²⁷ See *Velasco v. Baterbonia*, A.M. No. P-06-2161, September 25, 2012, 681 SCRA 666, 675.

²⁸ See *Office of the Court Administrator v. Nacuray*, A.M. No. P-03-1739, April 7, 2006, 486 SCRA 532, 540.

²⁹ Section 46(A), Rule 10, Revised Rules on Administrative Cases in the Civil Service (RRACCS).

The RRACCS is repealed by the 2017 Rules on Administrative Cases in the Civil Service, CSC Resolution No. 1701077. However, its Section 124 provides that "[t]he provisions of the existing RRACCS shall continue to be applied to all pending cases which were filed prior to the effectivity of these Rules;" and Section 125 states that the Rules shall take effect after fifteen (15) days from the date of publication in the Official Gazette, or in the newspaper of general circulation. This was published in the Philippine Star on August 2, 2017.

With respect to Teves, We find her explanation wanting. In *Office of Court Administrator v. Savadera*,³⁰ We declared that clerks of court are primarily accountable for all funds collected for the Court, whether personally received by them or by a duly appointed cashier who is under their supervision and control. They are liable for any loss, shortage, destruction or impairment thereof.³¹ Should they fail to properly supervise and manage the financial transactions in their court, they shall be liable for simple neglect of duty, which is the failure to give attention to a task, or the disregard of a duty due to carelessness or indifference.³²

Here, while Macaldo and Veraque absolved Teves from any participation in their scheme, she is nonetheless liable for simple neglect of duty. Teves failed to exercise the diligence expected of her in supervising Macaldo and Veraque. Had she been more vigilant, their transgression might have been discovered sooner or altogether prevented.

In light of the foregoing, the audit report and its supporting documents, the requirement of substantial evidence in administrative cases was satisfied in this case.³³

As for Teves' penalty, the penalty for simple neglect of duty is one month and one day to six months.³⁴ Since a mitigating circumstance of length of service can be considered in favor of Teves' 32 years of service at the Court,³⁵ We impose the minimum penalty of suspension for a period of one month and one day.³⁶ In addition, she is accountable for the shortage in the Fiduciary Fund amounting to ₱28,709.06.

WHEREFORE, the Court finds Alma Bella S. Macaldo, Records Officer II, and Josefina P. Veraque, Cashier I, both of the Municipal Trial Court in Cities, Cebu City, **GUILTY of DISHONESTY AND GRAVE MISCONDUCT**. They are **DISMISSED** from the service, with prejudice to re-employment in any branch of the government, including government-owned and controlled corporations. All their withheld salaries, allowances, and benefits, if any, excluding the monetary value of their earned leave credits, and whatever claims they may have with the Government Service Insurance System are **FORFEITED** in favor of the Judiciary Development Fund and the Special Allowance for the Judiciary Fund accounts. Macaldo and Veraque are directed to restate the remaining balance of accountabilities for the Judiciary Development Fund and Special Allowance for the Judiciary Fund.

³⁰ A.M. No. P-04-1903, September 10, 2013, 705 SCRA 283, 300-301.

³¹ *Id.*

³² See *Report on the Financial Audit Conducted on the Books of Account of Sonia L. Dy and Atty. Graciano D. Cuanico, Jr., Regional Trial Court, Catarman, Northern Samar*, A.M. No. P-07-2364, January 25, 2011, 640 SCRA 376, 389.

³³ See *Mahinay v. Daomilas, Jr.*, A.M. No. RTJ-18-2527, June 18, 2018.

³⁴ Section 46(D), Rule 10, RRACCS.

³⁵ *Rollo*, p. 155.

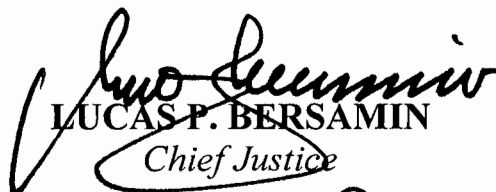
³⁶ Section 48(n), Rule 10, RRACCS.

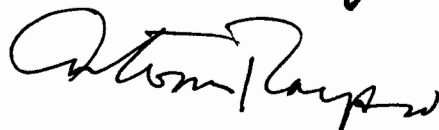
The Financial Management Office of the Office of the Court Administrator is **DIRECTED** to compute the remaining balance to be paid by Alma Bella S. Macaldo and Josefina P. Veraque, if any, after the application of their earned leave credits, which is based on their service record, certificate of leave credits, notice of salary adjustment, and notice of step increment, if any, as well as withheld salaries and any other benefits that they may be entitled to receive.

The Office of the Court Administrator is **ORDERED** to file the appropriate criminal charges against Alma Bella S. Macaldo and Josefina P. Veraque.

Josephine R. Teves, Clerk of Court IV of the Municipal Trial Court in Cities, Cebu City, is likewise found **GUILTY** of **SIMPLE NEGLIGENCE OF DUTY** and is **SUSPENDED** from office for one (1) month and one (1) day. She is **ORDERED** to **IMMEDIATELY RESTITUTE** the shortage in the Fiduciary Fund amounting to ₱28,709.06. She is **STERNLY WARNED** that a repetition of the same or similar offense shall be dealt with more severely.

SO ORDERED.


LUCAS P. BERSAMIN
Chief Justice

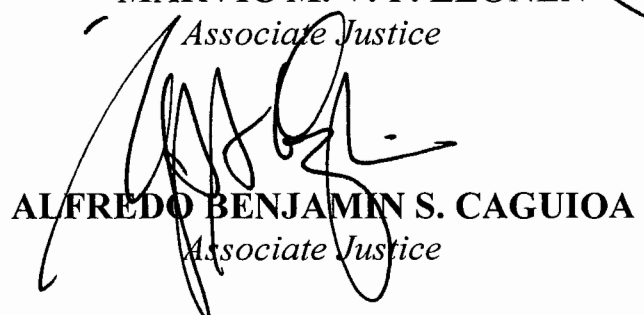

ANTONIO T. CARPIO
Associate Justice


DIOSDADO M. PERALTA
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

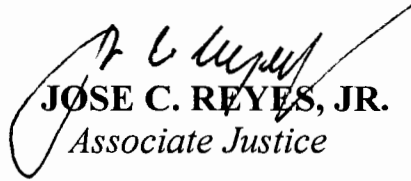

MARVIC M. V. F. LEONEN
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


ANDRES B. REYES, JR.
Associate Justice

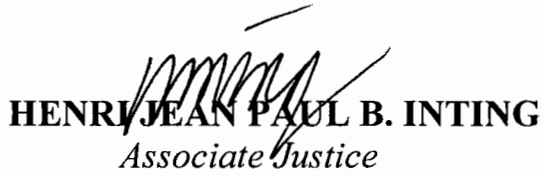

ALEXANDER G. GESMUNDO
Associate Justice


JOSE C. REYES, JR.
Associate Justice

(On Official Leave)
RAMON PAUL L. HERNANDO
Associate Justice


ROSMARIE D. CARANDANG
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice

