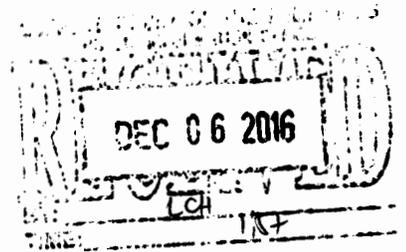




Republic of the Philippines
Supreme Court
 Manila

EN BANC



**OFFICE OF THE COURT
 ADMINISTRATOR,**

Complainant,

- versus -

**CLERK OF COURT VI
 MELVIN C. DEQUITO and
 CASH CLERK ABNER C. ARO,
 REGIONAL TRIAL COURT,
 SAN PABLO CITY, LAGUNA,**

Respondents.

A.M. No. P-15-3386

(Formerly A.M. No. 15-07-227-RTC)

Present:

SERENO, C.J.,*
 CARPIO,
 VELASCO, JR.,**
 LEONARDO-DE CASTRO,
 BRION,
 PERALTA,
 BERSAMIN,
 DEL CASTILLO,
 PEREZ,
 MENDOZA,***
 REYES,
 PERLAS-BERNABE,
 LEONEN,
 JARDELEZA,
 CAGUIOA,**** JJ.

Promulgated:

November 15, 2016

X-----*Alfredo Limon - Prone*-----X

DECISION

PER CURIAM:

Before the Court is an administrative complaint¹ against respondents Melvin C. Dequito (Dequito), Clerk of Court VI, and Abner C. Aro (Aro), Cash Clerk, both of the Regional Trial Court of San Pablo City, Laguna (RTC), charging them of Gross Neglect of Duty and Dishonesty, respectively.

* On leave.
 ** On Official leave.
 *** On Official leave.
 **** On leave.

¹ See Memorandum-Report of petitioner Office of the Court Administrator dated July 14, 2015; *rollo*, pp. 52-59.

The Facts

This matter stemmed from a Memorandum-Report² dated June 30, 2015 submitted by the Financial Audit Team (Audit Team or Team) of the Fiscal Monitoring Division, Court Management Office, Office of the Court Administrator (OCA), in connection with the financial audit conducted on the books of account of the aforementioned RTC. The examination covered Dequito's financial transactions for the period September 2, 2002 to March 31, 2015. For failure to comply with the submission of the monthly financial reports despite due notice, Dequito's salaries and allowances were withheld effective April 2015.³

Among others, the Audit Team uncovered that there was a total shortage of ₱888,320.59 in the Fiduciary Fund (FF) account due to non-remittance of collections in the amount of ₱878,320.59 and an unaccounted withdrawal in the amount of ₱10,000.00.⁴ The unremitted collections covering the period August 28, 2014 to April 6, 2015 were concealed by Dequito's non-submission of the required monthly financial reports to the Revenue Section, Accounting Division, Financial Management Office, OCA, whereas ₱10,000.00 of Dequito's ₱30,000.00 withdrawal on September 8, 2014 remained unaccounted for.⁵

When informed of the shortage in the FF, Dequito admitted responsibility only for ₱80,000.00⁶ and passed the blame onto Aro for the remainder.⁷ On the other hand, Aro did not deny that he misappropriated the unremitted FF collections. Based on the command responsibility rule, however, the Audit Team asked Dequito to reconstitute the missing funds, which he complied with on June 18, 2015.⁸ Despite the restitution, the Audit Team nonetheless noted that the Court was still deprived of interest amounting to ₱46,671.41 that could have accrued to its benefit had the collections been deposited during the prescribed time.⁹

² *Rollo*, pp. 3-13. Signed by Audit Team Leader John L. Ferrera, and Members Cielo D. Calonia, Pablito V. Buño, Ferdinand A. Marquez, Rosalie M. Durendes, Allan Joseph R. Cablesuela, and Normee P. Moredo and approved by Court Administrator Jose Midas P. Marquez.

³ *Id.* at 3.

⁴ See *id.* at 6.

⁵ *Id.* at 6-8.

⁶ ₱70,000.00 represented a day's collection when Aro was absent and ₱10,000.00 represented the unaccounted cash bond withdrawal. (See *id.* at 8).

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 8. See also Schedule of Delayed Remittances FF prepared by Ferdinand A. Marquez; *id.* at 27-29.

JJ to Jagan theme

During the Team's exit conference with Executive Judge Agripino G. Morga, the latter expressed his dismay about the shortage in the FF account. Hence, both respondents were relieved of their respective duties.¹⁰

In view of the foregoing, the Audit Team recommended that its Memorandum-Report be docketed as a regular administrative complaint against respondents for violating the Court's issuances on the proper handling of judiciary collections. Respondents were also directed to explain the incurrence of the FF shortage and the non-submission of the monthly financial reports.¹¹

Further, the Audit Team found unliquidated withdrawals amounting to ₱437,400.00 in the Sheriff's Trust Fund (STF). Thus, it recommended that the Court direct the accountable officers – among others, Sheriffs Mario S. Devanadera (Devanadera) and Rodrigo G. Baliwag (Baliwag) – to submit the pertinent liquidation reports with the corresponding supporting documents; otherwise, they would be liable to pay the same.¹²

In a Resolution¹³ dated September 16, 2015, the Court adopted the Audit Team's recommendations.

As directed, Aro submitted his *Sinumpaang Salaysay*¹⁴ on December 16, 2015, averring that it was Dequito who asked him to make adjustments in the deposit and continued to borrow money from the court's collections, despite his reminders to the contrary. Nonetheless, he admitted to using the court's collections to resolve a personal problem, but added that Dequito never bothered to find a way to correct the same. He also alleged that he prepared the monthly financial reports, but Dequito refused to sign them.¹⁵

On the other hand, Dequito, in his Explanation¹⁶ dated December 18, 2015, regarded the situation as a case of abused trust and confidence. He narrated that from the time he assumed office as Clerk of Court VI, he gave his full trust and confidence to the previous cash clerk, Celia Getrudes-Magpantay (Magpantay) until the latter's promotion.¹⁷ Aro then took over and the same "system" implemented by Magpantay went on with similar smoothness and efficiency until the early part of 2014 when Aro started incurring numerous absences. Dequito noticed that there were delays in the

¹⁰ Id. at 3 and 11. See also Memorandum dated April 20, 2015 (id. at 18-19) and Memorandum No. 04-2015 dated April 30, 2015 (id. at 26) of Judge Morga.

¹¹ Id. at 12-13

¹² See id at 8-9 and 12.

¹³ Id. at 41-43. Issued by Division Clerk of Court Edgar O. Aricheta.

¹⁴ Id. at 44.

¹⁵ Id. at 44 and 54.

¹⁶ Id. at 45-48.

¹⁷ Id. at 45.

Agripino G. Morga

preparation of the monthly financial reports and thus, constantly reminded Aro of his duties.¹⁸ Further, Dequito alleged that he only found out about the FF shortage after he was informed by the Audit Team. When he confronted Aro about the shortage, the latter admitted having incurred the same but could not give any answer on how to rectify the situation. Finally, Dequito, who had borrowed money from several persons just to reconstitute the shortage, implored the Court to help him recover the restituted amount from Aro and likewise, impose the proper disciplinary sanctions upon the latter.¹⁹

The OCA's Report and Recommendation

In a Memorandum-Report²⁰ dated July 14, 2016, the OCA found Dequito and Aro administratively liable for Gross Neglect of Duty and Dishonesty, respectively. However, considering that this is the first administrative case filed against them, the OCA recommended that they both be suspended for a period of six (6) months without salary and benefits, instead of being dismissed from service.²¹

The OCA pronounced that Dequito should be sanctioned for being lax in the performance of his duties as clerk of court and further remarked that his restitution of the shortage should not exempt him from liability. It also chastised Dequito for passing the blame for the incurred shortage onto Aro, given that it was his duty to ensure that his subordinates perform their duties and responsibilities in accordance with the pertinent circulars relating to deposits and collections and proper accountability of all court funds.²² On the other hand, Aro admitted to using judicial funds for his personal benefit. Hence, the OCA adjudged him guilty of Dishonesty.²³

Relatedly, the OCA observed that Baliwag had an unliquidated STF balance in the amount of ₱74,000.00. However, since Baliwag had already retired from service on December 30, 2012, the OCA recommended that Dequito be held liable for the unliquidated STF if he had already issued the former's clearance upon retirement.²⁴

¹⁸ Id. at 46 and 54.

¹⁹ Id. at 47-48 and 54-55.

²⁰ Id. at 52-59.

²¹ Id.

²² Id. at 56.

²³ Id. at 56-57.

²⁴ Id. at 57-58.

Handwritten signature: J. P. ...

Finally, albeit not being a party to the case, the OCA directed Devanadera to pay his unliquidated STF in the amount of ₱15,000.00²⁵ and furnish the OCA proof of deposit upon payment thereof.²⁶

The Issue Before the Court

The main issue in this case is whether or not Dequito and Aro should be held administratively liable.

The Court's Ruling

At the outset, the Court observes that Devanadera was not impleaded as a party to the present case.²⁷ Hence, up until the proper complaint is filed against him, the Court cannot adopt nor approve the OCA's directive against him as it would violate his right to due process.

As for Aro, the Court not only adopts the OCA's finding that he is guilty of Dishonesty, but also finds him administratively liable for Grave Misconduct pursuant to existing jurisprudence.

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.²⁸

In this case, Aro had admitted to misappropriating the court's funds for his own use, which resulted in the shortage in the FF. His justification that he used the court's money to help his daughter is no excuse for using judiciary funds in his custody. As a cash clerk, he is an accountable officer entrusted with the delicate task of collecting money for the court.²⁹ This proprietary function imbues his position with trust and confidence, and acts of misappropriation clearly betray his integrity, much more evince his disposition to defraud the court. For whatever personal reason Aro may proffer, it should be remembered that as a court personnel, he is expected, at all times, to uphold the public's interest over and above his personal interest.³⁰ To stress, judicial employees should be living examples of

²⁵ Inadvertently mentioned as "₱17,000.00" in the OCA's recommendation (see *id.* at 58).

²⁶ *Id.*

²⁷ It appears from the *rollo* that the Memorandum-Report was docketed as a regular administrative case against respondents Dequito and Aro only (see Court's Resolution dated September 16, 2015; *id.* at 41).

²⁸ *OCA v. Acampado*, 721 Phil. 12, 30 (2013), citations omitted.

²⁹ See *OCA v. Savadera*, 717 Phil. 469, 487 (2013).

³⁰ *Gabatin v. Quirino*, 594 Phil. 406, 415 (2008).

My daughter - Aro

uprightness and must bear in mind that the image of the court, as a true temple of justice, is mirrored in their conduct.³¹

Equally unavailing is Aro's defense that his superior, Dequito, never bothered to correct his infractions. The lack of proper supervision, much more tolerance of professional obliquity, cannot excuse one's own wrongdoing. A court employee, whether in the capacity of a subordinate or a superior, should be held accountable for his own actions. If it is indeed true that Dequito condoned his misappropriation of court funds, then the correct course of action is to hold them both liable. That said, the Court agrees with the OCA that Aro is guilty of Dishonesty. Where respondent is an accountable officer, and the dishonest act directly involves property, accountable forms or money for which he is directly accountable and respondent shows an intent to commit material gain, graft and corruption, the dishonesty is considered serious,³² as in this case.

In addition, Aro should also be held administratively liable for Grave Misconduct. In several cases,³³ the Court has regarded the misappropriation of judicial funds not only as a form of Dishonesty, but also of Grave Misconduct. Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behaviour or gross negligence by a public officer. The misconduct is considered grave when it is accompanied by the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule,³⁴ as Aro's misappropriation of the FF in this case. Consequently, the Court modifies the OCA's recommendation to include Aro's administrative liability for Grave Misconduct.

As for Dequito, the Court similarly adopts the OCA's finding of Gross Neglect of Duty, in view of the shortage in the FF, as well as his failure to timely remit collections and to submit the required monthly financial reports.

Gross neglect of duty refers to negligence characterized by the glaring want of care; by acting or omitting to act in a situation where there is a duty to act, not inadvertently, but willfully and intentionally; or by acting with a conscious indifference to consequences with respect to other persons who may be affected.³⁵ In contrast, simple neglect of duty only refers to the

³¹ Id. at 414, citing *Gutierrez v. Quitalig*, 448 Phil. 469, 479-480 (2003).

³² See *Committee on Security and Safety, Court of Appeals v. Dianco*, A.M. No. CA-15-31-P, June 16, 2015, 758 SCRA 137, 155, citing Section 3 of Civil Service Commission Resolution No. 06-0538 or the "RULES ON THE ADMINISTRATIVE OFFENSE OF DISHONESTY" issued on April 4, 2006.

³³ See *OCA v. Acampado*, supra note 28; *OCA v. Nacuray*, 521 Phil. 32 (2006); *Concerned Citizen v. Gabral, Jr.*, 514 Phil. 209 (2005); *OCA v. Bernardino*, 490 Phil. 500 (2005); and *Re: Report on the Examination of the Cash and Accounts of the Clerks of Court of the RTC and the MTC of Vigan, Ilocos Sur*, 448 Phil. 464 (2003).

³⁴ See *OCA v. Viesca*, A.M. No. P-12-3092, April 14, 2015, 755 SCRA 385, 396.

³⁵ *Lucas v. Dizon*, A.M. No. P-12-3076, November 18, 2014, 740 SCRA 506, 515.

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failure to give proper attention to a required task or a disregard of duty due to carelessness or indifference.³⁶

The safeguarding of funds and collections, and the submission of monthly collection reports are essential to the orderly administration of justice.³⁷ In this light, Supreme Court (SC) Circular No. 13-92³⁸ mandates clerks of courts to immediately deposit fiduciary funds with the authorized government depository banks,³⁹ specifically the Land Bank of the Philippines (LBP).⁴⁰ Moreover, SC Circular No. 32-93⁴¹ requires all clerks of court or accountable officers to submit a monthly report of collections for all funds not later than the tenth (10th) day of each succeeding month.

A clerk of court is the custodian of court funds.⁴² Hence, he is liable for any loss, shortage, destruction or impairment of these funds.⁴³ Any shortage in the amounts to be remitted, as well as the delay in the actual remittance of these funds, constitutes Gross Neglect of Duty of a clerk of court.⁴⁴ The Court has also ruled that a clerk of court who fails to timely deposit judiciary collections, as well as to submit monthly financial reports, is administratively liable for Gross Neglect of Duty.⁴⁵

In this case, Dequito clearly exhibited Gross Neglect of Duty when he completely left the task of remitting the court funds and submitting the collection reports to the cash clerk, Aro. As clerk of court, he is duty-bound to timely remit the collections and submit the required financial reports even if he delegates these tasks to other court employees, which he failed to accomplish.

Further, Dequito, being the RTC's Clerk of Court, is primarily responsible for all its funds – such as the FF – and is further charged with administrative supervision over court personnel.⁴⁶ As the records show, Dequito was undoubtedly remiss in performing his functions when he failed to supervise Aro in the management of the court's funds, thus resulting in its

³⁶ *OCA v. Acampado*, supra note 28, at 26.

³⁷ *OCA v. Varela*, 568 Phil. 9, 19 (2008).

³⁸ "Subject: Court Fiduciary Funds" issued by then Court Administrator Josue N. Bellosillo on March 1, 1992.

³⁹ See *Relova v. Rosales*, 441 Phil. 104 (2002).

⁴⁰ See SC Administrative Circular No. 5-93 (Amending Circular No. 5, dated February 21, 1985) "Re: Land Bank of the Philippines, Likewise the Authorized Government Depository Bank for the Judiciary Development Fund (JDF)" issued by then Chief Justice Andres R. Narvasa on April 30, 1993.

⁴¹ "Subject: Collection of Legal Fees and Submission of Monthly Report of Collections" issued by then Court Administrator Ernani Cruz Pano on July 9, 1993.

⁴² See *OCA v. Villanueva*, 630 Phil. 248, 257 (2010).

⁴³ Id.

⁴⁴ *OCA v. Acampado*, supra note 28, at 29-30.

⁴⁵ See id. at 30.

⁴⁶ See *Report on the Financial Audit Conducted on the Books of Account of Dy, RTC, Catarman, Northern Samar*, 655 Phil. 367, 379 (2011).

49/10/2015

misappropriation.⁴⁷ To note, Aro's admission of misappropriation of a substantial portion of the missing funds could not exculpate Dequito from his own negligence.⁴⁸ As above-intimated, a clerk of court is primarily accountable for all funds that are collected for the court, whether received by him personally or by a duly appointed cashier who is under his supervision and control.⁴⁹ Hence, Dequito cannot pass the blame onto his subordinate, Aro. As such, he was properly held liable to return the FF shortage, including the unearned interest caused by the delay in its remittance.⁵⁰

Separately, the Court observes that the OCA recommended that Dequito be ordered to pay Baliwag's unliquidated STF balance in the amount of ₱74,000.00 if he had issued the latter's clearance upon retirement.⁵¹ The records are, however, bereft of any showing that such clearance had indeed been issued. Thus, the Court deems it proper for the OCA to first make a determination of the matter, and thereafter, make the appropriate recommendation depending on its finding.

Case law holds that the unwarranted failure of a clerk of court to fulfill his responsibilities deserves administrative sanction and not even the full payment of any incurred shortage – as in this case – will exempt the accountable officer from liability.⁵² Therefore, for his glaring disregard of his duties as clerk of court, Dequito is adjudged guilty of Gross Neglect of Duty.

Anent the penalties to be imposed, Serious Dishonesty, Grave Misconduct, and Gross Neglect of Duty are all serious offenses punishable by dismissal from public service, even on a first offense.⁵³ Hence, the Court disapproves the OCA's recommendation to reduce the penalty to mere suspension for both Aro and Dequito.

The Constitution mandates that a public office is a public trust and that all public officers must be accountable to the people and must serve them with responsibility, integrity, loyalty, and efficiency.⁵⁴ The demand for moral uprightness is more pronounced for members and personnel of the judiciary who are involved in the dispensation of justice. As front liners in the administration of justice, court personnel should live up to the strictest

⁴⁷ See *OCA v. Buencamino*, 725 Phil. 110, 120 (2014).

⁴⁸ *Id.*

⁴⁹ *OCA v. Ofilas*, 633 Phil. 36, 56-57 (2010).

⁵⁰ See Court's Resolution dated September 16, 2015; *rollo*, p. 41.

⁵¹ See *id.* at 58.

⁵² See *OCA v. Julian*, 491 Phil. 179, 188 (2005).

⁵³ See Section 46 (A), Rule 10 of the Revised Rules on Administrative Cases in the Civil Service (promulgated by the Civil Service Commission through Resolution No. 1101502 dated November 18, 2011).

⁵⁴ See *Mendoza v. Esguerra*, 703 Phil. 435, 439 (2013).

19/10/15 Noyan - Arano

standards of honesty and integrity in the public service,⁵⁵ and in this light, are always expected to act in a manner free from reproach.⁵⁶ Thus, any conduct, act, or omission that may diminish the people's faith in the Judiciary should not be tolerated.⁵⁷

WHEREFORE, respondent Abner C. Aro (Aro), Cash Clerk of the Regional Trial Court of San Pablo City, Laguna, and respondent Melvin C. Dequito (Dequito), Clerk of Court VI of the same court, are found **GUILTY** of Serious Dishonesty and Grave Misconduct, and Gross Neglect of Duty, respectively, and are, thus, **DISMISSED** from service effective immediately. Accordingly, their respective civil service eligibility are **CANCELLED**, and their retirement and other benefits, except accrued leave credits, are hereby **FORFEITED**. Likewise, they are **PERPETUALLY DISQUALIFIED** from re-employment in any government agency or instrumentality, including any government-owned and controlled corporation or government financial institution.

Further, the Office of the Court Administrator is **DIRECTED** to: (a) file the appropriate administrative complaint against Sherriff Mario S. Devanadera in view of his unliquidated Sheriff's Trust Fund (STF) balance; and (b) determine whether or not Dequito had issued a clearance for Sheriff Rodrigo G. Baliwag's retirement and thereafter, make the appropriate recommendation relative to the latter's unliquidated STF.

Finally, the Executive Judge of the Regional Trial Court of San Pablo City, Laguna is **DIRECTED** to **MONITOR** all financial transactions of the court in strict adherence to the issuances of this Court on the proper handling of all Judiciary funds. He or she shall be equally liable for the infractions committed by the employees under his or her command and supervision.

Let a copy of this Decision be attached to the personal records of respondents Aro and Dequito.

SO ORDERED.

On leave
MARIA LOURDES P. A. SERENO
Chief Justice

⁵⁵ *OCA v. Buencamino* supra note 47, at 119.

⁵⁶ See *OCA v. Acampado* supra note 28, at 17.

⁵⁷ See *OCA v. Buencamino* supra note 47, at 122.

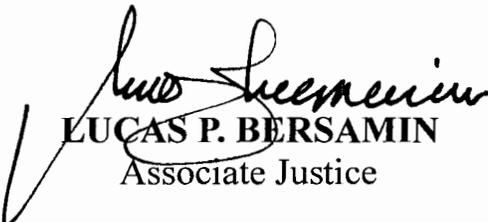

ANTONIO T. CARPIO
 Associate Justice
 Acting Chief Justice

On Official leave
PRESBITERO J. VELASCO, JR.
 Associate Justice


TERESITA J. LEONARDO-DE CASTRO
 Associate Justice


ARTURO D. BRION
 Associate Justice


DIOSDADO M. PERALTA
 Associate Justice


LUCAS P. BERSAMIN
 Associate Justice


MARIANO C. DEL CASTILLO
 Associate Justice


JOSE PORTUGAL PEREZ
 Associate Justice

On Official leave
JOSE CATRAL MENDOZA
 Associate Justice

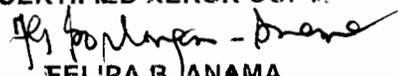

BIENVENIDO L. REYES
 Associate Justice


ESTELA M. PERLAS-BERNABE
 Associate Justice


MARVIC M.V.F. LEONEN
 Associate Justice


FRANCIS H. JARDELEZA
 Associate Justice

On leave
ALFREDO BENJAMIN S. CAGUIOA
 Associate Justice

CERTIFIED XEROX COPY:

FELIPA B. ANAMA
 CLERK OF COURT, EN BANC
 SUPREME COURT