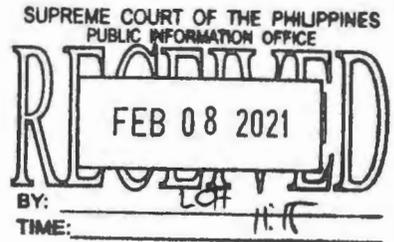




Republic of the Philippines
Supreme Court
Manila



EN BANC

RE: REPORT ON THE
FINANCIAL AUDIT
CONDUCTED IN THE
MUNICIPAL TRIAL COURT,
LABO, CAMARINES NORTE

A.M. No. P-21-4102
[Formerly A.M. No. 18-04-42-MTC]

Present:

PERALTA, C.J.,
PERLAS-BERNABE,
LEONEN,
CAGUIOA,
GESMUNDO,
HERNANDO,
CARANDANG,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ,
DELOS SANTOS,
GAERLAN, and
ROSARIO, JJ.

Promulgated:

January 5, 2021

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DECISION

PER CURIAM:

This administrative case stemmed from the March 21, 2018 Memorandum¹ of Eduardo G. Tesea, Team Leader of the Office of the Court Administrator (OCA) Financial Audit Team (Audit Team) of the Fiscal Monitoring Division (FMD), Court Management Office (CMO) to Court Administrator Jose Midas P. Marquez charging Eden P. Rosare (Rosare), Clerk of Court II, Municipal Trial Court (MTC), Labo, Camarines Norte of: (a)

¹ Rollo, pp. 3-32.

violation of OCA Circular No. 13-92 dated March 1, 1992² as amended by Supreme Court (SC) Administrative Circular (A.C.) No. 3-00 dated June 15, 2000³ and OCA Circular No. 50-95 dated October 11, 1995⁴; (b) Gross Dishonesty; and (c) Malversation of Public Funds or Property.⁵

The Team conducted two audits on the accountabilities of Rosare as Clerk of Court II of MTC, Labo, Camarines Norte (MTC Labo) from November 2014 to February 28, 2017 in compliance with Travel Order No. 126-2014 dated November 4, 2014⁶ and Travel Order No. 23-2017 dated February 24, 2017⁷.

In November 2014, the Audit Team conducted an audit⁸ of the cash and accounts of Rosare due to her failure to submit the monthly financial reports despite due notice as required by OCA Circular No. 32-93⁹ dated July 9, 1993. The audit disclosed that Rosare's cash on hand in the amount of ₱154,080.00 did not correspond with the unremitted or undeposited collections on all funds in the amount of ₱222,484.00.

The audit also revealed that Rosare delayed the deposit of her judiciary fund collections in the total amount of ₱222,484.00 which resulted in a shortage of ₱68,404.00. However, after arduous effort to find the shortage of ₱68,404.00, Rosare found a portion of it in the drawer next to her table which eventually reduced the shortage on the Fiduciary Fund (FF) and the Sheriff's Trust Fund (STF) to ₱1,000.00 each and on the Special Allowance for the Judiciary Fund (SAJF) to ₱3,168.10.

Rosare likewise failed to deposit her collections within the day or the next banking day contrary to the provisions of the Commission on Audit and Department of Finance (COA-DOF) Joint Circular 1-81 dated January 1, 1981¹⁰, OCA Circular No. 13-92 dated March 1, 1992¹¹ and SC A.C. No. 3-00

² Court Fiduciary Funds, March 1, 1992.

³ Re: Guidelines in the Allocation of the Legal Fees Collected Under Rule 141 of the Rules of Court, as Amended Between the General Fund and the Judiciary Development Fund.

⁴ Court Judiciary Fund

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(4) All collections from bail bonds, rental deposits and other fiduciary collections shall be deposited within twenty four (24) hours by the Clerk of Court concerned, upon receipt thereof, with the Land Bank of the Philippines. xxxx

⁵ Article 217 of the Revised Penal Code (RPC).

⁶ *Rollo*, p. 35.

⁷ *Id.* at 38.

⁸ *Id.* at 39-48.

⁹ Collection of Legal Fees and Submission of Monthly Report of Collections.

¹⁰ Amendments to Paragraph II, Sec. 2 of Department Order No. 20-73, (Ministry of Finance) dated June 14, 1973 on the Frequency of Deposits of National Collections Direct to the Bureau of the Treasury or through any of the authorized Government Depository Banks.

¹¹ Court Fiduciary Funds, March 1, 1992.

dated June 15, 2000¹². The collections for the FF were also not deposited on time in violation of OCA Circular No. 50-95 dated October 11, 1995¹³.

Furthermore, Rosare overlooked her task of filing and submitting monthly reports of collections and deposits or withdrawals to the Accounting Division (AD), Financial Management Office (FMO), OCA, as required in OCA Circular 113-04 dated September 16, 2004¹⁴ which provides that monthly reports be sent not later than the 10th day of each succeeding month to the Chief Accountant of the AD, FMO, OCA. She likewise failed to refund several cash bonds in the total amount of ₱86,000.00 to the bondsmen or to their authorized representatives even when the amount was already withdrawn from the depository bank. Also, Rosare allocated the fees on the solemnization of marriage between the Judiciary Development Fund (JDF) and the SAJF which was already disallowed by Administrative Order (A.O.) No. 125-2007 dated August 9, 2007.¹⁵ She also failed to follow OCA Circular No. 22-94 dated April 8, 1994¹⁶ as to the proper handling and use of official receipts.

Compounding her failures, Rosare also did not properly update the official cash books by regularly entering therein the daily collections as per SC A.C. No. 3-00 dated June 15, 2000 and to certify the entries therein as correct. She likewise did not use the prescribed cash book on General Fund (GF) account of the Court, which is comprised of forfeited or confiscated bonds and income derived from the interest earned on FF or STF's account. She failed to attach the prescribed Legal Fees Form in all case records as required under OCA Circular No. 26-97 dated May 5, 1997.¹⁷ Finally, the STF collections were erroneously deposited by Rosare in the FF bank account of the court.

In a Letter dated November 19, 2014,¹⁸ Rosare was required to explain in writing how and why she incurred the shortages of ₱1,000 on FF, ₱1,000 on the STF and ₱3,168.10 on the SAJF. She was likewise required to deposit the total amount of ₱222,484.00 corresponding to the unremitted or undeposited collections on various funds; to submit a written explanation why she failed to deposit the same immediately with the authorized government depositories; and to explain why she incurred a shortage of ₱68,404.00.

¹² xxx

“collections must be deposited everyday or if depositing daily is not possible deposit for the fund shall be at the end of every month, provided however, that every time collections for the fund reach P500.00, the same shall be deposited immediately before the period above indicated.

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¹³ Subject: Court Judiciary Fund

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(4) All collections from bail bonds, rental deposits and other fiduciary collections shall be deposited within twenty-four (24) hours by the Clerk of Court concerned, upon receipt thereof, with the Land Bank of the Philippines. xxxx

¹⁴ Submission of Monthly Reports of Collections and Deposit, September 16, 2004.

¹⁵ Guidelines on the Solemnization of Marriage by the Members of the Judiciary.

¹⁶ Guidelines in the Proper Handling and Use of Official Receipts.

¹⁷ Legal Fees Form for Lower Courts, May 5, 1997.

¹⁸ *Rollo*, pp. 39-48.

Name of Fund	Amount (P)
Fiduciary Fund (FF)	202,000.00
Sheriff's Trust Fund (STF)	16,000.00
Judiciary Development Fund (JDF)	2,203.20
Special Allowance for the Judiciary Fund (SAJF)	1,780.80
Mediation Fund (MF)	500.00
TOTAL	222,484.00

She was likewise required to: (a) deposit or remit all judiciary collections on time as per the COA-DOF Joint Circular 1-81 and OCA Circular No. 13-92 dated March 1, 1992 as amended by SC A.C. No. 3-2000 dated June 15, 2000 or otherwise deposit within a reasonable period of time; (b) follow the directive of OCA Circular No. 113-04 dated September 16, 2004; (c) properly file the Monthly Reports of Collections or Deposits and Withdrawals on FF and STF accounts with its corresponding attachments; (d) open a bank account for STF using the unwithdrawn STF of P80,000.00 deposited with the FF account as an initial deposit and report the same separately under STF account with the presiding judge as co-signatory; (e) refrain from holding the withdrawn cash bond for a long period of time and implement an effective method of returning the said cash bond to the bondsmen or his or her authorized representatives; (f) reconcile the book balance with cash on hand daily and follow the provision of Chapter 2 (10) of the Cash Examination Manual; (g) use the prescribed cash book for General Fund; (h) follow the guidelines in OCA Circular No. 22-94 dated April 8, 1994; (i) deposit all fees collected for the solemnization of marriage to the JDF; (j) use the prescribed cash book on all funds maintained by the court, i.e., one cash book per fund; (k) ensure a comprehensible entry in the triplicate copies of official receipts; (l) attach Legal Fees Form on all case records as per OCA Circular No. 26-97 dated May 5, 1997; and (m) coordinate with FMO, OCA regarding the requirements on fidelity bond in compliance with Section 101 of Presidential Decree (P.D.) No. 1445¹⁹.

Moreover, Rosare was reminded to issue receipts for every STF transaction on a per case basis and reported separately. Immediately after effecting a service of court processes, the sheriff or process server or other authorized court personnel shall prepare a Statement of Liquidation which shall be approved by the Executive Judge or Presiding Judge to be submitted to the Clerk of Court.

Presiding Judge Salvador C. Villarosa, Jr. of MTC Labo was requested to assign a court personnel who can assist Rosare in handling financial transactions, particularly in the recording in the cashbook and the preparation of the Monthly Report of Collections and Deposits or Withdrawals, and in issuing receipts and assessment of filing fees.

On February 16, 2017, pursuant to the January 23, 2017 Memorandum approved on February 13, 2017 by the Chief Justice, Rosare was relieved from

¹⁹ ORDAINING AND INSTITUTING A GOVERNMENT AUDITING CODE OF THE PHILIPPINES.

her position as Clerk of Court and her authority to receive, collect and withdraw any court fund was suspended effective immediately.²⁰

In February 2017,²¹ the Audit Team conducted another audit of Rosare's books of accounts for the same reason, that is, failure to submit the monthly financial reports despite due notice. An inventory of the cash on hand in the amount of ₱23,625.00 and its corresponding official receipts revealed that MTC Labo has not been depositing its daily collections as per circulars issued by the Court. After the audit, the Audit Team found that Rosare had a shortage of ₱456,470.381, to wit²²:

Name of Fund	Shortage (₱)
Fiduciary Fund (FF)	381,894.18
Sheriff's Trust Fund (STF)	41,000.00
Judiciary Development Fund (JDF)	3,842.20
Special Allowance for the Judiciary Fund (SAJF)	4,228.00
Mediation Fund (MF)	25,500.00
General Fund (GF)	6.00
TOTAL	456,470.38

Rosare failed to regularly submit the Monthly Reports of Collections and Deposit or Withdrawals on all funds to the AD, FMO, OCA as per OCA Circular 113-04 dated September 16, 2004. She also did not remit or deposit on a regular basis to the Land Bank of the Philippines (LBP), Labo Branch in accordance with COA-DOF Joint Circular 1-81 and in OCA Circular No. 13-92 dated March 1, 1992 as amended by SC A.C. No. 3-2000 dated June 15, 2000.

Moreover, Rosare intentionally detached or severed pages 73 and 74 from the FF cashbook for no apparent reason. She also deliberately understated her collections on JDF and SAJF in several instances in January 2017. As to the STF, the applicable rules regarding the liquidation of cash advances made by the process server were not fully complied with.

Also, MTC Labo has no official cashbook on the GF account contrary to the rule that each fund account must exclusively use one official cashbook. In addition, certifications as to the correction of entries in the cashbooks on all fund accounts were not regularly observed by Rosare or any accountable officer. Several entries on the triplicate copies of the issued official receipts in FF and STF were not legible. Finally, the recommendations made in the first audit conducted on November 1 to 12, 2014 were not fully complied with by Rosare.

²⁰ *Rollo*, p. 87.

²¹ *Id.* at 79-86.

²² *Id.* at 1-2.

In a Letter dated March 23, 2017,²³ the Audit Team recommended that Rosare be directed to: (a) submit all necessary documents to support all unauthorized and unaccounted FF and STF withdrawals in the bank or otherwise reconstitute the shortages in the amount of ₱469,464.38 within ten (10) days from notice; (b) explain in writing within ten (10) days from notice why: (i) she incurred such shortages and failed to comply with the Court circulars and issuances regarding proper handling of court collections; (ii) she purposely detached or severed pages 73 and 74 from the FF cashbook; and (iii) she understated her collections for JDF and SAJF in various instances in January 2017; and (c) submit all required financial reports by the AD, FMO, OCA.

The Audit Team likewise recommended that Hans P. Camu, the Court Interpreter and Officer-in-Charge, be advised to: (a) deposit or remit all judiciary collections on time; (b) certify the correctness of entries in the cashbooks on all funds; (c) remit all GF collection in the Bureau of Treasury Savings Account No. 3402-2745-13; (d) follow the procedures on proper handling and disbursement of STF account; (e) use the prescribed cash book on GF account; (f) ensure a legible entry in the triplicate copies of official receipts; (g) reconcile the book balance with cash on hand on a daily basis and follow the provision of Chapter 2 (10) of the Cash Examination Manual; (h) remit all GF collections in Bureau of Treasury Savings Account No. 3402-2745-13; and (i) coordinate with the FMO, OCA regarding the requirements on Fidelity Bond in compliance with Section 101 of P.D. No. 1445.

In her Explanation dated April 28, 2017,²⁴ Rosare reasoned that she never received the letters of Atty. Gilda A. Sumpo, the Chief Judicial Officer of AD, requiring her to submit monthly or quarterly financial reports on different fund accounts of the court. She claimed that the said letters were received by Lovely Camonas, the Court Stenographer of MTC Labo, who did not turn over said letters to her. She showed the alleged registry receipts to the Audit Team as proof that she mailed the alleged unsubmitted reports required by the FMO.

She explained that the shortages on FF or STF were based on the following: (a) the unauthorized or unaccounted FF/STF bank withdrawals in the amount of ₱213,000.00 referred as bail bonds were withdrawn and received by the bondsmen; (b) the over-withdrawal of interest charged in the amount of ₱894.18 is not allowed by the LBP; (c) the amount of ₱16,000.00 was no longer deposited because Aida Francisco, the bondsman, withdrew the cash bond on November 26, 2014; (d) the unauthorized STF withdrawals in the total amount of ₱13,000.00 were not yet accounted for because of missing files; (e) there was no double withdrawal of ₱3,000.00 on STF because of erroneous input of case numbers; and (f) the portion of the undeposited amount of ₱144,595.00 was not yet turned over to her for deposit while the rest of the undeposited amount had not yet been accounted for because of missing files.

²³ Id. at 79-86.

²⁴ Id. at 92-96.

Furthermore, she clarified that the shortages in the STF were due to the following: (a) the undeposited STF collection in the amount of ₱28,000.00 refers to the cash advance of the process server which was not yet liquidated as there was yet no court order from the presiding judge; (b) the shortage in the amount of ₱12,000.00 was erroneously deposited in the FF account; and (c) the unsupported bank withdrawal of ₱1,000.00 was withdrawn on March 26, 2015 for a certain case.

Rosare further explained that the shortages on the JDF and the SAFJ in the amounts of ₱3,842.20 and ₱4,228.00, respectively, were due to her failure to reconcile the amounts indicated in the official receipts and in the cashbook due to heavy workload. Lastly, Rosare reasoned that the shortage on the MF was due to missing files.

She elucidated that she purposely detached or severed pages 73 and 74 from the FF cashbook because of her writings on it, that is, "*GUSTO KO NG MAGPAKAMATAY PAGOD AT HIRAP NA HIRAP NA AKO. SHIT! SHIT! MGA PERWISYO! SORRY IYA!*". She insisted that she did not defy Court circulars and other Court issuances regarding the proper handling of court collections. She maintained that she submitted all the required reports to the AD on time as per the registry receipts she mentioned. She prayed that she be given enough time to locate the missing files. However, she is willing to pay and reconstitute the unaccounted amounts in case she fails to find them.

On March 21, 2018, the Audit Team submitted its Report²⁵ which found Rosare guilty of violation of A.C. No. 32-93 as amended by A.C. No. 3-2000 and A.C. No. 50-95, Gross Dishonesty and Malversation of Public Funds or Property, for which grounds it recommends that she be dismissed from service with forfeiture of all benefits except her accrued leave credits, and with prejudice to re-employment in the government service.

Recommendation of the OCA:

In its March 26, 2018 Memorandum²⁶, the OCA approved the findings and recommendations of the Audit Team, to wit:

1. The report be DOCKETED as a regular administrative complaint against Ms. Eden P. Rosare, Clerk of Court II, MTC, Labo, Camarines Norte and that she be found GUILTY of violation of Administrative Circular No. 32-93 (Re: Collection of Legal Fees and Submission of Monthly Report of Collections) as amended by Administrative Circular No. 3-2000 and Administrative Circular No. 50-95, gross dishonesty and malversation of public funds or property (Article 217, Revised Penal Code) and be DISMISSED from the service effective immediately, with forfeiture of all retirement benefits except her accrued leave credits, and with prejudice to re-employment in any branch or service of the government, including government-owned or controlled corporations;

²⁵ Id. at 3-32.

²⁶ Id. at 1-2.

2. The position of Ms. Eden P. Rosare as Clerk of Court II, MTC, Labo, Camarines Norte be DECLARED VACANT;
3. The Financial Management Office, Office of the Court Administrator (OCA) be DIERCTED to:

3.1) PROCESS the monetary value of the terminal leave benefits of Ms. Eden P. Rosare and her withheld salaries, bonuses and other benefits, if any, dispensing with the usual documentary requirements, and to apply the same to the shortages in the following order:

Name of Fund	Period Covered	Amount
Fiduciary Fund	1 November 2014 to 28 February 2017	PHP 318,894.18
Sheriff's Trust Fund	1 November 2014 to 28 February 2017	41,000.00
Judiciary Development Fund	1 November 2014 to 28 February 2017	3,842.00
Special Allowance for the Judiciary Fund	1 November 2014 to 28 February 2017	4,228.00
Mediation Fund	1 November 2014 to 28 February 2017	25,500.00
General Fund	1 November 2014 to 28 February 2017	6.00
Total		PHP 456,470.38

3.2) COORDINATE with the Fiscal Monitoring Division (FMD), Court Management Office (CMO), OCA, before the processing of the checks to be issued in favor of the Fiduciary Fund and Sheriff's Trust Fund accounts of the MTC, Labo, Camarines Norte for the preparation of the necessary communication with the incumbent Clerk of Court/Officer-in-Charge thereat;

4. ORDER Ms. Rosare to restitute the remaining shortages (to be determined by the FMD, CMO, OCA), given that the monetary value of her earned leave credits and withheld salaries, bonuses and other benefits are insufficient to compensate the aforementioned shortages; and
5. Hon. Salvador C. Villarosa, Jr., Presiding Judge, MTC, Labo, Camarines Norte be DIRECTED to:
 - a) CLOSELY MONITOR the financial transactions of the court and ENSURE that the Clerk of Court/Officer-in-Charge religiously complies with the directives/circulars issued by the Court, particularly on the proper handling of judiciary fund; and
 - b) STUDY and IMPLEMENT procedures that shall strengthen the internal control over financial transactions of the court to avoid any irregularity in the collections, deposits and withdrawals/disbursement of court funds,

otherwise, he shall be held equally liable for the infractions committed by the employees under his supervision.

6. The Legal Office, OCA, be DIRECTED to file the appropriate criminal charges against Ms. Eden P. Rosare.

Sole Issue

Whether or not Rosare should be held administratively liable for the acts complained of.

Our Ruling

We resolve to adopt the detailed findings of the OCA and to mete on respondent the recommended penalty of dismissal from the service with its concomitant accessory penalties.

Without a doubt, Rosare failed to perform with utmost diligence her responsibilities and was remiss in her duties of depositing the court collections on time, updating the entries in the official cashbooks, and regularly submitting her monthly reports. The proffered justification for her infractions fails to persuade this Court to exercise leniency and benevolence in resolving the instant administrative matter.

OCA Circular No. 32-93 requires all Clerks of Court/Accountable Officers to submit to the Court a monthly report of collections for all funds not later than the 10th day of each succeeding month. Likewise, OCA Circular No. 113-04 provides that the monthly reports of collections and deposits for the JDF, SAJ and FF shall be sent not later than the 10th day of each succeeding month to the Chief Accountant of AD, FMO, OCA.

As to the period within which to deposit the fiduciary collections, COA-DOF Joint Circular No. 1-81 provides that collecting officers shall deposit their national collections intact to the Bureau of the Treasury or to any authorized government depository bank as prescribed below:

Distance (Office to BTR/ Dep. Bank)	Travel Time (To and From Office to BTR/Dep. Bank – Ordinary Transp.)	Accumulated Collections	Frequency Deposits
Less than 15 Km.	Less than 1 day	a. 1 500 or more	a. Daily b. Weekly or as soon as collections

		a.2 Less than P500	reach P500.00
15 – 30 Km.	a. Less than 1 day	a.1 P2,000 or more a.2 Less than P2,000	a.1. Daily a.2 Weekly or as soon as collections reach P2,000.00
	b. A day or more	b.1 P2,000 or more b.2 Less than P2,000	b.1. Weekly b.2 Twice a month or as soon as collections reach P2,000.00
More than 30 kms.	a. Less than 1 day	a.1 P2,000 or more a.2 Less than P2,000	a.1. Daily a.2 Weekly or as soon as collections reach P2,000.00
	b. A day or more	b.1 More than P5,000 b.2 P2,000 – P5,000 b.3 Less than P2,000	b.1. Twice a week b.2 Weekly b.3 Monthly or as soon as collections reach P2,000.00

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Also, OCA Circular No. 50-95 requires that all collections from bailbonds, rental deposits, and other fiduciary collections be deposited within 24 hours by the Clerk of Court concerned, upon the receipt thereof, with the LBP. In localities where there are no branches of LBP, fiduciary collections shall be deposited by the Clerk of Court with the provincial, city or municipal treasurer.

Moreover, SC A.C. No. 3-00²⁷ mandates that the daily collections for the JDF and the GF in the MTC shall be deposited everyday with the nearest LBP branch or if depositing daily is not possible, deposits for the fund shall be at the end of every month, provided, however, that whenever collections for the Fund reach ₱500.00, the same shall be deposited immediately even before the said period.

Undoubtedly, Rosare violated OCA Circular No. 32-93²⁸ when she failed to regularly submit monthly reports of collections and deposits and official receipts and other documents, despite this Court's repeated orders. As a Clerk of Court, Rosare is responsible for court records and physical facilities of the court and is accountable for the court's money and property deposits as per Section B, Chapter 1 of the 1991 Manual for Clerks of Court and the 2002 Revised Manual for Clerks of Court (A.M. No. 02-5-07-SC).²⁹ As a custodian thereof, the Clerk of Court is liable for any loss, shortage, destruction or impairment of said funds and property.³⁰ Thus, Rosare should be steadfast on her duty to submit monthly reports on the court's finances pursuant to OCA Circular No. 32-93 and OCA Circular 113-04 and to immediately deposit the various funds received by her to the authorized government depositories in accordance with COA-DOF Joint Circular No. 1-81, SC A.C. No. 3-00 and OCA Circular No. 50-95.

Evidently, given the findings of the OCA Audit Team coupled with Rosare's admissions, the latter not only failed to perform the duties of her office but also fell short in adhering to the high ethical standards expected of court employees. We reiterate the pronouncements made in *Efondo v. Favorito*³¹ that as a Clerk of Court, Rosare, is accountable to the people and expected to act with utmost responsibility, integrity, loyalty, and efficiency, to wit:

In almost all administrative cases, this Court has reminded everyone in the public service that public office is a public trust. No less than the fundamental law of the land requires that "[p]ublic officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives." [N]o less can be expected from those involved in the administration of justice. Public servants are even mandated to uphold public interest over personal

²⁷ Re: Guidelines in the Allocation of the Legal Fees Collected Under Rule 141 of the Rules of Court, as Amended Between the General Fund and the Judiciary Development Fund.

²⁸ Collection of Legal Fees and Submission of Monthly Report of Collections

²⁹ *Office of the Court Administrator v. Canque*, 606 Phil. 209, 219 (2009).

³⁰ *Office of the Court Administrator v. Banag*, 651 Phil. 308, 324 (2010).

³¹ 816 Phil. 962 (2017).

needs. Everyone, from the highest official to the lowest rank employee, must live up to the strictest norms of probity and integrity in the public service.

Specifically in this case, the Clerk of Court is an important officer in our judicial system. The said office is the nucleus of all court activities, adjudicative and administrative. The administrative functions are as vital to the prompt and proper administration of justice as his judicial duties are. The Clerk of Court performs a very delicate function. He or she is the custodian of the court's funds and revenues, records, property and premises. Being the custodian thereof, the Clerk of Court is liable for any loss, shortage, destruction or impairment of said funds and property. Needless to say, thus, Clerks of Court should be steadfast in their duty to submit monthly reports on the court's finances pursuant to OCA Circular Nos. 50-95 and 113-2004 and to immediately deposit the various funds received by them to the authorized government depositories.

Furthermore, Rosare incurred shortages in the amount of ₱456,470.38 and delay in the remittance of her cash collections in violation of COA-DOF Joint Circular No. 1-81, OCA Circular No. 50-95 and SC A.C. No. 3-2000. Her failure to promptly remit her fiduciary collections was in flagrant violation of the said circulars. Such acts constitute gross dishonesty and gross neglect of duty which is punishable with dismissal pursuant to the Revised Rules of Administrative Cases in the Civil Service.³²

Dishonesty is defined as intentionally making a false statement in any material fact, or practicing or attempting to practice any deception or fraud in securing his examination, registration, appointment or promotion. Dishonesty, like bad faith, is not simply bad judgment or negligence, but a question of intention. In ascertaining the intention of a person accused of dishonesty, consideration must be taken not only of the facts and circumstances giving rise to the act committed by the respondent, but also of his state of mind at the time the offense was committed, the time he might have had at his disposal for the purpose of meditating on the consequences of his act, and the degree of reasoning he could have had at that moment.³³

Rosare's act of misappropriating court funds, as evidenced by the shortages in her accounts, by delaying or not remitting or delaying the deposit of the court collections within the prescribed period constitutes dishonesty which is definitely an act unbecoming of a court personnel.³⁴ Failure of Rosare to remit funds upon demand by an authorized without any justifiable reason constitutes *prima facie* evidence that she has put such missing funds or property to personal use.³⁵

As a Clerk of Court, a vital post in the hierarchy of positions in the trial court, Rosare was expected to live up to the strictest standards of honesty and

³² Civil Service Commission Resolution No. 1101502, November 8, 2011.

³³ *Civil Service Commission v. Perocho, Jr.*, 555 Phil. 156, 164 (2007); citing *Wooden v. Civil Service Commission*, G.R. No. 152884, September 30, 2005, 471 SCRA 512, 526.

³⁴ *Villar v. Angeles*, 543 Phil. 135, 145-146 (2006).

³⁵ *Office of the Court Administrator v. Besa*, 437 Phil. 372, 380 (2002).

integrity³⁶. That she failed to adhere to the high ethical standards to preserve the court's good name and standing is undisputed.³⁷ For failure of Rosare to: (a) regularly submit monthly reports of collections and deposits and official receipts and other documents despite due notice; (b) remit her fiduciary collections within the prescribed period; and (c) for incurring shortages in the total amount of ₱456,470.38, which acts constitute gross dishonesty and gross neglect of duty, Rosare should be meted with a penalty of dismissal. In addition, Rosare is subject to the following administrative disabilities, namely: (a) cancellation of any civil service eligibility; (b) forfeiture of retirement and other benefits, except accrued leave credits, if any; and (c) perpetual disqualification from re-employment in any government agency or instrumentality, including any government-owned and government-controlled corporation or government financial institution.

WHEREFORE, the Court **FINDS** and **DECLARES** respondent Eden P. Rosare, Clerk of Court II, Municipal Trial Court, Labo, Camarines Norte **GUILTY** of **DISHONESTY** and **GROSS NEGLIGENCE OF DUTY**, and **ACCORDINGLY**, **DISMISSES** her from the service with forfeiture of all retirement benefits (excluding earned leave credits), with prejudice to her re-employment in the Government, including government-owned or government-controlled corporations.

Respondent Eden P. Rosare is further ordered to **RESTITUTE** the total amount of ₱456,470.38 broken down as follows:

a) Fiduciary Fund	-	₱ 318,894.18
b) Sheriff's Trust Fund	-	₱ 41,000.00
c) Judiciary Development Fund	-	₱ 3,842.00
d) Special Allowance for the Judiciary Fund	-	₱ 4,228.00
e) Mediation Fund	-	₱ 25,500.00
f) General Fund	-	₱ 6.00

The Court **DIRECTS** the Employees Leave Division, Office of Administrative Services, Office of the Court Administrator, to determine the balance of her earned leave credits; and to report thereon to the Finance Division, Fiscal Management Office, Office of the Court Administrator for purposes of computing the monetary value of her earned leave credits and applying the same to her above mentioned shortages and other accountabilities. The remaining amount, if any, shall be released to Rosare subject to the usual clearances and other documentary requirements.

Finally, the Court **DIRECTS** the Office of the Court Administrator to file with dispatch the appropriate criminal charges against Eden P. Rosare. 9

³⁶ *Report on the Financial Audit Conducted at the Municipal Trial Court of Bani, Alaminos, and Lingayen, in Pangasinan*, 462 Phil. 535, 544 (2003); *Judiciary Planning Development and Implementation Office v. Calaguas*, 326 Phil. 704 (1996).

³⁷ *Gutierrez v. Quidalg*, 448 Phil. 469, 478 (2003).

SO ORDERED.



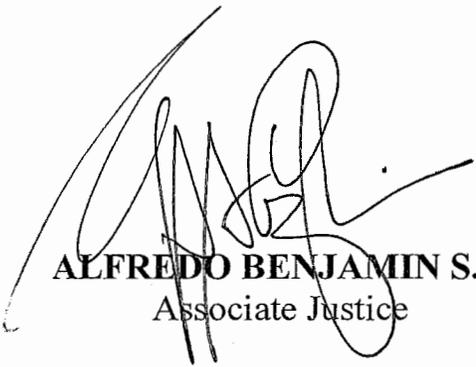
DIOSDADO M. PERALTA
Chief Justice



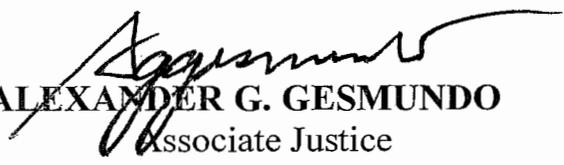
ESTELA M. PERLAS-BERNABE
Associate Justice



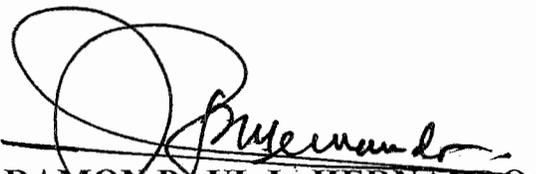
MARVIC M.V.F. LEONEN
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



ALEXANDER G. GESMUNDO
Associate Justice



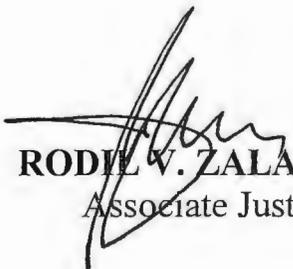
RAMON PAUL L. HERNANDO
Associate Justice

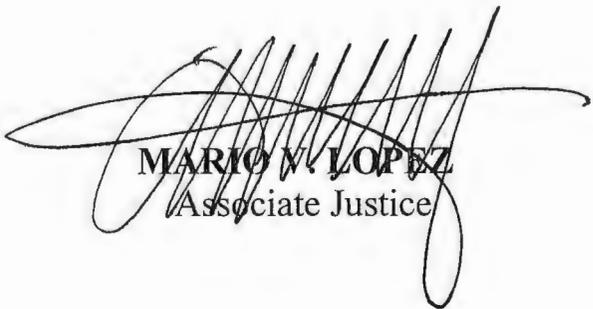


ROSMARI D. CARANDANG
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice

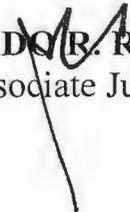

HENRI JEAN PAUL B. INTING
Associate Justice


RODIE V. ZALAMEDA
Associate Justice


MARIO N. LOPEZ
Associate Justice


EDGARDO L. DELOS SANTOS
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


RICARDO B. ROSARIO
Associate Justice


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EDGARDO L. DELOS SANTOS
Associate Justice
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