



Republic of the Philippines
Supreme Court
Manila

EN BANC

OFFICE OF THE COURT
ADMINISTRATOR,

Complainant,

A.M. No. MTJ-15-1854
[Formerly A.M. No. 14450-MCTC]

Present:

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

- versus -

PRESIDING JUDGE BILL D.
BUYUCAN and CLERK OF
COURT GERAR D N.
LINDAWAN, both at Municipal
Circuit Trial Court, Bagabag-
Diadi, Nueva Vizcaya,

Respondents.

Promulgated:

July 11, 2017

[Signature]

X ----- X

DECISION

PER CURIAM:

This administrative case stemmed from the Financial Audit conducted on September 10, 2013, by the Financial Monitoring Division (FMD), Court Management Office (CMO), Office of the Court Administrator (OAS), in the Municipal Circuit Trial Court of Bagabag-Diadi, Nueva Vizcaya (MCTC).

* On Official Leave.

The Antecedents

The audit was prompted by an anonymous Letter-Complaint¹ from the auditors of the Commission on Audit, Nueva Vizcaya (COA), who audited the cash and accounts of Gerard N. Lindawan (*Lindawan*), Clerk of Court II, MCTC, for the years 2009 and 2010. Allegedly, Lindawan failed to present four (4) booklets of official receipts with series numbers 7654801-7654850, 7654851-7654900, 7654901-7654950, and 7654951-7655000 despite several requests to submit the same.

Acting thereon, an audit was conducted covering the financial transactions of Pio M. Valdez (*Valdez*), Court Interpreter and Officer-in-Charge of MCTC from January 1, 2007 to January 31, 2008, and Lindawan from February 1, 2008 to August 21, 2013.

The Report² of the audit team disclosed the following:

I. For the CASH EXAMINATION CONDUCTED:

At the start of the audit, the team found out that no remittances were made starting August 2012 for the Judiciary Development Fund (JDF) and Special Allowance for the Judiciary Fund (SAJ), and starting May 2011 for the Mediation Fund (MF). Also, official cashbooks were not updated and monthly reports were not submitted starting August 2012.

Proceeding from the cash examination, the team made an inventory of the cash on hand and compared it with the unremitted collections from 1 to 12 September 2013. It disclosed an unremitted cash in the amount of Twelve Thousand Pesos (₱12,000.00) representing the unreceipted cash bond in Criminal Case No. 5903. As evidence, an unsigned Bail Bond Undertaking dated 9 September 2013 was detached from the records of the case.

The total unremitted collections are presented below with its corresponding period and the cash on hand, to wit:

Fund	Period Covered	OR Nos.	Amount
FF	Sept 9, 2013	Unreceipted	₱ 12,000.00
SAJF	Sept 1-11, 2013	0249356- 0249386	2,500.00
TOTAL			₱ 14,500.00

¹ Rollo, p. 22.

² Id. at 9-21.

Gerard N. Lindawan

CASH PRESENTED DURING THE CASH COUNT:

	<u>DENOMINATION</u>	<u>No. of PCS.</u>	<u>AMOUNT</u>	
BILLS	500.00	4	2,000.00	
	100.00	3	300.00	
	50.00	4	200.00	2,500.00
BALANCE OF ACCOUNTABILITY/SHORTAGE				<u>₱12,000.00</u>

Mr. Lindawan incurred an initial cash shortage of Twelve Thousand Pesos (₱12,000.00) as a result of the cash count conducted. Mr. Lindawan deposited the cash on hand to the respective accounts and restituted the cash shortage on 13 September 2013.

II. For the INVENTORY OF OFFICIAL RECEIPTS:

The inventory of the accountable forms disclosed that four (4) booklets of official receipts were unaccounted/missing. The missing ORs were issued on 6 July 2007 per record of the Property Division, Office of the Court Administrator (OCA). This confirmed that the COA indeed conducted an audit in 2009 and 2010 and their audit findings on the cash and accounts of Mr. Lindawan. When requested to present the missing booklets, Mr. Lindawan blamed the COA auditors that they got the official receipts during the audit and never returned it back. When asked to produce the transmittal of documents received by the COA auditors, Mr. Lindawan cannot provide any proof.

Aside from the missing booklets, forty-two (42) booklets of official receipts used for the JDF and SAJF from April 2011 up to July 2012 were not presented though they were posted in the cashbooks and monthly reports.

The inventory conducted on the official receipts disclosed the following unused OR as of 10 September 2013:

SERIAL NUMBERS	REMARKS/QUANTITY
7654801 - 7654850	Missing
7654851 - 7654900	Missing
7654901 - 7654950	Missing
7654951 - 7655000	Missing
6661901 - 6662000	2 booklets
0248901 - 0249000	2 booklets
0249401 - 0249900	10 booklets
0249951 - 0250000	1 booklet
0249387 - 0249400	14 pieces

Mr. Lindawan

6661879 – 6661900	22 pieces
0249907 – 0249950	44 pieces
TOTAL	15 booklets & 80 pieces

III. For the FIDUCIARY FUND:

After examining and verifying evidential records, the total accountabilities amounted to Nine Hundred Thirty-Nine Thousand Pesos (₱939,000.00), which was partially restituted on 13 September 2013 amounting to ₱80,000.00. Thus, the net shortage amounted to **Eight Hundred Fifty-Nine Thousand Pesos (₱859,000.00)** computed as follows:

Beginning Balance (as of 12/31/06)		₱ 500,710.00
Total Collections (1/1/07 to 8/31/13)		2,989,200.00
Total Collections available for withdrawal		<u>₱ 3,489,910.00</u>
Less: Total Withdrawals (same period)		
Valid Withdrawals	₱2,517,000.00	
Invalid Withdrawals (see Schedule I)	<u>45,000.00</u>	<u>2,562,000.00</u>
Unwithdrawn Fiduciary Fund as of 8/31/13		<u>₱ 927,910.00</u>
Balance per LBP Solano Branch, Solano, Nueva Vizcaya SA# 0431-0973-70 as of 8/31/13		₱ 11,778.41
Less: Unwithdrawn Interest as of 8/31/13		
Gross interest earned	₱ 35,215.32	
Less: Withholding Tax	7,043.03	
Net Interest Earned	₱ 28,172.29	
Less: Withdrawn Interest	5,303.88	22,868.41
Adjusted Bank Balance as of 8/31/13		<u>₱ (11,090.00)</u>
Unwithdrawn Fiduciary Fund as of 8/31/13		₱ 927,910.00
Adjusted Bank Balance, LBP SA# 0431-0973-70		<u>(11,090.00)</u>
Balance of Accountabilities/Cash Shortage		₱ 939,000.00*
Less: Amount deposited on 9/13/13		<u>80,000.00</u>
Final Accountabilities		<u>₱859,000.00</u>

g. Solano - [Signature]

***Breakdown of the Cash Shortage:**

a. Over-withdrawal of Case No. 5542				₱ 15,000.00
b. Over-withdrawal of Case No. 490-11				40,000.00
c. Over-deposit of Case No.5783				(1,000.00)
d. Undeposited Collections:				
Total Undeposited Collections	₱ 1,346,000.00			
Less: Cash on Hand				
Without ORs	₱ 406,000.00			
With ORs	55,000.00	461,000.00	885,000.00	
Total				<u>₱ 939,000.00</u>

It was observed that the total collections for the month were not deposited in full, thus, said collections did not tally with the corresponding deposits for the month. This is in violation of Circular No. 50-95-Sec. B(4), dated 11 October 1995, xxx

x x x x

Initially, the list of withdrawals with lacking documents amounted to ₱149,000.00 but compliances made by Mr. Valdez and Mr. Lindawan on 20 September 2013 and 14 October 2013, respectively, reduced the amount to ₱45,000.00, to wit:

Schedule I						
List of Invalid Withdrawals (without court order/acknowledgement receipt)						
For the period covered January 1, 2007 to August 31, 2013						
Date	OR NO.	CASE NO.	BONDSMAN	AMOUNT	C.O.	A.R.
06/24/13	6661878	490-11	Adriano Dummanao	40,000.00	none	Ok
10/04/12	Unreceipted	5751	Edarlino Adlos	5,000.00	Ok	None
TOTAL				45,000.00		

Other findings:

- a. Unreceipted collections amounted to ₱802,000.00. The team examined all criminal case folders filed from 1 January 2008 to 31 August 2013 and found out that there were cash bonds posted without official receipts (copies of undertakings were detached from the case folders as proof). Said practice of not issuing official receipts for cash bonds started in September 2009. Also, some bail bond undertakings were not signed by the presiding judge.

jeffrey...

- b. Undeposited collections amounted to ₱1,346,000.00. Included in this amount are the unreceipted collections totaling to ₱802,000.00.
- c. Some official receipts were tampered. Amount/date in the original copy is different from the duplicate copy.

<u>OR No.</u>	<u>Amount in Original OR</u>	<u>Amount in Duplicate OR</u>
6661877	₱3,000.00	₱50.00
	<u>Date in Original OR</u>	<u>Date in Duplicate OR</u>
6661853	3/18/11	5/20/11

- d. Over-withdrawal of collections in the following cases:
Criminal Case No. 490-11 amounting to ₱40,000.00, and
Criminal Case No. 5542 amounting to ₱15,000.00.

Mr. Lindawan was obviously aware of the over-withdrawal in Criminal Case No. 5542, when in fact he wrote Baclig Law Office, regarding the excess amount given their client. As of date, no refund was made.

- e. No legal fees form attached to the case folders. Circular No. 26-97 RE: Legal Fees Form for Lower Courts, dated 5 May 1997, xxx

x x x x

- f. There is no official cashbook where transactions must be recorded.
- g. Interest earned from bank deposits were not withdrawn starting the 2nd quarter of 2008.

What is most glaring is the balance of LBP Savings Account No. 0431-0973-70 amounting to Eleven Thousand Seven Hundred Eight Pesos & 41/100 (₱11,778.41) as of 31 August 2013 and the authorized signatories are Mr. BILL D. BUYUCAN and Mr. GERARD N. LINDAWAN, as certified by Mr. Lorenzo M. Saquing, Department Manager of LBP Solano Branch, Solano, Nueva Vizcaya. Deducting the unwithdrawn interest earned of ₱22,868.41, the effect would be a negative balance of ₱11,090.00.

Gerard N. Lindawan

IV. For the SHERIFF'S TRUST FUND

No collections were reported for this fund.

V. For the JUDICIARY DEVELOPMENT FUND:

Total Collections (1/1/07 to 8/31/13)	₱384,012.98
Less: Total Remittances (same period)	327,120.98
Balance of Accountabilities	<u>₱ 56,892.00</u>

The balance of accountability consists of the following:

a. SAJF collections for the period Oct 3-31, 2008 which were erroneously deposited to the JDF account	₱(11,201.20)
b. Net effect of (over)/under remittance from Jan 2009 to July 2012	789.60
c. Delayed remittances (Aug-Dec 2012 collections deposited on September 11, 2013)	21,893.60
d. Delayed remittances (Jan-Aug 2013 collections deposited on September 16 & 18, 2013)	45,410.00
Total	₱56,892.00

VI. For the SPECIAL ALLOWANCE FOR THE JUDICIARY FUND:

Total Collections (1/1/07 to 8/31/13)	₱632,532.30
Less: Total Remittances (same period)	549,393.50
Balance of Accountabilities	<u>₱ 83,138.80</u>

The balance of accountability includes the following:

a. SAJF collections for the period Oct 3-31, 2008 which were erroneously deposited to the JDF account	₱11,201.20
b. Net effect of (over)/under remittance from March 2009 to May 2012	(428.80)
c. Delayed remittances (Aug-Dec 2012 collections deposited on September 11, 2013)	29,426.40
d. Delayed remittances (Jan-Aug 2013 collections deposited on September 12, 16 & 18, 2013)	42,940.00
Total	<u>₱83,138.80</u>

J. P. Anderson

No remittances were made for the JDF and SAJF starting August 2012. Only when the audit team discovered the infraction did Mr. Lindawan deposited his collections from August to December 2012 amounting to ₱21,893.60 for the JDF and ₱29,426.40 for the SAJF on 11 September 2013.

Likewise, collections from January to August 2013 amounting to ₱45,410.00 for the JDF and ₱42,940.00 for the SAJF were deposited only on 12, 16 & 18 September 2013. Mr. Lindawan purposely delayed the deposit of his collections by more than one (1) year and the submission of his monthly reports. Delayed remittance of cash collections constitutes gross neglect of duty. His failure to remit judiciary collections on time deprives the court of interest that may be earned if the amounts were deposited in a bank.

Mr. Lindawan violated Administrative Circular No. 3-2000 (Guidelines in the Allocation of the Legal Fees Collected under Rule 141 of the Rules of Court), as amended by Administrative Circular No. 35-2004 dated 20 August 2004 xxx

x x x x

No fund allocations were made for fees collected from January to March 2013. Collections were all reported to the SAJF account. Similarly, no allocations were made for fees collected for June and July 2013, as all were reported to the JDF account.

In sum, the team discovered the following deficiencies and irregularities in these books of accounts:

- a. Entries in the cashbooks were not updated;
- b. There was an irregularity in the submission of Monthly Reports of Collections and Deposits to the Accounting Division, OCA;
- c. Collections were not deposited/remitted on time;
- d. Official receipts totaling to more than forty (40) booklets used for the period April 2011 to July 2012 were not presented;

VII. For the MEDIATION FUND:

Total Collections (1/1/07 to 8/31/13)	₱147,000.00
Less: Total Remittances (same period)	136,000.00
Balance of Accountabilities	<u>₱ 11,000.00</u>

Mr. Lindawan

The amount of ₱11,000.00 pertains to the undeposited collections from 1 May 2011 to 31 August 2013 (a period of 2 years and 3 months), which was deposited only on 16 September 2013. Also, it was observed that Monthly Reports of Collections and Deposits were not submitted starting April 2011.

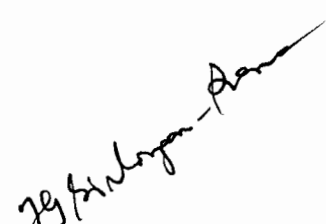
The team conducted the exit conference on September 14, Saturday in the presence of Judge Buyucan, Mr. Lindawan and Mr. Valdez, and discussed with them the findings of the audit examination. We provided Mr. Lindawan the details of the shortages incurred in the Fiduciary Fund, the delayed remittances in the JDF, SAJF and Mediation Fund and to give him ample time, required him to submit a written explanation on Monday, 16 September 2013. We also informed Judge Buyucan to issue a memorandum, relieving Mr. Lindawan of his duties as accountable officer thereat.

On Monday, Mr. Lindawan was able to submit the deposit slips of the delayed remittances for the JDF, SAJF and Mediation Fund but no amount was restituted for the shortages incurred in the Fiduciary Fund. Also, no explanation was submitted concerning the audit findings.

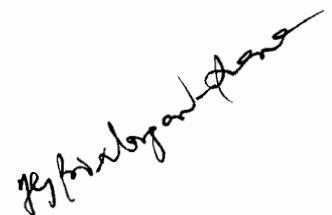
When the team was about to leave, Judge Buyucan confronted us and in an angry manner, asked us what will happen to Mr. Lindawan in case he was not able to retribute the shortages. It is as if he wanted us to tell him the consequences Mr. Lindawan will face, concerning our findings. As in all our audit engagements, we would say that the team would just make the report and the Court will issue decision/resolution on the matter. Not satisfied with our answer, he insinuated of letting Mr. Lindawan run away by saying "*Patatakasin ko na lang yan!*" He even mentioned the name of a certain Judge Balut, who was implicated in the shortages in a nearby court but was promoted to a branch in Quezon City. He kept on saying offensive words like "*Putang Ina!*" while banging the table. Then, he looked at our audit findings, called our names and asking what fund we handled, and as if to scare us, shouted "*isang bala lang yan!*" What confused us was why would he be mad at us and not with Mr. Lindawan? When we went back to our hotel, we were told by its owner that Judge Buyucan dropped by the place and had few drinks there during lunchtime. This confirmed the team's observation in that incident.

As of date, this office has not received a memorandum issued by Judge Buyucan relieving Mr. Lindawan as accountable officer thereat.

In view of the foregoing, the team most respectfully recommends that:



1. This report be docketed as a regular administrative matter against Presiding Judge Bill D. Buyucan, MCTC, Bagabag-Diadi, Nueva Vizcaya for conduct unbecoming a Judge, and Clerk of Court Mr. Gerard N. Lindawan, same court, for Gross Dishonesty, resulting to Malversation of Public Funds, Falsification and violation of Court circulars;
2. **Mr. PIO M. VALDEZ**, Court Interpreter and former Officer-in-Charge of the MCTC, Bagabag-Diadi, Nueva Vizcaya, be **CLEARED** from financial accountabilities as of 31 January 2008;
3. **Mr. GERARD N. LINDAWAN**, Clerk of Court be **INDEFINITELY SUSPENDED** pending the outcome of this administrative matter;
4. **Presiding Judge BILL D. BUYUCAN** of the MCTC, Bagabag-Diadi, Nueva Vizcaya, be **DIRECTED** to:
 - a. **EXPLAIN** why he should not be administratively dealt with for showing unbecoming conduct and for not safeguarding the judiciary funds;
 - b. **EXPLAIN** why as one of the authorized signatories of the Fiduciary Fund account, the balance per bank amounted only to **Eleven Thousand Seven Hundred Seventy Eight Pesos & 41/100 (₱11,778.41)** as of 31 August 2013, thus incurring a net shortage of **Eight Hundred Fifty-Nine Thousand Pesos (₱ 859,000.00)**; and
 - c. **DESIGNATE** a reliable and competent Officer-in-Charge to handle the judiciary funds of the court.
5. **Mr. GERARD N. LINDAWAN**, Clerk of Court II, MCTC, Bagabag-Diadi, Nueva Vizcaya, be **DIRECTED** to:
 - a. **PAY** and **DEPOSIT** within a non-extendible period of ten (10) days from notice the shortages as of 31 August 2013 found in the **FIDUCIARY FUND** amounting to **Eight Hundred Fifty-Nine Thousand Pesos (₱859,000.00)** and in the **JUDICIARY DEVELOPMENT FUND** amounting to **Seven Hundred Eighty Nine Pesos and 60/100 (₱789.60)**;
 - b. **FURNISH** the Fiscal Monitoring Division (FMD), court Management Office (CMO), OCA with copies of the machine validated deposit slips as proof of remittances of the above cash shortages;
 - c. **PAY** a **FINE** of **Twenty Thousand Pesos (₱ 20,000.00)** for the delay in depositing the judiciary collections;



- d. **WITHDRAW** the amount of **TWENTY TWO THOUSAND EIGHT HUNDRED SIXTY-EIGHT PESOS & 41/100 (₱22,868.41)** from the Fiduciary Fund under LBP Savings Account No. **0431-0973-70** representing the unwithdrawn net interest earned as of 31 August 2013, **ISSUE** an official receipt for the General Fund and **REMIT** the same to the Land Bank of the Philippines (LBP) under the account of the Bureau of Treasury;
- e. **EXPLAIN** in writing within ten (10) days from receipt of notice the following:
 - 1. why as one of the authorized signatories of the Fiduciary Fund account, the balance per bank amounted only to **Eleven Thousand Seven Hundred Seventy Eight Pesos & 41/100 (₱11,778.41)** as of 31 August 2013, thus incurring a net shortage of **Eight Hundred Fifty-Nine Thousand Pesos (₱859,000.00)**;
 - 2. **falsification /tampering of official receipts** in violation of Section (4) of OCA Circular No. 22-94 dated April 8, 1994 which requires that in filling-up receipts, entries in the original copy should be written with the use of hard indelible pencil or ballpen and that duplicate and triplicate copies should have carbon reproductions in all respects of all entries written on the original (see attached photocopies of official receipts);

<u>OR No.</u>	<u>Amount in Original OR</u>	<u>Amount in Duplicate OR</u>
6661877	₱3,000.00	₱50.00
	<u>Date in Original OR</u>	<u>Date in Duplicate OR</u>
6661853	3/18/11	5/20/11

- 3. why accountable forms (4 booklets of official receipts) with serial nos. 7654801-7654850, 7654851-7654900, 7654901-7654950 and 7654951-7655000 were missing;
- 4. why he failed to deposit the judiciary collections on time, in violation of OCA Circular No. 13-92, OCA Circular No. 50-95 and other existing rules and regulations relative to the handling of judiciary funds;
- 5. why cash bonds were collected without issuing official receipts which amounted to ₱802,000.00 (see attached schedule);

J. M. Lopez

6. why some bail bond undertakings were not signed by the presiding judge;
 7. why undeposited collections amounted to ₱1,346,000.00 (see schedule);
 8. why no legal fees form was attached to the case folders in violation of Circular No. 26-97 RE: Legal Fees Form for Lower Courts;
 9. why no Monthly Report of Collections and Deposits for the Fiduciary Fund, JDF, SAJF and Mediation Fund was submitted to the Accounting Division, OCA starting August 2012;
- f. **SUBMIT** to the Fiscal Monitoring Division, Court Management Office, OCA, the lacking documents (court orders and acknowledgement receipts) of the following withdrawn cash bonds, to validate the withdrawals, to wit:

Schedule I						
List of Invalid Withdrawals (without court order/acknowledgement receipt)						
For the period covered January 1, 2007 to August 31, 2013						
Date	OR NO.	CASE NO.	BONDSMAN	AMOUNT	C.O.	A.R.
06/24/13	6661878	490-11	Adriano Dummanao	40,000.00	none	Ok
10/04/12	Unreceipted	5751	Edarlino Adlos	5,000.00	Ok	None
TOTAL				45,000.00		

6. **Mr. JONALSON WILLIAM P. BUMOHYA**, Process Server of the MCTC, Bagabag-Diadi, Nueva Vizcaya, be **DIRECTED** to **STRICTLY ADHERE** to the provisions of Section 10 of the Amended Administrative Circular No. 35-2004, Guidelines in the Allocation of Legal Fees dated August 20, 2004, particularly the procedure in the claim of cash advance and its liquidation in relation to the service of summons, subpoena and other court processes that would be issued relative to the trial of the case.³

In its Memorandum,⁴ dated April 7, 2014, the OCA adopted *in toto* the recommendation of the audit team and endorsed the same for approval.

³ Id. at 10-21.

⁴ Id. at 1-4.

Jeffrey P. ...

In a Resolution,⁵ dated July 6, 2015, the Court agreed with the recommendation of the OCA and resolved, among others, to treat the Audit Report as a regular administrative matter against Judge Buyucan and Lindawan. Further, the Court required them to explain the charges against them. It also ordered the indefinite suspension of Lindawan, pending the outcome of the administrative matter, and required him to reconstitute the amounts of ₱859,000.00 and ₱789.60 representing the shortages in the Fiduciary Fund and the Judiciary Development Fund, respectively; to withdraw the amount of ₱22,868.41 from the Fiduciary Fund representing the unwithdrawn net interest earned; to issue an official receipt to the General Fund and remit it to the Land Bank of the Philippines; and to transmit to the Court thru the FMD-CMO all documents pertaining to his collections and remittances. In the same resolution, the Court cleared Valdez from financial accountabilities as the former officer-in-charge of the MCTC and directed Jonalson William Bumohya (*Bumohya*), Process Server of the MCTC, to strictly adhere to the rules and circulars issued by the Court, particularly the procedure in the claim of cash advance and its liquidation in relation to the service of summons, subpoena, and other court processes.

In his Compliance and Explanation,⁶ Judge Buyucan offered his humble apologies to the audit team and begged for the understanding and forgiveness of its members. He explained that his outburst and rise in temper were not directed at any member of the audit team. He was merely taken aback by the results of the audit and felt betrayed and humiliated by Lindawan's actions. Judge Buyucan denied liability over the shortages incurred by Lindawan. He claimed that as the Presiding Judge, his main function was adjudicative. He further averred that although he had administrative supervision over the court employees and he was a signatory to the documents involving the fiduciary funds, he should not be faulted for affixing his signature on these documents as it was the clerk of court who prepared and signed the same. Thus, he presumed that everything was in order before he affixed his signature. Judge Buyucan further asserted that he came to know of the anomalous transactions of Lindawan only after the audit team had examined the financial transactions of the court and showed him the report. According to him, he was not remiss in reminding his clerk of court to properly record, account and deposit all monetary transactions of the court and that he always gave his assurance that the reports were submitted on time.

⁵ Id. at 128-132.

⁶ Id. at 133-135.

24/7/15 Lindawan - done

On October 26, 2015, Lindawan filed his Motion to Admit Written Explanation and Compliance.⁷ He informed the Court that he had restituted the amount of ₱443,000.00 of the cash bonds to the bondsmen leaving a balance of ₱416,000.00; that he had paid and deposited to the Fiduciary Fund the amount of ₱416,000.00 representing the remaining balance of his accountability; that he had withdrawn ₱22,868.41 from the Fiduciary Fund and deposited it to the Bureau of Treasury; that he had deposited the amount of ₱789.60 to the Judiciary Development Fund; and that he had submitted the acknowledgment receipt signed by the bondsmen, as well as all the respective machine validated deposit slips and withdrawal slips, to the FMD-CMO.

With respect to Official Receipt (*OR*) No. 6661877, Lindawan alleged that one of the employees of the court mistakenly used it for the collection of court clearance. In order to correct the mistake, he used the same for the collection of cash bonds, but he failed to correct the duplicate copy.

As to the missing ORs with serial numbers 7654801-7654850, 7654851-7654900, 7654901-7654950, and 7654951-7655500, Lindawan explained that the COA took them for auditing and returned it to Estrella Soriano (*Soriano*), a court employee; that he requested a copy of the transmittal receipt which would prove that Soriano indeed received the ORs, but COA failed to produce it; that sometime in April 2015, he was informed by Valdez that Soriano burned several blank receipts in her backyard which was witnessed by Kagawad Celia Ocumen (*Ocumen*); and that he and Bumohya immediately went to the house of Soriano and talked to Ocumen who confirmed that Soriano indeed burned several blank receipts.

As to the 42 booklets of ORs, Lindawan averred that the COA took them for audit, but failed to return them to the court; and that on July 20, 2015, a certain COA personnel, named Rose Mae L. Saquing, returned the missing ORs to the court. Lindawan submitted a copy of the COA's transmittal regarding the said ORs.

Furthermore, Lindawan admitted that he failed to deposit the judiciary collections because the court personnel borrowed the money and failed to return the same; that some of the bail bonds could not have been signed due to oversight; that the forms for legal fees were not attached to the case folders as it was not the practice of the former clerk of court, but, nonetheless, he wrote the ORs in front of the case folder; and that except for the Fiduciary Fund and Mediation Fund, he submitted his monthly reports of collection for JDF and SAJF.

⁷ Id. at 143-145.

Bumohya - Soriano

Lastly, Lindawan accepted his mistakes and transgressions and asked compassion from the Court to give him another chance to reform and be a productive member of the community.

In the meantime, the Court received a Letter,⁸ dated June 10, 2016, from Lindawan informing the Court of his resignation due to medical reasons.

Report and Recommendation of the OCA

In its Memorandum,⁹ dated October 6, 2016, the OCA found Lindawan guilty of gross dishonesty, grave misconduct, and gross neglect of duty. Consequently, it recommended his dismissal from the service.

With respect to Judge Buyucan, the OCA found him guilty of simple neglect of duty and recommended that he be fined in the amount of Five Thousand Pesos (₱5,000.00) for his failure to give attention to a task expected of him and for disregarding a duty resulting from carelessness or indifference. It stated that Judge Buyucan, as the Presiding Judge of MCTC, is mandated to organize and supervise the court personnel to ensure the prompt and efficient dispatch of court business, and, as the person charged with the proper and efficient management of the court, he is ultimately responsible for the mistakes of his court personnel.

The Ruling of the Court

Liability of Lindawan

The Court agrees with the recommendation of the OCA.

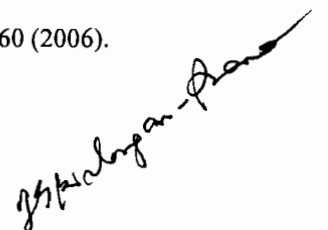
The Court, in Circular No. 13-92 and Circular No. 5-93, mandates all clerks of courts to immediately deposit all fiduciary collections, upon receipt thereof, with the Land Bank, as an authorized depository bank. Further, the Court has always reminded clerks of courts, cash clerks and all court personnel entrusted with the collections of court funds to deposit immediately with authorized government depositories the various funds they have collected because they are not authorized to keep funds in their custody.¹⁰ Also, the failure to deposit these judiciary collections on time deprives the court of the interest that may be earned if the amounts were deposited in a bank.¹¹ The unwarranted failure to fulfill these responsibilities

⁸ Id. at 191-192.

⁹ Id. at 195-207.

¹⁰ *Re: Financial Audit Conducted in the MTCC-OCC, Angeles City*, 525 Phil. 548, 560 (2006).

¹¹ *Office of the Court Administrator v. Nini*, 685 Phil. 340, 350 (2012).



deserves administrative sanction and not even the full payment of the collection shortages will exempt the accountable officer from liability.¹²

In the case of *OCA v. Fortaleza*,¹³ the Court stressed the role of clerk of courts and their responsibilities in the collection of court funds. Thus:

Clerks of court are the chief administrative officers of their respective courts; with regard to the collection of legal fees, they perform a delicate function as judicial officers entrusted with the correct and effective implementation of regulations thereon. Even the undue delay in the remittances of amounts collected by them at the very least constitutes misfeasance. On the other hand, a vital administrative function of a judge is the effective management of his court and this includes control of the conduct of the courts ministerial officers. It should be brought home to both that the safekeeping of funds and collections is essential to the goal of an orderly administration of justice and no protestation of good faith can override the mandatory nature of the Circulars designed to promote full accountability for government funds.¹⁴

In the present case, Lindawan committed several irregularities in the administration of court funds. Not only did he incur unexplained cash shortages in the Fiduciary Fund and in the Judiciary Development Fund, he also failed to deposit court collections on time and neglected to submit his monthly financial reports to the OCA. Worst, he collected cash bonds without issuing official receipts, falsified official receipts and lost several booklets of official receipts. Undeniably, Lindawan abused the trust and confidence reposed in him and failed to perform his duty with utmost loyalty and honesty.

The Court has said time and again that those who work in the judiciary, from the highest official to the lowest clerk, must adhere to high ethical standards to preserve the court's good name and standing. As officers of the court and agents of the law, they should be examples of responsibility, competence and efficiency, and they must discharge their duties with due care and utmost diligence.¹⁵ For the Court will never tolerate any conduct which would violate the norms of public accountability, and diminish, or even tend to diminish, the faith of the people in the judiciary.¹⁶

¹² *Office of the Court Administrator v. Elumbaring*, 673 Phil. 84, 94 (2011).

¹³ 434 Phil. 511, 522 (2002), citing *Report on the Financial Audit in RTC, General Santos City and the RTC & MTC of Polomok, South Cotabato*, 384 Phil. 155 (2000).

¹⁴ *Id.* at 167.

¹⁵ *Report on the Financial Audit Conducted in the MCTC-Maddela, Quirino*, 598 Phil. 339, 356 (2009).

¹⁶ *Office of the Court Administrator v. Atty. Galo*, 373 Phil. 483, 491 (1999).

J. B. Reyes-Dang

In the case of *Report on the Financial Audit Conducted at the MTC of Bani Alaminos and Lingayen in Pangasinan*,¹⁷ the Court held that the failure of a clerk of court to turn over money deposited with him and adequately explain and present evidence thereon constituted gross dishonesty, grave misconduct, and even malversation of public funds, and even the restitution of the whole amount would not exculpate him from liability.¹⁸

Further, in *Re: Final Report on the Financial Audit Conducted at the Municipal Trial Court of Midsayap, North Cotabato*,¹⁹ the Court ruled that failure to remit the funds in due time constitutes gross dishonesty and gross misconduct and even malversation of funds, which are considered grave offenses punished by dismissal even if committed for the first time.

Undoubtedly, the ultimate penalty of dismissal would have been imposed upon Lindawan had he not resigned from his post. Thus, in lieu of the dismissal, the Court shall forfeit the retirement benefits that may be due him.

Liability of Judge Buyucan

The Court agrees with the OCA that Judge Buyucan should be held administratively liable for simple neglect of duty. Although the custody, submission, and monitoring of monthly reports of collections and deposits were mainly the responsibility of the clerk of court, he is, however, subject to the control and supervision of the Presiding Judge. As the administrative officer who has authority over the office of the clerk of court, Judge Buyucan should be familiar with the different circulars of the Court as his duty is not confined to adjudicatory functions, but includes the administrative responsibility of organizing and supervising the court personnel to secure a prompt and efficient dispatch of business.²⁰ It is his responsibility to see to it that the clerk of court performs his duties and observes the circulars issued by the Supreme Court.²¹ Thus, he should have taken the necessary steps to ensure that the correct procedure in the collections and deposits of court funds were dutifully carried out.²²

In addition, Judge Buyucan should likewise be held administratively liable for conduct unbecoming of a judge for his inappropriate actions and use of intemperate language. The incident narrated by the audit team was

¹⁷ 462 Phil. 535 (2003).

¹⁸ Id. at 542.

¹⁹ 516 Phil. 369 (2006).

²⁰ *Re: Initial Report on the Financial Audit Conducted in the MTC of Pulilan Bulacan*, 477 Phil. 577, 583 (2004).

²¹ *Re: Report on the Judicial and Financial Audit Conducted in the Municipal Trial Courts of Bayombong and Solano and the Municipal Circuit Trial Court, Aritao-Sta. Fe, All in Nueva Vizcaya*, 561 Phil. 349, 363 (2007).

²² *Re: Report of Acting Presiding Judge Wilfredo F. Herico*, 490 Phil. 292, 317 (2005).

Jeffrey B. Buyucan

never denied by Judge Buyucan who offered his apologies to the audit team and begged for their understanding and forgiveness for his outburst and rise in temper.

The New Code of Judicial Conduct for the Philippine Judiciary requires judges to exemplify propriety at all times²³ in order to preserve public confidence in the judiciary. Judge Buyucan must comport himself irreproachably, not only while in the discharge of official duties but also in his personal behavior every day. He should exercise judicial temperament in all his dealings and must maintain composure and equanimity at all times.²⁴

The OCA recommends that Judge Buyucan be fined in the amount of ₱5,000.00. The Court, however, considers this to be too light considering his violation of the rules. Judge Buyucan is not only guilty of simple neglect of duty but is also liable for conduct unbecoming of a judge for his inappropriate actions and for using intemperate language. Thus, the fine should be increased to Twenty Thousand Pesos (₱20,000.00), with a warning that a repetition of the same or similar act shall be dealt with more severely.

WHEREFORE, finding respondent Gerard N. Lindawan, former Clerk of Court II, Bagabag-Diadi, Municipal Circuit Trial Court, **GUILTY** of Gross Dishonesty and Grave Misconduct, the Court hereby orders the **FORFEITURE** of his retirement benefits. The respondent is further **BARRED** from reemployment in any branch or instrumentality of the government, including government-owned and controlled corporations.

On the other hand, finding Judge Bill D. Buyucan, Presiding Judge of the same court, **GUILTY** of Simple Neglect of Duty and Conduct Unbecoming of a Judge, the Court hereby imposes upon him a **FINE** in the amount of Twenty Thousand Pesos (₱20,000.00), with a **WARNING** that a repetition of the same or similar act shall be dealt with more severely.

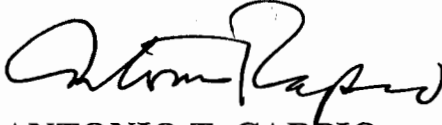
SO ORDERED.



MARIA LOURDES P. A. SERENO
Chief Justice

²³ Section 1, Canon 4.


²⁴ *Re: Anonymous Complaint Against Judge Francisco C. Gedorio, Jr.*, 551 Phil. 174, 180 (2007).


ANTONIO T. CARPIO
 Associate Justice


PRESBITERO J. VELASCO, JR.
 Associate Justice


TERESITA J. LEONARDO-DE CASTRO
 Associate Justice


DIOSDADO M. PERALTA
 Associate Justice


LUCAS P. BERSAMIN
 Associate Justice

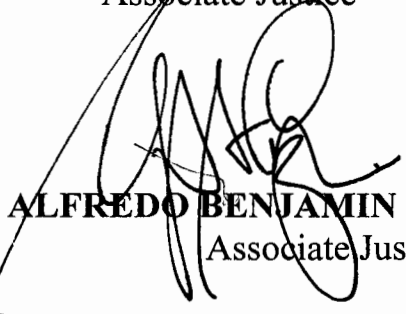
(On Official Leave)
MARIANO C. DEL CASTILLO
 Associate Justice



JOSE CATRAL MENDOZA
 Associate Justice


ESTELA M. PERLAS-BERNABE
 Associate Justice

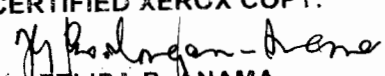

MARVIC M.V.F. LEONEN
 Associate Justice

(On Official Leave)
FRANCIS H. JARDELEZA
 Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
 Associate Justice


SAMUEL R. MARTIRES
 Associate Justice


NOEL C. TANAM
 Associate Justice

CERTIFIED XEROX COPY:

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