



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

**JUDGE DENNIS B. CASTILLA,**  
Complainant,

**A.M. No. P-17-3771**  
(Formerly OCA IPI No. 11-3689-P)

Present:

-versus -

SERENO, *CJ.*,  
*Chairperson,*  
LEONARDO-DE CASTRO,  
DEL CASTILLO,  
JARDELEZA, and  
TIJAM, *JJ.*

**MARIA LUZ A. DUNCANO,**  
CLERK OF COURT IV, OFFICE  
OF THE CLERK OF COURT,  
MUNICIPAL TRIAL COURT IN  
CITIES, BUTUAN, AGUSAN DEL  
SUR,

Promulgated:

Respondent.

**JAN 24 2018**

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**DECISION**

**TIJAM, J.:**

For the Court's resolution is an administrative complaint for Conduct Unbecoming of a Court Employee, Dishonesty, Gross Negligence, and Violation of Section 7(d) of Republic Act (RA) No. 6713,<sup>1</sup> against Maria Luz A. Duncano (Mrs. Duncano), Clerk of Court IV of the Municipal Trial Court in Cities (MTCC), Butuan City, Agusan del Norte.

<sup>1</sup>An Act Establishing a Code of Conduct and Ethical Standards for Public Officials and Employees, to Uphold the Time-Honored Principle of Public Office Being a Public Trust, Granting Incentives and Rewards for Exemplary Service, Enumerating Prohibited Acts and Transactions and Providing Penalties for Violations thereof and for Other Purposes. [February 20, 1989.]

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### The Factual Antecedents

On June 22, 2011, Hon. Dennis B. Castilla (Judge Castilla), Executive Judge of the MTCC, Butuan City, Agusan del Norte, sent a letter-report<sup>2</sup> to the Supreme Court Deputy Court Administrator, Hon. Raul Bautista-Villanueva, reporting alleged infractions committed by Mrs. Duncano amounting to dishonesty, deceit and neglect of duty.

In his letter-report, Judge Castilla made the following allegations:

(1) Anita Lamoste (Anita) and Anniesel Lamoste (Anniessel), the mother and sister respectively of Nathaniel Lamoste (Nathaniel), aired their grievances to Judge Castilla concerning the actuations of Mrs. Duncano. They relayed to Judge Castilla that on June 10, 2011, when Criminal Case No. 43863 (for Resistance and Disobedience, Article 151 of the Revised Penal Code) against Nathaniel was still undergoing inquest proceedings, Mrs. Duncano personally and privately but under the pretext of performing her official duties, demanded and collected from them, the amount of PhP7,000 for his bail bond.

Although Mrs. Duncano eventually returned the amount to the Lamostes on June 17, 2011, she first made them beg for the return of said amount and at the same time, gave them false hopes for the release of Nathaniel.

(2) Mrs. Duncano, then MTCC Branch Clerk of Court/Custodian, deliberately caused (probably for personal benefit or gain); or allowed (through gross negligence) the loss or continued unavailability of a Supreme Court EPSON Computer Printer (EPSON printer) having serial number DCAY 101692 JDF-2005-571-108.

(3) Mrs. Duncano, in her capacity as MTCC Clerk of Court, acted dishonestly, when she submitted a letter-explanation with a job/repair receipt thereto attached, stating that the lost printer was brought to Columbia Computer Shop in Butuan for repair when she actually knew, or should have known, that said receipt was not for the lost printer, but was in fact that of a computer CPU which had long been brought back to MTCC.

For failing to issue an official receipt for the money she received from Anniesel and for lying about the loss of the EPSON printer, Judge Castilla averred that Mrs. Duncano failed to meet the high ethical standards expected of court employees.<sup>3</sup>

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<sup>2</sup> *Rollo*, pp. 19-22.

<sup>3</sup> *Id.* at 130-134.

To substantiate his claims, Judge Castilla submitted, among others, the following documents: (1.) Affidavit of Recantation<sup>4</sup> dated September 21, 2011 executed, signed and thumb-marked by Anita and Anniesel; and (2.) Affidavit<sup>5</sup> dated September 30, 2011 executed and signed by Lanie Lebios, (Mrs. Lebios) Clerk of the Warrant Section of the Butuan City Police Station.

In their September 21, 2011 Affidavit, Anita and Anniesel recanted the Affidavit dated August 25, 2011,<sup>6</sup> which they allegedly signed. The truth of the matter was that they gave the amount of PhP7,000 to Mrs. Duncano, through Mrs. Lebios, for Nathaniel's provisional release. Upon learning from Prosecutor Benjamin Uy (Pros. Uy) that no bail was required, they went back to Mrs. Duncano and demanded the return of the PhP7,000. But for reasons only known to her, Mrs. Duncano did not immediately return the amount despite the repeated demands by Anniesel. She only returned the said amount when Pros. Uy's resolution was approved by City Prosecutor Guiritan.<sup>7</sup>

In her affidavit, Mrs. Lebios narrated that after she handed the amount of PhP7,000 to Mrs. Duncano for the posting of Nathaniel's cash bond, she had left. She neither talked to Mrs. Duncano nor followed-up the case.<sup>8</sup>

In her comment,<sup>9</sup> Mrs. Duncano vehemently denied the accusations leveled against her. She claimed that she did not demand any amount of money from Anita or Anniesel, but merely advised them to file a Motion to Post Bail. She said that the amount of PhP7,000 was given by the Lamostes to Mrs. Lebios and not to her directly. Nonetheless, she claimed that she returned the PhP7,000 to Nathaniel after the trial court ordered his release without bail.<sup>10</sup> She further claimed that she could not have accepted money for the bailbond of Nathaniel considering that the court did not require the posting of bail for illegal gambling, which is a simple misdemeanor.<sup>11</sup> She contended that this issue was bloated out of proportion by the intervention and insistence of a certain Sheriff Agileo D. Demata (Sheriff Demata).

With respect to the EPSON printer, Mrs. Duncano averred that it was not lost, but rather, had been found within the premises of the MTCC of Butuan City,<sup>12</sup> and was declared unserviceable. She likewise averred that the EPSON printer had long been returned to the Property Division of the

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<sup>4</sup>Id. at 84-89.

<sup>5</sup> Id. at 90-91.

<sup>6</sup> Id. at 40-41.

<sup>7</sup> Id. at 85-86.

<sup>8</sup> Id. at 90.

<sup>9</sup> Id. at 25-38.

<sup>10</sup> Id. at 151.

<sup>11</sup> Id. at 133.

<sup>12</sup>Id. at 152-153.



Supreme Court. She pointed out that Sheriff Demata twisted the facts as to the serial number<sup>13</sup> of the printer in order to hold her accountable.

### **The Report and Recommendation of the Office of the Court Administrator (OCA)**

On December 19, 2012, the OCA acted on (1.) the June 22, 2011 letter-report; (2.) the September 1, 2011 Comment of Mrs. Duncano; (3.) the October 6, 2011 Reply of Judge Castilla;<sup>14</sup> and (4.) the October 17, 2011 Rejoinder of Mrs. Duncano.<sup>15</sup> Considering the serious allegations in the complaint and the counter-arguments which necessitated a thorough investigation, the OCA recommended that the complaint be referred to the Executive Judge of the Regional Trial Court (RTC), Butuan City, Agusan del Norte for investigation, report, recommendation within a period of 60 days from receipt of the records.

On May 2, 2013, Deputy Court Administrator Jenny Lind R. Aldecoa-Delorino sent a letter<sup>16</sup> to Executive Judge Franciso F. Maclang (Judge Maclang) of the RTC of Butuan City, informing the latter to investigate the case pursuant to this Court's March 20, 2013 Resolution.<sup>17</sup>

### **The Report and Recommendation of the Investigating Judge**

On September 16, 2013, Judge Maclang found Mrs. Duncano administratively liable for conduct unbecoming of a court employee, and accordingly, recommended that she be meted the penalty of suspension for two months.<sup>18</sup>

### **The Ruling of the Court**

We affirm the Report and Recommendation of the Investigating Judge.

It must be remembered that public office is a public trust. As this Court held in *Marasigan v. Buena*:<sup>19</sup>

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<sup>13</sup>Id. at 154.

<sup>14</sup>Id. at 82-83.

<sup>15</sup>Id. at 119-128.

<sup>16</sup>Id. at 137.

<sup>17</sup>Id. at 135.

<sup>18</sup> *Rollo*, p.183.

<sup>19</sup>348 Phil. 1 (1998) citing *RTC Makati Movement Against Anti-Graft and Corruption v. Dumlaog*, A.M. No. P-93-820, August 9, 1995, 247 SCRA 108, 117.

Public officers and employees are at all times accountable to the people; must serve them with utmost responsibility, integrity, loyalty and efficiency; and must lead modest lives. [R.A. No. 6713] additionally provides that every public servant shall uphold public interest over his or her personal interest at all times. Court personnel, from the presiding judge to the lowliest clerk, are further required to conduct themselves always beyond reproach, circumscribed with the heavy burden of responsibility as to free them from any suspicion that may taint the good image of the judiciary. Indeed, "(t)he nature and responsibilities of public officers enshrined in the 1987 Constitution and oft-repeated in our case law are not mere rhetorical words. Not to be taken as idealistic sentiments but as working standards and attainable goals that should be matched with actual deeds."<sup>20</sup>

With this principle in mind, We find that Mrs. Duncano has transgressed the established norm of conduct for court employees, and, thus, is administratively guilty of the offense charged.

Substantial evidence is the quantum of proof in administrative proceedings. As thoroughly explained in *Exec. Judge Eduarte v. Ibay*:<sup>21</sup>

In administrative proceedings, the quantum of proof necessary for a finding of guilt is substantial evidence or such relevant evidence as a reasonable mind may accept as adequate to support a conclusion. Substantial evidence, and not clear and convincing evidence or proof beyond reasonable doubt, is sufficient as basis for the imposition of any disciplinary action upon the erring employee. The standard of substantial evidence is satisfied where the employer, in this case the Court, has reasonable ground to believe that the employee is responsible for the misconduct and his participation therein renders him unworthy of the trust and confidence demanded by his position.<sup>22</sup>

The following amply established the allegations of the complainant by substantial evidence:

*First*, the contents of Judge Castilla's letter-report, coupled with the affidavits of Annie, Anniesel and Mrs. Lebios, point to one conclusion, *i.e.*, Mrs. Duncano demanded from Annie and Anniesel the amount of PhP7,000 for Nathaniel's cash bail bond.

Specifically, in his letter-report, Judge Castilla echoed the complaint of Annie and Anniesel regarding Mrs. Duncano's act of demanding and collecting from them the amount of PhP7,000 for Nathaniel's cash bail bond. According to Anita and Anniesel, they stated in their affidavit that they gave

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<sup>20</sup> Id. at 10.

<sup>21</sup> *Exec. Judge Eduarte v. Ibay*, 721 Phil. 1, 8 (2013) citing *Re: (1) Lost checks Issued to the Late Melliza, Former Clerk II, MCTC, Zaragga, Iloilo; and (2) Dropping from the Rolls of Andres*, 537 Phil. 634 (2006).

<sup>22</sup> Id. at 8.

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PhP7,000 to Mrs. Duncano, through Mrs. Lebios. For her part, Mrs. Lebios confirmed that she handed the said amount to Mrs. Duncano.

Against these statements, Mrs. Duncano's rebuttal was merely in the form of a denial. Although she denied that she personally received the amount of PhP7,000, Mrs. Duncano said that the cash bail bond was returned to the Lamostes only after the court ordered the release of Nathaniel. In fact, Anita maintained that Anniesel repeatedly followed-up with Mrs. Duncano the release of Nathaniel and the return of the money. Anniesel even went to Mrs. Duncano's house, but the latter simply told her to "keep on waiting"<sup>23</sup>. Mrs. Duncano likewise told the Lamostes that "*she cannot as yet release the said money considering that the resolution of [Pros. Uy] has no approval yet of City Pros. Guiritan.*"<sup>24</sup> Curiously, Mrs. Duncano failed to rebut these statements. If it was true that she did not have the PhP7,000 in her possession, Mrs. Duncano could have easily told the Lamostes such fact. But she did not give any explanation at all.

Even so, it is illogical to believe that Mrs. Duncano did not receive the cash bail bond, and yet, she was the one who returned the same. In practice, the proper procedure in the handling of cash submitted or given to the municipal court as bail bond is for the court to formally direct the clerk of court to officially receive the cash and to immediately deposit it with the persons with whom a cash bail bond may be deposited namely: the collector of internal revenue, or the provincial, city or municipal treasurer<sup>25</sup>.

Thus, being the clerk of court, Mrs. Duncano had the duty to immediately deposit with authorized government depositories the cash bail bond she had collected, because she is not authorized to keep funds in her custody.<sup>26</sup> Unfortunately, the records are bereft of any showing that Mrs. Duncano deposited the cash bail bond. Apparently, she kept the amount for herself since she admitted that she was the one who personally returned it to the Lamostes. In her desperate attempt to exonerate herself, Mrs. Duncano could only impute malicious motive to a certain Sheriff Demata, averring that he was the one who blew this issue out of proportion.

In view of Mrs. Duncano's acts, she clearly violated the provision of Sec. 7 (d) of R.A. No. 6713, which reads, in part:

Section 7. Prohibited Acts and Transactions. - In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employee and are hereby

<sup>23</sup> Rollo, p. 86.

<sup>24</sup>Id.

<sup>25</sup>Agulan, Jr. v. Judge Fernandez, 408 Phil. 256, 265 (2001).

<sup>26</sup>Office of the Court Administrator v. Gesultura, 707 Phil. 318 (2013).

declared to be unlawful:

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(d) Solicitation or acceptance of gifts. - ***Public officials and employees shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value from any person in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of their office.*** [Emphasis Supplied.]

As can be gleaned from the prohibition in Sec. 7(d), it is the commission of that act as defined by the law, and not the character or effect thereof, that determines whether or not the provision has been violated.<sup>27</sup> Therefore, it is immaterial whether Mrs. Duncano received the money directly from the Lamostes or indirectly through Mrs. Lebios; and whether she returned the cash bail bond to the Lamostes. What is material is that from the circumstances of the case, Mrs. Duncano demanded, collected and received from the Lamostes the amount of PhP7,000 purportedly to be applied to Nathaniel's bail bond.

*Second*, anent the lost EPSON printer, Mrs. Duncano was not able to account for it. What she attached in one of her pleadings is a photo of a printer with serial number DCAV 101692<sup>28</sup>. But this is not the serial number of the printer which is the subject of Judge Castilla's complaint. Instead of explaining the whereabouts of the lost printer, Mrs. Duncano blamed Sheriff Demata again. She claimed that Sheriff Demata “*twisted the fact and made an issue as to the serial number of the computer printer ... the insidious sheriff made it appear as DCAV 101692 when he personally reported it to the complainant.*”<sup>29</sup> It has been held that the conduct of court personnel, must not only be, but must also be perceived to be, free from any whiff of impropriety, both with respect to their duties in the judiciary and to their behavior outside the court.<sup>30</sup> This conduct, Mrs. Duncano failed to observe.

*Finally*, Mrs. Duncano should be reminded that the position of a clerk of court is an essential and ranking officer of our judicial system who performs delicate administrative functions vital to the prompt and proper administration of justice. A clerk of court's office is the nucleus of activities both adjudicative and administrative, performing, among others, the functions of keeping the records and seal, issuing processes, entering judgments and orders and giving, upon request, certified copies from the records.<sup>31</sup>

<sup>27</sup>*Martinez v. Villanueva*, 669 Phil. 14, 30 (2011).

<sup>28</sup>*Rollo*, p. 56.

<sup>29</sup>*Id.* at 154.

<sup>30</sup>*Sabijon, et al. v. De Juan*, 752 Phil. 110, 122 (2015).


<sup>31</sup>*Atty. Reyes-Domingo v. Morales*, 396 Phil. 150, 161 (2000).

As aptly explained by the Court in the case of *Atty. Reyes-Domingo v. Morales*, as thus:

“Owing to the delicate position occupied by clerks of court in the judicial system, they are required to be persons of competence, honesty and probity since they are specifically imbued with the mandate of safeguarding the integrity of the court and its proceedings, to earn and preserve respect therefor, to maintain loyalty thereto and to the judge as superior officer, to maintain the authenticity and correctness of court records and to uphold the confidence of the public in the administration of justice.”<sup>32</sup>


**WHEREFORE**, based on the evidence on record, We hereby **ADOPT** the findings and recommendations of the Executive Judge Francisco F. Maclang, to the effect that respondent Mrs. Maria Luz A. Duncano is declared guilty for conduct unbecoming of a court employee and is hereby **SUSPENDED** for two months.

**SO ORDERED.**



**NOEL GIMENEZ TIJAM**  
Associate Justice

**WE CONCUR:**



**MARIA LOURDES P. A. SERENO**  
Associate Justice  
Chairperson

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<sup>32</sup>Id. at 161.



*Teresita Leonardo de Castro*  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

*Mariano C. Del Castillo*  
**MARIANO C. DEL CASTILLO**  
Associate Justice

*Francis H. Jardeleza*  
**FRANCIS H. JARDELEZA**  
Associate Justice