



Republic of the Philippines
SANDIGANBAYAN
Quezon City

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

CRIM CASE NO.
SB-19-A/R-0019
*For Malversation of
Public Funds*


AURORA ZUNIGA y TIOXON,
Accused.

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Present:

CABOTAJE-TANG, A.M.,
P.J./Chairperson
FERNANDEZ, B. R., J., &
MORENO, R. B. J.

Promulgated:

APRIL 7, 2021 

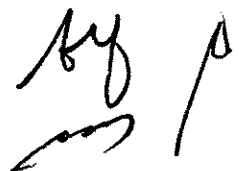
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RESOLUTION

FERNANDEZ, B. R., J.:

This Court resolves the Motion for Reconsideration dated June 17, 2021 of accused-movant Zuñiga together with the Comment dated October 20, 2021 of the prosecution.

In her Motion for Reconsideration, accused-movant Zuñiga invites the Court to revisit its ruling finding her guilty beyond reasonable doubt. She reiterates that her position as Clerk of Court is separate and distinct from that of a collection officer, as the public funds were never under her sole custody or control. She also emphasizes that there was a lack of effort on the part of the auditors from the Supreme Court and the



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Commission on Audit (COA) to reconcile the differences in their respective findings. Lastly, she maintains that the prosecution failed to prove that she appropriated, took, misappropriated or consented or, through abandonment or negligence, permitted another person to take them.

When given time (Minutes, June 17, 2021), the prosecution, in its Comment dated October 20, 2021, asserts that the contentions of accused-movant Zuñiga are unmeritorious, as they are mere rehash of the basic issues raised in her Appellant's Brief dated June 29, 2020. Issues which were exhaustively deliberated on and resolved in the assailed Decision.

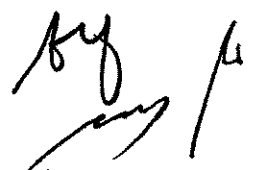
We rule.

As correctly indicated by the prosecution, the arguments raised by accused-movant Zuñiga, in her Motion for Reconsideration, merely echoed issues she earlier posed in her Appellant's Brief and eventually ruled upon by this Court in its Decision promulgated on May 19, 2021.

Although accused-movant Zuñiga maintains that she was not designated as a collecting officer of any legal fees, hence, not an accountable officer, this Court, in its assailed Decision, found otherwise.

In *Querijero vs. People* (G.R. No. 153483 February 14, 2003; 445 Phil 502-514), the Supreme Court ruled that the determination of who is an accountable officer is the nature of the duties which he performs – the fact that, as part of his duties, he received public money for which he was bound to account, and not the nomenclature or the relative importance of the position held - which is the controlling factor.

Likewise, the 1991 Manual of Clerks of Courts (as amended by the 2002 Revised Manual of Clerk of Court (Exh. "D") particularly Sec. B, Chapter 1 thereof, as well as the cases of *Office of the Court Administrator vs. Canque* (A.M. No. P-04-1830 June 4, 2009, 588 SCRA 226) and *Office of the Court Administrator vs. Fontanilla* (A.M. No. P-12-3086 September 18, 2012 681 SCRA 17), clearly underscores the duty and liability of clerks of court, to wit - - Clerks of Court are the custodians of the courts' funds and revenues, records, properties, and premises. They are liable for any loss,



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shortage, destruction or impairment of those entrusted to them.

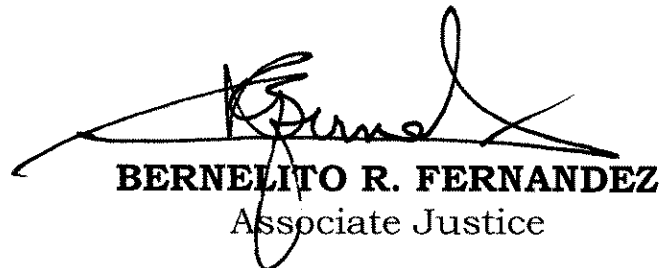
This Court, in the assailed Decision, ruled that accused-movant Zuñiga, as a Clerk of Court, had supervision over all the personnel of the court, and was likewise the cashier and disbursement officer, responsible for – (1) collecting and receiving, by herself or through a duly appointed cashier, all monies in payment of legal fees; (2) receiving, by herself or through a duly appointed cashier, deposits, fines and dues; (3) controlling the disbursement of funds appropriated by the provincial and city governments as aid to the Supreme Court; and, (4) disbursing funds quarterly allocated by the Supreme Court to the branches upon the discretion and approval of the Executive Judge.

Finally, evidence, both documentary and testimonial, clearly established the fund shortages after an audit was conducted on the books of accounts of the Municipal Trial Court of Virac, Catanduanes as opposed to the denials and finger-pointings of accused-movant Zuñiga. We can only be reminded that a denial is essentially a negation of a fact that does not prevail over an affirmative assertion (*Medina vs. People*, G.R. No. 182648, June 17, 2015).

All told, this Court finds no compelling reason to alter, amend, revise or even reverse its Decision promulgated on May 19, 2021.

WHEREFORE, in view of the foregoing, the Motion for Reconsideration dated June 17, 2021 of accused-movant Zuñiga is hereby **DENIED** for lack of merit.

SO ORDERED.


BERNELITO R. FERNANDEZ
Associate Justice



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We concur:

AMPARO M. CABOTAJE TANG
Presiding Justice/Chairperson

Ronald B. Moreno
RONALD B. MORENO
Associate Justice

by