

EN BANC

[A.M. No. RTJ-11-2301 [Formerly A.M. No. 11-3-55-RTC], January 16, 2018]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
JUDGE PERLA V. CABRERA FALLER, OFFICER-IN-CHARGE
OPHELIA G. SULUEN AND PROCESS SERVER RIZALINO RINALDI
B. PONTEJOS, ALL OF THE RTC, BRANCH 90, DASMARIÑAS,
CAVITE, RESPONDENTS.**

[A.M. No. RTJ-11-2302 [FORMERLY A.M. No. 11-7-125-RTC]]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
PRESIDING JUDGE FERNANDO L. FELICEN, CLERK OF COURT V
ATTY. ALLAN SLY M. MARASIGAN, SHERIFF IV ANSELMO P.
PAGUNSAN, JR., COURT STENOGRAPHERS ROSALIE MARANAN
AND TERESITA P. REYES, COURT INTERPRETER IMELDA M.
JUNTILLA, AND PROCESS SERVER HIPOLITO O. FERRER, ALL OF
THE RTC, BRANCH 20, IMUS, CAVITE; PRESIDING JUDGE
NORBERTO J. QUISUMBING, JR., CLERK OF COURT ATTY. MARIA
CRISTITA A. RIVASSANTOS, LEGAL RESEARCHER MANUELA O.
OSORIO, SHERIFF IV FILMAR M. DE VILLA, COURT
STENOGRAPHERS MARILOU CAJIGAL, WENDILYN T. ALMEDA
AND HELEN B. CARALUT, COURT INTERPRETER ELENITA T. DE
VILLA, AND PROCESS SERVER ELMER S. AZCUETA, ALL OF THE
RTC, BRANCH 21, IMUS, CAVITE; PRESIDING JUDGE CESAR A.
MANGROBANG, CLERK OF COURT VI ATTY. REGALADO E.
EUSEBIO, CLERK OF COURT V ATTY. SETER M. DELA CRUZ-
CORDEZ, LEGAL RESEARCHER DEVINA A. REYES BERMUDEZ,
COURT STENOGRAPHERS PRISCILLA P. HERNANDEZ, NORMITA
Z. FABIA, MERLY O. PARCERO, AND JOYCE ANN F. SINGIAN,
COURT INTERPRETER MICHELLE A. ALARCON, AND PROCESS
SERVER ELMER S. AZCUETA, ALL OF THE RTC, BRANCH 22, IMUS,
CAVITE; EXECUTIVE JUDGE PERLA V. CABRERAFALLER, CLERK
OF COURT ZENAIDA C. NOGUERA, SHERIFF IV TOMAS C. AZURIN,
OIC LEGAL RESEARCHER OPHELIA G. SULUEN, COURT
STENOGRAPHERS JESUSA B. SAN JOSE, ROSALINA A. COSTUNA,
AND MARIA LOURDES M. SAPINOSO, COURT INTERPRETER
MERLINA S. FERMA, AND PROCESS SERVER RIZALINO RINALDI
B. PONTEJOS, ALL OF THE RTC, BRANCH 90, DASMARIÑAS,
CAVITE, RESPONDENTS.**

[A.M. No. 12-9-188-RTC]

**RE: ANONYMOUS LETTER COMPLAINT AGAINST JUDGE PERLA V.
CABRERA-FALLER, BRANCH 90, REGIONAL TRIAL COURT,
DASMARIÑAS CITY, CAVITE, RELATIVE TO CIVIL CASE NO. 1998-**

DECISION**SERENO, C.J.:**

A.M. No. RTJ-11-2301 is an administrative complaint for gross irregularity in the conduct of proceedings in annulment and declaration of nullity of marriage cases. The complaint was born of a judicial audit conducted at the Regional Trial Court of Dasmariñas, Cavite, Branch 90 (RTC Dasmariñas 90), on 15-17 September 2010.

A.M. No. RTJ-11-2302 stemmed from a report on a judicial audit conducted on 3-11 February 2011 and treated as an administrative complaint against the judges and personnel of the Regional Trial Court of Imus, Cavite, Branches 20, 21 and 22 (RTC Imus 20, 21 and 22); and RTC Dasmariñas 90.

A.M. No. 12-9-188-RTC stemmed from an anonymous complaint against Judge Perla V. Cabrera-Faller (Judge Cabrera-Faller) of RTC Dasmariñas 90 relative to the irregularity of the proceedings in Civil Case No. 1998-08 for declaration of nullity of marriage.

FACTS***A.M. No. RTJ-11-2301***

In a Report dated 23 February 2011,^[1] the Office of the Court Administrator (OCA) narrated its findings on the judicial audit conducted on 15-17 September 2010 at RTC Dasmariñas 90.

At the time of audit, the court had a total case load of 827 cases, 417 of which were criminal and 410, civil.

Of the criminal cases, the judicial audit team found that the court had failed to take action on three cases for a considerable length of time. Its last action on one case was on 10 June 2008, when the private prosecutor was given five days within which to submit a formal offer of evidence; the two other cases had not been acted upon since the denial of the motion for judicial determination of probable cause on 3 June 2009. Another criminal case had a pending motion to lift a warrant of arrest since 19 August 2009. Two cases had recently been submitted for decision, and one case was scheduled for the promulgation of judgment.

The civil cases proved more problematic. Still not acted upon from the time of their filing were 106 cases, some of which went as far back as 2008. The court had not acted on 51 cases for a considerable length of time. In fact, the last court action on 35 of these cases was from 2003 to 2009. There were 28 civil cases with pending incidents. Their pendency was relatively recent, because 26 of them were filed only in 2010, one was filed 2009 and another in 2008. There were 17 civil cases submitted for decision 16 of them were recent, but one had been submitted for decision since 8 December 2008.

The judicial audit team observed that the case records in the court were not stitched, but held together by fasteners only, and that they were not chronologically

arranged or paginated. Nevertheless, the stitching of the records was immediately done upon advice of the audit team. It also appeared that the court personnel were not wearing the prescribed uniform for the trial courts.

The team noted several irregularities in the petitions for declaration of nullity and annulment of marriage:

1. Improper service of summons

Process Server Rizalino Rinaldi B. Pontejos (Process Server Pontejos) had been in the habit of making a substituted service of summons without compliance with the mandatory requirements for validly effecting it, as enunciated in *Manotoc v. CA*.^[2] In two cases, it is indicated that the summonses were "duly served but despite diligent efforts x x x exerted, the same proved ineffectual."^[3] In at least 12 cases cited, summonses were not attached to the records.

2. No appearance by the Solicitor General

In nine cases, the hearing of the petition proceeded even without the filing of a notice of appearance by the Solicitor General.

3. No categorical finding on whether collusion existed between the parties/no collusion report at all

In all his reports regarding the existence of collusion between the parties, Assistant Provincial Prosecutor Oscar R. Jarlos stated that "the undersigned Prosecutor is not in the position to tell whether collusion exists."^[4] In 10 cases, the hearing of the petition proceeded even without the submission of the collusion report by the public prosecutor.

4. No pretrial briefs

No pretrial briefs can be found in the records of 11 cases at the trial stage and three that have been submitted for decision.

5. No formal offer of exhibits/evidence

Two cases were submitted for decision without any formal offer of exhibits/evidence.

6. Non-attachment of the minutes to the records

The minutes were not attached to the records of several cases, and the audit team had doubts whether the psychiatrist/psychologist who had prepared the evaluation report testified in court.

7. Irregular psychological evaluation reports

Some of the Psychological Evaluation Reports attached to the records were mere photocopies. In two cases, the affidavits of the psychiatrist/psychologist were unsubscribed. The psychological report attached to the record of one case was unsigned and undated.

8. Absence of the public prosecutor's signature in the jurat of the judicial affidavit of the petitioner in one case

In a Resolution dated 11 October 2011,^[5] the Court resolved to docket the Report as A.M. No. RTJ-11-2301, a case for gross irregularity in the conduct of proceedings in petitions for declaration of nullity and annulment of marriage. Judge Cabrera-Faller, Officer-in-Charge Ophelia G. Suluen (OIC Suluen) and Process Server Pontejos were required to explain, within 30 days from notice, the irregularities observed by the judicial audit team.

Judge Cabrera-Faller was likewise directed to take appropriate action on all cases that the court had failed to act upon for a considerable length of time from the date of their filing. She was further directed to act on those without further setting, with pending incidents or those submitted for decision. She was required to submit a copy of the actions taken thereon within 10 days from notice.

During the audit, it was brought to the attention of the team that family court cases falling within the territorial jurisdiction of RTC Dasmariñas 90 were being raffled to RTC Imus 20 and 21. Accordingly, the Court also amended the Resolution dated 16 June 1998 in A.M. No. 92-9-855-RTC^[6] to read as follows: "[F]amily court cases originating from the municipalities of Dasmariñas shall be heard and tried exclusively by the Regional Trial Court, Branch 90, Dasmariñas, Cavite."^[7]

Judge Cabrera-Faller, OIC Suluen and Process Server Pontejos submitted their joint compliance or explanation in a letter dated 8 December 2011.^[8] They also attached relevant court orders and decisions to cases that were cited by the audit team as awaiting action by the court.^[9] The Court referred these documents to the OCA for evaluation, report and recommendation.^[10]

In its Memorandum dated 12 August 2014,^[11] the OCA recommended that Judge Cabrera-Faller be fined in the amount of P10,000 for her failure to comply fully with the Resolution dated 11 October 2011. According to the OCA, she did not take appropriate action on all the cases enumerated in the Comi's Resolution, in defiance of the directive given to her. For the same reason, it also recommended that OIC Suluen be fined in the amount of P20,000.

As regards Process Server Pontejos, the OCA observed that while he signed the joint compliance or explanation dated 8 December 2011, he gave no explanation regarding his practice of making a substituted service of summons without compliance with the mandatory requirements for validly effecting it. Thus, it recommended that he be suspended for three months without salary and other benefits for his utter failure to comply with the Resolution dated 11 October 2011.

The OCA recommended the foregoing penalties not for the irregularities observed by the audit team, but for the failure of Judge Cabrera-Faller, OIC Suluen and Process Server Pontejos to comply fully, if at all, with the Resolution dated 11 October 2011. Noting this deficiency, the Court opted to defer the imposition of penalties and instead require complete compliance with the Resolution.^[12] In addition, the irregularities discovered involved petitions for declaration of nullity and annulment of

marriage, which are among the subjects of A.M. No. RTJ-11-2302 and A.M. No. 12-9-188-RTC. Hence, the Court consolidated the two cases with the instant administrative matter, which has a lower, and therefore earlier, docket number.

Judge Cabrera-Faller and OIC Suluen complied through their submissions dated 8 December 2011,^[13] 29 January 2015^[14] and 30 September 2015.^[15] Process Server Pontejos submitted his explanation in a compliance dated 30 September 2015.^[16]

As regards several irregularities in the petitions for annulment and declaration of nullity of marriage noted by the judicial audit team, the following explanations were offered by Judge Cabrera-Faller, OIC Suluen and Process Server Pontejos:

1. Improper service of summons

Process Server Pontejos explained that while some summonses were made through substituted service, they were served upon persons who were immediate relatives, had relations of confidence with the respondent, or were residing at the given address.^[17] These are persons who usually know the situation and expect that court personnel will serve summons, which they are willing to receive and acknowledge on behalf of the respondent.^[18] Some of them also call or text the respondent before receiving the summons.^[19] However, if the relatives refuse to receive the summons, Process Server Pontejos sets an appointment with the respondent and makes a second or third attempt to serve the summons. When it is not possible to make a second or third attempt due to the distance of the respondent's address, he explains to the relatives the importance of the summons and of notifying the respondent about the petition. In case only caretakers, security guards or minors are at the given address, he makes several attempts to locate the respondent or submits a written report with the notation "UNSERVED."^[20]

Judge Cabrera-Faller, OIC Suluen and Process Server Pontejos claim that the rules and jurisprudence on the service of summons are largely observed, although they admit that due to the heavy work load of the process server, some of these rules may have been overlooked.^[21]

Judge Cabrera-Faller explains that no "*pro forma* summons"^[22] was attached to the records of some cases, because summonses were made by publication. In summons by publication, the order granting the summons already incorporates it as a form of cost-cutting.

2. No appearance by the Solicitor General

Judge Cabrera-Faller insists that there is nothing in the rules prohibiting the court from proceeding with the case without the entry of appearance of the Solicitor General.^[23] She says that it is enough that there be proof of service on the Solicitor General and the provincial prosecutor to commence proceedings. She is aware of the mandatory period for the disposal of cases and, considering that the Office of the Solicitor General takes ages before the latter transmits its entry of appearance, she sees a need to speedily proceed with the hearing of the cases.^[24]