

## EN BANC

**[ A.M. No. MTJ-15-1860 (Formerly OCA I.P.I. No. 09-2224-MTJ), April 03, 2018 ]**

**ROSILANDA M. KEUPPERS, COMPLAINANT, VS. JUDGE VIRGILIO G. MURCIA, MUNICIPAL TRIAL COURT IN CITIES, BRANCH 2, ISLAND GARDEN CITY OF SAMAL, RESPONDENT.**

### DECISION

**BERSAMIN, J.:**

A municipal trial judge who solemnizes a marriage outside of his territorial jurisdiction violates Article 7 of the *Family Code*, and is guilty of grave misconduct and conduct prejudicial to the best interest of the service. He should be properly sanctioned.

#### The Case

This administrative matter commenced from the 1<sup>st</sup> Indorsement dated November 4, 2009,<sup>[1]</sup> whereby the Office of the Deputy Ombudsman for Mindanao endorsed to the Office of the Court Administrator (OCA) for appropriate action the complete records of the case initiated by affidavit-complaint by complainant Rosilanda Maningo Keuppers against respondent Judge Virgilio G. Murcia, the Presiding Judge of the Municipal Trial Court in Cities, Branch 2, in the Island Garden City of Samal, Davao del Norte. She thereby charged respondent Judge with *estafa*; violation of Republic Act No. 6713; and grave misconduct and conduct prejudicial to the best interest of the service.<sup>[2]</sup>

The complainant averred in her affidavit-complaint executed on June 6, 2008<sup>[3]</sup> that on May 12, 2008, she and her husband, Peter Keuppers, went to the Local Civil Registrar's Office (LCRO) of Davao City to apply for a marriage license because they wanted to get married before Peter's departure on May 22, 2008 so that he could bring the marriage certificate with him back to Germany; that Julie Gasatan, an employee of the LCRO, explained the process for securing the license, and apprised them that it would be virtually impossible to solemnize their marriage before May 22, 2008 because of the requirement for the mandatory 10-day posting of the application for the marriage license; that Gasatan then handed a note with the advice for the couple to proceed to the office of DLS Travel and Tours Corporation (DLS Travel and Tours) in Sandawa, Matina, Davao City to look for a person who might be able to help the couple; that in the office of the DLS Travel and Tours, Lorna Siega, the owner, told the couple that the marriage processing fees charged by her office would be higher than the P600.00 fee collected in the City Hall in Davao City; that Siega assured that the couple would immediately get the original as well as the National Statistics Office (NSO) copies of the marriage certificate; that Siega then required the couple to fill up forms but instructed the couple to leave the

spaces provided for the address and other information blank; that the couple paid P15,750.00 to Siega purportedly to cover the fees of the solemnizing Judge, the certification fee, the security fee, the City Hall fee, the service fee and the passport fee; and that Siega later on confirmed to the couple the date, time and place of the solemnization of the marriage.

According to the complainant, respondent Judge solemnized the marriage on May 19, 2008 in the premises of the DLS Travel and Tours in Davao City; that the staff of the DLS Travel and Tours later on handed to the couple the copy of the marriage certificate for their signatures; that on the following day, May 20, 2008, the couple returned to the DLS Travel and Tours to pick up the documents as promised by Siega; that the couple was surprised to find erroneous entries in the marriage certificate as well as on the application for marriage license, specifically: (a) the certificate stating "Office of the MTCC Judge, Island Garden City of Samal" as the place of the solemnization of the marriage although the marriage had been solemnized in the office of the DLS Travel and Tours in Davao City; (b) the statement in the application for marriage license that she and her husband had applied for the marriage license in Sta. Cruz, Davao City on May 8, 2008 although they had accomplished their application on May 12, 2008 in the office of the DLS Travel and Tours; and (c) the statement in their application for marriage license on having appeared before Mario Tizon, the Civil Registrar of Sta. Cruz, Davao del Sur, which was untrue.

In his comment dated February 2, 2010,<sup>[4]</sup> the respondent professed no knowledge of how the complainant had processed and secured the documents pertinent to her marriage; denied personally knowing her and the persons she had supposedly approached to help her fast-track the marriage; insisted that he had met her only at the time of the solemnization of the marriage, and that the solemnization of the marriage had been assigned to him; asserted that the documents necessary for a valid marriage were already duly prepared; and claimed that he was entitled to the presumption of regularity in the performance of his duties considering that the documents submitted by her had been issued by the appropriate government agencies. He contended that he should not be blamed for the erroneous entries in her certificate of marriage because the same had been merely copied from her marriage license and from the other documents submitted therewith, and also because he had not been the person who had prepared the certificate; and that he had only performed the ministerial duty of solemnizing the marriage based on the proper documents submitted to him, with the real parties involved having personally signed the certificate of marriage before him.

The respondent also denied receiving any amount for solemnizing the marriage of the complainant and her husband; and pointed out that he had not been aware as the solemnizing officer if any of the documents submitted by her was spurious. He recalled that she had freely and voluntarily signed the certificate of marriage; and that it was the same document that had been filed in the Local Civil Registrar's Office of Davao City. He declared that the marriage certificate itself stated the place of the solemnization of the marriage; and that he did not alter, modify or amend the entries therein.

### **Report & Recommendation of the Investigating Justice**

Upon the recommendation of the OCA,<sup>[5]</sup> the Court referred the complaint to the Court of Appeals in Cagayan de Oro City for investigation, report and recommendation. The complaint, originally assigned to Associate Justice Pamela Ann Abella Maxino for such purposes, was re-assigned to Associate Justice Maria Elisa Sempio Diy in view of the transfer of Associate Justice Maxino to the Cebu Station of the Court of Appeals.

On August 10, 2012, Investigating Justice Sempio Diy submitted her report and recommendation as the Investigating Justice,<sup>[6]</sup> whereby she concluded and recommended as follows:

The undersigned Investigating Officer, in the course of the investigation, has been hurled with overwhelming evidence that the marriage between complainant and Peter Keuppers was held *only* in the premises of DLS Travel and Tours Corporation, Sandawa Road, Matina, Davao City, and was solemnized by respondent. Several witnesses for complainant affirmed the same. More importantly, this Office has conducted an ocular inspection of the premises of DLS Travel and Tours. During said inspection, it was confirmed that the premises shown in Exhibits "G", "G-1", "G-2", "G-3", "G-4", and "G-5" where respondent is seen solemnizing a wedding, is the same place subject of the ocular inspection. Hence, the DLS Travel and Tours building is, in fact, the actual venue of complainant's wedding.

It is also of equal importance to note that respondent admitted that he indeed solemnized the subject marriage outside of his jurisdiction. In fact, in his testimony, respondent stated:

A: Rosilanda Maningo was really begging that the marriage be performed since that was the very day of the marriage as the German fiance will be leaving soon. Because of pity, I accommodated the parties. I risked your honor because I didn't want that the marriage be postponed as it was for the best interest of the couple because according to Rosilanda Maningo that was the only day, the German fiance was leaving for Germany. **So, I decided to solemnize the marriage in the office of DLS Travel and Tours.**

(Emphasis supplied)

The fact that respondent solemnized a marriage outside of his jurisdiction is further bolstered by his own admission that he solemnized the marriage of complainant and Peter Keuppers at DLS Travels and Tours and not in his territorial jurisdiction in the Island Garden City of Samal.

Indeed, respondent knows the possible consequence of the aforementioned act when he said:

A: I was thinking your honor that there was a sanction but because of my honest intention to help the parties because they were already begging that the solemnization be performed *[sic]*. I was honest with my intention and my conscience was clear.

However, this Office is also duty bound to specify that respondent had no hand in the preparation and processing of the documents pertaining to the subject wedding. The witness for complainant, Lorna Siega, stated:

Q: Madam, you mentioned a while ago that your establishment was the one who processed the documents for Rosilanda Maningo Kuppers and Peter Keuppers to get married, you confirm that?

A: Yes, ma'am.

Q: Who prepared the certificate of marriage?

A: Orlan.

Q: How about the marriage contract?

A: My employee.

-xxx-      -xxx-      -xxx-

Q: Who supplied the entries in the marriage contract?

A: Based on the marriage license.

-xxx-      -xxx-      -xxx-

Q: So, in relation to this case the once *[sic]* involving Peter Keuppers, I have here the copy of the marriage contract, have you seen this document, if any?

A: Yes, ma'am.

Q: You would confirm that the place of marriage typed there is the office of the MTCC Judge, Branch 2, Island Garden City of Samal?

A: Yes, ma'am.

Q: And your office supplied the information in the upper portion in the certificate of marriage which is Davao del Norte, Island Garden City of Samal?

A: Yes, ma'am.