

FIRST DIVISION

[A.M. No. MTJ-12-1814 (Formerly OCA IPI No. 10-2324-MTJ), September 19, 2018]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
JUDGE FRANCISCO A. ANTE, JR. AND WILFREDO A. PASCUA,
RESPONDENTS.**

DECISION

TIJAM, J.:

Before Us is an administrative complaint against Judge Francisco A. Ante, Jr. (Judge Ante), of the Municipal Trial Court in Cities (MTCC), in Vigan City, Ilocos Sur, for gross ignorance of the law.^[1]

The said administrative complaint rooted from a joint resolution dated April 19, 2010 issued by now Retired Judge Modesto L. Quismorio (Judge Quismorio), who was then the Presiding Judge of MTCC, Candon City, Ilocos Sur, in Criminal Case Nos. 4939 and 4940 entitled "*People of the Philippines v. Stephen Ronquillo and Willie Molina*," quashing Search Warrant No. 37, S' 2009 issued by Judge Ante.^[2]

In the said joint resolution, Judge Quismorio stated:

Consequently, Judge Ante, to the mind of this Court did not examine the witnesses who claimed to have personal knowledge that accused Stephen Ronquillo has in his possession one (1) M 16 Armalite Rifle and one (1) cal. 45 Pistol "in the form of searching questions and answers of facts personally known to them" in utter violation of the aforementioned constitutional and statutory mandate which could have laid the basis for the issuance of the assailed warrant upon probable cause.^[3]

In a letter-complaint dated October 1, 2010, Judge Ante charged Judge Quismorio with conduct unbecoming a judge. He found the conclusion in the above-quoted resolution malicious, unfounded, baseless and not supported by facts. He asserted that the conclusion was downright insulting and portrayed him as a judge lacking in the knowledge of the law. Judge Ante further said that as a fellow judge, Judge Quismorio should have shown respect instead of projecting himself as an all-knowing and knowledgeable judge at his expense because he (Judge Quismorio) was an applicant for the position of Presiding Judge of the Regional Trial Court, Tagudin, Ilocos Sur.^[4]

In an Answer dated January 7, 2011,^[5] Judge Quismorio explained that the statement quoted by Judge Ante was one of the bases for declaring the invalidity of the search warrant for utter failure to observe one of the vital requirements before issuing a search warrant as mandated by Section 5 in relation to Section 4 of Rule 126 of the Rules of Court:

Section 5. *Examination of complainant: record.* - The judge must before issuing the warrant, personally examine in the form of searching questions and answers, in writing and under oath, the complainant and the witnesses he may produce on facts personally known to them and attach to the record their sworn statements, together with the affidavits submitted.

The record of the proceedings for the application of said warrant reveals that Judge Ante failed to comply with the statutory requirement to personally examine the applicant and his witnesses in the form of searching questions and answers on the facts personally known to them pursuant to Section 4.^[6]

Judge Quismorio pointed out that any magistrate worth his salt and true to his oath as a lawyer and as a member of the judiciary must at all times uphold the mandate of the law and act as an avid sentinel in the preservation and protection of the civil rights and liberties of the people specifically their rights against unreasonable search and seizure and must shun altogether the indiscriminate issuance of search warrants in gross violation of the same.^[7] Judge Quismorio charged Judge Ante with gross ignorance of the law amounting to willful and deliberate issuance of said search warrant (No. 37 and other search warrants) in wanton, unmitigated and flagrant violation of constitutional and statutory requirements, and should be sanctioned accordingly. He also raised that Judge Ante issued a total of 156 search warrants in 2009 and 161 in 2010.^[8]

In a Resolution dated July 27, 2011, the Court, among others, considered the comment of Judge Quismorio as a complaint for gross ignorance of the law against Judge Ante, and directed the Office of the Court Administrator (OCA) to conduct an audit of the records of MTCC, Vigan, Ilocos Sur, particularly on the cases involving the issuance of search warrants.^[9]

In OCA Memorandum dated May 21, 2012,^[10] the OCA reported that it conducted an audit on February 22 and 23, 2012, the results of which, are as follows:

1. From January 2005 to February 23, 2012, or for a period of seven (7) years, Judge Francisco A. Ante, Jr., Municipal Trial Court in Cities (MTCC), Vigan City, Ilocos Sur, issued a total of one thousand seven hundred thirty-two (1,732) search warrants. Hereunder is the tabulation of the number of search warrants issued within that period on a monthly and yearly basis.

	2005	2006	2007	2008	2009	2010	2011	2012	TOTAL
JAN	33	43	12	26	7	14	4	10	151
FEB	49	18	16	22	12	25	5	4	151
MAR	46	13	18	7	9	17	9	-	119
APR	60	22	6	25	3	23	8	-	147
MAY	78	18	8	19	12	12	10	-	157
JUNE	108	18	9	31	29	18	5	-	218
JUL	121	20	38	18	23	19	2	-	241
AUG	44	25	24	23	17	15	5	-	153
SEP	56	16	25	21	21	0	10	-	149
OCT	46	13	24	26	7	8	8	-	132

NOV	16	6	21	20	13	7	6	-	89
DEC	10	6	0	4	2	3	0	-	25
TOTAL	667	218	203	242	155	161	72	14	1732

2. Comparatively, based on the records of the Statistical Reports Division, Court Management Office, OCA, all the other courts in the Province of Ilocos Sur, consisting of eight (8) second level courts and fourteen (14) first level courts, or a total of twenty-two (22) courts, issued a total of one hundred sixty-five (165) search warrants only over the same period stated in the preceding paragraph, thus:

	2005	2006	2007	2008	2009	2010	2011	2012	TOTAL
JAN	1	1	0	10	0	0	0	0	12
FEB	3	6	0	3	3	0	0	0	15
MAR	2	4	0	13	0	0	5	0	24
APR	1	9	6	3	0	0	0	-	19
MAY	1	0	9	14	0	0	0	-	24
JUNE	0	3	0	0	0	0	3	-	6
JUL	6	8	2	0	0	1	0	-	17
AUG	9	9	7	2	0	1	0	-	28
SEP	0	1	0	0	0	0	0	-	1
OCT	2	2	0	0	3	0	0	-	7
NOV	4	0	3	0	0	0	0	-	7
DEC	0	0	5	0	0	0	0	-	5
TOTAL	29	43	32	45	6	7	3	0	165

3. Of the 1,732 search warrants issued by Judge Ante, Jr. from January 2005 to February 23, 2012, the Team examined the records of one hundred forty-one (141) randomly chosen search warrants, taking into consideration Sections 2, 4, 5 and 12, Rule 126 of the Revised Rules of Court, which provide:

Section 2. *Court where application for search warrant shall be filed.* - An application for search warrant shall be filed with the following:

- a) Any court within whose territorial jurisdiction a crime was committed.
- b) For compelling reasons stated in the application, any court within the judicial region where the crime was committed if the place of the commission of the crime is known, or any court within the judicial region where the warrant shall be enforced.

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Section 4. *Requisites for issuing search warrant.* - A search warrant shall not issue except upon probable cause in connection with one specific offense to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the

things to be seized which may be anywhere in the Philippines.

Section 5. Examination of complainant; record. - The judge must, before issuing the warrant, personally examine **in the form of searching questions and answers, in writing and under oath**, the complainant and the witnesses he may produce on facts personally known to them and **attach to the record their sworn statements**, together with the affidavits submitted.

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Section 12. Delivery of property and inventory thereof to court; return and proceedings thereon. -

(a) The officer must forthwith deliver the property seized to the judge who issued the warrant, together with a true inventory thereof duly verified under oath.

(b) Ten (10) days after issuance of the search warrant, **the issuing judge shall ascertain if the return has been made, and if none, shall summon the person to whom the warrant was issued and require him to explain why no return was made.** If the return has been made, the judge shall ascertain whether section 11 of this Rule has been complied with and shall require that the property seized be delivered to him. The judge shall see to it that subsection (a) hereof has been complied with.

(c) The return on the search warrant shall be filed and kept by the custodian of the log book on search warrants who shall enter therein the date of the return, the result, and other actions of the judge.

A violation of this section shall constitute contempt of court.

4. As culled from the attached Table 1, the examination of the randomly chosen search warrants (SW) yielded the following findings and observations:

4.1. The places that were the subject of most of the search warrants issued by Judge Ante, Jr. from January 2005 up to February 2012 are outside the territorial jurisdiction of this court. In fact, of the one hundred forty-one (141) search warrants examined, only eleven (11) were to be enforced within his territorial jurisdiction, *i.e.*, Vigan City, Ilocos Sur;

4.2. While the applications for search warrant referred to above cited "compelling reasons" ('to avoid leakage', 'there is no RTC judge and the presiding judge of the court of the place where the crime was committed is also not available' and 'to ensure the secrecy of the operation') for filing said applications with the MTCC, Vigan City, Ilocos Sur, Judge Ante, Jr. appears to have accepted said "compelling reasons" "hook, line and

sinker," as he failed to elicit from the applicants and their witnesses additional information in support of the supposed "compelling reasons" during the examination conducted on some of these applications;

4.3. Most of the records of the search warrants do not show that Judge Ante, Jr. conducted the required examination of the applicants and their witnesses. In fact, of the one hundred forty-one (141) search warrants examined by the Team, one hundred twenty-three (123) search warrants appear to have been issued by Judge Ante, Jr. without complying with Section 5, Rule 126, Rules of Court, requiring a judge to "personally examine in the form of searching questions and answers, in writing and under oath, the complainant and the witnesses he may produce" and "attach to the record their sworn statements, together with the affidavits submitted," "before issuing the [search] warrant";

4.4. The questions propounded by Judge Ante, Jr. during the examination of the applicants and their witnesses in six (6) search warrants he issued are not probing and exhaustive and they appear to be merely routinary or *pro-forma*, which, under ordinary circumstances, would not have established probable cause for the issuance of a search warrant as required under Section 4 of the same Rule cited above. The manner of questioning by Judge Ante, Jr. appears to be the same and consistent in other applications for search warrant from January 2005 up to February 2012, and fall short of the standard of "searching questions and answers" required under Section 5 of said Rule. Consequently, a considerable number of search warrants he issued yielded a negative result;

4.5. In SW Nos. 89 S' 2005 and 129 S' 2006, no affidavits of the applicants and their witnesses were attached to their respective records in violation of Section 5 of the same Rule cited above, requiring the judge to "attach to the record their sworn statements, together with the affidavits submitted";

4.6. There is a considerable number of search warrants issued since January 2005 in which no return has been made, but Judge Ante, Jr. failed to require the persons to whom these warrants were issued to explain why no return has been made as required of him under Section 12 (b) of the Rule cited above; and

4.7. In SW 400 S' 2005, Judge Ante, Jr. issued an Order dated July 13, 2005 directing P/C Insp. Rolando B. Osaias to turn over to the court the seized articles consisting of 46 pieces of assorted Narra flitches within 10 days from receipt of the order. However, the record does not show that the subject articles were turned over to the court, but, as of audit date, Judge Ante, Jr. has not yet taken any further action thereon. (Underscoring and emphasis supplied)^[11]

The audit team found that the manner by which Judge Ante has been issuing search warrants since January 2005 may be characterized by laxity amounting to violations of Sections 2, 4, 5, and 12(b) of Rule 126.^[12]

It noted that the great disparity between the number of search warrants Judge Ante