

## EN BANC

**[ A.C. No. 9920 [Formerly A.M. No. MTJ-07-1691],  
August 30, 2016 ]**

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.  
FORMER JUDGE ROSABELLA M. TORMIS, RESPONDENT.**

### RESOLUTION

#### PER CURIAM:

A judge should know, or ought to know, his or her role as a solemnizing officer.

This disbarment complaint is an offshoot of our Decision in *Office of the Court Administrator v. Judge Necessario, et al.*<sup>[1]</sup> Respondent Former Judge Rosabella M. Tormis (Tormis), together with other judges and employees of the Municipal Trial Court in Cities, Cebu City, was dismissed for turning the solemnization of marriages into a business.<sup>[2]</sup> Tormis was dismissed from the service for the second time, and this Court directed the Office of the Bar Confidant to initiate disbarment proceedings against her.

On July 3, 2007, Atty. Rullyn Garcia, Region 7 Judicial Supervisor, led the judicial audit-team created by the Office of the Court Administrator to investigate Branches 2, 3, 4, and 8 of the Municipal Trial Court in Cities of Cebu City for alleged misdeeds in the solemnization of marriages.<sup>[3]</sup>

Two (2) undercover agents from the judicial audit team, posing as a couple, went to the Palace of Justice to ask about the marriage application process.<sup>[4]</sup> They were told by the guard on duty to go to Branch 4 and look for a certain "Meloy."<sup>[5]</sup>

Fearing that the male undercover would be recognized by the court employees in Branch 4, the two agreed that only the female undercover would go inside the court.<sup>[6]</sup> She was then assisted by a woman named Helen. Helen assured the female undercover that their marriage process could be hurried.<sup>[7]</sup> She also claimed that it was possible for the marriage to be solemnized the next day, but the marriage certificate would only be dated when the marriage license became available.<sup>[8]</sup>

The Office of the Court Administrator found that the respondent judges in that case connived with the court personnel, who acted as "fixers" in solemnizing marriages.<sup>[9]</sup> The judges heedlessly kept solemnizing marriages despite irregularities in the requirements provided under the law.<sup>[10]</sup>

In the Resolution dated July 10, 2007, this Court treated the judicial audit team's memorandum as an administrative complaint against the respondent judges, including Tormis.<sup>[11]</sup> The judges were directed to file their comments on the charges

against them.<sup>[12]</sup> They were also suspended pending resolution of the case.<sup>[13]</sup>

On August 24, 2007, Senior Deputy Court Administrator Zenaida N. Elepano of the Office of the Court Administrator submitted a Memorandum dated August 29, 2007 and Supplemental Report.<sup>[14]</sup> The Report stated that:

Six hundred forty-three (643) marriage certificates were examined by the judicial audit team. The team reported that out of the 643 marriage certificates examined, 280 marriages were solemnized under Article 34 of the Family Code. The logbooks of the MTCC Branches indicate a higher number of solemnized marriages than the number of marriage certificates in the courts' custody. There is also an unusual number of marriage licenses obtained from the local civil registrars of the towns of Barili and Liloan, Cebu. There were even marriages solemnized at 9 a.m. with marriage licenses obtained on the same day. The town of Barili, Cebu is more than sixty (60) kilometers away from Cebu City and entails a travel time of almost two (2) hours. Liloan, Cebu, on the other hand, is more than ten (10) kilometers away from Cebu City.<sup>[15]</sup> (Citations omitted)

The Report included the court employees' admissions of their participation in the alleged misdeeds. The following personnel substantiated the charges against Tormis:

- (1) Celeste P. Retuya, Clerk III of Branch 6 of the Municipal Trial Court in Cities, Cebu City, confirmed that she would personally assist couples who wished to be married by checking that their documents were complete before referring them to the judges, including Tormis;<sup>[16]</sup>
- (2) Corazon P. Retuya, Court Stenographer of Branch 6 of the Municipal Trial Court in Cities, Cebu City, "narrated several anomalies involving foreign nationals and their acquisition of marriage licenses from the local civil registrar of Barili, Cebu despite the fact that parties were not residents of Barili."<sup>[17]</sup> These marriages were solemnized by Tormis;<sup>[18]</sup>
- (3) Rhona F. Rodriguez, Administrative Officer I of the Office of the Clerk of Court of the Regional Trial Court, Cebu City, would aid couples in the solemnization of their marriages by referring them to the judges;<sup>[19]</sup>
- (4) Emma D. Valencia, Court Stenographer III of Branch 18 of the Regional Trial Court, Cebu City, "admitted that she assisted couples seeking to get married and that most of the marriage licenses were obtained from the local civil registrar of Barili and Liloan, Cebu because the registrars in those towns were not strict about couples' attendance in the family planning seminar";<sup>[20]</sup>
- (5) Marilou Cabañez, Court Stenographer of Branch 4 of the Municipal Trial Court in Cities, Cebu City, admitted that she would assist couples and refer them to the judges, including Tormis.<sup>[21]</sup> She added that "during the 8th, 18th, and 28th of the month, seven (7) to eight (8) couples would go directly to Judge Rosabella M. Tormis for a fifteen-minute marriage solemnization";<sup>[22]</sup>
- (6) Rebecca L. Alesna, Court Interpreter of Branch 1 of the Municipal Trial Court in Cities, Cebu City, admitted that "she usually referred couples to Judges Necessario or Tormis. Couples who wanted to get married under Article 34 of the Family Code were advised to buy a pro-forma affidavit of joint cohabitation for ten pesos (P10)";<sup>[23]</sup> and

(7) Filomena C. Lopez, Local Civil Registrar of Barili, Cebu, admitted that she did not examine marriage applications.<sup>[24]</sup> Couples who were not Barili residents could obtain a marriage license from her, provided that they had relatives residing in Barili;<sup>[25]</sup>

Affidavits of private individuals were also attached to the records.<sup>[26]</sup> Among these individuals was Jacqui Lou Baguio-Manera (Baguio-Manera), a resident of Panagdait, Mabolo, Cebu. Baguio-Manera claimed that her marriage was solemnized by Tormis with the aid of "Meloy," who asked for a fee of P1,500.00.<sup>[27]</sup> She and her then fiancé were not required to present a marriage license; they were only directed to bring their birth certificates.<sup>[28]</sup> She averred that while Article 34<sup>[29]</sup> did not apply to them, their marriage certificate was marked with the annotation, "No marriage license was necessary, the marriage being solemnized under Article 34 of Executive Order No. 209."<sup>[30]</sup>

On November 27, 2007, this Court En Banc issued the Resolution requiring all the judges involved, including Tormis, to comment on the Supplemental Report.<sup>[31]</sup> The Resolution also directed the Process Servicing Unit to furnish all the judges with a copy of the Report.<sup>[32]</sup> Further, all the court personnel involved were asked to show cause why they should not be disciplined for their misconduct.<sup>[33]</sup>

In her comment, Tormis denied the charges against her.<sup>[34]</sup> She claimed that the action of the Office of the Court Administrator was an "entrapment."<sup>[35]</sup> According to her, there was nothing wrong with solemnizing marriages on the same date the marriage license was issued.<sup>[36]</sup> In view of the pro forma affidavits of cohabitation, she relied on the presumption of regularity.<sup>[37]</sup> Tormis asserted that she should not be blamed for assuming that the affidavits were true since judges are not handwriting experts.<sup>[38]</sup>

Tormis also claimed that Baguio-Manera's affidavit was hearsay.<sup>[39]</sup> She averred that when Baguio-Manera and her husband was asked about the affidavit, they confirmed the truthfulness of their statements, particularly that they had been living together for five (5) years.<sup>[40]</sup> Lastly, Tormis blamed the filing clerks for the irregularities in the number of marriages solemnized in her sala.<sup>[41]</sup>

On November 12, 2007, Tormis, together with Judge Edgemelo C. Rosales, filed a Memorandum of Law with Plea for Early Resolution, Lifting of Suspension and Dismissal of the Case.<sup>[42]</sup> This Court lifted the suspension of the judges but forbade them from solemnizing marriages.<sup>[43]</sup>

On December 7, 2007, both judges moved for early resolution with a waiver of formal and/or further investigation and to dismiss.<sup>[44]</sup> This Court noted their Motion and affirmed the relief they sought, thus allowing the payment of the judges' unpaid salaries and benefits from July 9, 2007.<sup>[45]</sup>

The Office of the Court Administrator, through a memorandum dated June 15, 2010, found Tormis guilty of

gross inefficiency or neglect of duty for solemnizing marriages with questionable documents, for failure to make sure that the solemnization fee has been paid, for solemnizing marriages wherein one of the contracting parties is a foreigner who submitted a mere affidavit of his capacity to marry in lieu of the required certificate from the embassy and for solemnizing a marriage with an expired license.<sup>[46]</sup>

This Court upheld the findings of the Office of the Court Administrator and noted the individual liability of the judges:

***Liability of Judge Rosabella M. Tormis***

Judge Tormis solemnized a total of one hundred eighty-one (181) marriages from 2003 to 2007 based on the marriage certificates actually examined. However, the monthly report of cases showed that she solemnized three hundred five (305) marriages instead for the years 2004 to 2007. The OCA report also noted that it was only in July 2007 that her court started to use a logbook to keep track of marriages.

Respondent judge solemnized thirty-seven (37) marriages with incomplete or missing documents such as the marriage license, certificate of legal capacity to marry, and the joint affidavit of cohabitation. In several instances, only affidavits were submitted by the foreign parties in lieu of the certificate of legal capacity to marry.

Judge Tormis solemnized thirteen (13) marriages despite the questionable character of the validity of the required documents particularly the marriage license. The judicial audit team found numerous erasures and superimpositions on entries with regard to the parties' place of residence. In one instance, the judge solemnized the marriage of Rex Randy E. Cujardo and Anselma B. Laranio on 28 December 2006 despite the marriage license containing a rubberstamp mark saying, "THIS LICENSE EXPIRES ON" and a handwritten note saying "12/28/06" under it.

The judge solemnized a total of forty-seven (47) marriages under Article 34 of the Family Code wherein the marriage requirements' authenticity was doubtful due to the circumstances of the cohabitation of the parties and the given address of the parties. These irregularities were evident in the case of 22-year-old John Rey R. Tibalán and Ana Liza Secuya who were married on 25 May 2007. The residential address of the couple in the marriage certificate is "Sitio Bamboo, Buhisan, Cebu City." However, there was an application for marriage license attached to the marriage certificate showing that Secuya's address is "F. Lopez Comp. Morga St., Cebu City."<sup>[47]</sup>

This Court ruled that:

3. **Judge Rosabella M. Tormis**, Presiding Judge, Municipal Trial Court in Cities, Branch 4, Cebu City, GUILTY of gross inefficiency or neglect of duty and of gross ignorance of the law and that she would have been **DISMISSED FROM THE SERVICE** with forfeiture

of her retirement benefits, except leave credits, if any, and disqualified from reinstatement or appointment to any public office, including government-owned or -controlled corporation, **had she not been previously dismissed from service in A.M. No. MTJ-12-1817 (Formerly A.M. No. 09-2-30-MTCC);**

. . . .

The case against Judge Rosabella M. Tormis, including the sworn statements of Celerina Plaza and Crisanto dela Cerna, should be **REFERRED** to the Office of the Bar Confidant for the purpose of initiating disbarment proceedings against the judge.<sup>[48]</sup> (Emphasis in the original)

The affidavits of Celerina Plaza (Plaza) and Crisanto Dela Cerna (Dela Cerna) resulted from Marilou Cabañes' (Cabañes) and Helen Mongaya's (Mongaya) separate supplemental comments on the charges against them.<sup>[49]</sup> Cabañes, then Court Stenographer of Branch 4, named Plaza as Tormis' assistant, in charge of meeting couples at their lobby.<sup>[50]</sup> On the other hand, Mongaya, then Court Interpreter of Branch 4, attached Dela Cerna's affidavit to her comment.<sup>[51]</sup>

Plaza claimed to be Tormis' personal aide since 2002.<sup>[52]</sup> She alleged that after Tormis' suspension in 2006, she was directed to find couples who wanted to get married.<sup>[53]</sup> She was also told to direct the parties to Branch 4 and find Cabañes or "Meloy."<sup>[54]</sup>

In his affidavit, Dela Cerna stated that he was employed as Tormis' personal aide.<sup>[55]</sup> He claimed that during the investigation, Tormis directed him and Tormis' children to bring all the marriage certificates from her office to her house.<sup>[56]</sup>

In view of *Judge Necesario, et al.*, the Office of the Bar Confidant recommended that the case be docketed as A.C. No. 9920 (Formerly A.M. No. MTJ-07-1691) and entitled *Office of the Court Administrator v. Former Judge Rosabella M. Tormis*.<sup>[57]</sup>

On June 18, 2013, this Court approved the docketing of the case and directed respondent Former Judge Rosabella M. Tormis to comment on the disbarment charge against her.<sup>[58]</sup>

Respondent filed an Urgent Motion for Clarification<sup>[59]</sup> dated August 12, 2013 asking the Office of the Court Administrator to state the particular Canons of the Code of Professional Responsibility that she had violated as basis for her disbarment.

In the Resolution<sup>[60]</sup> dated September 10, 2013, this Court noted the Urgent Motion for Clarification and directed the Office of the Bar Confidant to inform respondent of the particular Canons that she had violated.

On November 29, 2013, the Office of the Bar Confidant sent respondent a letter informing her that the charges in her administrative cases as a judge were the grounds for her disbarment.<sup>[61]</sup> It cited A.M. No. 02-9-02-SC,<sup>[62]</sup> which provides that administrative cases against judges shall also be considered as disciplinary