

EN BANC

[A.M. No. P-13-3137, August 23, 2016]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
UMAIMA L. SILONGAN, ABIE M. AMILIL, AND SALICK U. PANDA,
JR., RESPONDENTS.**

D E C I S I O N

CARPIO, J.:

The Case

This administrative case originated from the Decision of the Supreme Court in *Office of the Court Administrator, Complainant, v. Judge Cader P. Indar, Presiding Judge and Acting Presiding Judge of the Regional Trial Court, Branch 14, Cotabato City and Branch 15, Shariff Aguak, Maguindanao, respectively, Respondent*^[1] docketed as A.M. No. RTJ-10-2232, ordering the Office of the Court Administrator (OCA) to investigate Atty. Umaina L. Silongan (Silongan) on her alleged authentication of decisions issued by Judge Cader P. Indar (Judge Indar).

The Facts

The facts, as culled from the records, are as follows:

In *Office of the Court Administrator, Complainant, v. Judge Cader P. Indar, Presiding Judge and Acting Presiding Judge of the Regional Trial Court, Branch 14, Cotabato City and Branch 15, Shariff Aguak, Maguindanao, respectively, Respondent*,^[2] this Court issued a Resolution dated 28 September 2010 directing Justice Angelita A. Gacutan (Justice Gacutan) to conduct a fact-finding investigation to determine the authenticity of decisions on numerous annulment of marriage cases rendered by Judge Indar and to ascertain who are the parties responsible for the issuance of the questioned decisions.

The fact-finding investigation revealed that the questioned decisions do not exist in the records of the Office of the Clerk of Court of the Regional Trial Court, Branch 14 in Cotabato City (RTC Branch 14) or the Regional Trial Court, Branch 15 in Shariff Aguak, Maguindanao (RTC Branch 15). These decisions were also accompanied by Certificates of Finality issued by Silongan and in one case, by Abie M. Amilil (Amilil), Officer-in-Charge (OIC) Branch Clerk of Court. At the time Justice Gacutan conducted the fact-finding investigation, Silongan and Amilil were employees of the Judiciary.

In a Decision dated 10 April 2012, this Court dismissed Judge Indar from the service for gross misconduct and dishonesty in issuing the spurious decisions on numerous annulment of marriage cases. The Court likewise directed the OCA to investigate Silongan, Acting Clerk of Court of RTC Branch 14, on her alleged participation in the

authentication of the said decisions.

Upon investigation, the OCA found that:

(1) Silongan certified as true copy 27 decisions^[3] issued by Judge Indar in RTC Branch 14. These cases cannot be found in the docket books. Neither have these cases been filed before RTC Branch 14, per Certification^[4] issued by Clerk of Court Atty. Janis Rohaniah G. Dumama-Kadatuan (Atty. Katatuan).

Silongan also certified as true copy an Order in Special Proceeding Case No. 08-1163, entitled *Carmelita Balagtas v. The Local Civil Registrar of the City of Manila*, which is also non-existent in the dockets of RTC Branch 15.

On 3 January 2011, the Employees Welfare Benefit Division of the Office of Administrative Services (OAS) received from Silongan an Application for Separation Benefit^[5] effective 31 December 2010.

(2) On 24 January 2008, Amilil issued a Certificate of Finality^[6] and certified as true copy Judge Indar's decision in Special Civil Case No. 508, entitled *Caroline Flor Buenafe v. Roberto R. Buenafe, Jr.*, which case does not appear in the court docket per letter of the current OIC Clerk of Court Atty. Dennis U. Relayson (Atty. Relayson).

Amilil also certified as true copy an Order issued by Judge Indar in Special Civil Case No. 1049, involving a petition for cancellation of certificates of live birth of two children, which case is not docketed in the trial court.

(3) On 15 April 2005, then RTC Branch 15 Clerk of Court Salick U. Panda, Jr. (Panda) issued a Certificate of Finality^[7] for Civil Case No. 517, a case supposedly involving declaration of nullity of marriage. The docket of RTC Branch 15, however, reveals that Civil Case No. 517 is actually a case for foreclosure of mortgage.

Based on OAS's records, Panda was temporarily appointed as Clerk of Court VI on 11 April 2005 and his appointment expired on 5 April 2006.

Thus, in its Memorandum dated 29 October 2012 addressed to the Office of the Chief Justice,^[8] the OCA recommended that Silongan, Amilil, and Panda be investigated.

In a Resolution dated 15 January 2013,^[9] the Court En Banc, upon recommendation of the OCA, resolved to: (a) docket separately the matter involving Silongan, Amilil, and Panda as OCA IPI No. 13-4035-P; (b) refer the remaining matter to the Executive Justice of the Court of Appeals (CA), stationed in Cagayan de Oro City, for raffle among the members of the said court; and (c) direct the CA Justice to whom this case will be assigned to investigate and submit his/her report and recommendation within 60 days from notice.

The case was raffled to Justice Henri Jean-Paul B. Inting (Investigating Justice) of the CA Cagayan de Oro City.

In an Order dated 22 March 2013,^[10] the Investigating Justice set the hearing on 23, 24, and 25 April 2013, and required Silongan, Amilil, and Panda to appear and submit their counter-affidavit/s and affidavit/s of their witnesses, if any.

In a Return of Service dated 27 March 2013,^[11] Atty. Kadatuan stated that Amilil and Panda received the notice of hearing as evidenced by their signatures in the Order, while Silongan's copy of the notice was forwarded to her brother, who refused to acknowledge its receipt.

Thereafter, Panda requested for a copy of the formal charge against him to enable him to prepare his counter-affidavit.

On 23 April 2013, Silongan and Amilil failed to appear before the Investigating Justice. Only Panda appeared during the hearing. Panda informed the Investigating Justice that he is no longer a Clerk of Court, but an administrative officer in the Provincial Prosecution Office of Maguindanao. He was then informed of the nature of the investigation against him, furnished a copy of the certificate of finality he issued, and given ten days to file his responsive pleading. The Investigating Justice then directed the Clerks of Court of RTC Branches 14 and 15 to submit the employment status of Silongan and Amilil.

In an Order dated 25 April 2013,^[12] the Investigating Justice set the continuation of the hearing on 21 May 2013, considering that Silongan and Amilil failed to appear on the 24 and 25 April 2013 hearings.

In his Affidavit dated 2 May 2013,^[13] Panda alleged that the copy of the certificate of finality he signed was one of the voluminous documents presented to him during the period of transition; he was barely a week in office when he signed the document. He alleged that he unceremoniously affixed his signature upon Silongan's assurance and based on the judgment attached. He further contended that he only performed his duties as Acting Clerk of Court and he did not act with malice when he signed the document.

In a Return of Service dated 17 May 2013,^[14] Atty. Kadatuan stated that: (1) Panda affixed his signature on the Order dated 25 April 2013; (2) Amilil acknowledged the receipt of the Order and subpoena but refused to sign; and (3) Silongan's copy was again forwarded to her brother, who refused to sign in the subpoena. On 21 May 2013, Panda, Amilil, and Silongan failed to appear in the hearing.

In an Order dated 30 May 2013,^[15] the Investigating Justice directed Silongan and Amilil to show cause why they should not be cited in contempt of court for their failure to attend the hearings. The Investigating Justice likewise directed the Clerks of Court of RTC Branches 14 and 15 to issue a certification regarding the employment status of Silongan and Amilil. Further hearings were set on 25 and 26 June 2013.

On 10 June 2013, the OIC Designate Sheriff of RTC Branch 14 filed a Return of Service^[16] stating that the Order dated 30 May 2013 and subpoenas were duly served to: (1) Panda; (2) Atty. Lalaine T. Mastura (Atty. Mastura), Clerk of Court of RTC Branch 15; (3) Atty. Relayson, OIC Clerk of Court of RTC Branch 14; (4) Aileen M. Burahan of RTC Branch 14, who received AmiliPs subpoena; and (5) the brother

of Silongan, who again refused to sign in the subpoena.

In the meantime, Atty. Relayson filed a Certification stating that Amilil resigned as Sheriff IV effective 17 September 2012.^[17] Atty. Mastura also filed a Certification stating that Silongan applied for early retirement, which is still pending due to the present administrative case.^[18]

In an Order dated 11 July 2013,^[19] the Investigating Justice stated that since they failed to appear during the 25 and 26 June 2013 hearings, Silongan's and Amilil's rights to be heard and defend themselves are deemed waived.

In his Report dated 19 August 2013,^[20] the Investigating Justice found that Silongan and Amilil were given due process, since they were aware of the administrative matter against them and they chose not to attend the hearings and be heard.

The Investigating Justice held Silongan and Amilil liable for grave misconduct and dishonesty for certifying as true and correct bogus decisions in their capacity as court personnel. According to the Investigating Justice, their acts of certifying several bogus decisions indicate a pattern of willful intention to violate and disregard established rules. On the other hand, since Panda certified one decision only and acted without malice, the Investigating Justice held him liable for simple neglect of duty.

The Investigating Justice then recommended the imposition of fines, instead of dismissal and suspension from office, after finding that Silongan, Amilil, and Panda are no longer connected with the Judiciary, to wit:

WHEREFORE, the undersigned investigating justice respectfully recommends to the Honorable Supreme Court the following:

1. The case be Re-docketed as a regular administrative matter;
2. Atty. Silongan and Mr. Amilil be held liable for Grave Misconduct and Dishonesty;
3. Mr. Panda be held liable for Simple [Neglect of Duty];
4. Considering that Atty. Silongan had already retired and Mr. Amilil resigned from Office, they be Fined in the amount of P40,000 with forfeiture of retirement benefits and perpetual disqualification [from] re-employment in any government service;
5. Considering that this is Mr. Panda's first administrative complaint and absent any showing that he acted with malice, he be Fined the amount of P5,000.

Respectfully submitted, August 19, 2013, Cagayan de Oro City.^[21]

In a Resolution dated 19 November 2013,^[22] the Court directed the Presiding Judge of RTC Branch 14 to furnish the Court with the present and correct address of Silongan, considering that a resolution addressed to Silongan was returned

unserved with notation on the letter-envelope: "RTS-No Longer Connected." Both the Executive Judge of RTC Branch 13 and Acting Presiding Judge of RTC Branch 15 sent letters to the Court informing it of the present address of Silongan.^[23] Thereafter, all court processes were delivered to Silongan's present address.

The Ruling of the Court

We adopt the recommendations of the Investigating Justice for Silongan and Amilil, but modify it for Panda.

The Revised Rules on Administrative Cases in the Civil Service, which govern the conduct of disciplinary and non-disciplinary proceedings in administrative cases, clearly provide that "[administrative investigations shall be conducted without strict recourse to the technical rules of procedure and evidence applicable to judicial proceedings."^[24] Thus, administrative due process cannot be fully equated with due process in its strict judicial sense.^[25]

In administrative proceedings, the essence of due process is simply an opportunity to explain one's side or an opportunity to seek a reconsideration of the action or ruling complained of.^[26] It is enough that the party is given the chance to be heard before the case is decided.^[27] Due process is not violated when a person is not heard because he or she has chosen, for whatever reason, not to be heard.^[28] If one opts to be silent when one has a right to speak, one cannot later be heard to complain that he or she was unduly silenced.^[29]

In the present case, the Investigating Justice set six hearings, and both Silongan and Amilil were duly notified of the hearings and the administrative case against them. As aptly found by the Investigating Justice:

Silongan was furnished a copy of the Decision of the Supreme Court ordering the OCA to investigate her alleged participation in the authentication of questioned Decisions by the Judge Indar. Moreover, the benefits due her from her early retirement were put on hold because of the pending investigation. These notices in addition to the Subpoenas issued to her and received by her brother clearly show that she is aware of the pending investigation. Thus, there can be no doubt that Silongan is aware of the administrative matter against her. Yet she chose not to attend the hearings and to be heard.

Amilil on the other hand resigned from office. Despite Subpoenas received by him, he did not attend the hearings and did not submit his counter-affidavit.^[30]

Thus, Silongan and Amilil cannot feign ignorance of the administrative investigation against them. They were given ample opportunity to controvert the charges against them; yet, they chose not to appear in any of the hearings or file any explanation. Unlike Panda, both Silongan and Amilil chose not to be heard despite the opportunity given to them.

Having found that Silongan and Amilil were accorded due process, we resolve the issue of whether Silongan, Amilil, and Panda are administratively liable in this case.