

EN BANC

[A.M. No. MTJ-07-1691 [Formerly A.M. No. 07-7-04-SC], April 02, 2013]

OFFICE OF THE COURT ADMINISTRATOR, PETITIONER, VS. JUDGE ANATALIO S. NECESSARIO, BRANCH 2; JUDGE GIL R. ACOSTA, BRANCH 3; JUDGE ROSABELLA M. TORMIS, BRANCH 4; AND JUDGE EDGEMELO C. ROSALES, BRANCH 8; ALL OF MTCC-CEBU CITY; CELESTE P. RETUYA, CLERK III, MTCC BRANCH 6, CEBU CITY; CORAZON P. RETUYA, COURT STENOGRAPHER, MTCC, BRANCH 6, CEBU CITY; RHONA F. RODRIGUEZ, ADMINISTRATIVE OFFICER I, OFFICE OF THE CLERK OF COURT, REGIONAL TRIAL COURT (RTC) CEBU CITY; EMMA D. VALENCIA, COURT STENOGRAPHER III, RTC, BRANCH 18, CEBU CITY; MARILOU CABANEZ, COURT STENOGRAPHER, MTCC, BRANCH 4, CEBU CITY; DESIDERIO S. ARANAS, PROCESS SERVER, MTCC, BRANCH 3, CEBU CITY; REBECCA ALESNA, COURT INTERPRETER, MTCC, BRANCH 1, CEBU CITY; AND HELEN MONGGAYA, COURT STENOGRAPHER, MTCC, BRANCH 4, CEBU CITY. RESPONDENTS.

DECISION

PER CURIAM:

This Court has long held that “[the] administration of justice is circumscribed with a heavy burden of responsibility. It requires that everyone involved in its dispensation — from the presiding judge to the lowliest clerk — live up to the strictest standards of competence, honesty, and integrity in the public service.”^[1]

THE CASE

This is an administrative case that stemmed from the 6 July 2007 Memorandum of the Office of the Court Administrator (OCA).^[2] The judicial audit team created by the OCA reported alleged irregularities in the solemnization of marriages in several branches of the Municipal Trial Court in Cities (MTCC) and Regional Trial Court (RTC) in Cebu City.^[3] Certain package fees were offered to interested parties by “fixers” or “facilitators” for instant marriages.^[4]

THE FACTS

On 3 July 2007, Atty. Rullyn Garcia, Region 7 Judicial Supervisor, proceeded to Cebu City and headed the audit team created by OCA in investigating Branches 2, 3, 4, and 8 of the MTCC in Cebu City.^[5] A female and male lawyer of the audit team went undercover as a couple looking to get married. They went to the Palace of Justice and were directed by the guard on duty to go to Branch 4 and look for a certain “Meloy”. The male lawyer feared that he would be recognized by other court

personnel, specifically the Clerk of Court of Branch 4 who was a former law school classmate. The two lawyers then agreed that only the female lawyer would go inside and inquire about the marriage application process. Inside Branch 4, a woman named Helen approached and assisted the female lawyer. When the female lawyer asked if the marriage process could be rushed, Helen assured the lawyer that the marriage could be solemnized the next day, but the marriage certificate would only be dated the day the marriage license becomes available. Helen also guaranteed the regularity of the process for a fee of three thousand pesos (P3,000) only.^[6]

In its 10 July 2007 Resolution, this Court treated the Memorandum dated 6 July 2007 of the judicial audit team as a formal administrative complaint and directed Judge Anatalio S. Necessario, Judge Gil R. Acosta, Judge Rosabella M. Tormis, and Judge Edgemelo C. Rosales to submit their respective comments.^[7] The Court also suspended the judges pending resolution of the cases against them.^[8]

On 24 August 2007, the OCA through Senior Deputy Court Administrator Zenaida N. Elepaño submitted its Memorandum dated 29 August 2007^[9] and Supplemental Report.^[10] Six hundred forty-three (643) marriage certificates were examined by the judicial audit team.^[11] The team reported that out of the 643 marriage certificates examined, 280 marriages were solemnized under Article 34^[12] of the Family Code.^[13] The logbooks of the MTCC Branches indicate a higher number of solemnized marriages than the number of marriage certificates in the courts' custody.^[14] There is also an unusual number of marriage licenses obtained from the local civil registrars of the towns of Barili and Liloan, Cebu.^[15] There were even marriages solemnized at 9 a.m. with marriage licenses obtained on the same day.^[16] 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.^[17] Liloan, Cebu, on the other hand, is more than ten (10) kilometers away from Cebu City.^[18]

The judicial audit team, after tape-recording interviews with other court and government personnel, also reported the following:

- 1) Celeste P. Retuya admitted that she assisted couples who wanted to get married by checking whether their documents were complete and referred them to Judges Tormis, Necessario, and Rosales afterwards;^[19]
- 2) Corazon P. Retuya referred couples who wanted to get married to Judge Necessario. There were also "assistants" who would go over the couples' documents before these couples would be referred to Judge Necessario. Retuya also 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. Those anomalous marriages were solemnized by Judge Tormis;^[20]
- 3) Rhona F. Rodriguez assisted couples and referred them to any of the available judges. She admitted that after the payment of the solemnization fee of three hundred pesos (P300), a different amount, as agreed upon by the parties and the

judge, was paid to the latter.^[21] She admitted that she accepted four thousand pesos (P4,000) for facilitating the irregular marriage of Moreil Baranggan Sebial and Maricel Albater although she gave the payment to a certain "*Mang Boy*";^[22]

- 4) Emma D. Valencia 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. She also admitted that couples gave her food while the judge received five hundred pesos (P500) if the marriage was solemnized inside the chambers. Foreigners were said to have given twice the said amount. The judge accepted one thousand five hundred pesos (P1,500) for gasoline expenses if the marriage was celebrated outside the chambers;^[23]
- 5) Marilou Cabañez admitted that she assisted couples and referred them to Judges Tormis, Necessario, or Rosales. However, she denied receiving any amount from these couples. She told the audit team 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;^[24]
- 6) Desiderio S. Aranas admitted that he started assisting couples in 2003. He told the investigating team that Judge Gil Acosta would talk to couples wishing to get married without a license. He would produce a joint affidavit of cohabitation form on which he or the clerk of court would type the entries. The judge would then receive an envelope containing money from the couple. Aranas also confirmed the existence of "open-dated" marriage certificates;^[25]
- 7) Antonio Flores, Branch 9 Process Server of RTC Cebu City, told the investigating team that couples looked for Judge Geraldine Faith A. Econg, Presiding Judge, Regional Trial Court, Branch 9, Cebu City, "*para menos ang bayad.*"^[26] The excess of three hundred pesos (P300) that couples paid to Judge Econg as solemnization fee went to a certain "sinking fund" of Branch 9;^[27]
- 8) Rebecca L. Alesna 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);^[28]
- 9) Arvin Oca, Branch 1 Process Server of the MTCC of Cebu City, admitted that he referred couples to Branch 2, Clerk of Court, Harrish Co. Oca declared that on 28 June 2007, he accompanied a couple to the chambers of Judge Necessario.^[29] He informed the judge that the couple only had birth certificates.^[30] The respondent judge then inquired about their ages and asked them if they had been previously married then proceeded to solemnize the marriage;^[31] and

- 10) Filomena C. Lopez, local civil registrar of Barili, Cebu, declared that she does not scrutinize marriage applications. [32] Couples who are non-Barili residents are able to obtain marriage licenses from her Barili office because these couples have relatives residing in Barili, Cebu. [33] She also added that while couples still need to submit a certificate of attendance in the family planning seminar, they may attend it before or after the filing of the application for marriage license. [34]

Affidavits of private persons were also attached to the records. Jacqui Lou Baguio-Manera was a resident of Panagdait, Mabolo, Cebu and on 21 May 2007, she and her then fiancé wanted to set a marriage date. [35] Her younger sister who was married in a civil wedding last year gave her the number of a certain "Meloy". After talking to Meloy on the phone, the wedding was scheduled at 2 p.m. on 23 May 2007 and the couple were asked to bring their birth certificates. No marriage license was required from them. Meloy asked for a fee of one thousand five hundred pesos (P1,500). According to Baguio-Manera, their marriage certificate was marked as "No marriage license was necessary, the marriage being solemnized under Art. 34 of Executive Order No. 209". Their marriage was solemnized that day by Judge Rosabella M. Tormis. Baguio-Manera claimed that they did not understand what that statement meant at that time. However, in her affidavit, she declared that the situation premised under Article 34 did not apply to her and her fiancé.

Mary Anne Flores-Patoc was a resident of Barrio Luz, Cebu City. In her 5 July 2007 affidavit, she recounted how she and her boyfriend went to the Provincial Capitol to get married in February 2006. While logging in at the entrance, they were offered assistance by the guards for a fee of one thousand five hundred pesos (P1,500). The guard also offered to become "Ninong" or a witness to the wedding. The couple became suspicious and did not push through with the civil wedding at that time.

On 27 November 2007, the Court *En Banc* issued a resolution: a) requiring Judges Anatolio S. Necessario, Gil R. Acosta, Rosabella M. Tormis, and Edgemelo C. Rosales of the MTCC, Branches 2, 3, 4, and 8, respectively, of Cebu City, to comment on the findings of the 14 August 2007 Supplemental Report of the OCA, within fifteen (15) days from notice; b) directing the Process Servicing Unit to furnish the judges with a copy of the Supplemental Report; c) requiring the court personnel listed below to show cause within fifteen (15) days from notice why no disciplinary action should be taken against them for their alleged grave misconduct and dishonesty and impleading them in this administrative matter:

- 1) Celeste P. Retuya, Clerk III, MTCC, Branch 6, Cebu City;
- 2) Corazon P. Retuya, Court Stenographer, MTCC, Branch 6, Cebu City;
- 3) Rhona F. Rodriguez, Administrative Officer I, Office of the Clerk of Court, RTC, Cebu City;
- 4) Emma D. Valencia, Court Stenographer III, RTC, Branch 18, Cebu City;
- 5) Marilou Cabañez, Court Stenographer, MTCC, Branch 4, Cebu City;
- 6) Desiderio S. Aranas, Process Server, MTCC, Branch 3, Cebu City;

- 7) Rebecca Alesna, Court Interpreter, MTCC, Branch 1, Cebu City;
- 8) Helen Mongaya, Court Stenographer, MTCC, Branch 4, Cebu City.

The Court in the same resolution also: a) ordered the referral to the Office of the Deputy Ombudsman for the Visayas for appropriate action on the administrative matter involving the violation of the law on marriage by Ms. Filomena C. Lopez, Local Civil Registrar of Barili, Cebu, and one Ms. Veronica S. Longakit, former Local Civil Registrar of Liloan, Cebu; b) directed the Process Serving Unit to furnish the Office of the Deputy Ombudsman for the Visayas with a copy of the Supplemental Report of the OCA; and c) required Judge Geraldine Faith A. Econg, RTC, Branch 9, Cebu City, to comment within fifteen (15) days from notice on the statement of staff member Antonio Flores saying that Branch 9's court personnel received an amount in excess of the P300 solemnization fee paid by couples whose marriages were solemnized by her. This amount goes to the court's "sinking fund".^[36]

In their Comments and/or Answers to the Memorandum dated 5 July 2007 of the OCA and its Supplemental Report,^[37] the respondent judges argued the following:

Judge Anatalio S. Necessario relies on the presumption of regularity regarding the documents presented to him by contracting parties.^[38] He claims that marriages he solemnized under Article 34 of the Family Code had the required affidavit of cohabitation. He claims that pro forma affidavits of cohabitation have been used by other judges even before he became a judge.^[39] He avers that he ascertains the ages of the parties, their relationship, and the existence of an impediment to marry.^[40] He also asks the parties searching questions and clarifies whether they understood the contents of the affidavit and the legal consequences of its execution.^[41] The judge also denies knowledge of the payment of solemnization fees in batches.^[42] In addition, he argues that it was a process server who was in-charge of recording marriages on the logbook, keeping the marriage certificates, and reporting the total number of marriages monthly.^[43]

Judge Gil R. Acosta argues that the law only requires a marriage license and that he is not required to inquire whether the license was obtained from a location where one of the parties is an actual resident.^[44] The judge believes that it is not his duty to verify the signature on the marriage license to determine its authenticity because he relies on the presumption of regularity of public documents.^[45] The judge also outlines his own procedure in solemnizing marriages which involves: first, the determination whether the solemnization fee was paid; second, the presentation of the affidavit of cohabitation and birth certificates to ascertain identity and age of the parties; third, if one of the parties is a foreigner, the judge asks for a certificate of legal capacity to marry, passport picture, date of arrival, and divorce papers when the party is divorced; fourth, he then asks the parties and their witnesses questions regarding cohabitation and interviews the children of the parties, if any.^[46]

Judge Rosabella M. Tormis denies the charges brought by the OCA. She calls the actions of the judicial audit team during the investigation an "entrapment".^[47] She also claims that there is nothing wrong with solemnizing marriages on the date of the issuance of the marriage license and with the fact that the issued marriage