

EN BANC

[ADM. MATTER NO. 06-7-414-RTC, October 19, 2007]

RE: FINAL REPORT ON THE JUDICIAL AUDIT CONDUCTED AT THE REGIONAL TRIAL COURT, BR. 67, PANIQUI, TARLAC.

DECISION

TINGA, J.:

This administrative matter arose from the judicial audit and physical inventory of cases conducted on 20-24 June 2005 at the Regional Trial Court (RTC) of Paniqui, Tarlac, Branch 67, then presided by Judge Cesar M. Sotero who compulsorily retired on 23 February 2006.

As of audit date, the RTC had a total caseload of 523 cases consisting of 309 criminal cases and 214 civil cases, including 33 unaccounted LRC cases. The Audit Team made the following observations:

In the conduct of the audit, the Team used the case numbers in the Docket Books from January 2003 up to [the] present as reference in the inventory of cases. Entries in the docket books are insufficient especially in the special proceedings cases which merely indicate the title of the case and the date the case was filed and the word "decided."

During the audit, it was observed by the Team that there was no special proceeding case records presented. Upon inquiry, Clerk of Court Paulino Saguyod averred that mostly [*sic*] of these cases are for Petitions for Correction of Entries in the Civil Registry and mostly [*sic*] are already decided and there are only few pending. Considering that the docket books have insufficient entries, the Team Leader used as reference the case numbers filed from January 2003 up to [the] present. During the random sampling of records, the same cannot be produced as the records were already bundled. x x x

COC Saguyod gave the team four (4) [folder] copies of decisions in the special proceedings cases. Initial findings reveal that the date of filing indicated in the docket books and the date of decision was so near that it will be highly improbable that the required publication will be complied with. Hence, the Team demanded for [*sic*] the production of 608 case records of special proceeding[s] cases.

In the copies of decisions presented, common in the second paragraph of the pro-forma decisions, are statements that "*finding the petition to be sufficient in form and substance, the same was set for hearing on x x x. On said date and time, the petition was announced in open court. Nobody interposed any objection. Accordingly, the counsel for petitioner*

presented documentary evidence to prove jurisdictional facts ([Exh.] "A" and series). Thereafter, he moved and was allowed to adduce further evidence before the Clerk of Court and at [sic] the presence of the Assistant Provincial Prosecutor who appeared in behalf of the State." However, during the course of the audit it was observed by the Team that almost all of the petitions are pro-forma and notarized by COC Saguyod as *ex-officio* notary public. There are even unsigned, unverified and not notarized petitions granted by the Court. Further, almost all of them have no hearings conducted that it will be improbable if not possible that the court orders be published in a newspaper of general circulation as required by the Rules of Court. The docketing of cases was not also in sequence as to its date of filing (**Annex "A"**).

Moreover, there are eighty-six (86) petitions [where] the date of filing were simultaneous or ahead of the date of [the] alleged hearing/decision (**Annex "B"**) and fifty-eight (58) petitions [were] found to have either no [c]ourt action or no further action for a considerable length of time (**Annex "C"**). Also, nine (9) petitions have similar docket numbers and three (3) cases with the same docket number (**Annex "D"**) while one hundred seventy-nine (179) cases [sic] records were not presented to the Team (**Annex "E"**).

Further, in the reconciliation of the Semestral Docket Inventory for the period July-December 2004 of Land Registration Cases, thirty-three (33) case records are unaccounted [for] x x x.

The Team also observed that there is no Certificate of Arraignment attached to [the] criminal case records. Minutes of the Hearing have no summary of what transpired during the hearing of the case. Docket books for criminal and civil cases are [sic] not updated. [The] [d]ocket book for special proceedings cases merely indicated the title of the case and the date it was filed with [a] notation "decided." There is no docket book shown for land registration cases.

Anent Election Protest No. 001-04, the Court in its order dated 04 June 2004 directed the protestant to make an initial deposit of [P]500.00 per ballot box (61 ballot boxes) as compensation for the revisors within five (5) days from notice. There was no receipt attached to the records of the case. COC Saguyod explained that the receipt was with the protestant and that the same was not per official receipt and not deposited to [sic] the Fiduciary Account as the same will be paid to the revisors. He claimed that he will also render an accounting of the expenses incurred at the end of the hearing.

Likewise noted are the payments made in SP Nos. 1032 and 1033, both undocketed petitions, [having] the same Official Receipts Numbers which when compared with the original receipts[,], referred to other cases and/or transactions x x x.^[1]

In view of its observation, the Audit Team recommended in its Memorandum dated 11 July 2005 ^[2] that Judge Sotero and Clerk of Court Paulino I. Saguyod be directed

to explain the following within ten (10) days from notice:

- (a) why 375 petitions for change of name and/or correction of entries in the civil registry were granted without the required hearing and publication, in gross violation of the provisions of Rule 108 of the Rules on Civil Procedure;
- (b) why the dates of filing of 86 other petitions were either the same as or ahead of the date of the alleged hearing/decision;
- (c) why 70 petitions had no court action after their filing or no further action/setting for a considerable length of time after the last order/incident of the case;
- (d) why nine (9) petitions had similar docket numbers and three (3) other cases had the same docket number; and
- (e) why the records of 179 special proceedings and those of 33 land registration case were not presented to the Audit Team.^[3]

It was also recommended that Clerk of Court Saguyod be required to: (a) explain why the initial deposit of P500.00 per ballot box for 61 ballot boxes made by the protestant in Election Protest No. 001-04 pursuant to the order of 4 June 2004 was not remitted to the Fiduciary Fund Account; and (b) explain the discrepancy in the official receipts representing the payment of filing fees for Spec. Proc. Nos. 1028, 1029 and 1030 which appeared as payment for Spec. Proc. Nos. 1032 and 1033.^[4]

Judge Sotero and Clerk of Court Saguyod jointly filed an Explanation dated 1 August 2005,^[5] giving the following reasons for their actions:

- (a) As to the petitions for correction of entry/ies without hearing and publication —

Judge Sotero and Clerk of Court Saguyod explained that almost all of these petitions may be covered by Republic Act (R.A.) No. 9048^[6] which authorizes city or municipal civil registrars to correct clerical or typographical errors in an entry and/or change the first name or nickname in the civil registry without need for a judicial order. The petitions were filed before the trial court because there was no incumbent Local Civil Registrar and the OIC-Civil Registrar could not act on these petitions under R.A. No. 9048. Since R.A. No. 9048 allows corrections of entries without hearing and publication for as long as the necessary documents are submitted, the trial court considered the same procedure as applicable to the petitions for correction of entries filed before it. The Clerk of Court still held *ex parte* hearings to receive the evidence. In resolving these petitions which are summary and non-adversarial in nature, the trial court adopted the procedure in civil cases where the defendant is declared in default and the court renders judgment based on the pleadings filed by plaintiff and grants such relief as may be warranted, following Sec. 3, Rule 9 of the Revised Rules of Court. The trial court adopted this procedure to expedite the resolution of said petitions to afford the court more time to devote to the resolution of criminal and civil cases that required more attention.

(b) As to the 86 petitions that were resolved on the same date as the date of filing or date of hearing —

These petitions were for correction of entry/ies and involved innocuous errors that may be subject of administrative corrections under R.A. No. 9048. The trial court resolved these petitions with dispatch to accommodate the petitioners' need to have their civil registry documents immediately corrected to conform with their passport applications, applications to take board examinations and petitions to travel abroad. The petitioners discovered the errors after they submitted the required documents and yet they were given a limited period to secure the correction of the erroneous entries. If the corrected documents were not submitted on time, the applications of the petitioners would be denied and the denials would mean lost opportunities, particularly for the applicants for overseas contract work and applicants to take board examinations. Judge Sotero was more lenient in such instances since in his view no substantial prejudice would ensue. In any event, he resolved to adopt, henceforth, a stricter policy in cases where no publication is required, by imposing a ten (10) day period for posting of the petition after its filing and seeing to it that the petition is set for hearing only after it is so posted.

(c) As to the 70 petitions where no court action was taken for a considerable length of time after filing —

Some are petitions for adoption awaiting the submission of the Home Study and Child Study Reports by the social welfare officers assigned to the cases. The initial hearing cannot proceed without the reports being submitted to the court.

Others are petitions for correction of entry/ies where the petitioners have not yet submitted the required supporting documents. They will be either dismissed for lack of interest in due time or resolved within the next thirty (30) days.

The rest are petitions for judicial reconstitution of title which are still pending because the reports and recommendation of the Land Registration Authority have not yet been submitted to the court.

(d) As to the petitions with similar/same docket numbers —

According to the docket clerk, Mr. Ruben A. Gigante, the nine (9) petitions with similar docket numbers were either cancelled or withdrawn by petitioner/s (they bear the notation "no action taken").

As to the three (3) cases with the same docket number, Mr. Gigante admitted that he failed to enter the first filed petition in the docket book, and that he accepted for filing the succeeding petitions but assigned the same case number without indicating a letter after the number to distinguish the second and third petitions from the first.

It was admitted that the irregularity was the offshoot of inefficiency in the docketing system. To avoid similar incidents, the Clerk-in-Charge of Civil Cases

was assigned to take charge of the docket in special proceedings and land registration cases in place of Mr. Gigante who is only a utility clerk.

(e) As to un-audited records of 179 special proceedings and 33 land registration cases —

Judge Sotero and Clerk of Court Saguyod reported that as of the time of the submission of the explanation, the records of 124 special proceedings and 10 land registration cases had been accounted for. Thereupon, they requested another 15 days to retrieve the remaining records which they believe were soaked in floodwater in 2004.

The Office of the Court Administrator (OCA), in its Memorandum dated 8 May 2006, [7] deemed the explanation bereft of merit or deserving of scant consideration. The OCA noted that the petitions for change of name and/or correction of entries in the civil registry are special proceedings governed either by Rules 103 or 108 of the Revised Rules of Court. Sec. 3, Rule 103 specifically provides when the order for hearing of such petitions shall be issued and what the order should contain, thus:

SEC. 3. *Order for hearing.*—If the petition filed is sufficient in form and substance, the court, by an order reciting the purpose of the petition, shall fix a date and place for the hearing thereof, and shall direct that a copy of the order be published before the hearing at least once a week for three (3) successive weeks in some newspaper of general circulation published in the province, as the court shall deem best. The date set for the hearing shall not be within thirty (30) days prior to an election or within four (4) months after the last publication of the notice.

Sec. 4, Rule 108 similarly requires the issuance of an order of hearing and the publication of the order in petitions for correction of entries in the civil registry, thus:

SEC. 4. *Notice and Publication.*—Upon the filing of the petition, the court shall, by an order, fix the time and place for the hearing of the same, and cause reasonable notice thereof to be given to the person named in the petition. The court shall also cause the order to be published once a week for three (3) consecutive weeks in a newspaper of general circulation in the province.

The OCA maintained that the provisions of the Rules of Court on publication of the order of hearing should have been strictly observed as publication is a jurisdictional requirement. Hence, the OCA remarked, it is appalling that Judge Sotero and Clerk of Court Saguyod favorably acted on the petitions even though they were only pro-forma and notarized by Saguyod as an *ex officio* notary public and still others were unsigned, unverified or unnotarized. Some 86 petitions were found to bear dates of filing which are the same as or ahead of the date of the alleged hearing/decision, clearly belying the claim of Judge Sotero that hearings on these petitions were conducted or that they were referred to the Clerk of Court for presentation of evidence *ex parte*. Said practices, according to the OCA, constitute a mockery of established procedure under the Rules of Court, especially since nothing in R.A. No. 9048 or its Implementing Rules and Regulations would justify the procedure that Judge Sotero and Clerk of Court Saguyod adopted.