

EN BANC

[A.M. No. RTJ-21-2606 (formerly A.M. No. 20-12-164-RTC), February 09, 2021]

OFFICE OF THE COURT ADMINISTRATOR V. JUDGE VICTOR TEVES, SR., FORMER PRESIDING JUDGE AND TITO VALENCIA, PROCESS SERVER, REGIONAL TRIAL COURT (RTC) BRANCH 54, LAPU-LAPU CITY, CEBU

R E S O L U T I O N

LAZARO-JAVIER, J.:

ANTECEDENTS

This administrative matter stemmed from two (2) judicial audits conducted in the Regional Trial Court (RTC), Lapu-Lapu City, Cebu-Branch 54, presided by Judge Victor Teves, Sr. (Judge Teves).

The first judicial audit was conducted on February 22, 2016 to March 3, 2016. On October 2, 2019, Judge Teves filed his application for optional retirement effective January 2, 2020. Thus, another judicial audit was conducted on November 18-19, 2019.^[1]

First Judicial Audit

During the first judicial audit, several procedural lapses were noted which were referred to Judge Teves for appropriate action. After submitting his actions on these procedural lapses, the Office of the Court Administrator (OCA) issued Memorandum dated July 4, 2016 where he was directed to:

- 1) take appropriate action on the remaining cases covered by the first judicial audit requiring his immediate action and to furnish the OCA with copies of the resolutions within ten (10) days from their issuance, particularly on:
 - a. five (5) criminal and five (5) civil cases that have been dormant for a considerable length of time
 - b. nineteen (19) criminal and four (4) civil cases with pending motions or incidents;
- 2) explain in writing why he incurred delay in resolving motions/incidents in three (3) criminal cases and nineteen (19) civil cases, and in deciding five (5) criminal cases and twenty-two (22) civil cases;
- 3) explain in writing why forty-four (44) cases involving annulment of marriages/declaration of nullity of marriage were heard and decided

even without the necessary attachments/documents required by law;

- 4) forward proof of arraignment of accused Dominador Hera in Crim. Case No. 016669 and accused Alvarado (bonded) in Crim. Case No. 018749 whose cases are already at the trial stage; and
- 5) investigate and act on the unconfirmed reports that the court maintains a "sinking fund" from donations given by parties whose marriages were solemnized by the court.

By letter dated September 13, 2016, he manifested that most of the cases subject of the first judicial audit were already acted upon except for eleven (11) petitions for bail which were still being heard. On his delayed decisions and resolutions, he cited the following circumstances which allegedly caused the delay:

- 1) increase in the number of cases raffled to his branch;
- 2) the full-time designation of his clerk of court, Atty. Denis L. Pacas (Atty. Pacas), as Assistant Regional Court Administrator for Human Resource Development Department in the Regional Court Administrator Office;
- 3) failure of Atty. Herminigilda Maratas to perform her functions as Legal Researcher;
- 4) resignation/retirement of clerk civil-in-charge, Ms. Marianita Ayala.

He apologized for the delay and begged the Court's indulgence and consideration. On the alleged sinking fund, he claimed to have already issued a memorandum to enjoin all court personnel from receiving any form of donation from litigants, including those whose marriages he solemnized.

Under Memorandum dated October 25, 2016, the OCA again directed him to:

- 1) take appropriate action on the remaining cases still not acted upon;
- 2) explain in writing why cases involving annulment of marriage/declaration of nullity of marriage were heard and decided even without the requisite attachments/documents;
- 3) immediately cease from smoking within the premises of the Hall of Justice, Lapu-Lapu City, Cebu;
- 4) refrain from issuing orders stating that cases will be dismissed for failure of the accused and the private complainant to appear during the next scheduled arraignment and from archiving cases when the accused, who was already arraigned, failed to appear during subsequent hearings.

Regarding the procedural irregularities involving annulment/nullity of marriage, he submitted his explanation and pointed to the documents which the audit report may have erroneously indicated were not found in the case records.

In yet another Memorandum dated March 20, 2017, the OCA directed him to explain

why he should not be administratively charged with gross dereliction of duty, gross inefficiency, and gross incompetence for failure to comply with the previous directives per Memorandum dated July 4, 2016, as reiterated in Memorandum dated October 25, 2016, viz.:

- 1) to take appropriate action on the remaining cases subject of the first judicial audit that required immediate action, especially those cases which have been dormant for a considerable length of time and those three (3) criminal and nineteen (19) civil cases with pending motions or incidents and to furnish the OCA copy of the resolutions within ten (10) days from their Issuance;
- 2) to explain in writing why he incurred delay in resolving motions in three (3) criminal and nineteen (19) civil cases and in rendering judgment in five (5) criminal and twenty-two (22) civil cases already submitted for decision;
- 3) to explain in writing why forty-four (44) cases involving annulment of marriage/declaration of nullity of marriage were heard and decided even without the necessary documents and court Orders attached to the records; and
- 4) to immediately cease from smoking within the compound of the Hall of Justice, Lapu-Lapu City, among others.

By letter dated April 12, 2017, he echoed the explanation contained in his letter dated September 13, 2016. He added that the bail petitions were still being heard while the rest of the subject motions were already resolved.

As for the alleged missing documents of annulment and/or nullity cases, he explained that the Office of the Public Prosecutor would sometimes conduct investigations to determine collusion without the necessary court orders; the supposed missing documents were actually attached to the records; the petitioner in Civil Case No. 14-07158 personally appeared before the Prosecutor during the scheduled collusion investigation and attended the pre-trial conference and subsequent proceedings; and in his capacity as the hearing judge, he relied on the regularity in the performance of official duties of the sheriff/process server in the service of summons. He admitted though his infractions, apologized for his lapses, and begged for compassion.

Meanwhile, separate Memoranda of even date were also issued to Atty. Pacas, branch Clerk of Court and Tito Valencia (Valencia), branch Process server, thus:

1. Atty. Pacas was directed to:

- a. apprise the presiding judge from time-to-time of cases submitted for resolution/decision and those cases that require immediate action;
- b. refrain from issuing orders of commitment which authority exclusive pertains to the bench;
- c. direct the Sheriff and the Process Server to comply with the mandates in *"Ma. Imelda M. Manotoc v. Honorable Court of Appeals and Agapita*

Trajano, et al." The return should state the facts and circumstances surrounding the attempted personal service and the details on the date and time of the attempts on personal service, the inquiries made to locate the defendant and the acts done to serve the summons. It must also state that the person found in the alleged dwelling of the defendant is of legal age, his/her relationship with the defendant and whether that person understood the significance of the receipt of the summons and the mandate to deliver it to the defendant or at least notify the defendant of the receipt of summons;

- d. remind the encoder of Pre-Trial Orders to type the names of the accused and their counsels after that of the presiding judge and insure that the orders are duly signed by all, and attach to the records the certificate of arraignment duly signed by the accused and counsel, where the accused entered a plea;
- e. attach to the records of the Certificate of Arraignment in all criminal cases where the accused entered a plea, duly signed by the accused and his/her counsels; and
- f. submit compliance within thirty (30) days from receipt.

- 2. Mr. Valencia, Process Server, was directed to explain in writing within thirty (30) days why he immediately availed of substituted service of summons in Civil Case Nos. 08-03607, 08-03747, 09-04324, 11-05919 and 14-07168 which are cases involving annulment of marriage. Summons in Civil Case No. 11-05919 was even allegedly served in Parañaque City.

In his letter dated September 13, 2016, Atty. Pacas fully complied with the directives. Thus, by Memorandum dated October 25, 2016, the OCA considered the matters covered by the first judicial audit pertaining to Atty. Pacas closed and terminated.

On the other hand, Valencia submitted his explanation through letter dated September 6, 2016. He asserted that his failure to comply with the rules on substituted service of summons was due to his "voluminous work" as a process server, on top of his additional tasks as the designated temporary clerk-in-charge of civil cases. Admitting his lapses though, he asked for leniency and promised to strictly comply with the rules on service of summons.

In another Memorandum dated September 19, 2016, Valencia was directed to show proof of: (1) the manner of serving summons in Civil Case No. 11-05919 in view of the incomplete address of the respondent in Parañaque City; (2) the mode of travel from Lapu-Lapu City to Parañaque City; and (3) the identity of one Maribel Amamangpang upon whom the service was made. Records showed that Civil Case No. 11-05919 was later dismissed for failure to prosecute.

In his letter dated November 23, 2016, Valencia averred that: (1) petitioner gave him the plane ticket to Manila; and (2) he used respondent's address as stated in the petition as his guide in serving the summons.

As he failed to submit proof of his travel to Manila, the OCA directed Valencia to: (1)

secure a certification from the airline company which he allegedly boarded on February 18, 2011 from Mactan to Manila and *vice versa*; (2) prove the identity and address of a certain Maribel Amamangpang upon whom he served summons; (3) explain in writing why he personally went to Parañaque City to serve the summons instead of endorsing the same to the Office of the Clerk of Court, RTC-Parañaque City; and (4) show his authorization to personally serve the summons in Parañaque City. He did not comply with these directives.^[2]

Second Judicial Audit

At the time of the second judicial audit on November 18-19, 2019, the court had a total caseload of 714 active cases, consisting of 536 criminal and 178 civil cases.^[3]

On December 17, 2019, Atty. Pacas submitted copies of orders or decisions in the cases subject of the judicial audit and reported the actions taken on the following cases:^[4]

STATUS/STAGES OF PROCEEDINGS	CRIMINAL	CIVIL	TOTAL
No Further Action/Setting	2	5	7
With Pending Motions/Incidents	40	11	51
Submitted for Decision	4	7	11

The OCA reported that Judge Teves had satisfactorily acted on these cases. Although there were several pleadings and papers which were not properly attached to the case folders, the OCA recognized that such lapse cannot be attributed to Judge Teves but to the branch clerk of court and the clerk-in-charge who are the custodians of the court records and are duty bound to ensure that all the papers pertaining to every case are attached or stitched into the appropriate case folders and ought to be complete before they are presented to the presiding judge for hearing.

RECOMMENDATION OF THE OCA

In its Memorandum^[5] dated October 12, 2020, the OCA submitted the following recommendation:

1. The two (2) judicial audit reports be **RE-DOCKETED** as a regular administrative complaint against retired Judge Victor Teves, Sr. and Mr. Tito Valencia, Process Server, both of Branch 54, Regional Trial Court of Lapu-Lapu City, Cebu;
2. Respondent Judge Victor Teves, Sr. be found **GUILTY** of gross inefficiency and gross incompetence for his failure to decide cases and resolve motions within the reglementary period, and be **METED** the penalty of a **FINE** equivalent to his basic salary for six (6) months to be deducted from his retirement benefits; and