

## EN BANC

**[ A.M. No. RTJ-19-2549 [Formerly OCA IPI No. 19-4920-RTJ], June 18, 2019 ]**

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.  
PRESIDING JUDGE TINGARAAN U. GUILING; CLEOTILDE P.  
PAULO, OFFICER-IN-CHARGE; GAUDENCIO P. SIOSON, PROCESS  
SERVER; AND REYNER DE JESUS, SHERIFF, ALL OF BRANCH 109,  
REGIONAL TRIAL COURT, PASAY CITY, RESPONDENTS.**

### DECISION

#### **CARANDANG, J.:**

This is an administrative complaint based on the Judicial Audit and Inventory of Cases conducted in the Regional Trial Court (RTC), Branch 109 of Pasay City, presided by Judge Tingaraan Guiling, on April 14-30, 2015, pursuant to Travel Order No. 42 dated April 13, 2015.

In a Memorandum<sup>[1]</sup> dated December 17, 2015, the judicial audit team reported that as of audit date, Branch 109 had a total case load of 1,456 active cases consisting of 409 criminal cases and 1,047 civil cases, based on the records actually presented to and examined by the team which are classified hereunder according to the status-stage of proceedings:

<b>STATUS/STAGE OF PROCEEDINGS</b>	<b>CRIMINAL</b>	<b>CIVIL</b>	<b>TOTAL</b>
Warrants/Summons	1	59	60
Arraignment	9	0	9
Preliminary Conference/Pre-Trial/JDR	62	73	135
Trial/Hearing	177	265	442
For Compliance	5	127	132
No Action Taken	17	22	39
No Further Action/Setting	78	131	209
With Pending Motions/Incidents	22	92	114
Submitted for Decision	24	130	154
Decided/Withdrawn/Terminated	2	48	50
Dismissed	5	52	57
Archived	4	45	49
Suspended Proceedings	3	0	3

Newly Filed	0	3	3
<b>TOTAL</b>	<b>409</b>	<b>1047</b>	<b>1456</b>

On May 28, 2015, June 22, 2015, July 10, 2015, and August 6, 2015, Branch 109 forwarded to the Court copies of Orders and Decisions in relation to the list of cases that were needed to be acted upon by RTC, Branch 109, Pasay City. Thereafter, the team found that there were 17 criminal cases with no action taken, 78 criminal cases with no further action/setting, 22 criminal cases with motions/pending incidents, and 24 criminal cases submitted for decision. Meanwhile, there were 22 civil cases with no action taken, 134 civil cases with no further action/setting, 92 civil cases with motions/pending incidents, and 132 civil cases submitted for decision.

The following are the audit team's general adverse findings: 1) many of the records were not paginated nor chronologically arranged; 2) there were Pleadings/Documents<sup>[2]</sup> received by the court without date and time stamped thereon; 3) there were no returns of summons on the writ of replevin in Civil Case No. 14-16623; 4) not all criminal case folders had Certificates of Arraignment; 5) the court was delayed in the submission of its Semestral Docket Inventory and Monthly Report of Cases with the Statistical Reports Division of the Court Management Office (as of April 2015, the court has yet to submit the 2011 Second Semester of the Semestral Docket Inventory to Second Semester of 2014, and its Monthly Report of Cases for June 2014 to February 2015, both the old and new forms); 6) the court's general docket books were not updated; and 7) the Pre-trial Orders were only signed by the Presiding Judge.

Regarding cases involving annulment of marriages and Recognition of Divorce Decree, the team noted these findings:

1. The Office of the Solicitor General filed manifestations and motions that it be furnished copy of the petitions and other relevant documents. Despite the absence of compliance, trial proceeded.<sup>[3]</sup>
2. Process Server Gaudencio Sioson immediately availed of service of summons by substituted service in many cases on the ground that respondent was either out of the house, in the office, or out for work.<sup>[4]</sup>
3. On the other hand, Sheriff Reyner De Jesus availed of substituted service of summons indicating in his Returns of Summons that he made "several attempts" before resorting to substituted service of summons.<sup>[5]</sup> There were cases where summons were served by Sheriff de Jesus and the return stated that the same was served "upon a person who claimed to be respondent." The returns made by the Sheriff and the Process Server contained general statements and noncompliance with the rule laid down in G.R. No. 130974, entitled "*Ma. Imelda M. Manotoc v. Honorable Court of Appeals and Agapita Trajano, et al.*" decided on August 16, 2006. Likewise, there was no statement in the Return of the facts and circumstances surrounding the attempted personal service and there were no details on the date and time of the attempts on personal service, the inquiries made to locate the defendant, the name of occupants of the alleged residence of the defendant and the acts done to serve the summons. No statement was made that the person found in the

alleged dwelling of the defendant is of legal age, his relationship with the defendant and whether that person understood the significance of the receipt of the summons and the mandate to immediately deliver it to the defendant or at least notify the defendant of the receipt of summons.

4. Cases proceeded even if respondent was not validly served with summons, no Notice of Appearance of the Office of the Solicitor General was received by the court, and the prosecutor had not yet complied with the submission of the report on collusion. There were also cases where the copy of the orders sent to the petitioners was returned by the post office with the notation that petitioners are not residents of the area.<sup>[6]</sup> It was also observed that Judge Guiling prioritized the hearing of annulment of marriage cases and that they were decided within a short span of time.<sup>[7]</sup>

The team also observed the continued presence of a certain man conversing with the staff during the audit. That man was present in the court the entire day from 14 to 29 April 2015 (Monday to Thursday). The man introduced himself as "Mang Boy" or Mr. Adolf Mantala. The team first thought that he was a friend of the staff but information was gathered on the last day of the audit that Mr. Mantala is the personal secretary of Sheriff de Jesus who takes the call of petitioners in replevin cases whenever Sheriff de Jesus is not around. His presence was tolerated by Judge Guiling and OIC Paulo.

During the exit conference, the team brought to the attention of the court that information was received earlier about some records being kept by Sheriff de Jesus in the trunk of his car. On one hand, Sheriff de Jesus replied that he had already returned all the replevin cases to the court. On the other hand, OIC Cleotilde Paulo did not offer any explanation as to why said records were in the possession of Sheriff de Jesus.

With the team's several adverse findings, Judge Guiling, Officer-in-Charge Ms. Cleotilde Paulo, Sheriff Reynier de Jesus, and Process Server Mr. Gaudencio Sioson were ordered to explain why they should not be administratively charged.<sup>[8]</sup>

Meanwhile, Judge Guiling was directed to: 1) take appropriate action on all cases that require his immediate action, especially those with pending motions or incidents, and those that are submitted for decision; 2) explain (a) why he should not be administratively charged when he proceeded to hear cases involving annulment of marriage despite invalid service of summons, and prior to the receipt of the Notice of Appearance of the OSG and the Report on Collusion, and non-compliance of the parties on the Manifestation and Motion of the OSG to be furnished with copies of the petitions and their annexes; and (b) why the court, as of April 2015, failed to submit within the prescribed period the Monthly Report of Cases from June to February 2015, and the Semestral Docket Inventory from July to December 2011 to July to December 2014; and 3) prioritize the hearing of criminal and civil cases (except annulment and nullity of marriage) especially those filed beyond the ten (10) year period.<sup>[9]</sup>

### **The Report and Recommendation of the OCA**

On June 27, 2016, the OCA submitted the following recommendations:<sup>[10]</sup>

1. The instant judicial audit report be **RE-DOCKETED** as an **administrative complaint** against Hon. Tingaraan U. Guiling, Presiding Judge, Branch 109, Officer-in-Charge Ms. Cleotilde P. Paulo, Process Server Gaudencio P. Sioson and Sheriff Reyner de Jesus, all of Regional Trial Court, Pasay City;
2. Judge Guiling be found **GUILTY** of gross dereliction of duty, gross inefficiency, and gross incompetence for undue delay in rendering judgment in twenty-three (23) criminal cases and forty (40) civil cases; undue delay in the resolution of motions or incidents in seventeen (17) criminal cases and sixty-three (63) civil cases, violation of Supreme Court rules, directives and circulars; undue delay in the submission of monthly reports; failure to maintain the confidentiality of court records and proceedings; and violation of the rules on annulment of marriage;
3. Judge Guiling be **RELIEVED** of the judicial and administrative functions effective immediately and to continue until further orders from this Court, **EXCEPT TO**:
  - (a) **DECIDE** with dispatch the remaining five (5) criminal and eleven (11) civil cases submitted for decision referred to above, and **SUBMIT** to the Court, through the Office of the Court Administrator (OCA), copies of the decisions within thirty (30) days from notice;
  - (b) **RESOLVE** with dispatch the remaining motions/incidents in six (6) criminal and fifty-four (54) civil cases, and **SUBMIT** to the Court, through the OCA, copies of the corresponding resolutions within thirty (30) days from notice;
  - (c) **TAKE APPROPRIATE ACTION** immediately in the two (2) criminal and eight (8) civil cases wherein no action was taken from the time of their filing, and thirty-eight (38) criminal and sixty (60) civil cases without further setting for a considerable length of time, and **SUBMIT** to the Court, through the OCA, within thirty (30) days from notice a copy of each order and resolution, if any, issued in connection therewith; and
  - (d) **EXPLAIN** within thirty (30) days from notice why he proceeded to hear cases involving annulment of marriage despite invalid service of summons, and prior to the receipt of the Notice of Appearance of the Office of the Solicitor General and the Report of Collusion (in cases grounded on Article 36 of the Family Code); and the non-compliance of the parties with the Manifestation and Motion of Office of the Solicitor General to be furnished with copies of the petitions and their annexes;
4. Judge Guiling be **FINED** in the amount of FIFTY THOUSAND PESOS (P50,000.00) and the salaries and other benefits accruing to him be **WITHHELD** effective immediately until such time that the Court shall have ordered the restoration of his judicial and administrative functions;
5. Hon. Caridad G. Cuerdo, Presiding Judge, Branch 113, Regional Trial Court, Pasay City, be **DESIGNATED** as Assisting Judge of Branch 109, Regional Trial Court, Pasay City, to **HEAR** all active cases in that court;

6. Judge Cuervo be **ENTITLED** to an additional expense allowance and judicial incentive allowance as provided in the Resolution dated 2 February 1999 of the Court *En Banc* in A.M. No. 99-1-04-SC, as amended by the Resolution of the Court *En Banc* dated 17 January 2006;
7. Officer-in-Charge Ms. Cleotilde P. Paulo be **SUSPENDED** for six (6) months without salaries and allowances for violation of Supreme Court rules, directives and circulars, undue delay in the submission of monthly reports, failure to maintain the confidentiality of court records and proceedings, and violation of the rules on annulment of marriage;
8. Sheriff Mr. Reynier de Jesus be **FINED** in the amount of TWENTY THOUSAND PESOS (P20,000.00) for failure to maintain the confidentiality of court records and proceedings, and violation of the rules on annulment of marriage; and
9. Process Server Mr. Gaudencio P. Sioson be **FINED** in the amount of FIVE THOUSAND PESOS (P5,000.00) for violation of the rules on annulment of marriage.

### **The Ruling of the Court**

After a judicious review of the records of the case, this Court agrees with the findings and recommendations of the OCA.

#### **I. Judge Tingaraan Guiling**

Judge Guiling was granted an extension of thirty (30) days from February 9, 2016 to fully comply with the directives issued to him by the Deputy Court Administrator. On March 11, 2016, Judge Guiling forwarded copies of orders, alias warrants of arrest and decisions issued by him in compliance with the Memorandum<sup>[11]</sup> dated January 12, 2016, directing him to take appropriate action on the remaining criminal and civil cases.

However, despite these submissions from Judge Guiling, the OCA still found two (2) criminal and eight (8) civil cases with no action taken from the time of their filing; thirty-eight (38) criminal and sixty (60) civil cases without further setting; and six (6) criminal and fifty-four (54) civil cases with unresolved motions or incidents, and five (5) criminal and eleven (11) civil cases undecided and submitted for decision. Judge Guiling did not provide any justification for his delay in the rendition of judgment in numerous cases. He failed to submit any explanation as to why he should not be administratively charged for proceeding to hear cases involving annulment of marriage despite invalid service of summons, prior to the receipt of the Notice of Report on Collusion (in cases grounded on Article 36 of the Family Code), and the non-compliance of the parties with the Manifestation and Motion of the OSG to be furnished with copies of the petitions and their annexes.

Article VIII, Section 15 (1)<sup>[12]</sup> of the 1987 Constitution mandates lower court judges to decide a case within the reglementary period of ninety (90) days. The New Code of Judicial Conduct under Section 5 of Canon 6 likewise directs judges to perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness. Rules prescribing the time within which certain acts must be done are indispensable to prevent needless delays in the orderly and speedy