

## THIRD DIVISION

**[ A.M. No. P-12-3061 [Formerly OCA-IPI No. 08-3022-P], June 27, 2012 ]**

**ATTY. EDWARD ANTHONY B. RAMOS, COMPLAINANT, VS.  
REYNALDO S. TEVES, CLERK OF COURT III, MUNICIPAL TRIAL  
COURT PROMULGATED: IN CITIES, BRANCH 4, CEBU CITY,  
RESPONDENT.**

### DECISION

**ABAD, J.:**

This case is about the clerk of court's discretion in refusing to receive a pleading or motion that he believes has not complied with the requirements of the rules.

#### **The Facts and the Case**

On August 15, 2008 Atty. Edward Anthony B. Ramos filed a complaint for money in his client's behalf before the Municipal Trial Court in Cities (MTCC) of Cebu City, Branch 4, in which complaint he sought the *ex parte* issuance of a writ of preliminary attachment.

Since the MTCC already served summons on the defendant but did not yet act on his *ex parte* request for preliminary attachment, Atty. Ramos went to Branch 4 on September 8, 2008 to personally file an urgent *ex parte* motion to resolve the pending incident. But respondent Reynaldo S. Teves, the branch clerk of court, refused to receive the motion for the reason that it did not bear proof of service on the defendant. Atty. Ramos explained that *ex parte* motions did not require such service. A heated argument between Atty. Ramos and Teves ensued, prompting the presiding judge who heard it to intervene and direct the clerk in charge of civil cases to receive the *ex parte* motion.

On November 24, 2008 Atty. Ramos charged Teves before the Office of the Court Administrator (OCA) with arrogance and discourtesy in refusing to receive his motion despite his explanation and a reading of Section 1, Rule 57 of the Rules of Court and Justice Oscar Herrera's commentary on the Rules of Court relative to *ex parte* motions.

In his comment, Teves claimed that he was neither arrogant nor discourteous and that his argument with Atty. Ramos had been cordial and professional. Citing Rule 19 of the Rules of Court, Teves asserted that he acted correctly in refusing to accept Atty. Ramos' "non pro forma" motion for failure to furnish the adverse party with a copy of the notice of hearing. Teves claimed that he could not just accept pro forma pleadings because these would burden the court with having to decide matters based on a technicality, resulting in delay and clogging of the dockets. Teves added that while the clerk of court has the ministerial duty to receive pleadings, he is not