

EN BANC

[A.M. No. 04-7-373-RTC, December 17, 2004]

**RE: REPORT ON THE JUDICIAL AUDIT CONDUCTED IN THE RTC,
BRANCH 60, BARILI, CEBU**

[A.M. No. 04-7-374-RTC]

**RE: VIOLATION OF JUDGE ILDEFONSO SUERTE, RTC, BRANCH
60, BARILI, CEBU, OF ADMINISTRATIVE ORDER NO. 36-2004
DATED MARCH 3, 2004**

R E S O L U T I O N

PER CURIAM:

In anticipation of the forthcoming compulsory retirement of respondent Judge Ildefonso B. Suerte on January 23, 2005 and in response to newspaper reports questioning the alleged highly irregular handling by the same respondent of the murder case of Cedrick Devinadera, the self-confessed accessory in the killing of Alona Bacolod Ecleo, wife of Philippine Benevolent Missionaries Association supreme leader Ruben Ecleo, Jr., Deputy Court Administrator Christopher Lock recommended that a judicial audit be immediately conducted of the Regional Trial Court, Branch 60, Barili, Cebu. DCA Lock likewise recommended that an investigation be conducted to determine compliance by Judge Suerte with this Court's Administrative Order (AO) No. 36-2004, which specifically provides:

As Assisting Judge, Judge Cañete shall act on all newly filed cases in the Regional Trial Court, Branch 60, Barili, Cebu, as well as all civil and criminal cases in said court where pre-trial has not been terminated as of the date of the Administrative Order.

In a Memorandum dated June 4, 2004, the Honorable Chief Justice Hilario G. Davide, Jr. directed DCA Lock to immediately proceed to Cebu to conduct an inquiry into the matter and determine if Judge Suerte violated the aforecited AO in relation to the Devinadera case, as well as to other cases which Judge Suerte heard, tried or decided after the issuance of the AO. In the same Memorandum, the judicial audit team headed by Atty. Rullynn S. Garcia which was then in Cebu was likewise instructed to include Branch 60 of the Regional Trial Court in Barili, Cebu in their audit.

On July 9, 2004, the audit team submitted its report, which was summarized in this Court's *en banc* **Resolution dated October 12, 2004**, to wit:

A. On Judge Ildefonso Suerte:

(1) He failed to act or take further action on 170 cases despite the

lapse of considerable length of time since they were filed or since the last actions were taken thereon by the court, to wit:

Civil Cases Nos. SP-BAR-201, LRC-198, SP-BAR-192, LRC-188, SP-BAR-074, SP-BAR-174, SP-BAR-135, SP-BAR-125, SP-BAR-124, SP-BAR-104, SCA-BAR-010, 013, 077, 109, 154, 170, BRL-LRC-171, BRL-LRC 185, 189, 196, 198, 199, 200, 208, 209, 212, 212, 221, SP-BAR,-227, CEB-BAR-227, SP-BAR-230, 230, 234, 239, 254, 270, 273, 275, 282, 286, 307, 314, 318, 319, 338, 342, 347, 359, 360, 361, 363. (51 in all)

Criminal Cases Nos. 831-A, 209, 210, 249, 273, 276, 277, 311, 376, 380, 381, 401, 404, 411, 421, 427, 436, 437, 438, 439, 443, 464, 507, 508, 513, 518, 531, 532, 559, 566, 572, 580, 581, 594, 602, 613, 621, 650, 652, 656, 659, 665, 687, 689, 694, 707, 711, 714, 732, 737, 739, 754, 776, 783, 787, 795, 810, 819, 821, 823, 824, 828, 831, 833, 837, 838, 839, 847, 856, 861, 867, 870, 871, 872, 873, 874, 875, 876, 878, 879, 886, 900, 906, 907, 953, 903, 909, 910, 912, 913, 918, 919, 921, 922, 923, 925, 930, 937, 940, 941, 942, 943, 944, 945, 957, 959, 964, 966, 975, 987, 989, 997, 998, 1023, 1025, 1040, 1043, 1044, 1047. (119 in all)

(2) He acted or took cognizance of the following cases in violation of Administrative Order No. 36-2004, dated March 3, 2004:

Civil Cases Nos. 365, 366, 367, 372, 373, 374, 376, 377, 378, 379, 380, 381, 382, 383, 384, 386, 387, SP-BAR-266.

Criminal Cases Nos. 1034, 1035, 1039.

(3) He failed to make a judicious assessment of the allegations contained in the petitions for declaration of nullity of marriage and annulment of marriage, particularly with respect to the addresses of petitioners, to wit:

9.1 There are indications which tend to show that the parties in some cases are not really residents of the places, which fall under the territorial jurisdiction of Branch 60, contrary to their claim or allegation in their petition. The act of Branch 60 in taking cognizance thereof despite the doubtful claims of petitioner as to their place of residence betrays its patent laxity in exercising its duty to make a judicious assessment of the allegations contained in the petition. For instance.

9.1.1 In CEB-BAR-377, entitled *Leyson, Jr. v. Bontuyan*, the given address of the petitioner as alleged in the petition is "c/o Virgilio Concepcion, Poblacion, Barili" while that of

the respondent is "Hi-way 77, Talamban, Cebu City." The use of the abbreviation "c/o" which means "care of," connotes that petitioner is not an actual resident of said place; otherwise, there would be no more need for petitioner to identify himself with someone else who is a known resident of Barili, Cebu in the matter of establishing his address therein.

9.1.2 In CEB-BAR-380, entitled *Mitchell v. Mitchell*, the given address of the petitioner as alleged in the petition was changed from "San Roque, Quiot Pardo, Cebu City" to "Brgy. Tapon, Dumanjug, Cebu," a municipality which falls under the territorial jurisdiction of Branch 60. The change of address was apparently effected to clothe Branch 60 with jurisdiction to try and decide the case.

9.1.3 In CEB-BAR-372, entitled *Tabarno v. Tabarno*, the given address of the petitioner as appearing in the certificate of non-forum shopping, which is an integral part of the petition, was changed from "Tisa, Cebu City" to "Barili, Cebu." Again the change of address was apparently effected as an after thought to enable Branch 60 to exercise jurisdiction over the case.

9.1.4 In CEB-BAR-376, entitled *Caray v. Baruel*, the given address of petitioner as alleged in the petition is "c/o Dionisia Baruel Kaindoy, Poblacion, Barili, Cebu," while that of the respondent is Surigao City. Again, the use of the abbreviation "c/o" raises doubt as to the veracity of petitioner being a genuine resident of the given address.

9.1.5 In CEB-BAR-373, entitled *Ora v. Ora*, the given address of the petitioner as alleged in the body of the petition is "Poblacion, Dumanjug, Cebu." However, his address as indicated in the verification of the petition is "Osmeña Blvd., Cebu City." The variance of the address of the petitioner as appearing in the body of the petition and in the verification should have been looked into by Judge Suerte to determine which of the two is correct. He apparently did not.

(4) He acted on certain cases with undue haste in violation of the Rule on Declaration of Nullity of Void Marriages and Annulment of Voidable Marriages, which was approved by the Court on March 4, 2003 in A.M. No. 02-11-10-Honorable Supreme Court, resulting to the prejudice of respondents, to wit:

9.2.1 In CEB-BAR-278, entitled *Suarez v. Montenegro*, Judge Suerte, on May 6, 2004, allowed the *ex parte* presentation of petitioner's evidence, after having declared that respondent and counsel "failed to appear despite notice" and submitted the case for decision.

Perusal of the records, however, revealed that the notice of hearing scheduled for May 6, 2004 was only mailed to the respondent, "c/o Alma Borromeo, Langlad, Naga, Cebu," on May 3, 2004, or three (3) days prior to the hearing. At the time the hearing was conducted on May 6, 2004, Branch 60 had not yet received the return of said notice. The declaration, therefore, of Judge Suerte that respondent and counsel "failed to appear despite notice" had no factual and legal bases.

9.2.2 In CEB-BAR-350, entitled *Cuesta v. Yanoc*, Judge Suerte submitted the case for decision less than two months from its filing.

The case was filed on January 29, 2004. The summons was issued on the same day, and the same was served upon the respondent through substituted service on February 3, 2004. On March 4, 2004, the Cebu Provincial Prosecution Office filed its Investigation Report. On the same day, Judge Suerte allowed petitioner to identify and mark her documentary exhibits to prove the jurisdictional facts of the case. The case was then set for trial on March 12, 2004. On said date, or less than two (2) months from its filing, the case was submitted for decision.

9.2.3 In CEB-BAR-293, entitled *Gaviola v. Rivera*, Judge Suerte declared in his Order of November 13, 2003 that respondent and counsel failed to appear "despite due notice" and submitted the case for decision after allowing petitioner to present evidence *ex parte*. The records of the case are bereft of any proof that respondent and his counsel were duly notified of the November 13, 2003 hearing.

The case was decided by Judge Suerte on January 13, 2004, or six (6) months since it was filed on July 4, 2003.

9.2.4 In CEB-BAR-348, entitled *Regis v. Litijio*, Judge

Suerte decided the case less than four (4) months from the time it was filed on January 28, 2004 on the petitioner's deposition upon oral examination, which was taken on February 19, 2004. The records do not show that respondent was duly notified of the taking of said deposition.

9.2.5 In CEB-BAR-329, entitled *Castro-Roa v. Roa*, Judge Suerte exhibited extraordinary fervor in deciding the case in a record time of sixty-seven (67) days from the time it was filed, and in surreptitiously bestowing finality thereto twenty-three (23) days later by issuing an Entry of Final Judgment himself.

(5) He rendered a decision in another case for declaration of nullity of marriage based on what appears to be a fabricated transcript of stenographic notes, thus:

In Civil Case No. CEB-BAR-250, entitled *Santos v. Santos*, which was filed on January 23, 2003, Judge Suerte made it appear in his decision that plaintiff Rechel Taborda Santos testified in open court, when, from all indications, no such testimony ever took place. The alleged testimony of the plaintiff, as recorded in the transcript of stenographic notes (TSN) of the supposed proceedings in this case on August 14, 2003, was substantially quoted in the decision, dated October 10, 2003, which declared the marriage between the plaintiff and defendant null and void.

There are factors, however, that cast doubt upon the authenticity of the TSN in question. *First*, the name of the stenographer who took down the stenographic notes of said proceedings does not appear in the TSN. This is contrary to the common practice in all courts in the Philippines whereby the names of the court stenographers who assisted in the proceedings are written on the first page of the TSN, along with the names of the presiding judge, prosecutor and private counsels. *Second*, the court stenographers of Branch 60, namely: Ma. Lydia B. Castro, Violeta Y. Causin, Estrellia A. Facturan and Corazon B. Labajo, issued a certification, dated June 9, 2004, which was attested to by clerk of court Atty. Razonable, declaring that they did not prepare the TSN in question. *Third*, 2nd Assistant Provincial Prosecutor Napoleon H. Alburo, the resident prosecutor of Branch 60, issued a certification, dated June 11, 2004, declaring that while he appeared and attended the scheduled hearing on all cases at Branch 60 on August 14, 2003, he denied having attended a hearing of this case on the date. *Fourth*, this case was not among the cases listed in the calendar of cases for