



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

OFFICE OF THE COURT
ADMINISTRATOR,
Complainant,

A.M. No. RTJ-16-2424
[Formerly A.M. No. 15-12-390-RTC]

—versus—

Present:

LEONEN, J., Chairperson,
LAZARO-JAVIER,
LOPEZ, M.,
LOPEZ, J., and
KHO, JR.,* JJ.

HON. GLOBERT J. JUSTALERO,
Presiding Judge, Branch 32, Regional
Trial Court, Iloilo City, and the
designated Assisting Judge of Branch 66,
Regional Trial Court of Barotac Viejo,
Iloilo,

Respondent.

Promulgated:

JAN 18 2023

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DECISION

LOPEZ, J., J.:

This Court resolves the administrative case filed by the Office of the Court Administrator against respondent Judge Globert J. Justalero (*Judge Justalero*) as the Presiding Judge of Branch 32, Regional Trial Court (RTC) of Iloilo City, and as the designated Assisting Judge of Branch 66, RTC of Barotac Viejo, Province of Iloilo, for gross ignorance of the law and procedure, gross misconduct, and incompetence.

Antecedents

By virtue of Administrative Order (A.O.) No. 12-2010, Judge Justalero was designated as the Assisting Judge of the RTC of Barotac Viejo to take

* On leave.

cognizance of the cases previously heard by Judge Daniel Antonio Gerardo S. Amular (*Judge Amular*), in addition to Judge Justalero's duties as the Presiding Judge of Branch 32, RTC of Iloilo City. With respect to the newly-filed cases before the RTC of Barotac Viejo, the same were raffled between Judge Justalero and Judge Rogelio Amador (*Judge Amador*), Presiding Judge of Branch 66, RTC of Barotac Viejo at a ratio of 2:1, respectively.¹

Pursuant to the Memorandum dated April 10, 2015 and the Travel Order No. 44-2015 issued on April 14, 2015, a regular judicial audit was conducted on the active cases of the RTC of Barotac Viejo from April 20 to May 3, 2015. The audit team made the following observations after auditing the records of all nullity of marriage cases heard and decided by Judge Justalero in 2014 and 2015:²

1. Judge Justalero decided several cases for declaration of nullity of marriage within a period of six months only.³
2. Aside from the unusual speed by which cases were decided, numerous irregularities marred Judge Justalero's resolution of nullity of marriage cases:
 - a. The Office of the Solicitor General was not furnished with copies of orders and notices by the Court;⁴
 - b. Proceedings continued despite the non-appearance on the part of the Office of the Solicitor General;⁵
 - c. No collusion report was submitted despite no answer being filed by the respondents in some of the cases;⁶
 - d. The orders to conduct investigation on possible collusion and the collusion investigation report by the public prosecutor were issued on the same day or almost simultaneously;⁷
 - e. The collusion investigation report and pre-trial order were issued on the same day;⁸
 - f. The order to conduct collusion investigation was issued

¹ *Rollo*, vol. 1, p. 1.

² *Id.*

³ *Id.* at 4, 8.

⁴ *Id.* at 5, 8.

⁵ *Id.* at 8.

⁶ *Id.* at 5.

⁷ *Id.* at 6.

⁸ *Id.* at 6.

before the issuance of the return of service of summons;⁹

- g. No affidavit or proof of publication was executed despite the issuance of an order granting the motion to serve summons by publication;¹⁰
- h. The issuance of the order granting the motion to serve summons by publication came after the dates of publication stated in the affidavit of publication;¹¹
- i. The Transcripts of Stenographic Notes (*TSNs*) in a case were transcribed by Janette Juaneza Coloma (*Coloma*), the Court Stenographer III from Branch 32, RTC of Iloilo City;¹²
- j. The return of service stated that summons were received and signed by respondent or representative, despite the actual summons not bearing any signature proving service thereof;¹³
- k. The return of service of summons was issued prior to the date of notice of pre-trial conference and the order to conduct collusion investigation;¹⁴
- l. The order admitting the exhibits in the formal offer of evidence was issued before the lapse of the period within which respondent should file his or her comment;¹⁵
- m. The decision was rendered despite the absence of the pretrial order and/or the ruling on the formal offer of evidence;¹⁶
- n. The decision was rendered despite the absence in the records of the answer, collusion report, formal offer of evidence and/or memorandum from petitioner;¹⁷ and
- o. Parties in the case were not residents of Iloilo, while the marriage was solemnized outside Iloilo.¹⁸

The foregoing observations prompted a discreet investigation, in the guise of a regular judicial audit, to be conducted in Branch 32, RTC of Iloilo

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at 6-7.

¹⁵ *Id.* at 7.

¹⁶ *Id.* at 8.

¹⁷ *Id.*

¹⁸ *Id.*

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City from August 10 to 14, 2015.¹⁹ The audit team noted the following findings:

1. The swiftness by which Judge Justalero was able to resolve nullity of marriage cases was marred by several irregularities:
 - a. The decision was rendered one to three days after the filing of the memorandum;²⁰
 - b. The decision was rendered despite the absence of answer and collusion report by the public prosecutor;²¹
 - c. The return of service of summons was issued after the substituted service of summons was made;²²
 - d. The motion to take deposition was granted one day after its filing;²³ and
2. Despite hearing cases only every Friday in the RTC of Barotac Viejo, Judge Justalero was able to decide 26 cases on the declaration of nullity of marriage in 2014 as the Assisting Judge thereof, while he disposed only 11 nullity of marriage cases as the Presiding Judge in Branch 32, RTC of Iloilo City within the same span of time.²⁴

Meanwhile, the audit team called attention to Judge Justalero's solemnization of marriages in RTC Barotac Viejo, Iloilo which were also attended by the following irregularities:

1. The discharge of administrative functions such as the solemnization of marriages in Barotac Viejo, Iloilo has not been vested in Judge Justalero as the Assisting Judge in the Regional Trial Court of Barotac Viejo;²⁵
2. The number of marriages solemnized by Judge Justalero at the RTC of Barotac Viejo is highly suspect. Considering that he only hears cases therein on Fridays, it is unlikely that he still has the

¹⁹ *Id.*

²⁰ *Id.* at 10.

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.* at 11.

²⁵ *Id.*

time to solemnize two marriages in one day;²⁶

3. In 26 marriages officiated by Judge Justalero, the marriage certificates were registered on the day of the marriage solemnization; in two instances, the marriage certificate was registered on the day of the issuance of the marriage license and of the marriage solemnization;²⁷
4. Twenty-six out of the 50 marriages solemnized by Judge Justalero from January 2015 to July 2015 were conducted under Article 34 of the Family Code, where no marriage license was required;²⁸
5. Almost all the affidavits of cohabitation attached to the marriage certificates were notarized and administered by Judge Justalero himself. In notarizing such affidavits, Judge Justalero did not require the presentation of competent proof of identity of the affiant as he allowed mere community tax certificates to be submitted;²⁹ and
6. The affidavit for delayed registration of marriage was executed by Coloma, a court stenographer of Branch 32, RTC of Iloilo City.³⁰

In view of the foregoing findings, the Office of the Court Administrator issued a Memorandum³¹ dated November 23, 2015 which recommended (1) the preventive suspension of Judge Justalero as Presiding Judge of Branch 32, RTC of Iloilo City; (2) the designation of Marie Yvette D. Go as the Acting Presiding Judge of Branch 32, RTC of Iloilo City and to hear and decide all the pending and incoming cases assigned to Judge Justalero; (3) the revocation of A.O. No. 12-2010 designating Judge Justalero as Assisting Judge of Branch 66, RTC of Barotac Viejo; and (4) the designation of Judge Amador to hear and decide all the pending cases assigned to Judge Justalero in Branch 66, RTC of Barotac Viejo. The Office of the Court Administrator recommended that Judge Justalero be required to explain why no disciplinary action should be taken against him for the reported infractions.³²

²⁶ *Id.* at 11–12

²⁷ *Id.* at 12.

²⁸ *Id.* at 13.

²⁹ *Id.*

³⁰ *Id.*

³¹ The November 23, 2015 Memorandum was penned by Court Administrator Jose Midas P. Marquez (now a member of this Court) and Deputy Court Administrator Raul Bautista Villanueva; *id.* at 1-15.

³² *Id.* at 14.

In a Resolution³³ dated January 20, 2016, this Court adopted the foregoing recommendations of the Office of the Court Administrator and treated the matters in the Memorandum as its formal administrative complaint against Judge Justalero. Since then, this Court preventively suspended Judge Justalero as Presiding Judge of Branch 32, RTC of Iloilo City and revoked his designation as Assisting Judge of Branch 66, RTC of Barotac Viejo.³⁴

On March 15, 2016, Judge Justalero filed an Explanation³⁵ stating that he performed the functions of an Assisting Judge of Branch 66, RTC of Barotac Viejo from February 2011 until he received this Court's Notice, ordering his suspension from service. He stated that in his four-year stint as Assisting Judge, he strictly imposed continuous trials and discouraged postponements, in view of his zeal to deliver prompt and speedy disposition of cases. Thus, in 2008, he was able to reduce the docket before his *sala* at the RTC of Iloilo City from 311 cases to almost one-half, by resolving around 28 cases a month. At the RTC of Barotac Viejo where he reported as Assisting Judge every Friday, he resolved an average of 13 to 14 cases a month.³⁶

Judge Justalero argued that the speed by which he disposed nullity cases was not per se irregular, but in accordance with the Rules of Procedure.³⁷ In fact, in the cases reported in the judicial audit, neither the public prosecutor nor the Office of the Solicitor General has questioned his conduct of the court proceedings.³⁸ Logically, the number of nullity cases decided was higher in Branch 66, RTC of Barotac Viejo, as this is the only court in the Fifth District of Iloilo, comprising 13 municipalities. The RTC of Iloilo City, on the other hand, had three family courts where cases were distributed.³⁹

To address the irregularities noted by the Office of the Court Administrator, Judge Justalero countered that there were records, pleadings, and orders not found in the records which were in the custody of the Clerk of Court or in the other files.⁴⁰ In any event, he reasoned that the preparation and service of summons are obligations of the Clerk of Court and the Sheriff,⁴¹ while the irregularities in the preparation of collusion reports are borne by the performance of the public prosecutors of their functions.⁴²

Furthermore, Judge Justalero insisted that he was not prohibited from deciding cases prior to the expiration of the 30-day period from the filing of

³³ *Id.* at 16–38.

³⁴ *Id.* at 37.

³⁵ *Id.* at 53–99.

³⁶ *Id.* at 56–57.

³⁷ *Id.* at 96.

³⁸ *Id.* at 73–74.

³⁹ *Id.* at 87.

⁴⁰ *Id.* at 83–85, 96.

⁴¹ *Id.* at 60, 79–80.

⁴² *Id.* at 84–85, 96.

the parties' memoranda, and the court's receipt thereof.⁴³ Likewise, he need not await for the parties to file a comment to the offer of evidence since they were given the opportunity to object to the offer in open court in accordance with the Judicial Affidavit Rule.⁴⁴

Anent the irregularities in his solemnization of marriages, Judge Justalero explained that it had been the practice of previous assisting judges to solemnize marriages at the RTC of Barotac Viejo. It was thus his honest belief, in good faith, that he had the authority to solemnize marriages within the Province of Iloilo. On the other hand, the number of marriages he solemnized were due to the 13 municipalities in Iloilo and the instruction of Judge Amador that all marriages for solemnization be referred to him. The said ceremonies would only take about 10 minutes before the start of court proceedings, during lunch break and after court sessions, which did not hinder him from conducting hearings.⁴⁵

On his alleged immediate registration of marriage certificates with the Local Civil Registrar, Judge Justalero countered that while the distance between the Hall of Justice and the Office of the Local Civil Registrar is only about 20 meters, securing marriage licenses and registering marriage certificates were not part of his function as a judge. Meanwhile, he also had no participation in Coloma's delayed registration of marriage certificate. Finally, Judge Justalero asserted that he notarized the affidavit of cohabitation in an *ex-officio* capacity. Thus, the Rule on Notarial Practice would not apply in such instance.⁴⁶

In the Memorandum,⁴⁷ the Office of the Court Administrator recommended the dismissal of Judge Justalero for gross ignorance of the law and procedure, gross misconduct, and incompetency. The actions of Judge Justalero are similar to those of former Judge Liberty Castaneda in A.M. No. RTJ-12-2316, particularly, with regard to his: (a) failure to comply with A.M. No. 02-11-10-SC and A.M. No. 02-11-11-SC or the Rules on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages; (b) unusual swiftness in the disposition of nullity cases; and (c) extraordinary number of nullity cases decided.⁴⁸

Firstly, except for some missing orders, collusion reports, entries of appearance of the Office of the Solicitor General, and Formal Offers of

⁴³ *Id.* at 74, 86.

⁴⁴ *Id.* at 81, 85.

⁴⁵ *Id.* at 89-92.

⁴⁶ *Id.* at 92-94.

⁴⁷ The April 18, 2018 Memorandum was penned by Court Administrator Jose Midas P. Marquez (now a member of this Court) and Deputy Court Administrator Raul Bautista Villanueva; *rollo*, vol. II, pp. 476-488.

⁴⁸ *Id.* at 481.

Exhibits which Judge Justalero was able to retrieve and present as attachments to his Explanation, Judge Justalero failed to give justifiable reasons on the findings contained in the Office of the Court Administrator's judicial audit report. Judge Justalero simply assumed that the missing records in the unexplained irregularities remained with the Clerk of Court. The Office of the Court Administrator found it disturbing that Judge Justalero was able to render judgment despite the missing records and that he conveniently blamed his court personnel and the public prosecutor for the lost documents. Ultimately, the irregularities show Judge Justalero's failure to exercise the necessary diligence in the performance of his duties in the conduct of proceedings, and his utter lack of competence and probity.⁴⁹

Secondly, the haste with which Judge Justalero disposed of the annulment cases placed doubt in the integrity of the proceedings conducted by him, considering the unwarranted infractions noted in the audit report. Judge Justalero should not have sacrificed for expediency's sake the fundamental requirements of due process. While he is mandated to speedily resolve cases, he was also tasked to ensure that laws are properly applied, which he failed to do.⁵⁰

Thirdly, the Office of the Court Administrator did not accept the reasons proffered by Judge Justalero for the relatively high number of nullity cases filed before his *sala*. Looking at the number of cases he disposed *vis-à-vis* his once-a-week schedule at the RTC of Barotac Viejo, the Office of the Court Administrator inferred that Judge Justalero's *sala* had become a so-called "friendly court" where estranged spouses could obtain speedy and favorable decisions for a fee. Thus, there has been a stark difference between the number of nullity of marriage cases filed before the RTC of Barotac Viejo when Judge Justalero was sitting as assisting judge, and when he was not serving as a judge thereof.⁵¹

As regards Judge Justalero's authority to officiate marriages at Barotac Viejo, the Office of the Court Administrator maintained that A.M. No. 12-2010 did not vest in him administrative functions such as the solemnization of marriages. In any case, Judge Justalero still exceeded his mandate when he notarized an affidavit of cohabitation executed by parties whose marriage he also later solemnized. Lastly, considering the court's usual calendar of at least 30 cases, the Office of the Court Administrator found it highly improbable that the RTC of Barotac Viejo could instantly schedule the conduct of marriage ceremonies on the same day that the marriage licenses were issued.⁵²

⁴⁹ *Id.* at 481–484.

⁵⁰ *Id.* at 484.

⁵¹ *Id.* at 484–485.

⁵² *Id.* at 485–487.

Considering the foregoing, the Office of the Court Administrator recommended that Judge Justalero be: (1) declared guilty of gross ignorance of the law and procedure, gross misconduct, and incompetency; and (2) dismissed from the service, with forfeiture of all retirement benefits, except accrued leave credits, and with prejudice to reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations.⁵³

The Issue

The sole issue of the instant case is whether Judge Globert J. Justalero should be held liable for guilty of gross ignorance of the law and procedure, gross misconduct, and incompetency.

This Court's Ruling

After judicious study of the case, this Court finds no reason to deviate from the findings of the Office of the Court Administrator.

In resolving nullity cases, Judge Justalero disregarded the rules of procedure under A.M. Nos. 02-11-10-SC and 02-11-11-SC

At the outset, the Code of Judicial Conduct requires that judges be faithful to the laws and maintain professional competence. A judge must therefore be acquainted with legal norms and precepts, as well as with procedural rules. A magistrate who displays an utter lack of familiarity with the rules is guilty of gross ignorance of the law, for he or she erodes the public's confidence in the competence of the courts. Thus, “[o]ne who accepts the exalted position of a judge owes the public and the court the duty to be proficient in the law.”⁵⁴

Under Section 4 of A.M. No. 02-11-10-SC, a petition for declaration of nullity of marriage and for annulment of voidable marriage shall be filed in the Family Court of the province or city where the petitioner or the respondent has been residing for at least six months prior to the date of filing and in the case of non-resident respondent, where he or she may be found in the Philippines, at the election of the petitioner. The failure of the petitioner to

⁵³ *Id.* at 488.

⁵⁴ *Re: Raphael F. Alzate*, A.M. No. 19-01-15-RTC, September 1, 2020, p. 41 [Per Curiam, *En Banc*]. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website.

comply with the residency requirement is a ground for the immediate dismissal of the petition, without prejudice to the refiling of the petition in the proper venue.⁵⁵

In this regard, the case of *Re: Raphael F. Alzate*⁵⁶ makes clear the duty of judges to ascertain the true residence of the parties, especially when the marriage certificates that were appended to the petitions showed different addresses from the ones stated in the petitions.⁵⁷

Here, Judge Justalero did not deny that he resolved petitions for nullity of marriage over which the RTC of Barotac Viejo did not have jurisdiction. In the cases he decided, it is undisputed that the marriage certificate subject of Civil Case No. 14-972 established that the parties were residents of Valenzuela City and Makati City and their place of marriage was in Valenzuela City, while the marriage certificate subject of Civil Case No. 14-994 showed that the parties were residents of Molo, Iloilo City and their marriage was solemnized in Molo, Iloilo City. However, instead of exercising his sound discretion to determine the true residence of the parties, Judge Justalero did not bother to verify the jurisdictional allegations in the subject petitions under the flimsy excuse that he is “saddled with 30 to 40 cases every hearing date [that he] could not anymore be expected to conduct an investigation on this matter[.]”⁵⁸

Further, Section 5 (4) of A.M. No. 02-11-10-SC requires that the Office of the Solicitor General and the public prosecutor be furnished with a copy of the petition for declaration of nullity of void marriages, such that the failure to comply with this requirement may serve as ground for the immediate dismissal of the petition. In Civil Case No. 2013-899, the Office of the Court Administrator observed that the Office of the Solicitor General filed a motion for reconsideration to the Decision rendered by Judge Justalero, arguing that the Office of the Solicitor General was not furnished with copies of pleadings and documents in the case, and that it could not sufficiently determine if the interest of the State had been represented and protected in the case. Nonetheless, Judge Justalero decided to brush aside the motion on the ground that the arguments therein have been discussed in his assailed Decision.

Aside from the foregoing infractions, Judge Justalero also failed to sufficiently justify his noncompliance with the Rules of Procedure in the following instances:

⁵⁵ Supreme Court *En Banc* Resolution dated October 2, 2018, or the Guidelines to Validate Compliance with the Jurisdictional Requirement Set Forth in A.M. Nos. 02-11-10-SC (Re: Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages and Re: Rule on Legal Separation, A.M. Nos. 02-11-10-SC & 02-11-11-SC).

⁵⁶ *Supra* note 54.

⁵⁷ *Id.*

⁵⁸ *Id.* at 81–82.

(1) The order granting the motion to serve summons by publication was issued after the actual dates of publication in Civil Case No. 14-948;

(2) The sheriff's return of service stated that summons were served on respondent or representative but there is no actual proof of receipt of summons in Civil Case No. 14-920;

(3) The order directing the conduct of investigation of collusion was issued before the return of service of summons in Civil Case No. 14-907;

(4) Collusion report was issued three days from issuance of the Order directing the conduct of an investigation in Civil Case No. 2014-981; and

(5) While the order directed petitioner to file a formal offer within 10 days, and gave the prosecutor the same period to comment, Judge Justalero admitted the formal offer of petitioner on the same day that the formal offer was filed, or only seven days from the time of the said Order, without awaiting the prosecutor's comment or objections thereto in Civil Case No. 14-972.⁵⁹

Certainly, all these noted lapses in the proceedings conducted by Judge Justalero are blatant violations of the Rules of Procedure and basic guidelines for ensuring that cases initiated to declare the nullity of marriage or to annul a marriage are insulated from vice and fraud. To be sure, the unwarranted deviation from the standard procedure contained in A.M No. 02-11-10-SC is tantamount to gross ignorance of the law and procedure, and renders a judge guilty thereof, as this Court elucidated in *Office of the Court Administrator v. Tuazon-Pinto*:⁶⁰

Judge Pinto was clearly guilty of gross ignorance of law and procedure. It is not debatable that when the law or rule of procedure is so elementary, not to be aware of it constitutes gross ignorance of the law. This is because a judge is expected to exhibit more than just cursory acquaintance with statutes and procedural rules. Indeed, Judge Pinto was expected to keep abreast of our laws, changes therein, as well as with the latest jurisprudence and rules of procedure, for she owed it to the public to be legally knowledgeable because ignorance of the law and procedure is the mainspring of injustice. By virtue of the delicate position that she occupied in society, she was duty bound to be the embodiment of competence and integrity.

⁵⁹ *Rollo*, vol. 2, pp. 482–483.

⁶⁰ A.M. No. RTJ-10-2250, October 15, 2019 [Per Curiam, *En Banc*].

Canon 6 of the *New Code of Judicial Conduct for the Philippine Judiciary* states that competence is a prerequisite to the due performance of the judicial office. Judge Pinto's flagrant disregard of laws and the rules of procedure affected her competency and conduct as a judge in the discharge of her official functions. She thereby ignored that the rules of procedure have been instituted to guarantee the speedy and efficient administration of justice, such that the failure to abide by said rules weakens the wisdom behind them and diminishes respect for the law. According, all judges should ensure strict compliance with the rules of procedure at all times in their respective jurisdictions.

The blatant and unwarranted disregard by Judge Pinto of the provisions of A.M. No. 02-11-10-SC and other rules rendered her guilty of gross ignorance of the law and procedure.⁶¹ (Citations omitted)

Considering that Judge Justalero failed to refute the numerous and persistent blunders reported in the judicial audit, there is clear and convincing evidence to support the conclusion of the Office of the Court Administrator that Judge Justalero is guilty of gross ignorance of the law and procedure.

Judge Justalero solemnized marriage ceremonies and notarized affidavits of cohabitation in violation of the Rules on Notarial Practice of 2004, A.M. No. 08-7-429-RTC and A.O. No. 12-2010

The Office of the Court Administrator likewise called this Court's attention to the fact that Judge Justalero was solemnizing marriages despite having no proper authority to do so at the RTC of Barotac Viejo, and that in the marriage ceremonies he administered, almost all the affidavits of cohabitation attached to the marriage certificates were also notarized by him. In notarizing such affidavits, Judge Justalero did not require the presentation of competent proof of identity of the affiant as he allowed mere community tax certificates to be submitted.⁶²

Notably, Judge Justalero tried to justify these infirmities by arguing that it has been the practice of the assisting judges to solemnize marriage and notarize the affidavits of cohabitation of the parties thereof. He further argued that he notarized the said affidavits of cohabitation in an *ex-officio* capacity, an instance which exempts him from the coverage of the Rules on Notarial Practice of 2004 (*Notarial Rules*).⁶³ He solemnized marriages in good faith, as it was Judge Amador, the Presiding Judge of Branch 66 of the RTC of

⁶¹ *Id.* at 21–22. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website.

⁶² *Rollo*, vol. 1, p. 13; *rollo*, vol. 2, pp. 485–486.

⁶³ *Rollo*, vol. 1, pp. 89–90, 93–94.

Barotac Viejo, who “instructed his staff that all marriages [be] referred to [Judge Justalero] for solemnization.”⁶⁴

Unfortunately, the justifications provided by Judge Justalero in his Explanation not only acknowledge his lack of authority in solemnizing marriage ceremonies at the RTC of Barotac Viejo. Worse, these constitute an admission that he went against this Court’s directive in the Resolution dated August 12, 2008 in A.M No. 08-7-429-RTC, “*Re: Queries and Comments of Judges on Administrative Order No. 125-2007.*”

To recall, A.O. No. 12-2010 only designated Judge Justalero to take cognizance of the cases previously heard by Judge Amular in addition to his duties in his own court, and to hear newly-filed cases which will be raffled off between himself and Judge Amador.⁶⁵ The same did not vest in Judge Justalero the authority to solemnize marriages that were not raffled to his *sala*.

On this score, OCA Circular No. 87-2008, which made reference to our Resolution dated August 12, 2008 in A.M No. 08-7-429-RTC, “direct[ed] judges of multiple *sala* courts to strictly observe the raffling of requests for solemnization of marriage because of numerous anomalies discovered in the solemnization of marriage during various judicial audits in the lower court.” It should also be underscored that in the same Resolution, we disallowed the conduct of special raffle except in very remote cases, as well as the assignment of individual request for solemnization to a certain judge so as not to defeat the purpose of the issuance of A.O. No. 125-2007, or the “Guidelines on the Solemnization of Marriage by the Members of the Judiciary.”

Considering that the RTC of Barotac Viejo has been a multiple *sala* court since 2012,⁶⁶ Judge Justalero went against this Court’s directive in A.M No. 08-7-429-RTC by solemnizing marriages that were not raffled to his *sala*, but were only referred to him by Judge Amador. Judge Justalero cannot feign ignorance and claim good faith as the solemnization of marriages without authority and jurisdiction has been explicitly proscribed under the rules.

The argument that Judge Justalero only acted as a notary public *ex-officio*, and hence, is supposedly not covered by the Notarial Rules, also deserves scant consideration. There is no question that the Notarial Rules apply even to judges. In *Fuentes v. Judge Buno*,⁶⁷ this Court found Judge Romualdo G. Buno administratively liable for his failure to comply with the Notarial Rules in notarizing an extra-judicial partition with simultaneous

⁶⁴ *Id.* at 90.

⁶⁵ *Id.* at 11.

⁶⁶ Republic Act No. 10245.

⁶⁷ 582 Phil. 20–28 (2008) [Per J. De Castro, First Division].

absolute deed of sale without the requisite special power of attorney under Rule IV, Section 6 (a) thereof. Similarly, in *Tupal v. Judge Rojo*,⁶⁸ this Court suspended Judge Remegio V. Rojo from office for his violation of Rule IV, Section 2 (b) of the Notarial Rules when he notarized documents without stating that the parties were personally known to him or that the parties presented their competent evidence of identity.

More relevantly, in the case of *Tupal*,⁶⁹ this Court painstakingly explained the rationale behind the rule that judges cannot notarize the affidavits of cohabitation of the parties whose marriage they will solemnize:

Before performing the marriage ceremony, the judge must personally interview the contracting parties and examine the requirements they submitted. The parties must have complied with all the essential and formal requisites of marriage. Among these formal requisites is a marriage license.

A marriage license is issued by the local civil registrar to parties who have all the qualifications and none of the legal disqualifications to contract marriage. Before performing the marriage ceremony, the judge must personally examine the marriage license presented.

If the contracting parties have cohabited as husband and wife for at least five years and have no legal impediment to marry, they are exempt from the marriage license requirement. Instead, the parties must present an affidavit of cohabitation sworn to before any person authorized by law to administer oaths. The judge, as solemnizing officer, must personally examine the affidavit of cohabitation as to the parties having lived together as husband and wife for at least five years and the absence of any legal impediment to marry each other. The judge must also execute a sworn statement that he personally ascertained the parties' qualifications to marry and found no legal impediment to the marriage. Article 34 of the Family Code of the Philippines provides:

Art. 34. No license shall be necessary for the marriage of a man and a woman who have lived together as husband and wife for at least five years and without any legal impediment to marry each other. The contracting parties shall state the foregoing facts in an affidavit before any person authorized by law to administer oaths. The solemnizing officer shall also state under oath that he ascertained the qualifications of the contracting parties and found no legal impediment to the marriage.

Section 5 of the Guidelines on the Solemnization of Marriage by the Members of the Judiciary also provides:

Sec. 5. Other duties of solemnizing officer before the solemnization of the marriage in legal ratification of

⁶⁸ 728 Phil. 1, 16–19 (2014) (Resolution) [Per J. Leonen, Third Division].

⁶⁹ *Supra*.

cohabitation. — In the case of a marriage effecting legal ratification of cohabitation, the solemnizing officer shall (a) personally interview the contracting parties to determine their qualifications to marry; (b) personally examine the affidavit of the contracting parties as to the fact of having lived together as husband and wife for at least five [5] years and the absence of any legal impediments to marry each other; and (c) execute a sworn statement showing compliance with (a) and (b) and that the solemnizing officer found no legal impediment to the marriage.

Based on law and the Guidelines on the Solemnization of Marriage by the Members of the Judiciary, the person who notarizes the contracting parties' affidavit of cohabitation cannot be the judge who will solemnize the parties' marriage.

As a solemnizing officer, the judge's only duty involving the affidavit of cohabitation is to examine whether the parties have indeed lived together for at least five years without legal impediment to marry. The Guidelines does not state that the judge can notarize the parties' affidavit of cohabitation.

Thus, affidavits of cohabitation are documents not connected with the judge's official function and duty to solemnize marriages. Notarizing affidavits of cohabitation is inconsistent with the duty to examine the parties' requirements for marriage. If the solemnizing officer notarized the affidavit of cohabitation, he cannot objectively examine and review the affidavit's statements before performing the marriage ceremony. Should there be any irregularity or false statements in the affidavit of cohabitation he notarized, he cannot be expected to admit that he solemnized the marriage despite the irregularity or false allegation.

Thus, judges cannot notarize the affidavits of cohabitation of the parties whose marriage they will solemnize. Affidavits of cohabitation are documents not connected with their official function and duty to solemnize marriages.⁷⁰

Despite our pronouncement in *Tupal* in early 2014, Judge Justalero nevertheless continued the erroneous practice of notarizing affidavits of cohabitation of parties whose marriage he would also solemnize from 2014 to 2015. Thus, the Court cannot countenance such blatant disregard of the rules on the basis of good faith.

In *Keuppers v. Murcia*,⁷¹ we found the respondent judge guilty of gross misconduct for flagrantly disregarding the relevant rules for the solemnization of marriage set forth in the law.

⁷⁰ *Id.* at 11–13.

⁷¹ 829 Phil. 53 (2018) [Per J. Bersamin, *En Banc*].

Misconduct consists in the transgression of some established and definite rule of action, or, more particularly, in an unlawful behavior or gross negligence by the public officer. It implies wrongful intention, and must not be a mere error of judgment. Respondent Judge was guilty of grave, not simple, misconduct because he had at the very least the wilful intent to violate the Family Code on the venue of a marriage solemnized by a judge, and to flagrantly disregard the relevant rules for such solemnization set forth in the law. The office of solemnizing marriages should not be treated as a casual or trivial matter, or as a business activity. For sure, his act, although not criminal, constituted grave misconduct considering that crimes involving moral turpitude are treated as separate grounds for dismissal under the Administrative Code. It is relevant to observe, moreover, that his acts of grave misconduct and conduct prejudicial to the best interest of the service seriously undermined the faith and confidence of the people in the Judiciary.⁷² (Citation omitted)

Based on the foregoing jurisprudence and the justifications provided by Judge Justalero, we agree with the Office of the Court Administrator that the infractions he committed do not only amount to gross ignorance of the law and procedure, but also constitute gross misconduct. Judge Justalero repeatedly disregarded the rules which have been established to enable the solemnizing authorities of the Judiciary to secure and safeguard the sanctity of marriage as a social institution.⁷³ That he continuously solemnized marriages and notarized affidavits of cohabitation in contravention of the Notarial Rules, A.M No. 08-7-429-RTC and A.O. No. 12-2010, illustrates a dereliction of duty to comply with well-established rules, rather than a mere error of judgment.

Judges found guilty of serious charges such as gross misconduct and gross ignorance of the law and procedure may be penalized under Section 17(1), Rule 140 of the Rules of Court,⁷⁴ which provides the following sanctions:

SECTION 17. Sanctions. —

- (1) If the respondent is guilty of a serious charge, any of the following sanctions shall be imposed:
 - (a) Dismissal from the service, forfeiture of all or part of the benefits as the Supreme Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations. *Provided*, however, that the forfeiture of benefits shall in no case include accrued leave credits;
 - (b) Suspension from office without salary and other benefits for more than six (6) months but not exceeding

⁷² *Id.* at 64.

⁷³ See *Palma v. Judge Omelio*, 817 Phil. 320–332 (2017) [Per J. Del Castillo, First Division].

⁷⁴ As amended by A.M. No. 21-08-09-SC on February 22, 2022.

- one (1) year; or
- (c) A fine of more than P100,000.00 but not exceeding P200,000.00.

In determining the sanction to be imposed on errant magistrates, this Court duly considers the factual milieu of each case, the offending acts or omissions of the judges, as well as previous transgressions, if any.⁷⁵ Hence, we take into consideration the fact that Judge Justalero had not been previously found liable for an administrative offense. While it does not excuse the procedural lapses he committed, we also note the heavy caseload of Judge Justalero to mitigate the imposable penalty against him.⁷⁶ As such, instead of the supreme penalty of dismissal recommended by the Office of the Court Administrator, this Court deems it proper to impose the penalty of suspension from office without salary and other benefits for a period of one year for his gross ignorance of the law and procedure and gross misconduct, with warning that a repetition of the same or similar offenses shall be dealt with more severely by this Court.

ACCORDINGLY, this Court finds respondent Judge Globert J. Justalero **GUILTY** of gross ignorance of the law and procedure and gross misconduct. He is **SUSPENDED** from office without pay for one (1) year effective immediately upon notice, and **STERNLY WARNED** that a repetition of the same or similar offenses shall be dealt with more severely by this Court.

SO ORDERED.

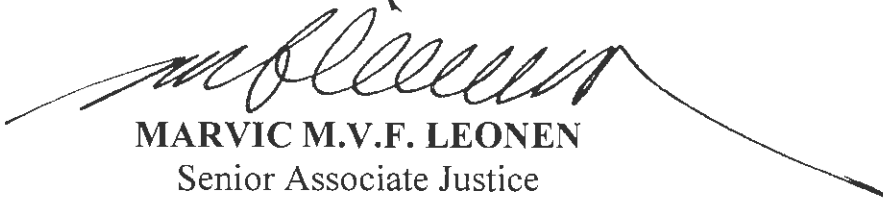

JHOSEP Y. LOPEZ
Associate Justice

⁷⁵ *Judge Angeles v. Judge Sempio Diy*, 646 Phil. 74–88 (2010) [Per J. Mendoza, Second Division].


⁷⁶ *See Re: Judicial Audit of the RTC, Br. 14, Zamboanga City*, 517 Phil. 507–520 (2006) [Per J. Chico-Nazario, First Division].

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WE CONCUR:



MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson



AMY C. LAZARO-JAVIER
Associate Justice



MARION LOPEZ
Associate Justice

On leave
ANTONIO T. KHO, JR.
Associate Justice