



Republic of the Philippines
Supreme Court
Baguio

EN BANC

**In Re: Conducted Report on the
Judicial Audit Conducted in
Branch 24, Regional Trial Court,
Cabugao, Ilocos Sur, under Hon.
Raphiel F. Alzate, as Acting
Presiding Judge**

A.M. No. 19-01-15-RTC

Present:

GESMUNDO, *CJ*,
LEONEN,
CAGUIOA,
HERNANDO,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.
GAERLAN,
ROSARIO,
LOPEZ, J.
DIMAAMPAO,
MARQUEZ,*
KHO, JR.,
SINGH, *JJ*.

Promulgated:

April 18, 2023

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RESOLUTION

PER CURIAM:

Antecedents

Pursuant to Administrative Order No. 70-2016 dated May 4, 2016,
respondent Hon. Raphiel F. Alzate (*Judge Alzate*), Presiding Judge of

* No part.

Regional Trial Court (RTC)-Branch 1 for Bangued, Abra, was designated as Acting Presiding Judge of RTC-Branch 24 for Cabugao, Ilocos Sur. In 2018, the Office of the Court Administrator (OCA) received reports that RTC-Branch 24, Cabugao, Ilocos Sur, had become a haven for swift and favorable decisions in nullity of marriage cases. An investigation team from the OCA was promptly dispatched to verify these reports through a judicial audit.¹ From October 11, 2018 to October 15, 2018, the audit team examined the records² and came out with the following report:

A. Swift Decision

Judge Alzate decided Civil Case No. 894-KC (*Grace Torres v. Gerald Torres*) within a period of three months, two weeks, and one day, viz.:

Case Number	Title	Observations
894-KC	Grace Torres vs. Gerald Torres	<ul style="list-style-type: none"> • Date Filed May 15, 2017 • Date of Service of Summons – May 26, 2017 (no proof of receipt) • Date of Investigation Report Filed on July 12, 2017 • Pre-Trial Order issued on July 12, 2017 (no specified hearing dates) • Initial Trial conducted on July 12, 2017 • Decision dated August 30, 2017 • Certificate of Marriage and Live Birth attached were mere photocopies only • No proof of residency³

According to the audit team, it was highly improbable for Judge Alzate to have resolved the case within such a short period of time considering that he conducted hearings in RTC-Branch 24, Cabugao, Ilocos Sur, only on Wednesdays.

B. Suspicious Addresses of Petitioners

The following cases reveal substantial discrepancies between the addresses alleged in the individual petitions, on one hand, and the addresses indicated in the parties' respective certificates of marriage and proofs of residency, on the other.⁴ Thus:

872-KC			Petitioner	Respondent
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¹ *Id.* at 2.

² *Id.* at 1.

³ *Id.*

⁴ Pursuant to Administrative Order No. 3, Series of 1983, the territorial jurisdiction of RTC-Branch 24, Cabugao, Ilocos Sur encompasses the following: Municipalities of Cabugao, Sinit, Magsingal, and San Juan, all in the Province of Ilocos Sur, *id.* at 26–27.

	Carlito M. Tigao vs. Grace Marquez	Addresses of the parties as indicated in the Petition	San Juan, Ilocos Sur	San Manuel, Pangasinan
		Addresses of parties as alleged in the Certificate of Marriage (Place of Marriage-San Manuel, Pangasinan)	Husband	Wife
			Fort Bonifacio, Taguig City	San Manuel, Pangasinan
		Other Observations	<ul style="list-style-type: none"> • Place of Birth of Children as indicated in the Certificate of Live Birth – San Manuel, Pangasinan • Decision dated May 23, 2018 • Certificate of Finality dated July 9, 2018 • Entry of Judgment dated June 26, 2018 • Decree of Absolute Nullity issued on July 10, 2018⁵ 	
890-KC	Maricel Gamit-Tolentino vs. Gardnel T. Tolentino	Addresses of parties as indicated in Petition	Petitioner San Juan, Ilocos Sur	Respondent Aring, Badoc, Ilocos Norte
		Addresses of parties as alleged in the Certificate of Marriage (Place of Marriage – Badoc, Ilocos Norte)	Wife	Husband
			Badoc, Ilocos Norte	Badoc, Ilocos Norte
		Other Observations	<ul style="list-style-type: none"> • Date Filed: April 5, 2017 • Pre-Trial Order dated April 18, 2018 • Initial Hearing for the petitioner conducted April 25, 2018 • Formal Offer of Evidence (FOE) for the Petitioner filed on May 2, 2018 • Order dated May 23, 2018 where in the FOE filed was admitted, thereby case is submitted for decision • Decision dated August 22, 2018⁶ 	
925-KC			Petitioner	Respondent

⁵ *Id.* at 2.

⁶ *Id.* at 2-3.

	Cherry Gatchalian vs. Roel Gatchalian	Addresses of parties as indicated in the Petition	Bannuar, San Juan, Ilocos Sur (no proof of residency)	Panasahan, Malolos, Bulacan (no proof of residency)
		Addresses of parties as alleged in the Certificate of Marriage (Place of Marriage – Malolos, Bulacan)	Wife	Husband
			Malolos, Bulacan	Panasahan, Malolos, Bulacan
		Other Observations	<ul style="list-style-type: none"> Place of Birth of Children as indicated in the Certificate of Live Birth – Malolos, Bulacan Date Filed: April 18, 2018 <i>Ex-parte</i> motion to take testimony filed by Petitioner on June 27, 2018 Order dated June 27, 2018 whereby the <i>Ex-parte</i> motion to take testimony was granted Advance testimony was taken on June 27, 2018 No Pre-Trial conducted Order dated September 19, 2018 whereby trial (witness for the petitioner) was reset to October 17, 2018⁷ 	
924-KC	Ma. Teresa ⁸ B. De Leon vs. Jeremy De Leon	Addresses of parties as indicated in the Petition	Petitioner	Respondent
			Bannuar, San Juan, Ilocos Sur (proof of residency presented by petitioner was her passport indicating that her birthplace is Generoso, Davao Oriental)	12-D Atimoyta St., Potrero, Malabon
		Addresses of parties as alleged in the Certificate of Marriage (Place of Marriage – San Juan City, Metro Manila)	Wife	Husband
			47-A Luna St., San Juan, Metro Manila	12-D Atimoyta St., Potrero, Malabon
		Other Observation	<ul style="list-style-type: none"> No collusion report 	

⁷ *Id.* at 3–4.

⁸ Sometimes spelled as “Theresa” in some parts of the records, *id.* at 27.

			<ul style="list-style-type: none"> • Omnibus Motion to Conduct Investigation and Pre Trial filed on June 21, 2018 • Pre Trial Order dated July 25, 2018 • Order dated August 8, 2018 for cross examination of witnesses on September 19, 2018⁹ 	
921-KC	Ruel Bagne vs. Rose Anne Bagne	Addresses of parties as indicated in the Petition	Petitioner	Respondent
			Barangay Baclig, Cabugao, Ilocos Sur c/o Office Atty. Cherry Bareng, Legal Counsel with office address at Unit 101, Ground Floor, CAP Bldg., F.R. Castro St., Laoag City	#25 Sct. Delgado, Barangay Laging Handa, Quezon City
		Addresses of parties as alleged in the Certificate of Marriage (Place of Marriage – Floridablanca, Pampanga)	Husband	Wife
			61 8 th St., East Camias, ¹⁰ Quezon City	San Isidro, Floridablanca, Pampanga
		Other Observations	<ul style="list-style-type: none"> • Place of Birth of Children as indicated in the Certificate of Live Birth – W 61K 8th St., East Kamias, Quezon City • <i>Last Court Action</i> – Order dated August 8, 2018 to conduct investigation of possible collusion between parties and submit within 5 days¹¹ 	
928-KC	Dino Roa vs. Jane Roa	Addresses of parties as indicated in the Petition	Petitioner	Respondent
			Barangay Rizal, Cabugao, Ilocos Sur c/o office of Atty. Cherry Bareng, Legal Counsel with office address at Unit 101, Ground Floor, CAP Bldg., F.R. Castro St., Laoag City	Block 1, Lot 5, Kalayaan Village, Brgy. 201, Pasay City

⁹ *Id.* at 3–4.

¹⁰ Sometimes spelled as “KAMIAS” in some parts of the records.

¹¹ *Id.* at 5.

		Addresses of parties as alleged in the Certificate of Marriage (Place of Marriage – San Juan City, Metro Manila)	Husband	Wife
			93 Brgy. 12[,] Magat Salamat, Laoag City	Felix Manalo St., Cubao, Quezon City
		Other Observations	<ul style="list-style-type: none"> • <i>Last Court Action</i> – Order dated August 8, 2018 to conduct investigation for possible collusion between parties and submit within 5 days¹² 	
856-KC	Andres Randy Ribucan vs. Marilou Espadero-Ribucan	Addresses of parties as indicated in the Petition	Petitioner	Respondent
			Guimud Sur, San Juan, Ilocos Sur	Nagtupacan Sta. Maria, Ilocos Sur
		Addresses of parties as alleged in the Certificate of Marriage (Place of Marriage – Vigan City, Ilocos Sur)	Husband	Wife
			Tamag, Vigan City	Nagtupacan, Sta. Maria, Ilocos Sur
	Other Observations	<ul style="list-style-type: none"> • Place of Birth of Children as indicated in the Certificate of Live Birth – Sta. Maria, Ilocos Sur. • No proof of residency of petitioner in San Juan, Ilocos Sur. Driver's license of petitioner shows he is residing in Tamag, Vigan City. • <i>Last Court Action</i> – Order dated June 27, 2018 for the continuation of trial set to October 24, 2018.¹³ 		

C. Non-Conformity with the Rules

In Civil Case Nos. 875-KC (*Beverly Tica v. Jesus Fantastico*) and 924-KC (*Ma. Teresa B. De Leon v. Jeremy De Leon*), Judge Alzate proceeded with the pre-trial without awaiting the public prosecutor's report on the parties' possible collusion, as shown by the following matrix:

875-KC	Beverly Tica vs. Jesus Fantastico	<ul style="list-style-type: none"> • Order to Conduct Investigation on Possible Collusion dated February 22, 2017 • No collusion report
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¹² *Id.* at 5-6.

¹³ *Id.* 6-7.

		<ul style="list-style-type: none"> • Labeled as “reserved” in the Minutes on Preliminary Conference • Psychiatric Evaluation also labeled as “reserved” in the Minutes of the Preliminary Conference • Decision dated April 18, 2018¹⁴
924-KC	Ma. Teresa B. De Leon vs. Jeremy De Leon	<ul style="list-style-type: none"> • No collusion report • Omnibus Motion to Conduct Investigation and Pre-Trial filed on June 21, 2018 • Pre-Trial Order dated July 25, 2018 • <i>Last Court Action</i> – Order dated August 8, 2018[,] for cross examination of witnesses reset to September 19, 2018¹⁵

Meanwhile, in Civil Case Nos. 896-KC (*Orlando Barbosa Jr. v. Maureen Resurreccion Piros-Barbosa*) and 871-KC (*Fedelina A. Agdeppa v. Emerson D. Agdeppa*), Judge Alzate proceeded with the pre-trial sans proof that the Office of the Solicitor General (OSG) and Office of the City or Provincial Prosecutor were furnished copies of the petitions.

896-KC	Orlando Barbosa Jr. vs. Maureen Resurreccion Piros-Barbosa	<ul style="list-style-type: none"> • No proof of service of the petition on the OSG, no OSG appearance • Pre-Trial Order dated August 15, 2018 setting initial trial to October 24, 2018
871-KC	Fedelina A. Agdeppa vs. Emerson D. Agdeppa	<ul style="list-style-type: none"> • No proof of service of the petition on the OSG, no OSG appearance • Pre-Trial Order dated September 27, 2017 • Order dated September 26, 2018 wherein the continuation of the presentation of petitioner’s testimony was reset to October 24, 2018

In Civil Case No. 872-KC (*Carlito M. Tigao v. Grace Marquez*), Judge Alzate allowed the actual taking of petitioner’s deposition right on the day (July 13, 2016) it was requested and the summons got issued. This is contrary to his earlier disposition in *Esabro L. Yogue v. Marishelle C. Daiz-Yogue* where he denied the motion to take deposition because summons was yet to be issued and served on therein respondent. This showed that Judge Alzate was selective in the rendition of his judgments.

872-KC	Carlito M. Tigao vs. Grace Marquez	<ul style="list-style-type: none"> • Date Filed: July 5, 2016 • Motion to Take Deposition filed on July 12, 2016 • Order dated July 13, 2016 granting the Motion to Take Deposition • Deposition taken on July 13, 2016 • Summons issued on July 13, 2016
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¹⁴ *Id.* at 7–8.

¹⁵ *Id.* at 8.

		• Decision dated May 23, 2018 ¹⁶
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In Civil Case No. 925-KC (*Cherry Gatchalian v. Roel Gatchalian*), Judge Alzate did not conduct a pre-trial.

925-KC	Cherry Gatchalian vs. Roel Gatchalian	<ul style="list-style-type: none"> • No Pre-Trial conducted • <i>Last Court Action</i> – Order dated September 19, 2018 whereby trial (witness for the petitioner) was reset to October 17, 2018¹⁷
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The foregoing findings allegedly confirmed the reports of swift and worry-free favorable decisions in nullity of marriage cases for financial consideration as to warrant the filing of charges against Judge Alzate for gross ignorance of the law and procedure, gross misconduct, and incompetence.¹⁸

The audit team nonetheless requested additional time to verify the actual addresses of the parties in the cases involving suspicious addresses; and the actual number of nullity of marriage cases filed with RTC-Branch 24, Cabugao, Ilocos Sur, since May 4, 2016, when Judge Alzate became its Acting Presiding Judge.¹⁹

Subsequently, the OCA recommended that Judge Alzate be preventively suspended for six months, and an investigation be conducted regarding the subject nullity of marriage cases, thus:

RECOMMENDATION: The Office of the Court Administrator respectfully recommends for the consideration of the Honorable Court that:

1. Judge Raphiel F. Alzate, Branch 1, RTC, Bangued, Abra, be **PREVENTIVELY SUSPENDED** from the service, effective immediately, for a period of six (6) months, or until further orders from the [C]ourt; and
2. the Office of the Court Administrator be **DIRECTED** to conduct an investigation on matters pertaining to the nullity of marriage cases in question, such as, but not limited to, the actual addresses of the parties and the actual number of nullity of marriage cases filed in Branch 24, RTC, Cabugao, Ilocos Sur[,] since May 4, 2016, the day he was designated as Presiding Judge in the said court, up to present.²⁰

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.* at 9–10.

¹⁹ *Id.* 10.

²⁰ *Id.* at 10–11.

By Resolution²¹ dated February 12, 2019, the Court approved the aforesaid recommendation.

The OCA, thereafter, submitted its findings to the Court per Memorandum²² dated June 28, 2019, *viz.*:

One. Of the seven cases²³ involving suspicious addresses, four were filed by petitioners whose actual residences fell outside the territorial jurisdiction²⁴ of RTC-Branch 24, Cabugao, Ilocos Sur.²⁵

In Case No. 925-KC (*Cherry Gatchalian v. Roel Gatchalian*), Barangay Captain Jowin T. Ubaldo of Barangay Bannuar, San Juan, Ilocos Sur, certified²⁶ that based on the records on file with the barangay from January 2017 to May 21, 2019, there was no resident therein named Cherry Gatchalian;²⁷

In Case No. 924-KC (*Ma. Teresa B. De Leon v. Jeremy De Leon*), Barangay Captain Ubaldo issued a similar certification as regards Ma. Teresa²⁸ B. De Leon;

²¹ *Id.* at 21.

²² *Id.* at 114–147.

²³ Case Nos. 872-KC – *Carlito M. Tigao v. Grace Marquez*; 890-KC – *Maricel Gamit-Tolentino v. Gardnel T. Tolentino*; 925-KC – *Cherry Gatchalian v. Roel Gatchalian*; 924-KC – *Ma. Teresa B. De Leon v. Jeremy De Leon*; 921-KC – *Ruel Bagne v. Rose Anne Bagne*; 928-KC – *Dino Roa v. Jane Roa*; and 856-KC – *Andres Randy Ribucan v. Marilou Espadero-Ribucan*.

²⁴ Cabugao, Sinait, Magsingal, and San Juan, Ilocos Sur, *id.* at 26–27.

²⁵ *Id.* at 26.

²⁶ Certification dated May 21, 2019, *id.* at 80.

CERTIFICATION

To Whom It May Concern:

This is to certify that as per verification from all files of inhabitants from January 2017 to May 21, 2019[,] there is no resident[sic] named CHERRY GATCHALIAN on our records.

This certification [is] issued for any purposes it may serve[sic].

Issued this 21st day of May 2019.

Sgd.
ROWENA L. AGUSTIN
Barangay Secretary

Sgd.
JOWIN T. UBALDO
Barangay Chairman

²⁷ *Id.* at 27.

²⁸ *Id.* at 81.

In Case No. 921-KC (*Ruel Bagne v. Rose Anne Bagne*), Barangay Captain Michael Angelo B. Sarmiento issued a certification²⁹ that Ruel Bagne and Rose Ann Bagne were not residents of Barangay Baclig, Cabugao, Ilocos Sur; and

In Case No. 928-KC (*Dino Roa v. Jane Roa*), Barangay Secretary Jim Castro of Rizal, Cabugao, Ilocos Sur, sent a text message³⁰ to a member of the OCA investigating team that one Dino Roa was not a resident of the said barangay.

Two. As shown by the tables below, there was a marked increase of nullity of marriage cases filed and resolved since Judge Alzate got designated as Acting Presiding Judge of RTC-Branch 24, Cabugao, Ilocos Sur:

CERTIFICATION

To Whom It May Concern:

This is to certify that as per verification from all files of inhabitants from January 2017 to May 21, 2019[,] there is no resident[sic] named MA. THERESA B. DE LEON on our records.

This certification [is] issued for any purposes it may serve[sic].

Issued this 21st day of May 2019.

Sgd.
ROWENA L. AGUSTIN
Barangay Secretary

Sgd.
JOWIN T. UBALDO
Barangay Chairman

²⁹ *Id.* at 82.
Certification

TO WHOM IT MAY CONCERN:

This is to certify that RUEL BAGNE AND ROSE ANN BAGNE are not residents of Barangay Baclig, Cabugao, Ilocos Sur.

This certification is issued upon the request of the Supreme Court.

GIVEN this 21st day of MAY, 2019 at Barangay Baclig, Cabugao, Ilocos Sur, Philippines.

Sgd.
MICHAEL ANGELO B. SARMIENTO
Punong Barangay

³⁰ *Id.* at 27-28.

Number of Cases filed:³¹

	2013	2014	2015	2016	2017	2018
January	1	1	1	1	1	3
February	0	0	0	0	1	1
March	0	0	1	0	0	1
April	1	2	1	1	2	2
May	1	0	2	1	0	2
June	0	0	0	0	0	5
July	0	0	0	2	0	0
August	0	0	1	2	0	0
September	0	0	0	1	0	2
October	0	1	0	2	0	0
November	0	0	0	1	0	2
December	1	0	0	0	0	2
TOTAL	4	4	6	11	4	20

Number of Cases Decided:³²

	2013	2014	2015	2016	2017	2018
January	0	0	0	2	0	0
February	0	0	2	1	0	0
March	0	0	0	0	0	0
April	0	0	0	1	0	1
May	0	0	0	0	0	3
June	0	0	0	0	0	1
July	0	1	2	0	0	1
August	1	0	1	0	0	4
September	3	0	0	0	0	2
October	0	0	0	2	0	0
November	0	0	0	2	0	0
December	1	0	3	0	0	5
TOTAL	5	1	8	8	0	17

Three. Judge Alzate committed the following alleged irregularities:

He proceeded with the following cases, sans any “no collusion” report in Case No. 875-KC (*Beverly Tica v. Jesus Fantastico*),³³ Case No. 924-KC (*Ma. Teresa B. De Leon v. Jeremy De Leon*),³⁴ and Case No. 925-KC (*Cherry A. Gatchalian v. Roel M. Gatchalian*).³⁵

³¹ *Id.* at 28.

³² *Id.*

³³ *Id.* at 29.

³⁴ *Id.* at 29–30.

³⁵ *Id.* at 30–31.

He did not conduct pre-trial in Case Nos. 925-KC (*Cherry A. Gatchalian v. Roel M. Gatchalian*) and 894-KC (*Grace Torres v. Gerald S. Torres*).³⁶

There was no proof of service of petition on the OSG in Case Nos. 896-KC (*Orlando Barbosa, Jr. v. Maureen Resurreccion Piros-Barbosa*) and 871-KC (*Fedelina A. Agdeppa v. Emerson D. Agdeppa*).³⁷

The following cases were suspiciously resolved in haste: Case Nos. 894-KC (*Grace Torres v. Gerald S. Torres*) and 872-KC (*Carlito Merto Tigao v. Grace Borja Martinez*).³⁸

The audit team likewise received reports that Judge Alzate, in conspiracy with his wife, Atty. Maria Saniata Liwliwa Gonzales-Alzate (Atty. Gonzales-Alzate), offered favorable and swift decisions in nullity of marriage cases to residents outside the jurisdiction of RTC-Branch 58, Bucay, Abra.³⁹ Allegedly, Judge Alzate and Atty. Gonzales-Alzate would prepare the necessary petition for a client under the name and signature of another lawyer. In most instances, the petitions were filed even without the knowledge of the lawyer-signatory.

To confirm the reports, the audit team went unannounced to RTC-Branch 58, Bucay, Abra, and did a random audit of cases. Based on the results, it came out with the following observations:

Petitions for Nullity of Marriage Cases with Atty. Byrone Alzate as counsel of record:

<i>Case Number and Title</i>	<i>Addresses as indicated in the Petition</i>	<i>Addresses indicated in the Marriage Certificate</i>	<i>Observations</i>
Civil Case No. 15-841 - Ruth Chua - Tamayo vs. Jose Noel -Tamayo	Sallapadan, Abra (Petitioner); Manabo, Abra (Respondent)	Philamlife Homes, Quezon City – both parties	*There was no proof of service of petition on [the] OSG. *Process Server's Return dated April 23, 2015 reported that the Summons

³⁶ *Id.* at 31.

³⁷ *Id.*

³⁸ *Id.* at 32–33.

³⁹ Per Administrative Order No. 3, Series of 1983, the territorial jurisdiction of RTC-Branch 58, Bucay, Abra, encompasses the municipalities of Bucay, Tayum, Peñarrubia, Manabo, Boliney, Tubo, Luba, Sallapadan, Bucloc, and Daguioman, all in the Province of Abra.

			<p>dated March 16, 2015 was served through substituted service on April 21, 2015 but the one who received the same refused to sign it.</p> <p>*Judicial Affidavits of petitioner and psychologist did not indicate proofs of their identities.</p> <p>*Order dated April 28, 2015 noting the manifestation of petitioner's counsel that the appearance of the Solicitor General was not yet appended to the records; and allowing petitioner to testify.</p> <p>*Order dated April 28, 2015 noting the termination of petitioner's testimony; and setting the next hearing as soon as the Solicitor General's notice of appearance shall have been appended to the records.</p> <p>*Notice of Appearance of the OSG was filed on June 9, 2015.</p> <p>*Order dated June 11, 2015 directing the public prosecutor to determine whether there was collusion between the parties and to submit his report within 30 days from notice. (Stamped received July 27, 2015).</p>
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			<p>*Compliance dated June 25, 2015 of Associate Provincial Prosecutor Marcelo Ortega reporting that no collusion existed between the parties. (It was not “stamped received” by court).</p> <p>*Decision dated August 20, 2015 – there was no proof of receipt by the OSG.</p> <p>*Certificate of Finality dated November 3, 2015.⁴⁰</p>
<p>Civil Case No. 14-813</p> <p>Mauris Siddayao vs. Lorna Banizal</p>	<p>Bangued, Abra (Petitioner) and Sallapadan, Abra (Respondent)</p>	<p>Same</p>	<p>*No proof of mailing to/service of petition on [the] OSG.</p> <p>*Process Server’s Return dated August 20, 2014 reported that the Summons dated July 21, 2014 was served thr[ough] substituted service on August 15, 2014, but the one who received the same refused to sign it.</p> <p>*Notice of Appearance dated November 14, 2014 of the OSG. (not stamped received by the court)</p> <p>*Order dated September 4, 2014 noting the manifestation that counsel for petitioner will soon go back abroad; and allowing petitioner to testify, without objection from the public prosecutor.</p>

⁴⁰ Rollo, pp. 34–35.

			<p>* Petitioner's judicial affidavit executed on September 4, 2014 was unnotarized.</p> <p>*There was a Notice of Appearance filed by the OSG on January 6, 2015.</p> <p>*Decision dated January 22, 2015. (without proof of receipt by OSG)</p> <p>*No Pre-trial was conducted.</p> <p>*Process Server's Return dated August 15, 2014 reported that summons was received through substituted service on August 15, 2014, but the one who received the same refused to sign it (copy furnished Atty. Ma. Saniata Liwliwa G. Alzate).</p> <p>*Records did not bear a "no collusion report" nor respondent's answer.</p> <p>*There was no Formal Offer of Evidence filed; the same was not even mentioned in the decision.</p> <p>*No order on the admission of petitioner's evidence.⁴¹</p>
Civil Case No. 14-804 Nathaniel Bermudez vs. Magie Valencia	Bucay, Abra (Petitioner) and Bangued, Abra (Respondent)	Bangued, Abra (both parties)	*Order dated June 19, 2014 directing the public prosecutor to conduct a collusion investigation and to submit a report

⁴¹ *Id.* at 36-37.

<p>Rillamas – Bermudez</p>			<p>within 15 days from receipt.</p> <p>*Sheriff's Return dated June 30, 2014 reporting that summons was served through substituted service on June 17, 2014.</p> <p>*Order dated July 24, 2014 admitting the exhibits and deeming the special jurisdiction of the court to have been conferred. Case was set for reception of evidence on August 28, 2014.</p> <p>* Order dated August 28, 2014 noting the termination of the testimonies of petitioner and psychologist. Presentation of additional evidence was set on October 16, 2014.</p> <p>*Order dated October 16, 2014 noting and admitting petitioner's formally offered exhibits for petitioner formally offered exhibits and deeming the case submitted for decision.</p> <p>*Decision dated January 5, 2015.</p>
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Petitions for Nullity of Marriage Cases with Atty. Amely Dait-Agmata (Atty. Dait-Agmata) as counsel of record:

<i>Case Number and Title</i>	<i>Addresses as indicated in the Petition</i>	<i>Addresses indicated in the Marriage Certificate</i>	<i>Observations</i>
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<p>Civil Case No. 15-835</p> <p>Albife Sullano vs. Rodel Del Rosario</p>	<p>Tayum, Abra (Petitioner) and Cantila, Surigao del Sur (Respondent)</p>	<p>Canumay, Valenzuela City (both parties)</p>	<p>*Verification and Certification of Non-Forum Shopping was unnotarized.</p> <p>*No office address of petitioner's counsel was indicated in the petition.</p> <p>* No proof of service of Summons dated March 2, 2015 was found in the records.</p> <p>*No pre-trial was conducted.</p> <p>*Decision dated January 4, 2016</p> <p>*In the OSG's Notice of Appearance dated July 6, 2015, the office address of Atty. Agmat was "c/o RTC-Br. 58 Bucay, Abra".</p> <p>*There was no signature of counsel/parties was found in the minutes pertaining to the testimonies of petitioner and the psychologist, nor in petitioner's formal offer of exhibits or in the Order for admission thereof.⁴²</p>
<p>Civil Case No. 15-848</p> <p>Louie Luico vs. Baby Rose Reyes</p>	<p>Tayum, Abra (Petitioner) and Sampaloc, Manila (Respondent)</p>	<p>Dolores, Quezon (Petitioner) and San Pablo City, Laguna(Respondent)</p>	<p>*Summons dated April 16, 2015</p> <p>*Process Server's Return dated May 19, 2015 reported that summons was served through substituted service on May 8, 2015 but the one who received</p>

⁴² *Id.* at 38-39.

			<p>the same refused to sign it.</p> <p>*Order dated March 26, 2015 deeming petitioner's testimony terminated.</p> <p>*OSG's Notice of Appearance filed on July 7, 2015.</p> <p>*No pre-trial was conducted.</p> <p>*There was no signature of counsel/parties in the minutes pertaining to the testimonies of petitioner and the psychologist; nor in petitioner's formal offer of exhibits and the Order admitting it.</p> <p>*Decision dated September 24, 2015.⁴³</p>
<p>Civil Case No. 15-850</p> <p>Aleli Historillo-Salido vs. Keith Rosario Salido</p>	<p>Penarubia, Abra (Petitioner) and Mandaluyong City (Respondent)</p>	<p>Bagong Ilog, Pasig (Petitioner) and Mandaluyong City (Respondent)</p>	<p>*The Verification and Certification Against Forum Shopping was not properly notarized.</p> <p>*No Summons was attached to the records.</p> <p>*Order dated August 6, 2015 deeming petitioner's testimony terminated. (The hearing was covered by the corresponding minutes but the same did not carry the signature of counsel/parties.)</p>

⁴³ *Id.* at 38-39.

			<p>*OSG Notice of Appearance filed on October 13, 2015.</p> <p>*Order dated May 21, 2015 directing the public prosecutor to conduct a collusion investigation.</p> <p>*No collusion investigation report was attached to the records.</p> <p>*Order dated October 22, 2015 deeming the testimony of the psychologist terminated. Further reception of petitioner's evidence was set on November 12, 2015.</p> <p>*No judicial affidavit was attached to the records.</p> <p>*Minutes did not carry the signature of counsel/parties.</p> <p>*Decision dated January 7, 2016.</p> <p>*Motion for Reconsideration of the decision was filed by the OSG (Stamped received by the court but no date indicated).</p> <p>*Order dated March 17, 2016 directing petitioner to file comment on the motion for reconsideration within 10 days from notice; (No proof of mailing/service of</p>
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			<p>the order on petitioner)</p> <p>*Order dated August 16, 2018 informing the parties that due to inadvertence, the case was overlooked by the court; noting that petitioner did not file any comment on the motion for reconsideration of the government; and granting the said motion for reconsideration and dismissing the petition.⁴⁴</p>
<p>Civil Case No. 14-814</p> <p>Mary Joanne Cayanan-Elfa vs. Michael Richard Elfa</p>	<p>Tayum, Abra (Petitioner) and Barangay Sauyo, Quezon City (Respondent)</p>	<p>Project 6, Quezon City (Petitioner) and Tandang Sora, Quezon City (Respondent)</p>	<p>*Process Server's Return dated August 28, 2014, reporting that summons was served through substituted service on August 26, 2014[,] but the one who received the same refused to sign it.</p> <p>*Order dated September 25, 2014 directing the dismissal of the case considering the absence of petitioner and counsel (Without previous setting).</p> <p>*Motion for Reconsideration filed on October 15, 2014.</p> <p>*Order dated December 4, 2014 granting the motion for reconsideration and setting the reception of petitioner's evidence on February 26, 2015.</p>

⁴⁴ *Id.* at 40-41.

			<p>*Order dated January 8, 2015 noting the manifestation of petitioner's counsel that the notice of appearance of the Solicitor General was not yet appended to the records; and allowing petitioner to testify, without objection on the part of the government. (No previous setting made by the court)</p> <p>*OSG's Notice of Appearance was filed on January 15, 2015.</p> <p>*Minutes did not carry the signature of counsel/parties.</p> <p>*Collusion Report was part of the records albeit it was not stamped received.</p> <p>*Order dated January 15, 2015 admitting the exhibits offered by petitioner and deeming the special jurisdiction of the court to have been conferred.</p> <p>*Order dated January 29, 2015 deeming as terminated the testimony of the psychologist; admitting the exhibits offered; and considering the case submitted for decision.</p>
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			<p>*Decision dated February 27, 2015.</p> <p>*Certificate of Finality was issued on March 14, 2015 (even without proof of receipt by the OSG of the decision itself).⁴⁵</p>
<p>Civil Case No. 14-815</p> <p>Jhoneil Alquino vs. Sheryl Lynn Ciano</p>	<p>Tayum, Abra (Petitioner) and Sampaloc, Manila (Respondent)</p>	<p>Binangonan, Rizal (both parties)</p>	<p>*Verification and Certificate of Non-Forum Shopping was unnotarized.</p> <p>*Process Server's Return dated August 28, 2014, reported that summons was served on August 26, 2014 through substituted service but the one who received the same refused to sign it.</p> <p>*Order dated December 4, 2014 granting petitioner's motion for reconsideration and setting the reception of petitioner's evidence on February 26, 2015.</p> <p>*Order dated January 8, 2015 deeming as terminated petitioner's testimony; and allowing reception of further evidence on January 15, 2015.</p> <p>*Order dated January 15, 2015 deeming as terminated the testimony of the psychologist; and allowing further reception of</p>

⁴⁵ *Id.* at 41-42.

			<p>evidence on February 19, 2015. *No Psychological Report was attached to the records, although it was mentioned in the decision as Exhibit H; too, there was no mention of the name of the psychologist who prepared the alleged report.</p> <p>*Collusion Report filed on February 10, 2015.</p> <p>*Order dated February 26, 2015 noting petitioner's manifestation that she had completed the presentation of her evidence and deeming the case submitted upon receipt of the notice of appearance of the Solicitor General, sans any objection from the government.</p> <p>*OSG's Notice of Appearance was filed on February 27, 2015.</p> <p>*Decision dated March 3, 2015.</p> <p>*Decree of Annulment of Marriage dated May 7, 2015 (This was issued even without proof of receipt of the decision by the OSG.)⁴⁶</p>
<p>Civil Case No. 15-833</p>	<p>San Juan, Batangas (Petitioner) and Boliney, Abra (Respondent)</p>	<p>Bangkal, Makati (both parties)</p>	<p>*Verification and Certificate of Non-Forum Shopping was unnotarized.</p>

⁴⁶ *Id.* at 42-44.

Imelda Decepida vs. Walden Salayo			<p>*Petitioner's judicial affidavit was unsigned and unnotarized.</p> <p>*Process Server's Return dated May 5, 2015 reported that summons was served on respondent on April 30, 2015 but he refused to sign.</p> <p>*Order dated June 18, 2015 directing the public prosecutor to conduct a collusion investigation.</p> <p>*No pre-trial was conducted.</p> <p>*Order dated August 6, 2015 admitting petitioner's exhibits; confirming the vesture of special jurisdiction in the court; setting the reception of evidence in chief on September 10, 2015.</p> <p>*Order dated September 10, 2015 deeming petitioner's testimony completed; and setting further reception of evidence on September 24, 2015.</p> <p>*Order dated October 10, 2015 admitting petitioner's formally offered exhibits and deeming the case submitted for decision.</p>
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			<p>*Certificate of Due Search and Inability to Find issued by the Local Civil Registrar marked as Exhibit "C", a crucial documentary evidence which was not found in the records.</p> <p>*Decision dated January 21, 2016.</p>
<p>Civil Case No. 15-846</p> <p>Augene Taberdo vs. Glenda Ayco</p>	<p>Manabo, Abra (Petitioner) and Manabo, Abra (Respondent)</p>	<p>Manabo, Abra (Petitioner) and Manabo, Abra (Respondent)</p>	<p>*Summons dated April 16, 2015.</p> <p>*No proof of service of summons.</p> <p>*Order dated September 10, 2015 admitting petitioner's exhibits and confirming that the court had acquired jurisdiction over the case; and setting further reception of evidence on October 15, 2015.</p> <p>*No proof of service of petition on the OSG.</p> <p>*Petitioner's judicial affidavit was unnotarized.</p> <p>*Order dated August 13, 2015 directing the assigned public prosecutor to determine whether there was collusion between the parties and to submit his report thereon within 30 days from notice. (Stamped received by the Provincial Prosecutor on November 20, 2015)</p>

			<p>*Compliance dated September 4, 2015 of the public prosecutor stating there was no collusion between the parties.</p> <p>*Decision dated July 18, 2016.⁴⁷</p>
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Petitions for Nullity of Marriage Cases with Atty. Cherry Grace P. Bareng-Asistin (Atty. Bareng-Asistin) as counsel of record:

<i>Case Number and Title</i>	<i>Addresses as indicated in the Petition</i>	<i>Addresses indicated in the Marriage Certificate</i>	<i>Observations</i>
Civil Case No. 15-828 Lenie Cabintoy Agbilay vs. Reysel Agbilay	Lagangilang, Abra (Petitioner) and Bucay, Abra (Respondent)	Luisiana, Laguna (Petitioner) and Bucay, Abra (Respondent)	<p>*Process Server's Return dated January 26, 2015, reported that the Summons dated January 21, 2015 was served through substituted service on January 23, 2015. But the one who received the same refused to sign it.</p> <p>*No pre-trial was conducted.</p> <p>*Decision dated January 14, 2015.</p> <p>*Copy of the said decision was received by one Airene Paringit "for Atty. Ma. S L Alzate" on February 29, 2016.⁴⁸</p>
Civil Case No. 16-944 Antonio Bonilla vs. Rhia Tolention Bonilla	Amti, Boliney, Abra (Petitioner) and Gonzaga, Cagayan (Respondent)	San Nicolas, Ilocos Norte (Petitioner) and Gonzaga, Cagayan (Respondent)	<p>*No Return of Summons was attached to the records.</p> <p>*Order dated June 15, 2017 noting</p>

⁴⁷ *Id.* at 44-45.

⁴⁸ *Id.* at 47.

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			<p>there was no answer filed by respondent within the reglementary period; and directing the assigned prosecutor to determine whether there was collusion between the parties and submit a report within 15 days from notice.</p> <p>*Order dated June 22, 2017 admitting the exhibits offered to establish jurisdictional facts.</p> <p>*Order dated August 3, 2017 stating that the necessary Pre-Trial Order will be issued within 10 days and the next hearing was set on August 10, 2017.</p> <p>*Motion to Dismiss filed on August 8, 2017 with a Certification from the Barangay Captain that petitioner was not a resident of Barangay Amti, Boliney, Abra (unresolved).</p> <p>*Compliance dated November 27, 2017 filed on December 8, 2017 by the Public Prosecutor.</p> <p>*Order dated February 8, 2018 admitting Exhibits A to E; deeming the case submitted for decision; and directing the court</p>
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			<p>stenographer to transcribe the stenographic notes within 20 days and submit the same to the Clerk of Court.</p> <p>*Decision dated April 26, 2018</p> <ul style="list-style-type: none"> although the word "Received" was stamped on the copy of Decision supposedly served on the OSG, the same did not bear the signature of the person who received it on behalf of the OSG.⁴⁹
<p>Civil Case No. 15-878</p> <p>Maria Luz D. Bides-Reyes vs. Eldrino Reyes IV</p>	<p>Bucay, Abra (both parties)</p>	<p>Bangued, Abra (Petitioner) and Dolores, Abra (Respondent)</p>	<p>*Summons dated October 8, 2015</p> <p>*Sheriff's Return dated December 2, 2015, reported that summons was served through substituted service on December 1, 2015.</p> <p>*Order dated December 3, 2015 deeming petitioner's testimony to have been terminated; and setting the case for further hearing on January 14, 2016.</p> <p>*Order dated December 3, 2015 admitting petitioner's exhibits</p>

⁴⁹ *Id.* at 47-49.

			<p>and confirming the special jurisdiction of the court over the case.</p> <p>*Order dated April 14, 2016 deeming the testimony of the psychologist terminated; and setting the presentation of additional evidence on April 28, 2016.</p> <p>*Order dated April 28, 2016 admitting Exhibits A to J and deeming the case submitted for decision.</p> <p>*Order dated May 19, 2016 directing the public prosecutor to conduct a collusion investigation and submit a report within 30 days.</p> <p>*Compliance dated June 2, 2016 filed on June 2, 2016 by the public prosecutor stating that no collusion existed between the parties.</p> <p>* Decision dated July 25, 2016.⁵⁰</p>
<p>Civil Case No. 15-829</p> <p>Declaration of Void Marriage of Gaudencio Urbano Jr. And Vernalyn Bueno</p> <p>Aida Fernandez Urbano, Petitioner</p>	<p>Sallapadan, Abra (Petitioner) and Caloocan City (Respondent Vernalyn Bueno)</p>	<p>San Isidro, Abra (Petitioner)</p>	<p>*No pre-trial was conducted; No Pre-Trial Order was issued.</p> <p>*Decision dated November 24, 2016.</p> <p>*copy of the decision was received for "Atty Alzate" on</p>

⁵⁰ *Id.* at 49-50.

			November 25, 2016. ⁵¹
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Petitions for Nullity of Marriage Cases with Atty. Jason A. Cantil (Atty. Cantil) as counsel of record:⁵²

Case Number and Title	Addresses as indicated in the Petition	Addresses indicated in Marriage Certificate	Observations
Civil Case No. 16-916 Rey Vicentillo vs. Rheza Padullon-Vicentillo	Bucay, Abra (Petitioner) and Cubao, Quezon City (Respondent)	Tacloban City – (both parties)	<p>*Proof of petitioner’s Residency consisted of his Driver’s License indicating Caibaan, Tacloban City as his home address.</p> <p>*Petition was not signed by counsel.</p> <p>*Sheriff’s Return dated April 11, 2016, reported that the Summons dated February 3, 2016, was received on April 8, 2016 through substituted service.</p> <p>*The receiving copy of the summons signed by recipient was not attached to the records.</p> <p>*<i>Ex Parte</i> Motion to Take Advance Testimony filed by Petitioner on October 25, 2016. (No proof of mailing/service)</p> <p>*Minutes dated November 10, 2016 deeming petitioner’s testimony terminated. (No order was issued granting the <i>Ex Parte</i></p>

⁵¹ *Id.* at 50.

⁵² *Id.* at 51–53.

⁵⁴ *Id.* at 52.

			<p>*Order dated March 23, 2017 deeming petitioner's testimony terminated; and setting the next hearing on March 30, 2017.</p> <p>*Formal Offer of Exhibits was filed on April 5, 2017.</p> <p>*Decision dated April 27, 2017.</p> <p>*No Pre-Trial Order was issued.⁵⁵</p>
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In his Comment⁵⁶ dated December 19, 2019, Judge Alzate questioned the audit of cases in RTC-Branch 58, Bucay, Abra, as the Court allegedly did not authorize the same. Even then, he wished to respond to all the adverse findings of the OCA. He thus asserted:

On the alleged non-compliance with the residence requirement, he requested the records of Civil Case Nos. 921-KC and 928-KC from the Office of the Deputy Court Administrator, but to no avail. According to Atty. Reginald Bacolor, the head of the audit team, the records were not with him. He then turned to the Clerk of Court of RTC-Branch 24, Cabugao, Ilocos Sur, who certified⁵⁷ that these cases were still pending resolution.

In Civil Case Nos. 925-KC and 924-KC, the audit team erred in concluding that he took cognizance of these cases though the petitioner's place of residence was not within the territorial jurisdiction of RTC-Branch 24, Cabugao, Ilocos Sur. The audit team arrived at this conclusion solely on the basis of the place of residence indicated in the parties' marriage certificate. A judge, however, is given judicial discretion to determine compliance with the residence requirement not only based on the petition, but also other relevant circumstances such as, but not limited to, testimonies under oath. The text message and certifications from the barangay chairpersons which were taken on the same day the audit team gathered the case records were not conclusive evidence that petitioners were not residents of the said places.⁵⁸

The audit team erroneously attributed malice to the marked increase in nullity of marriage cases filed with RTC-Branch 24, Cabugao, Ilocos Sur, since he assumed office as its acting presiding judge. The fact is a judge has

⁵⁵ *Id.* at 52-53.

⁵⁶ *Id.* at 201-225.

⁵⁷ Certification dated December 13, 2019, *id.* at 229-232.

⁵⁸ *Id.* at 205.

no hand in the filing of cases. He or she has no power or duty to suspend the filing of cases. At any rate, RTC-Branch 24, Cabugao, Ilocos Sur, had no presiding judge for a year. The marked increase must be attributed to the fact that litigants then came to know that a judge would finally be able to hear their cases.⁵⁹

On the supposed absence of collusion reports, the public prosecutor in Civil Case Nos. 875-KC, 924-KC, and 925-KC did in fact submit collusion reports and these were attached to the case records themselves.⁶⁰

He clarified that he conducted pre-trial in Civil Case Nos. 925-KC and 894-KC as reflected in the transcript of stenographic notes. He admitted though that due to the heavy case load during hearing days, the pre-trial order would, at times, be issued late or not issued at all because he handled not just one *sala* but acted as presiding judge in other branches too.⁶¹

On the alleged absence of proofs of service on the OSG in Civil Case Nos. 896-KC and 871-KC, these cases were in fact still pending per certification of the Branch Clerk of Court of RTC-Branch 24, Cabugao, Ilocos Sur. Even assuming there were no proofs of service on record, the respective counsels of therein petitioners must have simply forgotten to submit the same since the OSG had in fact formally entered its appearance in these cases, confirming that it was furnished a copy of the petition.⁶²

As for the purported haste in resolving cases, speed was never his primordial goal. In the cases cited, the respective petitioners were able to present evidence during the hearings, with the active participation of the public prosecutor, who even conducted cross examination. Hence, the state was given its day in court. In any event, the OSG, through the public prosecutor, had all the right and opportunity to appeal the cases, if at all, there were errors in the proceedings.⁶³

While the audit team found there was no copy of the “no collusion report” in Civil Case No. 15-850, the audit report itself revealed that the case was already dismissed as early as August 16, 2018.⁶⁴

There was no deliberate intention to violate the rules in Civil Case No. 925-KC where the prosecutor belatedly submitted the “no collusion” report. There was substantial compliance since the public prosecutor actively

⁵⁹ *Id.* at 207.

⁶⁰ *Id.* at 208.

⁶¹ *Id.* at 213–214.

⁶² *Id.* at 209–210.

⁶³ *Id.* at 210–212.

⁶⁴ *Id.* at 213.

participated in the proceedings and the “no collusion” report was in fact subsequently submitted.⁶⁵

The audit team found that Civil Case Nos. 15-828 and 15-829 did not undergo pre-trial. These cases, however, involved bigamous marriages or declaration of void marriage due to the existence of a previous marriage. Hence, what was needed was a judicial decree or a declaration from the court that the subsequent marriage was void. Since there was no property issue involved and respondent even failed to file an Answer, he deemed it proper to resolve the cases on the basis of the two marriage certificates submitted, sans any objection from the public prosecutor who actively participated in the proceedings. He nonetheless welcomed any disciplinary action for his failure to set the cases for pre-trial.⁶⁶

As for lack of proofs of service on the OSG and the public prosecutor in Civil Case Nos. 15-841 and 14-813, again, the fact that the OSG filed its Notice of Appearance and authorized the office of the provincial prosecutor to appear on its behalf was sufficient proof that it was actually furnished a copy of the petition.⁶⁷

As for the other procedural lapses, he admitted that:

One. The petition was not signed by counsel in Civil Case No. 16-916. It must have slipped the attention of the lawyer when the petition got attached to the records.⁶⁸

He did not notice that the verifications and certifications of non-forum shopping in Civil Case Nos. 15-850, 15-835, and 14-815 were not notarized. The defect, however, was cured when the respective petitioners in these cases testified under oath.⁶⁹

Indeed, the minutes in Civil Case Nos. 15-848 and 15-835 were not signed by the counsels and the parties themselves. These lapses, however, were merely the result of human imperfection, nay, unintentional since during the actual hearings, the counsels and the parties would usually excuse themselves to get out of the courtroom and wait outside for their cases to be called again. It was because the court is not spacious enough to accommodate the parties all at the same time. Even though undermanned and had to be exposed to the scorching heat of the sun, his court staff would usually go after

⁶⁵ *Id.*

⁶⁶ *Id.* at 213-214.

⁶⁷ *Id.* at 214.

⁶⁸ *Id.* at 215.

⁶⁹ *Id.* at 216.

these lawyers and litigants to call them back into the court or make them sign the minutes or pleadings or other documents they otherwise overlooked to sign.⁷⁰

He did not intend to violate the rules when he proceeded with the conduct of the “no collusion” investigation in Civil Case No. 14-804 despite the absence of the return of summons. For insofar as that case is concerned, summonses were already served on June 17, 2014 (Tuesday), and the order to conduct the “no collusion” investigation was already scheduled on June 19, 2014 (Thursday). He used his judicial discretion to order the investigation even before the submission of the return in order to investigate if there was, indeed, collusion, all in compliance with the law.⁷¹

It must have slipped his attention that the judicial affidavits in Civil Case Nos. 14-813, 15-833, and 15-846 were unnotarized. The defect, however, was cured when the affiants affirmed the contents of their affidavit in open court and under oath.⁷²

Contrary to the findings of the audit team that the stamp on the date of receipt of the decision by the OSG in Civil Case No. 14-813 was left unsigned, the records of the said case actually bear the certification by the OSG as to its date of receipt. Too, the OSG certified its receipt of the respective decisions in Civil Case Nos. 14-814, 16-944, 15-841, and 14-815.⁷³

Atty. Bareng-Asistin clarified through her Affidavit dated November 22, 2019, that the alleged disparity in her signatures in the pleadings subject of the audit was due to her own doing. She explained that she used, interchangeably, shorthand and longhand signatures in signing her pleadings. She attached specimens⁷⁴ of these signatures to her affidavit anyway.⁷⁵

Lastly, Sheriff IV Roger B. Viado (Sheriff IV Viado) executed a Certification of Erroneous Service dated December 11, 2019,⁷⁶ to explain the notation “for Atty. Alzate” in Civil Case Nos. 15-828 and 15-829. He explained that he mistakenly served a copy of the said Decision to Atty. Gonzales-Alzate when in truth, the counsel for the petitioner was Atty. Bareng-Asistin.⁷⁷

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.* at 217.

⁷³ *Id.* at 248–251.

⁷⁴ *Id.* at 254.

⁷⁵ *Id.* at 252–253.

⁷⁶ *Id.* at 256.

⁷⁷ *Id.* at 218–219.

By Resolution⁷⁸ dated September 3, 2019, the Court extended Judge Alzate's suspension for another six months.

In its Memorandum⁷⁹ dated June 30, 2020, the OCA recommended that Judge Alzate be dismissed from the service, with forfeiture of all benefits, except accrued leave credits, if any, with prejudice to re-employment in any branch or instrumentality of the government, including government-owned or controlled corporations, viz.:

RECOMMENDATION: It is respectfully recommended for the consideration of the Honorable Court that:

- 1) Judge Raphiel F. Alzate, Presiding Judge of Branch 1, RTC, Bangued, Abra, be found **GUILTY** of gross ignorance of the law and procedure for each of the cases identified in the judicial audit report and the Memorandum dated June 28, 2019;
- 2) Judge Alzate be found **GUILTY** of gross misconduct for violation of Section 1, Rule 137 of the Rules of Court and Section 5, Canon 3 of the New Code of Judicial Conduct of the Philippines; and
- 3) Judge Alzate be **DISMISSED** from the service, with forfeiture of all benefits, except accrued leave credits, if any, and with prejudice to re-employment in any branch or instrumentality of the government, including government-owned or -controlled corporations, in both charges.
- 4) Meanwhile, and pending resolution of the instant case, Judge Alzate be preventively suspended for another six months effective upon notice thereof.⁸⁰

The OCA asserted that the audit of the cases decided by Judge Alzate in RTC-Branch 58, Bucay, Abra was authorized and approved by former Chief Justice Lucas P. Bersamin, who specifically directed the audit team to conduct an investigation pertaining to cases of nullity of marriage filed with RTC-Branch 24, Cabugao, Ilocos Sur, along with the other courts presided by Judge Alzate.⁸¹ The barangay certifications were more than sufficient proof that Judge Alzate failed to determine the true residences of the petitioners in the cases under consideration.⁸²

Judge Alzate even doubted the veracity of the numbers presented by the OCA itself on nullity of marriage cases filed from 2013 to 2018. He in fact submitted a certification from the RTC Cabugao, Ilocos Sur, showing a

⁷⁸ *Id.* at 109.

⁷⁹ *Id.* at 309–323.

⁸⁰ *Id.* at 322–323.

⁸¹ *Id.* at 311–312.

⁸² *Id.* at 312.



different set of numbers. If there were indeed discrepancies in the numbers provided by OCA and those provided by OCA, Judge Alzate should be held liable for perjury for it means the numbers he provided to OCA in his monthly reports were wrong.⁸³

The OCA maintained on the lack of “no collusion” report, and the subject cases proceeded even in the absence of the said report, albeit the same was required by law. Specifically, in Civil Case No. 15-875, even though the “no collusion” report was indicated in the May 17, 2017 Pre-Trial Order, Formal Offer of Exhibits, and Decision dated April 18, 2018, the case records did not bear a copy of the said report.⁸⁴

As for the bigamous case, the OCA posited that cases for declaration of nullity of marriage due to the existence of a previous marriage are not exempt from the mandatory requirement of a pre-trial.⁸⁵

Judge Alzate’s ignorance of the law was revealed in his failure to notice that several pleadings before him were unsigned and the verifications and certifications of non-forum shopping in three petitions were unnotarized. These pleadings should not have been accepted in court in the first place. The fact that Judge Alzate decided these cases without even noticing the said fatal defects casts serious doubt on his competence as a judge.⁸⁶

The OCA refused to lend credence to the affidavit of Atty. Bareng-Asistin explaining the disparity in her signatures in her pleadings; nor to the certification of Sheriff IV Viado explaining that he erroneously furnished a copy of the decision in one nullity of marriage case to Judge Alzate’s wife, Atty. Gonzales-Alzate, when the counsel for the said case was actually Atty. Bareng-Asistin. According to the OCA, the aforesaid documents are self-serving as Judge Alzate may have benefited from the decisions to grant the identified petitions if the charges against him were proven. More, the OCA found it puzzling that Atty. Bareng-Asistin was the counsel of record in a considerable number of cases before the *sala* of Judge Alzate when her office in Laoag City, Ilocos Norte was estimated to be 54.3 kilometers from Cabugao, Ilocos, Sur, and 152.1 kilometers from Bucay, Abra. Without any controverting evidence, it was more likely than not that he indeed committed the charges against him.⁸⁷

For allowing his wife to get involved in the cases before him for consideration, Judge Alzate violated the provisions against conflict of interest

⁸³ *Id.* at 312–313.

⁸⁴ *Id.* at 313–314.

⁸⁵ *Id.* at 315.

⁸⁶ *Id.*

⁸⁷ *Id.* at 316.

in Section 1,⁸⁸ Rule 137 of the Rules of Court and Section 5,⁸⁹ Canon 3 of the New Code of Judicial Conduct for the Philippine Judiciary.⁹⁰

By Decision⁹¹ dated September 1, 2020, the Court found Judge Alzate guilty of Gross Ignorance of the Law and Gross Misconduct and meted the supreme penalty of dismissal from the service, with forfeiture of all benefits due him, except accrued leave benefits, if any, with prejudice to re-employment in any branch of the government, including government-owned or controlled corporations.

Subsequently, on October 13, 2020, the Notice of Judgment with a copy of the Decision dated September 1, 2020, was sent to Atty. Ma. Saniata Liwliwa G. Alzate (Atty. Alzate), c/o Judge Raphiel F. Alzate, to the RTC-Branch 24, Cabugao Ilocos Sur. Its letter envelope, however, was stamped "Return to Sender" for the reason that the addressee had moved out.⁹²

On even date, a Notice of Judgment with a copy of the Decision was also sent to RTC-Branch 24, Cabugao, Ilocos Sur, addressed to Judge Alzate, but it bore the same stamp 'Return to Sender' for the same reason, addressee moved out.⁹³

⁸⁸ Rule 137. Disqualification of Judicial Officers. SECTION 1. *Disqualification of judges.* — No judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity or affinity, or to counsel within the fourth degree, computed according to the rules of the civil law, or in which he has been executor, administrator, guardian, trustee or counsel, or in which he has presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record.

A judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for just or valid reasons other than those mentioned above. (Rules of Court, July 1, 1997)

⁸⁹ Sec. 5. Judges shall disqualify themselves from participating in any proceedings in which they are unable to decide the matter impartially or in which it may appear to a reasonable observer that they are unable to decide the matter impartially. Such proceedings include, but are not limited to, instances where

(a) The judge has actual bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceedings;

(b) The judge previously served as a lawyer or was a material witness in the matter in controversy;

(c) The judge, or a member of his or her family, has an economic interest in the outcome of the matter in controversy;

(d) The judge served as executor, administrator, guardian, trustee or lawyer in the case or matter in controversy, or a former associate of the judge served as counsel during their association, or the judge or lawyer was a material witness therein;

(e) The judge's ruling in a lower court is the subject of review;

(f) The judge is related by consanguinity or affinity to a party litigant within the sixth civil degree or to counsel within the fourth civil degree: or

(g) The judge knows that his or her spouse or child has a financial interest, as heir, legatee, creditor, fiduciary, or otherwise, in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceedings; (A.M. No. 03-05-01-SC, New Code of Judicial Conduct for the Philippine Judiciary, April 27, 2004).

⁹⁰ *Rollo*, p. 324.

⁹¹ *Id.* at 343–387; A.M. No. 19-01-15-RTC, Re: Report on the Judicial Audit Conducted in Branch 24, Regional Trial Court, Cabugao, Ilocos Sur, under Hon. Raphiel F. Alzate, as Acting Presiding Judge, September 1, 2020.

⁹² *Id.* at 479.

⁹³ *Id.* at 527.

On May 27, 2021, Judge Alzate filed a Motion to be Furnished Copy of the Decision dated September 1, 2020. He lamented that despite the fact that the Supreme Court–Public Information Office had already published an article on this Decision, he still had not received a copy of the said Decision. He, thus, prayed that the Court furnish him an official copy of the Decision in order to intelligently controvert the recommendation and findings of the OCA which the Court had adopted in the Decision.⁹⁴

By Letter dated September 3, 2021, the counsel for Judge Alzate, Atty. Alzate, echoed the prior manifestation of Judge Alzate that he had yet to receive a copy of the Decision. She emphasized that Judge Alzate's address on record is 27 Santiago Street, Zone 2, Bangued, Abra, and she requested to be furnished: (i) a photograph of the registered mail of the Decision in this administrative matter with remarks 'return to sender', (ii) date when the registered mail containing the Decision was mailed, and (iii) the date when the mail was returned, or whether there was any other copy of the Decision mailed when the copy of the Decision was returned to the Office of the Clerk of Court (OCC); and further requesting photocopies of the photocopies of the proof of mailing to RTC-Branch 1, Bangued, Abra, RTC-Branch 24, Cabugao, Ilocos Sur, and 27 Santiago Street, Bangued Abra, whether the mailed Decision was addressed to 'Judge Raphiel F. Alzate', and the return cards.⁹⁵

Acting thereon, the Court under Resolution dated November 23, 2021,⁹⁶ resolved as follows, thus:

. . . It appearing from the records that copies of the Notice of Judgment (with copy of the *Per Curiam* Decision dated September 1, 2020) addressed to (i) Atty. Ma. Saniata Liwliwa G. Alzate, c/o Judge Raphiel F. Alzate, Branch 24, Regional Trial Court (RTC) Cabugao, Ilocos Sur, and (ii) Hon. Raphiel F. Alzate, Acting Presiding Judge, Branch 24, RTC, Cabugao, Ilocos Sur, were returned unserved with similar notation on the letter-envelopes 'RTS-Addressee Moved Out', the Court Resolved to DIRECT the Process Servicing Unit to RESEND the Notice of [Judgment] (with copy of the *Per Curiam* Decision dated September 1, 2020), together with this [R]esolution, to (i) former Judge Alzate at (1) Branch 24, RTC, Cabugao, Ilocos Sur, (2) Branch 58, RTC, Bucay Abra and (3) 27 Santiago Street, Zone 2, Bangued, Abra, and (ii) Atty. Alzate, counsel for respondent.

The Court further Resolved to

- a) NOTE and GRANT the Letter dated September 3, 2021 of Atty. Ma. Saniata Liwliwa V. Gonzales-Alzate, counsel for respondent former Judge Alzate, among others, requesting (i) a photograph of the registered mail of the Decision in this administrative matter with remarks 'return to sender', (ii) date when the registered mail

⁹⁴ *Id.* at 403-406.

⁹⁵ *Id.* at 328-329.

⁹⁶ *Id.* at 530-531.

containing the Decision was mailed, and (iii) date when the mail was returned, or whether there was any other copy of the Decision mailed when the copy of the Decision was returned to the OCC; and further requesting photocopies of the photocopies of the proof of mailing to Branch 1, RTC Bangued, Abra, Branch 24, RTC, Cabugao, Ilocos Sur, and 27 Santiago Street, Bangued Abra, and whether the mailed Decision was addressed to 'Judge Raphiel F. Alzate' and the return cards, all for records purposes; and

- b) ADVISE Atty. Gonzales-Alzate to COORDINATE with the Office of the Clerk of Court on the matter of the above requests."⁹⁷

In his Manifestation and Motion to Admit Attached Motion for Reconsideration⁹⁸ dated February 14, 2022, Judge Alzate alleged that he received a copy of the Decision at his home address on January 10, 2022, through registered mail. Regrettably, he and his family were infected with COVID-19 and he, thus, prayed for an extension of five days to file his Motion for Reconsideration. He and his family, however, had to remain in isolation until February 13, 2022. In view of the attending circumstances, he prayed that his Motion for Reconsideration be admitted in the interest of substantial justice.⁹⁹

On April 5, 2022, the Court issued a Resolution¹⁰⁰ granting the Manifestation and Motion to Admit Motion for Reconsideration dated February 14, 2022 filed by Judge Alzate, thus:

. . . The Court Resolved to NOTE and GRANT the Manifestation and Motion to Admit Motion for Reconsideration dated February 14, 2022 filed by respondent Judge Raphiel F. Alzate, among others, stating that he received his official copy of the *Per Curiam* Decision dated September 1, 2020 at his home address on January 10, 2022 through registered mail, however, he and his family were infected with COVID-19 and he was prevented from being released from isolation until February 13, 2022 and praying that his Motion for Reconsideration be admitted in the interest of substantial justice.¹⁰¹

Our Ruling

In his Motion for Reconsideration¹⁰² dated February 1, 2022, Judge Alzate asserted anew:

1. The facts contained in the Report on Judicial Audit of the OCA are disputable. Specifically, there was dearth of evidence of "any report or

⁹⁷ *Id.*

⁹⁸ *Id.* at 534–536.

⁹⁹ *Id.*

¹⁰⁰ *Id.* at 696.

¹⁰¹ *Id.*

¹⁰² *Id.* at 543.

complaint” from any other person alleging “irregular disposal of cases of nullity of marriages.” He was not furnished a copy of any administrative complaint or show cause order before his preventive suspension. He learned of the administrative case when it was already docketed as a regular case eight months after his preventive suspension;¹⁰³

2. The audit team was not authorized to examine the case records in RTC-Branch 58, Bucay, Abra;¹⁰⁴
3. The unannounced arrival of the audit team and their unceremonious taking of the case records from RTC-Branch 24, Cabugao, Ilocos Sur, and RTC-Branch 58, Bucay, Abra, sans the presence of the Branch Clerk of Court or any accounting was tainted with irregularity. The audit team did not even leave copies of the case records or a case index of the files taken. The manner by which the original case records from the two trial courts were taken cast doubt on the legitimacy and truthfulness of imputed irregularities on him;¹⁰⁵
4. It is within the judicial discretion of the judge to determine the petitioner’s compliance with the jurisdictional requirements in nullity of marriage cases. He should not be faulted for non-compliance with a Court issuance, which was not yet even in effect at the time of the filing, pendency, trial, and issuance of the decisions of the cases under review. Evidently, the cases contained in the judicial audit were already disposed of when OCA Circular No. 63-2019, or the *New Guidelines on Declaration of Nullity of Marriage*, took effect on April 17, 2019;¹⁰⁶
5. The OCA Report on Judicial Audit on the alleged swift and worry-free favorable decisions in nullity of marriage cases for financial consideration was not supported by evidence;¹⁰⁷
6. An increase in the number of nullity of marriage cases filed and decided in RTC-Branch 24, RTC for Cabugao, Ilocos Sur, is not per se proof of irregularity. To be sure, the filing of cases in court is beyond the control of any judge;¹⁰⁸
7. In Civil Case No. 15-850 and 925-KC, a “no collusion” investigation report was actually conducted by the assigned public prosecutor, as

¹⁰³ *Id.* at 541–542.

¹⁰⁴ *Id.* at 544.

¹⁰⁵ *Id.* at 547.

¹⁰⁶ *Id.* at 551–554.

¹⁰⁷ *Id.* at 552.

¹⁰⁸ *Id.* at 558.

affirmed in petitioner's Formal Offer of Evidence, and the court's Pre Trial Order and Decision on the merits. Any missing document could be attributed to the irregular records retrieval by the OCA audit team. In any case, a judge is not a custodian of the records. Hence, the absence of a document or documents in the records should not be attributed to him;¹⁰⁹ and

8. The OCA's imputation of corruption, falsification, *modus*, and dubious proceedings on him is unfair, nay, baseless. Not a single affidavit, sworn statement, or testimony from any person, lawyer, or member of the judiciary was presented to prove the baseless and unfair accusation that he and his wife were indeed "selling" favorable and swift decisions in nullity of marriage cases.

According to Judge Alzate, all told, the OCA failed to prove that he committed gross misconduct, gross ignorance of the law, impropriety, unusual interest in a case, flagrant or blatant violation of rules, or utter lack of familiarity with the rules, bad faith or corruption, partiality or bias, or motivation by a wrongful intent to violate a rule.¹¹⁰ As it was, the OCA merely used sweeping conclusions based on its own interpretation of facts, which he anyway was able to controvert, point by point.¹¹¹ The Court must, thus, not give credence to charges based on mere suspicion and speculation.

The Motion for Reconsideration is partly meritorious.

Every office in the government service is a public trust. No position, however, exacts a greater demand on moral righteousness and uprightness of an individual than a seat in the judiciary. Members of the judiciary must conduct themselves in such a manner as to be beyond reproach and suspicion, and free from any appearance of impropriety in their personal behavior, not only in the discharge of their official duties but also in their everyday life. They are strictly mandated to maintain good moral character at all times and to observe irreproachable behavior so as not to outrage public decency.¹¹²

As a member of the Bench, a judge is duty-bound to embody the value of integrity both in the performance of his or her duties, and in his or her dealings publicly and privately. Canon 2 of the New Code of Judicial Conduct for the Philippine Judiciary¹¹³ mandates:

¹⁰⁹ *Id.* at 560–562.

¹¹⁰ *Id.* at

¹¹¹ *Id.* at 594. Motion for Reconsideration dated February 1, 2022.

¹¹² *Baculi v. Belen*, A.M. No. RTJ-11-2286, February 12, 2020 [Per J. Lazaro-Javier, First Division].

¹¹³ A.M. No. 03-05-01-SC, New Code of Judicial Conduct for the Philippine Judiciary, April 27, 2004.

CANON 2***Integrity***

Integrity is essential not only to the proper discharge of the judicial office but also to the personal demeanor of judges.

SECTION 1. Judges shall ensure that not only is their conduct above reproach, but that it is perceived to be so in the view of a reasonable observer.

SECTION 2. The behavior and conduct of judges must reaffirm the people's faith in the integrity of the judiciary. Justice must not merely be done but must also be seen to be done.

SECTION 3. Judges should take or initiate appropriate disciplinary measures against lawyers or court personnel for unprofessional conduct of which the judge may have become aware.

When reports reach the Supreme Court that a certain judge is committing indiscretion or violation of the Rules, a judicial audit must be conducted pursuant to A.M. No. 03-8-02-SC,¹¹⁴ the Guidelines on the Selection and Appointment of Executive Judges, *viz.*:

CHAPTER VI**Judicial Audit**

SECTION 1. *Judicial audit and physical inventory of cases.* — The Office of the Court Administrator (OCA) shall conduct periodic judicial audit of the first and second level courts. For this purpose, Executive Judges shall give the OCA utmost cooperation and support to ensure the success of the program.

The OCA may direct the Executive Judges concerned to provide support staff from personnel in their area of administrative supervision to the judicial audit team from the OCA.

Here, Judge Alzate was charged, investigated, and found liable for Gross Ignorance of the Law and Gross Misconduct with regard to the manner by which he handled and resolved Case Nos. 925-KC, 924-KC, 921-KC, 928-KC, 15-850, 925-KC, 15-828, 15-829, 15-841, 14-813, 14-815, 894-KC.

These are all nullity of marriage cases wherein Judge Alzate was found to have committed corruption by soliciting them for swift and hassle-free decisions; violating the venue and jurisdictional requirement or disregarding the required submission of the "no collusion" certification and conduct of pre-trial.

¹¹⁴ A.M. No. 03-8-02-SC, Guidelines on the Selection and Designation of Executive Judges and Defining Their Powers, Prerogatives and Duties, Issued February 15, 2004.

We partly grant the Motion for Reconsideration. We clarify though that this is without prejudice to the results of the ongoing investigation being conducted on the reported unlawful team-up between Judge Alzate and his wife in the solicitation of nullity of marriage cases for a fee. For now, we are confining our findings and ruling here based exclusively on the evidence thus far on record insofar as the present case is concerned.

A.M. No. 02-11-10-SC¹¹⁵ should not have been retroactively applied against Judge Alzate in Case Nos. 925-KC, 924-KC, 921-KC, and 928-KC

Judge Alzate was charged with neglect for his failure to check whether the requisite documents of residency are attached to the following petitions for nullity of marriage, *viz.*:

Case Number and Title	OCA Observation/s
Case No. 925-KC (<i>Cherry Gatchalian v. Roel Gatchalian</i>)	Date filed: April 18, 2018.
Case No. 924-KC (<i>Ma. Teresa B. De Leon v. Jeremy De Leon</i>)	Pre-trial issued on July 25, 2018
Case No. 921-KC (<i>Ruel Bagne v. Rose Anne Bagne</i>)	Last Court Action: Order to conduct an investigation of possible collusion between the parties dated August 8, 2018.
Case No. 928-KC (<i>Dino Roa v. Jane Roa</i>)	Last Court Action: Order to conduct an investigation of possible collusion between the parties dated August 8, 2018.

A.M. No. 02-11-10-SC¹¹⁶ dated March 4, 2003, governed the venue for nullity of marriage cases, *viz.*:

SECTION 2. *Petition for Declaration of Absolute Nullity of Void Marriages.* ---

(a) ***Who may file.*** — A petition for declaration of absolute nullity of void marriage may be filed solely by the husband or the wife. (n)

(b) ***Where to file.*** — The petition shall be filed in the Family Court.

x x x x

¹¹⁵ A.M. Nos. 02-11-10-SC, Re: Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages, March 4, 2003.

¹¹⁶ *Id.*

SECTION 4. Venue. — The petition shall be filed in the Family Court of the province or the city where the petitioner or the respondent has been residing for at least six months prior to the date of filing, or in the case of a non-resident respondent, where he may be found in the Philippines, at the election of the petitioner.

In the October 2, 2018 Resolution, the Court amended Section 5 of A.M. No. 02-11-10-SC and Section 2(b) of A.M. No. 02-11-11-SC and laid down stringent rules to prove compliance with the residency requirement, *viz.*:

(a) Contents and form of the petition. With reference to the requirements of Section 5 of A.M. No. 02-11-10-SC and Section 2(b) of A.M. No. 02-11-11-SC, petitioner shall state the complete address of the parties in the petition (*i.e.*, house number, street, purok/village/subdivision, *barangay*, zone, town, city, and province);

In view of the foregoing, petitioner shall attach the following: (1) sworn certification of residency (with house location sketch) issued by the *barangay*; (2) sworn statement of counsel of record that he/she has personally verified petitioner's residency and that the petitioner had been residing thereat for at least six (6) months prior to the filing of petition; and (3) any but not limited to the following supporting documents:

(i) Utility bills in the name of the petitioner for at least six (6) months prior to the filing of the petition;

(ii) Government-issued I.D. or Company I.D., bearing the photograph and address of the petitioner and issued at least six (6) months prior to the filing of the petition;

(iii) Notarized lease contract, if available, and/or receipts for rental payments (bearing the Address of the petitioner) for at least six (6) months prior to the filing of the petition; [and]

(iv) Transfer Certificate of Title, or Tax Declaration, or Deed of Sale and the like, in the name of the petitioner where he/she resides.

If the petition is filed by the petitioner without counsel and a counsel subsequently appears, said counsel shall submit, together with the formal entry of appearance, an affidavit of verification of residency of the petitioner.¹¹⁷

According to the OCA, Judge Alzate failed to require the petitioners to submit their respective proofs of residency such as utility bills or government-issued IDs now required to be attached to the petitions pursuant to OCA Circular 63-2019 on the Guidelines to Validate Compliance with the Jurisdictional Requirement set forth in A.M. No. 02-11-10-SC.¹¹⁸

¹¹⁷ Re: Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages, A.M. No. 02-11-10-SC; Re: Rule on Legal Separation, A.M. No. 02-11-11-SC dated October 2, 2018.

¹¹⁸ *Rollo*, p. 315.

In our Decision September 1, 2020, we retroactively applied the foregoing Amendments to the cases in question although the same were already pending before respondent's *sala* even prior to the effectivity of the aforesaid Amendments. We, therefore, ought to rectify this error to adhere to the explicit command of the guidelines itself that *[t]he above Guidelines shall be applied prospectively*.¹¹⁹

Accordingly, Judge Alzate cannot be faulted for non-compliance with the subject Guidelines which were not yet in effect at the time his alleged omissions or non-compliance took place.

In any event, it may be unreasonable to require judges in family courts or designated family courts *to determine right at the start of the proceedings the residence of the parties* in nullity of marriage cases, *beyond what the documents required by A.M. No. 02-11-10-SC on their face state*. For, at the start, our judges *can only rely on the documents* that the Court has required to be attached to the petition. If it turns out that these documents are false, the judges cannot be faulted for acting on the petitions believing in good faith their genuineness and due execution.

Hence, it is in this context that we recalibrate the certifications and text messages used by the OCA in determining the true residences of the parties in the subject petitions. We note that Judge Alzate was confronted with these certifications and text messages *only after the proceedings had been completed and only outside the family proceedings themselves (i.e., in the course of the disciplinary proceeding against him)* when *he no longer can take them into account in deciding these cases*.

In the context of ascribing guilt or innocence *solely* on the basis of *evidence acquired after-the-fact*, the real issue as regards the residence of the parties is whether the requisite documents if any have been attached to the petitions and not whether the parties are truly residents of the *barangay* they claim to be. This observation is especially true as regards nullity of marriage cases *filed prior to the effectivity of A.M. No. 02-11-10-SC*, because during this time judges *can only rely* on the petition's allegations in relation to venue *unless the State or a respondent would raise an issue on venue and present evidence thereon*.

Suffice it to state that it is not uncommon for an individual to have different residences.¹²⁰ That the parties stated a specific address in their marriage contract does not mean they are obliged to remain there for the rest of their lives. We, thus, give credence to Judge Alzate's assertion that petitioners were indeed able to prove under oath their respective residencies

¹¹⁹ Supra note 91.

¹²⁰ See *Romualdez-Marcos v. Commission on Elections*, 318 Phil. 329, 377 (1995) [Per J. Kapunan, *En Banc*].

during the hearing wherein they got cross-examined by the Public Prosecutor who even submitted a “no collusion” Investigation Report to the court.¹²¹

For clarity, we emphasize that precisely to guard against forum shopping or manipulation of venue, the Court issued Resolution dated October 2, 2018:

X X X X

(b) Collusion investigation. In cases where the public prosecutor is directed to investigate whether collusion exists between the parties, the court shall additionally order the public prosecutor to include in the collusion investigation report a determination of the party’s residence.

(c) Dismissal of the petition for alleging a false address. At any stage of the proceedings where it appears that the address alleged in the verified petition is false or where it appears from the registry return/s that either party is unknown at the given address, the court shall, after notice and hearing, dismiss the petition and require the counsel of record to show cause why no appropriate sanctions be imposed upon him/her for submitting a false affidavit of verification.

(d) Dismissal of the petition, without prejudice, for **failure to prove** residency. Failure of the petitioner to comply with the residency requirement shall be a ground for the immediate dismissal of the petition, without prejudice to the refiling of the petition in the proper venue. (Emphasis supplied)

In this regard, therefore, while at the start judges may rely on the requisite documents attached to the petition, once the proceedings begin, they must include as an issue for trial the residence of the parties. Hence, it is a requirement that the trial prosecutors ask questions about residence, and *in default thereof or where doubt lingers, where to do otherwise would suggest fraud, willful blindness, recklessness, or negligence*, our judges will have to ask probing questions to elicit the answers to settle this issue and to include a determination of this issue in the decision or order to be promulgated or issued in due course.

Significantly, there is nothing on record to show that this safeguard was brushed aside in any of the subject cases.

***Swift and worry-free decision in Case
No. 894-KC***

Judge Alzate was found to have acted in bad faith when he supposedly sped up the disposition of Case No. 894-KC within only three months from

¹²¹ *Rollo*, p. 552–556.

the time the hearing commenced. Too, the marked increase in nullity of marriage cases filed with RTC-Branch 24, Cabugao, Ilocos Sur, since the time he assumed his post therein as presiding judge was found to have indicated that the parties sought him out for swift and worry-free decisions in their respective nullity of marriage cases. In view of these circumstances, he was adjudged liable for abuse of his judicial office for his own personal interest.

Section 15(1), Article VIII of the 1987 Constitution, mandates that cases or matters filed with the lower courts must be decided or resolved within three months from the date they are submitted for decision or resolution.¹²²

Meanwhile, Section 5,¹²³ Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary mandates that Judges should act on their judicial duties with reasonable promptness, thus:

CANON 6

COMPETENCE AND DILIGENCE

SEC. 5. Judges shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly[,] and with reasonable promptness.

In the same vein, Canons 6 and 7¹²⁴ of the Canons of Judicial Ethics serve as a directive for judges to be prompt and punctual in the exercise of their judicial duties, viz.:

6. PROMPTNESS

He should be prompt in disposing of all matters submitted to him, remembering that justice delayed is often justice denied.

7. PUNCTUALITY

He should be punctual in the performance of his judicial duties, recognizing that the time of litigants, witnesses, and attorneys is of value and that if the judge is unpunctual in his habits, he sets a bad example to the bar and tends to create dissatisfaction with the administration of justice.

The primordial duty of judges is to decide cases justly and expeditiously.¹²⁵ Expeditious disposition or rendition of a judgment within the required period had never been considered as a badge of corruption. On the contrary, what is being punished is the judge's failure to decide a case within

¹²² See *Maricor L. Garado, complainant, v. Reyes, Jj Judge Lizabeth Gutierrez-Torres, respondent*, 710 Phil. 158, 164 (2013) [Per J. Villarama Jr., First Division].

¹²³ New Code of Judicial Conduct for the Philippine Judiciary, Promulgated this April 27, 2004.

¹²⁴ Canons of Judicial Ethics [Administrative Order No. 162 dated August 1, 1946 of the Department of Justice].

¹²⁵ *Tauro v. Judge Angel V. Colet*, 366 Phil. 1, 3 (1999) [Per J. Panganiban, Third Division].

90 days which had always been considered as gross inefficiency and the Court imposed either fine or suspension from service without pay for such.¹²⁶

In *Marietta Duque v. Judge Crisostomo L. Garrido*,¹²⁷ the Court imposed a fine of PHP 10,000.00 on therein respondent for his failure to decide Criminal Case No. 2000-10-580 within the prescribed period.

Similarly, in *Dalmacio Celino v. Judge Zeus C. Abrogar*,¹²⁸ the Court found Judge Zeus C. Abrogar administratively liable for his failure to render the decision in Civil Case No. 88-2042 within the prescribed period of 90 days from the time the same was submitted for decision.

Notably, Judge Alzate was assigned to handle not one, but four courts all at the same time. At one point, he was even designated in the following branches: Presiding Judge for RTC Branch 1, Bangued, Abra (designated January 2012); Acting Presiding Judge for RTC Branch 58, Bucay, Abra (designated on September 2013) and RTC Branch 24, Cabugao, Ilocos Sur, (designated on May 2016); and pairing judge for RTC Branch 2, Bangued, Abra (designated April 2015).¹²⁹

Judge Alzate manifested how he properly managed his time to perform his judicial duties in all four courts he was then handling:

The respondent's schedule was to conduct hearings on Mondays and Tuesdays at RTC Branch 1 in Bangued, Abra; on Wednesdays at RTC Branch 24, Cabugao, Ilocos Sur; on Thursdays at RTC Branch 58, Bucay, Abra and Friday[,] at RTC Branch 2, Bangued, Abra and to study cases, draft/ make decisions, resolve motions and other official matters in his main station at RTC Branch 1, Bangued, Abra. As a designated judge in these four (4) [RTCs], the respondent had to act as long as he is able, according to his physical ability and to comply with the directives from the Honorable Court Administrator to decrease the caseloads of the courts where he was designated. The caseloads of RTC Branch 24, Cabugao, Ilocos Sur and RTC Branch 58, Bucay, Abra were decreased during the time of the respondent's acting capacity in the said courts. As of March 2019, the respondent has zero (0) backlog in his main court, RTC Branch 1, Bangued, Abra. This can be verified at the Court Management Office of the Office of the Court Administrator.¹³⁰

As for the increase in nullity of marriage cases filed before RTC-Branch 24, Cabugao, Ilocos Sur, from the time he got designated as its Acting Presiding Judge in May 2016, respondent had this to say:

¹²⁶ See *Report on the Judicial Audit Conducted in RTC Branches 29 And 59, Toledo City*, A.M. No. 97-9-278-RTC, July 8, 1998 [Per Leonardo-De Castro, *J. En Banc*].

¹²⁷ 599 Phil. 482 (2009) [Per J. Panganiban, First Division].

¹²⁸ 315 Phil. 305 (1995) [Per J. Puno, Second Division].

¹²⁹ *Rollo*, p. 596. Motion for Reconsideration.

¹³⁰ *Id.*

It must be noted that the previous Presiding Judge of RTC Branch 24, Cabugao, Ilocos Sur (Judge Nida Alejandro) had a lateral transfer to RTC Branch 13, Laoag City on April 6, 2015. I was designated as Acting Presiding in RTC Branch 24, Cabugao, Ilocos Sur on May 4, 2016 or after one (1) year from the time the said court was vacated. The OCA Team attributed the increase of nullity of marriage cases to my designation as judge in RTC Branch 24, Cabugao, Ilocos Sur. If there is an increase of the filed cases during my designation in the said court, perhaps, it was because no judge will hear cases after it was vacated for a year and when there was already a judge, cases are filed. Moreover, the judge has no right to stop the filing of cases and he has no power to control how many cases will be filed in the court.¹³¹

We find Judge Alzate's argument meritorious. Indeed, a judge has no hand in the filing of petitions for nullity of marriage cases. The increase in the number of cases filed, tried, and decided should be attributed to the fact that litigants knew their cases would be heard by a magistrate and would not be archived to await a regular sitting judge to hear them.

In any event, the OCA came out with the following table to show an alleged surge in the number of nullity of marriage cases since 2016 when Judge Alzate got designated as Acting Presiding Judge of RTC-Branch 24, Cabugao, Ilocos Sur.

	2013	2014	2015	2016	2017	2018
January	1	1	1	1	1	3
February	0	0	0	0	1	1
March	0	0	1	0	0	1
April	1	2	1	1	2	2
May	1	0	2	1	0	2
June	0	0	0	0	0	5
July	0	0	0	2	0	0
August	0	0	1	2	0	0
September	0	0	0	1	0	2
October	0	1	0	2	0	0
November	0	0	0	1	0	2
December	1	0	0	0	0	2
TOTAL	4	4	6	11	4	20

As illustrated, from four cases in 2013 and 2014, and six in 2015, the number of nullity of marriage cases increased to 11 in 2016 when Judge Alzate assumed as Acting Presiding Judge of RTC-Branch 24, Cabugao, Ilocos Sur, but dropped to four again in 2017, and rose to 20 in 2018. These numbers can hardly be described as a "surge." The numbers are insignificant, if not erratic. Verily, these numbers cannot qualify as substantial evidence Judge Alzate engaged in "nullity cases for sale."

¹³¹ *Id.* at 207

Assuming he granted all 37 cases in a span of five years, it is still a far cry from the 410 petitions of similar cases filed with and granted in a span of only one year (2010) by the respondent judge in *Office of the Court Administrator v. Hon. Liberty Castañeda (Castañeda)*.¹³² The latter represents the prototype of how a real haven of worry-free decisions in nullity cases really looks like. Apart from granting hundreds of nullity of marriage cases in a year alone, former Judge Castañeda committed the following infractions:

1) Judge Castañeda failed to decide, within the prescribed period, 40 cases from the first audit and 22 cases from the second audit, or a total of 62 cases.

2) Notwithstanding her failure to dispose of cases within the prescribed period, Judge Castañeda made it appear in her monthly Certificates of Service that she had decided or resolved cases within 90 days from their submission – an act which amounted to falsification.

For sure, Judge Castañeda's case is considerably different from Judge Alzate's case.

One, resolving 37 cases in a span of five years is incomparable to 410 cases resolved and granted in just one year alone.

Two, based on the evidence thus far gathered here about Judge Alzate, there is no showing that he falsified any document or misrepresented any information in the course of the performance of his duties as a regular or Acting Presiding Judge.

Three, contrary to the conclusion of the OCA, records thus far adduced in the subject cases do not show that the OSG ascribed grave abuse of authority on Judge Alzate. He did order the conduct of "collusion investigation" in all the nullity of marriage cases before him, albeit some designated investigating prosecutor did not comply with his order.

In sum, *Castañeda* cannot be used to justify the imposition of the same penalty of dismissal on Judge Alzate. For as shown, in so many aspects, he was differently situated from Judge Castañeda.

Lastly, there is no sufficient evidence, at least in this case, to establish the alleged joint *modus operandi* between Judge Alzate and his wife Atty. Gonzales-Alzate pertaining to their supposed solicitation of clients wishing to have their marriages annulled. The OCA mentioned that its office received reports regarding some lawyers (Atty. Byron Alzate [nephew of Judge Alzate]

¹³² 696 Phil. 202 (2012) [*Per Curiam, En Banc*].

Atty. Dait-Agmata, Atty. Bareng-Assistin, and Atty. Cantil) whose signatures were used in petitions for nullity of marriage, albeit they did not actually sign these petitions nor knew of their filing. Notably, however, the OCA failed to summon these lawyers to confirm or hear their side.

Atty. Bareng-Assistin, one of the lawyers though seemed to have been able to get wind of the controversy so she voluntarily submitted her Affidavit dated November 22, 2019, viz.:

x x x x

2. I am the counsel on record of Civil Case No. 15-828; Civil Case No. 16-944; Civil Case No. 15-878[;] and Civil Case No. 929 filed, tried[,] and decided at the RTC[,] Branch 58, Bucay, Abra;

3. I confirm and affirm that I am the counsel of the petitioners in the aforementioned cases, attended the hearings[,] and **signed pleadings of the same;** (Emphasis supplied)

x x x x

As for the variance in her signatures in the pleadings, she explained:

4. I was informed that my signatures on the pleadings are being questioned by the Audit Team of the Office of the Court Administrator for being different from each other;

5. I confirm [sic] the signatures appearing on the pleadings of the aforementioned cases. In my private practice, I admit using different signatures – my full name, my initial, my shorthand signature[,] and abbreviated signatures;

6. When I took my oath and signed the Roll of Attorneys, I was not yet married, hence my name CHERRIE GRACE P. BARENG. I am now married to Edward James Asistin, hence my complete name now is CHERRIE GRACE P. BARENG-ASISTIN;

7. Thus, sometimes I put or add the surname Asistin in my pleadings or I use my longhand signature or my shorthand signature, especially in my notarial records, just like any other person or practicing lawyer at that, especially when there are voluminous papers to be signed or depending on the present circumstances at the time of signing. . . .

x x x x

10. I am executing this Affidavit to prove that I know the aforementioned cases; that I am the counsel of record of the said cases; and that I am the person whose signatures appear in the pleadings of the aforementioned cases. ¹³³ (Emphases supplied)

¹³³ Rollo, pp. 677-678.

We give credence to Atty. Bareng-Asistin's statement *under oath* that the signatures appearing on the pleadings in question were really hers, albeit there were times she affixed her long signature, and, on other times, only her short signature. At any rate, she certainly is the best person to know whether the signatures belonged to her.

Regarding the other named lawyers, they never came forward like Atty. Bareng-Asistin. Unlike the latter, there was no showing they were able to get wind of their supposed involvement in the subject cases. Also, as stated, they were not summoned to confirm the reported forgery of their signatures. Surely, the Court cannot find Judge Alzate administratively liable in this case based alone on the unverified report that he and his wife solicited nullity of marriage cases and forged the signatures of these lawyers in the pleadings which Spouses Alzate themselves allegedly drafted.

We, nonetheless, reckon with the OCA Report dated June 28, 2019, that there *might* be truth to the said *modus* as shown more particularly in the case where the counsel of record is Atty. Bareng-Asistin.¹³⁴ Thus:

The disparity between the signatures of Atty. Bareng . . . is very evident even when viewed with an untrained eye. In order to put a semblance of genuineness on the said petitions and to create a different personality, the surname "Asistin" was added to the name of Atty. Bareng, though the same Attorney's Roll Number, IBP Number, etc. were used.¹³⁵

Through its Decision¹³⁶ dated September 1, 2020, the Court adopted the findings of the OCA and concluded:

Equally disturbing are the reports which alleged the *modus* of Judge Alzate and his wife, Atty. Ma. Saniata Liwliwa G. Alzate (Atty. Alzate) in offering clients who wished to have their marriage annulled. Based on the reports, such petitions were filed even without the knowledge of the lawyer whose signatures were merely falsified so it would appear that such were personally prepared and filed by them. Upon examination of the records of the above cases in question, the OCA reported that **there might be truth to the said *modus*** as shown more particularly in the case where the counsel of record is Atty. Cherrie Grace P. Bareng.¹³⁷ (Emphasis supplied)

But then, the Court has to note that the use of the word "might" itself indicates uncertainty or possibility.¹³⁸ Again, we cannot rest Judge Alzate's dismissal on something uncertain or possible, sans any independent evidence to support it.

¹³⁴ Supra note 91.

¹³⁵ *Rollo*, p. 145.

¹³⁶ Supra note 91.

¹³⁷ *Id.*

¹³⁸ Cambridge Dictionary at <https://dictionary.cambridge.org/us/dictionary/english/might> (Last accessed on November 30, 2022).

Nor can we conclude that Judge Alzate was corrupt or engaged in “nullity of marriage for sale” just because of one single instance wherein his Decision in Civil Case No. 15-829 (*Re: Declaration of Void Marriage of Gaudencio Urbano and Vernalyn Bueno v. Aida Fernandez-Urbano*) was served on respondent’s wife Atty. Gonzales-Alzate, instead of the counsel of record named Atty. Bareng-Asistin. We cannot consider this single instance independent of the Certification of Erroneous Service¹³⁹ dated December 11, 2019, by Sheriff IV Viado, viz.:

CERTIFICATION

THIS IS TO CERTIFY that I mistakenly and erroneously served a copy of a Decision in Civil Case No. 15-829, Re: Declaration of Void Marriage of Gaudencio Urbano and Vernalyn Bueno vs. Aida Fernandez-Urbano on November 25, 2016 to Atty. Ma. Saniata Liwliwa Gonzales-Alzate where in truth and in fact, the counsel for the petitioner is Atty. [Cherrie] Grace [P.] Bareng-Asistin.

Bucay, Abra, December 11, 2019.

Sgd.
ROGER B. VIADO
 Sheriff IV¹⁴⁰

In *Arias v. Sandiganbayan*,¹⁴¹ the Court held that all heads of office have to rely to a reasonable extent on their subordinates. A judge too, has a right to rely on the presumption of regularity in the performance of duties by its subordinates. Otherwise, his or her judicial duties will be sacrificed in order to go after his or her subordinates’ every move and ensure they were performed properly.

One last point. Judge Alzate had been assigned four courts to preside. There must be something amiss in the process if we let him handle four courts and conclude presently that he is corrupt. If it were true that he is corrupt on the scale he is now pictured to be, he did not become corrupt overnight. What we can infer from the situation of Judge Alzate is that OCA did its job in recommending him to his other stations and that his designation as an Acting presiding judge in three other courts was a testament of the OCA’s belief back then that he had the capacity to do the job.

Judge Alzate proceeded with Case Nos. 15-828 and 15-829 sans pre-trial and Case Nos. 15-850 and 925-KC despite lack of a “no collusion” report.

¹³⁹ *Rolla*, p. 256.

¹⁴⁰ *Id.*

¹⁴¹ 259 Phil. 794, 801 (1989) [Per J. Gutierrez Jr., *En Banc*].

asc

In nullity of marriage cases, the investigation report of the prosecutor is a condition *sine qua non* for the setting of pre-trial.¹⁴² Section 9 of A.M. No. 02-11-10-SC, the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages, provides:

SECTION 9. Investigation Report of Public Prosecutor. — (1) Within one month after receipt of the court order mentioned in paragraph (3) of Section 8 above, the public prosecutor shall submit a report to the court stating whether the parties are in collusion and serve copies thereof on the parties and their respective counsels, if any.

(2) If the public prosecutor finds that collusion exists, he shall state the basis on the finding of collusion within ten days from receipt of a copy of the report. The court shall set the report for hearing and if convinced that the parties are in collusion, it shall dismiss the petition.

(3) If the public prosecutor reports that no collusion exists, the court shall set the case for pre-trial. It shall be the duty of the public prosecutor to appear for the State at the pre-trial.

More, Section 8(3) of the same Rule ordains that the judge must order the public prosecutor to investigate for collusion where no answer was filed, or if the answer does not tender an issue. If the public prosecutor reports that no collusion exists, only then may the judge set the case for pre-trial.

Relevantly, paragraph (3), Section 11 of the same Rule ordains:

SECTION 11. Pre-trial. —

(1) Pre-trial mandatory. — A pre-trial is mandatory. On motion or motu proprio, the court shall set the pre-trial after the last pleading has been served and filed, or upon receipt of the report of the public prosecutor that no collusion exists between the parties.

(2) Notice of pre-trial. — (a) The notice of pre-trial shall contain:

(1) the date of pre-trial conference; and

(2) an order directing the parties to file and serve their respective pre-trial briefs in such manner as shall ensure the receipt thereof by the adverse party at least three days before the date of pre-trial.

(b) The notice shall be served separately on the parties and their respective counsels as well as on the public prosecutor. It shall be their duty to appear personally at the pre-trial.

¹⁴² See *Office of the Court Administrator of Acuna*, 699 Phil. 513, 518 (2012) [Per J. Mendoza, Third Division].



(c) Notice of pre-trial shall be sent to the respondent even if he fails to file an answer. In case of summons by publication and the respondent failed to file his answer, notice of pre-trial shall be sent to respondent at his last known address.

Evidently, in the following cases, Judge Alzate indeed ordered an investigation on possible collusion between the parties, to wit: Case No. 875-KC (*Beverly Tica v. Jesus Fantastico*),¹⁴³ Case No. 924-KC (*Ma. Teresa B. De Leon v. Jeremy De Leon*),¹⁴⁴ and Case No. 925-KC (*Cherry A. Gatchalian v. Roel M. Gatchalian*).¹⁴⁵

Records bear the “No Collusion” reports of Associate Provincial Prosecutor Noel Meinrado F. Plete’s¹⁴⁶ in Case Nos. 924-KC (*Ma. Teresa B. De Leon v. Jeremy De Leon*)¹⁴⁷ and 925-KC (*Cherry A. Gatchalian v. Roel M. Gatchalian*). Notably however, no similar reports are found in the records of Civil Case No. 15-850, (*Aleli Historillo-Salido v. Keith Rosario-Salido*) and Case No. 875-KC (*Beverly Tica v. Jesus Fantastico*). Judge Alzate, thus, resolved these two cases in favor of the petitioners, including those wherein “no collusion” reports had been submitted yet, in clear violation of Section 9(3) of the aforequoted Rule.

Meanwhile, in Case Nos. 925-KC (*Cherry A. Gatchalian v. Roel M. Gatchalian*), 894-KC (*Grace V. Torres v. Gerald S. Torres*),¹⁴⁸ 15-828 (*Lenie Cabintoy Agbilay vs. Reysel Agbilay*), 15-829 (*Declaration of Void Marriage of Gaudencio Urbano Jr. And Vernalyn Bueno*), and 15-848 (*Louie Luico vs. Baby Rose Reyes*), Judge Alzate did not conduct the mandatory pre-trial, contrary to Section 9(3) of the aforequoted Rule.

For these omissions, Judge Alzate must be found liable for neglect of duty.

In *Office of the Court Administrator v. Cabrera-Faller*,¹⁴⁹ the Court held respondent Judge Quisumbing guilty of gross ignorance of the law and simple misconduct for his failure to observe the mandatory requirement of ordering the investigating public prosecutor to determine whether collusion existed between the parties in cases for the declaration of nullity and annulment of marriage. For his infraction, the Court imposed a fine of ₱21,000.00.

¹⁴³ *Rollo*, p. 29.

¹⁴⁴ *Id.* at 29–30.

¹⁴⁵ *Id.* at 30–31.

¹⁴⁶ *Id.* at 242–243.

¹⁴⁷ *Id.* at 29–30.

¹⁴⁸ *Id.* at 31.

¹⁴⁹ 823 Phil. 762 (2018) [Per J. Sereno, *En Banc*].

In *Office of the Court Administrator v. Aquino*,¹⁵⁰ the Court imposed a fine on Judge Aquino who heard and decided 41 cases for annulment or declaration of nullity of marriage from June 2003 to January 2009, without the mandatory requirements of a “no collusion” report and pre-trial as provided under the Rule on Declaration of Nullity of Void Marriages and Annulment of Voidable Marriages.

Penalty

To repeat, the Court keenly notes that at the time the subject cases were filed, raffled, heard, and resolved by Judge Alzate, he was presiding over four courts: Presiding Judge for RTC Branch 1, Bangued, Abra; Acting Presiding Judge for RTC Branch 58, Bucay, Abra and RTC Branch 24, Cabugao, Ilocos Sur; and Pairing Judge for RTC Branch 2, Bangued, Abra. We also note that these branches were understaffed. To be sure, one cannot be reasonably expected each time to efficiently execute all of his or her multifarious tasks in all four branches, which tasks were four times more than the load of a regular judge. While being understaffed and burdened with heavy caseload¹⁵¹ for the branches he handled would not mean exoneration, these circumstances would still serve to mitigate Judge Alzate’s administrative liability. To be sure, dismissal was too harsh a penalty considering the surrounding circumstances of this case.

We, therefore, revisit the penalty of dismissal from the service imposed on Judge Alzate.

As stated, we find that Judge Alzate did not commit a blatant violation of A.M. No. 02-11-10-SC specifically, in determining the parties’ compliance with the jurisdictional requirements in nullity of marriage cases. Respondent also did not resolve any of these cases in haste.

We, however, find him liable for violation of Section 9(3) of A.M. No. 02-11-10-SC when he:

1.) resolved Civil Case Nos. 15-850, (*Aleli Historillo-Salido v. Keith Rosario-Salido*) and 875-KC (*Beverly Tica v. Jesus Fantastico*) in favor of petitioners without awaiting the submission of the corresponding reports on possible collusion of the parties; and

¹⁵⁰ Supra note 142 at 514.

¹⁵¹ See *Re: Request of Judge Sylvia G. Jurao*, 435 Phil. 212, (2003) [Per J. Austria-Martinez, Second Division].

2.) did not conduct pre-trial in Case Nos. 925-KC (*Cherry A. Gatchalian v. Roel M. Gatchalian*), 894 -KC (*Grace V. Torres v. Gerald S. Torres*)¹⁵² 15-828 (*Lenie Cabintoy Agbilay vs. Reysel Agbilay*), 15-829 (*Declaration of Void Marriage of Gaudencio Urbano Jr. And Vernalyn Bueno*), and 15-848 (*Louie Luico vs. Baby Rose Reyes*).

These violations are considered serious. A.M. No. 21-08-09-SC¹⁵³ provides the sanctions for gross neglect of duty, thus:

SECTION 17. Sanctions. —

(1) If the respondent is guilty of a serious charge, any of the following sanctions shall be imposed:

(a) Dismissal from 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 one (1) year; or

(c) A fine of more than P100,000.00 but not exceeding P200,000.00.

Where there are multiple offenses, as in this case, the corresponding penalty for each offense shall be imposed in accordance with Section 21 of A.M. No. 21-08-09-SC, thus:

SECTION 21. Penalty for Multiple Offenses. — If the respondent is found liable for more than one (1) offense arising from separate acts or omissions in a single administrative proceeding, the Court shall impose separate penalties for each offense. Should the aggregate of the imposed penalties exceed five (5) years of suspension or P1,000,000.00 in fines, the respondent may, in the discretion of the Supreme Court, be meted with the penalty of dismissal from service, forfeiture of all or part of the benefits as may be determined, 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.

On the other hand, if a single act/omission constitutes more than one (1) offense, the respondent shall still be found liable for all such offenses, but shall, nonetheless, only be meted with the appropriate penalty for the most serious offense.

¹⁵² *Rollo*, p. 31.

¹⁵³ Further Amendments to Rule 140 of the Rules of Court, A.M. No. 21-08-09-SC, February 22, 2022.

For Judge Alzate's failure to await the submission of "no collusion" reports in two cases, we deem it proper to impose the penalty of suspension for 10 months with regard to Civil Case No. 15-850, (*Aleli Historillo-Salido vs. Keith Rosario-Salido*) and another 10-month suspension for Civil Case No. 875-KC (*Beverly Tica v. Jesus Fantastico*).

For his failure to conduct pre-trial in Case Nos. 925-KC (*Cherry A. Gatchalian v. Roel M. Gatchalian*), 894 - KC (*Grace V. Torres v. Gerald S. Torres*), 15-828 (*Lenie Cabintoy Agbilay vs. Reysel Agbilay*), 15-829 (*Declaration of Void Marriage of Gaudencio Urbano Jr. And Vernalyn Bueno*), and 15-848 (*Louie Luico vs. Baby Rose Reyes*), on the other hand, a corresponding eight-month suspension for each case is proper.

We impose these in the context of Judge Alzate's situation as presiding judge over four courts with incomplete judicial staffing. We recall that Judge Alzate *has been preventively suspended* for at least one year already.

In addition, the Court notes that in A.M. No. RTJ-20-2576¹⁵⁴ dated January 29, 2020, Judge Alzate was reprimanded with warning that a repetition of the same or similar act shall be dealt with more severely for failing to inhibit himself from acting on his wife's application for notarial commission. Since this is already the second time that Judge Alzate has been found to be administratively liable, we find it proper to impose a fine of ₱200,000.00 to deter him from committing the same or similar acts in the future.

Significantly, the fine of ₱200,000.00 is not found in A.M. No. 21-08-09-SC nor imposed based thereon but in the exercise of the Court's discretion as a form of deterrence.

According to Black's Law Dictionary, *deterrence* is the act or process of discouraging certain behavior, particularly by fear.¹⁵⁵ We note that there is no hard and fast rule as to what penalty may apply, and often, the imposable penalty is well within this Court's discretion, in view of Article VIII, Section II of the Constitution,¹⁵⁶ and with due consideration to the gravity of the offense and the prior penalties imposed in similar cases.¹⁵⁷ Note that respondent here is found liable for gross misconduct for his failure to await the submission of "no collusion" reports in two cases and for his failure to

¹⁵⁴ See *Sindon v. Alzate*, A.M. No. RTJ-20-2576, January 29, 2020. [Per J. Lazaro-Javier, First Division].

¹⁵⁵ Deterrence as defined under the Black's Law Dictionary.

¹⁵⁶ Const., art. VIII, sec. 11, provides:

The Members of the Supreme Court and judges of lower courts shall hold office during good behavior until they reached the age of seventy years or become incapacitated to discharge the duties of their office. The Supreme Court *en banc* shall have the power to discipline judges of lower courts, or order their dismissal by a vote of a majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon.

¹⁵⁷ See *Flores-Concepcion v. Judge Castañeda*, A.M. No. RTJ-15-2438, September 2, 2020 [Per J. Leonen, *En Banc*].

conduct pre-trial in five cases. Too, this is not the first time that respondent has been found administratively liable. In fact, respondent had already been imposed the penalty of dismissal from the service, were it not for the Court's due consideration of his circumstances. Verily, the penalty of suspension with an additional deterrent in the form of a fine is proper considering the peculiar circumstances of this case.¹⁵⁸

We reckon with the erudite *ponencia* of Senior Associate Justice Marvic Mario Victor F. Leonen in *Flores-Concepcion v. Judge Castaneda*,¹⁵⁹ citing *Perez v. Abiera*.¹⁶⁰

The imposition of a fine regardless of the respondent's separation from service leads us to inquire why a fine must still be imposed. It would be inaccurate to state that the fine is meant to be compensatory, as assaults on the Judiciary's dignity are unquantifiable. Rather, as with dismissal and suspension, **the purpose of the fine is to make the respondent suffer, at least monetarily, for the harm done. The fine is a punishment, not a repayment.** It is meant to replace the penalties, which can no longer be imposed.

The punishment for administrative infractions, therefore, is personal to the respondent. As all punishments are tempered with mercy, **this Court metes them with the fervent hope that the erring judge or justice learns their lesson and repents on all of their mistakes.** (Emphases supplied)

True, the annotations to Section 20 in A.M. No. 21-08-09-SC state that:

(b) If at least one (1) aggravating circumstance is present, e.g., "previous commission of an offense, regardless of nature and/or gravity," then the Supreme Court may increase the period or amount of the imposable penalties to up to double of the maximum prescribed under this Rule. This means that Supreme Court is now permitted to penalize the respondent under a higher threshold i.e., impose an increased period of suspension for up to 2 years, or an increased fine in an amount up to ₱400,000.00.

But there is nothing in the annotations which restricts the Court from imposing a fine as an additional penalty to address the presence of an aggravating circumstance *proportionally*. Annotation (b) as above-quoted uses the permissive auxiliary verb "may" when dealing with the presence of at least one aggravating circumstance. It does say what the Court *may* impose but does not mention anything about the Court's power *or lack of power* to do anything else. We cannot fetter the Court's discretion in addressing *proportionally* the presence of an aggravating circumstance, especially when the suggestion is based only upon a *persuasive* though *non-binding* annotation. Further, it is not good law to restrict the constitutional power of

¹⁵⁸ See *Paredes v. Moreno*, 137 Phil. 542 (1980) [Per J. De Castro, First Division].

¹⁵⁹ *Supra* note 157.

¹⁶⁰ 159-A Phil. 575 (1975) [Per J. Muñoz Palma, *En Banc*].

the Court to discipline officers and staff in the Judiciary on the basis of specific exigent circumstances at play in particular cases or when circumstances warrant special measures to meet them, as in the case at bar.

Finally, we note that this is not the first time where the Court set aside a judgment of dismissal and replaced this penalty with a less harsh but still commensurate one such as this case of Judge Alzate.

In *State Prosecutors v. Judge Muro*,¹⁶¹ Judge Manuel T. Muro was charged with gross ignorance of the law and grave misconduct for dismissing “with lightning speed”, and without waiting for the defense to file a motion to quash or at least affording the prosecution the opportunity to be heard on the matter, 11 cases filed by the complainant prosecutors against the accused Imelda Romualdez Marcos. In its *per curiam* Decision dated September 19, 1994, the Court found that the actuation of Judge Muro constituted gross ignorance of the law, thus, the Court posed on him the supreme penalty of dismissal from the service with cancellation of eligibility, forfeiture of leave credits, and retirement benefits, and disqualification from re-employment in the government service.

Judge Muro moved for reconsideration, maintaining that he was not motivated by bad faith or by any corrupt and insidious intent. By Resolution dated December 11, 1995, the Court took notice of certain matters, urging it to re-examine the penalty of dismissal, *i.e.* Judge Muro’s unsullied record prior to this administrative case and his solemn commitment to avoid all appearance of impropriety, particularly those that create suspicion of partiality, bias, or improper motive, among others. Consequently, Judge Muro’s Motion for Reconsideration was granted, his dismissal from the service was set aside, in lieu of which, he was considered to have been suspended without pay, and ordered reinstated to the service immediately.

Similarly, in *In Re: Petition for the dismissal from service and/or disbarment of Judge Baltazar R. Dizon*,¹⁶² the Court granted the motion for reconsideration filed by Judge Dizon and modified its prior verdict of dismissal from the service. The Court took into account the overloaded dockets of Metro Manila trial judges, the unceasing strain caused by daily hearings on complex cases, the lack of libraries, decent courtrooms, office equipment, supplies, and other court facilities, which sometimes result in less than thorough appreciation of all relevant data and applicable laws thus leading to lapses and errors which the Court may find difficult to comprehend.

¹⁶¹ 321 Phil. 474 (1995) [*Per Curiam, En Banc*].

¹⁶² 255 Phil. 623 (1989) [*Per Curiam, En Banc*].

Hence, in lieu of dismissal from the service, the Court considered Judge Dizon suspended from the service from the date of the decision of the Court dismissing him from the service, until the date of the promulgation of the Resolution granting his motion for reconsideration and immediately reinstated him.

Notably, in both cases of Judge Muro and Judge Dizon, there were no preconditions to the reduction of the penalty but only a recalibration on reconsideration of the *verdicts of dismissal* and the bases for its rulings. We can apply the same procedure in the present case and be perfectly consistent with the rule of law.

Evidently, the Court is not bereft of compassion and mercy, and there is no reason why the Court should restrain itself from reducing the verdict of dismissal against a judge when the attendant circumstances call for it, as here.

Final Note

The administration of justice demands that those who don judicial robes be able to comply fully and faithfully with the task set before them. As frontline officials of the judiciary, judges should, at all times, act with efficiency and with probity. They are duty-bound not only to be faithful to the law but likewise to maintain professional competence. The pursuit of excellence must be their guiding principle. This is the least that judges can do to sustain the trust and confidence which the public reposed on them and the institution they represent.¹⁶³

The Court is cognizant of the sacrifices of our judges, who risk their very lives and even those of their loved ones, in order to keep our courts open and render the services our people need. None of them are perfect. Just as none of us are. When they commit errors, it is our duty to correct them. But when their circumstances call out for consideration, we must not turn a blind eye.¹⁶⁴

The Court also takes this opportunity to remind the members of the Bench that while the Court extends its protective mantle to magistrates who, considering the surrounding circumstances of the complaint against them, were clearly the subject of harassment or vendetta; the Court will mercilessly wield its disciplinary powers to those who are found errant. Again, we emphasize that with respect to Judge Aizate, our disposition here is without prejudice to the results of the ongoing administrative investigation on the

¹⁶³ *Office of the Court Administrator v. Lagura-Yap*, A.M. No. RTJ-12-2337, June 23, 2020. [*Per Curiam, En Banc*].

¹⁶⁴ *Tallado v. Racoma*, A.M. No. RTJ-22-022, August 23, 2022 [*Per J. Singh, En Banc*].

reported tandem of Judge Alzate with his wife regarding the so-called nullity of marriage for sale scheme.

ACCORDINGLY, the Motion for Reconsideration dated February 14, 2022 is **PARTLY GRANTED**.

Judge Raphiel F. Alzate is exonerated from the charges of blatant violation of A.M. No. 02-11-10-SC involving Case Nos. 925-KC, 924-KC, 921-KC, 928-KC, and allegations of a swift and worry-free decision in Case No. 894-KC.

On the other hand, he is found liable for gross neglect of duty in violation of A.M. No. 02-11-10-SC for proceeding with Case Nos. 925-KC (*Cherry A. Gatchalian v. Roel M. Gatchalian*), 894-KC (*Grace V. Torres v. Gerald S. Torres*), 15-828 (*Lenie Cabintoy Agbilay v. Reysel Agbilay*), 15-829 (*Declaration of Void Marriage of Gaudencio Urbano Jr. And Vernalyn Bueno*), and in 15-848 (*Louie Luico v. Baby Rose Reyes*) without conducting a pre-trial, and in 15-850 (*Aleli Historillo-Salido v. Keith Rosario-Salido*) and 875-KC (*Beverly Tica v. Jesus Fantastico*) without awaiting the reports on the possible collusion of the parties.

However, the penalty of dismissal from the service earlier imposed on him under **Decision** dated September 1, 2021 is **SET ASIDE**. In lieu thereof, he is **SUSPENDED** for **FIVE (5) YEARS**, the service of which should include the one-year preventive suspension he had served. A **FINE** of **₱200,000.00** is further imposed on him considering that this is the second time he has been found to be administratively liable. Finally, he is **STERNLY WARNED** that a repetition of the same or similar act shall warrant a more severe penalty.

Let a copy of this Resolution be attached to his personal record in the Office of the Bar Confidant.

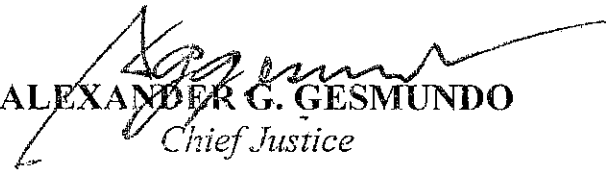
Furnish a copy of this Resolution to the Integrated Bar of the Philippines for its information and guidance, and the Office of the Court Administrator for dissemination to all courts of the Philippines.

This Resolution is immediately executory.

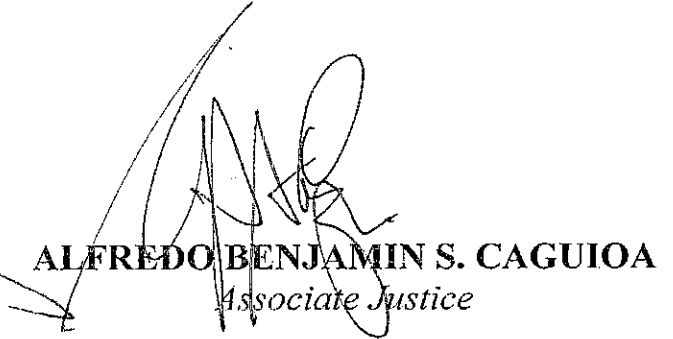
SO ORDERED.

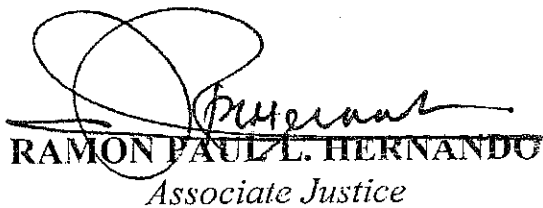


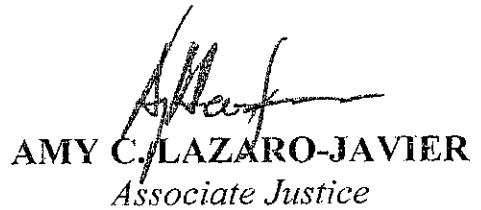
WE CONCUR:

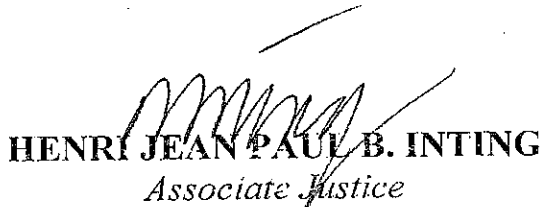

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Chief Justice

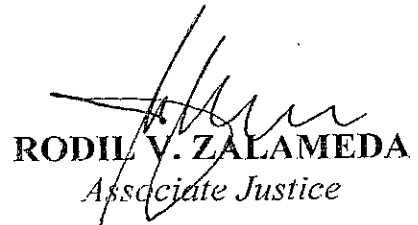

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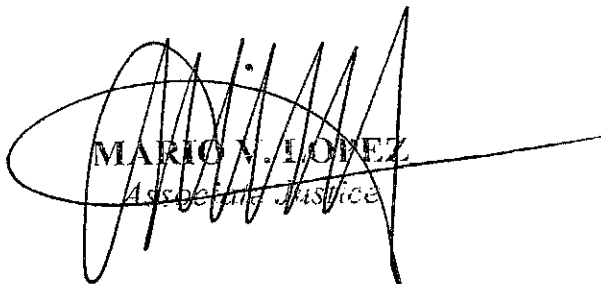

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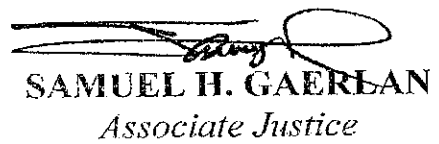

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Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice

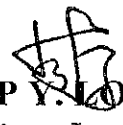

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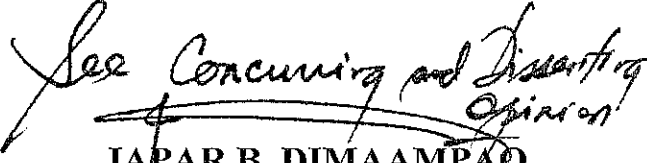

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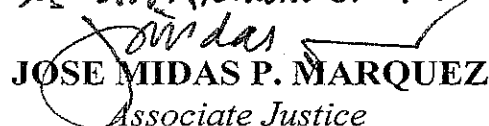

MARIO N. LOPEZ
Associate Justice



SAMUEL H. GAERLAN
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JHOSEP Y. LOPEZ
Associate Justice

*See Concurring and Dissenting
Opinion*

JAPAR B. DIMAAMPAO
Associate Justice

*No part due to prior participation
as Asst. Administrator
JMD*

JOSE MIDAS P. MARQUEZ
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice


MARIA FILOMENA D. SINGH
Associate Justice

EN BANC

A.M. NO. 19-01-15-RTC (*In Re: Report on the Judicial Audit Conducted in Branch 24, Regional Trial Court (RTC), Cabugao, Ilocos Sur, Under Hon. Raphiel F. Alzate, as Acting Presiding Judge*)

Promulgated: April 18, 2023

X-----X

CONCURRING AND DISSENTING OPINION

DIMAAMPAO, J.:

I submit this Concurring and Dissenting Opinion to discuss my views on the manner of imposition of penalties under A.M. No. 21-08-09-SC¹ entitled “Re: Further Amendments to Rule 140 of the Rules of Court.”

I join the majority’s view in setting aside the original penalty of dismissal, with the attendant accessory penalties, imposed against respondent Judge Raphiel F. Alzate, and that the same must be substituted with a less severe administrative penalty in the form of a five-year suspension. Nevertheless, I dissent on the imposition of an additional fine of ₱200,000.00 in consideration of his previous administrative liability.

I expound.

Succinctly, the *ponencia* exonerated Judge Raphiel F. Alzate from the charges of blatant violation of A.M. No. 02-11-10-SC involving Case Nos. 925-KC, 924-KC, 921-KC, and 928-KC, specifically, in determining the parties’ compliance with the jurisdictional requirements in nullity of marriage cases, and allegations of swift and worry – free decision in Case No. 894-KC, after finding that such was not warranted by the factual and legal circumstances attending the said cases.² However, he was held liable for gross neglect of duty in violation of A.M. No. 02-11-10-SC for: (1) deciding five cases, namely, Case Nos. 925-KC (*Cherry A. Gatchalian v. Roel M. Gatchalian*), 894-KC (*Grace V. Torres v. Gerald S. Torres*), 15-828 (*Lenie Cabintoy Agbilay vs. Reysel Agbilay*), 15-829 (*Declaration of Void Marriage of Gaudencio Urbano Jr. And Vernalyn Bueno*) and 15-848 (*Louie Luico vs. Baby Rose Reyes*) without conducting a pre-trial; and proceeding with the disposition of (2) two cases, *i.e.*, 15-850, (*Aleli Historillo-Salido vs. Keith Rosario-Salido*) and 875-KC (*Beverly Tica v. Jesus Fantastico*) without awaiting the reports on the possible collusion of the parties.³

The *ponencia* incipiently imposed suspension in the aggregate period of five years, broken down as follows:

¹ Dated February 22, 2022.

² *Id.* at 41–51.

³ *Id.* at 54.

J

For Judge Alzate's failure to await the submission of "no collusion" reports in two cases, we deem it proper to impose the penalty of suspension for **10 months** with regard to **Civil Case No. 15-850**, (*Aleli Historillo-Salido vs. Keith Rosario-Salido*) and **another 10-month suspension** for **Civil Case No. 875-KC** (*Beverly Tica v. Jesus Fantastico*).

For his failure to conduct pre-trial in **Case Nos. 925-KC** (*Cherry A. Gatchalian v. Roel M. Gatchalian*), **894-KC** (*Grace V. Torres v. Gerald S. Torres*), **15-828** (*Lenie Cabintoy Agbilay vs. Reysel Agbilay*), **15-829** (*Declaration of Void Marriage of Gaudencio Urbano Jr. And Vernalyn Bueno*), and **15-848** (*Louie Luico vs. Baby Rose Reyes*), on the other hand, a corresponding **eight month suspension for each case** is proper.⁴

First off, the suspensions corresponding to each of the above cases are imposed pursuant to Section 17 of Rule 140, as amended. Under the said provision, serious administrative offenses may be meted with any of the following penalties:

- (a) Dismissal from 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 one (1) year; or
- (c) A fine of more than ₱100,000.00 but not exceeding ₱200,000.00

Plainly, Section 17 indicates that the three sanctions are alternative in nature. As evinced by the disjunctive word "or", the Court has the discretion to determine which among these penalties should be inflicted on the erring judicial personnel.⁵

On the other hand, the imposition of separate penalties for each offense was made in view of the clear mandate under Section 21.⁶ This is a departure from the previous rule of imposing the penalty corresponding to the most serious offense under Section 55 of the 2017 Rules on Administrative Cases in the Civil Service (RACCS) in the event that a person is found liable for two

⁴ *Id.* at 55.

⁵ See Annotations to A.M. No. 21-08-09-SC. Available at <https://sc.judiciary.gov.ph/wp-content/uploads/2022/11/04-26-2022-6.pdf> last accessed on April 16, 2023.

⁶ SECTION 21. Penalty for Multiple Offenses. — If the respondent is found liable for more than one (1) offense arising from separate acts or omissions in a single administrative proceeding, the Court shall impose separate penalties for each offense. Should the aggregate of the imposed penalties exceed five (5) years of suspension or ₱1,000,000.00 in fines, the respondent may, in the discretion of the Supreme Court, be meted with the penalty of dismissal from service, forfeiture of all or part of the benefits as may be determined, 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.

(2) or more different offenses.⁷ Notably, Section 21 adopted the Court's pronouncement in *Boston Finance and Investment Corp. v. Gonzalez*⁸ where it was recognized that the "multiplicity of penalties to be imposed on judges and justices is consistent with the higher level of decorum expected from them."

Under the foregoing premises, the *ponencia*'s imposition of a total of five-year suspension for the multiple administrative infractions of Judge Alzate is in keeping with the current rules in administrative cases. Such aggregation is simply the result of the straightforward applications of Section 17 *vis-à-vis* Section 21 of Rule 140, as amended.

Apart from the five-year suspension, however, a fine of ₱200,000.00 was likewise included by the *ponencia*. This resulted from the discovery that Judge Alzate had been previously reprimanded in A.M. No. RTJ-20-2576 for failing to inhibit himself from acting on his wife's application for notarial commission, *viz.*:

In addition, the Court notes that in A.M. No. RTJ-20-2576 dated January 29, 2020, Judge Alzate was reprimanded with warning that a repetition of the same or similar act shall be dealt with more severely for failing to inhibit himself from acting on his wife's application for notarial commission. Since this is already the second time that Judge Alzate has been found to be administratively liable, we find it proper to impose a fine of PHP200,000.00 to deter him from committing the same or similar acts in the future.⁹

The *ponencia* proffers that the imposition of such fine "is not found in A.M. No. 21-08-09-SC nor imposed based thereon but in the exercise of the Court's discretion as a form of deterrence"¹⁰ which is allowed under Article VIII, Section 11¹¹ of the Constitution.

In my humble view, the inclusion of the ₱200,000.00 "as a form of deterrence" should not be sanctioned by the Court, lest it defeat the institutionalization of a "complete, streamlined, and updated administrative disciplinary framework" which served as an impetus for the Court to amend and update Rule 140 of the Rules of Court. Contrary to the *ponencia*'s thesis, I submit that it is precisely the codification of Rule 140 that serves as the deterrence to the commission of administrative infractions by the members, officials, employees, and personnel of the Judiciary. Rivetingly, the Court's

⁷ See Annotations to A.M. No. 21-08-09-SC. Available at <https://sc.judiciary.gov.ph/wp-content/uploads/2022/11/04-26-2022-6.pdf> last accessed on April 16, 2023.

⁸ A.M. No. RTJ-18-2520, October 9, 2018.

⁹ *Ponencia*, p. 55.

¹⁰ *Id.* at 56.

¹¹ The Members of the Supreme Court and judges of lower courts shall hold office during good behavior until they reached the age of seventy years or become incapacitated to discharge the duties of their office. The Supreme Court *en banc* shall have the power to discipline judges of lower courts, or order their dismissal by a vote of a majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon.

approval of the amendments to Rule 140 is anchored, among others, on Article VIII, Section 11 of the Constitution.

The following whereas clauses of A.M. No. 21-08-09-SC are telling:

WHEREAS, under Section 6, Article VIII of the 1987 Constitution, “[t]he Supreme Court x x x [has] administrative supervision over all courts and the personnel thereof”;

WHEREAS, under Section 11, Article VIII of the 1987 Constitution, “[t]he Supreme Court *en banc* x x x [has] the power to discipline judges of lower courts, or order their dismissal by a vote of a majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon:;

WHEREAS, Section 5(5), Article VIII of the 1987 Constitution vests upon the Supreme Court the power to promulgate rules concerning the pleading, practice, and procedure in all courts;

WHEREAS, in accordance with its constitutional authority, the Supreme Court is empowered to issue or amend the rules for the proper discharge of its administrative and disciplinary functions over all Members, officials, employees, and personnel of the Judiciary;

x x x x

WHEREAS, Senior Associate Justice Estela M. Perlas-Bernabe was assigned by Chief Justice Alexander G. Gesmundo to conduct a comprehensive review and revision of Rule 140, which is envisioned to institutionalize a complete, streamlined, and updated administrative disciplinary framework for the entire Judiciary that is wholly independent from the Civil Service rules, harmonizes existing jurisprudence, and is uniformly applicable to all cases, regardless of when the infractions are committed;

In dealing with administrative cases, the Court therefore no longer needs to look outside the provisions of the said rule and resolve pending controversies based on any other standard. Rule 140 was crafted for this purpose. A contrary postulation therefore serves as an admission that the said framework is insufficient. This, however, is far from the truth. In fact, as will now be discussed, Sections 19 and 20 of Rule 140, as amended, squarely apply to the present case.

At this juncture, it is crucial to highlight the nature of the ₱200,000.00 fine. As earlier intimated, the *ponencia* holds that the same is on account of his previous reprimand in *A.M. No. RTJ-20-2576*. There is thus no quibbling that the said fine is an aggravating circumstance. On this score, Section 19 considers “[a] [f]inding of previous administrative liability where a penalty is imposed, regardless of nature and/or gravity,” as an aggravating circumstance.

Appositely, Section 20 of Rule 140, as amended, establishes the manner of imposition of penalties in the presence of modifying circumstances. Thus:

If one (1) or more aggravating circumstances and no mitigating circumstances are present, the Supreme Court may impose the penalties of suspension or fine for a period or amount not exceeding double of the maximum prescribed under this Rule.

If one (1) or more mitigating circumstances and no aggravating circumstances are present, the Supreme Court may impose the penalties of suspension or fine for a period or amount not less than half of the minimum prescribed under this Rule.

If there are both aggravating and mitigating circumstances present, the Supreme Court may offset each other.

The *ponencia* recognizes the applicability of the foregoing sections in the instant case.¹² This notwithstanding, it justifies the addition of a fine on the ground that “there is nothing in the annotations [to A.M. No. 21-08-09-SC] which restricts the Court from imposing a fine as an additional penalty to address the presence of an aggravating circumstance *proportionally*.”¹³ Additionally, it posits that it is “not good law to restrict the constitutional power of the Court to discipline officers and staff in the Judiciary on the basis of specific exigent circumstances at play in particular cases or when circumstances warrant special measures to meet them, as in the case at bar.”¹⁴

I respectfully diverge from the majority’s view and submit that the presence of an aggravating circumstance, such as the finding of previous administrative liability, should only have the effect of increasing the suspension or fine initially imposed for the subject offense. It cannot be used, however, as a basis to introduce an administrative penalty of a different nature to that initially inflicted.

The annotations on A.M. No. 21-08-09-SC illustrate how a modifying circumstance affects the final penalty against an erring judicial personnel:

If the Supreme Court opts to impose the penalty of dismissal, then this provision will be of no effect since it only contemplates instances wherein the imposable penalty is suspension or fine.

If the Supreme Court opts to impose the penalty of suspension or fine:

x x x x

(b) If at least one (1) aggravating circumstance is present, e.g., “previous commission of an offense, regardless of nature and/or gravity,” then the

¹² *Ponencia*, pp. 56-57.

¹³ *Id.* at 57.

¹⁴ *Id.*

Supreme Court may increase the period or amount of the imposable penalties to up to double of the maximum prescribed under this Rule. This means that Supreme Court is now permitted to penalize the respondent under a higher threshold i.e., impose an increased period of suspension for up to 2 years, or an increased fine in an amount up to ₱400,000.00.¹⁵

Verily, in the event that only an aggravating circumstance is present, the penalty *initially* imposed against the respondent may be increased to not more than double of the period or amount deemed proper by the Court, as the case may be. This is the clear and unmistakable import of the said Section. A suspension resulting from a serious offense may thus be increased for up to two years, while a fine may be increased up to ₱400,000.00. Significantly, this is but a natural and necessary consequence of the fact that a suspension and fine are distinct penalties from each other.

Aside from the above elucidation, I submit that the *ponencia's* analysis does not hold water when Section 20 is examined in its entirety. *For one*, the *ponencia's* theory only applies when what is initially imposed is a suspension. It cannot be applied when what the Court initially imposes is a fine, given that such reasoning would allow for a peculiar situation in which the aggravating circumstance may be meted the more serious penalty of suspension. *For another*, the *ponencia's* postulation cannot be logically implemented when the case calls for the mitigation of an offense. A penalty of suspension, for instance, cannot be mitigated other than by decreasing such suspension. Simply put, there is no such thing as a negative suspension or a negative fine.

As a final point, this construction *i.e.*, that Section 20 cannot be used to introduce an administrative penalty of a different nature to that initially imposed, does not stifle the Court's discretion in the determination of the final sanction when modificatory circumstances are present. It would still have a free hand in determining the same within the ranges provided under the Rule 140. Moreover, the free exercise of the Court's disciplinary power is further accentuated by Section 21, which permits the imposition of the penalties of dismissal from service, forfeiture of all or part of the benefits as may be determined, and disqualification from reinstatement or appointment to any public office, including government-owned or -controlled corporations, should the aggregate of the imposed penalties exceed five (5) years of suspension.

In sooth, the present Rule 140, as amended, is an adequate deterrent to the commission of administrative offenses of the members, officials, employees, and personnel of the Judiciary. So too, is it a framework which allows the Court to exercise its discretion within the confines of the provisions of Rule 140, which it crafted pursuant to its constitutional powers.

¹⁵ See Annotations to A.M. No. 21-08-09-SC. Available at <https://sc.judiciary.gov.ph/wp-content/uploads/2022/11/04-26-2022-6.pdf> last accessed on April 16, 2023.

All told, I vote to grant the Motion for Reconsideration and impose against Judge Raphiel F. Alzate the lesser penalty of suspension in view of the dismissal from service.


JAPAR B. DIMAAMPAO
Associate Justice