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Supreme Court of the Philippines

Manila

FROM THE CHAMBERS OF

Hilario G. Davide, Jr.

CHIEF JUSTICE

FOREWORD

Since its conception in 1977 by the late Chief Justice Fred Ruiz Castro, a manual for clerks of court has always been a felt need. Justice Ameurfina A. Melencio-Herrera, who was then an Associate Justice of the Court of Appeals, was called upon to lead the initiative, and a draft manual was soon completed by Justice Herrera's committee. The High Court, however, was not able to act upon the draft.

On 16 March 1990, by virtue of Administrative Order No. 32-90, then Chief Justice Marcelo B. Fernan created a Committee to formulate and draft a Manual for Clerks of Court. With Justice Herrera, at the time already a member of the High Court, chairing the committee, the Manual was completed and approved by the Court in February 1991. In his foreword to the Manual, Chief Justice Fernan hailed it as a "major achievement in the Judiciary's reform program" and a "great contribution in our quest for an improved administration of justice."

The Manual for Clerks of Court remains an important component for a constantly improving Judiciary. With various developments in the Judiciary, not the least of which is the institutionalization of a Judicial Reform Program, the need to revise the 1991 Manual for Clerks of Court became evident. Thus, on 8 January 2001, the Chief Justice issued Administrative Circular No.4-2001 creating an Ad Hoc Committee for the Revision of the Manual for Clerks of Court. Naturally, the task of chairing the committee fell on the shoulders of the venerable Madame Justice Herrera, now Chancellor of the Philippine Judicial Academy. As the Committee embarked on its task, little did it realize that it would overhaul the manual that had been the virtual Bible of clerks of court all over the country since 1991 and which had afforded them convenience and facility in the execution of ordinary and special tasks.

The modified Manual, aptly called The 2002 Revised Manual for Clerks of Court, which the Committee has prepared, greatly deviates from the 1991 version. The latter emphasized the functions and duties of clerks of court according to types cases and stages of trial court or proceedings. The revised edition, on the other hand, is subdivided according to judicial hierarchy, from the Supreme Court to the first level courts, including the Shari' courts, with an additional chapter on guidelines on the maintenance and occupancy of the Halls of Justice. While the revised manual retains most of the information in the old manual, it clusters some topics which previously appeared in scattered sections thereof, namely, the chapters on land registration and cadastral cases, benefits and privileges of clerks of court and other court personnel, appointments and personnel action, legal fees and costs, and disposal and/or distribution of court records, papers and exhibits.

It bears repeating that our clerks of court are at the forefront of judicial administration because of their indispensable role in case adjudication and court management. The 2002 Revised Manual for Clerks of Court will be their helpful guide and companion in achieving excellence in their tasks to contribute to the effective and efficient administration of justice in the country.

The Committee has thus accomplished a magnum opus which is consistent with and pursues further the Chief Justice's vision of a Judiciary that is independent, effective and efficient, and the mission of providing speedy and fair dispensation of justice to all and improving the people's access to judicial services. The Court is once again grateful to Mme. Justice Ameurfina A. Melencio-Herrera. Likewise, the Court recognizes the support and hard work contributed by the Committee's Co-Chairman, Court Administrator Presbitero J. Velasco, Jr., its Vice-Chairman, Atty. Luzviminda D. Puno and its Members, Dean Reynaldo L. Suarez, Assistant Court Administrator Antonio H. Dujua, Atty. Edna E. Difio, Atty. Eden T. Candelaria, Atty. Felipa B. Anama, Judge Manuela F. Lorenzo, Judge Thelma A. Ponferrada, Judge Gregorio D. Dayrit, Judge Ma. Theresa M. Arcega, Atty. Tessie L. Gatmaitan, Atty. Emma Rosario A. Lorbes, Atty. Elvessa P. Apolinario, Atty. Jesusa P. Maningas, Atty. Mercedes S. Gatmaytan, Atty. Engracio M. Escasinas, Jr., Atty. Racquel Crisologo-Lara, Atty. Lelu P. Contreras and Atty. Adelaida Cabe-Baumann.

The 2002 Revised Manual for Clerks of Court is truly a major achievement which deserves to be another accomplishment of the Centenary celebrations of the Court.

(SGD.) HILARIO G. DAVIDE, JR.

Supreme Court of the Philippines
Manila

Resolution

WHEREAS, on February 22, 1991, the Committee on the Manual for Clerks of Court constituted, pursuant to Administrative Order No. 32-90 issued on March 16, 1990, submitted to Chief Justice Marcelo B. Feman the draft of the 1991 edition of the Manual for consideration and approval;

WHEREAS, the draft of the Manual was subsequently approved by Chief Justice Feman, printed by the Supreme Court Printing Service in July 1991, and then distributed to the Clerks of Court of the Regional Trial Courts and First Level Courts;

WHEREAS, since 1991, many significant changes have occurred in the Judiciary: (1) on October 24, 1996, the Supreme Court strengthened the Office of the Court Administrator (OCA) as its principal arm in performing its constitutional power and duty to exercise its administrative supervision over all lower courts; (2) on February 26, 1998, Republic Act No. 8557 establishing the Philippine Judicial Academy and defining its powers and functions was enacted; (3) on October 28, 1997, Republic Act No 8369 constituting the Family Courts was passed; and (4) on different and various dates, numerous resolutions and administrative issuances were promulgated or issued on the general administration of lower courts, all of which relate to and impact on the functions, duties and responsibilities of the Clerks of Court of the Regional Trial Courts, Shari'a District Courts, Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts, Municipal Circuit Trial Courts and Shari'a Circuit Courts;

WHEREAS, Chief Justice Hilario G. Davide, Jr., fully cognizant of these changes and the ever-evolving role of the Clerks of Court and the need to review and re-study the 1991 edition of the Manual for Clerks of Court issued Administrative Circular No. 4-2001, dated January 8, 2001, creating the Ad Hoc Committee for the Revision of the Manual for Clerks of Court;

WHEREAS, the members of the Ad Hoc Committee for the Revision of the Manual for Clerks of Court, after numerous intensive meetings and exhaustive discussions, whether in plenary or in sub-committees, have revised the 1991 edition of the Manual;

WHEREAS, the draft of the 2002 edition of the Manual for Clerks of Court includes not only the changes introduced by relevant Supreme Court resolutions, rules and administrative issuances promulgated after 1991 and by OCA circulars and administrative memoranda but also the features of new offices and programs and the provisions of important guidelines, with the following, among them:

- Public Information Office;
- Program Management Office;
- Educational Support Program for the Lower Courts;
- Supreme Court Health and Welfare Plan;
- Supreme Court Motorcycle Acquisition Program for Process Servers;
- Guidelines on the Wearing of Uniforms; and
- Guidelines on the Occupancy, Use, Operation and Maintenance of Halls of Justice; and

WHEREAS, the Committee trusts that the Manual for the Clerks of Court shall serve as invaluable guidebook, reference source and work companion of all Clerks of Court and court personnel in the competent and faithful discharge of their duties and responsibilities within the court milieu.

Now, THEREFORE, the Ad Hoc Committee for the Revision of the Manual for Clerks of Court respectfully submits the final draft of the 2002 edition of the said Manual for consideration and approval.

IN WITNESS WHEREOF, the members of the Ad Hoc Committee affix hereto their signatures this 8th day of March 2002.

(SGD.) AMEURFINA A. MELENCIO HERRERA

Chancellor, Philippine Judicial Academy
Chairman

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Assistant Secretary

Training Specialist III

PHILJA

Chapter I

OFFICE OF THE CLERK OF COURT

A. The Origin of the Office

In time past, the custody of court records was entrusted to one of the judges, *custos retulorum* (keeper of the rolls). The word “clerk” at root denoted a member of the clergy, and the time was when the law and the gospel flowed from the same hand. However, in progress of time, clerks and judges became sharply differentiated. The manifest impossibility of a judge’s having charge of and writing the records and issuing writs became apparent, and the office of the Clerk of Court was created.[1]

In some jurisdictions, the term *prothonotary* is applied to the Clerk of Court. The derivation of the term clerk is in a measure significant of the origin of the office. The word is derived from the Latin *clericus* (clergyman), and its application to a particular officer of a court has its origin in the historical fact that in the early days of England, both before and after the Norman Conquest, the subordinate officers of courts of justice, as well as the judges, were chosen from among the clergy, to which class well-nigh all forms of learning were confined.

In England, the clerk of the peace, a county officer appointed by the *custos retulorum* (keeper of the rolls) of the county, was clerk of court of general sessions of the peace while the clerks of the courts known as country courts, which were presided over by the sheriffs, were appointed by the sheriffs and were sometimes known as county clerks. In the colonies, the establishment of courts of justice with the appointment of judges and subordinate officers was a prerogative of the crown. These courts of common pleas were known as county courts, and the clerks thereof acquired the name of county clerks; they were also clerks of the general sessions of the peace and registers of deeds in their respective counties.[2]

In the Philippines, upon the establishment of the first civil government in the early years of the American Regime, among the initial measures of the Philippine Commission was the enactment on June 11, 1901 of Act No.136 which abolished the existing Audiencia or Supreme Court,[3] and Courts of First Instance,[4] and set up a new judicial system modeled after that of the United States, by substituting in place thereof, the Supreme Court and Courts of First Instance established in the Act. The Philippine Commission provided for Clerks of Court and introduced the concept of sheriff as the instrumentality for the service of notices, maintenance of order in the

courtroom, and the execution of court orders.

In the City of Manila, a separate office of the sheriff was created. Later, that office was merged with that of the Clerk of Court of the Court of First Instance. In the provinces, the governors were required to act as sheriffs ex-officio, with the right, however, to decline in the event the Judge of the Court of First Instance has appointed another person to act as such.[5]

B. Nature of the Position

The Clerk of Court of a Court of justice is an essential officer in any judicial system. The office is the hub of activities, both adjudicative and administrative.[6] While an officer of the Court, a public officer and an “officer of the law,” the position is not that of a judicial officer, nor is it synonymous with the Court.[7] The office is essentially a ministerial one.

A Judge alone cannot make the Court function as it should. In the over-all scheme of judicial business, many non-judicial concerns, intricately and inseparably interwoven with the trial and adjudication of cases, must perforce be performed by other individuals that make up the team that complements the Court. Of these individuals, the Clerk of Court eclipses the others in functions, responsibilities, importance and prestige.

The Clerk of Court has general administrative supervision over all the personnel of the Court. As regards the Court’s funds and revenues, records, properties and premises, said officer is the custodian. Thus, the Clerk of Court is generally also the treasurer, accountant, guard and physical plant manager thereof. The law also requires the Clerk of Court, in most instances, to act as ex-officio Sheriff and ex-officio Notary Public. In all official matters, and in relation with other governmental agencies, the Clerk of Court is also usually the liaison officer.

As to specific functions, the Clerk of Court attends Court sessions (either personally or through deputies), takes charge of the administrative aspects of the Court’s business and chronicles its will and directions. The Clerk of Court keeps the records and seal, issues processes, enters judgments and orders, and gives, upon request, certified copies from the records.

The nature of the work and of the office mandates that the Clerk of Court be an individual of competence, honesty and integrity. In relation to the Judge, said officer occupies a position of confidence which should not be betrayed. With the prestige of the office goes the corresponding responsibility to safeguard the integrity of the Court and its proceedings, to earn respect therefor, to maintain loyalty thereto and to the Judge as the superior officer, to maintain the authenticity and correctness of Court records, and to uphold the confidence of the public in the administration of justice.

Unless something is shown that may reflect against the character of the Clerk of Court, there is no justification for presuming that said officer will be a derelict in the performance of official duties.[8] The Clerk of Court is the model for the Court employees to act speedily and with dispatch on their assigned tasks to avoid the clogging of cases in Court and thereby assist in the administration of justice without undue delay.[9]

C. Stations

Unless otherwise provided by law, or ordered by the Supreme Court, the official stations of Clerks of Court and Assistant Clerks of Court shall be the places indicated in their respective appointments, while the stations of Branch Clerks of Court shall be the same as those of their respective branches.

D. General Supervision Over Clerks of Court and Other Personnel of the Lower Courts

Clerks of Court, Assistant Clerks of Court, Branch Clerks of Court and other subordinate employees of Regional Trial Courts, Shari’a District Courts, Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial

Courts, Municipal Circuit Trial Courts and Shari'a Circuit Courts shall, for administrative purposes, be under the supervision of the Supreme Court, but in the performance of their duties, shall be subject to the direct supervision of the Executive Judges or the Presiding Judges concerned. The work and activities of the Clerk of Court of multiple sala Courts are under the direct supervision of the Executive Judge, insofar as applicable, who shall, through the Clerk of Court, direct staff support activities to improve judiciary services.

[1] State ex rel. Henson v. Sheppard, 91 SW 477 (1905).

[2] 10 Am. Jur. 942.

[3] Act No. 136, Sec. 34.

[4] Ibid., Sec. 65.

[5] Jose P. Bengzon, The Philippine Judicial System, pp. 11, 20.

[6] Fred Ruiz Castro, Chief Justice, February 23, 1979.

[7] 14 C.J.S. 1211.

[8] Dimaporo v. Estipona, 2 SCRA 282 (1961)

[9] Paa vs. Remigio, 88 SCRA 593 (1979).

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