

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
JUDGE LYLIHA A. AQUINO, REGIONAL TRIAL COURT, BRANCH 4,
TUGUEGARAO CITY, CAGAYAN, RESPONDENT.**

A.M. No. RTJ-10-2244 [Formerly A.M. No. 10-7-222-RTC]. November 28, 2012

Ponente: MENDOZA, J.

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MENDOZA, J.:

In a letter,[1] dated February 6, 2008, a group which calls itself as the Trial Lawyers of Cagayan charged respondent Judge Lyliha A. Aquino (Judge Aquino), Presiding Judge, Branch 4, Regional Trial Court, Tuguegarao City, Cagayan, with “nefarious activities and impeachable activities and malpractices.” The letter partly reads:

As a family court Judge, she is so corrupt, asking P150,000.00 per case of adoption cases, annulment of marriages, declaration of nullity and P50,000.00 for the issuance of a Temporary Protective Order. Judge Jet Aquino and Judge Marivic Beltran know and have personal knowledge of this, but are silent on the issue.

Also, if a client is represented by Atty. McPaul Soriano, Atty. Edmund Quilang, Atty. Luis Donato, Atty. Rowena Guzman and Atty. Raul Morales in her Court, then everything is “lutong macao” so to speak. Nobody can ever win against the abovementioned lawyers in the Court of Judge Lyliha. What is worst is that when the cases of these same lawyers are unmeritorious, Judge Lyliha bamboozles/goes out of her way to convince the adverse counsels to settle with the former. And if the adverse counsels do not settle with her favored lawyers, she gets irritated and mad at the former.

Aside from the foregoing, the complainants also charged her with non-payment of her indebtedness to a staff member, enrichment, selling mangoes and jewelry to litigants, and habitual absenteeism.

The letter, addressed to then Chief Justice Reynato S. Puno, prompted a judicial audit conducted by the Office of the Court Administrator (OCA) in July 2009.

In the OCA Memorandum,[2] dated June 21, 2010, it was reported that Judge Aquino heard and decided forty-one (41) cases for annulment or declaration of nullity of marriage from June 2003 to January 2009, without the mandatory requirements of no-collusion report and pre-trial as provided under the Rule on Declaration of Nullity of Void Marriages and Annulment of Voidable Marriages. She likewise failed to require the public prosecutor to conduct an investigation to determine if there was collusion between the parties despite the failure of a respondent to file an answer.

In cases where a respondent failed to file an answer, no investigation report was submitted by the public prosecutor. Instead of directing the public prosecutor to conduct an investigation to determine if there was collusion between the parties, Judge Aquino would immediately cause the issuance of a notification, setting the case for hearing. The no-collusion reports were submitted by the public prosecutor only after the hearings and the formal offers of exhibits by a petitioner. Where the investigation report of the public prosecutor stated the

non-appearance of a respondent, Judge Aquino, nonetheless, proceeded to hear and decide the case in favor of the respondent.

Anent the adoption cases, the audit team found that Judge Aquino proceeded with the hearings and decided twenty-six (26) cases without strict compliance with Sections 11,[3] 14[4] and 15[5] of the Rule on Adoption.[6] In one case, it was discovered that Judge Aquino declared that the petitioners had already complied with the jurisdictional requirements, even if the required affidavit of consent of the adoptee, the latter being at least eleven (11) years old already at the time of the filing of the petition for adoption and the child study report had yet to be filed by the petitioners. The records of adoption cases also lacked the requirements under the rules like the Child Study Reports, Affidavit of Consent of the biological mother, Certification by the United States Consular Office in the Philippines, Home Study Report, and Supervised Trial Custody of the adoptee.

In its Resolution, dated August 2, 2012, the Court directed the Division Clerk of Court to furnish Judge Aquino a copy of the Audit Report and required her to file a comment thereon.

In a letter,[7] dated October 11, 2010, Judge Aquino submitted her Comment by way of a: a) matrix for civil cases consisting of thirty (30) pages with annexes; b) matrix for special proceedings cases consisting of ten (10) pages with annexes; and c) "Final Essay" consisting of five (5) pages with annexes.

In summary, Judge Aquino denied the allegation that she did not order the determination of the existence of collusion between the parties. She submitted to the OCA a copy of an order directing the prosecutor to conduct an investigation to determine whether there was collusion between the parties and to submit a report thereon.

With respect to the documents required in adoption cases, Judge Aquino said that the necessity for the documents depended upon the circumstances of the case. She admitted that she proceeded with the hearing of the cases despite the absence of the investigation report of the prosecutor, explaining that it was in the exercise of her judicial discretion.

In its Memorandum,[8] dated August 29, 2012, the OCA found that Judge Aquino had indeed violated the rules on annulment of marriages and adoption. The memorandum was, however, silent on the matter of corruption. Accordingly, the OCA recommended the penalty of admonition and stern warning against Judge Aquino.

With respect to the violation of the rules, the Court agrees with the OCA with regard to its findings.

Judge Aquino indeed admitted that she had violated the rules when she proceeded to hear some cases despite non-compliance with the requirements. In annulment of marriage cases, the investigation report of the prosecutor is a condition sine qua non for the setting of pre-trial. Short-cuts in judicial processes cannot be countenanced by this Court because speed is not the principal objective of trial.

Considering that Judge Aquino was not motivated by bad faith, malice and caused no harm to any litigant, the Court will not mete out a serious administrative penalty at this time, but rather, will impose a fine and warn Judge Aquino that procedural omissions in the hearing of cases would not always be tolerated.

WHEREFORE, the Court RESOLVES to ADOPT and APPROVE the findings of fact and conclusions of law of the Office of the Court Administrator. Accordingly, the Court imposes a FINE of Ten Thousand Pesos (P10,000.00) on JUDGE LYLIHA A. AQUINO with a STERN WARNING that a repetition of the same or similar acts shall be dealt with more severely.

As there is no report on the matter of corruption, the Office of the Court Administrator is hereby ORDERED to investigate the matter and report to the Court its findings within sixty (60) days.

SO ORDERED.

Leonardo-De Castro,[*] Peralta, (Acting Chairperson),[**] Abad, and Leonen, JJ., concur.

[*] Designated acting member, per Special Order No. 1361 dated November 19, 2012.

[**] Per Special Order No. 1360 dated November 19, 2012.

[1] Rollo, pp. 558-559.

[2] Id. at 621-629.

[3] Section 11. Annexes to the Petition. – The following documents shall be attached to the petition:

A. Birth, baptismal or foundling certificate, as the case may be, and school records showing the name, age and residence of the adoptee;

B. Affidavit of consent of the following:

1. The adoptee, if ten (10) years of age or over;
2. The biological parents of the child, if known, or the legal guardian, or the child-placement agency, child-caring agency, or the proper government instrumentality which has legal custody of the child;
3. The legitimate and adopted children of the adopter and of the adoptee, if any, who are ten (10) years of age or over;
4. The illegitimate children of the adopter living with him who are ten (10) years of age or over; and
5. The spouse, if any, of the adopter or adoptee.

C. Child study report on the adoptee and his biological parents;

D. If the petitioner is an alien, certification by his diplomatic or consular office or any appropriate government agency that he has the legal capacity to adopt in his country and that his government allows the adoptee to enter his country as his own adopted child unless exempted under Section 4(2);

E. Home study report on the adopters. If the adopter is an alien or residing abroad but qualified to adopt, the home study report by a foreign adoption agency duly accredited by the Inter-Country Adoption Board; and

F. Decree of annulment, nullity or legal separation of the adopter as well as that of the biological parents of the adoptee, if any.

[4] Section 14. Hearing. - Upon satisfactory proof that the order of hearing has been published and jurisdictional requirements have been complied with, the court shall proceed to hear the petition. The petitioner and the adoptee must personally appear and the former must testify before the presiding judge of the court on the date set for hearing.

The court shall verify from the social worker and determine whether the biological parent has been properly counseled against making hasty decisions caused by strain or anxiety to give up the child; ensure that all measures to strengthen the family have been exhausted; and ascertain if any prolonged stay of the child in his own home will be inimical to his welfare and interest.

[5] Sec. 15. Supervised Trial Custody. – Before issuance of the decree of adoption, the court shall give the adopter trial custody of the adoptee for a period of at least six (6) months within which the parties are expected to adjust psychologically and emotionally to each other and establish a bonding relationship. The trial custody shall be monitored by the social worker of the court, the Department, or the social service of the local government unit, or the child-placement or child-caring agency which submitted and prepared the case studies. During said period,

temporary parental authority shall be vested in the adopter.

The court may, *motu proprio* or upon motion of any party, reduce the period or exempt the parties if it finds that the same shall be for the best interests of the adoptee, stating the reasons therefor. An alien adopter however must complete the 6-month trial custody except the following:

- a) a former Filipino citizen who seeks to adopt a relative within the fourth (4th) degree of consanguinity or affinity; or
- b) one who seeks to adopt the legitimate child of his Filipino spouse; or
- c) one who is married to a Filipino citizen and seeks to adopt jointly with his or her spouse the latter's relative within the fourth (4th) degree of consanguinity or affinity.

If the child is below seven (7) years of age and is placed with the prospective adopter through a pre-adoption placement authority issued by the Department, the court shall order that the prospective adopter shall enjoy all the benefits to which the biological parent is entitled from the date the adoptee is placed with him.

The social worker shall submit to the court a report on the result of the trial custody within two weeks after its termination.

[6] A.M. No. 02-6-02-SC 2002-08-02.

[7] Rollo, pp. 23-61.

[8] *Id.* at 2-14.

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