

**ATTY. EDWARD ANTHONY B. RAMOS, COMPLAINANT, VS.
REYNALDO S. TEVES, CLERK OF COURT III, MUNICIPAL TRIAL
COURT PROMULGATED: IN CITIES, BRANCH 4, CEBU CITY,
RESPONDENT.**

A.M. No. P-12-3061 [Formerly OCA-IPI No. 08-3022-P]. June 27, 2012

Ponente: ABAD, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/ca43477b029a/>

ABAD, J.:

This case is about the clerk of court's discretion in refusing to receive a pleading or motion that he believes has not complied with the requirements of the rules.

The Facts and the Case

On August 15, 2008 Atty. Edward Anthony B. Ramos filed a complaint for money in his client's behalf before the Municipal Trial Court in Cities (MTCC) of Cebu City, Branch 4, in which complaint he sought the ex parte issuance of a writ of preliminary attachment.

Since the MTCC already served summons on the defendant but did not yet act on his ex parte request for preliminary attachment, Atty. Ramos went to Branch 4 on September 8, 2008 to personally file an urgent ex parte motion to resolve the pending incident. But respondent Reynaldo S. Teves, the branch clerk of court, refused to receive the motion for the reason that it did not bear proof of service on the defendant. Atty. Ramos explained that ex parte motions did not require such service. A heated argument between Atty. Ramos and Teves ensued, prompting the presiding judge who heard it to intervene and direct the clerk in charge of civil cases to receive the ex parte motion.

On November 24, 2008 Atty. Ramos charged Teves before the Office of the Court Administrator (OCA) with arrogance and discourtesy in refusing to receive his motion despite his explanation and a reading of Section 1, Rule 57 of the Rules of Court and Justice Oscar Herrera's commentary on the Rules of Court relative to ex parte motions.

In his comment, Teves claimed that he was neither arrogant nor discourteous and that his argument with Atty. Ramos had been cordial and professional. Citing Rule 19 of the Rules of Court, Teves asserted that he acted correctly in refusing to accept Atty. Ramos' "non pro forma" motion for failure to furnish the adverse party with a copy of the notice of hearing. Teves claimed that he could not just accept pro forma pleadings because these would burden the court with having to decide matters based on a technicality, resulting in delay and clogging of the dockets. Teves added that while the clerk of court has the ministerial duty to receive pleadings, he is not precluded from requiring the complainant to furnish the adverse party with a copy especially his litigious motion as prescribed under Rules 13 and 15.

The Court referred the case to Cebu City MTCC Executive Judge Oscar D. Andrino for investigation, report and recommendation.[1] In his report, Judge Andrino found Teves arrogant, discourteous, and rude in refusing to

receive the motion and recommended the imposition of one month and one day suspension on him with a warning of a stiffer penalty in case of repetition of similar acts.

Issue Presented

The issue in this case is whether or not the branch clerk of court may refuse to receive a pleading that does not conform with the requirements of the Rules of Court.

Ruling of the Court

Clearly Teves erred in refusing to receive Atty. Ramos' motion on the ground that it did not bear proof of service on the defendant. Unless specifically provided by the rules, clerks of court have no authority to pass upon the substantive or formal correctness of pleadings and motions that parties file with the court. Compliance with the rules is the responsibility of the parties and their counsels. And whether these conform to the rules concerning substance and form is an issue that only the judge of the court has authority to determine.

The duty of clerks of courts to receive pleadings, motions, and other court-bound papers is purely ministerial. Although they may on inspection advise the parties or their counsels of possible defects in the documents they want to file, which may be regarded as part of public service, they cannot upon insistence of the filing party refuse to receive the same.

The charge against branch clerk of court Teves is that he was arrogant and discourteous in refusing to receive Atty. Ramos' motion despite the latter's explanation, as a lawyer, that a copy of the same did not have to be served on the defendant. Actually, neither Atty. Ramos nor Judge Andrino claims that Teves used foul language. The latter just stubbornly stood his ground.

Still, Teves was discourteous. Canon IV, Section 2 of the Code of Conduct for Court Personnel provides that "court personnel shall carry out their responsibilities as public servants in as courteous a manner as possible." Atty. Ramos was counsel in a case before Teves' branch. He was an officer of the court who expressed a desire to have the presiding judge, to whom he addressed his motion, see and consider the same. Teves arrogated onto himself the power to decide with finality that the presiding judge was not to be bothered with that motion. He denied Atty. Ramos the courtesy of letting the presiding judge decide the issue between him and the lawyer.

As succinctly held in *Macalua v. Tiu, Jr.*,^[2] an employee of the judiciary is expected to accord respect for the person and right of others at all times, and his every act and word should be characterized by prudence, restraint, courtesy and dignity. These are absent in this case.

Civil Service Resolution 99-1936 classifies discourtesy in the course of official duties as a light offense, the penalty for which is reprimand for the first offense, suspension of 1-30 days for the second offense, and dismissal for the third offense.

The record shows that Teves had previously been administratively charged with grave abuse of authority and gross discourtesy in OCA-IPI 08-2981-P. Although the Court dismissed the charge for lack of merit on November 18, 2009, it reminded him to be more circumspect in dealing with litigants and their counsel.

In two consolidated administrative cases, one for grave misconduct and immorality and the other for insubordination,^[3] the Court meted out on Teves the penalty of suspension for six months in its resolution of October 5, 2011. The Court of course decided these cases and warned Teves to change his ways more than a year after the September 8, 2008 incident with Atty. Ramos. Consequently, it could not be said that he ignored with respect to that incident the warnings given him in the subsequently decided cases.

Still those cases show Teves' propensity for misbehavior.

ACCORDINGLY, the Court IMPOSES on Reynaldo S. Teves, Branch Clerk of Court of Municipal Trial Court in Cities, Cebu City, the penalty of 30 days suspension with WARNING that a repetition of the same or a similar offense will be dealt with more severely. The suspension is immediately executory upon respondent's receipt of this resolution.

SO ORDERED.

Velasco, Jr., (Chairperson), Peralta, Bersamin,[*] and Perlas-Bernabe, JJ., concur.

[*] Designated Acting Member in lieu of Associate Justice Jose Catral Mendoza, per Special Order 1241 dated June 14, 2012.

[1] Resolution dated February 16, 2011.

[2] 341 Phil. 317, 323 (1997).

[3] Docketed as A.M. P-09-2724 and A.M. OCA-IPI 09-3301-P.

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