



Supreme Court of the Philippines Philippine Judicial Academy



PHILJA Fax/Electronic Alerts

Issue 12-12
December 2012

Judges: Violation of the rules on annulment of marriages and on adoption

In annulment of marriage cases, the investigation report of the prosecutor is a condition sine qua non for the setting of pre-trial. In adoption cases the provisions of Sections 11, 14 and 15 of the Rules of Adoption must be strictly complied with.

Sections 11, 14 and 15 provide:

Section 11: *Annexes to the Petition* - The following documents shall be attached to the petition:

- A. Birth, baptismal or founding certificate, as the case may be, and school records showing 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 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.

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 a 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.

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 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 upon 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 interest of the adoptee, stating the reason 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 results of the trial custody within two weeks after its termination.

The records of the adoption cases decided by the respondent judge lacked the requirements under the rules like the Child Study Reports, Affidavit of Consent of the biological mother, Home Study Report and supervised Trial Custody of the adoptee. The records of the annulment of marriage cases also decided by respondent lacked the prosecutor's report.

For violation of the Rules on Adoption and that of annulment of marriage, respondent judge was fined P10,000.00 and sternly warned. **(A.M. No. RTJ-10-2244, November 28, 2012)**

Judges: violation of Canon 2 of the code of judicial conduct

In Borromeo-Garcia vs Pagayatan, A.M. No. RTJ-08-2127, September 25, 2008, the Court stated:

[T]he appearance of bias or prejudice can be as damaging to public confidence and the administration of justice as actual bias or prejudice.

Lower court judges, such as respondent, play pivotal role in the promotion of the people's faith in the judiciary. They are front-liners who give (sic) human face to the judicial branch at the grassroots level in their interaction with litigants and those who do business with the courts. Thus, the admonition that judges must avoid not only impropriety but also the appearance of impropriety is more sternly applied to them. (Citations omitted)

The careless manner at which respondent judge arrived at his March 23, 2010 Order denying petitioner's motion for reconsideration raised suspicion and an appearance of impropriety in the proceedings. He failed to live up to the demand and degree of propriety required of him by the Code of Judicial conduct.

For violation of Canon 2 of the code of Judicial conduct, respondent judge was admonished and sternly warned. **(A.M. No. 12-8-160-RTC, December 10, 2012)**

Sheriff; simple neglect of duty (violation of Section 14, Rule 39 of the rules of Court)

Section 14, Rule 39 of the Rules of Court imposes upon a sheriff the duty to submit a sheriff's Return, thus:

SEC. 14 Return of writ of execution. – The writ of execution shall be returnable to the court issuing it immediately after the judgment has been satisfied in part or in full. If the judgment cannot be satisfied in full within thirty (30) days after his receipt of the writ, the officer shall report to the court and state the reason therefor. Such writ shall continue in effect during the period within which the judgment may be enforced by motion. The officer shall make a report to the court every thirty (30) days on the proceedings taken thereon until the judgment is satisfied in full, or its effectivity expires. The returns or periodic reports shall set forth the whole of the proceedings taken, and shall be filed with the court and copies thereof promptly furnished the parties.

Respondent sheriffs failed to make a return within the prescribed period and/or to submit periodic reports in violation of said Section 14 of Rule 39 of the Rules of Court for which they were suspended for one month and one day and sternly warned. **(A.M. No. P-12-3097, November 26, 2012)**

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