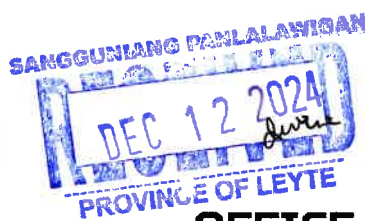


Item No.: 07

Date: 16 2024 DEC



Republic of the Philippines
Province of Leyte
Provincial Capitol, Palo, Leyte

**OFFICE OF THE SANGGUNIANG PANLALAWIGAN
BLUE RIBBON COMMITTEE**

MARVIN T. MARTICIO

Complainant,

ADMIN CASE NO. ORC-

SP2024-003

-versus-

HON. ANGEL ARAS SIA JR.,

Municipal Mayor of La Paz, Leyte

Respondent,

FOR: GRAVE MISCONDUCT

and NEGLECT OF DUTY

X-----X

**MOTION TO STRIKE OUT / WAIVER
[OF SUBMISSION OF JUDICIAL AFFIDAVIT]**

RESPONDENT, by and through the undersigned counsel and unto this Honorable Blue Ribbon Committee of the Sangguniang Panlalawigan for the Province of Leyte in compliance with the Order on 10 December 2024 respectfully submits this Motion within a period of Ten (10) days or until 20 December 2024 and moves: THAT –

1. On 9 December 2024, respondent thru the undersigned counsel received a copy of the Compliance of Submission of Judicial Affidavit with attached Judicial Affidavit of Marvin T. Marticio and Supplemental Judicial Affidavit of Raymart P. Marticio at the pretense of compliance to Resolution no. 2020-817 (Internal Rules of the Sangguniang Panlalawigan of the Province of Leyte) in relation with A.M. No. 12-8-8-SC (Judicial Affidavit Rules) which was reiterated by complainant thru his counsel during the 10 December 2024 hearing.

2. As admitted by complainant, this administrative proceeding is governed by Rule XVI of Resolution no. 2020-817 dated 27 November 2020 on Provincial Ordinance no. 2020-17 “Revised Internal Rules of the Sangguniang Panlalawigan of Leyte” in relation with A.M. No. 12-8-8-SC which mandates that the Judicial Affidavit of complainant and his witnesses must be attached to the complaint or submitted within five (5) days before preliminary conference or the scheduled hearing with respect to motions and incidents, the relevant portions of Sections 10 and 29 of Rule XVI of Resolution no. 2020-817 dated 27 November 2020 on Provincial Ordinance no. 2020-17 is as follows:

*Section 10. Form of Complaint. No complaint against any local elective official shall be given due course unless the same is in writing and verified or under oath. The complaint shall be drawn in clear, simple, and concise language and in methodical manner as to apprise the respondent of the nature of the charge against him/her and to enable him or her to prepare his or her defense, and **must be accompanied by the judicial affidavits of the complainant and of his or her witnesses**. The party filing the complaint shall be called the complainant while the official against whom the complaint is filed shall be called the respondent. (Underlining and Emphasis Ours)*

xxx xxx

Section 29. Submission of Judicial Affidavits and Exhibits in Lieu of Direct Testimonies.

*(a) The parties shall file with the Sangguniang Panlalawigan and serve on the adverse party, personally or by licensed courier service, **not later than five (5) days before preliminary conference or the scheduled hearing** with respect to motions and incidents, xxx
xxx (Underlining and Emphasis Ours)*

3. Given the late submission evident from the aforesaid rule with the admission of the complainant he still misleadingly labels his submissions as compliance thereof reasoning that technical rules of evidence are not strictly applied in administrative cases thus, respondent is constraint to object to the submission of the Judicial Affidavit of Marvin T. Marticio and Supplemental Judicial Affidavit of Raymart P. Marticio on 9 December 2024 as the same is a grave violation of Sections 10 and 29 of Rule XVI of Resolution no. 2020-817 dated 27 November 2020 on Provincial Ordinance no. 2020-17.

4. Even for the sake of argument but without admitting that complainant can present a special circumstances or compelling reasons to warrant liberal application of Resolution no. 2020-817 dated 27 November 2020 on Provincial Ordinance no. 2020-17 he cannot justify his domino violation with Section 2 of A.M. No. 12-8-8-SC otherwise known as the Judicial Affidavit Rule which is a mirror image of Section 29 of Rule XVI of Resolution no. 2020-817 dated 27 November 2020 on Provincial Ordinance no. 2020-17.

5. Respondent invokes *Palao v. Florentino International Inc.*¹ that *while the requirement of strict compliance underscores the mandatory nature of the rule, it does not necessarily interdict substantial compliance with its provisions under justifiable circumstances. The rule should not be interpreted with such*

¹ G.R. no. 186967, January 18, 2017

*absolute literalness as to subvert its own ultimate and legitimate objective which is the goal of all rules of procedure, that is, to achieve justice as expeditiously as possible. **A liberal application of the rule may be justified where special circumstances or compelling reasons are present.***

6. Here, complainant nor his counsel never presented any special circumstance or compelling reason for their multiple shortcomings in the present case, rather they admitted the same offering his flimsy reason that technical rules of evidence are not strictly applied in administrative cases, if these rules are not to be strictly applied here then what are these rules for? - **Res Ipsa Loquitor!** *[the thing speaks for itself]*

7. Worse, Raymart P. Maticio is not even a listed witness in complainant's submitted Preliminary Conference Brief which is another error on his part, it was only on 10 December 2024 that complainant has the decency to inform this Honorable Committee making him a surprise witness.

8. Despite these numerous violations, complainant still insists on repeating these violations by manifesting the submission anew of the Judicial Affidavits of Atty. Jerome A. Tenebro and Police Staff Sergeant EM Labanta, as his listed witnesses in his Preliminary Conference Brief whose submissions are contrary to the mandates of Sections 10 and 29 of Rule XVI of Resolution no. 2020-817 dated 27 November 2020 on Provincial Ordinance no. 2020-17 and Section 2 of A.M. No. 12-8-8-SC that they should have been accompanied with the complaint or submitted within five (5) days before preliminary conference or the scheduled hearing with respect to motions and incidents as compliance with the rules, Again, **Res Ipsa Loquitor!**

9. These multiple errors are glaring bourn from the admission of the complainant through his counsel, then it is ripe for respondent to invoke Section 36 of Rule XVI of Resolution no. 2020-817 in relation with Section 10 of A.M. No. 12-8-8-SC that failure to submit judicial affidavits within the required period the rule deems it as a waiver of its submission since it will result in prejudice to the respondent's constitutional right to due process of law and speedy trial since complainant is now submitting new evidence by adding testimonial evidence on record at the pretense of late submission of Judicial Affidavits, the relevant portion of these rules is as follows:

Section 36. Effect of non-compliance with the Judicial Affidavit Rule.

(a) A party who fails to submit the required judicial affidavits and exhibits on time shall be deemed to have waived their submission.

The Sangguniang Panlalawigan may, however, allow only once the late submission of the same provided, the delay is for valid reason, and would not unduly prejudice the opposing party.

XXX XXX

*Section 10. Effect of non-compliance with the judicial Affidavit Rule. - (a) **A party who fails to submit the required judicial affidavits and exhibits on time shall be deemed to have waived their submission.***

The court may, however, allow only once the late submission of the same provided, the delay is for a valid reason, would not unduly prejudice the opposing party.

10. The complainant does not deserve compassion from the Honorable Blue Ribbon Committee of the Sangguniang Panlalawigan given his multiple violations which he knowingly did bourn from his own admission during the 10 December 2024 hearing and being such, it is but proper to deny them of the submission of these supposed Judicial Affidavits as these will only result to prejudice herein respondent who religiously followed the internal rules herein mentioned.

11. As a late note, it is highly ironic that complainant is raising the defense of "technical rules of evidence are not strictly applied in administrative cases" since it was he himself who invoked its strict compliance on the alleged non-submission of verification of respondent in his counter-affidavit even if it was not required by Section 8 of Rule XVI of Resolution no. 2020-817 dated 27 November 2020 on Provincial Ordinance no. 2020-17 since it only requires the same being **verified or sworn**, but given this, respondent is forced to invoke his words and move for the strict and stringent application of Rule XVI of Resolution no. 2020-817 dated 27 November 2020 on Provincial Ordinance no. 2020-17 and A.M. No. 12-8-8-SC which has suppletory application to this administrative proceedings.

WHEREFORE, it is respectfully moved that the Honorable Blue Ribbon Committee of the Sangguniang Panlalawigan for the Province of Leyte to **STRIKE OUT THE JUDICIAL AFFIDAVIT OF MARVIN T. MARTICIO, JUDICIAL AFFIDAVIT AND SUPPLEMENTAL JUDICIAL AFFIDAVIT OF RAYMART P. MARTICIO** and **WAIVES** the submission of **JUDICIAL AFFIDAVITS OF ATTY. JEROME A. TENEBRO AND POLICE STAFF SERGEANT EM LABANTA** in accordance with Section 36 of Rule XVI of Resolution no. 2020-817 in relation with Section 10 of A.M. No. 12-8-8-SC as these are all in violation of Sections 10 and 29 of Rule XVI of Resolution no. 2020-

817 dated 27 November 2020 on Provincial Ordinance no. 2020-17 and A.M. No. 12-8-8-SC.

Respondent prays for such other relief and remedies as may be just and equitable under the premises.

RESPECTFULLY SUBMITTED. Tacloban City for Palo, Leyte,
12 December 2024.

LEO S. GIRON & ASSOCIATES LAW FIRM

[SY – GERONG – CAMAGTING – ORTIZ – PERU – TISMO – APELADO]

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Received in the Law Office of
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By: *FD*

Date: 12 DEC 2024

Time: 3:25