

GLENITA S. LEGASPI, LANIE F. PAMA, LALAIN F. PAMA AND LESLIE ESPINOLA, COMPLAINANTS, VS. JUDGE FRANCISCO A. GARRETE, RESPONDENT.*A.M. No. MTJ-92-713. March 27, 1995*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/13e1b877686a/>**PER CURIAM:**

This is an administrative complaint charging Judge Francisco A. Garrete of the 3rd Municipal Circuit Trial Court (MCTC) of Loreto-La Paz, Agusan del Sur, and designated Acting Presiding Judge of the 4th MCTC, Esperanza-San Luis-Talacogon, and of the 5th MCTC of Bayugan-Sibagat, with grave misconduct, abuse of authority, dishonesty and immorality.

The first three (3) complainants, namely, Glenita Legaspi, Lanie F. Pama and Lalaine F. Pama are his Stenographic Reporters. Both Glenita and Lanie are assigned at Loreto while Lalaine at Esperanza. The temporary appointment of Glenita took effect on 22 July 1991 and those of the Pama sisters Lanie and Lalaine on 15 August 1991. The fourth complainant, Leslie Espinola, is not a court employee. She claims that she was formerly hired by respondent judge as salesgirl in the refreshment parlor of Ms. Elsa Pontimayor at Trento, Agusan del Sur, from 30 December 1991 to 20 July 1992. Glenita Legaspi executed her affidavit-complaint on 7 August 1992, while the Pama sisters and Leslie Espinola on 18 August 1992.[1]

On 21 August 1992 respondent Judge wrote the Office of the Court Administrator requesting that the temporary appointments of Glenita and Lanie be immediately terminated because of inefficiency and incompetence.[2]

On 22 October 1992 the Court issued a resolution directing that the termination of the services of the aforementioned Court Stenographers be held in abeyance and that Executive Judge Zenaida P. Placer, RTC, Bayugan, Agusan del Sur, conduct an investigation on the charges of immorality and misconduct against respondent judge in order to immediately resolve the conflict and to submit her report and recommendation thereon within sixty (60) days from receipt of the records. We also granted respondent judge the opportunity to file his comment/answer to the complaint before the investigating judge.[3]

On 2 December 1993 Judge Placer submitted a 54-page report[4] on her investigation where she concluded that — VIEWED IN THE LIGHT OF THE FOREGOING, it is felt that the acts of respondent are inimical to the good of public service and would further tarnish the image of the judiciary. The oft-repeated dictum that serves as a yardstick on a judge's deportment that 'a judge, just like Caesar's wife, should not only be chaste but beyond suspicion,' applies.

On 13 January 1994 the Court referred the aforesaid investigation report to the Office of the Court Administrator (OCA) for evaluation and recommendation on the specific penalty to be imposed.[5]

On 1 June 1994 the OCA submitted a Memorandum recommending "that for grave misconduct, abuse of authority, dishonesty and immorality, respondent judge be dismissed from the service x x x"[6]

We fully agree with the recommendation of OCA. From the onset of their service in the court, complainant-stenographers were already at a disadvantage. They were made to sign undated letters of resignation. In addition, they were told to remain single if they wanted to extend their employment.

Respondent judge insists that there was no malice in requiring complainants to sign undated letters of resignation. He explains that he did so for convenience as it would be easier for him to terminate their services in case there were eligible applicants.[7] As regards their requirement for complainants to stay single, he claims that it was only a joke.[8]

The explanation does not persuade us. As a judge of long standing he ought to have known that a temporary appointment by its nature may be terminated any time. Being therefore unnecessary, the undated resignation letters could have no other effect except to become, as it did, a "sword of Damocles" hanging over the heads of complainants.

The purported joke of respondent requiring complainants to remain single as a precondition to their continued employment is not amusing at all. Granting that such statement was made in jest, it was done in poor taste. Respondent forgets that a judge should be prudent and more circumspect in his utterances, remembering that his conduct in and outside the courtroom is under constant observation.[9] To make matters worse, respondent has not shown that he made any clarification of his facetious statement. He allowed his remarks to stand uncorrected thereby giving the color of veracity and, consequently, force to his words. Naturally, being temporary employees, Lanie and Glenita who was made to sign an undated letter of resignation, would unquestionably comply with the directives of respondent judge as their continuance in office depended on his good graces.

Further, we find that respondent, taking advantage of his position, employed oppressive measures to coerce complainants to withdraw their formal complaints. On 21 August 1992, he wrote the OCA requesting the immediate termination of the services of Glenita and Lanie for alleged inefficiency and incompetence. Shortly after, respondent disallowed both Glenita and Lanie to report to work as they were already terminated,[10] and returned all salary checks due them for the months of September, October and November 1992.[11] Their tables and chairs were also taken away and brought to the house of respondent.[12] Despite all these, Glenita and Lanie continued to report for work because they were afraid that they may be declared absent without leave.

Indeed, we have serious misgivings regarding the termination of the services of Glenita and Lanie. The records reveal that respondent had just recommended the renewal of their temporary appointments.[13] Such recommendation simply meant that respondent judge was satisfied with their performance. Obviously, the complaints filed in this case prompted respondent to change his mind. Even granting that such grounds for termination exist, respondent nonetheless cannot claim good faith. His precipitate action in discontinuing the services of Glenita and Lanie and ensuring that they would not have any place to work in the office clearly indicated his intention to silence them and the other complainants. It was not only a harsh act but also unauthorized. While Glenita and Lanie may hold temporary appointments, they are still entitled to remain in office until we pass upon the merits of respondent's plea for the termination of their employment. Respondent's highhanded tactics are regrettably deplorable considering that he knows fully well that the power to dismiss court personnel belongs exclusively to the Supreme Court.[14]

Noteworthy too is the unwarranted action of respondent judge of utilizing the services of court personnel outside their official station. Admittedly, he designated Ranulfo Vargas, Court Process Server, MCTC of Esperanza-San Luis-Talacogon, as his driver although he was not his driver but Valentino Sustiguer, Court Process Server, MCTC of Loreto-La Paz. Whenever respondent judge was in his other salas, he was accompanied by Ranulfo and Valentino together with Ms. Concepcion Laurel, Court Interpreter, MCTC of Loreto-La Paz.

Respondent judge submits that his actuations were proper and sanctioned by the OCA. He contends that he sought from and was granted prior permission by the OCA to utilize the services of some of his court personnel outside their official stations.

We do not fully agree. The letter of then Deputy Court Administrator, now Court Administrator, Ernani Cruz Paño, addressed to respondent judge dated 18 September 1991[15] pertinently reads —

In reply to your query on whether or not you could legally utilize one of the personnel of your sala as your personal driver in commuting between the courts you preside, please be informed that, as there is no driver item in the inferior courts, whatever service a personnel will render in the above-stated capacity will have to be the subject of a voluntary arrangement between the personnel concerned and yourself x x x x

Needless to state, the implied authority for respondent to avail of the services of one of his employees as driver should not prejudice the latter's work in the court. As it turned out, Ranulfo, the designated driver of respondent, abandoned his job as Court Process Server of Esperanza. Milagros Patete, Clerk of Court of the 4th MCTC, confirmed that Ranulfo was not actually holding office thereat but was instead rendering personal service to respondent judge; that, in fact, Ranulfo was not driving respondent's vehicle but Valentino Sustiguer, Court Process Server of Loreto-La Paz; that in his trips to his court in Esperanza, respondent judge was accompanied by Ranulfo and Valentino as well as Court Interpreter Concepcion Laurel of Loreto-La Paz; that both Ranulfo and Concepcion did not assist respondent because the MCTC, at Esperanza, has its own staff; that, thereafter, Valentino stopped driving respondent's vehicle because by then the latter was being brought by a police car to the MCTC at Esperanza-San Luis-Talacogon, and back to his permanent station at Loreto.[16] Ranulfo himself declared that notwithstanding the police escort, he went along with respondent judge as his companion.[17]

Verily, respondent's whims had caused the idleness of Ranulfo and Concepcion who could have been productive in their respective stations. He also set a bad example of work ethics in government service. The time records of Ranulfo showed full time service duly signed by respondent judge.[18] Without doubt, Concepcion's trips to Esperanza were also considered official when in truth it was without authority. As a result, they received their salaries even though they did not actually discharge the functions of their office.

Such anomalous office practice was not isolated. Without prior court approval, Lalaine who was officially assigned at Esperanza was detailed by respondent to Loreto from May to September 1991, and at Trento in the house of Ms. Pontimayor doing household chores from October to November 1991.

While respondent denied this charge, his unsubstantiated disavowal however cannot overrule the positive and detailed account of Lalaine on her stay at Ms. Pontimayor's house.[19] Significantly, there is no evidence to prove that Lalaine and Ms. Pontimayor knew each other before the former's employment in the court. On the other hand, respondent himself confirmed his close friendship with Ms. Pontimayor. Consequently, Lalaine could not have just gone over to Trento without respondent's directive. But more importantly, Lalaine's detail was not sanctioned by this Court. Respondent knows without being told that his authority to detail employees to places other than their official station is at all times subject to our approval.

These highly irregular and anomalous actuations of respondent plainly contravene the mandates of the Code of Judicial Conduct, particularly Rules 3:08 and 3:09 of Canon 3.[20] He has demonstrated that he cannot maintain professional competence in court management, organize and supervise court personnel for efficient dispatch of business, and observe unceasingly the high standards of public service. Indeed, the conduct of respondent could hardly create in his salas an atmosphere conducive to industry, dedication and commitment to excellence.[21] We have held that a judge must be at the forefront of all efforts to preserve and enhance the public trust character of a public office and anyone who cannot do so should not be allowed to stay a minute longer in any judicial seat.[22]

On the charge of dishonesty, the evidence proves that respondent judge took portions of the allowances or benefits of complainant-stenographers -

Re Cost of Living Allowance (COLA)

In October 1991, the staff of the MCTC Loreto-La Paz, received their COLA in the amount of P1,700.00 each with the exception of Glenita who claims that at first she thought she was not entitled to the benefit as she was relatively new in the service. Later she learned about her check from Ms. Marilyn Cullantes, the Clerk of Court. She claims that although she received from respondent the supposed cash value of her check on 4 November 1991, she did not endorse her check, and that she actually received from respondent P1,500.00.

For her part, Lalaine avers that respondent got P500.00 from her COLA on the pretext that he would buy a cassette tape recorder for her she being new in the service. But respondent neither bought the adhesive recorder for her nor returned the amount he took from her.

Respondent judge vehemently denies these charges. He asserts that Glenita requested him to encash her COLA check because there was no payee bank at Loreto; that she signed on 4 November 1991 an acknowledgment receipt for her COLA; that he never had any agreement with Lalaine to buy a cassette recorder for her; and, that subsequently, Lalaine allowed Lanie, impliedly at least, to use the cash value of her check for the latter's expenses in their Bohol trip.

The protestations of respondent judge, regretfully, fail to impress us. It may be noted that all salary checks, including allowances and fringe benefits of the MCTC personnel of Loreto-La Paz, were addressed to and received by respondent. He distributed the checks himself. Since the checks arrived in bunch, respondent would have to distribute them to the personnel then present. Yet, he offers no corroborative evidence to show that Glenita requested his assistance for the encashment of her check.

On the other hand, Glenita's non-receipt of the COLA in October 1991 was attested by no less than respondent's recommendee, Ms. Marilyn Cullantes, the Clerk of Court of Loreto-La Paz, who proved to be a disinterested witness. She stated that Glenita's check arrived together with the rest but respondent held on to it for reasons of his own; that weeks after, she confided to respondent judge the ire of Glenita's father who intended to report the matter to higher authorities; and that respondent later gave to Glenita the cash value of her COLA.[23]

The likelihood that respondent judge held on to Glenita's COLA longer than necessary cannot be discounted. His proffered reason that there was no payee bank in Loreto is weak considering that the store owned by Rene Morente at Loreto accepts checks for encashment. In one instance, respondent directed Concepcion and Glenita to encash the latter's check for her fringe benefit of P2,000.00 in that store. Consequently, respondent's unexplained delay in giving the cash value of the COLA to Glenita only intensifies the suspicion of wrongdoing. Reason dictates that had Glenita received her check, she would have gone promptly to Rene Morente's store for immediate encashment rather than wait longer for respondent's return to Loreto.

Concerning Lalaine's complaint, respondent's unsupported denial cannot stand against the positive testimony of Milagros Patete,[24] Clerk of Court of the MCTC of Esperanza, a witness to respondent's machinations. She testified —

Atty. Patrick R. Battad, counsel for respondent

Q.

You also testified that the said check was voluntarily indorsed in your presence by Miss Lalaine Palma?

A.

Yes, sir.

Q.

It was voluntary because nobody was pressuring her to indorse her check in your presence?

A.

Because she was told by Judge Garrete to have the check indorsed as they had agreed where the check would be utilized (underscoring supplied).

Q.

x x x x Did you hear when Judge Garrete actually asked Miss Lalaine Pama about the P1,700.00.

A.

Yes.

Q.

Where exactly did you hear Judge Garrete ask Miss Lalaine Pama?

A.

In our court in Talacogon.

Q.

Particularly where in your court in Talacogon, Mrs. Witness?

A.

In the sala, sir.

x x x x x x x x

Q.

How did Judge Garrete ask Lalaine Pama about the P1,700.00 check?

A.

He suggested to Miss Lalaine Pama that the P1,700.00 will be purchased for a cassette recorder.

Re Personal Economic Relief Allowance (PERA)

In February 1992, Glenita and Lanie received their Personal Economic Relief Allowance (PERA) of P500.00 each. They charge respondent of directing them to endorse their checks to him as payment for the repair of a typewriter which was never brought to the office.

Respondent judge argues that the repair of the typewriter donated by the Municipal Government to the court was urgently needed because it was the only typewriter in the office.[25] According to him, he went twice to this Court to request for a typewriter but none was available. Upon his suggestion, the employees contributed P100.00 each and he shouldered the rest of the expenses amounting to P1,200.00.[26]

The allegations of respondent judge are misleading and untrue. A certification from the Property Division, this Court, dated 9 November 1994 discloses that on 9 September 1989 a typewriter was issued to the MCTC, Loreto-La Paz, which was received by respondent judge on the same date. On 5 December 1991, another

typewriter was sent to the same court. In between those dates, respondent did not file any written request for an additional typewriter with the Property Division. A written request is required as a standard operating procedure to serve as basis for the Property Division to release a typewriter to the office concerned if immediately available or as soon as the equipment would be available. No written request appears to have been made by respondent. Instead, on 12 July 1989 respondent asked for and received on 17 July 1989 an electric fan as evidenced by his signed receipt. Again, in March 1992 he requested for an additional electric fan which Edgardo Cullantes received for him on 29 January 1993. Respondent's misrepresentation certainly placed the Court's reputation in bad light. As a lawyer and judge, his conduct ought to be marked with candor. Hence, respondent's devious strategy to bolster his claim at the expense of truth should be strongly condemned.

Moreover, the reason of respondent for soliciting contributions from Glenita and Lanie appears implausible. He knew upon receipt of the donated typewriter that it was almost junk.[27] Instead of requesting this Court for an additional typewriter, he resorted to soliciting contributions purportedly to fix a typewriter that was already beyond repair. Be that as it may, his solicitation was absolutely illegal and uncalled for. Sec. 7, par. (d), of the Code of Conduct and Ethical Standards for Public Officials and Employees[28] implicitly prohibits public officials in the course of their official duties from soliciting directly or indirectly anything of monetary value from any person. Notwithstanding his alleged good intentions, respondent's transgression cannot be countenanced. For judges must be the first to abide with the law and weave an example for others to follow.[29] Thus, solicitations made by judges for reasons of refurbishing and improving the office[30] or of donating to a Judiciary Welfare Fund[31] or to a Common Fund[32] were declared unlawful and violative not only of the law but also of Canons 1 and 2 of the Code of Judicial Conduct. The erring judges were dismissed from the service with prejudice to reinstatement in public office. Respondent's case is no different as the law makes no distinction whether those who made the contributions were litigants, private persons or court employees.

Interestingly, respondent claims that he merely asked Lanie and Glenita to contribute the sum of P100.00 each. Yet, he took from each of them P500.00. While respondent asserts that he returned P400.00 each to Glenita and Lalaine, such assertion seems dubious. The testimony of his witness, Court Interpreter Concepcion Laurel, confirming respondent's return militates against respondent's position. Concepcion admitted that she cannot recall when respondent gave back the amount. Subsequently, with the aid of a leading question propounded by counsel, Concepcion added that respondent returned P400.00 to Lanie at his house and another P400.00 to Glenita at the office.[33]

But this contradicts the testimony of respondent that it was Concepcion who returned their P400.00 each after deducting their contribution of P100.00 from their PERA.[34]

Re Fringe Benefit Checks

On 21 July 1992 the court personnel of the MCTC at Loreto received their fringe benefit checks in the amount of P2,000.00 each. According to Glenita and Lanie, upon receipt of their checks they promptly endorsed them to respondent as he allegedly demanded the full payment for the sunglasses he sold to them at P900.00 each, although their agreement was to pay on three (3) equal installments.[35] In spite of their immediate compliance, respondent did not encash their checks. As a result, complainants did not get the balance owing to them until 12 August 1992, or for almost two (2) weeks, as evidenced by their acknowledgment receipts.

On her part, Lalaine narrates that respondent judge through Ranulfo Vargas took P500.00 out of her fringe benefit of P2,000.00.

In his defense, respondent judge offers the acknowledgment receipts of both Glenita and Lanie dated 12 August 1992 to prove his innocence. He also claims that the P500.00 taken from Lalaine was a partial payment of her

indebtedness to Ranulfo, who confirmed Lalaine's obligation to him.

The acknowledgment receipts of Glenita and Lanie cannot exculpate respondent from liability. There is an avowed purpose in the grant of fringe benefits to court employees, i.e., to alleviate their economic needs. Respondent appears to be oblivious of such objective. His indifference can be gleaned not only from the delay with which he encashed the checks and returned the remaining amounts to Glenita and Lanie but also from his demand for the full payment of the sunglasses despite his knowledge of a prior agreement to pay on installment basis. In fact, the act of selling sunglasses to his employees was improper. His behavior thus constitutes abuse of authority. Nevertheless, Glenita and Lanie could not help submitting to respondent considering his official and moral ascendancy over them, aside from the fact that Glenita had a pre-signed resignation letter. For the same reason which prompted Glenita to yield, Lalaine could not likewise refuse to give P500.00 to respondent through Ranulfo Vargas.

We are not swayed by Ranulfo's claim that Lalaine was indebted to him. For one, it lacks supportive evidence. Secondly, Ranulfo was admittedly close to respondent, a neighbor in Bohol, who was responsible for his appointment in the court. Such close relationship is further shown when respondent favored Ranulfo with the privilege of being his companion in his trips and reporting only to his official station to get his paycheck.[36]

In rebuttal, Lalaine presented Clerk of Court Cullantes who was with her and Ranulfo when the latter demanded the amount of P500.00. In a straight-forward manner, Ms. Cullantes asserted that —

Atty. Battad, counsel for respondent.

Q:

You mentioned also in your affidavit, Mrs. Witness, that Judge Garrete demanded P500.00 from Miss Lalaine Pama. Am I correct, Mrs. Witness?

A:

That is correct.

Q:

And the alleged demand of P500.00 was allegedly coursed through Ranulfo Vargas?

A:

Yes, sir.

Q:

Am I correct to say, Mrs. Witness, that when Judge Garrete allegedly requested or directed Ranulfo Vargas to demand P500.00 from Lalaine Pama you were not around if at all there was a request?

A:

I was present, sir.

Q:

You mean to say that when Judge Garrete allegedly directed Ranulfo Vargas to demand P500.00 from Lalaine Pama, you were around?

A:

Yes, sir.

x x x x x x x x

Q:

When did Ranulfo Vargas allegedly inform you about it that it was Judge Garrete who allegedly directed him to demand P500.00 from Lalaine Pama?

A:

We were together in going to Esperanza.

Q:

And what was or how did Ranulfo Vargas allegedly inform you?

A:

He did not inform me but he told Lalaine "Lan, ang P500.00 kuno."

Q:

How did you know that Judge Garrete directed Ranulfo Vargas or you only assumed that Judge Garrete allegedly directed him to demand P500.00 from Lalaine Pama?

A:

I heard when Ranulfo Vargas told Lalaine.

Q:

So, you only heard Ranulfo Vargas uttered "Lalaine, ang P500.00 kuno ni Judge." Other than that, you did not hear anything from Ranulfo Vargas?

A:

None, sir.

x x x x x x x x

Q:

And this along of what you heard a limited brief statement from Ranulfo Vargas, you assumed that Judge Garrete directed Ranulfo Vargas to extort P500.00 from Lalaine Pama, Mrs. Witness?

A:

Yes.

Q:

You consider that brief statement as a form of extortion from Judge Garrete. Am I correct, Mrs. Witness?

A:

Well, as far as I know, when I asked Lalaine about it, she doesn't (sic) have any account from Judge Garrete.

x x x x x x x x

Q:

How soon did you ask Lalaine Pama if she owed anything to Judge Garrete?

A:

That very moment. I asked Lalaine whether she had any account with Judge Garrete and then she replied that she does (sic) not have any account.[37]

Indubitably, respondent's culpability to the charge of dishonesty is clear. By his conduct, he has stained the noble image of the judiciary. Judges should bear in mind that those involved in the administration of justice from the highest to the lowest level must live up to the strictest standard of honesty and integrity in the public service.[38]

Anent the charge of immorality, complainant Leslie Espinola claims that aside from her work as salesgirl in the refreshment parlor of Ms. Elsa Pontimayor at Trento she also performed household chores and other errands for Ms. Pontimayor. She initially believed that respondent and Ms. Pontimayor were married because whenever respondent's schedule was in Esperanza-San Luis-Talacogon, Bayugan and Sibagat, he would go home to and spend the night in Ms. Pontimayor's house particularly in her room, and if respondent's was in Loreto he would arrive at Trento on Monday mornings and then on Friday afternoons when he would pass the night with Ms. Pontimayor and leave the following day. During those times, she saw both respondent judge and Ms. Pontimayor taking their shower together in her bathroom and lying also together in the latter's waterbed.[39]

Glenita declares that in the first few days on the job in the MCTC at Loreto she saw two pictures placed on top of the table of respondent judge. On her query, respondent judge informed her that the person in one picture was his legal wife. As regards the woman in the other picture, respondent merely smiled and kept silent as to her identity although she later found out she was Ms. Pontimayor.[40]

Lanie recounts that sometime in November 1991 she and some of the court employees with Ms. Pontimayor attended a town fiesta in Bohol. They stayed in the house of the sister of respondent judge where both he and Ms. Pontimayor shared the same room. She (Lanie) and Ms. Luisa Paway saw respondent and Ms. Pontimayor take a bath together as their hands and feet could be seen. Later, she saw Ms. Pontimayor washing respondent's pants, T-shirt and brief and hung them to dry. In another instance, Lanie saw the two lying together in one bed as she got inside the room to get her clothes which Ms. Pontimayor mistakenly took from the clothesline. Upon their return from Bohol, she together with respondent judge and Ranulfo Vargas went directly to the house of Ms. Pontimayor where respondent not only slept in her room but also took his bath together with her (Ms. Pontimayor).[41]

Lalaine likewise asserts that sometime in the middle part of October up to the later part of November 1991, while some court personnel were in Bohol, respondent judge detailed her to the house of Ms. Pontimayor to do household chores and supervise other housemaids. She allegedly saw respondent and Pontimayor sleep together. On one occasion, she saw respondent judge and Ms. Pontimayor with her legs on top of him. That was when she tried to get the adopted child of Ms. Pontimayor who entered the latter's bedroom. There were other occasions when she saw them kissing as the adopted child of Ms. Pontimayor would go in and out of their room. These situations embarrassed her because she knew of the real status of respondent.[42]

Against these incriminating testimonies, respondent judge maintains that the immorality charge is baseless. His closeness with Ms. Pontimayor was due to the length of time he has been her transient boarder. He questions the credibility of complainant Leslie Espinola. He asserts that she could not have witnessed the alleged immoral acts as the room of the transients are located at the first floor whereas the servants' quarters is at the second floor.

As regards the immoral acts in Bohol, respondent judge avers that he could not have been that callous to do such acts before his court employees and his sister who would never consent to the perpetration of an immoral act within the sanctity of her home.[43]

His strong denial notwithstanding, the detailed circumstances under which respondent's scandalous conduct was described would rule out the notion that the immorality charge simply arose from complainants' imagination or their intention to harass him. The records show that rumors were already circulating about respondent's liaison with Ms. Pontimayor[44] and respondent added fuel to the fire, so to speak, when he prominently displayed the picture of Ms. Pontimayor on his table. His indiscretion did not fail to catch the attention of Clerk of Court Cullantes who testified -

Atty. Calonia, counsel for complainants -

Q:

While you were having a vacation in Bohol in November 1991, Elsa Pontimayor slept upstairs in the house of the sister of the respondent in Bohol while the respondent himself slept downstairs. Is this true, Mrs. Witness?

A:

That is not true.

Q:

What is the truth, Mrs. Witness?

A:

We were only four of us sleeping upstairs.

Q:

Who?

A:

Miss Lanie Pama, Miss Laurel, Lorna Paway and myself.

x x x x x x x x

Q:

How many rooms does the house of the sister of the respondent has (sic) in Bohol where you stayed?

A:

There are four bedrooms, upstairs there are two bedrooms.

Q:

And downstairs?

A:

And downstairs, one bedroom in the sala and in the kitchen there is also one bedroom.

x x x x x x x x

Court:

Well, you have to be honest, Mrs. Cullantes. Did you see them sleep together in one room or what?

x x x x x x x x

A:

There is a room downstairs and above that room we slept there the four of us. The downstairs room was one occupied by judge and Miss Pontimayor x x x x[45]

The denials interposed by respondent cannot prevail over the positive testimonies of complainants and their witness. His mere denial constitutes self-serving negative defense which, in the absence of any proof to substantiate it, cannot be given any probative value and more so if, in this case, there is a declaration from a credible witness who can testify on affirmative matters.[46]

On the other hand, the account of respondent's witnesses fail to inspire belief. Ranulfo is unquestionably close to respondent judge. Similarly, Concepcion's testimony veers towards bias for respondent judge. As the OCA noted, "Concepcion Laurel is a trusted employee and the eyes and ears of respondent" who "promptly confessed that she has developed a professional closeness to respondent." [47]

We have repeatedly held that although every office in the government service is a public trust, no position exacts a greater demand on moral righteousness and uprightness of an individual than a seat in the judiciary.[48] Members of the judiciary should conduct themselves in such a manner as to be beyond reproach and suspicion, and free from any appearance of impropriety in their personal behavior, not only in the discharge of their official duties but also in their everyday life.[49] They are strictly mandated to maintain good moral character at all times and to observe irreproachable behavior so as not to outrage public decency.[50]

Sadly, respondent judge has failed to abide with these stringent judicial norms. His abusive and unwarranted display of authority, his oppression and dishonesty as well as his highly immoral behavior are serious offenses that doubtless render him unfit to continue in office. We therefore affirm the recommendation of the Office of the Court Administrator based on the report of the investigating judge for the dismissal of respondent judge.

WHEREFORE, respondent Judge Francisco A. Garrete of the 3rd Municipal Circuit Trial Court, Loreto-La Paz, Agusan del Sur, is DISMISSED from the service with prejudice to reinstatement or appointment to any public office, including government-owned or controlled corporation, with forfeiture of all retirement benefits and privileges.

This dismissal shall be immediately executory, hence, respondent judge is ordered to VACATE his position forthwith and to CEASE AND DESIST from further performing his official functions.

SO ORDERED.

Narvasa, C.J., Feliciano, Padilla, Bidin, Regalado, Romero, Bellosillo, Melo, Quiason, Puno, Vitug, Kapunan, Mendoza, and Francisco, JJ., concur. Davide, Jr., J., no part.

[1] Rollo, pp. 8-15.

[2] Id., p. 20.

[3] Id., p. 30.

[4] Id., pp. 1215-1268.

[5] Id., p. 1194.

[6] Id., pp. 1273-1278.

[7] TSN, 2 August 1993, Rollo, p. 887.

[8] Ibid., p. 895.

[9] Tulfo v. Cañeba, Adm. Matter No. RTJ-92-854, 3 September 1992, En Banc, Min. Res.

[10] TSN, 16 February 1993, Id., pp. 394, 455 and 473.

[11] Rollo, p. 63.

[12] TSN, 16 February 1993, p. 445.

[13] Rollo, p. 19.

[14] See Domingo v. Elbinias, Adm. Matter No. 2001-CFI, 31 August 1981, 107 SCRA 28, 32.

[15] Rollo, p. 1172.

[16] TSN, 15 January 1993, Rollo, pp. 216-221.

[17] TSN, 7 May 1993, Id., pp. 563-564.

[18] TSN, 15 January 1993, Id., p. 228.

[19] Id., pp. 246-250, 254, and 258-259.

[20] Rule 3.08. - A judge should diligently discharge administrative responsibilities, maintain professional competence in court management, and facilitate the performance of the administrative functions of other judges and court personnel.

Rule 3.09. - A judge should organize and supervise the court personnel to ensure the prompt and efficient dispatch of business, and require at all times the observance of high standards of public service and fidelity.

[21] Cf. Estoya v. Singson, Adm. Matter No. RTJ-91-758, 26 September 1994.

[22] Ubarra v. Mapalad, Adm. Matter No. MTJ-91-622, 22 March 1993, 220 SCRA, 224, 237.

[23] Rollo, p. 538.

[24] TSN, 8 February 1993, Id., pp. 327-329.

[25] TSN, 26 July 1993, Id., 828.

[26] TSN, 3 August 1993, pp. 949-950.

[27] TSN, 2 August 1993, Id., p. 876.

[28] R.A. No. 6713, An Act Establishing A Code Of Conduct And Ethical Standards For Public Officials And Employees, To Uphold The Time-Honored Principle of Public Office Being A Public Trust, Granting Incentives And Rewards For Exemplary Service, Enumerating Prohibited Acts And Transaction And Providing Penalties For Violations Thereof And For Other Purposes.

[29] Ompoc v. Torres, Adm. Matter No. MTJ-86-11, 27 September 1989, 178 SCRA 14, 22.

[30] Lecaroz v. Garcia, Adm. Matter No. 2271-MJ, 18 September 1981, 107 SCRA 557.

[31] In Re: Solicitations of Donations by Judge Benjamin H. Virrey, MTC, Polillo, Quezon, Adm. Matter No. 90-7-1159-MTC, 15 October 1991, 202 SCRA 628.

[32] *Garciano v. Sebastian*, Adm. Matter No. MTJ-88-160, *Lopez v. Sebastian*, Adm. Matter No. MTJ-88-244, *Vilbar v. Sebastian*, Adm. Matter No. MTJ-89-322, *Lopez v. Sebastian*, Adm. Matter No. MTJ-89-344, *Gavia v. Sebastian*, Adm. Matter No. MTJ-90-416, *Office of the Court Administrator v. Sebastian*, Adm. Matter No. MTJ-92-661, and *Administrative Complaint of MeTC Personnel*, Br. 78, *Parañaque v. Sebastian*, Adm. Matter No. MTJ-89-4-371, all prom. on 30 March 1994.

[33] TSN, 28 May 1993, Id., pp. 671-672.

[34] TSN, 26 July 1993, Id., p. 829.

[35] TSN, 11 January 1993, Id., p. 154.

[36] TSN, 15 January 1993, Id., p. 220.

[37] TSN, 8 February 1993, Rollo, pp. 347, 351-352, and 354--355.

[38] *Mejia v. Pamaran*, G.R. No. 56741-42, 15 April 1988, 160 SCRA, 457, 477.

[39] TSN, 21 December 1992, Id., pp. 90-96, 100-101 and 110.

[40] TSN, 11 February 1993, Id., p. 158.

[41] TSN, 11 January 1993, Id., pp. 161-166.

[42] TSN, 15 January 1993, Id., pp. 246-254, 259.

[43] Rollo, pp. 72 and 75.

[44] TSN, 9 February 1993, Id., p. 406.

[45] TSN, 19 August 1993, pp. 1029-1031.

[46] *Bocobo v. Madamba*, G.R. No. 105543, 8 November 1994, En Banc Min. Res.

[47] Rollo, p. 1276.

[48] *Montemayor v. Collado*, Adm. Matter No. 2519-MJ, 10 September 1981, 107 SCRA 258, 264.

[49] *Association of Court Employees of Panabo, Davao v. Tupas*, Adm. Matter No. RTJ-87-141, 12 July 1989, 175 SCRA 292, 296.

[50] See *Leynes v. Veloso*, Adm. Matter No. 689-MJ, and *Virrey v. Veloso*, Adm. Matter No. 809-MJ, all prom. on 13 April 1978, 82 SCRA 325, 328.

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