

ANONYMOUS, COMPLAINANT, VS. MA. VICTORIA P. RADAM, UTILITY WORKER, OFFICE OF THE CLERK OF COURT, REGIONAL TRIAL COURT OF ALAMINOS CITY, PANGASINAN, RESPONDENT.

A.M. No. P-07-2333 (Formerly OCA IPI No. 07-2510-P). December 19, 2007

Ponente: CORONA, J.

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CORONA, J.:

In an anonymous letter-complaint dated September 30, 2005,[1] respondent Ma. Victoria Radam, utility worker in the Office of the Clerk of Court of the Regional Trial Court of Alaminos City in Pangasinan, was charged with immorality. The unnamed complainant alleged that respondent was unmarried but got pregnant and gave birth sometime in October 2005.[2] The complainant claimed that respondent's behavior tainted the image of the judiciary.

In connection with the complaint, Judge Elpidio N. Abella[3] conducted a discreet investigation to verify the allegations against respondent.

In his report dated March 8, 2006,[4] Judge Abella made the following findings:

On March 1, 2006, respondent submitted a letter addressed to the Honorable Court Administrator, thru the undersigned, duly subscribed and sworn to before the Clerk of Court VI of the Court, alleging among others, the following:

1) She admitted that she is single/unmarried, and indeed she was pregnant and actually gave birth to a baby boy named Christian Jeon Radam on 03 November 2005 at the Western Pangasinan District Hospital, Alaminos City;

2) The reason why she did not yet marry the father of her child Christian Jeon was that she and the child's father have pending application[s] [to migrate to Canada] as in fact they have [a] mutual plan to remain unmarried [and]

3) Nevertheless, she expressed her remorse and promised not to commit the same mistake and indiscretion in the future.

Further investigation reveal[ed] the following:

1) That respondent was appointed as Utility Worker on September 4, 2000;

2) The father of Christian Jeon Radam is unknown, as shown by the child's Certificate of Live Birth, hereto attached;[5]

3) It was verbally admitted by the respondent that she had given birth to two (2) other children before Christian Jeon, but they were conceived and born while respondent was working abroad and before she was employed in the [Office of the Clerk of Court of the Regional Trial Court of] Alaminos City.[6]

In this connection, Judge Abella made the following recommendation:

Since respondent admitted that she is single and that she got pregnant and gave birth to a baby boy without being married to the father of the child, albeit she advanced the reason for her remaining unmarried, it being that she and her boyfriend had a mutual plan to migrate to Canada, this Investigating Judge considers that such conduct of the respondent fell short of the strict standards of Court personnel and contrary to the Code of Judicial Ethics and the Civil Service Rules. A place in the judiciary demands upright men and women who must carry on with dignity, hence respondent is guilty of disgraceful and immoral conduct which cannot be countenanced by the Court. Certainly, the image of the Judiciary has been affected by such conduct of the respondent.

Premises considered, it is hereby respectfully recommended that respondent MA. VICTORIA RADAM be accordingly found GUILTY of IMMORAL CONDUCT or ACT UNBECOMING A COURT EMPLOYEE. A suspension of one (1) month or a fine of Php5,000.00 is respectfully recommended, with warning that a repetition of the same or similar act in the future will be dealt with more severely.[7]

After reviewing the findings and recommendation of Judge Abella, the Office of the Court Administrator (OCA) recommended that, in accordance with Villanueva v. Milan,[8] respondent be absolved of the charge of immorality because her alleged misconduct (that is, giving birth out of wedlock) did not affect the character and nature of her position as a utility worker.[9] It observed:

[T]here is no indication that the relationship of respondent to her alleged boyfriend has caused prejudice to any person or has adversely affected the performance of her function as utility worker to the detriment of the public service.

However, it proposed that she be held liable for conduct unbecoming a court employee and imposed a fine of P5,000 for stating in the birth certificate of her child Christian Jeon that the father was "unknown" to her.[10]

The OCA correctly exonerated respondent from the charge of immorality. However, its recommendation to hold her liable for a charge of which she was not previously informed was wrong.

For purposes of determining administrative responsibility, giving birth out of wedlock is not per se immoral under civil service laws. For such conduct to warrant disciplinary action, the same must be "grossly immoral," that is, it must be so corrupt and false as to constitute a criminal act or so unprincipled as to be reprehensible to a high degree.[11]

In Estrada v. Escritor,[12] we emphasized that in determining whether the acts complained of constitute "disgraceful and immoral behavior" under civil service laws, the distinction between public and secular morality on the one hand, and religious morality, on the other should be kept in mind.[13] The distinction between public and secular morality as expressed — albeit not exclusively — in the law, on the one hand, and religious morality, on the other, is important because the jurisdiction of the Court extends only to public and secular morality.[14] Thus, government action, including its proscription of immorality as expressed in criminal law like adultery or concubinage, must have a secular purpose.[15]

For a particular conduct to constitute "disgraceful and immoral" behavior under civil service laws, it must be regulated on account of the concerns of public and secular morality. It cannot be judged based on personal bias, specifically those colored by particular mores. Nor should it be grounded on "cultural" values not convincingly demonstrated to have been recognized in the realm of public policy expressed in the Constitution and the laws.[16] At the same time, the constitutionally guaranteed rights (such as the right to privacy) should be observed to the extent that they protect behavior that may be frowned upon by the majority.[17]

Under these tests, two things may be concluded from the fact that an unmarried woman gives birth out of wedlock:

(1)

if the father of the child is himself unmarried, the woman is not ordinarily administratively liable for disgraceful and immoral conduct.[18] It may be a not-so-ideal situation and may cause complications for both mother and child but it does not give cause for administrative sanction. There is no law which penalizes an unmarried mother under those circumstances by reason of her sexual conduct or proscribes the consensual sexual activity between two unmarried persons. Neither does the situation contravene any fundamental state policy as expressed in the Constitution, a document that accommodates various belief systems irrespective of dogmatic origins.[19]

(2)

if the father of the child born out of wedlock is himself married to a woman other than the mother, then there is a cause for administrative sanction against either the father or the mother.[20] In such a case, the "disgraceful and immoral conduct" consists of having extramarital relations with a married person.[21] The sanctity of marriage is constitutionally recognized[22] and likewise affirmed by our statutes as a special contract of permanent union.[23] Accordingly, judicial employees have been sanctioned for their dalliances with married persons or for their own betrayals of the marital vow of fidelity.

In this case, it was not disputed that, like respondent, the father of her child was unmarried. Therefore, respondent cannot be held liable for disgraceful and immoral conduct simply because she gave birth to the child Christian Jeon out of wedlock.

Respondent was indicted only for alleged immorality for giving birth out of wedlock. It was the only charge of which she was informed. Judge Abella's investigation focused solely on that matter. Thus, the recommendation of the OCA that she be held administratively liable in connection with an entry in the birth certificate of Christian Jeon came like a thief in the night. It was unwarranted. Respondent was neither confronted with it nor given the chance to explain it. To hold her liable for a totally different charge of which she was totally unaware will violate her right to due process.

The essence of due process in an administrative proceeding is the opportunity to explain one's side, whether written or verbal.[24] This presupposes that one has been previously apprised of the accusation against him or her. Here, respondent was deprived of both with regard to her alleged unbecoming conduct in relation to a certain statement in the birth certificate of her child.

An employee must be informed of the charges proffered against him, and ... the normal way by which the employee is so informed is by furnishing him with a copy of the charges against him. This is a basic procedural requirement that ... cannot [be] dispense[d] with and still remain consistent with the constitutional provision on due process. The second minimum requirement is that the employee charged with some misfeasance or malfeasance must have a reasonable opportunity to present his side of the matter, that is to say, his defenses against the charges levelled against him and to present evidence in support of his defense(s).[25]

One's employment is not merely a specie of property rights. It is also the means by which he and those who depend on him live.[26] It is therefore protected by the guarantee of security of tenure. And in the civil service, this means that no government employee may be removed, suspended or disciplined unless for cause provided by law[27] and after due process. Unless the constitutional guarantee of due process is a mere platitude, it is the Court's duty to insist on its observance in all cases involving a deprivation, denigration or dilution of one's right to life, liberty and property.

WHEREFORE, the administrative complaint against respondent Ma. Victoria P. Radam is hereby DISMISSED.

She is, however, strongly advised to be more circumspect in her personal and official actuations in the future.

SO ORDERED.

Puno, C.J., (Chairperson), Sandoval-Gutierrez, Azcuna, and Leonardo-De Castro, JJ., concur.

[1] Rollo, p. 8.

[2] Respondent actually gave birth on November 3, 2005. (See respondent's verified comment [id., p. 22] and her child's certificate of live birth [id., p. 24].)

[3] Executive Judge of the RTC of Alaminos City in Pangasinan.

[4] Rollo, pp. 19-21.

[5] A copy of the child's certificate of live birth was procured by Judge Abella (without the knowledge of respondent) through an order dated December 8, 2005 requiring the City Civil Registrar of Alaminos City, Pangasinan to furnish his office a certified copy of said birth certificate. (See order dated December 8, 2005, id., p. 25.)

[6] Id.

[7] Id.

[8] 438 Phil. 560 (2002).

[9] See memorandum dated April 16, 2007 of the Office of the Court Administrator. Rollo, pp. 1-4.

[10] Id. The Office of the Court Administrator referred to the entry "UNKNOWN" in the portion of the certificate of live birth of Christian Jeon Radam corresponding to the name of the child's father. (See Christian Jeon's certificate of live birth [id., p. 24].)

[11] *Ui v. Atty. Bonifacio*, 388 Phil. 691 (2000).

[12] 455 Phil. 411 (2003).

[13] Id.

[14] Id.

[15] Id.

[16] *Concerned Employee v. Mayor*, A.M. No. P-02-1564, 23 November 2004, 443 SCRA 448.

[17] Id.

[18] Id.

[19] Id.

[20] Id.

[21] Id.

[22] See Section 2, Article XV, CONSTITUTION.

[23] See Article 1, FAMILY CODE.

[24] Garcia v. Pajaro, 433 Phil. 470 (2002).

[25] Government Service Insurance System v. Court of Appeals, G.R. No. 86083, 24 September 1991, 201 SCRA 661.

[26] As Shylock declared, "you take my life, when you do take the means whereby I live." (Shakespeare, The Merchant of Venice)

[27] See Section 2(3), Article IX-B, CONSTITUTION.

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