MARTA BUCATCAT, COMPLAINANT, VS. EDGAR BUCATCAT AND GENE JARO, RESPONDENTS.

A.M. No. P-93-985. January 28, 2000

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PER CURIAM:

In her letter-complaint, dated 1 July 1993, Marta T. Bucatcat (complainant) charged her husband, Edgar Y. Bucatcat, and Gene S. Jaro (respondents), Court Interpreter and Clerk of Court, respectively, of the Third Municipal Circuit Trial Court of Gandara, Samar, with immorality.

Complainant avers that she is the legal wife of respondent Bucatcat but that they had been separated for several years now. They have two (2) daughters who are being raised by complainant without allegedly any support from her husband. She claims that respondents are having an illicit relationship with each other. Moreover, respondents allegedly have two (2) children together and that respondent Jaro, at the time of the filing of the letter-complaint, was pregnant with their third child.

By way of comment, respondents filed their respective counter-affidavits. In his counter-affidavit, dated 6 September 1993, respondent Bucatcat denied that he’s maintaining an illicit affair with respondent Jaro and that he fathered two of her children. He likewise denied being the father of the child then being carried by respondent Jaro in her womb. According to respondent Bucatcat, he got married to complainant on 19 December 1979 when he was barely twenty-four (24) years old while she was thirty-six (36) years old. They lived with complainant’s relatives. Respondent Bucatcat agreed to this arrangement thinking that it was only temporary. Unable to stand the "domineering" ways of his wife’s relatives and after it appeared to him that his wife had no intention of moving away from them, respondent Bucatcat left her and lived with his parents. Despite being separated from them, he continued to give his family financial support. Respondent Bucatcat contended that the instant complaint was filed by complainant merely to preempt the immorality charge that he was going to file against the latter for having an adulterous relationship with one Cpl. Antonio Zaen.

Respondent Jaro likewise denied having an affair with respondent Bucatcat. She asserted that she is legally married to Jaime R. Jaro and that they have five children, namely:

Name Birth date

1. Jaime S. Jaro February 13, 1975

2. Jenny S. Jaro July 8, 1976

3. Jake S. Jaro June 14, 1978

4. Ged S. Jaro July 25, 1988

5. Jude S. Jaro November 30, 1991

At the time of execution of her counter-affidavit on 6 September 1993, she was pregnant with their sixth child. Her husband allegedly spent most of his time in Manila where their two older children were studying. Since

complainant did not name which among respondent Jaro's children are allegedly sired by respondent Bucatcat, respondent Jaro surmised that she (complainant) was referring to her last two children, Ged and Jude. To refute complainant's charge, respondent Jaro attached to her counter-affidavit the certificates of live births of these two children showing that their father is Jamie Jaro. Respondent Jaro opined that complainant's charges against her are malicious and merely fabricated.

In its Resolution, dated 6 June 1994, the Court referred the case to the Executive Judge of the Regional Trial Court, Branch 31 of Calbayog, Samar, for investigation, report and recommendation. In compliance therewith, Judge Filemon T. Saborrido conducted hearings where the parties were given the opportunity to present their witnesses. Renato Jimenez and Miguel Fenellere, both residents of Gandara, Samar, corroborated complainant's allegations. They claimed that respondents were living together. Eva Llacer Glore, a midwife, testified that she attended to the delivery of the last two children of respondent Jaro in 1991 and 1994 and that during these instances, her husband was not present. It was discovered in the course of Glore's testimony that respondent Jaro failed to register the birth of her youngest (sixth) child who was born on 8 January 1994.

In her testimony, complainant maintained that the last three children of respondent Jaro, namely, Ged, Jude and the youngest baby girl, born in 1988, 1991 and 1994, respectively, were fathered by respondent Bucatcat. Complainant explained that these children could not have been fathered by her (respondent Jaro's) husband because he already left respondent Jaro in 1978 and subsequently died in 1989. The death certificate presented by complainant to substantiate her claim showed that "Jaime Ramirez Jose" died in Parañaque on 19 October 1989. He was 41 years old.

For the respondents, Wenceslao Ocong, Arsenio Reposar and Benedicta Aleria testified that they had not seen respondents in each other's house and that they were not living together. Antonio Peczon supported respondent Bucatcat's claim that he had been giving financial support to his children with complainant.

For their part, respondents substantially reiterated the allegations in their respective counter-affidavits. Respondent Jaro insisted that her husband is the father of all her children as shown by their respective certificates of live birth. She contended that the "Jaime R. Jose" in the death certificate is not her husband because the spouse named in said document is one Jabina Jaro. Further, she averred that respondent Bucatcat could not be her lover because she even filed a criminal case against him after he slapped and boxed her.

After termination of the investigation, the investigating judge submitted his report containing the following observations and comments:

> - The testimony of Renato Jimenez that he saw sometime in 1987 respondents doing sexual act in the house of one Ricardo Conde is not credible. As he alleged that it happened at about 2:00 o'clock in the afternoon in a house which is situated at the side of a street across the public market of Gandara, and that he was with other friends (barkadas) peeping through the hole of the walling of the house, is far from the truth. Respondents being matured and intelligent persons will not carelessly do such alleged illicit and scandalous act at such time and in a place where they can be easily detected by other persons.
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> - It is admitted that respondent Edgar Y. Bucatcat and Marta T. Bucatcat are now living separately, but the allegation that Edgar and Gene Jaro are living together is not supported by reliable witnesses. Witnesses Renato Jimenez and Miguel Fenellere are not close neighbors of either Edgar's parents or Gene Jaro. Renato Jimenez was observed by the Investigator to be a prejudiced witness. The testimony also of Miguel Fenellere that he saw respondent Edgar Bucatcat in the house of Gene Jaro and carrying in his arm a child of the latter is not sufficient to establish illicit relation of the respondents. Respondents are employees in the same court and it is not surprising that one may be seen in the house of the other.
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> - The certificates of live birth of Ged and Jude, children of respondent Gene Jaro, were offered in evidence by

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complainant (Exhibits E and F, Rollo, pp. 12 and 13). Both documents, however, show that the father of the named children is Jaime Jaro, the husband of Gene. There can be no better evidence than the document itself.

- Certificates of death of an alleged "Jaime R. Jaro" were offered also in evidence (Exhibits G and H). The Investigator entertains doubts as to the identity of "Jaime R. Jaro" named in said certificates of death as the same Jaime Jaro who is the husband of respondent Gene Jaro, because said certificates show that the surviving spouse of "Jaime R. Jaro" named therein is one Javina Jaro and not Gene S. Jaro. Evidence shows that Jaime Jaro and Gene S. Jaro were legally married and if it is the latter's husband who is the subject of said death certificates, then the name of respondent Gene S. Jaro would appear therein as his surviving spouse. It is not impossible that two persons may bear the same name and with the same middle initial.

- An alleged letter of one "Gene addressed to "Edgar" (Exhibit I) was submitted also in evidence by complainant, which she alleged to be a letter of respondent Gene Jaro for Edgar Bucatcat, and which came into her possession after it was surrendered to her by her husband during that period of their reconciliation after a fire razed Gandara. Said letter (Exhibit I) was, however, denied by respondent Edgar Bucatcat. As its authenticity was not proved or that it was written by respondent Gene Jaro, the Investigator counts such evidence not reliable.

- Three (3) torn pages of a diary (Exhibits J, J-3, and J-5) were submitted in evidence, which were admitted by respondent Edgar Bucatcat as pages torn off from his diary. Complainant presume that the boy named "Andro" in Exhibit J-5 is the child "Ged" in Exhibit E, who is a son of respondent Gene Jaro. It was explained by respondent Edgar Bucatcat that the boy "Andro" mentioned in his diary is his child born in 1977 as a consequence of his relation with a certain Generose Panogaling when he was still employed in the Philippine Village Hotel. He alleged that the name "Gene" in the diary (Exhibit J-5) is the short name for Generose Panogaling.

- There appears no satisfactory explanation of the fact why the live birth of respondent Gene Jaro's baby girl, who was born on January 9, 1994, has not been registered with the Local Civil Registry of Gandara, Samar and until the present, the child is still unnamed. The entries in her Delivery Record Book (Exhibit M) could not be completed, as alleged by midwife Eva Llacer Glore, for failure of Gene Jaro to give her the necessary data. Said respondent's flimsy pretext is that she has not yet found a name for the child. As a court employee, respondent Gene Jaro need not be apprised of her responsibility enjoined upon her by law as a mother of a newly born baby.

- Testimonial evidence shows an undeniable fact that in the deliveries by respondent Gene Jaro of her three children (Ged, Jude and the baby girl), her husband, Jaime Jaro, was not present in any of such deliveries, as he did not return anymore to Gandara, Samar after he left that town in 1978. He has neither appeared or executed an affidavit in connection with this case to defend his wife, Gene Jaro, or at least give her moral support especially now that the latter's fidelity to him is being challeged. This fact simply explains that the marriage of Jaime Jaro and respondent Gene S. Jaro has been disturbed, and the latter was not telling the exact truth when she alleged that they are "living together happily."

- It has been revealed in the course of the investigation that a case (Criminal Case No. 4747) was filed with the Municipal Circuit Trial Court of Gandara, Samar by Gene Jaro against Edgar Y. Bucatcat for allegedly slapping and boxing her and that she suffered bruises as a consequence (t.s.n., pp. 155-157). Without necessarily digging into the merits of the case, it should be borne in mind by respondents that they are both court employees and as such they should avoid acts and incidents that would undermine a court of justice, for it is their sworn and moral duty to maintain the respect due to the court and to uphold the high esteem and dignity of the judicial office."[1]

The investigating judge then recommended the following actions:

"The undersigned Investigator respectfully recommends, subject to the better judgment of the Honorable

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Supreme Court, the following disciplinary actions against the respondents, to wit:

- EDGAR Y. BUCATCAT, should be removed from the service or, if retained, he should be assigned or transferred to another court or station, if possible, for the good of the service, on the following grounds:

a)

For his abandonment of his wife and children without sufficient and valid reasons, which act makes him unworthy as an employee in a court of justice;

b)

For maltreating Gene S. Jaro, his superior co-employee in the same court, which conduct is prejudicial to the best interest of the service; and

c)

For having an affair with a woman (Generose Panogaling), with whom he had a son, which is a disgraceful and immoral conduct committed prior to entering the service, punishable under civil service rules.

- GENE S. JARO, should be administratively disciplined with a penalty of one (1) month suspension without pay, on the following ground:

a)

For failure to register with the Local Civil Registry of Gandara, Samar her last child born on January 9, 1994, despite a considerable length of time that passed since her delivery."[2]

In its memorandum, dated 25 April 1995, the Office of the Court Administrator (OCA), through Deputy Court Administrator Bernardo P. Abesamis, disagreed with the findings, conclusions and recommendations of the investigating judge in that:

- The records only show that complainant and her respondent husband are living separately. No proof was adduced by the former that they were abandoned, much less, that they were abandoned without reason. We feel that as respondent-husband is residing within the same municipality and was not shown to be aversed to having his family living with him, complainant, being the wife, has the burden of justifying why she and her children are not living with him.

- The absence of respondent Jaro's husband from Gandara town since 1978 and at crucial times, (birth of three of their children and during the investigation of the instant matter) is disturbing and a (sic) suspect. The Investigating Judge should have probed deeper as it was not adequately explained by respondent.

Considering that the whereabouts and paternity of Jaime were raised and in support of which death certificates were adduced in evidence, the burden is now shifted to respondent Jaro to prove he is alive and that he is in fact the father of the three children. To this end, uncorroborated denial is not sufficient for being self-serving.

We feel that the Investigating Judge should have given the death certificates more credit. A close scrutiny of the records would show that it is highly probable that the certificates are of respondent Jaro's husbands. We noted that the "Jaime Ramirez Jaro, 41 years old of Parañaque, Metro Manila," as appearing in the death certificate and the "Zjaime R. Jaro" as found in the marriage contract refers to one and the same person for the following reasons: (a) the place of issue of the former is a part of Metro Manila where respondent claim her husband is residing and carrying on his business; (b) the middle initial "R" stands for "Ramirez" as can be deduced from his mother's maiden name in the marriage contract; and (c) his age at the time of death (i.e., 41 in 1989) agrees with is age at the time of marriage (i.e., 26 in 1974). These similarities should have outweighed the difference in the name of spouse found therein. At any rate, respondent Jaro's own disclosure that she

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> heard rumors of her husband's death should have alerted the Investigating Judge that there were too many coincidences. It was so notwithstanding her claim that her children wrote her with the Information that their father still visits them as the alleged letter was not produced in court.
>
> Indeed, the absence of Jaime is baffling. His existence and whereabouts are unaccounted for since he left Gandara in 1978; no witnesses (family members, relatives or friends) were presented or letters produced in court to refute his alleged demise.
>
> We are, therefore, of the belief that the Jaime R. Jaro who died in 1989 is none other than respondent's absent husband.
>
> - The entries in the birth certificates should not be given full credit, particularly respecting the naming of Jaime as the father of the children considering that the registrations were caused by respondent and at the time he is believed to have already passed away, and, therefore, not able to impugn the filiation of the children. As respondent is the sole informant of the entries, the same may be said to be self-serving for purposes of establishing the paternity of a deceased father.
>
> - We note that the name of respondent's children, with the exception of the youngest child and of Ged, begins with the letter "J". To our mind, the name "Ged" is taken from the first two letters of respondent Jaro's and Bucatcat's name. (i.e., Gene and Edgar)
>
> - We are not convinced that the relationship between respondents is purely official. They did not deny they go to each other's house. Respondent Bucatcat was even seen carrying respondent Jaro's child.
>
> The criminal case on the alleged slapping and boxing incident between respondents further attest to their relationship on personal level even if it was not sufficiently proven that they are living together.
>
> In sum, it is the position of the undersigned that respondents Bucatcat and Jaro may be held as charged for immorality.[3]

The OCA then recommended that respondents be suspended for a period of one (1) year with a warning that a repetition of a similar offense in the future will be dealt with more severely.[4]

After a careful review of the records of the case, we find that the charge of immorality against respondents had been sufficiently established. They failed to convincingly refute the positive, categorical and clear testimonies of Jimenez and Fenellere that respondents were having an illicit relationship with each other. In his attempt to discredit Jimenez, respondent Bucatcat claimed that Jimenez testified against him only because Jimenez' father had an axe to grind against the father of respondent Bucatcat. This argument is utterly devoid of logic. In any case, there is still the testimony of Fenellere corroborating complainant's allegations and respondents failed to show any ill motive on his part to testify against them.

In addition, there is the letter[5], dated 7 July 1987, written by respondent Jaro to respondent Bucatcat. She lovingly greeted him in said letter "Everdearest Edgar" and ended the same with "i love you." Respondent Bucatcat naturally denied having received this letter. We have no reason, however, to doubt the authenticity and genuineness of this document and respondent Jaro did not deny having written the same. It unquestionably proves the existence of an intimate relationship between respondents. Moreover, as testified to by respondent Jaro, she was once slapped and boxed by respondent Bucatcat. As correctly observed by the OCA, this fact attests to their having a relationship on a very personal level.

Upon the other hand, we find respondents' testimonies, particularly that of respondent Jaro, incredulous. Respondent Jaro insists that she is happily married to her husband. The records, however, reveal otherwise. It has been established that her husband left Gandara, Samar for Manila in 1978. He never came back to visit his family

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since then. He was conspicuously absent when respondent Jaro gave birth to her last three children. Respondent Jaro testified that she heard rumors that her husband was already dead. It is not shown, however, if she cared enough to verify this otherwise distressful news. To our mind, these are not telltale signs of a happily married couple as respondent Jaro would like this Court to believe.

We do not deem it necessary, at this time, to pass upon the issues relating to the purported death of respondent Jaro's husband and the legitimacy or illegitimacy of her last three children. These are matters of utmost significance and may not be collaterally raised in this case. Specifically, the legitimacy of the children should be impugned in the proper proceedings.

In sum, we agree with the findings of the OCA that there is sufficient evidence to hold respondents liable for immorality for maintaining an illicit relationship with each other. Every employee of the judiciary should be an example of integrity, uprightness and honesty. Like any public servant, he must exhibit the highest sense of honesty and integrity not only in the performance of his official duties but in his personal and private dealings with other people, to preserve the court's good name and standing.[6] It cannot be overstressed that the image of a court of justice is mirrored in the conduct, official and otherwise, of the personnel who work thereat, from the judge to the lowest of its personnel. Court employees have been enjoined to adhere to the exacting standards of morality and decency in their professional and private conduct in order to preserve the good name and integrity of courts of justice.[7] Respondents have fallen far short of these standards.

WHEREFORE, respondents Edgar Y. Bucatcat and Gene S. Jaro are hereby DISMISSED from the service, with forfeiture of all retirement benefits and accrued leave credits and with prejudice to reemployment in any branch or instrumentality of the government, including any government-owned and controlled corporations. Let a copy of this Decision be appended to respondents' 201 files.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and De Leon, Jr., JJ., concur.

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[1] Rollo, pp. 101-103.

[2] Id., at 103.

[3] Id., Memorandum, pp. 4-6.

[4] Id., at 6.

[5] Exhibit "I".

[6] Estreller vs. Manatad, Jr., 268 SCRA 608, 618 (1997); Paredes vs. Padua, 222 SCRA 881 (1993).

[7] Dicdican vs. Fernan, Jr., 268 SCRA 69, 72 (1997).

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