

MARILOU NAMA MORENO, COMPLAINANT, VS. JUDGE JOSE C. BERNABE, METROPOLITAN TRIAL COURT, BRANCH 72, PASIG, METRO MANILA, RESPONDENT.

A.M. No. MTJ-94-963. July 14, 1995

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

The responsibility of a Judge is indeed heavy. As the incarnation of law and justice, it is his sworn duty to lead by example, to be the example. But how can he inspire the people to live by the law if he himself fails to do so?

Marilou Nama Moreno filed this complaint against Judge Jose C. Bernabe of the Metropolitan Trial Court, Branch 72, Pasig, Metro Manila for grave misconduct and gross ignorance of the law.

Complainant alleges that on October 4, 1993, she and Marcelo Moreno were married before respondent Judge Bernabe. She avers that Respondent Judge assured her that the marriage contract will be released ten (10) days after October 4, 1993. Complainant then visited the office of the Respondent Judge on October 15, 1993 only to find out that she could not get the marriage contract because the Office of the Local Civil Registrar failed to issue a Marriage license. She claims that Respondent Judge connived with the relatives of Marcelo Moreno to deceive her.[1]

In his comment,[2] Respondent denied that he conspired with the relatives of Marcelo Moreno to solemnize the marriage for the purpose of deceiving the complainant.

Respondent contends:

1. That the Local Civil Registrar of Pasig has actually prepared the marriage license but it was not released due to the subsequent objection of the father of Marcelo Moreno;
2. That he did not violate the law nor did he have the slightest intention to violate the law when he, in good faith, solemnized the marriage, as he was moved only by a desire to help a begging and pleading complainant who wanted some kind of assurance or security due to her pregnant condition;
3. That in order to pacify complainant, Marcelo Moreno requested him to perform the marriage ceremony, with the express assurance that "the marriage license was definitely forthcoming since the necessary documents were complete;"[3]
4. That the contracting parties were not known to him; and
5. That both parties, particularly the complainant, were fully apprised of the effects of a marriage performed without the required marriage license.

In a Resolution dated August 10, 1994, we referred this matter for investigation, report and recommendation to Executive Judge Martin Villarama, Jr., of the Regional Trial Court of Pasig, Metro Manila, Branch 156.

In his Memorandum of October 11, 1994, Judge Villarama, Jr. recommended the dismissal of the complaint against Respondent for failure of complainant to appear on any of the scheduled hearings and on the basis of a "Sinumpaang Salaysay"[4] executed on behalf of complainant who has left for Singapore by her elder sister Sherlita N. Bendanillo expressly withdrawing her complaint against Respondent.

Judge Villarama, however, also recommended that the Respondent be issued a stern warning "in view of the fact on record that he indeed solemnized a marriage without the requisite marriage license...."[5]

On November 7, 1994, we referred the afore-mentioned Memorandum to the Office of the Court Administrator for evaluation, report and recommendation.

In its Memorandum dated January 17, 1995, the Office of the Court Administrator stated:

Careful study of the records reveal that indeed respondent Judge displayed his ignorance of the law when he solemnized the marriage without a marriage license. As a judge, he is presumed to be aware of the existence of Article 3(2) of the Family Code of the Philippines (E.O. 209, as amended by E.O. 227), which provides that one of the formal requisites of a marriage is a valid marriage license. Absence of said requisite will make the marriage void from the beginning (Article 35 [3], the Family Code of the Philippines). Judges are enjoined to show more than just a cursory acquaintance of the law and other established rules.[6]

It recommended that Respondent be held liable for misconduct for solemnizing a marriage without a marriage license and that the appropriate administrative sanctions be imposed against him.[7]

We concur with the findings and recommendation of the Office of the Court Administrator.

Respondent, by his own admission[8] that he solemnized the marriage between complainant and Marcelo Moreno without the required marriage license, has dismally failed to live up to his commitment to be the "embodiment of competence, integrity and independence"[9] and to his promise to be "faithful to the law."[10]

Respondent cannot hide behind his claim of good faith and Christian motives which, at most, would serve only to mitigate his liability but not exonerate him completely. Good intentions could never justify violation of the law.

Must we always repeat our reminder in *Uy v. Dizon Capulong*[11] and several other cases[12] that -

...the judge is the visible representation of law and justice from whom the people draw their will and awareness to obey the law. For the judge to return that regard, the latter must be the first to abide by the law and weave an example for the others to follow. The judge should be studiously careful to avoid even the slightest infraction of the law. To fulfill this mission, the judge should keep abreast of the law, the rulings and doctrines of this Court. If the judge is already aware of them, the latter should not deliberately refrain from applying them; otherwise such omission can never be excused.

And have we not frequently stressed that:

... judges should endeavor to maintain at all times the confidence and high respect accorded to those who wield the gavel of justice. Circular No. 13, dated July 1, 1987, enjoins judges "to conduct themselves strictly in accordance with the mandate of existing laws and the Code of Judicial Conduct that they be exemplars in their communities and the living personification of justice and the Rule of Law...."[13]

A case in point, a definite precedent and a clear basis in determining the liability of Respondent in the instant case is *Cosca, et al. v. Palaypayon, Jr., et al.*[14] where Judge Palaypayon, Jr. was duly fined and sternly warned for, among others, solemnizing marriages without licenses. We declared:

... the conduct and behavior of everyone connected with an office charged with the dispensation of justice, from

the presiding judge to the lowliest clerk, should be circumscribed with the heavy burden of responsibility. His conduct, at all times, must not only be characterized by propriety and decorum but, above all else, must be beyond suspicion. Every employee should be an example of integrity, uprightness and honesty. Integrity in a judicial office is more than a virtue, it is a necessity. It applies, without qualification as to rank or position, from the judge to the least of its personnel, they being standard-bearers of the exacting norms of ethics and morality imposed upon a Court of justice.

On the charge regarding illegal marriages the Family Code pertinently provides that the formal requisites of marriage are, inter alia, a valid marriage license except in the cases provided for therein. Complementarily, it declares that the absence of any of the essential or formal requisites shall generally render the marriage void ab initio and that, while an irregularity in the formal requisites shall not affect the validity of the marriage, the party or parties responsible for the irregularity shall be civilly, criminally and administratively liable.

The civil aspect is addressed to the contracting parties and those affected by the illegal marriages, and what we are providing for herein pertains to the administrative liability of respondents, all without prejudice to their criminal responsibility. The Revised Penal Code provides that "[p]riests or ministers of any religious denomination or sect, or civil authorities who shall perform or authorize any illegal marriage ceremony shall be punished in accordance with the provisions of the Marriage Law." This is of course, within the province of the prosecutorial agencies of the Government.

Finally, on the alleged withdrawal of the complaint against Respondent, we reiterate our ruling in *Imbing v. Tiongson*:^[15]

The fact that complainant has lost interest in prosecuting the administrative case against herein respondent judge will not necessarily warrant a dismissal thereof. Once charges have been filed, the Supreme Court may not be divested of its jurisdiction to investigate and ascertain the truth of the matter alleged in the complaint. The Court has an interest in the conduct of members of the Judiciary and in improving the delivery of justice to the people, and its efforts in that direction may not be derailed by the complainant's desistance from further prosecuting the case he or she initiated.

To condition administrative actions upon the will of every complainant, who may, for one reason or another, condone a detestable act, is to strip this Court of its supervisory power to discipline erring members of the Judiciary. Definitely, personal interests are not material or controlling. What is involved here is a matter of public interest considering that respondent is no ordinary citizen but an officer of the court whose personal behavior not only upon the bench and in the performance of judicial duties, but also in his everyday life, should be beyond reproach.

WHEREFORE, PREMISES CONSIDERED, Respondent is hereby ordered to pay a fine of P10,000.00 and is STERNLY WARNED that a repetition of the same or similar acts will be dealt with more severely.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Bellosillo, and Quason, JJ., concur.

[1] Memorandum from the Office of the Court Administrator, signed by Deputy Court Administrator Juanito A. Bernard as approved by Court Administrator Ernani Cruz Pano, Rollo, p. 58.

[2] Rollo, pp. 14-16.

[3] *Id.* at 15.

[4] Rollo, p. 49.

[5] Id. at 56.

[6] Id. at 59.

[7] Id. at 60.

[8] Pre-hearing Order dated September 6, 1994 issued by Executive Judge Martin S. Villarama, Jr. which contains the following admissions made by Respondent at the pre-hearing conference:

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3. That respondent Judge solemnized marriage of the complainant and one Marcelo Moreno on Oct. 4, 1993;

4. That at that time, i.e., at the time the marriage was solemnized, the marriage license has not yet been issued/released by the Local Civil Registrar of Pasig;

xxx. (Rollo, p. 42.)

[9] Rule 1.01 Canon 1 Code of Judicial Conduct

[10] Rule 3.01 Canon 3 Code of Judicial Conduct.

[11] 221 SCRA 87 (1993).

[12] Garcia v. De la Pena, 229 SCRA 766 (1994); OCA v. Gines, 224 SCRA 261 (1993); Garganera v. Jocson, 213 SCRA 149 (1992).

[13] Cuaresma v. Aguilar, 226 SCRA 73 (1993).

[14] A.M. No. MTJ-92-721, Sept. 30, 1994.

[15] 229 SCRA 690 (1994).

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