NATIONAL BUREAU OF INVESTIGATION, COMPLAINANT, VS. JUDGE FRANCISCO D. VILLANUEVA, METROPOLITAN TRIAL COURT OF QUEZON CITY, BRANCH 36, RESPONDENT.

A.M. No. MTJ-99-1207. November 21, 2001

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The conduct and behavior of those connected with an office charged with the dispensation of justice must always be beyond reproach. They must be free of impropriety, not only with respect to the performance of their judicial duties, but also in relation to their behavior outside the courtroom.

The Case

The administrative charge before us was triggered by a letter[1] from then Director Santiago Y. Toledo of the National Bureau of Investigation (NBI), recommending the prosecution of Judge Francisco D. Villanueva (Branch 36, Metropolitan Court of Quezon City) and three others for illegal recruitment under Republic Act (RA) 8042 and white slave trade under the Revised Penal Code in relation to RA 7610. The letter also charged respondent with immorality, alleging that Marian Herrera was his live-in partner.

At the recommendation of then Court Administrator Alfredo L. Benipayo, the Court in a Resolution dated June 8, 1999, resolved to suspend respondent until further orders.

After receiving the counter-affidavits of Judge Villanueva and his co-respondents in the NBI investigation, which he adopted as his answer/comment in this administrative case, the Court referred the matter to former Court of Appeals Justice Pedro A. Ramirez -- consultant of the Office of the Court Administrator (OCA) -- for investigation, report and recommendation.

The Facts

The investigation on the matter began on August 24, 1999 and continued until April 19, 2001. Complainant presented four witnesses: Jobeth Diocales; Janet Ramas; Juvylyn Requilmen; and NBI Supervising Agent Julma Dizon Dapilos, executive officer of the Anti Child Abuse Division (ACADED) of the NBI. The defense, on the other hand, called eight witnesses: Judge Francisco D. Villanueva himself, Marlyn Sumadilla, Mrs. Violeta Jarra Villanueva (wife of respondent), Nitz Tao, Andres C. Torres-Yap, Felilu Amon Ying, Oscar Inocentes and Justice Catalino R. Castaneda Jr.

In his Report, Justice Ramirez summarized the facts as follows:

> "As testified by Jobet Diocales, Janet Ramas and Juvylyn Requilmen[,] it was Marlyn Sumadila and Joy Elardo who recruited and brought them from Tagum to Manila where they arrived by airplane early in the morning of January 19, 1999. It was Marian Herrera and her brother Paolo who met them at the airport and brought them to the house of Marian's live-in partner Judge Francisco Villanueva at No. 1 Hanna Street, Fil-Invest Batasan, Quezon City. Next morning at breakfast about 7:00 o'clock, Jobet, Janet and Juvylyn met

> respondent Judge Villanueva who was introduced to them by Marian, `Ito and asawa ko Judge Francisco Villanueva at ito naman yong mga talent na galing Davao.' Addressing Marian, respondent Judge Villanueva said, `Love, x x x an[g] babata pa [n]ila. Hindi pa sila p'wedeng makapunta sa Japan. Gawin nalang natin silang Dance Instructor.' On January 21, 1999, after coming from Divisoria to buy clothes to wear as dance instructors, the three girls were brought by respondent Judge first to Ihaw-Ihaw then to the house at Matalino Street, Quezon City that he (respondent Judge Villanueva) and Marian owned. In the evening of that day Jobet saw respondent Judge Villanueva and Marian asleep together. Awakened, Marian upon seeing her, told Jobet to massage respondent Judge which she did assisted by Juvylyn. In the evening of January 23, 1999 Jobet, Janet and Juvylyn were brought by Marian and respondent Judge to Bodega Nightclub where they started working as GROs. There they worked for two nights only because they could not stand the vulgarity of their companions. `Binastos po ako ng customer,' said Janet. She could not stand the laughter at them, said Juvylyn. According to Jobet customers touched her legs and shoulders and kissed her. Janet said she was touched from the shoulders down to her thighs and was kissed.
>
> "After the three girls[:] Jobet Diocales, Janet Ramas and Juvylyn Requilmen stopped working as GROs at Bodega Night Club, on [January] 26, 1999, Marian Herrera and respondent Judge fetched them from his (respondent Judge's) condominium at Murphy, Socorro, Cubao, Quezon City and brought the three girls to KTV Night Club in Timog, Quezon City where they worked as GROs for about a week. After January 29, 1999, when she (Janet) was `binastos x x x nang customers,' all three girls stopped working at KTV Night Club which angered respondent Judge. In the evening of February 11, 1999, Jobet Diocales and Janet Ramas were rescued by the NBI team at respondent Judge's condominium at 15[th] Avenue, Murphy, Socorro, Cubao, Quezon City. Juvylyn Requilmen was rescued by the same team at Ihaw-Ihaw Balot-Balot Restaurant owned by Marian Herrera and respondent Judge.
>
> "Respondent Judge denied having any amorous relation with Marian Herrera. According to him[,] she is but his distant relative on his mother's side. He was but a business adviser to her[,] which his wife Violeta confirmed. He did not have anything to do with the three girls' (Jobet, Janet and Juvylyn) stay at the condominium owned by Marian and their employment as GROs. Neither did he sleep there."[2]

Recommendation of the OCA Consultant

In his Report to the Court dated April 19, 2001, the OCA consultant said that respondent's denial could not prevail over the positive and clear adverse testimony of the three young women. Their version was more credible, considering that they had no motive to falsify their declarations. He recommended that respondent be held administratively liable for serious misconduct arising from violation of RA 7610.

The OCA investigator also found a clear indication of an illicit amorous relation between Marian Herrera and respondent, who was still married to Violeta Jarra Villanueva. He pointed out that such extramarital relation constituted immorality -- a serious charge under Section 8, Rule 140 of the Revised Rules of Court, the penalty for which is dismissal from the service.

The OCA consultant also reported that this Court administratively disciplined respondent three times as follows: (1) in AM No. MTJ-96-1107, he was reprimanded for failure to secure a written permission from the Supreme Court to engage in business; (2) in AM No. MTC-99-1227, he was found guilty of abuse of authority and ordered to pay a fine of P2,000; and (3) in AM No. MTJ-00-1245, he was found guilty of serious misconduct and/or inefficiency in violation of the Canons of Judicial Ethics, fined P10,000, and suspended for one year without pay. The penalties in the last two were each accompanied by a stern warning that a repetition of the same or similar infractions would be dealt with more severely.

The Court's Ruling

The Court agrees with the recommendation of Justice Ramirez that respondent is administratively liable for

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immorality and unbecoming conduct, but not for gross or serious misconduct.

Respondent's Administrative Liability

The evidence shows that respondent is not the owner of any of the establishments involved in this case. Moreover, there is no showing that the three alleged victims were being forced to work as "guest relations officers" (GROs) or that their private parts were fondled by customers. As testified to by the three young women, they had voluntarily gone with respondent to the night clubs to seek jobs. They needed no prior encouragement in spending all the money handed to them by Marian Herrera or in splurging on clothes and make-up to equip themselves for night club jobs.

Furthermore, the three "victims" were free to enter and leave the condominium where they resided.[3] They went to the disco only whenever they wanted to.[4] It is clear from their testimonies that they were not forced to do anything against their will. They were free to change their jobs, as they did twice later. They were allowed to leave their place of residence or work[5] anytime, as they in fact also did whenever they went to the discos and when they were "rescued." The evidence clearly shows that they were merely fetched -- two from the condominium where they were staying while looking for more acceptable jobs, and the third from the Ihaw-Ihaw Balot-Balot Restaurant, where she was already working as a cashier. The three alleged "victims" were not in need of any rescuing, for they were not in detention at the time they were fetched.

The above notwithstanding, respondent cannot be excused for his deeds. "The Canons of Judicial Ethics requires a judge to keep himself free from any appearance of impropriety. His personal behavior, not only while in the performance of official duties but also outside the court, must be beyond reproach, for he is -- as he is so aptly perceived to be -- the visible personification of law and of justice. A judicial office circumscribes a personal conduct and imposes a number of inhibitions, whose faithful observance is the price one has to pay for holding an exalted position."[6]

Though he denies encouraging the three young women to apply for jobs as GROs, his actions loudly speak otherwise. It is undisputed that he accompanied them to the Bodega Night Club one night in January 1999.[7] He introduced[8] them to the operator, Andres C. Torres-Yap, and informed the latter that the women were looking for jobs. Respondent also accompanied them when they applied at the KTV night club, where they eventually worked as GROs from January 26, 1999 to January 29, 1999.[9]

By his acts, respondent clearly facilitated the employment of the three young women as GROs. Our present society considers their work as morally wrong. By facilitating the employment of the three in a night club as such, he was placing the then impressionable minors directly on a path of moral decay. He was exposing them to a seedy world where the practice of offering one's flesh in exchange for money was thrust right in front of their faces.

Furthermore, by his careless acts, respondent opened himself to the charges of white slave trade and violation of RA 7610. Such acts are unacceptable, because "no position exacts a greater demand on moral righteousness and uprightness than a seat in the judiciary. High ethical principles and a sense of propriety should be maintained, without which the faith of the people in the judiciary so indispensable in an orderly society cannot be preserved."[10] In sum, his actions show conduct unbecoming his office.

The Court does not agree with the OCA consultant that the said acts of respondent constitute serious misconduct in office. "Serious misconduct is such misconduct which affects a public officer's performance of his duties as such officer and not only that which affects his character as a private individual. For serious misconduct to warrant dismissal from the service, there must be reliable evidence showing that the judicial acts complained of

were corrupt or inspired by an intention to violate the law. It must (1) be serious, important, weighty, momentary, and not trifling; (2) imply wrongful intention and not mere error of judgment; and (3) have a direct relation to and be connected with the performance of his official duties."[11]

In this case, the acts complained of are not connected with the performance of respondent's official duties; thus, they cannot be considered serious or gross misconduct. However, such acts are violations of the Code of Judicial Conduct, specifically Canon 2 which states that "[a] judge should avoid impropriety and the appearance of impropriety in all activities."

In the matter of immorality, we agree with the findings of the OCA consultant. First, the evidence clearly shows that respondent and Marian Herrera were lovers because respondent was found sleeping inside the same bedroom occupied by Herrera at No. 1 Hanna Street, Fil-Invest, Batasan, Quezon City. Second, they were cohabiting in the same house in the aforementioned address. Finally, respondent never denied that he was the husband of Herrera when he was introduced to complainant's witnesses. The testimonies on this point were spontaneous, clear and consistent. Pertinent portions of the testimony of Jobeth Diocales are reproduced hereunder:

> "Q
>
> When you reached Manila on January 19, 1999 at 1:30 a.m., was there anybody who pick you up from the airport?
>
> A
>
> Tita Marian Herrera and her brother Paolo, ma'am.
>
> Q
>
> And where did you proceed from the airport?
>
> A
>
> In the house of Judge Francisco Villanueva and Tita Marian, ma'am.
>
> COURT:
>
> Q
>
> Who's this Tita Marian you're talking about?
>
> A
>
> Live-in partner of Judge, sir.
>
> Q
>
> Do they live in the same house?
>
> A
>
> Yes, ma'am.

Q

Can you tell us exactly where this house is?

A

No. 1 Hanna Street, Fil-Invest, Batasan, Quezon City, ma'am.

Q

You said that it was Ate Marian and her brother Paolo who picked you up from the airport and you proceeded to 1 Hannah Street. You said also that it was the house of Judge Villanueva and Marian Herrera?

A

Yes, ma'am.

Q

When you arrived in 1 Hanna Street, was the Judge there?

A

Yes, he's sleeping and in the morning at 7:00 o'clock Ate Marian introduced Judge Villanueva to us as her husband, ma'am.

Q

And what if any did Judge Villanueva tell upon seeing you?

A

`Good Morning', ma'am.

Q

Aside from that, any other thing?

A

Invited us for breakfast, ma'am.

Q

What else if any?

A

He said we are of minor age and we could not go to Japan, ma'am.

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Q

Why not according to him?

A

He said `Love' referring to Ate Marian. `Ang babata pa nila. Hindi pa sila p'wedeng makapunta ng Japan. Gawin na lang natin silang Dance Instructor.'[12]

x x x x x x x x x

Q

So, let's make this clear, from the time you arrived in Manila on January 19 up to the time according to you, you were rescued when actually what you meant you were fetched by the NBI, you had only one conversation with Judge Villanueva?

A

No, sir.

Q

How many times did you talk to him?

A

Every time that we met, sir.

Q

The first time you talk with Judge Villanueva, what did you talk about?

A

He asked me how's my work, how's being G.R.O., our customers okay?

Q

Now, when you arrived in Manila, you were met according to you by Marian Herrera and you were brought to a place which you identified before the investigator as the house of Judge Villanueva, how did you know that was the house of Judge Villanueva?

A

Because they were together in the house and they were together sleeping, sir.

Q

Did you see them sleeping together?

A

Yes, sir.

Q

Pumasok ka ba sa k'warto?

A

Once. Tita Marian even asked me to get inside the room, so that I can massage Judge Francisco Villanueva who wanted to know what was my pressure, sir.

Q

This was how many days after your arrival in Manila?

A

Two (2) days, January 21, 1999 at 9:30 in the evening, sir.

Q

And did you not object and you agreed to massage Judge Villanueva, was that the kind of work that you were doing as a student of the Natural Therapeutic?

A

Yes, sir."[13]

x x x x x x x x x

"Q

And when you met Marian Herrera, how did she talk to you in English, tagalog or what?

A

Tagalog, sir.

Q

When according to you Marian Herrera said `My husband', did she say that in English or in Tagalog?

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A

In Tagalog, sir.

Q

What in exact words?

A

`Ito ang asawa ko Judge Francisco Villanueva at ito naman yong mga talents na galing Davao', sir.

Q

She was saying that in?

A

In Tagalog, sir.

Q

So Marilyn Herrera never used the word `husband' with respect to Judge Villanueva?

A

Yes, sir.

Q

What she said was `Ito ang asawa ko'?

A

Yes, sir."[14]

Janet L. Ramas, on the other hand, testified thus:

"ATTY PASCUAL:

Q

Miss Ramas, do you know Judge Francisco Villanueva?

A

Yes, ma'm.

Q

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Why do you know him?

A

Ate Marian introduced Judge Francisco Villanueva during breakfast time in the house of Judge Francisco Villanueva, ma'm.

COURT:

Q

By whom was he introduced?

A

By Ate Marian Herrera, your Honor.

x x x x x x x x x

Q

Can you give us exactly the address of that house of Judge Francisco Villanueva?

A

Yes ma'm No. 1, Hana Street, Batasan Hills."[15]

x x x x x x x x x

"Q

And who is Ate Marian Herrera?

A

Live-in partner of Judge Francisco Villanueva, ma'm."[16]

Juvylyn Requilmen testified on the same matter in this wise:

Q

Where is the house of Marian Herrera?

A

No. 1 Hannah Street, Batasan Hills, Filinvest, sir.

x x x x x x x x x

Q

Later in the day, did you ever meet anyone inside the house of Marian Herrera?

A

Yes, sir.

Q

Who was that?

A

Judge Francisco Villanueva, sir.

Q

If you were ask to point him out, could you point him to us?

A

(Witness pointing to a person who identified himself as Judge Francisco Villanueva)

Q

How did you meet Judge Francisco Villanueva?

A

He was introduced to us by Marian Herrera as her husband, sir.

Q

After you were introduced, did Judge Villanueva say anything if any?

A

When we have breakfast and he said `Ay, Love ang babata pa nila, hindi pa sila p'wedeng pumunta ng Japan, gawin na lang natin silang D.I.', sir.

Q

When Judge Villanueva said `Ay, Love ang babata pa nila, and then continued with this statement, to whom was he talking to?

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A

Marian Herrera, sir."[17]

x x x x x x x x x

ATTY. DE ALBAN:

Q

Did you meet Judge Villanueva early morning of June 19, 1999?

A

Yes, sir.

Q

And you said that he was introduced to you as the husband of Marian Herrera?

A

Yes, sir.

Q

What did Judge Villanueva say, if any?

A

he just laughed, sir."[18]

In contrast, respondent's denials and explanations were hollow and unworthy of belief. If indeed he was merely the business consultant of Marian Herrera, he would not be so free and so comfortable sleeping in the same bedroom as she or waking up and then having breakfast with her in her house. This is taking business consultancy much too far.

In an administrative proceeding, as contradistinguished from a criminal case, only substantial evidence -- that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion -- is required.[19] Here, the existence of extramarital relations between respondent and Marian Herrera is substantially supported by the evidence on record.

Appropriate Penalty

Rule 140 of the Rules of Court provides:

"Sec. 8. Serious charges. - Serious charges include:

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x x x x x x x x x

"3. Gross misconduct constituting violations of the Code of Judicial Conduct;

x x x x x x x x x

"8. Immorality;

x x x x x x x x x

"Sec. 11. Sanctions. -- A. If the respondent is guilty of a serious charge, any of the following sanctions may be imposed:

"1. Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporation. Provided, however, that the forfeiture of benefits shall in no case include accrued leave credits;

"2. Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or

"3. A fine of more than P20,000.00 but not exceeding P40,000.00."

Considering that respondent has already retired, he can no longer be dismissed or suspended. Hence, the appropriate penalty is a fine.

WHEREFORE, Judge Francisco D. Villanueva is found GUILTY of immorality and conduct unbecoming a judge. He is hereby FINED in the amount of P40,000.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Quisumbing, Pardo, Buena, Ynares-Santiago, De leon, Jr., Sandoval-Gutierrez, and Carpio, JJ., concur.

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[1] Rollo, pp. 6-9.

[2] Report, pp. 22-25; rollo, pp. 373-376.

[3] TSN, August 25, 1999, p. 50.

[4] Ibid.

[5] TSN, August 25, 1999, Afternoon Session, p. 28.

[6] Marcelino v. Singson Jr., 243 SCRA 685, 688-689, April 24, 1995, per Vitug, J.

[7] TSN, January 13, 2000, pp. 23-24; TSN, June 15, 2000, pp. 51-52.

[8] TSN, June 15, 2000, pp. 51-52; TSN, August 25, 1999, Morning Session, p. 65.

[9] TSN, August 25, 1999, p. 50.

[10] In Re: Derogatory News Item Charging Court of Appeals Justice Demetrio Demetria with Interference on Behalf of a Suspected Drug Queen, AM No. 00-7-09-CA, March 27, 2001, per curiam.

[11] Mamba v. Garcia, AM No. MTJ-96-1110, June 25, 2001, per curiam, citing Manuel v. Calimag Jr., 307

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SCRA 657, May 28, 1999.

[12] TSN, August 25, 1999, pp. 10-12.

[13] TSN, August 25, 1999, pp. 61-62.

[14] TSN, August 25, 1999, p. 8.

[15] TSN.

[16] TSN, August 25, 1999, p. 45.

[17] TSN, October 26, 1999, pp. 54-55.

[18] TSN, October 26, 1999, pp. 73-74.

[19] Ibid.

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