

EDWIN A. ACEBEDO, PETITIONER, VS. EDDIE P. ARQUERO, RESPONDENT.

A.M. No. P-94-1054. March 11, 2003

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

By letter-complaint[1] dated June 1, 1994, Edwin A. Acebedo charged Eddie P. Arquero, Process Server of the Municipal Trial Court (MTC) of Brooke's Point, Palawan for immorality.

Complainant alleged that his wife, Dedje Irader Acebedo, a former stenographer of the MTC Brooke's Point, and respondent unlawfully and scandalously cohabited as husband and wife at Bancudo Pulot, Brooke's Point, Palawan as a result of which a girl, Desiree May Irader Arquero, was born to the two on May 21, 1989. Attached to the letter-complaint was the girl's Baptismal Certificate[2] reflecting the names of respondent and Dedje Irader as her parents. Also attached to the letter-complainant was a copy of a marriage contract[3] showing that complainant and Dedje Irader contracted marriage on July 10, 1979.

By Resolution of September 7, 1994, this Court required respondent to file an answer to the complaint.[4]

By his Answer[5] of October 6, 1994, respondent vehemently denied the charge of immorality, claiming that it is "just a (sic) mere harassment and a product of complainant's hatred and extreme jealousy to (sic) his wife." [6] Attached to the answer were the September 27, 1987 affidavit of desistance[7] executed by complainant in favor of his wife with respect to an administrative complaint he had much earlier filed against her, and complainant's sworn statement[8] dated September 13, 1994 acknowledging paternity of a child born out of wedlock, which documents, respondent claims, support his contention that the complaint filed against him is but a malicious scheme concocted by complainant to harass him.

Additionally, respondent claimed that sometime in 1991, complainant likewise instituted a criminal complaint against him for "adultery" which was, however, dismissed after preliminary investigation.

Finally, respondent claimed that complainant himself had been cohabiting with another woman.

By Resolution of February 6, 1995, this Court referred the case to then Executive Judge Filomeno A. Vergara of the Regional Trial Court of Puerto Princesa, Palawan for investigation, report and recommendation.[9] Judge Vergara having retired during the pendency of the investigation, the case was referred to Executive Judge Nelia Y. Fernandez who was, by Resolution of August 16, 2000, directed by this Court to (1) verify the authenticity of the marriage certificate and baptismal certificate submitted by complainant; (2) conduct an investigation as to the information contained in the said baptismal certificate and the circumstances under which it was issued, and such other verifiable matters relevant to the charge; and (3) submit her report and recommendation thereon.[10]

In her Investigation Report of February 12, 2001, Judge Fernandez recommends that the complaint be dismissed for failure to adduce adequate evidence to show that respondent is guilty of the charge.[11] The report focuses on the non-appearance of complainant and Dedje Irader Acebedo, thusly:

x x x

Having appeared that the complainant Edwin Acebedo and Dedjie Irader who per reliable information cannot be notified for reason that subject persons are no longer residing in their given address and their whereabouts is unknown as shown by the return of the subpoena dated November 7, 2000, and the inadmissibility of the baptismal certificate alleging therein that the father of Desiree Arquero is the respondent herein, and for the reason that the same had not been testified to by Dedje Irader who is the informant of the entries contained therein, this Court had not received adequate proof or relevant evidence to support a conclusion that respondent herein could be held liable of the charge imputed against him, hence, he should be absolved from any liability.

x x x[12] (Quoted verbatim).

By Resolution of April 25, 2001, this Court referred the case to the Office of the Court Administrator (OCA) for evaluation, report and recommendation.

By Memorandum of December 12, 2001, the OCA, disagreeing with the recommendation of the Investigating Judge that the case should be dismissed, recommends that respondent be held guilty of immorality and that he be suspended from office for a period of one (1) year without pay.[13] Thus the OCA ratiocinates:

. . . [R]espondent admitted the fact that for eight (8) to nine (9) months, he a single man maintained relations with Dedje Irader Acebedo, wife of herein complainant, attended with “sexual union” (TSN dated 23 November 2000, pp. 14-15). Based on his testimony, we observed that respondent justified his having a relationship with Dedje I. Acebedo solely on the written document purportedly a “Kasunduan” or agreement entered into by complainant and his wife, consenting to and giving freedom to either of them to seek any partner and to live with him or her. Being a court employee respondent should have known that said agreement was void despite it having been notarized. Even granting that Dedje I. Acebedo was separated from her husband during their short lived relation, to hold on to said scandalous agreement and enter an immoral relationship with a very much married woman and a co-court-employee at that is highly improper. It is contrary to the Code of Conduct and Ethical Standards of Public Officials and Employees which provides that public employees of which respondent is one, xxx “shall at times (sic) respect the rights of others, and shall refrain from doing acts contrary to law, good morals, good customs, public policy, public order, public safety and public interest. Moreover, respondent cannot seek refuge and “sling mud” at complainant for having executed an Affidavit dated September 13, 1994, acknowledging that he bore a woman other than his wife, a child. It would seem that respondent would want to apply the principle of in pari delicto in the instant case. Respondent would have it appear that a married man with an extra-marital relation and an illegitimate child is precluded from complaining if his wife enters into a relationship with another man.

Second, the records show that an Affidavit of Desistance was executed by herein complainant. However, a cursory reading of said document reveals that it favors only Dedje Irader Acebedo and not herein respondent. Interestingly, the date of said affidavit is 2 September 1987. Respondent had the temerity to claim it as evidence in his favor when the instant complaint was only filed sometime in 1994.

Third, when respondent was asked by the investigating judge if he attended the baptism of the daughter of Dedje Irader Acebedo, his former co-employee and ex-intimate friend, he answered, “I did not. I’m not sure the child is mine”. From his answer, we could infer that respondent did not categorically rule out the possibility that said child might be her (sic) daughter, only that he is doubtful of her paternity.

x x x[14] (Emphasis supplied; underscoring in the original).

While complainant appears to have lost interest in the prosecution of the present case, the same does not ipso facto warrant its dismissal. Once administrative charges have been filed, this Court may not be divested of its jurisdiction to investigate and ascertain the truth thereof.[15] For it has an interest in the conduct of those in the

service 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 prosecuting the case he initiated.[16]

On the merits of the case, the entry of respondent's name as father in the baptismal certificate of Desiree May I. Arquero cannot be used to prove her filiation and, therefore, cannot be availed of to imply that respondent maintained illicit relations with Dedje Irader Acebedo. A canonical certificate is conclusive proof only of the baptism administered, in conformity with the rites of the Catholic Church by the priest who baptized the child, but it does not prove the veracity of the declarations and statements contained therein which concern the relationship of the person baptized.[17] It merely attests to the fact which gave rise to its issue, and the date thereof, to wit, the fact of the administration of the sacrament on the date stated, but not the truth of the statements therein as to the parentage of the child baptized.[18]

By respondent's own admission, however, he had an illicit relationship with complainant's wife:

Q:

During the formal offer of the possible nature of your testimony before the Court by your counsel, did the Court get it correct that there has been a short lived relation between you and Dedgie Irader, am I correct in my impression?

A:

During that time that I have heard she and her husband have parted ways already, I jokingly informed her that she is now being separated, she is now single and is free to have some commitment. So, I courted her and she accepted me, so we have a short lived relation and after that we parted ways.

Q:

For how long was this short lived relation you made mention a while ago?

A:

May be (sic) about eight (8) to nine (9) months.

Q:

When you said you have (sic) a short lived relationship from 8 to 9 months, you mean to tell the Court that you have (sic) a sexual union with this woman?

A:

Yes ma'am.[19] (Emphasis and underscoring supplied).

Respondent justified his pursuing a relationship with complainant's wife with the spouses having priorly entered into a settlement with respect to their marriage which was embodied in a "Kasunduan", the pertinent portions of which are reproduced hereunder:

Kami, EDWIN AGUINALDO ACEBEDO at DEDJE IRADER ACEBEDO, may sapat na taong gulang, mag-asawa, Pilipino, at kasalukuyang nakatira sa Poblacion, Broke's (sic) Point, Palawan, ay malayang nagkasundo ng mga sumusunod:

- Na, yayamang hindi kami magkasundo bilang mag-asawa, at magiging miserable lamang ang aming mga buhay kung aming ipagpapatuloy pa ang aming pagsasama bilang mag-asawa, kami ay malayang nagkasundo ngayon na maghiwalay na bilang mag-asawa, at ang bawat isa sa amin ay may kalayaan na humanap na ng kaniyang makakasama sa buhay bilang asawa at hindi kami maghahabol sa isat isa sa alin pa mang hukuman;

x x x[20] (*Italics supplied*).

Respondent's justification fails. Being an employee of the judiciary, respondent ought to have known that the Kasunduan had absolutely no force and effect on the validity of the marriage between complainant and his wife. Article 1 of the Family Code provides that marriage is "an inviolable social institution whose nature, consequences, and incidents are governed by law and not subject to stipulation." It is an institution of public order or policy, governed by rules established by law which cannot be made inoperative by the stipulation of the parties.[21]

Republic Act 6713, otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees, enunciates the State's policy of promoting a high standard of ethics and utmost responsibility in the public service.[22]

Although every office in the government service is a public trust, no position exacts a greater demand for moral righteousness and uprightness from an individual than in the judiciary.[23] That is why this Court has firmly laid down exacting standards of morality and decency expected of those in the service of the judiciary.[24] Their conduct, not to mention behavior, is circumscribed with the heavy burden of responsibility,[25] characterized by, among other things, propriety and decorum so as to earn and keep the public's respect and confidence in the judicial service.[26] It must be free from any whiff of impropriety, not only with respect to their duties in the judicial branch but also to their behavior outside the court as private individuals.[27] There is no dichotomy of morality; court employees are also judged by their private morals.[28]

Respondent's act of having illicit relations with complainant's wife is, within the purview of Section 46 (5) of Subtitle A, Title I, Book V of Executive Order No. 292, otherwise known as the Administrative Code of 1987, a disgraceful and immoral conduct.

Under Rule IV, Section 52A (15) of the Revised Uniform Rules on Administrative Cases in the Civil Service, an immoral conduct is classified as a grave offense which calls for a penalty of suspension for six (6) months and one (1) day to one (1) year for the first offense, and dismissal is imposed for the second offense.

Since the present charge of immorality against respondent constitutes his first offense, his suspension for six (6) months and one (1) day is in order.

WHEREFORE, this Court finds respondent Eddie P. Arquero, Process Server of the Municipal Trial Court of Brooke's Point, Palawan, GUILTY of immorality, for which he is hereby SUSPENDED for six (6) months and one (1) day without pay with a STERN WARNING that commission of the same or similar acts shall be dealt with severely.

Let a copy of this decision be filed in the personal record of respondent.

SO ORDERED.

Puno, (Chairman), Panganiban, Sandoval-Gutierrez and Corona, JJ., concur.

[1] Rollo at 1.

[2] Id. at 3

[3] Id. at 2.

[4] Id. at 4.

[5] Id. at 5.

[6] Id.

[7] Id. at 9.

[8] Id. at 10.

[9] Id. at 15.

[10] Id. at 69.

[11] Report and Recommendation at 3.

[12] Id.

[13] Memorandum at 6.

[14] Id. at 4-5.

[15] *Imbing v. Tiongson*, 229 SCRA 690, 702 (1994).

[16] Id.

[17] *Macadangdang v. Court of Appeals*, 100 SCRA 73, 84-85 (1980).

[18] *Fortus v. Novero*, 23 SCRA 1330, 1340 (1968).

[19] TSN, November 23, 2000 at 14-15.

[20] Rollo at 106.

[21] Tolentino, *Commentaries and Jurisprudence on the Civil Code of the Philippines*, Vol. 1, 1990 ed., at 222-223.

[22] *Civil Service Commission v. Sta. Ana*, A.M. No. OCA-01-5, August 1, 2002 (citation omitted).

[23] *Legaspi v. Garrete*, 242 SCRA 679, 701 (1995).

[24] *Merilo-Bedural*, 342 SCRA 593, 599 (2000).

[25] *Merilo-Bedural v. Edroso*, 342 SCRA 598.

[26] *Policarpio v. Fortus*, 248 SCRA 272, 276 (1995) (citation omitted).

[27] *Burgos v. Aquino*, 249 SCRA 504, 509 (1995) (citation omitted).

[28] Id.

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