

CONCHITA LIM-ARCE, COMPLAINANT, VS. ALEJANDRO S. ARCE, DEPUTY SHERIFF, AND CARMEN A. BARBASA, STAFF ASSISTANT I, REGIONAL TRIAL COURT, TACLOBAN CITY, RESPONDENTS.

Adm. Matter No. P-89-312. January 09, 1992

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PER CURIAM:

The instant case arose from a sworn letter-complaint filed by Conchita Lim-Arce, and received by the Office of the Court Administrator on April 21, 1989, against her husband Alejandro S. Arce and Carmen A. Barbasa, both employed as Deputy Sheriff and Staff Assistant 1, respectively, at the Regional Trial Court, 8th Judicial Region, Government Center, Palo, Leyte, for immorality allegedly committed as follows:

Complainant, who is the wife of respondent Arce, alleged that sometime in July 1988, while she was searching for their camera in the aparador in their house, she accidentally discovered several letters, telegrams, pictures, etc. neatly placed underneath the paper cover of the drawer which has always been locked but happened to be opened (sic) that day. The letters and telegrams were all addressed to respondent Arce and allegedly written by respondent Barbasa who therein intimately call (sic) herself "Mama" and complainant's husband as "Papa."

Complainant informs that in an effort to hide their true identity in some of their communications, respondents use their respective maternal surnames.

After the discovery, complainant confronted respondent Arce who then promised to stop his illicit relations with respondent Barbasa. Despite this promise, however, respondent Arce continued his illicit affair. This allegedly affected complainant physically and mentally, causing her eventual confinement in a hospital.

According to complainant, after her hospitalization, she found her children staying with her relatives and no longer in their conjugal home because her husband had maltreated them. Her husband also announced openly to his family that he was not leaving his mistress since they were having a harmonious relationship.

Complainant further alleges that in one occasion, she went to the court premises to get her husband's pay check upon his order and while there, complainant saw respondent Barbasa in the library and she looked at her from a distance. When complainant's husband arrived home that day, he accused complainant of putting respondent Barbasa to great shame, and when complainant denied the accusation, respondent Arce allegedly boxed her.[1]

It appears, however, that respondent Arce filed an application for his early retirement under Republic Act No. 6683 and which was approved by the Court En Banc in its resolution dated April 20, 1989.[2] Upon the recommendation of then Court Administrator Meynardo A. Tiro,[3] the Court dismissed the complaint for being moot and academic in its resolution dated July 4, 1990, it appearing that respondent had already retired from the service on April 20, 1989, with the approval of the Court, and that the complaint was filed on April 21, 1989.[4]

Complainant thereafter filed a motion for reconsideration of the dismissal alleging that although the retirement of respondent Arce has mooted the administrative complaint against him, the same is not true as to respondent Barbasa who is still in the service as Staff Assistant 1 at the Regional Trial Court Library at Palo, Leyte, hence the case as against her should proceed.[5]

Pursuant to the memorandum report of the Office of the Court Administrator,[6] this Court issued a resolution on December 12, 1990[7] which set aside the resolution of July 4, 1990 which dismissed the complaint for being moot and academic, and referred the case to Executive Judge Pedro S. Espina of the Regional Trial Court of Tacloban City for investigation, report and recommendation.

Executive Judge Espina submitted his Final Report dated June 25, 1991,[8] with the following findings:

The alleged illicit relationship was discovered (in the) month of July 1988, when the complainant accidentally found letters, telegrams and cards in his cabinet. The wife confronted husband Alejandro Arce, who impliedly admitted his relationship with co-respondent Carmen Barbasa and promised the wife that he will gradually end the relationship. With the assurance, she withheld the filing of a formal complaint. Without her knowledge, Sheriff Arce filed his optional retirement, without giving her and the family any part for their support and left the conjugal home. He permanently lives now with respondent Carmen Barbasa at Barangay Pawing, Palo, Leyte.

During the investigation Carmen Barbasa was confronted with the letters, cards and telegrams. She admitted some as written or sent by her while denying others. Those letters and cards are below quoted and Carmen Barbasa's comment:

1. Annex "A" - A handwritten letter dated 09/26/84:

"Papa,

Sorry, I never went to Tacloban last night. To my mind you were very much exhausted, so do I. I want you to rest for the next return bout, same as Ali, on the 2nd round.

Love,

Mama

P.S. Expect me tonight. I'll be there."

Respondent admitted the letter was her handwriting and the "Papa" referred to, is co-respondent Alejandro Arce. Why she would address Alejandro Arce as "Papa" she explained she looks upon him as a father by way of showing her appreciation for the advices given her. She said she was just joking when she mentioned about a "return bout."

2. Annex "B" - a typed letter dated October 5, 1984, unsigned:

"Dearest Papa,

How are you? enjoy the fiesta? Have you find (sic) someone new? I missed you a lot. A problem had cropped up in your absence, hence you're the only one I can confide with my problems, I wish to consult you and ask for some sort of advice what might be the proper solution.

Since we could not talk in the office without appearing too conspicuous, I wish to talk to you at the usual place, if it will not be nuisance. If too busy, just disregard my request. Don't worry still I'm aware of the agreement.

Thank you very much, your generosity will be rewarded in the future. I love you till death. Regards to her and the kids, and esp. to you. Take care. Pls. do your job well. Your neglect hurts me much.

Love and Pry'r

Mama"

Respondent denied the letter was hers.

3. Typewritten letter dated Nov. 19/84:

"Papa,

Are you angry w/ me? kaya ka nakasimangot? You and your labonita get married coz you are using it as reason for driving me home. I love you Son of a bitch. Take care, I missed you a lot. May luck be always with you my love.

Love,
Mama"

Respondent denied the letter.

4. Annex "D" - Dated 12/05/84 in block writing:

"Hello! How are you? The only thing I am disappointed, that once you got what you want, you never talk to me, Neither you said "I'm going home" Why? I was eager to see, but I was hesitant. Maybe she was around. You were silent. So my hypothesis was right and another, you know the reason, pecuniary problems. Take care. Von voyage te amo

Mama

P.S. I wanted to find out what happened last Monday at BIR?"

Respondent disowned the above letter.

5. Annex "E" - Handwritten in a pink stationery, dated 12/7/84:

"Papa,

How are you? Did you enjoy your weekend? I missed you. Are you (free) today? How about the best things in life is stolen, have you seen them already? I really wanted to see a movie, if you're busy, just disregard my suggestion. How's your "Salome"? Can't sleep thinking of her.

Another thing, if you would not mind, just pay Aludia for me 75.00 bucks I promised her today. Hope you will not disappoint me as you know not to appear obvious, or conspicuous. "Ich liebe dich!

"Mama"

Respondent admitted she wrote the above letter.

6. Annex "F" - dated 10-14-86, is a social telegram sent via RCPI to respondent Alejandro Arce:

"Alejandro Arce
Tacloban City

INQUIRING YOUR PHYSICAL CONDITION HOPING YOU TO BE WELL SOON
ATTY. AFABLE"

She does not remember sending the above telegram, but she admits AFABLE is her mother's surname'.

7. Annex "G" - is a Christmas Card sent December, 1986, the printed message reading:

"There's always sweetness
so much tenderness
With you by my side

And as the days so swiftly pass
I pray our love will forever last
But for the moment this Christmas day
May our love be more than just a thing of the past
And for the New Year let our future
be full of cheer
Always together.
At the end of the message was a hand-written "I love You"
Love and Pray'r,
Mama

P.S. Hope you'll never change as days goes (sic) on. My X-mas gift will be differed (sic) till Jan. during my birthday. "Joke only." Merry christmas and a prosperous New Year to you love and your loved ones. I hate that Christmas had come. To me it's loneliness.

Same"

Respondent declares that the handwritten post-script looks like her handwriting, but denied it was hers. (TSN, p. 36 Ibid).

8. Annex "H" – Handwritten in block letters dated 06-10-87, 8:55 P.M.

"Dear Papa,

How are you? Although it's not proper for a girl to make the first move, I had to do it, after 3x times of taking chances to see you. Why are you doing this? You lied to me. You are not even worth for a trust and confidence. I should not have given you such value.

We are not kids. We should stick to principles, if you have that.

If you have time, I want to have a little talk with you. If busy with someone nice and new, just ignore my wish and forget everything.

Remember that we are in Court, even if I'm already a sore to your eyes, I'm entitled to a day in Court.

Why a sudden change. What have I done?

Mama

P.S. I shall hate you for this and I can't forgive you until my death. I can't forget this incident, happening between us. I am really very sad, why you are treating me like these. I made a mistake why I came back. I don't need plastic. What I need is real. Bring everything that belongs to me. Why are you doing this to me? Where did I made (sic) a mistake? Pls. reply soon . . . before it would be rather too late."

Respondent Barbasa denied writing Annex "H" above. (TSN, p. 31, Ibid).

9. Annex "I" handwritten letter dated September 11, 1987. It reads:

"My dearest Papa,

How are you? Hope you're safe and sound. The boat arrived Sunday at 1:30 a.m. I was bored and it was a long travel, the sea was very rough, my head was aching and 'coz of anxiety my monthly sickness arrived. "Wala sa oras."

It was already 6:00 a.m. Sunday, Kuya has not arrived yet and the crew member announced all passengers should go down, fear of being left alone I took a taxi which cost me more than hundred including handling.

Kuya told me I'm like Mama Mely, I had to go home only for injection and he asked me, "saan naman ang asawa mo? I could not answer him. Para bang tinutukso niya ako.

Enclosed is my DTR from Sept. to Nov. '87, and also please make for me a clearance signed by the librarian and/or the clerk of court, that I'm free of property and money accountability. Please make one for me duly accomplished, my leave might be questioned and I'll not be paid my monthly salary. I'll die if no bread.

Papa, I just recently transferred to my new residence, just yesterday. Sorry I could not write you immediately, I was busy preparing my petition, you know that the deadline was Sept. 15. Attach na lang this clearance to my DTR and leave, hand in them to Gunding, or if you can't passed (sic) them for signature personally, tell Inday to have them signed before giving them to you. Just teach her, and also furnish me a copy of said clearance you can get a copy of the form from the Province or make one for me, two must sign, purpose: to attend pre-week review & to take BAR.

My address is Quezonian Ladies Dormitory 986 R. Hidalgo St., Quiapo, Manila, just in front of the examination Bldg. I don't know my room mates, alien, tagalogs. Regards. Take care. I love you.

Love & Pray'r
Mama

P.S. Keep the good work, regards to my co-employees and to your best friend Fiscal Visbal and your girlfriends esp. to "her".

Same

Pls. Pa, have Joe signed (sic) for Mana Letty na lang baka marami pang pregunta si Tikya or anything basta malulusutan mo okey na rin sa akin. I missed you. Te amo. This is rush."

Respondent admitted she wrote the letter (TSN, p. 40 Ibid).

10. Annex "J" - dated Sept. 18, 1987 in handwritten:

"My dearest Papa,

How are you, I hope you received my letters and you are already well from that disturbing cough. Please try to take care of your health. You can have it only once, nurture them.

Pa, before I forget just send back my clearance duly accomplished, complete all copies, and I forget my address pala is Quezonian Ladies Dormitory 986 R. Hidalgo St., Quiapo, Manila. I forgot to mention the street, sorry. I had received my 15th salary of Sept. here already and I don't know if it's true according to Annie there's P1,300.00 allowance, you know naman she always brag all knowing I don't rely on her testimonies.

Regards to the kids, "her" and most especially to my only love. I love you.

Love & Pray'r,
Mama

P.S. This is not urgent, it's only a follow-up letter 'coz of the address.

Same"

Respondent admitted it was her letter. (TSN p. 45 Ibid)

11. Annex "L" - is a Christmas Card with Salutation "Love to You Sweetheart at Christmas and always." Dated December 19, 1987. Printed message of the card reads:

"The love I'm sending you

is only a small part

of what's in my heart

the whole year through.

Merry Christmas With Much Love Always.

There is a handwritten post-script reading: I always love you. Hope you're sincere too.

With love & Pray'r,

Mama"

Respondent admitted sending the card but declared she randomly picked the card (TSN, p. 34 ibid).

12. Annex "M" - is a "Missing You" card with a bleeding heart on cover, Dated February 9, 1988, addressed to "My dearest Papa" the printed message reading:

"Missing you and all the special things we used to do.

Wishing too, that we could get together and chat about what's new.

Missing you.. and wanting you to know you're in my thoughts much more than words can show.

WISH YOU WERE HERE!

Yours,

Mama"

Respondent admitted she sent the card but says she picked the card without the intention of conveying such endearing message.

On the basis of the foregoing, Executive Judge Espina found that sufficient evidence exist to prove that respondents are guilty of immorality and thereby recommended the dismissal of respondent Barbasa, with the exception of respondent Arce who had since then retired from the service. The Executive Judge hastens to add[9] that "(t)his extreme penalty (of dismissal) could have been tempered if she severed her relationship from Arce by way of demonstrating desistance after realizing that she may destroy a family. On the contrary, she aggravated the situation. Whereas before, she would only rendezvous for a tryst surreptitiously, she now lives with him openly under one roof. This is established with credible evidence that the legal wife discovered as appearing in her supplemental affidavit[10] and photographs.[11]

On July 31, 1991, the Court referred the matter to the Office of the Court Administrator for re-evaluation, report and recommendation.[12] In a memorandum submitted by Deputy Court Administrator Juanito A. Bernad, dated October 29, 1991, respondent Barbasa was recommended for dismissal from the service with forfeiture of all retirement privileges and with prejudice to reinstatement in the national and local governments, as well as in any instrumentality or agency including government-owned or controlled corporations. It is pointed out therein that

the documentary evidence cannot but yield the conclusion that an illicit relationship existed between respondents since 1984; that respondent Barbasa's letters to her co-respondent are in the nature of endearing messages addressed to a lover and not, as she pretends, to a respected elder or friend; and that she now lives with her co-respondent in Paway, Palo, Leyte.[13]

The deputy court administrator likewise opines that "(a)lthough respondent Arce is also guilty of immorality, it is unfortunate that the proper penalty cannot be imposed upon him, for he has already retired from the service and has collected his retirement benefits. Hence, the case against him is now moot and academic."[14]

There is no iota of doubt, on the basis of the evidence presented, that respondents Arce and Barbasa are guilty of the detestable acts complained of.

Time and again we have stressed adherence to the principle that public office is a public trust. All government officials and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency, act with patriotism and justice, and lead modest lives. This constitutional mandate should always be in the minds of all public servants to guide them in their actions during their entire tenure in the government service.[15] The good of the service and the degree of morality which every official and employee in the public service must observe, if respect and confidence are to be maintained by the Government in the enforcement of the law, demand that no untoward conduct on his part, affecting morality, integrity and efficiency while holding office should be left without proper and commensurate sanction, all attendant circumstances taken into account.[16]

The exacting standards of ethics and morality imposed upon court employees and judges are reflective of the premium placed on the image of the courts of justice. In the words of Justice Cecilia Muñoz Palma:

The image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women who work thereat, from the judge to the least and lowest of its personnel - hence, it becomes the imperative sacred duty of each and everyone in the court to maintain its good name and standing as a true temple of justice.[17]

Under Section 36 of Presidential Decree No. 807, which provided for the organization of the Civil Service Commission, and Memorandum Circular No. 30, Series of 1989 of the Civil Service Commission, disgraceful and immoral conduct is punishable by dismissal.

WHEREFORE, respondent CARMEN A. BARBASA, is hereby ordered DISMISSED from the service with forfeiture of all retirement benefits and with prejudice to reinstatement in the national and local governments, as well as in any governmental instrumentality or agency including government-owned or controlled corporations. This resolution is immediately executory. Let a copy of this resolution be entered in the personal records of respondents.

Narvasa, C.J., Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Padilla, Bidin, Griño-Aquino, Medialdea, Regalado, Davide, Jr., and Romero, JJ., concur. Nocon, J., no part.

[1] Rollo, 28.

[2] Ibid., 40.

[3] Ibid., 28.

[4] Ibid., 30.

[5] Ibid., 31.

- [6] Ibid., 40.
- [7] Ibid., 43.
- [8] Ibid., 209-220.
- [9] Ibid., 219-220.
- [10] Ibid., 137.
- [11] Ibid., 139-141.
- [12] Ibid., 222.
- [13] Ibid., 230-231.
- [14] Ibid., 231.
- [15] City Mayor of Zamboanga vs. Court of Appeals, et al., 182 SCRA 785 (1990)
- [16] Soriano vs. Quintos, et al., 133 SCRA 215 (1984).
- [17] Recto vs. Racelis, 70 SCRA 438 (1976); Sy Tian Tin vs. Macapugay, 106 SCRA 241 (1981).

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