

THELMA T. BABANTE-CAPLES, COMPLAINANT, VS. PHILBERT B. CAPLES, UTILITY WORKER II, HALL OF JUSTICE, MUNICIPAL TRIAL COURT, LA PAZ, LEYTE, RESPONDENT.

A.M. No. HOJ-10-03 (Formerly A.M. OCA IPI No. 09-04-HOJ). November 15, 2010

Ponente: NACHURA, J.

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NACHURA, J.:

In an Affidavit-Complaint[1] dated March 5, 2009, Thelma T. Babante-Caples (complainant) charged her husband, Philbert B. Caples (respondent), Utility Worker II, Hall of Justice, Municipal Trial Court (MTC), La Paz, Leyte, with Immorality.

In his Counter-Affidavit[2] dated May 12, 2009, respondent vehemently denies all the allegations stated in the complaint. He contends that the same are untrue, baseless, malicious, and exaggerated.

The Report[3] dated October 5, 2009 of the Office of the Court Administrator (OCA) recommended that the complaint be referred to the Executive Judge of the Regional Trial Court (RTC) of Abuyog, Leyte, for investigation, report, and recommendation.

In a Resolution[4] dated November 25, 2009, the Court referred the instant case to Judge Buenaventura A. Pajaron (Judge Pajaron), Executive Judge, RTC, Abuyog, Leyte, for investigation, report, and recommendation.

Lengthy hearings were conducted by Judge Pajaron, at which complainant and her witnesses Pedro A. Caducoy, Jr. and Francisco Cadion Daro, Jr. testified in support of the complaint. On the other hand, counsel for respondent manifested that respondent was not willing to testify, and waived his right to present evidence because respondent already submitted his resignation letter to the OCA.

The testimonies of the witnesses are summarized as follows.

Complainant, 39 years old, married, and a public school teacher, narrated that she is the legal wife of respondent and that they have two (2) legitimate children. She stated that their happy and blissful marriage was shattered because of the infidelity of respondent, who had an illicit relationship with one Rennalyn Cordovez.[5] She further narrated that the affair of the two has become public knowledge in their community, and the public display of their immorality has caused so much pain to her and to their children.

On February 6, 2008, complainant pleaded with her philandering husband, who had a drinking session with his paramour in a nearby videoke house, to stop his immoral conduct. She stated that, instead of heeding her plea, respondent physically assaulted her by slapping her face several times. As if the beating he inflicted on complainant was not enough, respondent left the conjugal dwelling on March 18, 2008 to join his mistress Rennalyn Cordovez in Dulag, Leyte.

On April 14, 2008, complainant sought the assistance of the MTC Judge of La Paz, Leyte, where her husband was working, to help her with her problem. She claims that, during the meeting arranged by the Judge, her husband

asked for forgiveness for what he had done. However, after a short while, her husband resumed his immoral act and deprived his family of moral and financial support. Complainant alleged that her husband's mistress has given birth to a child, and that they are now living in the poblacion of the Municipality of Tolosa, Leyte.

Pedro A. Caducoy, Jr., 25 years old, married, and a barangay tanod of Barangay Palale, MacArthur, Leyte, testified that he personally knows respondent because his house is located 10 meters away from the conjugal home of complainant and respondent; that he personally knows Rennalyn Cordovez because she is also a resident of Barangay Palale, and his house is located 15 meters away from her house; that in December 2007, he saw respondent enter the compound of Rennalyn Cordovez on board a motorcycle at eleven o'clock in the evening; that he saw Rennalyn Cordovez standing outside the gate and holding a cellphone before respondent would enter the compound, which happened several times; and that there is a street light located in front of the gate of the compound.

Francisco Cadion Dado, Jr. testified that, when he visited his aunt in Tolosa, Leyte, he saw the house where respondent and his paramour lived together behind the marketplace, and that the house of his aunt was about 50 meters away from the house where respondent and his paramour lived. The witness also testified that he saw them twice.

Respondent manifested through his counsel that he would not testify; thus, the Investigating Judge considered respondent to have waived his right to present evidence on his behalf. Respondent was given the opportunity to be heard and refute the charges against him by adducing evidence; yet, he chose not to testify and adduce evidence. Instead, respondent tendered his resignation letter to the OCA of the Supreme Court.

The Investigating Judge averred that he proceeded to receive further evidence because, in *Faelden v. Lagura*,^[6] we held that "where the resignation of a court employee has not been acted upon, he remains an employee of the judiciary."

On the basis of the foregoing findings, Judge Pajaron recommended that respondent be dismissed from the service.

In administrative proceedings, only substantial evidence,^[7] i.e., that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion, is required. The standard of substantial evidence is satisfied when there is reasonable ground to believe that the person indicted was responsible for the alleged wrongdoing or misconduct.

We find Judge Pajaron's findings to be in order – a result of a meticulous and dispassionate analysis of the testimonies. But we modify the penalty to be imposed.

Immoral conduct is conduct which is "willful, flagrant, or shameless, and which shows a moral indifference to the opinion of the good and respectable members of the community."^[8] In several cases,^[9] we have ruled that abandonment of one's wife and children, and cohabitation with a woman not his wife, constitutes immoral conduct that is subject to disciplinary action.

Respondent's act of maintaining an illicit relationship with a woman not his wife comes within the purview of disgraceful and immoral conduct, defined and punished in Section 46(b)(5) of Subtitle A, Title I, Book V of the Administrative Code of 1987. The disciplinary authority may impose the penalty of removal from the service, demotion in rank, suspension for not more than one year without pay, fine in an amount not exceeding his salary for six months, or reprimand.

Under the Revised Uniform Rules on Administrative Cases in the Civil Service Commission, adopted and

approved by the Civil Service Commission in its Resolution No. 991936 dated August 31, 1999, disgraceful and immoral conduct is a grave offense which merits a penalty of suspension for six (6) months and one (1) day to one (1) year for the first offense, and the penalty of dismissal for the second offense.

In *Ecube-Badel v. Badel*,^[10] this Court suspended a court employee for one (1) year for having illicit relations with another woman not his wife with whom he begot a child.

In a recent case, Alberto R. Elape, Process Server, was suspended for six (6) months and one (1) day for maintaining an illicit relationship.^[11]

The penalty of dismissal recommended by the Investigating Judge can no longer be imposed since respondent resigned from the judiciary on February 23, 2010. However, his resignation from office does not render the present administrative case moot and academic. Neither does it free him from liability. The resignation of a public servant does not preclude the finding of administrative liability to which he or she shall still be answerable.^[12] Complainant filed the case before respondent resigned from office. Cessation from office because of resignation does not warrant the dismissal of the administrative complaint filed against him while he was still in the service.^[13]

Under the circumstances, we deem it reasonable to impose the penalty of a fine in the amount of P30,000.00 to be deducted from his accrued leave credits, if sufficient. If not, then he should be required to pay the amount of P30,000.00.

Time and again, we have stressed adherence to the principle that public office is a public trust. 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 affecting morality, integrity, and efficiency while holding office should be left without proper and commensurate sanction, all attendant circumstances taken into account.

WHEREFORE, respondent Philbert B. Caples is found GUILTY of Immorality, and is ordered to pay a FINE in the amount of Thirty Thousand Pesos (P30,000.00) to be deducted from his accrued leave credits, if sufficient. Otherwise, he shall pay the amount of P30,000.00 directly to this Court.

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

SO ORDERED.

Carpio, (Chairperson), Peralta, Abad, and Mendoza, JJ., concur.

[1] Rollo, pp. 1-4.

[2] *Id.* at 80-84.

[3] *Id.* at 90-92.

[4] *Id.* at 93-94.

[5] Also referred to as Renalyn Cordoves in some parts of the Investigation, Report, and Recommendation.

[6] A.M. No. P-05-1977, October 9, 2007, 535 SCRA 245.

[7] *Dadulo v. Court of Appeals*, G.R. No. 175451, April 13, 2007, 521 SCRA 357.

[8] *Cojuangco, Jr. v. Atty. Palma*, 481 Phil. 646, 656 (2004).

[9] Sealana-Abbu v. Laurenciana-Huraño, A.M. No. P-05-2091, August 28, 2007, 531 SCRA 289; Dela Torre-Yadao v. Cabanatan, A.M. Nos. P-05-1953 and P-05-1954, June 8, 2005, 459 SCRA 332, 338, citing Maguad v. De Guzman, 365 Phil. 12, 19 (1999); Lauro v. Lauro, 411 Phil. 12, 17 (2001); Bucatcat v. Bucatcat, 380 Phil. 555, 566-567 (2000).

[10] 339 Phil. 510, 516 (1997).

[11] Elape v. Elape, A.M. No. P-08-2431, April 16, 2008, 551 SCRA 403.

[12] Pagano v. Nazarro, Jr., G.R. No. 149072, September 21, 2007, 533 SCRA 622.

[13] Cabarloc v. Judge Cabusora, 401 Phil. 376, 385 (2000).

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