

MARCIAL DE DIOS, COMPLAINANT, VS. JULIETA P. ALEJO AND ELIAS T. MARFIL, RESPONDENTS.*A.M. No. P-137. December 15, 1975*

Ponente: BARREDO, J.

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Motion for reconsideration of the Court's resolution of March 4, 1975 denying respondents' previous motion to reconsider the Court's denial on February 7, 1974 of respondents' request, originally addressed to the Honorable Secretary of Justice and indorsed to Us on May 8, 1973 for resolution, pursuant to Section 1 of Presidential Decree No. 185 implementing the constitutional transfer to the Supreme Court of the supervision and control of all lower courts and their personnel, to reconsider the decision of said Secretary dated February 14, 1973 which considered them resigned from the service. This motion was followed by a supplemental motion dated April 14, 1975.

Respondents Elias Marfil and Julieta P. Alejo are employees of the Court of First Instance of Rizal, the first as Deputy Sheriff and the second as Stenographer, who have been in the service for thirty-three and twenty-five years, respectively. The instant administrative case is the first ever for both of them. It is for immorality. According to the decision of the Secretary:

"In his complaint, Marcial de Dios averred that Julieta P. Alejo who is single, had been living maritally with Elias T. Marfil, whom she knew to be a married man with children; that in June or July, 1964, Julieta Alejo filed a vacation leave with the Department of Justice, and on October 10, 1964, gave birth to a baby boy at the Delgado Clinic in Quezon City; and that since then, Elias T. Marfil had completely abandoned his wife. The complaint suggested that for more concrete documentary evidence, this Department could request for a certified true copy of: (1) the birth certificate of the baby boy (Christopher Alejo Marfil); (2) hospital record of confinement of Julieta P. Alejo; and (3) baptismal and confirmation certificates of Christopher Alejo Marfil.

Acting upon this complaint, this Department, in a letter dated January 5, 1973, directed Elias T. Marfil to explain within seventy-two (72) hours from receipt thereof why no administrative charges should be instituted against him on the strength of the copy of the complaint presented against him, and a copy each of the certification issued on December 18, 1972 by Dr. Jesus C. Delgado, medical director of the Delgado Clinic attesting that said Dr. Delgado had 'personally assisted Mrs. Julieta P. Alejo-Marfil in her giving birth to a baby boy on October 10, 1964 known as Christopher Alejo-Marfil, which birth took place at the Delgado Clinic'; the operating room record of one Mrs. Julieta Marfil, who underwent 'Caesarean section under spinal anesthesia' on October 10, 1964, likewise issued by Dr. Delgado; the certificate of baptism of one Christopher Martin Marfil, whose parents are Elias T. Marfil and Julieta Alejo, issued by Father Braulio Pefia of the Santisimo Parish of the University of Santo Tomas; and the certificate of live birth of Christopher Martin Alejo Marfil, issued by the civil registrar of Quezon City on December 20, 1972.

In his answer — which likewise carried the signature of Julieta P. Alejo — Elias T. Marfil admitted the charge against him. Both respondents maintained, however, that instead of being condemned, Julieta P. Alejo should be praised for discharging the duties of a mother not only to the son she begot with Elias T. Marfil but also

toward the latter's four (4) daughters with his lawfully married wife, Candida Muldong, whom Julieta P. Alejo brought up and cared for as her own when Candida Muldong left the conjugal dwelling.

Needless to say, respondents' admission compels the irresistible conclusion that they are guilty as charged.

WHEREFORE, respondents Julieta P. Alejo and Elias T. Marfil are hereby considered resigned from the service effective upon receipt of this decision." (Pp. 54-55, Rec.)

Evidently, the admissions referred to by the Secretary are those found in the answer jointly filed by respondents under date of January 24, 1973 as follows:

"Elias T. Marfil was married to Candida Muldong and out of this wedlock, four (4) children were begotten namely: Lilia, Rebecca, Luz and Corazon. But the marriage went awry. The family home was rocked asunder with recriminations, unhappiness and extreme incompatibility and despite the valiant efforts of the husband, Elias T. Marfil to save the marriage for the sake of their four children, the wife, Candida Muldong, found it intolerable to continue living with her husband and her four children under one roof. And in culmination of the broken home and the anguish resulting from her prolonged relationship with her husband, Candida Muldong abandoned the family in 1962. The husband Elias T. Marfil was left alone to provide for the support, care, education and maintenance of the four children. But the love of a wife and mother was gone. And in the formative years of the growing children, Elias T. Marfil felt the painful void created by the absence of his spouse and mother of his four daughters. To cap it all, Candida Muldong took another man, a certain Nilo Fajardo, as her husband, and they both are now living as husband and wife in Valenzuela, Bulacan, together with Candida's mother.

Under these excruciating environmental circumstances, Elias T. Marfil, human as he is, found it was not easy to live alone with four daughters who need the loving care of a mother. He had no one to turn to and live together, observe mutual respect and fidelity and render mutual help and support. And so it was in 1963, a year after his wife, Candida, left him and his four daughters, that Elias T. Marfil discovered that lost love can be regained, not for the mere physical pleasure thereof, but more for the sake of his four daughters who will grow up without the love and affection of a mother. And fate thus destined that Elias T. Marfil and Julieta P. Alejo should cross each other's path and fall in love. In the person of Julieta P. Alejo, Elias T. Marfil saw the essence of motherhood denied by his wife Candida to his daughters. The four children, Lilia, Luz, Rebecca and Corazon accepted Julieta P. Alejo as a long lost mother. And Julieta P. Alejo saw to it that Marfil daughters should feel the warmth of a mother's love. Together, Elias and Julieta assumed the burdens of parenthood. Together, they raised the four girls into full womanhood. And under the benevolent guidance and care of Julieta P. Alejo, the four Marfil girls grew up to where they are now in their respective social status. Lilia is married and gainfully employed. Luz is also married and employed. Rebecca is also married. Corazon is still single and under the care of Elias T. Marfil and his mother and Julieta P. Alejo. And in no instance did these four Marfil girls ever regret having found in Julieta P. Alejo the love and affection of a true mother. Out of the relationship between Elias and Julieta was born a son, Christopher, whom the Marfil daughters consider as their own true brother." (Pp. 15-17, Rec.)

In their motion for reconsideration filed with the Office of the Secretary of Justice, respondents added:

"Subject decision is implicitly based on the finding that Elias T. Marfil abandoned Candida Muldong to live with Julieta P. Alejo. Such finding was, we admit in all frankness, the result of our diffidence and miscalculation. We thought that there would be a formal investigation where we could present Candida Muldong in person to prove that it was she who abandoned Elias T. Marfil and their four (4) daughters to live with another man, a certain Nilo Fajardo, with whom she has been living as common-law wife since October 20, 1962. Your Honor will understand, of course, that it was most difficult for us to emphasize the fact of Elias T. Marfil's cuckoldry.

We now ask you to consider Candida Muldong's act of abandoning her family to live with another man.

Painful though it is for us to say so, this is the bitter truth. No less than Candida Muldong herself admits this when in an affidavit she executed on March 6, 1973 (original herewith enclosed) she swore:

'That sometime on October 20, 1962, my husband Elias T. Marfil and I parted ways and I left my husband and four children in their family residence in Pasig, Rizal to live with one Nilo Fajardo who is now my husband and happily living with;'

Substantially the same admission, although without mention of the name of her common-law husband, was made by Candida Muldong some eight (8) years ago, specifically on January 25, 1965, when in an agreement signed by her and Elias T. Marfil (copy attached to our explanation dated January 22, 1973), she stated:

'That, we (Candida and Elias), have not been living together since October 20, 1962, because although we have tried our best to live harmoniously for the sake of our children, we found not that we are completely incompatible with each other and that it would be useless to continue living under the same roof;' (words in parenthesis supplied)." (Pp. 56-57, Rec.)

And in their first motion for reconsideration of Our resolution of February 7, 1974 affirming the decision of the Secretary of Justice, respondents contended that:

"In this connection, we beg the indulgence of this Honorable Body and respectfully invite its attention to the decision promulgated by the Supreme Court in Administrative Case No. R-1676 on September 18, 1948, Alfredo I. Pascua, Respondent-Appellant. In this case the Supreme Court held that:

'The Commissioner of Civil Service found respondent-appellant guilty of immorality and separated him from the service after being allowed to enjoy all the accumulated leave to his credit, without prejudice to reemployment in the unclassified service, if still found deserving confidence on the part of the Office of the President where respondent is employed.

'However, the peculiar circumstance of this case present several redeeming features in favor of respondent-appellant which incline us towards leniency. For instance, he readily acknowledged his paternity of the natural child Gracita when, under present law, investigation into the paternity of a natural child is not even permitted in a judicial action, that he complied religiously with his obligation of giving her monthly allowance of P25.00, that the failure of his marriage to the complainant was attributable to the latter's refusal to enter into marriage relations for reasons of her own, that he is willing to take the child under his custody and raise her properly, and that the offense was committed when he was occupying the minor position of stenographer in the Office of the Secretary of the National Assembly and his present position of Assistant in the Press Relations Office in the Office of the President.

'The human side of this case should not be totally overlooked and the rigidity of the moral discipline in the public service may be relaxed inasmuch as respondent's moral lapses did not prove prejudicial to the service. His present position is not one which requires the incumbent to be a paragon of morality as it does not make him deal with people in such a way as to be looked upon as an example of high moral virtues. This case may, therefore, be tempered with mercy and it is more to the interest of society and of the public service that respondent-appellant fulfill his obligation to support his natural child than for the Board to separate him therefrom and thus deny him the opportunity to comply with his social and moral obligation to the prejudice of an innocent child. A reprimand and warning to the respondent-appellant will serve the ends of justice and as a proper vindication of the public service.

'For all the foregoing, the decision of the Commissioner of Civil Service is hereby reversed and respondent-appellant Alfredo I. Pascua is allowed to remain in his present position. He is, however, required to give a monthly allowance of P25.00 to his natural daughter, Gracita, from January 9, 1948 until the child can provide for herself. In case of wilful refusal or failure to do so, the same shall be sufficient cause for his removal from the service. He is, moreover, severely reprimanded for misconduct and warned that commission

of the same or similar misconduct in the future will serve as sufficient ground for dismissal.

"The complaint's claim for payment as of the pension in arrears due to the child, Gracita, amounting to P-1,525.00 cannot be entertained and the same may be enforced by judicial action."

Of equal pertinence to the case at bar, is the decision of the Board of Civil Service in Administrative Case No. III, Felino Escusa, Respondent-Appellant, promulgated on July 30, 1941. The Board of Civil Service Appeal ruled as follows:

"This Board understands the situation of the respondent and after an examination of the circumstances under which the alleged immorality occurred, it has come to the conclusion that the penalty of dismissal is not warranted in this case. The complainant in this case was a total outsider, and the legal wife, who are the persons most concerned, have not vowed any objection to the situation. This fact, while not significant by itself, reveals that the respondent has not jeopardized the honor of any third person. This Board is aware that it is not an easy task to determine whether a certain improper conduct constitutes immoral conduct within the meaning of the Civil Service Rules and Regulations to warrant removal from the service; but in this particular case, this Board is fully convinced that the respondent in taking another woman — was impelled by no other than an honest and decent intention to overcome his misfortune and to live anew to take his natural place among his fellowmen. It would be in violation of all human conventions — cruel to say the least — to require the respondent to live with his faithful spouse, (*italics supplied*)

"The respondent is a mere principal clerk — a position which does not exercise a moral influence in the community. This Board has ruled in the case of Antonia R. Cuevas (Case No. 34, promulgated March 26, 1941) that the fundamental object of the statute providing for the administrative discipline and removal of the government employees is to insure the faithful performance of their official duties and the maintenance of an efficient public service and that in the case of immorality, removal depends upon the character and nature of the position occupied. The respondent, as principal clerk in a municipal treasurer's office, cannot be said to be one of those officials or employees who, due to the nature of their duties, are in frequent contact with the public or occupy positions which directly influence the morality of the community, in view of which a high standard of decency and respectability is required of them. It is pertinent to state here that the efficiency of the respondent in the discharge of his duties is not questioned.

"Viewed in the light of the objects of the Civil Service Law, this Board is of the opinion that while the respondent has technically committed an immoral act, nevertheless, the facts as narrated above are not of such nature and sufficiency to warrant the removal of the respondent from the service under paragraph 6, Rule XIII of the Civil Service Rules. In arriving at this conclusion, it is our desire to make it clear that the liberality with which we are dealing with this case should not be taken as a relaxation of the moral standard demanded in the government service. This Board can be severe where severity is warranted, but in the instant case, in spite of its immoral aspect, there is the seeming feature of lack of malicious and lewd intent in the relationship of the respondent. In this connection, we quote the words of Governor General Theodore Roosevelt in the case of Municipal Treasurer Juan T. Soriano who was similarly charged with immorality way back in 1932:

"In view of the fact that it appears from these papers that Municipal Treasurer and his wife separated by mutual consent in the year 1922, and that no charges have been filed against him at any time by his legal wife the undersigned is of the opinion that the administrative action which has been taken against him is unduly severe. It seems that technically, the man is guilty of immorality, but actually this can hardly be considered as notoriously disgraceful immoral conduct. The undersigned would certainly prefer to permit him to resign instead of removing him from office, and unless there are special circumstances regarding this case which do not appear in the record, would be inclined to favor dropping this case entirely and restoring him to his former position. There are involved in the case six people beside himself— his legal wife, the woman with whom he is

living, and four children. It does not appear that any of these people who are most concerned of all have, voiced an objection to the situation as it existed for ten (10) years nor that they would be in anyway benefited by the action proposed herein. In fact, such action would probably work great hardship on most of them, (*italics supplied*)" (Pp. 1-5, Letter of Feb. 19, 1974.)

Further, in support of their plea for a more realistic and compassionate understanding of their situation, respondents submitted the following separate affidavits:

"I, JULIETA P. ALEJO, of legal age and residing at Bayanihan Village, Ortigas Avenue. Cainta, Rizal, after having been duly sworn to in accordance with law depose and state:

That, I am one of the respondents in Administrative Case No. P-137 entitled Marcial de Dios versus Julieta P. Alejo and Elias T. Marfil, respondents which is pending before the Honorable Supreme Court of the Philippines;

That, even tho' I had always felt and believed that what I have done in having lived as husband and wife with my co-respondent, Mr. Marfil, is not violative of any rule or regulation of the Civil Service, much less of a compassionate society, considering the circumstances stated in my explanation given to the Department of Justice, after the Secretary of Justice ordered our separation from the service, I became convinced that it would be in the best interests of the public service, and, perhaps, of ourselves and, particularly, of my own son Christopher, that I should revise my position and try very hard to atone for what in the mind of the authorities should not be permitted among government employees;

That for this reason, I decided to talk it over with Mr. Marfil and advise him that, for the sake of our own children, our separation is inevitable. That, I finally decided to separate from him, and, effective since as early as the latter part of 1973, to be exact October 16, 1973, I have been living with my mother, Mrs. Arcadia Paredes and my sisters and brother at Bayanihan Village, Cainta, Rizal while Mr. Marfil has been living separately in another house, and since then our relations complained of ceased;

That, needless to say, I shall never again maintain any relationship with Mr. Marfil as that which has been the subject of the case against us."

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"I, ELIAS T. MARFIL, of legal age and residing at Sumilang, Pasig Rizal, after having been duly sworn to in accordance with law depose and state:

That, I am one of the respondents in Administrative Case No P-137 entitled Marcial de Dios versus Julieta P. Alejo and Elias T. Marfil, respondents, which is pending before the Honorable Supreme Court of the Philippines;

That, from the time my co-respondent Julieta P. Alejo received the decision of the Secretary of Justice, she pleaded with me and we were both convinced that it would be better for all concerned that we should separate and stop living as husband and wife;

That, pursuant to this common belief of ours, she and I are now living apart; she with her mother at Bayanihan Village, Cainta, Rizal and I with my legitimate children at Sumilang, Pasig, Rlzal and we have not had any amorous relations whatsoever from then on;

That, it is my firm resolution to keep myself apart from her as required by the rules of the civil service and the policies of the Supreme Court and to that end, I would be willing to accept an assignment anywhere."

In the light of the foregoing circumstances and precedents, the Court feels that indeed the penalty imposed in the decision under review is rather harsh, particularly as to respondent Alejo. The complaint in this case was filed by an anonymous complainant more than eight years after the child Christopher was born. The wife of respondent

Marfil never complained during all that time, for she herself in fact, gave reason for said respondent, an aggrieved husband — a pitiful cuckold — to seek fulfillment of his life as a man in the company of another woman. It is not alleged and there is no evidence at all that the eight years of common-law relationship between respondents has scandalized anyone, evidently because they must have comported themselves otherwise creditably in the community and in the official circles wherein they are employed. After all, as in the precedents aforequoted, none of the respondents occupies a position "which directly influences the morality of the community." It is quite possible that respondent Alejo was even unaware of the true status of her co-respondent when she fell in love with him. No hearing having been held in this case, the Secretary having unexpectedly rendered his decision on the basis of the bare admissions made by respondents in their answer, filed, according to them, on the assumption that reception of evidence would still follow, she did not have sufficient opportunity to prove all the pertinent circumstances surrounding her unenviable situation. That there is no showing that her immediate superiors and officemates disapprove of her character indicates that she is more a victim of unfortunate circumstances rather than a wilful violator of civil service regulations and standards. This is not to say, however, that public interest has not been offended in any way. While it is permissible to view with human understanding and compassion, a situation like that in which respondents find themselves, 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.

In the instant case, We cannot close our eyes to the important considerations that respondents have rendered government service for more than thirty-three and twenty-five years, respectively, and that there is no showing that they have ever been found guilty of any administrative misconduct during all those periods. In the case of respondent Alejo, it seems rather sadistic to make her suffer the extreme penalty of dismissal from the service after she had taken care of her co-respondent's four children, giving them the needed love and attention of a foster mother after they were completely abandoned by their errant and unfaithful natural mother. Even respondent Marfil, if to a lesser degree, is deserving of compassion. Most importantly, respondents have amply demonstrated that they recognize their mistake and have, therefore, actually mended their ways by totally breaking their relationship complained of, in order to conform with the imperatives of public interest. Objectively speaking, it cannot be denied that such separation requires a great deal of sacrifice and entails personal difficulties that cannot be easily ignored, thus making the resolution of respondents to give up what is most meaningful to them worthy of some measures of liberality in the imposition of the indispensable penalty which has to be meted to them.

IN VIEW OF ALL THE FOREGOING, the decision of the Secretary of Justice of February 14, 1973 is hereby modified in the sense that respondent Elias T. Marfil is hereby fined in the amount equivalent to all the salaries, leaves and benefits he would have received and earned during all the period that he has not served since he was notified of the said decision of the Secretary of Justice of February 14, 1973 until he resumes service, which he is hereby authorized to do on the day following the date he is served notice of this resolution, while respondent Julieta P. Alejo is likewise fined, except that she shall be deemed to have legally resumed service on October 17, 1973, the date after her separation from her co-respondent, with the understanding that she is entitled to back salaries from this date last indicated.

Makalintal, C.J., Fernando, Makasiar, Antonio, Esquerra, Muñoz Palma, Concepcion Jr., and Martin, JJ., concur.

Teehankee, J., files a brief concurrence.

Castro and Aquino, JJ., did not take part.

CONCURRING OPINION

TEEHANKEE, J.:

I concur. The mitigating circumstances recited in the main opinion and more importantly, the fact now brought out in respondents' separate affidavits that as of October 16, 1973 they had totally broken off their relationship in order to conform with the imperatives of public interest and morality, justify the reversal of the Court's previous resolution denying reconsideration and its present resolution setting aside the Secretary's original decision of February 14, 1973 considering respondents resigned from the service.

Respondent Julieta P. Alejo whose only fault was to give her love to her co-respondent and his four daughters (born of his marriage with his life who had abandoned them and taken another man as her husband) has therefore properly been deemed entitled to reinstatement with back wages as of October 17, 1973, the date following her separation from her corespondent. And as to the co-respondent Elias T. Marfil who turned to Julieta for love and assistance in bearing the burdens of parenthood and raising his four daughters to full womanhood as if they were her own, I concur in the compassionate disposition of his case of allowing his reinstatement now, considering his long record of faithful government service.

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