

DR. NORBERT L. ALFONSO, COMPLAINANT, VS. JUDGE MODESTO C. JUANSON, BRANCH 30, REGIONAL TRIAL COURT OF MANILA, RESPONDENT.*A.M. No. RTJ-92-904. December 07, 1993*

Ponente: DAVIDE, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/838cb33a274f/>**DAVIDE, JR., J.:**

On 15 September 1992, the complainant, a doctor of medicine by profession, filed with this Court a sworn complaint charging the respondent with immorality and violation of the Code of Judicial Ethics. He accuses the respondent of maintaining illicit sexual relations with his wife, Sol Dinglasan Alfonso. The complainant and his wife were married on 10 December 1988 and their union bore them three children, all boys, ages 3 years old, 2 years old, and 4 months old, respectively. He alleges that their married life was peaceful and happy until the discovery of the sordid affair, which came about in this manner:

Sometime in February 1991, the complainant received a phone call from the wife of the respondent who informed him that Sol and her husband (respondent) have been carrying on an affair and that she has in her possession the love letters of Sol which she wants to show to the complainant. Although he did not believe the information and even berated Mrs. Juanson for trying to ruin his family, he, nevertheless, told Sol about it. Sol assured him of her love and concern for their family and claimed that the respondent was just a client of her former office, the Banco Filipino (EDSA Cubao Branch). Two weeks later, Mrs. Juanson called him again to inquire if he had received the photocopies of Sol's love letters to the respondent. He again scolded Mrs. Juanson and told her not to call him up anymore. On 12 June 1992, he and Sol left for the United States of America (USA) for a vacation. He stayed there up to 19 July 1992; however, Sol returned ahead of him on 10 July 1992. During his absence, specifically on 17 June 1992, Mrs. Juanson called up his father, Atty. Norberto Alfonso, and divulged to the latter the illicit affair between the respondent and Sol. On 20 June 1992, Mrs. Juanson sent to Atty. Alfonso photocopies of Sol's love letters to the respondent. During their pre-arranged meeting on 25 June 1992, Mrs. Juanson delivered the original copies of Sol's alleged love letters to Atty. Alfonso who was accompanied by the complainant's sister, Celestine A. Barreto.

When Sol arrived in the Philippines on 10 July 1992, Atty. Alfonso decided to hire a private investigating agency to undertake an inquiry on the alleged illicit affair between Sol and the respondent. Through surveillance conducted by its private investigators, the agency found out that Sol had met with the respondent on 11 and 17 July 1992 at Unit 412-A of Citihomes at 130 San Francisco St., Mandaluyong, Metro Manila, and that they stayed inside the unit for two to three hours.

Complainant further alleges that on 25 July 1992, five days after his arrival from the USA, his sister Celestine told him about the illicit relationship between Sol and the respondent. Celestine showed him the pictures taken by the private investigators and the alleged love letters of Sol. In the evening of the said date, in the presence of their respective parents, the complainant confronted Sol and showed her the proofs; Sol still denied the affair and

insisted that she was just discussing some business with the respondent. Later, however, at about 1:30 a.m. in their house, Sol finally admitted to having an illicit sexual affair with the respondent since late 1983 when she was an employee of Banco Filipino (EDSA Cubao Branch) and that before they left for the USA, she met the respondent at Unit 412-A Citihomes.

As a result of this revelation, the complainant sent his wife out of the house. He and Sol have been living separately since 26 July 1992. He also subsequently discovered from the statement of billing from Pacific Bell for overseas calls which he and Sol made while they were in the USA that on 17 and 25 June 1992 Sol had made calls to the respondent's office at the Manila Regional Trial Court.

Complainant submits that the respondent is undeserving of the noble office of the judiciary and prays that he be meted the appropriate administrative sanction for immorality and violation of the Code of Judicial Ethics.

In compliance with this Court's Resolution of 22 October 1992, the respondent filed his Comment on 21 December 1992. He admits that he knows Sol and that "they have been communicating with each other casually and innocently," but denies that they are lovers and were having an illicit affair, that Sol has been sending love letters to him, and that, except for the 11 and 17 July 1992 meetings, he and Sol had been going to the apartment situated at 130 San Francisco St., Mandaluyong, Metro Manila, and staying there for hours. He asserts that he came to know Sol sometime in 1987 when she engaged his professional services in connection with five criminal cases filed by her in the Office of the Provincial Prosecutor of Rizal and in the Regional Trial Court of Pasig. In the course of their attorney-client relationship, Sol sought legal advice from him and during those occasions they usually talked over the phone and not in the office. In June 1992, he received an overseas call from Sol who was then in the USA. Sol asked for advice concerning her problem with her employer, the Security Bank and Trust Co. (Dau Central Branch). They agreed that Sol would see him upon her return to the Philippines. On 11 July 1992, shortly after her arrival from the USA, he and Sol met at the aforementioned apartment, which was leased not by the respondent but by Celestino Esteban. After discussing her problem, with Celestino and two other persons present, he and Sol left the apartment and took a late lunch at Fastfood, Robinson. He reassures the complainant "that his wife has always been faithful to him and that he would do nothing as would tarnish their warm relationship, much less destroy complainant's family."

On 4 May 1993, the Court referred the case to Associate Justice Lourdes T. Jaguros of the Court of Appeals for investigation, report and recommendation.

Justice Jaguros conducted a full-blown investigation. At the hearings on 17, 18, 21 and 29 of June 1993 and 6, 8, 9 and 12 of July 1993, the parties submitted testimonial and documentary evidence. On 4 October 1993, she submitted her Report and Recommendation dated 30 September 1993. Pertinent portions of her findings of facts read as follows:

"As culled from the evidence of this case, Complainant Dr. Norbert L. Alfonso and Sol Dinglasan were married at the Sta. Ana Catholic Church on December 10, 1988 as evidenced by a marriage contract (Exh. "N"). Three children were born of this marriage. John Jason, three (3) years old, Jan Norbert, two (2) years old, and the youngest Jan Joseph, four (4) months old. Complainant and his family lived a happy and normal life with their Sundays spent on outings after the Sunday mass. (p. 9, tsn, June 29, 1993).

In February, 1991, Complainant received phone calls from a woman introducing herself as a concerned friend telling that complainant's wife is having an illicit affair with her said woman caller's husband. Said caller did not identify herself but only said she was in possession of love letters of complainant's wife Sol to said caller's husband. After two weeks, said 'concerned friend' called up the Complainant again to ask him if he had received said caller's registered mail. Complainant after both calls asked his wife Sol about her having an affair with

another man, and in both instances, Sol assured him of her love. Then the calls stopped for the rest of the year 1991 and early part of 1992 although Complainant noticed that his wife Sol used to go out alone every Saturday.

On June 12, 1992, Complainant and his wife Sol went to U.S.A. for a vacation but the latter decided to return to Manila ahead of the former on July 10, 1992 (Exh. "O"). Complainant followed in returning home only on July 19, 1992 (Exh. "O-1").

On July 25, 1992, Complainant was invited by his father, Atty. Norberto Alfonso to his sister Celestine Barreto's house, and there his father showed him five (5) loveletters written by Complainant's wife Sol with envelopes addressed to Atty. Modesto C. Juanson (Exhs. "A" to "E" and submarking), and pictures taken by private investigators of Complainant's wife and respondent Judge in company of each other (Exhs. "F-5" to "F-22", "G-2" to "G-14"). Complainant recognized the handwriting of his wife Sol in said love letters, specifically the GAIN memo pad paper used by Sol in her love letter (Exh. "D") which is a prescription pad of Complainant to his patients. Likewise, in the pictures, Complainant recognized his wife Sol holding a "Payless" bag (Exh. "F-6") with the Respondent Judge holding the same bag later on (Exh. "F-14"). In practically all the pictures, Complainant identified his wife Sol and Respondent Judge. The Respondent Judge was no stranger to Complainant as the latter knows said Judge personally. Said Judge is one of the best friends of Complainant's parents-in-law and was even a sponsor in the wedding of Complainant's sister-in-law. Both Complainant and Respondent Judge had met thrice and talked with each other.

The five love letters, including a picture of the Respondent Judge (Exh. "K") were handed to Complainant's father, Atty. Norberto Alfonso by a lady who introduced herself, as Mrs. Ceferina Juanson in the presence of Complainant's sister, Celestine Barreto. The three met at the front entrance of the Sto. Domingo Church, Quezon Boulevard, Quezon City and proceeded to the City Diners Restaurant in the same city where the three had a talk and where Mrs. Juanson handed to Atty. Alfonso the five love letters with a picture, at about 10:30 to 11:30 a.m. in late June 1992. Prior to said meeting on June 17, 1992, at about 11:00 a.m. a "concerned woman" had called up Atty. Alfonso at his home and in the vernacular had said "Tinataihan ang ulo ng anak mo ng babaeng iyan" referring to Complainant's wife. To clear Atty. Alfonso's doubt, the woman promised to send proofs which Atty. Alfonso received by LBC in a parcel containing the xerox copies of Complainant's wife's love letters to Atty. Modesto C. Juanson.

After the meeting with the lady who identified herself as Mrs. Ceferina Juanson, Atty. Alfonso got an overseas call from Complainant that his wife Sol was coming home to Manila earlier so that Atty. Alfonso engaged the services of a private investigating agency, Truth Verifier System, Inc., to conduct surveillance of the activities of Complainant's wife, Sol upon her arrival from the U.S.A. Sol Alfonso did arrive on July 10, 1992, and on July 11 and 17, 1992, the Truth Verifier System Inc. through Marjorie Juinio and Edgardo Tamayo, licensed private detectives conducted surveillance operation on Mrs. Sol Dinglasan and respondent Judge Modesto Juanson. On said date of July 17, 1992, said private detectives together with Raymond Tabangcura and Edgar Naquila, saw, Sol Dinglasan Alfonso go out of her house carrying a bag, take a tricycle and alight at Lamayan St., walk towards Sta. Ana Church then board a taxicab. Following said taxicab, the taxi stopped at City Homes, San Francisco Street, Mandaluyong, Metro Manila. Sol went inside Unit 412-A Citihomes, and stayed inside for about three hours. Respondent Judge Modesto Juanson came out first of said unit, wearing blue walking shorts and light colored polo and carrying the plastic bag which Sol was seen carrying earlier, and then followed by Sol. At around 1:00 p.m., the Respondent Judge and Sol were inside said Respondent's Wrangler jeep on their way to Robinson Galleria at EDSA. The two ate at Mongolian Restaurant and at Gusto Unico, then they proceeded to Robinson's Supermarket. Inside the supermarket, Marjorie Juinio saw the Respondent Judge put his arm on the shoulder of Sol, and they were also seen holding hands (pp. 23-26, tsn, June 21, 1993). Then the two, Respondent

Judge and Sol boarded the Wrangler jeep. At about 3:45 p.m., Sol alighted at the corner of Suter and Roxas Streets and then boarded a tricycle while the jeep left. The formal report of the Truth and Verifier System, Inc. has been offered by Complainant as Exhibit "F-1" to "F-4" while the many pictures taken of Respondent Judge and Sol were marked and offered as Exhibits "F-5" to "F-22".

The other team of the Truth Verifier System, Inc. led by Edgardo Tamayo practically corroborated the findings of the Marjorie Juinio team. A formal report marked and offered as Exhibit "G" to "G-1", and pictures taken of Respondent Judge and Complainant's wife Sol marked and offered as Exhibits "G-2" to "G-14" were presented before the Investigator.

Five days after the arrival of Complainant Dr. Norbert L. Alfonso, he was invited by his father, Atty. Norberto Alfonso to Norbert's sister's house in San Juan, Metro Manila. In the house of Celestine Alfonso Barreto, Atty. Alfonso showed his son, Norbert the love letters written by his wife Sol to Respondent Judge (Exhs. "A" to "E"). Complainant recognized the handwritings of his wife Sol and even the GAIN memo stationery which Complainant was using as his prescription pad for his patients (Exh. "D"). He recognized his wife Sol and Respondent Judge in the pictures taken by the private detectives. On said day, Complainant Norbert Alfonso experienced the greatest shock of his life and wondered what happened to his life. His father, Atty. Alfonso, however, advised him not to hurt his wife Sol. In that same party, Complainant showed Sol the pictures and the loveletters which made Sol turn pale and stammer when talking. Sol's own parents were embarrassed and walked out of the party.

On the same night at about 10 in the evening, Complainant Dr. Norbert Alfonso confronted his wife Sol as to the truth of her relationship with Respondent Judge. Before the Investigator said Complainant made the following testimony on direct examination:

x x x

ATTY. DEMIGILLO:

Q What else did your wife tell you during that confrontation, her exact words?

x x x

A She took a deep breath again and told me, 'Sweetheart, I am very, very, very sorry, I made a mistake.' I asked, 'What mistake is that?' She replied, 'I had sexual intercourse with the Judge.'

x x x

Q What else, if any, happened during that confrontation?

A I asked my wife 'How many times did you have sexual intercourse with the Judge'?

Q Was there any response?

A She answered five times and then right away I said, 'Putangina mo, five times lang. Alam mo ba kung ilang beses kitang naganyan? Tarantado ka.' With my voice not so loud because the door and the windows were opened. If I shout the neighbors will hear and then the yayas will go down right away.

Q What was your wife doing at that time?

A My wife was crying and saying, 'Sweetheart, I am very, very sorry. Forgive me.' She was kneeling before me and begging forgiveness. 'Forgive me, sweetheart, I love you.'

I told my wife, 'you do not love me, you love your stupid Judge.'

Q Is there anything else that you discussed during that confrontation aside from the admission?

A After that admittance of my wife having sexual relationship with the Judge, reminiscing the past events when we were together I told my wife, 'That's why pala every Saturday umaalis ka dito. Sinong pinupuntahan mo?' And definitely, she admitted to me, 'To the Judge.' (pp. 35-41, tsn, June 29, 1993)

The confrontation between Complainant and his wife Sol ended at about 5:00 a.m. of the following day, July 16, 1992 with Complainant asking Sol to leave the house.

Sol also admitted to Complainant that when she went to Hongkong on December 26, 1989 up to December 29, 1989 she was with Respondent Judge, and records of the Commission on Immigration for said dates show that both Sol Alfonso and Respondent Judge Modesto Juanson departed for Hongkong via Cathay Pacific plane on December 26, 1989 and returned to Manila on December 29, 1989 (Exhs. "P" and "P-1").

Also, Complainant received from his sister in California, U.S.A., a Pacific Bell Statement of Telephone Calls reflecting two calls made by his wife Sol to Manila, at numbers 632 476120. Number 632 is the country code while number 476120 is the phone number of the Regional Trial Court, Branch 30, where Respondent Judge is the Presiding Judge.

As of now, Complainant Dr. Norbert Alfonso and his wife Sol live separately, and their three children are alternately in the custody of Complainant or Sol for certain number of days.

Upon the other hand, Respondent Judge main defense is denial as he advances the position that Sol Dinglasan Alfonso was a former client when Respondent Judge was still a practicing lawyer, and that from time to time Sol would consult him regarding her cases. As to the Hongkong trip, Respondent Judge simply accompanied a former client who was looking for a house to buy in Hongkong, and as to the visit in the Citihomes unit, Respondent Judge claimed that he was only visiting his godson George Zari who spent a vacation in the Philippines for a month."

Some elaboration of the respondent's version is necessary. He is now 56 years old. (TSN, 8 July 1993, 31). He and his wife, Ceferina, were married in 1961 and have two sons. Ceferina is eight years his senior. (TSN, 12 July 1993, 4-5). From 1967 to 1969, he was the Chief Legal Officer in the Office of the City Mayor of Quezon City and from 1969 to 1982 he was the Second Assistant City Fiscal of Quezon City. After that and until November 1990, when he was appointed Judge of the Regional Trial Court at Urdaneta, Pangasinan, he was in the private practice of law. In April 1992, he was assigned to Branch 30 of the Regional Trial Court of Manila. (TSN, 8 July 1993, 32). He first came to know Sol when she hired his services as her counsel in six criminal cases involving dishonored checks she filed against Santiago Maramag and Evangeline Maramag. (Id., 33-39). In 1989, he saw Sol at the wedding of her sister Jennifer to Romeo Dizon; he stood as sponsor for the groom then. In June 1992, Romeo saw him at his office at the City Hall in Manila and sought advice regarding the letter Sol had received from the Security Bank requiring her to explain why she should not be declared absent without leave (AWOL) for leaving her work without an approved leave of absence. He told Romeo that he would not be able to give any advice unless he saw the letter and talked with Sol. A few days later, he received an overseas call from Sol who said that she left the Philippines sometime after 10 June 1992. He told her that he could not give any written or oral advice until he read the letter and talked with her. This overseas call might have been the 17 June 1992 call referred to in the Pacific Bell Statement. (Exhibit "Q"). He was not able to talk to her in the second overseas call referred to in Exhibit "Q." Two or three weeks later, he received a local call from Sol who told him that she was back and that she has the letter. Sol begged to see him at his office. He, however, told her that he was busy; besides, it was already late in the afternoon. She got frantic and so he told her that they could meet the following day at Unit 412-A, Citihomes, at 130 San Francisco St., Mandaluyong, since he was to meet his godson, George

Zari, in the said place. They did meet there at 11:00 o'clock in the morning of the following day -- -11 July 1992, a Saturday. Sol gave him the letter from the Security Bank and after interviewing her he promised to prepare a draft of a "reply." Present at that time were Celestino Esteban, lessee of the unit who is his friend, George Zari, and his live-in partner, Marissa. Forty-five minutes later, he decided to go home. Sol requested for a ride in his vehicle in order to alight at the place of her employer along EDSA and Shaw Boulevard to which he obliged. While on their way, Sol invited him for lunch and they went to the Mongolian Restaurant at Robinson's where they had lunch. They had coffee nearby and then parted ways. Thereafter, on separate days, Sol called him by phone to ask about the draft of the reply. On the second call, he told her that since he would meet George Zari on the 17th of July at Unit 412-A of Citihomes, she might just as well meet him there. She acceded and on that date he left his office at about 11:00 o'clock in the morning and arrived at Unit 412-A thirty minutes later. (TSN, 12 July 1993, 25). Sometime after Sol arrived, he gave to her the draft of the reply and instructed her to type the letter, date and sign it, and then send it to her employer. He also referred her to Atty. Lachica to whom she should henceforth communicate because he, respondent, is busy in his office. When he was about to leave, Sol asked if she might ride in his vehicle in order to alight at EDSA-Shaw Boulevard to which he agreed. After that he did not meet Sol again. (TSN, 9 July 1993, 3-15).

Respondent denies having gone to Hongkong with Sol on 26 December 1989 and having seen her in Hongkong. According to him, his traveling companion was Cua Sen. (Id., 16-23). Cua Sen corroborated him on this point. (TSN, 6 July 1993, 5-10). When confronted about the charge of immorality and unethical conduct for having illicit relations with Sol, he answered: "I deny it very strongly, your Honor." (Id., 32).

Respondent further suggests that it was impossible for him to have sexual intercourse with Sol because he has been suffering from two debilitating diseases -- diabetes mellitus, for which he has been "taking insulin" since 1987, and prostatitis -- -which have seriously affected his sexual potency. In his own words, he "could hardly make it," and that he has "no erection whatsoever." (Id., 29-32; Exhibits "11" and "12").

Justice Jaguros gives full faith and credit to the complainant's version for she finds no reason not to believe the complainant. According to her, "[n]o man in his correct mind would come forward and claim that his honor and good name have been stained by an adulterous wife, doubt the paternity of his children, and in the process destroy his family and home." She ruled that the testimonies of the witnesses for the respondent -- Cua Sen, Celestino Esteban and former Judge Zari -- do not inspire belief.

Justice Jaguros then concludes that the immoral conduct of the respondent has ruined two families -- his own and that of the complainant. Respondent "cannot escape from the blame and sin of what he has caused Complainant's once happy family." More pertinently she adds:

"But beyond the domestic confines of these two families, Respondent Judge is no ordinary mortal who can live the life he pleases having two women at the same time -- -his wife and worst [sic], another man's wife. He is a Judge who symbolizes the law and the highest degree of morality in the community. The citizens look up to him as the embodiment of justice and decency, as he decides cases brought to his court. He can be no less."

And invoking our decision in *Leynes vs. Veloso* (82 SCRA 325 [1978]) and *Castillo vs. Calanog* (199 SCRA 75 [1991]) as precedent and moral compass, she asserts that she has no other alternative but to find respondent "GUILTY as charged of Immorality and Violation of Judicial Conduct" and to recommend his "DISMISSAL x x x from office."

In the light of the conclusions of the Investigating Justice and her recommendation for the imposition upon the respondent of the severest administrative penalty -- dismissal from the service -- it is all the more imperative to conduct an assiduous examination and evaluation of the records and the evidence.

There is no doubt in our minds that a very special relationship existed between the respondent and the complainant's wife. For one, there are the cards or notes, which the complainant and the Investigating Justice described as love letters. These five "love letters" are marked as Exhibits "A," "B," "C," "D," and "E," and dated 3 July 1987, 23 May 1988, 15 February 1988, 11 January 1989, and 7 March 1989, respectively. For another, if we were to give full credit to the complainant's testimony that during their confrontation Sol had admitted having sexual intercourse with the respondent on five occasions (TSN, 29 June 1993, 39-40), it would appear that the relationship had developed into an extra-marital liaison. It was furthermore established that both Sol and the respondent took the same flights of Cathay Pacific aircraft to Hongkong on 26 December 1989 and back to the Philippines on 29 December 1989. There is, however, no evidence that they stayed together in the same hotel in Hongkong. On the other hand, there is the un rebutted testimony of Mr. Cua Sen that he, a client of the respondent, was the latter's travelling companion.

From the foregoing, it is clear that their affair began before Sol and the complainant were married on 10 December 1988 and might have blossomed from the attorney-client relationship between the respondent and Sol. Her marriage to the complainant did not diminish Sol's love for the respondent, for even after she committed herself to the complainant alone and made a vow of fidelity to him till death at the solemn ceremony of marriage, she still sneaked out her love notes to the respondent.

It must, however, be stressed that the respondent is not charged with immorality or misconduct committed before he was appointed to the judiciary. As to the post-appointment period, we find the evidence for the complainant insufficient to prove that the respondent and Sol continued their extramarital affair. No love notes written by her after November 1990 were presented in evidence. If she did, they could have been kept with Exhibits "A" to "E" in some secret place which was not, however, unknown anymore to the respondent's wife. Sol's admission or confession to the complainant that she had carnal knowledge of the respondent on five occasions made no reference to specific dates and is hearsay. In his direct examination, the complainant's counsel exerted no further effort to obtain clarifications as to the dates thereof. He perhaps realized its futility because the narration by the complainant of the information clearly indicated that the complainant did not ask Sol to elaborate on the five illicit sexual acts. On cross-examination, counsel for the respondent carefully avoided any entanglement with the details of the admission not only because it might have provided an occasion for the complainant to elaborate thereon, but because it would have operated as a waiver of his objection to the testimony as hearsay. The transcripts of the stenographic notes disclose that the counsel for the respondent objected and entered a continuing objection to questions directed to elicit or which tended to elicit statements or admissions supposedly made or given by Sol on grounds that any such statements or admissions would be hearsay or otherwise barred by the *res inter alios acta* rule. Justice Jaguros recognized the merit of the objection; hence, she allowed the answers to be taken merely as part of the narration but not as evidence of the truth thereof. Thus:

"ATTY. DEMIGILLO:

Q What was her response to your exhortation?

A After a few minutes she took a deep breath and said, "Sweetheart, patawarin mo ako, nagkaroon ako ng kasalanan sa iyo."

ATTY. BARLONGAY:

At this juncture, Your Honor, we would like to register our objection as to the issue of the truth of the statement as purported to be answered by her wife for two reasons: One, it is hearsay. We have no opportunity to cross-examine the ...

COURT:

As part of his narration.

ATTY. BARLONGAY:

Yes, as part of the narration but just for purposes of record we would like to register our objection as to the truth of the statement itself. First, it is hearsay; second ...

COURT:

Precisely, admitted only as part of his narration.

ATTY. BARLONGAY:

That is alright. Second, it is ... on the basis of the inter-alia [sic] rule, the admission of a party should not prejudice the rights of another.

x x x

ATTY. DEMIGILLO:

Q What was the exact statement of your wife?

x x x

ATTY. BARLONGAY:

Again, subject to the observation of this Honorable Court, we would register our objections on these two grounds: Hearsay and res inter-alia [sic] rule.

x x x

ATTY. BARLONGAY:

Excuse me, I have some manifestations ...

COURT:

You have a continuing objection?

ATTY. BARLONGAY:

Yes, I am not going to do this at every turn. I just want to say that our objection is a continuing one." (TSN, 29 June 1993, 36-39).

If they were then allowed by the Investigating Justice as merely "part of the narration," they should only be considered as independently relevant statements, i.e., as proof that Sol made statements or admissions, but not as proof of the truth of facts revealed in the said statements or admissions. Elsewise stated, the admission in evidence of the words spoken by Sol is not to be used in determining the issue of their truth. (FRANCISCO, V.J., *The Revised Rules of Court in the Philippines*, vol. VII, Part I, 1973 ed., 438). This being so, the acts of sexual intercourse admitted by Sol cannot, insofar as the respondent is concerned, be deemed proven by the said admission or confession. While it is true that technical rules of evidence should not be applied in administrative cases, however, since the Investigating Justice herself had specifically allowed the hearsay answers merely as part of the narration, or more specifically as independently relevant statements, it would be unfair and arbitrary to thereafter disregard the ruling. All told, there is in this case no direct and competent evidence against the respondent that he had illicit sex with Sol.

But even if the admission of Sol were to be taken as proof of the truth of the facts so admitted, considering,

however, that Sol's admission that she engaged in sexual intercourse on five occasions made no reference to specific dates, that their affair antedated Sol's marriage, that their last proven tryst was in Hongkong in 1989, and that there is an absence of positive and competent evidence to show that any of the five acts of sexual intercourse took place after the respondent's appointment to the judiciary, it cannot be safely presumed that the respondent committed any of the sexual indiscretions after he became a judge. Respondent is not charged for immorality committed before his appointment. Accordingly, proof of prior immoral conduct cannot be a basis for his administrative discipline in this case. The respondent may have undergone moral reformation after his appointment, or his appointment could have completely transformed him upon the solemn realization that a public office is a public trust and public officers 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. (Section 1, Article XI, 1987 Constitution). It would be unreasonable and unfair to presume that since he had wandered from the path of moral righteousness, he could never retrace his steps and walk proud and tall again in that path. No man is beyond reformation and redemption. A lawyer who aspires for the exalted position of a magistrate knows, or ought to know, that he must pay a high price for that honor -- his private and official conduct must at all times be free from the appearance of impropriety. (*Jugueta vs. Boncaros*, 60 SCRA 27 [1974]). And the lawyer who is thereafter appointed thereto must perforce be presumed to have solemnly bound himself to a way of conduct free from any hint or suspicion of impropriety. The imputation of illicit sexual acts upon the incumbent judge must be proven by substantial evidence, which is the quantum of proof required in administrative cases. This the complainant failed to do. The meetings of the respondent and Sol at Unit 412-A of Citihomes on 11 July and 17 July 1992 do not by themselves prove that these were trysts for libidinal gratification. Evidence was offered by the respondent to prove otherwise. However, considering their prior special relationship, the respondent and Sol's meetings could reasonably incite suspicion of either its continuance or revival and the concomitant intimacies expressive of such relationship. In short, the respondent suddenly became indiscreet; he succumbed to the sweet memories of the past and he was unable to disappoint Sol who asked for his legal advice on a matter which involved her employment. Such indiscretions indubitably cast upon his conduct an appearance of impropriety. He thus violated Canon 3 of the Canons of Judicial Ethics which mandates that "[a] judge's official conduct should be free from the appearance of impropriety, and his personal behavior, not only upon the bench and in the performance of judicial duties, but also in his everyday life, should be beyond reproach," and Canon 2 of the Code of Judicial Conduct which provides that "[a] judge should avoid impropriety and the appearance of impropriety in all activities." It has been said that a magistrate of the law must comport himself at all times in such manner that his conduct, official or otherwise, can bear the most searching scrutiny of the public that looks up to him as the epitome of integrity and justice. (*Dia-Añonuevo vs. Bercacio*, 68 SCRA 81 [1975]). The ethical principles and sense of propriety of a judge are essential to the preservation of the faith of the people in the judiciary. (*Candia vs. Tagabucba*, 79 SCRA 51 [1977]).

It is to be noted that 17 July 1992 fell on a Friday. On that date, the respondent left his office at the City Hall of Manila at about 11:00 o'clock in the morning and arrived at Unit 412-A Citihomes thirty minutes later. (TSN, 12 July 1993, 25). Per report of the private detectives (Exhibit "G"), the respondent and Sol left the unit at 1:30 o'clock in the afternoon on board a vehicle and that twenty-five minutes later, Sol alighted near the crossing overpass at United Street. It is, therefore, clear that on 17 July 1992 the respondent had left his office during office hours and, considering the distance between Mandaluyong and his office at the City Hall of Manila and the usual traffic condition, it was impossible for him to have reached his office -- if at all he did proceed to it -- in time for the commencement of the official session hours in the afternoon, i.e., 2:00 p.m. (Paragraph 5, Interim and Transitional Rules and Guidelines Relative to the Implementation of the Judiciary Reorganization Act of 1981). Thus, for purely personal reasons, he violated the rule regarding official session hours. Such violation amounted to neglect of duty.

Finally, a word on the respondent's defense that he could not have sexual congress with Sol because he was suffering from diabetes mellitus and prostatitis. The claim is both self-serving and irrelevant. No expert testimony was presented to prove the stage, extent or degree of seriousness of the diseases and their effects on his capacity to copulate. The physicians who purportedly issued the medical certificates did not testify thereon. Besides, immorality -- for which the respondent is charged -- is not based alone on illicit sexual intercourse. It is settled that:

"immorality has not been confined to sexual matters, but includes conduct inconsistent with rectitude, or indicative of corruption, indecency, depravity, and dissoluteness; or is wilful, flagrant, or shameless conduct showing moral indifference to opinions of respectable members of the community, and as an inconsiderate attitude toward good order and public welfare." (Black's Law Dictionary, Sixth ed., 1990, 751).

WHEREFORE, for violations of the Code of Judicial Conduct, the Canons of Judicial Ethics, and the rule on official time, respondent JUDGE MODESTO C. JUANSON is hereby sentenced to pay a FINE of TWO THOUSAND PESOS (P2,000.00) and, further, sternly warned that a repetition of the same or similar acts shall be dealt with more severely.

SO ORDERED.

Narvasa, C.J., Cruz, Romero, Nocon, Melo, Quiason, Puno, and Vitug, JJ., concur.

Feliciano, Padilla, Bidin, and Regalado, JJ., in the result.

Bellosillo, J., no part.

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