NELSON P. VALDEZ, COMPLAINANT, VS. ATTY. ANTOLIN ALLYSON M. DABON, RESPONDENT.

A.M. NO. CA-07-21-P. June 22, 2007

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This is a complaint for Gross Immorality, Gross Violation of Administrative Matter No. 99-12-08-SC and falsification and/or misrepresentation, filed by Nelson P. Valdez against Atty. Antolin Allyson M. Dabon, Jr., then Division Clerk of Court of the Court of Appeals. Complainant is the husband of Sonia Valdez, then a Court Stenographer IV at the Court of Appeals, with whom Atty. Dabon allegedly had an illicit relationship.

The administrative case was subsequently assigned to Court of Appeals Associate Justice Rosalinda Asuncion-Vicente for investigation who issued an Order dated June 5, 2006 directing the parties to attend a preliminary conference on June 28, 2006.

On June 8, 2006, Process Server Fernando Sia made a report that he failed to serve a copy of the Order upon the respondent because the housemaid at respondent's address in Pandacan, Manila refused to receive the same. Sia proceeded to respondent's provincial address at Greenfields Subdivision in San Fernando, Pampanga, but the guard did not allow him to enter. In both instances, the housemaid and the guard informed Sia that respondent had left for the United States.

Thus, in an Amended Order dated June 16, 2006, the Investigating Justice cancelled the scheduled preliminary conference and directed the respondent to submit his Answer within 15 days from notice, otherwise, the case shall be deemed submitted for resolution. A copy of the Amended Order was sent by courier service to respondent's address in the United States.

On June 23, 2006, Pamela Ann B. Antonio, Trace Services Manager of Federal Express, informed Clerk of Court Tessie L. Gatmaitan that they failed to deliver the documents to Atty. Dabon at his address in the United States because "he is always out during delivery attempts."

Meanwhile, on June 28, 2006, complainant filed an Ex Parte Motion to Refer for Question Documents and Fingerprint Examination Attached Exhibits. Complainant alleged that on June 24, 2006, he received a parcel from a certain Nenita Palupayon of Quezon City containing two computer printed nude photos of his wife, Sonia Valdez, together with a compact disk showing the same photo. According to the complainant, this is a form of harassment which should not be countenanced.

On November 14, 2006, complainant filed an Ex-Parte Manifestation and Motion claiming that respondent has successfully held in abeyance the proceedings in the instant case by his stubborn refusal to receive and comply with the processes of the court.

On November 28, 2006, the Investigating Justice again directed the respondent to file his answer within 15 days from receipt of notice, failing which, the case shall be deemed submitted for decision.

In his report, Process Server Sia narrated that on November 30, 2006, he went to Pampanga but was informed by the guards at Greenfields Subdivision that Atty. Dabon is no longer residing thereat. He then went to Pandacan but the housemaid refused to receive the notices. She also informed him that respondent is still in the United States.

Thus, in an Order dated January 12, 2007, the Investigating Justice directed Sia to re-serve the envelope addressed to Atty. Dabon at his two aforesaid addresses and in case of refusal, to leave the same in the premises with a person of sufficient age and discretion residing thereat.

That same day, Sia went to respondent's Pandacan, Manila address and noticed that the house was locked. So he left the envelope underneath the door in the presence of a certain Pamela, who lives next door. On January 16, 2007, Sia went to Greenfields Subdivision in San Fernando, Pampanga and left the envelope with the guard on duty.

However, both envelopes were later returned to the Court of Appeals via LBC. An examination of the envelopes revealed that both had been opened.

Thereafter, the Investigating Justice deemed the case submitted for resolution.

In his complaint, Nelson alleged that his wife, Sonia, admitted to him that she engaged in an adulterous and immoral relationship with Atty. Dabon since November 2000. In March 2006, she decided to end the relationship but respondent would not agree. He started harassing and threatening Sonia. In one instance, respondent brought Sonia to a motel against her will. Their arrival caused a commotion which forced Atty. Dabon to drive back to the Court of Appeals. In another occasion, respondent forcibly boarded Sonia's car and refused to alight despite her pleas. Respondent likewise used members of his staff to deliver messages or packages to Sonia.

In his supplemental complaint, Nelson alleged that on May 16, 2006, or one day after the complaint was filed, respondent surreptitiously left for the Unites States without securing a travel authority from the Supreme Court. He likewise averred that in his Embarkation Card, Atty. Dabon indicated that he is a lawyer without disclosing that he is also a government employee.

On the basis of the complaint and the evidence submitted by the complainant, the Investigating Justice found as follows:

> In his sworn letter-complaint dated May 15, 2006, complainant alleged that respondent had an adulterous and immoral relationship with his wife, Sonia Valdez, for a span of five years; that he only came to know of the said adulterous relationship on April 18, 2006 from an anonymous text message; that Sonia admitted that the relationship started sometime in November 2000 and continued until March of 2006; that Sonia, bothered by her conscience, decided to break off with respondent who, however, persisted communicating with her, threatening and harassing her through phone calls and handwritten messages; that Sonia, in her effort to stop said harassment, decided to speak with respondent one last time aboard respondent's car somewhere along Roxas Boulevard, however, respondent instead took her into a motel; and that Sonia parried respondent's advances by being hysterical, which prompted respondent to drive her back to the office.
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> In another incident on March 13, 2006, respondent forcibly boarded his wife's car at the Court of Appeals parking lot; and that it was only upon pleas of Sonia's officemates, Atty. Heiddi Barroso and Atty. Aileen Ligot, that respondent alighted from the car. Complainant also alleged that respondent continuously made threats to reveal their illicit relationship if Sonia would not reconcile with respondent, thus, Sonia was forced to shun respondent's calls in her office and to change their house phone number.
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> On May 4, 2006, complainant allegedly received text messages from respondent's wife, Atty. Joy Dabon and from respondent himself, apologizing and asking forgiveness for the incident. Said messages read as follows:

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"A) Text message from Atty. Joy Dabon:

'Nelson, Jun and I were separating I will file an annulment anytime soon, although I'm in great pain, I ask for your apology and forgiveness for everything he is leaving for US and I hope he evolves into a strong and mature person there. D. cya masamang tao, just emotional and easily manipulated. Sana don't blame entirely bec. he is the type that never initiate things. He is passive and tame. He was honest with me and I hope Sonia would find the courage to tell d truth to you. I just pray for peace and a fresh start for all of us. I just want to go on with my life and use above all of these for my son's sake. I love jun and I appeal to you na sana wala ka maisip sa atin lahat. Just as I have accepted everything. Salamat sa panahon and pangunawa. God bless.'

B) Text message from respondent:

'Nelson alam ko wala akong pwedeng sbhin at dis pt. na makakagaan mo o makapagbabalik ng nakaraan. I did the terrible n hurtful things. I did thinking only of my selfish desire to hurt Sonia. Naisip ko kasi nun she just used me for her own personal reasons at nung nasa ere na ako, bigla niya ako binitawan.'"

In his Supplemental Complaint-Affidavit dated May 19, 2006, complainant alleged that respondent surreptitiously left the country on May 16, 2006 to evade the administrative complaint filed against him; and that respondent committed acts of falsification and/or misrepresentation when respondent deliberately omitted to disclose that he is a government employee to avoid presenting the required Authority to Travel, which he did not have at that time, in violation of Administrative Matter No. 99-12-08-SC.

Complainant's allegations are corroborated by the following:

- Atty. Heiddi Venecia Barrozo and Atty. Aileen T. Ligot, Court Attorney IV of this Court, who executed a Joint Affidavit alleging that sometime in March 2006 at around 5:00 in the afternoon, Sonia asked them to accompany her to the parking lot of the Court of Appeals because respondent refused to disembark from her car; that upon arriving at the parking lot, they saw respondent sitting in front of Sonia's car; that Sonia shouted and demanded that respondent get out of the car but the latter refused and insisted on talking with Sonia; that the commotion started drawing attention so they begged respondent to alight from the car, who then obliged.

Atty. Barrozo and Atty. Ligot further alleged that they received a text message from respondent the next day requesting them to see him in his office; that respondent told them that "alam ko na malaki and kasalanan ko kay son, at alam ko na imposible na nya akong mapatawad..." and begged them to convince Sonia to talk and settle things with him; that respondent kept sending them text messages such as: "musta na sya?", "nakakakain ba sya?", "pumunta ba sya sa gym ngaun?", "Sana mapatawad na nya ako...", "mahirap para sa akin ito.", "Hindi ko na kaya, sana naman maconvince nyo sya na kausapin na ako..."; that they told respondent that Sonia refused to talk with him; and that on May 10, 2006 at 11:00 in the morning, Atty. Ligot received another text message from respondent which reads: "Gud am aileen. Alam ko na kahit papaano kapakanan pa rin ni sonia nasa isip nyo, na gagamitin kayo to testify against me. Pero kung talagang mahalaga pa rin si sons sa inyo, isipin nyo twice if wat u wil do wud help her or makakahirap pa sa kanya..."

- Virginia D. Ramos, Court Stenographer IV in the Office of the Presiding Justice, who executed an Affidavit alleging that sometime in the third week of April 2006, she received some telephone calls at the local line from respondent expressing his desire to speak with Sonia but the latter refused to speak with him; that sometime in the fourth week of April 2006, respondent went to their office located at the third floor of the Court of Appeals main building, supposedly to inquire about some court matters from her officemate, Mr. Raul Yumang; that respondent also proceeded to Sonia's working area who was surprised and infuriated upon seeing respondent; that Sonia asked respondent "Ano kailangan mo dito?" and the latter replied "May kukunin lang ako kay Mang Raul.", then Sonia said "Dun ka lang sa labas, huwag kang lumapit sa akin!"; and that respondent hurriedly left their office after the confrontation.

- Marie Iris Magdalene Minerva, Executive Assistant II at the Office of the Presiding Justice, who alleged in

> her Affidavit that she received some telephone calls from respondent requesting to speak with Sonia who deliberately refused saying "Pakisabi na ayoko makipagusap sa kanya at pinagbabawalan na ako ni Nelson."; that Sonia had been receiving letters sealed in brown envelopes and hand carried by some of respondent's staff; that one time when Sonia was not around, respondent himself personally placed a sealed brown envelope on Sonia's table; and that upon her suggestion, Sonia tore the letter into pieces to prevent anybody from reading it.
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> - Complainant's allegation that respondent left the country on May 16, 2006 for the United States way ahead of his approved leave from June 3, 2006 up to August 25, 2006 and without the requisite Authority to Travel from the Supreme Court is supported by complainant's evidence, namely, (1) Northwest Airlines, Inc.'s Passenger Manifest which includes the name "DABON/ANTOLINAL"; (2) Application for Leave; (3) letter requesting permission to travel; (4) Embarkation Card; and (5) Certification issued by the Bureau of Immigration.

Based on the foregoing, the Investigating Justice found substantial evidence showing that respondent maintained an illicit relationship with complainant's wife, thus:

> In the present case, this Investigating Justice finds that there is substantial evidence showing an amorous relationship between respondent and complainant's wife. Respondent failed to refute complainant's allegation that Sonia admitted having a relationship with him sometime from November 2000 until March 2006. Complainant's unrebutted evidence consisting of the affidavits of Sonia's officemates lend credence to complainant's allegation that such amorous relationship existed between his wife and respondent. Moreover, respondent's abrupt and unauthorized trip to the United States and eventual resignation from office are telltale proofs of the existence of such illicit relationship between respondent and Sonia and of respondent's desperate attempt to avoid facing the consequences of his indiscretion.
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> Clearly, respondent's act of maintaining an illicit relationship with Sonia, while being married to his wife Atty. Joy Dabon, unmistakably constitutes gross immoral conduct. Such act is in complete travesty of the sacred and inviolable institution of marriage, which definitely warrants an administrative sanction.

The Investigating Justice likewise noted that respondent violated Adm. Matter No. 99-12-08-SC when he left for the United States before his travel authority could be issued.

Anent the charge of falsification, it was noted that respondent did not act with malice when he indicated in the embarkation card that he is a lawyer without stating that he is also a government employee.

In view of respondent's resignation last August 12, 2006, the Investigating Justice recommended that he be ordered to pay a fine equivalent to his salary for six months, which may be taken from whatever sums due him as accrued leaves or other benefits.

We adopt the factual findings of the Investigating Justice; however, we find the recommended penalty not commensurate with the offense committed.

There is no dispute that respondent engaged in an unlawful, dishonest and immoral conduct. The illicit relationship which spanned a period of five years was committed under scandalous circumstances as to shock the common sense of decency. As a Division Clerk of Court of the Court of Appeals, respondent occupied a position of great responsibility. As such, he is expected and required to comport himself with dignity and propriety at all times. Unfortunately, respondent miserably failed to comply with the demands of his office. Despite the apparent refusal by Sonia Valdez to continue with their illicit affair, respondent refused to let go and even continued to harass the former. In one instance, he forcibly boarded Sonia's car which was parked at the Court of Appeals' parking lot and insisted on talking with her. His refusal to alight from the car elicited shouts from Sonia which in turn drew the attention of other persons in the vicinity. Despite being rejected in view of Sonia's apparent intention to end the affair, respondent persisted in his lustful quest by bringing Sonia to a motel against her will. Not only did he transgress the norms of decency expected of every person but he failed to live up to the high

moral standard expected of a court employee.[1] The exacting standards of ethics and morality upon court employees are required to maintain the people's faith in the courts as dispensers of justice, and whose image is mirrored by their actuations. Thus, it becomes the imperative sacred duty of everyone in the court to maintain its good name and standing as a true temple of justice.[2]

What further aggravates respondent's offense is that he took advantage of his official position in continuing to harass Sonia. In one occasion, he summoned lawyers Barrozo and Ligot to his office and asked for their intervention in a purely personal affair. At other times, he sent members of his staff to Sonia's office to deliver his messages.

It has not also escaped our attention that respondent tried to evade and continue to defy the processes of the court. After he was formally charged with a complaint for gross immorality on May 15, 2006, respondent immediately left the following day, May 16, 2006, for the United States. Although the Personnel Division of the Court of Appeals certified that he filed an application for leave of absence from May 8 to June 2, 2006, the application however remained unacted upon. This proves that Atty. Dabon left for the United States before the approval of his application for leave by the authorized official of the Personnel Division. Moreover, respondent's application for leave did not indicate the type of leave he is taking, whether vacation or sick leave, or whether the leave will be spent here or abroad. In short, respondent's absence was unauthorized. As correctly observed by the Investigating Justice:

> Moreover, respondent's abrupt and unauthorized trip to the United States and eventual resignation from office are telltale proofs of the existence of such illicit relationship between respondent and Sonia and of respondent's desperate attempt to avoid facing the consequences of his indiscretion.

Respondent likewise violated the resolution in Adm. Matter No. 99-12-08-SC requiring employees of the judiciary to obtain a travel authority from this Court before traveling abroad. For such infraction, respondent should be held administratively liable.

Finally, we agree with the Investigating Justice that respondent cannot feign lack of knowledge about the instant administrative case filed against him. He abruptly left the country one day after the case was filed. In his text messages sent to Atty. Barrozo and Atty. Ligot, he acknowledged the possibility that the former would be used to testify against him. Respondent's housemates or even the guards stubbornly refused to receive any mail matter from the Court of Appeals. But when the process server eventually left the envelopes at respondent's last two known addresses in the Philippines, the envelopes were sent back to the sender although they have been opened. When the Court of Appeals sent copies of the orders to respondent's address in the United States, the courier reported that respondent was out during the several instances when delivery was attempted. Furthermore, when respondent resigned last August 12, 2006, there is no way that he could not have known of the instant administrative complaint. Yet, he continued to avoid and defy the court's orders. This is reprehensible considering respondent's position as Division Clerk of Court of the Court of Appeals.

Disgraceful and immoral conduct is a grave offense, punishable by suspension of six months and one day to one year for the first offense, and for the second offense, by dismissal.[3] In this case, respondent's offense is aggravated by his continued refusal to receive and comply with the court processes. His leave was unauthorized and he went abroad without the requisite travel authority.

In Re: Judge Cartagena,[4] the Court found respondent judge guilty of gross misconduct when he departed abroad without the knowledge and permission of the Court and was ordered dismissed from service with forfeiture of all benefits and with prejudice to re-employment in any other branch, instrumentality or agency of the government, including government owned or controlled corporations.[5]

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In Reyes v. Bautista,[6] respondent Bautista was found guilty of violation of Supreme Court administrative circular for traveling abroad without securing the necessary permission for foreign travel. She was likewise found guilty of dishonesty when she indicated in her application that her leave would be spent in the Philippines, when in fact the same was spent abroad. For those infractions, Bautista was dismissed from service with forfeiture of all benefits and privileges, except accrued leave credits, with prejudice to re-employment in any branch or instrumentality of the government, including government owned or controlled corporations.[7]

In Ansa v. Musa,[8] respondent judge was found guilty of gross immorality and was dismissed from the service with prejudice to re-employment.

In the instant case, respondent should have been meted the penalty of dismissal from service. However, he could no longer be dismissed or suspended from service in view of his resignation on August 12, 2006.

WHEREFORE, in view of the foregoing, we find Atty. Antolin Alysson M. Dabon, Jr. GUILTY of Gross Immoral Conduct and Violation of Adm. Matter No. 99-12-08-SC and is hereby ordered to PAY a fine equivalent to his salaries for one year, which may be taken from whatever sums due him as accrued leaves, with forfeiture of all benefits. Further, he is barred from any employment in all government branches, including government owned or controlled corporations.
SO ORDERED.

Puno, C.J., Carpio, Austria-Martinez, Corona,Carpio-Morales, Azcuna, Tinga, Chico-Nazario, Garcia, Velasco, Jr., and Nachura, JJ., concur.
Quisumbing, J., on official leave.
Sandoval-Gutierrez, J., no part - close relationship with respondents.

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[1] Ansa v. Musa, 400 Phil. 19, 23 (2000).

[2] Navarro v. Navarro, 394 Phil. 226, 235 (2000).

[3] Id. at 235.

[4] A.M. No. 95-9-98-MCTC, December 4, 1997, 282 SCRA 371.

[5] Id. at 376.

[6] A.M. No. P-04-1873, January 13, 2005, 448 SCRA 95.

[7] Id. at 105.

[8] Supra note 1.

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