

## **CORAZON NEGRE COMPLAINANT VS. FELIX A. RIVERA, MUNICIPAL JUDGE OF BACARRA, ILOCOS NORTE, RESPONDENT.**

*A.M. No. 343-MJ. June 22, 1976*

Ponente: AQUINO, J.

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### **AQUINO, J.:**

Director Jolly R. Bugarin of the National Bureau of Investigation (NBI) in a letter dated December 21, 1972 recommended to Secretary of Justice Vicente Abad Santos that Felix A. Rivera, the municipal judge of Bacarra, Ilocos Norte, be administratively charged for having performed an illegal marriage ceremony (there was no marriage license).

The marriage was allegedly performed on September 5, 1972 between Corazon Negre of Magsingal, Ilocos Sur (she was born on May 7, 1954) and one Amado Orpilla, a married man and a teacher at a vocational school located at Allacapan, Cagayan, who had allegedly raped Miss Negre in a hotel at Laoag City on August 28, 1972. Miss Negre reported the case to the NBI Regional Office at Laoag City. She denounced Judge Rivera to the President of the Philippines in a letter dated May 31, 1973.

On September 5, 1972, when the marriage was allegedly solemnized, Miss Negre and Orpilla had filed applications for a marriage license with the local civil registrar of Bacarra. However, no license was issued because it turned out that Orpilla is a married man.

He had misrepresented to Judge Rivera that he was single. The marriage contract was already signed by the parties when it was presented to Judge Rivera. It was postdated September 15, 1972, the expiration date of the ten-day waiting period when the marriage license was expected to be issued.

An assistant provincial fiscal in an information dated March 31, 1973 charged Judge Rivera in the Court of First Instance of Ilocos Norte with having performed an illegal marriage ceremony (Criminal Case No. 183-II). The offense is punished under article 352 of the Revised Penal Code.

The case was reinvestigated. At the reinvestigation, Judge Rivera stressed that he signed the marriage contract without having performed any marriage ceremony. He retained all the copies of the contract. He wanted the parties to obtain a marriage license. He did not furnish the parties nor the local civil registrar with a copy of the marriage contract. He did not collect the solemnization fee of two pesos.

The fiscal filed a motion to dismiss the information on the ground that there was no prima facie case against Judge Rivera. The Court of First Instance in its order of May 24, 1973 dismissed the case.

In this Court's resolution of April 30, 1976 Judge Rivera was directed to show cause why he should not be removed or suspended from office for not having performed his duties properly (Sec. 97, Judiciary Law), considering that the dismissal of the criminal charge against him did not erase the anomaly that he signed a marriage contract although the contracting parties were not provided with a marriage license.

The respondent in his manifestation of May 18, 1976 gave the following explanation:

"The undersigned humbly manifests that his signing the marriage contract form on September 5, 1972 of Amado Orpilla and Corazon Negre was done in good faith and for convenience. On said occasion, Mrs. Rosalina Negre, mother of Corazon Negre, pleaded for help when she said 'Judge, please solemnize the marriage of Amado and my daughter for her protection and so that she can not be taken advantage of', but the undersigned told her that he could not solemnize the marriage as the two had no marriage license. After giving them some pieces of advice regarding the rights, duties, responsibilities and obligations of people getting married and, upon the insistence of Mrs. Rosalina Negre that Amado and Corazon sign the marriage contract form, the undersigned allowed the two to sign and he also affixed his signature thereon, telling all those present, however, that the marriage will have to be solemnized after the lapse of 10 days when they shall have obtained a marriage license. The undersigned knew fully well that the marriage shall be solemnized on September 15, 1972 so that he kept the incomplete marriage contract and that no copy thereof was released to the parties because the marriage was not performed or solemnized.

"The affixing of the signature of the undersigned on the marriage contract form at his house on September 5, 1976, was made on a worthless piece of paper because at the time, he has not solemnized the marriage between Amado Orpilla and Corazon Negre. There was no harm done at all.

"During all the period that the undersigned has been performing the duties of Municipal Judge of Bacarra, Ilocos Norte, since August 3, 1970 up to the present, this is the only instance where the undersigned happened to affix his signature on a marriage contract form before he has actually performed a marriage ceremony. This, the undersigned did only for convenience and to assuage the feelings of Mrs. Rosalina Negre, the aggrieved mother of Corazon Negre, and it is hoped that same be not considered anomalous by this Honorable Court."

Respondent's explanation and the dismissal of the criminal case against him did not totally absolve him from the charge that he acted irregularly in signing a marriage contract although no marriage license had been issued.

He acted imprudently in signing the marriage contract. It seems that in doing so he acted without malice. At the time he signed the contract the parties had pending applications for a marriage license in the office of the local civil registrar. The respondent assumed that a marriage license would be issued in due course after the expiration of ten days or on September 15, 1972. Lack of malice mitigates respondent's negligence or indiscretion.

After taking into account all the circumstances surrounding respondent's affixture of his signature to the marriage contract, the Court resolved to reprimand him. He is admonished to exercise more care and circumspection in the performance of his duties. He is warned that his commission of another irregularity in the performance of his official duties will be dealt with more severely. A copy of this resolution should be attached to his personal record.

### **SO ORDERED.**

Fernando, (Chairman), Barredo, Antonio, and Martin, JJ., concur.

Concepcion Jr., J., is on leave.

Martin, J., was designated to sit in the Second Division.

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