

PEDRO ALMAZAN, COMPLAINANT, VS. MUNICIPAL JUDGE DELFIN ROSARIO, MALASIQUI, PANGASINAN, RESPONDENT.*A.M. No. 508-MJ. July 31, 1974*

Ponente: ESGUERRA, J.

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Two complaints, one written by a certain Pedro Almazan who turned out to be a fictitious person, and another supposedly prepared by "a civic spirited citizen", who decided not to reveal his identity, initiated charges that are substantially of the same nature against Municipal Judge Delfin Rosario of Malasiqui, Pangasinan, for "immorality" in allegedly having "a second wife in San Carlos City (Pangasinan), a school teacher having with her one son"; having "his third wife in Malasiqui, Pangasinan who is employed in the Puericulture Center in Malasiqui, Pangasinan"; for alleged arrogance, impoliteness, and notorious gambling activities.

The respondents, in his answer dated January 18, 1973, denied the charge that he has a second wife in San Carlos City (Pangasinan), who is a school teacher, and one son, and branded it as baseless and malicious; likewise denied that he has a third wife in Malasiqui, Pangasinan, who is employed in the Puericulture Center of that place; alleged that he had always observed an irreproachable conduct and did his official duty by deciding cases impartially and in accordance with the merits of each one of them. The answer is supported by the affidavit of the Chief of Police of San Carlos City (Pangasinan) as Annex "A"; the joint affidavit of Assistant Fiscals Dominador G. Soriano and Jose G. Nicolas of San Carlos City (Pangasinan) as Annex "B"; and the sworn statement of Dr. Armando De G. Andaya, Annex "C", all of which denied on the personal knowledge of affiants that respondent had been carrying on illicit relations with the women mentioned in the complaints.

When both complaints were referred to the National Bureau of Investigation, by the 4th Indorsement, dated August 7, 1973, to the Secretary of Justice, Director Jolly R. Bugarin made the report that: "(a) Discreet inquiries disclosed that Subject had illicit relationship with Desideria Cardeno, a schoolteacher, by whom he has a son named Arnulfo Rosario sometime in 1952. The birth certificate and school records of Arnulfo confirmed such relationship. Discreet inquiries likewise disclosed that Subject is presently carrying on an affair with a Sanitary Inspector of the Malasiqui Puericulture Center, Vicenta (Seting) Evangelista. The affair has been going on for almost ten (10) years now. (b) No evidence was gathered to substantiate the alleged arrogance, impoliteness and notorious gambling activities of Subject. (c) A check of Subject's records belied the charge that no cases were filed before the Municipal Court of Malasiqui. His annual report for the Fiscal Year 1971-1972 showed that there were filed before Subject's sala 40 criminal cases, 30 of which were disposed of; 16 civil cases of which two (2) have been decided and 8 Special Proceedings 7 of which have already been disposed of. (d) Mr. Pedro Almazan was found to be fictitious".

By a resolution of this Court En Banc, dated February 6, 1974, this case was referred to the Hon. Pedro A. Ramirez, District Judge of Pangasinan, Branch X, with station at San Carlos City, for investigation and report. On the date (March 6, 1974) set for hearing of the case, only the respondent and his counsel appeared. The fictitious complainant Pedro Almazan could not be located despite the efforts exerted by the warrant officer of the local

police department of San Carlos City. The respondent presented documentary evidence, but due to the fact that the Director of the N.B.I. was not duly notified of said hearing, the case was again heard on March 13, 1974, morning and afternoon, so that the agent of the N.B.I. who conducted the "discreet inquiry", that became the basis of the N.B.I. Director's report, could appear together with his witnesses and the pertinent documents.

On March 13, 1974, after N.B.I. Agent Cesar E. Guerrero presented documentary evidence that served as basis for the N.B.I. Director's Report dated August 7, 1973, the respondent presented witnesses Desideria Cardeno, Chief of Police Jose E. Garcia, Fiscals Jose G. Nicolas and Dominador G. Soriano and Dr. Armando De G. Andaya in support of his denial that he allegedly committed immoral acts. Respondent testified to deny the charges against himself, reiterating and confirming the contents of his answer.

There is no doubt that the complainant Pedro Almazan is a fictitious person and that the other complaint also came from an anonymous source. Both complaints have not been sworn to, and yet the Investigator meticulously probed into the veracity of the charges, thus even placing the respondent, a judicial official, in the undignified position of presenting evidence to prove that he was not immoral even in the absence of evidence against him to show that he was so. In short, respondent was placed in the precarious and queer situation of not being able to confront his accusers, thereby depriving him of his fundamental right to due process of law guaranteed by the constitution. These are some of the hazards a public official must assume to show that his sterling qualities, foremost of which is integrity, have not deserted him in the face of mundane temptations, to deserve further continuance in office.

Going to the core of the charges and the nature of the evidence presented to support them, as well as that for the respondent, We agree with the Investigator that the doubt should be resolved in favor of respondent; that he and witness Desideria Cardeno told the truth when they testified that Arnulfo Rosario was Desideria's son by a man named Fermin Rosales; that after weaning him from her she gave her son to the respondent who is the second cousin of her mother, and that the respondent adopted him as his son because he has no son as he has only a daughter. In the absence of more credible evidence to the contrary, we have to believe this version of respondent, taking into consideration the very significant fact that this complaint for alleged immorality did not originate from respondent's wife Herminia Ocampo who logically should be the most aggrieved if the charge of immorality was really true, but rather from a source which could not even be ascertained because of his cowardice in hiding behind the cloak of anonymity. Furthermore, even if we assume that respondent really had relationship with Desideria Cardeno way back in 1952 and had a son, Arnulfo Rosario, now 19 years of age, We entertain serious doubts if he should be punished therefor in the light of N.B.I. Agent Guerrero's findings that the amorous relationship happened in 1952 long before respondent's appointment as Municipal Judge in 1962, and "that his illicit relations with Desideria had already stopped at the time of his appointment". If respondent was considered qualified at the time he was appointed to the position in 1962, We see no reason why an alleged disqualification that existed long before his appointment and which no longer existed at the time of such appointment, and even up to the present, should be sufficient ground to disqualify him now from the office he is holding.

On the alleged illicit relations with Vicenta (Seting) Evangelista, a sanitary inspector employed at the Malasiqui Puericulture Center, We are convinced that the overwhelming evidence presented by the respondent to deny the existence of said illicit relationship completely obliterates whatever suspicion there may be of its existence. To rely on respondent's denial and explanation of his relationship with Vicenta (Seting) Evangelista, supported as it is by the apparently unbiased testimony of Dr. Armando Andaya who is in a position to know if such illicit relationship really existed, would undoubtedly be more logical and in consonance with reason than to depend upon the wholly hearsay evidence presented by the N.B.I. Agent who did not present as witnesses the persons from whom he received the derogatory information against the respondent.

There is no evidence presented to substantiate the alleged arrogance, impoliteness and notorious gambling activities of the respondent. A check of the respondent's court records, according to the N.B.I., belied the charge that no cases were filed in his court; hence these charges are not proven.

This is a glaring example of a case that required the useless expenditure of time and effort, to the point of compelling the respondent to submit to the trouble and indignity of presenting evidence to protect his honor and integrity from charges emanating from unascertainable sources. It shows that there are complainants who, on the pretext of helping the government get rid of misfits in the service, file charges against government officials, motivated by personal interest and with ulterior designs but who for some reason or another, probably due to lack of moral courage and civic spirit, if not wanting in truth and honesty, are afraid to come out in the open.

WHEREFORE, as recommended by the Investigator, all the charges are considered without merit, the complaint dismissed, and the case ordered terminated and closed.

SO ORDERED.

Makalintal, C.J., Zaldivar, Fernando, Barredo, Fernandez, Muñoz Palma, and Aquino, JJ., concur.

Castro, Makasiar, and Antonio, JJ., concur in the result.

Teehankee, J., took no part.

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