

**MARIANO R. NALUPTA, JR., COMPLAINANT, VS. HONESTO G. TAPEC,
DEPUTY SHERIFF, REGIONAL TRIAL COURT, BR. 18, BATAAC, ILOCOS
NORTE, RESPONDENT.**

A.M. No. P-88-263. March 30, 1993

Ponente: NOCON, J.

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NOCON, J.:

Complainant Mariano R. Nalupta Jr. accuses respondent Honesto G. Tapeç, Deputy Sheriff of the Regional Trial Court, Branch 18, Bataac, Ilocos Norte of immorality by cohabiting with his paramour Consolacion Inocencio, with whom he had two children, and of discharging the duties of Barangay Captain of Masintoc, Paoay, Ilocos Norte despite holding his present position.

In a sworn complaint dated September 20, 1988 filed with the Office of the Court Administrator, complainant Nalupta averred that he is the Congressman representing the Second District of Ilocos Norte, comprising the towns of Bataac and Paoay, among others; that his wife's relatives are from Bataac, and that they are close to a certain Consolacion Inocencio; that Consolacion Inocencio is the paramour of respondent Tapeç, with whom she had two children, namely, Marc Henry Tapeç, born September 23, 1985, and Joseph Marlou I. Tapeç, born November 27, 1987, as shown by their respective birth certificates; that respondent Tapeç is married to Felicitas Langaman from Paoay and that their marriage is still subsisting; and that respondent Tapeç is cohabiting with Inocencio in such an open and scandalous manner that it offended the relatives of the wife of complainant Nalupta, constraining them to call his attention to it. Complainant also stated that respondent Tapeç is presently discharging the duties of Barangay Captain of Masintoc, Paoay, despite his appointment as Deputy Provincial Sheriff.

The then Court Administrator, Hon. Maximo A. Maceren, referred complainant Nalupta's sworn complaint to this Court for its consideration on November 15, 1988. On January 16, 1989, this Court required respondent Tapeç to file an answer to said complaint.

In an answer dated February 16, 1989, respondent Tapeç vehemently denied the charges of immorality, claiming that these were "malicious and fabricated." He claims that his son Honesto Tapeç, Jr. is the father of the two children Marc and Joseph, as shown by the affidavits of Consolacion Inocencio and Atty. Benigno Galacgac. He likewise denied the charge that he is discharging the duties of barangay captain, the truth being that he is merely a barangay consultant. Respondent attributed the filing of the complaint to his refusal to support complainant's candidacy during the 1987 elections, as well as his refusal to accommodate complainant's unreasonable requests in connection with several cases the latter was handling before the Regional Trial Court of Bataac.

In reply, complainant points to several items in the certified true copies of the birth certificates submitted to the Court which show that respondent Tapeç is the father of the two children. Regarding the charge that respondent is discharging the duties of barangay captain, complainant submitted a certification dated September 30, 1988 from Bonifacio A. Eclipse of the Department of the Local Government at Paoay, Ilocos Norte, to the effect that

respondent was appointed OIC--Barangay Captain of Barangay No. 19, Masintoc, Paoay, Ilocos Norte on December 11, 1986. Complainant denies having any improper motive for filing the complaint.

On October 24, 1990, this Court referred the case to the Executive Judge of the Regional Trial Court of Batac, Ilocos Norte for investigation, report and recommendation. On December 5, 1990, Executive Judge Reynaldo Y. Maulit asked that the Court reassign the case to another Judge since respondent is the Deputy Sheriff assigned to his branch. In a resolution dated February 4, 1991, this Court granted Judge Maulit's request and reassigned the case to Executive Judge Wecenslao I. Agnir, Jr. of the Regional Trial Court of Laoag.

On April 29, 1991, the Court set aside the resolution of February 4, 1991 and again reassigned the case to newly-appointed Executive Judge Ariston L. Rubio of the Regional Trial Court of Batac. Judge Rubio set the case for hearing on September 23, 1991, and on said date, received the evidence for the complainant consisting of complainant's own testimony and that of Noel Rosario, and Exhibits "A" to "E" with sub-markings. Respondent failed to attend said hearing despite due notice.

Judge Rubio reset the case for the reception of respondent's evidence on October 28 and 29, 1991. However, on October 10, 1991, respondent through counsel Atty. Romeo Bringas filed a Manifestation and Motion praying that the proceedings on September 23, 1991 be set aside and that Judge Rubio inhibit himself on the ground that he was a former client of Atty. Bringas.

Without ruling on the motion to set aside the proceedings of September 23, 1991, Judge Rubio asked this Court for permission to inhibit himself from hearing the case. In a resolution dated January 13, 1992, the request was granted and once again the case was reassigned to Judge Agnir.

Judge Agnir thereafter directed the parties to appear before him on March 18, 1992 for the purpose of setting the dates for the continuous hearing of the case. None of the parties appeared on said date, prompting Judge Agnir to reset the conference for April 6, 1992. The notice of the new date for the conference sent to respondent was returned to the court with the annotation "AWOL."

After several more postponements, the hearing resumed on July 10, 1992, with only the complainant's counsel Atty. Daniel Rubio appearing. Said counsel informed the court that his client had suffered a stroke and submitted a medical certificate attesting to such a fact. Counsel, who happened to be from Batac, also intimated to the court that respondent had gone abroad and had not returned since. Judge Agnir scheduled several more hearing dates, but since neither complainant nor respondent appeared, he issued an order on August 28, 1992 considering the case submitted for decision.

In an order dated September 14, 1992, Judge Agnir directed his Branch Clerk of Court to verify with the Local Civil Registrar of Batac, Ilocos Norte the authenticity of the birth certificates of Joseph Marlou I. Tapeç and Marc Henry I. Tapeç submitted by complainant and to verify with Branch 18 of the Regional Trial Court of Batac, Ilocos Norte, the whereabouts of respondent.

On September 15, 1992, the Branch Clerk of Court submitted a report,[1] as follows:

1. The Birth Certificates of Joseph Marlou I. Tapeç and Marc Henry I. Tapeç, both children of Honesto Tapeç are both authentic according to the records of the Local Civil Registrar of Batac, Ilocos Norte which I personally compared with the copies attached in[sic] the records of the case.
2. As to the status of Honesto Tapeç, a certification was issued by Mariano Macandog, Clerk of Court V of RTC, Branch 18, a copy of which is hereto attached as Annex "A" and made an integral part of this report.

An additional information was furnished by Hon. Ariston L. Rubio, Executive Judge and Presiding Judge of

RTC, Branch 17, Batac, Ilocos Norte, saying that he has already recommended the dismissal of Honesto Tapeç for absence without official leave but as of this time, it has not been acted upon by the Supreme Court.

Thereafter, Judge Agnir submitted his report[2] finding respondent guilty of the charge of immorality and recommending the imposition of an appropriate penalty.

We find Judge Agir's report to be well supported by the evidence.

Complainant had sufficiently established the charge of immorality against respondent. Noel Rosario, a neighbor of respondent's paramour Consolacion Inocencio at Barangay Ablan, Batac, Ilocos Norte, testified that he had often seen respondent leaving the house of Inocencio in the morning and returning to the same in the afternoon, and that this had gone on for quite some time.[3] Moreover, it was well-known in the neighborhood that respondent was married and that Inocencio was merely his paramour.[4]

Similarly established is the fact that the illicit union of respondent and Inocencio had produced two children, Marc Henry Tapeç and Joseph Marlou I. Tapeç, as shown by the certified true copies of the children's respective birth certificates.[5] The authenticity of these birth certificates was later verified by Judge Agnir's Branch Clerk of Court.

Respondent's claim that the Marc Henry and Joseph Marlou are actually his grandchildren, being the children of his son Honesto Tapeç, Jr., is unbelievable. The entries in the birth certificates point to respondent as the father of these two children. As pointed out by Judge Agnir in his report:

Respondent's allegation that these two children were fathered by his son is clearly negated by the entries in the Birth Certificates such as the middle initial, the age, and the occupation of the father listed in the Birth Certificates. As pointed out by the complainant in his Reply, respondent's middle name is "Galano," hence, the middle initial "G" of Honesto Tapeç as appearing in the Birth Certificates. At the time the Complaint was filed (1989) respondent was 52 years old so that he was 48 years old when Marc Henry was born on September 23, 1985 and 50 years old when Joseph Marlou Tapeç was born on November 27, 1987, as correctly shown in the Birth Certificates. On the other hand, respondent's son Honesto Tapeç, Jr. was more or less 23 years old on September 1985 when Marc Henry was born and around 25 years old on November 1987 when Joseph Marlou was born. Moreover, the middle name of Honesto, Jr. is "Langaman," the maiden name of his mother Felicitas Langaman who is the legal wife of respondent. Further, the father's occupation listed in the two birth certificates are "farmer" and "government employee," respectively, which tally with respondent's circumstances, while his son Honesto Jr. was never an employee of the government. Complainant also pointed out in his Reply that if Honesto Jr. was indeed the father of these two children then their status should have been indicated as "Natural" instead of "Illegitimate" because in point of fact Honesto Jr. got married only after the children were born. Clearly, respondent's allegation that his son is the father of the two illegitimate children is a patent falsity.[6]

Seen in the light of the foregoing evidence, the affidavits of Consolacion Inocencio and Benigno Galacgac have no probative value at all.

The act of respondent of having illicit relations with Consolacion Inocencio is considered disgraceful and immoral conduct within the purview of Section 36 (b) (5) of Presidential Decree No. 807, otherwise known Civil Service Decree of the Philippines, for which respondent may be subjected to disciplinary action. Memorandum Circular No. 30, Series of 1989 of the Civil Service Commission has categorized disgraceful and immoral conduct as a grave offense for which a penalty of suspension for six (6) months and one (1) day shall be imposed for the first offense, while the penalty of dismissal is imposed for the second offense.

Inasmuch as the present charge of immorality against respondent constitutes the first charge of this nature, the

Court shall at this instance suspend respondent for six (6) months and one (1) day. While it is true that during the investigation of this case, respondent has absented himself without official leave, the recommendation of his immediate superior, Judge Ariston L. Rubio, for his dismissal on this ground has yet to be received by this Court. The Court hereby reserves the right to impose the appropriate penalty upon respondent for this new offense at the proper time.

WHEREFORE, the Court hereby finds respondent Honesto G. Tapeç GUILTY of the charge of immorality and is hereby suspended for six (6) months and (1) day without pay. The Court reserves the right to take appropriate measures against respondent if it is later shown that he has absented himself without official leave.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Regalado, and Campos, Jr., JJ., concur.

[1] Rollo. p. 203.

[2] Id., pp. 205-213.

[3] T.S.N. September 23, 1991, p. 6.

[4] Id.

[5] Rollo, pp. 6-7.

[6] Rollo, pp. 211-212.

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