

LOLITA S. REGIR, PETITIONER, VS. JOEL T. REGIR, RESPONDENT.

A.M. No. P-06-2282. August 07, 2009

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

This is an administrative complaint filed by Lolita S. Regir against Joel T. Regir, Process Server, Regional Trial Court (RTC), Branch 37, Caibiran, Biliran, charging the latter with immorality.

This case was commenced by a Complaint[1] dated November 16, 2004 filed by Lolita S. Regir with the Office of the Court Administrator (OCA). Complainant alleges that, while being lawfully married to her, respondent carried on an illicit relationship with another woman, Vilma Sabinay, with whom he begot a child. Complainant further alleges that respondent now lives openly with Sabinay in Barangay Larrazabal, Naval, Biliran and has stopped giving her and their children financial support.

In his Comment[2] dated May 10, 2005, respondent dismisses these allegations as purely the result of unfounded jealousy on the part of his wife. He further avers that he rents a house in Sto. Niño, Naval, Biliran since Calubian, Leyte is quite far from RTC, Caibiran, Biliran, where he presently works. He goes home to Calubian, Leyte only during weekends and remits all his salary to his wife. Vilma Sabinay is just his friend and he has not sired a child with her. He insists that the Affidavit[3] executed by Modesto Pascubillo, Jr. and Bernardo Belciña, his co-employees in the RTC, Caibiran, Biliran, in support of his wife's complaint, is an act of retaliation towards him due to a misunderstanding with them.

The Resolution[4] dated December 7, 2005 of this Court's Third Division referred the instant administrative complaint to Judge Pepe P. Domael, RTC, Branch 37, Caibiran, Biliran for investigation, report and recommendation within sixty (60) days from receipt of the case records.

Pursuant to the above Resolution, an investigation was conducted by Judge Domael. Thereafter, an Investigation Report[5] dated February 28, 2006 was submitted by the said Investigating Judge to the OCA.

According to the Report, the evidence adduced during the investigation yielded the following set of facts:

"The complainant Lolita Regir is the lawful wife of the respondent Joel T. Regir. Their marriage was solemnized on August 28, 1995 per certified true xerox copy of a Certificate of Marriage. During this marriage, they begot three (3) children, namely: Joely Santuele Regir, born on November 25, 1991; Joel, Jr. Santuele Regir, born July 3, 1993; and Jude Santuele Regir, born on December 15, 2000. This couple established their residence at Brgy. Don Luis, Calubian, Leyte.

Sometime in 1998, Joel T. Regir was appointed Process Server, Regional Trial Court, Branch 37, Caibiran, Biliran stationed at Naval, Biliran. Considering that his residence at Calubian, Leyte is quite far from his place of work at Naval, Biliran, he stays in the latter's place during working days by renting a house or a room and goes home only on weekends.

In 1999, when Lolita Regir went to Naval, Biliran to visit her husband Joel T. Regir, she saw Vilma Sabinay

Agujar in the room of the boarding house of her husband. When accosted, Vilma admitted that she had a relation with Bebet (Joel T. Regir). This is in the boarding house of a certain Divina.

In another occasion, in the boarding house of Amado Dangel, also in Naval, where her husband Joel boarded, Lolita Regir saw again the two - Joel T. Regir and Vilma Sabinay Aguja, living together. Lolita and Vilma quarreled noisily.

Not only in these named boarding houses did Lolita find and see the two living together. The two also lived together in another boarding house owned by one Mona located at Vicentillo Extension, Naval, Biliran. Presently, they are now living at Brby. Larrazabal, Naval, Biliran.

Modesto P. Pascubillo, Jr., a Court Sheriff of the Regional Trial Court, Branch 37, Caibiran, Biliran, testified that he also is a resident of Brgy. Larrazabal. During his jogging exercises in the morning, he used to pass by the house where Joel T. Regir and Vilma Sabinay are living also located in the same barangay. This only confirms the statement of Lolita Regir that her husband Joel and Vilma are now living in the said barangay where this Court is also located. However, when the case records of this administrative matter was received and the same was scheduled for investigation, Vilma Sabinay left temporarily this place.

On November 7, 2004, Vilma Sabinay gave birth to a baby girl at the Biliran Provincial Hospital. The patient's name is registered as Sabinay. Bb Girl. The space for the father's name is a question mark, and that for the mother's name is only Gina.

A record of admission and discharge with the patient's name SABINAY, GINA F. is also presented. Although, the first name appears to be Gina but she is the same woman seen and identified by Bernardo Belciña, Isabella Belciña and Lolita Regir inside the private room in that hospital to be Vilma Sabinay delivering a baby. As noted the space for the spouse' name is also a question mark.

Sometime after November 7, 2004, or days after Vilma Sabinay gave birth to a baby girl, Lolita Regir, Isabella Belciña, and the latter's husband, Bernardo Belciña, a Court Interpreter of this Court, went to the hospital. They proceeded to the room where the said Vilma Sabinay delivered a baby. At the door of that private room was posted a name Gina Sabinay. To verify the identity of the woman who delivered a baby, Mr. Belciña opened a little bit the door and peeped inside. He saw Vilma Sabinay in the patient's bed. When Mr. Belciña had a talk with the medical staff in the nurse station, she registered as Gina Sabinay. In the PhilHealth Card she submitted, her name is Lolita Aguja which is the real name of Vilma Sabinay. Aguja is the family name of her deceased husband. Vilma, Gina or Lolita is therefore a widow.

Likewise, during one of the visits of Lolita Regir and Isabella Belciña, after November 7, 2004, they saw Joel T. Regir in the hospital. But when he saw them he immediately ran away. Bernardo Belciña who was only on the ground floor sitting on his motorcycle was only informed by the two.

In one of the PACE seminar of court employees held in Mandaue City, Joel T. Regir, a Process Server, and Bernardo Belciña, a Court Interpreter attended. While on their way together, Joel informed Belciña that his girlfriend Vilma Sabinay is waiting for him at St. Joseph Church, Mandaue City and that he will be lodging at the boarding house of his girlfriend. In going home from the seminar, Vilma Sabinay was together with them on board M/V Cagayan Princess. She was introduced to him as Joel's girlfriend.

In Naval, Joel and Vilma stayed in different places or boarding houses. First, they stayed in the boarding house of Divina at Inocentes St., then to Dr. Niza Lumbab at Vicentillo St. They again transferred to Josep's place along Garcia St. From there they transferred to Amado Dangel's boarding house at Trece St., then to Mona's place at Vicentillo Extension, and presently at Brgy. Larrazabal.

Respondent Joel T. Regir when asked to refute the allegations of complainant-wife Lolita Regir and her witnesses denied all. In fact, he doesn't even know who is this woman named Vilma Sabinay. From the time he stayed in Naval, Biliran occasioned by his employment as Process Server of the Regional Trial Court, Branch

37, he only stayed up to the present in the house of William Lima located at Sitio Tagumpay, Brgy. Sto. Niño, Naval, Biliran.

As to the allegation of the complainant and her witnesses that Vilma Sabinay delivered a baby girl at the Biliran Provincial Hospital, Naval, Biliran on November 7, 2004, he likewise denied. Of course, this may be correct if indeed he doesn't know a woman by the name of Vilma Sabinay. But, who is this woman then so mentioned and identified by the complainant and her witnesses? Is she a non-existent person?

Respondent's son and witness Joely Regir even mentioned the name of Vilma albeit without her surname as the name of the woman she heard when his father and mother had a quarrel. She is the woman whom he said his father is living with in Naval.

As further stated by this witness Joely Regir, while his father usually gives money consisting of his salaries and other benefits received as a court employee, however, since the year 2001, he stopped giving money but only gives rice, sugar and milk for the youngest child. His father also gives them (Joely and Joel, Jr.) money for their studies in high school. They are residing in their grandparent's house at Calubian, Leyte. [citations omitted][6]

In the same Report, Judge Domael indicated his observation that the issue of immorality has not been refuted by the respondent since his defense does not go beyond a mere complete and bare denial of the charge hurled against him. The Investigating Judge also came to the conclusion that the witnesses against respondent were not shown to have been motivated by improper motives. Thus, he made the following recommendation:

WHEREFORE, it is respectfully RECOMMENDED that a two (2) months suspension without pay be imposed upon the respondent Joel T. Regir.[7]

We agree with the Investigating Judge's finding of guilt. However, the recommended penalty is lower than what the law requires and, therefore, should be modified.

A careful perusal of the evidence, consisting of the affidavits of witnesses,[8] the Investigation Report,[9] and the transcripts of hearings,[10] reveals that, for his defense, respondent merely denied the allegations of immoral conduct against him. Without any other evidence, respondent's bare denial necessary fails in light of the positive testimony of complainant and her witnesses.

Well-settled is the rule that bare denials cannot prevail over the positive testimonies of the witnesses.[11] Positive and forthright declarations of witnesses are often held to be worthier of credence than the self-serving denial of an accused.[12] Denial, if unsubstantiated by clear and convincing evidence, is a self-serving assertion that deserves no weight in law.[13]

The evidence presented is enough to hold respondent guilty of the charge of immorality or disgraceful and immoral conduct. It is elementary that administrative proceedings are governed by the substantial evidence rule.[14] Substantial evidence is such amount of relevant evidence which a reasonable mind might accept as adequate to support a conclusion.[15] The standard of substantial evidence is satisfied when there is reasonable ground to believe that the person indicted was responsible for the alleged wrongdoing or misconduct.[16]

The acts imputed against respondent, a married man, consist of his cohabitation with a woman other than his legal wife and there is a strong likelihood that respondent fathered a child with the said woman. It is morally reprehensible for a married man or woman to maintain intimate relations with a person other than his or her spouse.[17] Moreover, immorality is not based alone on illicit sexual intercourse. It is not confined to sexual matters, but includes conducts inconsistent with rectitude, or indicative of corruption, indecency, depravity, and dissoluteness; or is willful, flagrant or shameless conduct showing moral indifference to opinions of respectable members of the community, and an inconsiderate attitude toward good order and public welfare.[18]

It is of no moment that respondent's immoral acts were committed outside the confines of his work as an employee of the judiciary. This Court has previously ruled that the conduct of all court personnel must be free from any whiff of impropriety not only with respect to their duties in the judicial branch but also as to their behavior outside the court as private individuals.[19] The Court likewise finds unpersuasive Judge Domaël's opinion that since respondent is new in the civil service and unfamiliar with the norms of conduct for public servants, and taking into account that this is the first time he is charged with immorality, a lighter penalty may be imposed upon him with a stern warning for a heavier penalty should he commit the same or similar offense.[20]

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.[21] Thus, this Court has no other recourse but to follow the strict letter of the law in disciplining errant court personnel. Under civil service rules, disgraceful and immoral conduct is a grave offense for which a penalty of suspension for six (6) months and one (1) day to one (1) year shall be imposed for the 1st offense while the penalty of dismissal is imposed for the 2nd offense.[22] Since this is respondent's first offense, the proper penalty is suspension in its minimum period.

WHEREFORE, Joel T. Regir, Process Server, Regional Trial Court, Branch 37, Caibiran, Biliran, is hereby found GUILTY of disgraceful and immoral conduct. He is SUSPENDED for six (6) months without pay. He is also STERNLY WARNED of the possibility of dismissal from the service should he persist in continuing with his illegitimate and immoral relationship.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio, Corona, and Bersamin, JJ., concur.

[1] Rollo, pp. 15-21.

[2] Id. at 23-27.

[3] Id. at 2-3.

[4] Id. at 29.

[5] Id. at 35-38.

[6] Id. at 35-37.

[7] Id. at 38.

[8] Id. at 2-4.

[9] Supra note 5.

[10] Rollo, pp. 61-224.

[11] *People v. Sanchez*, G.R. No. 172467, July 30, 2007, 528 SCRA 594, 601; *People v. Tuazon*, G.R. No. 175783, September 3, 2007, 532 SCRA 152, 166; *People v. Aguilar*, G.R. No. 177749, December 17, 2007, 540 SCRA 509, 526.

[12] *Anilao v. People*, G.R. No. 149681, October 15, 2007, 536 SCRA 98, 104.

[13] *Navarrete v. People*, G.R. No. 147913, January 31, 2007, 513 SCRA 509, 523-524; *People v. Padua*, G.R. No. 169075, February 23, 2007, 516 SCRA 590, 606; *People v. Gregorio, Jr.*, G.R. No. 174474, May 25, 2007, 523 SCRA 216, 230.

- [14] Dadulo v. Court of Appeals, G.R. No. 175451, April 13, 2007, 521 SCRA 357, 362.
- [15] Portuguez v. GSIS Family Bank (Comsavings Bank), G.R. No. 169570, March 2, 2007, 517 SCRA 309, 323; Bautista v. Sula, A.M. No. P-04-1920, August 17, 2007, 530 SCRA 406, 416-417; ePacific Global Contact Center, Inc. v. Cabansay, G.R. No. 167345, November 23, 2007, 538 SCRA 498, 511-512.
- [16] Alfonso v. Office of the President, G.R. No. 150091, April 2, 2007, 520 SCRA 64, 77.
- [17] Sealana-Abbu v. Laurenciana-Huraño, A.M. No. P-05-2091, August 28, 2007, 531 SCRA 289, 297.
- [18] Court Employees of the MCTC, Ramon Magsaysay, Zamboanga del Sur v. Sy, A.M. No. P-93-808, November 25, 2005, 476 SCRA 127, 137-138.
- [19] Supra note 17 at p. 296.
- [20] Rollo, p. 38.
- [21] Valdez v. Dabon, A.M. No. CA-07-21-P, June 22, 2007, 525 SCRA 348, 357.
- [22] Section 52 A(15), Uniform Rules on Administrative Cases in the Civil Service.

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