

## THIRD DIVISION

**[ A.M. No. P-12-3080 [FORMERLY OCA I.P.I. NO. 10-3543-P], August 29, 2012 ]**

**JUDGE ARMANDO S. ADLAWAN, PRESIDING JUDGE, 6<sup>TH</sup> MUNICIPAL CIRCUIT TRIAL COURT, BONIFACIO-DON MARIANO MARCOS, MISAMIS OCCIDENTAL, COMPLAINANT, VS. ESTRELLA P. CAPILITAN, COURT STENOGRAPHER, 6<sup>TH</sup> MUNICIPAL CIRCUIT TRIAL COURT, BONIFACIO-DON MARIANO MARCOS, MISAMIS OCCIDENTAL, 29 AUGUST RESPONDENT.**

### DECISION

**PERALTA, J.:**

Before this Court is a Letter-Complaint<sup>[1]</sup> filed by Judge Armando S. Adlawan, Presiding Judge, 6<sup>th</sup> Municipal Circuit Trial Court (MCTC), Bonifacio-Don Mariano Marcos, Misamis Occidental against Estrella P. Capilitan, Stenographer of the same court for Violation of the Code of Conduct and Ethical Standards for Public Officials and Employees.

In his letter, Judge Adlawan stated that respondent Estrella Capilitan was appointed Court Stenographer on February 4, 2008 on account of his recommendation. Respondent was previously married to a Muslim under Muslim laws and the relationship bore two (2) children. She is now single-handedly raising her kids after being separated from her husband.

Complainant recounted that respondent was simple, innocent, soft-spoken, modest, diligent in work and was well-liked. Hence, he and the rest of his staff were surprised when respondent announced to them that she was four (4) months pregnant by a married man. As respondent narrated, in February 2010, she met her former high school classmate who represented himself as separated from his wife. She claimed to have given in to temptation. Later on, respondent alleged that the man became elusive when she told him about her pregnancy. Complainant judge noted that respondent was apologetic and acknowledged her mistake.

Complainant averred that while he understands the present condition of respondent, he, however felt duty-bound to report the matter to the court. Being pregnant outside of marriage, respondent had breached the ethical standards in the Judiciary, thus, is administratively liable.

On November 17, 2010, the Office of the Court Administrator (OCA), directed respondent to comment on the complaint against her.<sup>[2]</sup>

In her letter<sup>[3]</sup> dated December 30, 2010, respondent opted not to further explain her predicament as she admitted that the statements of complainant-judge in his

letter sprung from her own admission. She claimed that she is ready to face the consequences of her action, but prayed for compassion and that the lightest penalty be imposed on her considering that she is single-handedly supporting her children.

In a Memorandum<sup>[4]</sup> dated May 24, 2011, the OCA recommended that the instant complaint against respondent Capilitan be referred to the Executive Judge for investigation, report and recommendation, to give them ample basis to resolve the complaint, considering that the charge of immorality is a serious offense.

On August 8, 2011, the Court referred this case to Executive Judge Elenita M. Arabejo, Regional Trial Court, Tangub City, for investigation, report and recommendation.

During the investigation, respondent refused to further explain and give more information regarding her circumstances. She, however, admitted and confirmed anew the truth of the statements which complainant made regarding her condition.

With respondent's admission of the fact that she was impregnated by a man married to another woman, the Investigating Judge concluded that respondent indeed engaged in extra-marital affairs and committed immoral conduct that is unbecoming of a court employee. Thus, the Investigating Judge recommended that the penalty of suspension for a period of six (6) months and one (1) day be imposed upon respondent.<sup>[5]</sup>

On the basis of the findings and recommendation of the Investigating Judge, the OCA, in its Memorandum dated March 29, 2012, recommended that the instant administrative complaint be re-docketed as a regular administrative matter and that respondent be meted the penalty of suspension for a period of six (6) months and one (1) day without pay for being guilty of Immorality.

We adopt the findings and recommendation of the Investigating Judge and the OCA.

Immorality has been defined to include not only sexual matters but also *"conduct 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."*<sup>[6]</sup>

In the instant case, respondent has been informed of the charge against her and afforded the opportunity to respond thereto. In all instances, respondent admitted the allegation that she is pregnant by a man married to another woman. Indeed, while she initially claimed that the man who impregnated her represented to be separated from his wife, the fact remains that the man is still married. Thus, there is no doubt that respondent engaged in sexual relations with a married man which not only violate the moral standards expected of employees of the Judiciary but is also a desecration of the sanctity of the institution of marriage.

The Code of Judicial Ethics mandates that the conduct of court personnel must be free from any whiff of impropriety, not only with respect to his duties in the judicial branch but also to his behavior outside the court as a private individual. There is no dichotomy of morality; a court employee is also judged by his private morals. The