

THIRD DIVISION

[**A.M. No. P-06-2196 (Formerly OCA I.P.I. No. 05-2272-P), October 22, 2012**]

MARITES FLORES-TUMBAGA, COMPLAINANT, VS. JOSELITO S. TUMBAGA, SHERIFF IV, OFFICE OF THE CLERK OF COURT, REGIONAL TRIAL COURT, LA TRINIDAD, BENGUET, RESPONDENT.

D E C I S I O N

PERALTA, J.:

Before this Court is an Administrative Complaint^[1] filed by Marites Flores-Tumbaga against her husband, Joselito S. Tumbaga, Sheriff IV, Office of the Clerk of Court, Regional Trial Court, La Trinidad, Benguet for Disgraceful and Immoral Conduct.

Complainant alleged that sometime in December 2002, respondent confessed to her that he was having an extra-marital affair with a woman albeit he promised to put an end to said affair. However, complainant claimed that despite respondent's promise, he continued his illicit relation with another woman. In August 2003, respondent abandoned her. After their separation, complainant alleged that her husband and his woman were frequently seen together in public, acting as though they are husband and wife.

In support of her allegations, complainant submitted the Affidavit^[2] dated August 2, 2005 of Perfecto B. Cabansag (Cabansag), one of their wedding sponsors. In the said Affidavit, Cabansag stated that complainant came to their house seeking assistance and advice because respondent left her. In order to help complainant, sometime in September 2003, Cabansag and complainant met with respondent wherein the latter tearfully admitted to be the one at fault for having an extra-marital affair. Cabansag claimed that respondent promised them that he would end his extra-marital relationship with his woman, but a month after their meeting, respondent filed a petition for annulment of marriage in court.

Also attached to the complaint was the transcript of stenographic notes (TSN)^[3] of complainant's testimony on July 28, 2005 in Civil Case No. 03-F-1364, entitled "*Joselito S. Tumbaga vs. Marites F. Tumbaga*," for Declaration of Nullity of Marriage wherein complainant narrated anew when respondent (1) confessed his extra-marital affair with another woman; (2) pleaded forgiveness from her; (3) first abandoned her to be with the other woman to the time respondent returned to their conjugal home and again pleaded for forgiveness from her; and to the time he abandoned her for good in order to live with the other woman.

On August 30, 2005, the Office of the Court Administrator (OCA) directed respondent to Comment on the complaint against him.^[4]

In his Comment^[5] dated October 17, 2005, respondent denied having an extra-marital affair with another woman. He likewise denied admitting to anyone, much less to the complainant, having any extra-marital affairs. Respondent, however, admitted that their marriage has been dysfunctional and was besieged with constant conflicts that they were unable to resolve which prompted him to leave their conjugal dwelling.

In his defense, respondent submitted the Affidavit of Ardel Briones^[6] who attested that respondent told him of his marital woes. Respondent likewise submitted the Affidavit of Arnel Delenela,^[7] who attested that there is no truth to complainant's allegation that respondent and his sister are maintaining an illicit affair.

Due to the conflicting versions of the parties, the OCA recommended that the instant complaint be redocketed as a regular administrative matter and be referred to the Executive Judge of the Regional Trial Court of La Trinidad, Benguet for investigation, report and recommendation.^[8]

In a Resolution^[9] dated July 10, 2006, the Court resolved to refer this administrative matter to the Executive Judge of the Regional Trial Court, La Trinidad, Benguet for investigation, report and recommendation.

However, in a Letter^[10] dated September 12, 2006, Executive Judge Francis A. Buliyat, Regional Trial Court, La Trinidad, Benguet, directed instead then Vice-Executive Judge Marybelle L. Demot Mariñas to conduct the investigation and thereafter submit a report and recommendation on the case, since he could not conduct an impartial investigation as the annulment case involving complainant and respondent is pending in the court which he presides.

In a Resolution^[11] dated November 22, 2006, the Court confirmed the designation of then Vice-Executive Judge Mariñas to investigate this administrative matter and to submit her report and recommendation within sixty (60) days from receipt of the records. In an Order^[12] dated February 27, 2007, Judge Mariñas confirmed receipt of the records of the instant case on February 16, 2007.

Upon her request, the Court gave Judge Mariñas a fresh period to investigate the case, or a period of ninety (90) days from April 25, 2007 within which to conduct an investigation and submit her report and recommendation.^[13] However, Judge Mariñas failed to submit the required report and recommendation. Thus, in a Resolution dated December 13, 2010, the Court required her to "SHOW CAUSE" why she should not be disciplinarily dealt with or held in contempt for her failure to submit the investigation report on the case.

Finally, on May 2, 2011, Judge Mariñas submitted her Report and Recommendation dated March 18, 2011 wherein she apologized for the delay in complying with the Court's directive to submit the report within the required period.

Meanwhile, in her report, after examination of the evidence, the testimonies of the witnesses as well as the demeanors of both complainant and respondent during the hearing of the case, Judge Mariñas believed that respondent is indeed guilty of immorality. The positive testimonies of the complainant and her witnesses *vis-a-vis*