

## EN BANC

[ A.M. NO. P-04-1808, June 27, 2005 ]

**RE: CONVICTION OF IMELDA B. FORTUS, CLERK III, REGIONAL TRIAL COURT, BRANCH 40, CALAPAN CITY FOR THE CRIME OF VIOLATION OF B.P. 22**

### D E C I S I O N

**PER CURIAM:**

This is an administrative complaint filed by Judge Tomas C. Leynes, the presiding judge of the Regional Trial Court of Calapan City, Branch 40, against Imelda B. Fortus, Clerk III, a member of his staff.<sup>[1]</sup> In the letter-complaint, Judge Leynes alleged that Imelda B. Fortus has been convicted for violation of Batas Pambansa Bilang 22 (B.P. 22) by the Municipal Trial Court of Calapan City. Judge Leynes contends that a violation of B.P. 22 is a crime which involves moral turpitude and is therefore punishable under Civil Service Rules, upon the first commission, by dismissal from the service. Furthermore, the judge contends that even if Fortus was granted probation she must still be dismissed since probation, unlike pardon, does not obliterate the crime.<sup>[2]</sup>

In the comment filed by Fortus, she admitted that she was indeed convicted on three charges for violation of B.P. 22. Fortus however raises as a defense the fact that she was granted probation and should therefore not be subject to dismissal, since one of the purposes of B.P. 22 is to provide an opportunity for the reformation of a penitent offender.<sup>[3]</sup>

Upon referral of the case, the Office of the Court Administrator made the following evaluation and recommendation:

The present case involves a conviction for Violation of B.P. 22 which is an offense involving moral turpitude (*People vs. Tuanda*, 181 SCRA 692). It imports deceit and certainly affects the good moral character of a person convicted of such offense (*Villaber vs. Comelec*, 369 SCRA 126).

Under the Civil Service Law, respondent's conviction of a crime involving moral turpitude is considered a grave offense punishable, upon first commission, by dismissal from the service (*Omnibus Rules Implementing Book V of E.O. 292 and other pertinent Civil Service Laws, Rule XIV, Section 22 [e]*).

It matters not that respondent was granted probation because conviction of a crime involving moral turpitude which falls squarely under the disqualification from holding any office or function of the convicted person, subsists and remain[s] totally unaffected notwithstanding the grant of probation (*Heirs of the Late Francisco Abueg vs. CA*, 219 SCRA