

SECOND DIVISION

[A.M. No. P-02-1564 (Formerly OCA-IPI-No. 01-1028-P), November 23, 2004]

**CONCERNED EMPLOYEE, COMPLAINANT, VS. GLENDA ESPIRITU
MAYOR, COURT STENOGRAPHER, RTC, BRANCH 72, OLONGAPO
CITY, RESPONDENT.**

D E C I S I O N

TINGA, J,:

This administrative matter concerns a court employee called to task for her sexual liaisons with a married man. While the recommended sanction merits affirmance, the story behind this case contains previously unappreciated nuances which deserve full consideration and discussion.

Respondent Glenda E. Mayor secured a temporary appointment in 1990 as Court Stenographer III of Regional Trial Court (RTC), Branch 72, Olongapo City.^[1] On 29 October 1998, a letter addressed to then Court Administrator Alfredo Benipayo adverted to several immoral activities, characterized by promiscuous sexual behavior, on the part of respondent. The letter-writer also alleged that respondent had been unable to pass her Civil Service Eligibility Exams and noted that "her boss the famous Judge E. Ubadias, has been exhausting all possibilities lately so Glenda Mayor can extend and renew her appointment. [The letter-writer is] just curious and wondering about the preference given to Glenda Mayor by Judge Ubiadias because the former has a bad reputation in the entire Hall of Justice."^[2] The letter was signed by a "Concerned Employee," whose true identity has never been revealed.

The letter was referred to then RTC Executive Judge Leopoldo T. Calderon, Jr.^[3] of Olongapo City for *Discreet Investigation and Report*. On 30 April 1999, Judge Calderon submitted his findings in a *Report*. The *Report* stated that on 19 May 1998, respondent filed a complaint for parental recognition and support of her child, Glen Hzele Joseph E. Mayor, with the Olongapo RTC presided by Judge Calderon himself against Neslie L. Leaño, a married policeman. In her complaint, respondent alleged that she was single, and that her child was born on 14 May 1997, "after a short courtship during which [respondent] was made to believe that [Leaño] was single."^[4] The *Report* further stated that on 3 February 1999, respondent and Leaño submitted a compromise agreement, wherein Leaño admitted paternity of the child and promised to provide support for the child. The compromise agreement formed the basis of a *Decision* which has since become final.^[5] The *Report* also noted that respondent testified during the hearing on her action for support that she and Leaño had sexual trysts on several occasions, beginning in February of 1996.^[6] The *Report* concluded that incontrovertible evidence established that respondent had "indulged in an illegal and immoral sexual relationship with a married man, openly, and in an

(sic) scandalous manner.” Judge Calderon recommended that respondent’s temporary appointment should not be renewed after its lapse.^[7] No reference was made in the *Report* as to the other allegations adverted to in the anonymous letter.

Upon recommendation of the Office of the Court Administrator (OCA), the case was redocketed as a regular administrative matter, and respondent was required to comment on the anonymous letter. In her *Comment*, respondent admitted having filed the complaint for recognition and support against Leaño. However, she denied the other allegations in the anonymous letter. She also averred that she passed the Stenographer’s Examination given by the Civil Service Regional Office of Pampanga on 16 September 2000, as a result of which her employment status was subsequently changed from temporary to permanent on 26 February 2001.^[8]

The administrative matter was referred to RTC Olongapo Executive Judge Eliodoro G. Ubiadas^[9] for appropriate investigation and report. Judge Ubiadas issued a *Memorandum* directing all personnel of the RTC-Olongapo City to submit via a sealed envelope their respective comments on the complaint filed against Mayor. As reported by Judge Ubiadas, none of the employees of Branch 72 submitted any report or comment in response to the *Memorandum*. On the other hand, the employees of Branches 73 and 74 reported to Judge Ubiadas that not one of them had written the anonymous letter. Judge Ubiadas concluded that the charges posed against respondent were unsubstantiated, and consequently recommended the dismissal of the complaint.^[10]

Judge Ubiadas’ report was submitted to the OCA for evaluation, report and recommendation. On 3 October 2003, the OCA, through Deputy Court Administrator (DCA) Jose P. Perez, issued a *Memorandum*, wherein it was recommended that respondent be found guilty of disgraceful and immoral conduct and that she be suspended for six (6) months without pay with warning that a repetition of the same or similar offense in the future would be dealt with more severely.^[11] The OCA conceded that there was no subsequent substantiation of the allegations in the letter-complaint. However, as it was undisputed that respondent had given birth to a child out of wedlock, such finding alone was sufficient ground to warrant the imposition of an administrative sanction against the respondent for disgraceful and immoral conduct, the OCA noted.^[12] Also cited was the previous conclusion of the late Judge Calderon that respondent had engaged in an illegal and immoral sexual relationship with a married man, openly and in a scandalous manner.

The bar of morality to which judicial employees should adhere to is quite high, and with good reason. The words of wisdom of Justice Muñoz-Palma bear repeating:

. . . The image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women who work thereat, from the judge to the least and lowest of its personnel—hence, it becomes the imperative sacred duty of each and everyone in the court to maintain its good name and standing as a true temple of justice.^[13]

At the same time, the Court’s “imperative sacred duty” does not warrant any rush to judgment, regardless of the rank of the employee or the gravity of the charges. Due caution must especially be observed in cases such as this, where the complainant has not been openly identified and where the accusations are

particularly vituperative in nature. Gossip regarding one's sexual proclivities is rarely flattering to its subject, and often demeaning. Unsubstantiated charges as to sexual misconduct, especially those made from behind the convenient cloak of anonymity, deserve immediate and emphatic rebuke from this Court, lest we engender an atmosphere of sexual McCarthyism.

Administrative penalties must be supported by substantial evidence for the imposition thereof.^[14] The constitutional imperative is that due process must always be observed.^[15] Unquestionably, respondent has been informed of the charges against her and afforded the opportunity to respond thereto. The question that remains is whether the evidence presented warrants the imposition of an administrative penalty.

As correctly found by DCA Perez, most of the allegations stated in the anonymous letter-complaint were unsubstantiated. Thus, they were correctly disregarded. What becomes clear though from the facts is that respondent, a single woman, engaged in sexual relations with a married man, resulting in a child born out of wedlock. Respondent admitted just as much in her complaint for parental recognition and support filed on 19 May 1998, her admissions therein verified under oath. Moreover, the illicit liaison occurred during her employment with the judiciary. For this reason, the DCA recommends that respondent be found guilty of disgraceful and immoral conduct and suspended for six months.^[16] In support of the recommendation, he cited jurisprudence.^[17]

However, we seriously disagree with the OCA's suggestion that the fact alone that respondent had given birth to a child out of wedlock is sufficient to warrant sanction for disgraceful and immoral conduct. Such a proposition would neither make nor operate as the general rule, but would come into play only when the basic fact is conjoined with other circumstances. For example, there is a wealth of jurisprudence, pertinent to disbarment cases, ruling that the mere fact of sexual relations between two unmarried adults is not sufficient to warrant administrative sanction for such illicit behavior.^[18] In such cases, it was held that to be the basis of a disciplinary action, the act must not merely be immoral; it must be "grossly immoral"—"it must be so corrupt and false as to constitute a criminal act or so unprincipled as to be reprehensible to a high degree."^[19]

In one of these cases, *Ui v. Atty. Bonifacio*,^[20] the respondent female lawyer actually cohabited with, bore the children of, and contracted a foreign marriage with a man whose previous marriage was still subsisting. However, when respondent eventually learned about her paramour's subsisting valid marriage, she left him as a result.^[21] Notwithstanding, a complaint for disbarment was filed against the lawyer by the legal wife of her lover. The Court found the sanction of reprimand appropriate due to respondent's attachment of an intercalated Marriage Certificate to the record of the case in an attempt to foist the mistaken belief that her first child was born after her Hawaii marriage.^[22] However, the fact of the illicit affair itself was not adjudged as cause for administrative sanction, albeit the Court reserved comment on the moral quandaries the situation presented. The following disquisition of Justice Sabino de Leon in the *Ui* case illustrates the dichotomy between the difficult ethical questions posed in that case and the appropriate legal standards governing the proper sanction:

Simple as the facts of the case may sound, the effects of the actuations of respondent are not only far from simple, they will have a rippling effect on how the standard norms of our legal practitioners should be defined. Perhaps morality in our liberal society today is a far cry from what it used to be before. This permissiveness notwithstanding, lawyers, as keepers of public faith, are burdened with a higher degree of social responsibility and thus must handle their personal affairs with greater caution. The facts of this case lead us to believe that perhaps respondent would not have found herself in such a compromising situation had she exercised prudence and been more vigilant in finding out more about Carlos Ui's personal background prior to her intimate involvement with him.

Surely, circumstances existed which should have at least aroused respondent's suspicion that something was amiss in her relationship with Carlos Ui, and moved her to ask probing questions. For instance, respondent admitted that she knew that Carlos Ui had children with a woman from Amoy, China, yet it appeared that she never exerted the slightest effort to find out if Carlos Ui and this woman were indeed unmarried. Also, despite their marriage in 1987, Carlos Ui never lived with respondent and their first child, a circumstance that is simply incomprehensible considering respondent's allegation that Carlos Ui was very open in courting her.

All these taken together leads to the inescapable conclusion that respondent was imprudent in managing her personal affairs. However, the fact remains that her relationship with Carlos Ui, clothed as it was with what respondent believed was a valid marriage, cannot be considered immoral. For immorality connotes conduct that shows indifference to the moral norms of society and the opinion of good and respectable members of the community. Moreover, for such conduct to warrant disciplinary action, the same must be "grossly immoral," that is, it must be so corrupt and false as to constitute a criminal act or so unprincipled as to be reprehensible to a high degree.

We have held that "a member of the Bar and officer of the court is not only required to refrain from adulterous relationships . . . but must also so behave himself as to avoid scandalizing the public by creating the belief that he is flouting those moral standards." Respondent's act of immediately distancing herself from Carlos Ui upon discovering his true civil status belies just that alleged moral indifference and proves that she had no intention of flaunting the law and the high moral standard of the legal profession. Complainant's bare assertions to the contrary deserve no credit. After all, the burden of proof rests upon the complainant, and the Court will exercise its disciplinary powers only if she establishes her case by clear, convincing and satisfactory evidence. This, herein complainant miserably failed to do. (Emphasis supplied)^[23]

Our landmark ruling in *Estrada v. Escritor*^[24] emphasizes that in determining whether the acts complained of constitute "disgraceful and immoral behavior" under the Civil Service Laws, the distinction between public and secular morality on the