

## FIRST DIVISION

[ A.M. No. MTJ-99-1211, January 28, 2000 ]

**ZENAIDA S. BESO, COMPLAINANT, VS. JUDGE JUAN DAGUMAN,  
MCTC, STA. MARGARITA-TARANGAN-PAGSANJAN, SAMAR,  
RESPONDENT.**

### D E C I S I O N

**YNARES-SANTIAGO, J.:**

In this administrative complaint, respondent Judge stands charged with Neglect of Duty and Abuse of Authority. In a Complaint-Affidavit dated December 12, 1997, Zenaida S. Beso charged Judge Juan J. Daguman, Jr. with solemnizing marriage outside of his jurisdiction and of negligence in not retaining a copy and not registering the marriage contract with the office of the Local Civil Registrar alleging

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- a. That on August 28, 1997, I and my fiancée (*sic*) BERNARDITO A. YMAN got married and our marriage was solemnized by judge (*sic*) Juan Daguman in his residence in J.P.R. Subdivision in Calbayog City, Samar; xxx
- b. That the ceremony was attended by PACIFICO MAGHACOT who acted as our principal sponsor and spouses RAMON DEAN and TERESITA DEAN; xxx
- c. That after our wedding, my husband BERNARDITO YMAN abandoned me without any reason at all;
- d. That I smell something fishy; so what I did was I went to Calbayog City and wrote the City Civil Registrar to inquire regarding my Marriage Contract;
- e. That to my surprise, I was informed by the Local Civil Registrar of Calbayog City that my marriage was not registered; xxx
- f. That upon advisement of the Local Civil Registrar, I wrote Judge Juan Daguman, to inquire;
- g. That to my second surprise, I was informed by Judge Daguman that all the copies of the Marriage Contract were taken by *Oloy* (Bernardito A. Yman);
- h. That no copy was retained by Judge Daguman;
- i. That I believe that the respondent judge committed acts prejudicial to my interest such as:

1. Solemnizing our marriage outside his jurisdiction;
2. Negligence in not retaining a copy and not registering our marriage before the office of the Local Civil Registrar."

The Affidavit-Complaint was thereafter referred to respondent Judge for comment.

In his Comment, respondent Judge averred that:

1. The civil marriage of complainant Zenaida Beso and Bernardito Yman had to be solemnized by respondent in Calbayog City though outside his territory as municipal Judge of Sta. Margarita, Samar due to the following and pressing circumstances:
  - 1.1. On August 28, 1997 respondent was physically indisposed and unable to report to his station in Sta. Margarita. In the forenoon of that date, without prior appointment, complainant Beso and Mr. Yman unexpectedly came to the residence of respondent in said City, urgently requesting the celebration of their marriage right then and there, first, because complainants said she must leave that same day to be able to fly from Manila for abroad as scheduled; second, that for the parties to go to another town for the marriage would be expensive and would entail serious problems of finding a solemnizing officer and another pair of witnesses or sponsors, while in fact former Undersecretary Pacifico Maghacot, *Sangguniang Panglunsod* [member] Ramon Dean were already with them as sponsors; third, if they failed to get married on August 28, 1997, complainant would be out of the country for a long period and their marriage license would lapse and necessitate another publication of notice; fourth, if the parties go beyond their plans for the scheduled marriage, complainant feared it would complicate her employment abroad; and, last, all other alternatives as to date and venue of marriage were considered impracticable by the parties;
  - 1.2 The contracting parties were ready with the desired documents (*sic*) for a valid marriage, which respondent found all in order.
  - 1.3 Complainant bride is an accredited Filipino overseas worker, who, respondent realized, deserved more than ordinary official attention under present Government policy.
2. At the time respondent solemnized the marriage in question, he believed in good faith that by so doing he was leaning on the side of liberality of the law so that it may be not be too expensive and complicated for citizens to get married.

3. Another point brought up in the complaint was the failure of registration of the duplicate and triplicate copies of the marriage certificate, which failure was also occasioned by the following circumstances beyond the control of respondent:

- 3.1. After handing to the husband the first copy of the marriage certificate, respondent left the three remaining copies on top of the desk in his private office where the marriage ceremonies were held, intending later to register the duplicate and triplicate copies and to keep the forth (*sic*) in his office.
- 3.2. After a few days following the wedding, respondent gathered all the papers relating to the said marriage but notwithstanding diligent search in the premises and private files, all the three last copies of the certificate were missing. Promptly, respondent invited by subpoena xxx Mr. Yman to shed light on the missing documents and he said he saw complainant Beso put the copies of the marriage certificate in her bag during the wedding party. Unfortunately, it was too late to contact complainant for a confirmation of Mr. Yman's claim.
- 3.3. Considering the futility of contracting complainant now that she is out of the country, a reasonable conclusion can be drawn on the basis of the established facts so far in this dispute. If we believe the claim of complainant that after August 28, 1997 marriage her husband, Mr. Yman, abandoned her without any reason xxx but that said husband admitted "he had another girl by the name of LITA DANGUYAN" xxx it seems reasonably clear who of the two marriage contracting parties probably absconded with the missing copies of the marriage certificate.
- 3.4. Under the facts above stated, respondent has no other recourse but to protect the public interest by trying all possible means to recover custody of the missing documents in some amicable way during the expected hearing of the above mentioned civil case in the City of Marikina, failing to do which said respondent would confer with the Civil Registrar General for possible registration of reconstituted copies of said documents.

The Office of the Court Administrator (OCA) in an evaluation report dated August 11, 1998 found that respondent Judge "... committed non-feasance in office" and recommended that he be fined Five Thousand Pesos (P5,000.00) with a warning that the commission of the same or future acts will be dealt with more severely pointing out that:

"As presiding judge of the MCTC Sta. Margarita Tarangnan-Pagsanjan, Samar, the authority to solemnize marriage is only limited to those municipalities under his jurisdiction. Clearly, Calbayog City is no longer within his area of jurisdiction.

Additionally, there are only three instances, as provided by Article 8 of the Family Code, wherein a marriage may be solemnized by a judge outside his chamber[s] or at a place other than his sala, to wit:

- (1) when either or both of the contracting parties is at the point of death;
- (2) when the residence of either party is located in a remote place;
- (3) where both of the parties request the solemnizing officer in writing in which case the marriage may be solemnized at a house or place designated by them in a sworn statement to that effect.

The foregoing circumstances are unavailing in the instant case.

Moreover, as solemnizing officer, respondent Judge neglected his duty when he failed to register the marriage of complainant to Bernardito Yman.

Such duty is entrusted upon him pursuant to Article 23 of the Family Code which provides:

"It shall be the duty of the person solemnizing the marriage to furnish either of the contracting parties the original of the marriage certificate referred to in Article 6 and to send the duplicate and triplicate copies of the certificates not later than fifteen days after the marriage, to the local civil registrar of the place where the marriage was solemnized. xxx"  
(underscoring ours)

It is clearly evident from the foregoing that not only has the respondent Judge committed non-feasance in office, he also undermined the very foundation of marriage which is the basic social institution in our society whose nature, consequences and incidents are governed by law. Granting that respondent Judge indeed failed to locate the duplicate and triplicate copies of the marriage certificate, he should have exerted more effort to locate or reconstitute the same. As a holder of such a sensitive position, he is expected to be conscientious in handling official documents. His imputation that the missing copies of the marriage certificate were taken by Bernardito Yman is based merely on conjectures and does not deserve consideration for being devoid of proof."

After a careful and thorough examination of the evidence, the Court finds the evaluation report of the OCA well-taken.

*Jimenez v. Republic*<sup>[1]</sup> underscores the importance of marriage as a social institution thus: "[M]arriage in this country is an institution in which the community is deeply