

EN BANC

[**A.M. No. 99-10-10-SC, November 29, 1999**]

RE: DISCIPLINARY ACTION AGAINST ANTONIO LAMANO, JR., OF THE JUDGMENT DIVISION, SUPREME COURT

R E S O L U T I O N

GONZAGA-REYES, J.:

Before us is an Affidavit-Complaint filed by Valeriana Almojuela, Property Division of the Court of Appeals against Antonio Lamano, Jr. of the Judgment Division of the Supreme Court for misconduct. The complaint states that at about 7:30 in the morning of March 5, 1999 while she was in line at the Supreme Court canteen she felt somebody from behind insert a finger in between her buttocks which reached her intimate part. When she turned to see who it was she saw the respondent. She berated him and he immediately apologized. The complainant stated that instead of feeling remorse the respondent while eating kept laughing and occasionally looked her way and that even after the day of the incident the respondent continued to tell his friends about it causing more pain and humiliation to the complainant.

The respondent filed Answer to the Complaint and states that it was a case of mistaken identity. He only wanted to play a prank on his friend Carlo of the Judicial Records Office of the Supreme Court who looked like the complainant from behind. Respondent alleges that he touched or squeezed but not fingered the complainant's buttocks and that when he saw that the person he touched was not his friend Carlo but the complainant he immediately apologized. Respondent denies spreading gossip about the incident.

A friend of the respondent, Rodolfo Reboredo, who was present at the scene of the incident stated in his affidavit:

"At nasaksihan ko na inakbayan niya (Lumano, Jr) ang nasabing nakasuot ng striped na T-shirt at maong na pantalon. Sa pag-aakala ko na kilala niya iyon hindi ko ito binigyan ng pansin, at laking gulat ko na lamang ang malakas na pagpapaumahanhin ni Antonio Lamano na sabi ay "sorry po ma'am, hindi ko po sinasadya, inaamin ko na nagkamali po ako, sorry po talaga." Nang matapos ang argumento kami ay naupo na sa hapag kainan kasama si G. Otillo Pamittan, at si Antonio ay nakayukong umiiling-iling at natatawa sa kanyang sarili. Tinanong ko kung ano ang ginawa niya at ang sabi niya ay "pare, nagkamali ako, ang akala ko si Carlo yong babae, sinundot ko iyong puwet"

In her Reply complainant reiterated that respondent inserted his finger in between her buttocks as he admitted to Rodolfo Reboredo immediately after the incident. Complainant insists that she does not look even remotely similar to Carlo of the Judicial Records Office. She further states that even assuming that it was a case of mistaken identity the respondent should be held responsible for his acts which