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EN BANC

[A.M. No. MTJ-98-1162. August 11, 1999]

ANA MAY M. SIMBAJON, *complainant, vs.* **JUDGE ROGELIO M. ESTEBAN, Municipal Trial Court in Cities, Branch I, Cabanatuan City,** *respondent.*

SYNOPSIS

Complainant charged respondent judge with grave misconduct and sexual harassment. The Court referred the case to Executive Judge Federico Fajardo, Jr. of the Regional Trial Court of Cabanatuan City (Branch 30) for investigation, report and recommendation. In his report, Judge Fajardo accorded credibility to the complainant and her witnesses and rejected the testimonies of respondent and his witnesses. The investigating judge recommended that respondent judge be dismissed from the service. The Office of the Court Administrator, in its report to the Court, agreed with the findings and the recommendation of the investigating judge. After examining the records of the case, the Court likewise held that such findings and recommendations were supported by the evidence and the jurisprudence cited. According to the Court, the conduct of the respondent fell short of the standards set forth by the Code of Judicial Conduct and the Canons of Judicial Ethics. The Court also added that respondent's lustful conduct was aggravated by the fact that he was the superior of the complainant. Instead of acting in *loco parentis* toward his subordinate employee, he took advantage of his position and preyed on her. Respondent's conduct, according to the Court, did not become less reprehensible for having been perpetrated on only one employee. By his act, he has shown himself unworthy of the judicial robe. Respondent was dismissed from the service, with forfeiture of all retirement benefits, leave credits and with prejudice to reemployment in any branch or instrumentality of the government.

SYLLABUS

1. **JUDICIAL ETHICS; JUDGES; RESPONDENT JUDGE'S LUSTFUL CONDUCT TRANGRESSED THE ORDINARY NORMS OF DECENCY EXPECTED OF EVERY PERSON.—** The conduct of the respondent falls short of the standard of morality and decency. According to complainant Ana May Simbajon, respondent told her that in exchange for his signature on her

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employment application, she would become his girlfriend. Thereafter, he went on to kiss her against her will. Later, after learning that her application had been approved, he called her to his chambers and said that she was already his girlfriend. He went on to embrace her, kiss her, and touch her right breast. Complainant affirmed all these even under withering cross-examination. Her allegations were corroborated by two witnesses, to whom she confided her humiliating experience. Respondent's conduct violated the Code of Judicial Conduct. Not only did he fail to live up to the high moral standards of the judiciary; he even transgressed the ordinary norms of decency expected of every person.

2. **ID.; ID.; THE CONDUCT OF JUDGES MUST BE BEYOND REPROACH AND ABOVE SUSPICION.—** As the Court has often stressed, the conduct of a judge, whether official or private, must be beyond reproach an above suspicion. A member of the bench must not only be a good judge; he or she must also be a good person. This is necessary so as not to erode the faith and confidence of the public in the judiciary. In the final analysis, such faith and confidence is anchored on the highest standard of integrity and moral uprightness that judges are expected to possess.

3. **ID.; ID.; LUSTFUL CONDUCT IS AGGRAVATED WHEN COMMITTED AGAINST A SUBORDINATE EMPLOYEE.—** Respondent's lustful conduct was aggravated by the fact that he was the superior of the complainant. Instead of acting in *loco parentis* toward his subordinate employee, he took advantage of his position and preyed on her. In *Dawa v. De Asa,* the respondent judge was dismissed for making sexual advances on three of his subordinates. Herein respondent's conduct does not become less reprehensible for having been perpetrated on only one employee. Without a doubt, respondent acted beyond the bounds of decency and morality. He has shown himself unworthy of the judicial robe.

APPEARANCES OF COUNSEL

Garcia, Roque, Capalad, Wenceslao & Denna Law Offices for complainant.

Irineo G. Calderon for respondent.

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DECISION

PER CURIAM:

In a letter[1] dated September 8, 1997, Judge Rogelio M. Esteban of the Municipal Trial Court in Cities (Branch I, Cabanatuan City) was charged by Ana May V. Simbajon with sexual harassment and grave misconduct.

In the Sworn Complaint dated September 8, 1997, which accompanied her letter, Simbajon narrated the following:

"3. When the local position of book binder in Branch I of the said Court became vacant, I applied for it, but my papers requiring the signature of Judge Esteban remained unacted upon for sometime;

4. On June 25, 1997, I decided to approach Judge Rogelio M. Esteban about the matter, inside his airconditioned chamber, but during the course of our conversation, said Judge uttered the following:

"ANO NAMAN ANG MAGIGING KAPALIT NG PAGPIRMA KO RITO? MULA NGAYON GIRLFRIEND NA KITA. ARAW-ARAW PAPASOK KA DITO SA OPISINA KO, AT ARAW-ARAW, ISANG HALIK."

to which I replied that it could not be possible because I look[ed] up to him like a father to me;

5. As he signed my papers, he stood up from his chair, went to my back where I was seated, and to my shock suddenly kissed my left cheek;

6. I stood up shaken and trembling in fear and immediately left the said chamber, promising myself never to enter that chamber again and never to talk to said Judge again;

7. Then, on August 5, 1997 at around 9:30 o'clock in the morning, Court Interpreter Virginia S. Medina told me I was being called by Judge Rogelio M. Esteban regarding our payroll, and although in trauma over my experience in said chamber, I was constrained to enter said room, as I had no choice, being a mere lowly subordinate;

8. As I was about to take a seat infront of Judge Rogelio M. Esteban's table, he instructed me to stand beside his table near where he was seated;

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[1] *Rollo*, p. 1.

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9. Judge Esteban asked me since when I ha[d] been receiving [a] book binder's salary, and I told him for quite sometime already, and after that, he told me:

"MATAGAL NA PALA EH BAKIT HINDI KA PUMAPASOK DITO SA KUWARTO KO? DI BA SABI KO SA IYO, GIRLFRIEND NA KITA?"

to which I firmly answered back it could not be possible for he was only like a father to me. I really felt insulted to be treated that low by a Judge at that, being a married woman with two sons;

10. At that point, Judge Esteban suddenly stood up from his seat, uttering:

"HINDI PUEDE 'YAN, MAHAL KITA."

and then grabbed me, started kissing me all over my face, embraced me, and touched my right breast;

11. I freed myself from his embrace, left the said chamber hurriedly, and threw the payroll on top of the table of co-employee Elizabeth Q. Malubay, teary-eyed, trembling in shock and fear;

12. Sensing something was really wrong with me, she accompanied me to the comfort room and there I cried and related to her what had happened in the chamber of Judge Esteban;"[2]

In his Answer filed with this Court on December 2, 1997, respondent judge denied the allegations in the Complaint in this manner:

"4. That paragraph 4 is vehemently and specifically denied for lack of knowledge sufficient to determine its truth or falsity; the truth being that when Ms. Ana May Simbajon approached herein respondent and presented some papers/documents clipped to one another, he scanned over the same and when he saw that the same [were] already approved by the City Mayor, Hon. Manolette S. Liwag and that his signature thereon [was] a mere formality, he readily signed the same without hesitation [or] any questions asked; That after he ha[d] signed the document Ana May Simbajon rose from the chair placed in front of my desk where she was seated, walked

[2] *Rollo*, pp.2-3.

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towards the respondent and buzzed him on the forehead as she said 'Thank you, sir, *mahal ka namin, para kang tatay namin'*, to which he smiled and replied *'salamat'*. Thereafter she took the signed documents and casually walked out of the chamber of the judge;

x x x x x x x x x

7. That paragraph 7 is specifically and vehemently denied for lack of knowledge sufficient to form a belief as to its truth or falsity[,] the truth being that respondent never sent for Ms. Ana May Simbajon thru Court Interpreter, Virgie Medina, on August 5, 1997; that when he re-entered his chamber after talking with some people at the MTCC lobby, found that [the] payroll voucher of the City Hall casual employees [was] already stacked above the piles of official papers on his table[,] all for signature of the Presiding Judge; that he signed the said payroll voucher without any hesitation, as he usually does even up to this writing;

x x x x x x x x x

10. That herein respondent hereby emphatically manifests the physical impossibility of the commission of the accusation considering that the xxx chamber's door to the staff room is always fully and widely [open] and almost all the employees of Branch I are respectively seated on their assigned places such that any unusual conversation or commotion inside the judge['s] chamber is easily and readily detected;

11. That herein respondent always act[s] with fatherly attitude and behavior towards all the employees of the MTCC of Cabanatuan City;

12. That herein respondent always conducts himself publicly with amiable, jolly and good behavior and [the] nice attitude of a good father of the family;

13. That he has no personal enmity with anybody and harbors no ill-feeling towards anybody;

14. That he is not aware of any reason sufficient to form a belief why he should be charged or indicted on any ground either civilly, criminally or administratively;

15. That he is endowed with public trust and confidence, he being a former director and president of the Nueva Ecija Judges Association; former Deputy Grand Knight of the Knights of Columbus Sta. Rosa Council No. 5463; an active member of Gen. Llanera Lodge No. 168 F & AM; an active dual member of Santa Rosa Lodge No. 297, F & AM; incumbent Secretary-General of the City Judges Association of the Philippines; and a religious and charitable person;

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16. That he specifically and vehemently objects to all the contents of the Affidavit of Ms. Elizabeth Q. Malubay which she executed in relation to the above-cited sworn statement of Ms. Ana May Simbajon, it being entirely preposterous, hearsay and contrary to reason and common sense."[3]

On August 31, 1998, this Court referred the case to Executive Judge Federico Fajardo Jr. of the Regional Trial Court of Cabanatuan City (Branch 30) for investigation, report and recommendation. Further, the Court placed respondent Judge Esteban under preventive suspension for the duration of the investigation until further notice.[4]

In his Report, Judge Fajardo accorded credibility to the complainant and her witnesses and rejected the testimonies of respondent and his witnesses. The investigating judge reported:

"[Respondent judge] was not able to present any proof that complainant is a woman capable of spinning a lie, a woman so callused and thick-skinned to be able to bear the consequences of a tale of sexual harassment which put her own morality and reputation at stake, not counting the serious effect it will have on her own husband and children. Respondent failed to show what kind of relationship and/or agreement complainant and witness Malubay had that the former would risk her marriage, her reputation and her future only to help avenge the latter who was not recommended to the position of Utility Worker by respondent. Also, complainant filed a case against respondent before the Ombudsman, the case now being heard at the Sandiganbayan. Such determination to seek justice for herself negates the allegation or any suspicion that her case was just a blatant fabrication.

Without any convincing evidence on hand, respondent's last line of defense is denial. The Supreme Court held that 'Denial, if unsubstantiated by clear and convincing evidence, is a negative and self-serving evidence which deserves no weight in law and cannot be given greater evidentiary value over the testimony of credible witnesses who testify on affirmative matters'.

As to the pressure being exerted by respondent for complainant to withdraw her case against him as testified to by complainant and witnesses Priscilla Santos and Lea Rubio which was not convincingly rebutted by respondent, suffice it to say that pressure is the only recourse of any respondent who is bereft of any evidence to defend himself with.

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[3] *Rollo*, pp. 12-14.

[4] *Rollo*, p. 26.

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Based on the foregoing findings, the undersigned Investigator concludes that there is sufficient evidence to create a moral certainty that respondent committed the acts complained of. In a long line of cases involving judges, the Supreme Court has held that actuations like those done by respondent 'are aggravated by the fact that complainant is one of his subordinates over whom he exercises control and supervision he being the Executive Judge. He took advantage of his position and power in order to carry out his lustful and lascivious desires. Instead of he being in *loco parentis* over his subordinate employees, respondent was the one who preyed on them taking advantage of his superior position'.

Thus, respondent has violated the Code of Judicial Conduct which requires every judge to be the embodiment of competence, integrity and independence and to avoid impropriety and the appearance of impropriety in all activities as to promote public confidence in the integrity and impartiality of the judiciary.

At a time when the Courts are trying to disprove its 'hoodlums-in-robes' image, this despicable act of respondent turning his august chambers into a bordello only further tainted the image of the judiciary. Respondent failed miserably to observe the exacting standards of morality and decency mandated by the Code of Judicial Conduct. Having proven himself unworthy to remain in office, respondent should be weeded out from the service the soonest possible time lest he further [erode] the faith of the people in Court."[5]

In view of the foregoing, Judge Fajardo recommended that Judge Rogelio M. Esteban be dismissed from the service.[6] The Office of the Court Administrator, in its Report to this Court, agreed with the findings and the recommendation of the investigating judge.

After examining the records of this case, we likewise hold that such findings and recommendations are supported by evidence and the jurisprudence cited.

By the nature of their work, judges are expected to possess the highest standard of morality and decency.[7] The Code of Judicial Conduct states:

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[5] Investigation Report, pp. 39-41; *rollo*, pp. 190-192.

[6] Investigation Report, p. 41; *rollo*, p. 192.

[7] *Naval v. Panday,* 275 SCRA 654, 689 [1997].

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"CANON 2 – A judge should avoid impropriety and the appearance of impropriety in all activities.

"Rule 2.01 – A judge should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary."

This is echoed by the Canons of Judicial Ethics, which provides:

"3. *Avoidance of appearance of impropriety*

"A judge's official conduct should be free from the appearance of impropriety, and his personal behavior, not only upon the bench and in the performance of judicial duties, but also in his every day life, should be beyond reproach."

The conduct of the respondent falls short of this standard. According to complainant Ana May Simbajon, respondent told her that in exchange for his signature on her employment application, she would become his girlfriend. Thereafter, he went on to kiss her against her will.

Later, after learning that her application had been approved, he called her to his chambers and said that she was already his girlfriend. He went on to embrace her, kiss her, and touch her right breast. Complainant affirmed all these even under withering cross-examination. Her allegations were corroborated by two witnesses, to whom she confided her humiliating experience.

One of these witnesses was Elizabeth Q. Malubay, who narrated:

"8. That, after a while, I saw Ana May rushing out of the roo[m] of the judge, thr[o]w our payroll on top of my table and there I noticed that [she was] trembling in fear, teary eyed, as if afraid of something, so sensing that something happened inside that room, I brought her out of our office and proceeded to the comfort room and there bursting in tears, she relayed to me what had happened."[8]

Complainant's husband, Conrado Simbajon Jr., described his wife's demeanor after the incident as follows:

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[8] Malubay's Affidavit adopted as her direct testimony, pp. 1-2; *rollo*, pp. 8-9.

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"3. When I arrived at home I asked Ana May what happened but she refused to talk and was very quiet. Sensing that my wife had difficulty in revealing the problem I preferred for her to initiate the discussion of her problem;

"4. Sometime later, before going to bed, my wife embraced [me] tightly and suddenly burst into tear[s] and she told me that her superior Judge Rogelio Esteban made sexual advances in such a way that Judge Rogelio Esteban grabbed, kissed, embraced and touched her breast right inside the chamber of Judge Esteban[.]"[9]

The investigating judge correctly disregarded the respondent's imputation of ill motive on the part of complainant. No married woman would cry sexual assault, subject herself and her family to public scrutiny and humiliation, and strain her marriage in order to perpetuate a falsehood.[10]

The respondent judge and his witnesses failed to overcome the evidence presented by the complainant. As the investigating judge correctly observed:

"x x x *First*, complainant herself testified that the door to the chambers was closed as she herself closed it, as she had always seen that [that] room was usually closed ever since she got assigned in the office, the room being airconditioned. *Second*, nowhere in the complaint [or] in the testimony of complainant and her witness was it mentioned that a commotion or unusual conversation took place on June 25 and/or August 5, 1997 loud enough to be heard outside. A perusal of the complaint would show that right after the sexual harassment committed by respondent, complainant hurriedly left the chambers in both instances. She did not create a scene outside the chambers. She kept her silence after the first incident promising herself never to enter the chambers again and in the second incident, she and Malubay went to the comfort room where she cried and narrated what happened to her."[11]

This Court further notes the ostentatious display of power and arrogance on the part of the respondent. Witness Priscilla Santos declared:

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[9] Conrado's Affidavit adopted as his direct testimony; *rollo*, p. 38.

[10] *People v. Mamalayan*, 280 SCRA 748 [1997]; *People v. Cristobal*, 252 SCRA 507 [1996].

[11] Investigating Judge's Report, p. 38; *rollo*, p. 189. (Adopted by OCA in its Memorandum, p. 7.)

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"3. [On] several occasions, I ran errands for Ana May Simbajon in the facilitation of her voucher in order for her to draw her salary;

"4. I know for a fact that sometime in the third week of June 1998, I went to Mr. Briones in order to retrieve the voucher of Ana May Simbajon, whom she requested to intervene in order for Judge Rogelio Esteban to sign the voucher. Mr. Briones did not release the voucher to me[;] instead he uttered the following words to the effect that: *[']nahihirapan na ako, hindi naman ako kasali nadadamay ako...itanong mo kay Ana May kung magkano ang gusto niya... kung diyes mil o magkano ba talaga.... At baka hindi niya nalalaman na malakas si Judge Esteban kay Mayor Vergara baka maalis siya sa plantilya....'*. Instead, Mr. Briones instructed me to tell Ana May Simbajon to see him;

"5. There was also an instance sometime in July 1998 when again Ana May Simbajon requested me to submit to the Municipal Trial Court in Cities her detail order to the office of the City Mayor which is a supporting document in order for her to draw her salary[,] however, neither the office of the clerk of court nor Judge Rogelio Esteban received the detail order[;] instead Judge Rogelio Esteban told me that he [could] not affix his conformity to the detail order and it [was] Ana May Simbajon whom they need[ed]. Judge Esteban even uttered *'bakit kasi ayaw niyang magpunta dito';*

"6. Also sometime in August 1998, I again went to the office of Judge Rogelio Esteban upon request of Ana May Simbajon in order for Judge Esteban to sign the approval of her voucher[;] again, Judge Rogelio Esteban refused to sign the voucher and commented that he [would] first confer with Mayor Jay Vergara before [signing] the same;

"7. After a week or so, I returned to the office of Judge Rogelio Esteban again upon request of Ana May Simbajon in order for said Judge to sign the approval of her voucher. Accompanying the voucher was a detail order from the office of the City Mayor with a personal note addressed to said Judge, and it was only at that instance that Judge Rogelio Esteban signed the voucher of Ana May Simbajon for the month of July 1998[;] in fact, after Judge Esteban signed the voucher, he personally folded the documents and placed [them] inside an envelope and sarcastically commented *'espesyal ito.'*

"8. That I am executing this sworn statement to attest to the foregoing in support of the complaint of Ana May Simbajon against Judge Rogelio Esteban and to prove that some people are influencing Ana May Simbajon to dismiss this complaint against Judge Rogelio Esteban."[12]

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[12] Santos' Affidavit adopted as her direct testimony; *rollo,* p. 36.

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Respondent's conduct violated the Code of Judicial Conduct. Not only did he fail to live up to the high moral standards of the judiciary; he even transgressed the ordinary norms of decency expected of every person. As the Court has often stressed, the conduct of a judge, whether official or private, must be beyond reproach and above suspicion. A member of the bench must not only be a good judge; he or she must also be a good person.[13] This is necessary so as not to erode the faith and confidence of the public in the judiciary.[14] In the final analysis, such faith and confidence is anchored on the highest standard of integrity and moral uprightness that judges are expected to possess.[15] As we ruled in *Junio v. Rivera Jr.*.[16]

"All judges [o]n all levels of the judicial hierarchy, from this Court down to the Municipal or Metropolitan Trial Courts, are bound to observe the above exacting standards. There is, however, a special reason for requiring compliance with those standards from those who, like respondent Judge Rivera, are Municipal or Metropolitan judges and are accordingly 'front-liners' of the judicial department. As such, a Municipal (or Metropolitan) Judge is the most visible living representation of the country's legal and judicial system. He is the judicial officer who on a day-to-day basis deals with the disputes arising among simple, rural people who comprise the great bulk of our population. He is the judicial officer who comes into closest and most frequent contact with our people. The judiciary as a whole and its ability to dispense justice are inevitably measured in terms of the public and private acts of judges in the 'grass roots' level, like respondent Judge Pedro C. Rivera, Jr. It is essential, therefore, if the judiciary is to engage and retain the respect and confidence of our nation, that this Court insist that municipal judges and all other judges live up to the high standards demanded by our case law and the Code of Judicial Conduct and by our polity."

Respondent's lustful conduct was aggravated by the fact that he was the superior of the complainant. Instead of acting in *loco*

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[13] *Dawa v. De Asa*, 292 SCRA 703 [1998].

[14] *Naval v. Panday*, 275 SCRA 654, 688-690 [1997].

[15] *Dawa v. De Asa, supra.*

[16] 225 SCRA 688, 706-707 [1993].

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parentis toward his subordinate employee, he took advantage of his position and preyed on her.[17]

In *Dawa v. De Asa,*[18] the respondent judge was dismissed for making sexual advances on three of his subordinates. Herein respondent's conduct does not become less reprehensible for having been perpetrated on only one employee. Without a doubt, respondent acted beyond the bounds of decency and morality.[19] He has shown himself unworthy of the judicial robe.

WHEREFORE, Respondent Rogelio M. Esteban is hereby *DISMISSED* from the service, with forfeiture of all retirement benefits and leave credits and with prejudice to reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations.

SO ORDERED.

Davide, Jr., C.J., Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, and Ynares-Santiago, JJ., concur.

Bellosillo, J., took no part. Relationship to a party.

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[17] *Talens-Dabon v. Arceo*, 259 SCRA 354, 368 [1996].

[18] *Supra.*

[19] *Dawa v. De Asa, supra*; *Dy Teban Hardware & Auto Supply Co. v. Tapucar*, 102 SCRA 492 [1981].