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FIRST DIVISION

[A.M. No. MTJ-00-1329. March 8, 2001]
(Formerly A.M. No. OCA IPI No. 99-706-MTJ)

HERMINIA BORJA-MANZANO, *petitioner, vs.* **JUDGE ROQUE R. SANCHEZ, MTC, Infanta, Pangasinan,** *respondent.*

SYNOPSIS

Complainant averred that she was the lawful wife of the late David Manzano. However, her husband contracted another marriage with one Luzviminda Payao before the respondent judge. When the respondent judge solemnized said marriage, he knew or ought to know that the same was void and bigamous as the marriage contract clearly stated both contracting parties were separated. The solemnization of a marriage between two contracting parties who were both bound by a prior existing marriage was the bone contention of the instant complaint against respondent judge. For his act, the complainant charged him with ignorance of the law. After an evaluation of the complaint and the comment, the Court Administrator recommended that respondent judge be found guilty of gross ignorance of the law and be ordered to pay a fine of ₱2, 000.00, with a warning that repetition of the same or similar act would be dealt with more severely.

According to the Supreme Court, the respondent judge demonstrated gross ignorance of the law when he solemnized a void and bigamous marriage. It is highly imperative that judges be conversant with the law and basic legal principles. And when the law transgressed is simple and elementary, the failure to know it constitutes gross ignorance of the law. The recommendation of the Court Administrator was adopted by the Supreme Court with modification that the amount of fine was increased to ₱20,000.00

SYLLABUS

1. **CIVIL LAW; PERSONS AND FAMILY RELATIONS; MARRIAGE; LEGAL RATIFICATION OF MARITAL COHABITATION; REQUISITES.** — For this provision on

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legal ratification of marital cohabitation to apply, the following requisites must concur: 1. The man and woman must have been living together as husband and wife for at least five years before the marriage; 2. The parties must have no legal impediment to marry each other; 3. The fact of absence of legal impediment between the parties must be present at the time of marriage; 4. The parties must execute an affidavit stating that they have lived together for at least five years [and are without legal impediment to marry each other]; and 5. The solemnizing officer must execute a sworn statement that he had ascertained the qualifications of the parties and that he had found no legal impediment to the marriage. Not all of these requirements are present in the case at bar. It is significant to note that in their separate affidavits executed on 22 March 1993 and sworn to before respondent Judge himself David Manzano and Luzviminda Payao expressly stated the fact of their prior existing marriage. Also, in their marriage contract, it was indicated that both were "separated."

2. ID.; ID.; ID.; LEGAL SEPARATION; DOES NOT DISSOLVE THE MARRIAGE TIE NOR AUTHORIZE THE PARTIES TO REMARRY; CASE AT BAR. — Respondent Judge knew or ought to know that a subsisting previous marriage is a diriment impediment, which would make the subsequent marriage null and void. In fact, in his Comment he stated that had he known that the late Manzano was married he would have discouraged him from contracting another marriage. And respondent Judge cannot deny knowledge of Manzano's and Payao subsisting previous marriage, as the same was clearly stated in their separate affidavits which were subscribed and sworn to before him. The fact that Manzano and Payao had been living apart from their respective spouses for a long time already is immaterial. Article 63 (1) of the Family Code allows spouses who have obtained a decree of legal separation to live separately from each other, but in such a case the *marriage bonds are not severed.* Elsewise stated, legal separation does not dissolve the marriage tie, much less authorize the parties to remarry. This holds true all the more when the separation is merely *de facto*, as in the case at bar. Neither can respondent Judge take refuge on the Joint Affidavit of Davis Manzano and Luzviminda Payao stating that they had been cohabiting as husband and wife for seven years. Just like separation, free and voluntary cohabitation with another person for at least five years does not severe the tie of a subsisting previous marriage. Marital

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cohabitation for a long period of time between two individuals who are legally capacitated to marry each other is merely a ground for exemption from marriage license. It could not serve as a justification for respondent Judge to solemnize a subsequent marriage vitiated by the impediment of a prior existing marriage.

3. **JUDICIAL ETHICS; JUDGES; GROSS IGNORANCE OF THE LAW;A CASE OF SOLEMNIZING A VOID AND BIGAMOUS MARRIAGE; CASE AT BAR.** — Clearly, respondent Judge demonstrated gross ignorance of the law when he solemnized a void and bigamous marriage. The maxim "ignorance of the law excuses no one" has special application to judges, who under Rule 1.01 of the Code of Judicial Conduct, should be the embodiment of competence integrity, and independence. It is highly imperative that judges be conversant with the law and basic legal principles. And when the law transgressed is simple and elementary, the failure to know it constitutes gross ignorance of the law.

RESOLUTION

DAVIDE, JR., *C.J.*:

The solemnization of a marriage between two contracting parties who were both bound by a prior existing marriage is the bone of contention of the instant complaint against respondent Judge Roque R. Sanchez, Municipal Trial Court, Infanta, Pangasinan. For this act, complainant Herminia Borja-Manzano charges respondent Judge with gross ignorance of the law in a sworn Complaint-Affidavit filed with the Office of the Court Administrator on 12 May 1999.

Complainant avers that she was the lawful wife of the late David Manzano, having been married to him on 21 May 1966 in San Gabriel Archangel Parish, Araneta Avenue, Caloocan City.[1] Four children were born out of that marriage.[2] On 22 March 1993, however, her husband contracted another marriage

[1] Annex "A" of Complaint.

[2] Annexes "B" to "E" of Complaint.

[3] Annex "F" of Complaint.

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respondent Judge solemnized said marriage, he knew or ought to know that the same was void and bigamous, as the marriage contract clearly stated that both contracting parties were "separated."

Respondent Judge, on the other hand, claims in his Comment that when he officiated the marriage between Manzano and Payao he did not know that Manzano was legally married. What he knew was that the two had been living together as husband and wife for seven years already without the benefit of marriage, as manifested in their joint affidavit.[4] According to him, had he known that the late Manzano was married, he would have advised the latter not to marry again; otherwise, he (Manzano) could be charged with bigamy. He then prayed that the complaint be dismissed for lack of merit and for being designed merely to harass him.

After an evaluation of the Complaint and the Comment, the Court Administrator recommended that respondent Judge be found guilty of gross ignorance of the law and be ordered to pay a fine of ₱2,000, with a warning that a repetition of the same or similar act would be dealt with more severely.

On 25 October 2000, this Court required the parties to manifest whether they were willing to submit the case for resolution on the basis of the pleadings thus filed. Complainant answered in the affirmative.

For his part, respondent Judge filed a Manifestation reiterating his plea for the dismissal of the complaint and setting aside his earlier Comment. He therein invites the attention of the Court to two separate affidavits[5] of the late Manzano and of Payao, which were allegedly unearthed by a member of his staff upon his instruction. In those affidavits, both David Manzano and Luzviminda Payao expressly stated that they were married to Herminia Borja and Domingo Relos, respectively; and that since their respective marriages had been marked by constant quarrels,

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[4] Attached to the Marriage Contract (Annex "F" of Complaint).

[5] Annexes "B" and "C" of Respondent Judge's Manifestation.

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their respective marriages had been marked by constant quarrels, they had both left their families and had never cohabited or communicated with their spouses anymore. Respondent Judge alleges that on the basis of those affidavits, he agreed to solemnize the marriage in question in accordance with Article 34 of the Family Code.

We find merit in the complaint.

Article 34 of the Family Code provides:

> No license shall be necessary for the marriage of a man and a woman who have lived together as husband and wife for at least five years and without any legal impediment to marry each other. The contracting parties shall state the foregoing facts in an affidavit before any person authorized by law to administer oaths. The solemnizing officer shall also state under oath that he ascertained the qualifications of the contracting parties and found no legal impediment to the marriage.

For this provision on legal ratification of marital cohabitation to apply, the following requisites must concur:

1. The man and woman must have been living together as husband and wife for at least five years before the marriage;
2. The parties must have no legal impediment to marry each other;
3. The fact of absence of legal impediment between the parties must be present at the time of marriage;
4. The parties must execute an affidavit stating that they have lived together for at least five years [and are without legal impediment to marry each other]; and
5. The solemnizing officer must execute a sworn statement that he had ascertained the qualifications of the parties and that he had found no legal impediment to their marriage.[6]

Not all of these requirements are present in the case at bar. It is significant to note that in their separate affidavits executed

[6] DESIDERIO P. JURADO, *CIVIL LAW REVIEWER* 63 (1989).

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David Manzano and Luzviminda Payao expressly stated the fact of their prior existing marriage. Also, in their marriage contract, it was indicated that both were "separated."

Respondent Judge knew or ought to know that a subsisting previous marriage is a diriment impediment, which would make the subsequent marriage null and void.[7] In fact, in his Comment, he stated that had he known that the late Manzano was married he would have discouraged him from contracting another marriage. And respondent Judge cannot deny knowledge of Manzano's and Payao's subsisting previous marriage, as the same was clearly stated in their separate affidavits which were subscribed and sworn to before him.

The fact that Manzano and Payao had been living apart from their respective spouses for a long time already is immaterial. Article 63(1) of the Family Code allows spouses who have obtained a decree of legal separation to live separately from each other, but in such a case *the marriage bonds are not severed.* Elsewise stated, legal separation does not dissolve the marriage tie, much less authorize the parties to remarry. This holds true all the more when the separation is merely *de facto*, as in the case at bar.

Neither can respondent Judge take refuge on the Joint Affidavit of David Manzano and Luzviminda Payao stating that they had been cohabiting as husband and wife for seven years. Just like separation, free and voluntary cohabitation with another person for at least five years does not severe the tie of a subsisting previous marriage. Marital cohabitation for a long period of time between two individuals who are *legally capacitated* to marry each other is merely a ground for exemption from marriage license. It could not serve as a justification for respondent Judge to solemnize a subsequent marriage vitiated by the impediment of a prior existing marriage.

Clearly, respondent Judge demonstrated gross ignorance of the law when he solemnized a void and bigamous marriage.

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[7] Article 41, Family Code.

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The maxim "ignorance of the law excuses no one" has special application to judges,[8] who, under Rule 1.01 of the Code of Judicial Conduct, should be the embodiment of competence, integrity, and independence. It is highly imperative that judges be conversant with the law and basic legal principles.[9] And when the law transgressed is simple and elementary, the failure to know it constitutes gross ignorance of the law.[10]

ACCORDINGLY, the recommendation of the Court Administrator is hereby *ADOPTED*, with the *MODIFICATION* that the amount of fine to be imposed upon respondent Judge Roque Sanchez is increased to ₱20,000.

SO ORDERED.

SECOND DIVISION

[G.R. No. 122611. March 8, 2001]

NAPOLEON H. GONZALES, *petitioner, vs.* **HONORABLE COURT OF APPEALS AND SPOUSES GABRIEL AND LUZVIMINDA CABALLERO,** *respondents.*

SYNOPSIS

Mr. and Mrs. Gabriel Caballero are the registered owners of two parcels of land situated in Cubao, Quezon City, Lot 1 being vacant and Lot 2, where their place of residence stood.

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[8] *Espiritu v. Jovellanos*, 280 SCRA 579, 589 [1997]; *Vercide v. Hernandez*, A.M. No. MTJ-00-1265, 6 April 2000.

[9] *Macasasa v. Imbing*, 312 SCRA 385, 395 [1999].

[10] *Madredijo v. Loyao*, 316 SCRA 544, 568 [1999]; *Agunday v. Tresvalles*, 319 SCRA 134, 146 [1999]; *Villanueva v. Almazan*, A.M. No. MTJ-99-1221, 16 March 2000.