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REPORT OF CASES

DETERMINED IN THE

SUPREME COURT OF THE PHILIPPINES

FIRST DIVISION

[Adm. Matter No. P-1623. October 9, 1979]

JULIETA P. DALISAY, *complainant, vs.* **EUCLIDES DALISAY,** *respondent.*

SYLLABUS

ADMINISTRATIVE LAW; CIVIL SERVICE; DISMISSAL; PROPER IN CASE OF IMMORALITY AND FAILURE TO SUPPORT HIS FAMILY.— The evidence of record has clearly shown that the respondent is not only guilty of immorality but of failure to comply with his duty to support the complainant and their son Geoffrey. The penalty of separation from the service is warranted.

D E C I S I O N

FERNANDEZ, *J.*:

In a verified letter-complaint filed with this Court on April 27, 1977, Julieta Pueblas Dalisay charged her husband, Euclides Dalisay, a court stenographer in the Court of First Instance of Davao Oriental, Branch IV, with immorality.[1]

The complaint alleged that the complainant and the respondent were married in Mati, Davao Oriental, on August 22, 1970;

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[1] *Rollo*, pp. 1-2.

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that later the complainant and the respondent had a son who was named Geoffrey; that sometime in the early part of 1972, the respondent abandoned the complainant and their son and lived with another woman, Salome Lumod, at Mati, Davao Oriental; that the respondent also failed to support the complainant and their son; and that the respondent likewise broke his promise to leave Salome Lumod.

In his comment,[2] the respondent denied the charge and alleged that it was the complainant who left their conjugal home.

In a resolution dated July 31, 1978, this Court referred the instant case to Executive Judge Francisco Consolacion of the Court of First Instance of Davao City for investigation, report and recommendation.[3]

The evidence adduced by the complainant established that the complainant and the respondent were married on August 22, 1970 as shown by their marriage contract[4]; that the complainant later gave birth to a son named Geoffrey on June 22, 1971[5]; that in the early part of 1972, the respondent left his family and stayed away from their conjugal home; that later in 1972, the complainant discovered that the respondent was living with another woman named Salome Lumod; that upon said discovery, the respondent promised to leave Salome Lumod and he and the complainant together with Salome Lumod executed on November 22, 1972 a mutual agreement which reads:

"MUTUAL AGREEMENT

That I, EUCLIDES P. DALISAY, of legal age, married to Julieta Pueblas and a resident of Mati, Davao Oriental is hereby known as party of the first part;

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[2] *Rollo*, pp. 5-6.

[3] *Rollo*, p. 28.

[4] Exhibit "A", *Rollo*, p. 57.

[5] Certificate of Live Birth, Exhibit "B ", *Rollo*, p. 58.

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I, JULIETA PUEBLAS, of legal age, married to Euclides P. Dalisay and a resident of Mati, Davao Oriental is hereby known as party of the second part;

I, SALOME LUMOD, of legal age, single and a resident of Mati, Davao Oriental is hereby known as party of the third part;

That party of the first part hereby promise to the party of the second part that he will remain faithful to the party of the second part and will live with her again as husband and wife;

That party of the third part also promise that she will not come in contact with the party of the first part;

That party of the second part hereby promise to the party of the first and third part to forgive them of their illegal actuations in the past and to warn the party of the first part not to perform other illegal acts in the future.

IN WITNESS WHEREOF, we have hereunto affix our signatures this 22nd day of November, 1972, at Mati, Davao Oriental, Philippines.

(SGD) EUCLIDES P. DALISAY
Party of the first part

(SGD) JULIETA PUEBLAS DALISAY
Party of the second part

(SGD) SALOME LUMOD
Party of the third part

Witness to signatures:

1. ILLEGIBLE
2. ILLEGIBLE "[6];

that despite the foregoing undertaking, the respondent continued to live with Salome Lumod and they had three children namely, Randolph L. Dalisay who was born on May 9, 1973[7]; Clyde L. Dalisay who was born on July 1, 1976[8]; and Jennifer L. Dalisay; and that the respondent also failed to support the complainant and their son Geoffrey.

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[6] Exhibit "E", *Rollo*, p. 62.

[7] Certificate of Live Birth, Exhibit "C", *Rollo*, p. 59.

[8] Certification of the Local Civil Registrar, Exhibit "D", *Rollo*, p. 60.

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After the complainant had rested her case during the investigation, the respondent, through counsel, made the following manifestation:

"ATTY. LADERA:

Your Honor please, after a lengthy discussion with my client, he manifested his desire not to present evidence any longer your Honor so we are now waiving the right of the respondent to present evidence in this proceeding and we are therefore submitting the case for the resolution of the Honorable Court without any further argument your Honor."[9]

The investigating judge submitted a report based on the evidence of the complainant only. He found that the respondent is guilty of the charge of immorality and recommended that he be dismissed from the government service.

The evidence of record has clearly shown that the respondent is not only guilty of immorality but of failure to comply with his duty to support the complainant and their son Geoffrey. The penalty of separation from the service is warranted.

WHEREFORE, the respondent is found guilty of immorality and of failure to support his wife, the complainant, and their son, Geoffrey, and is hereby ordered DISMISSED as court stenographer of the Court of First Instance of Davao Oriental, Branch IV, with forfeiture of all retirement privileges and with prejudice to reinstatement in the national and local governments, as well as in any instrumentality or agency including government owned or controlled corporations, effective upon the finality of this decision.

Let a copy of this decision be filed with his personal record.

SO ORDERED.

Teehankee Acting C.J., (Chairman), Makasiar, Guerrero, De Castro, and *Melencio-Herrera, JJ.*, concur.

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[9] T.s.n., pp. 44-45, Hearing on January 26, 1979, afternoon session.