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[A.M. No. R-156-P. August 27, 1985]

PEPITA CELIS, *complainant, vs.* **DEPUTY SHERIFF LEVY Q. MARQUEZ,** *respondent.*

SYLLABUS

ADMINISTRATIVE LAW; ADMINISTRATIVE CASE; IMMORALITY; COMPLAINANT'S DESISTANCE IS NOT AN OBSTACLE TO THE IMPOSITION OF DISCIPLINARY SANCTION.— "Complainant's desistance is not an obstacle to the imposition of disciplinary sanction upon respondent for the simple reason that the *agreement for support* itself supplied the best proof that respondent had indeed maintained illicit relations with Alice Celis who bore him four (4) children.

D E C I S I O N

MAKASIAR, *C.J.*:

The Acting Court Administrator submitted the following report and recommendation:

"Complainant, Pepita Celis, claiming herself to be a concerned citizen, filed a complaint (p. 2, rec.) against respondent Levy Q. Marquez, Office of the City Sheriff, Manila, for immorality.

"It is alleged in the complaint that respondent is having extramarital relations with other women not his wife, one of whom is Alice Celis with whom he has four (4) children. The birth certificates of the alleged children, duly certified by the Local Civil Registrar of Manila, were submitted showing that Alvin Celis Marquez born on April 17, 1976 (p. 4, rec.), Bernadette Celis Marquez born on June 24, 1979 (p. 5, rec.), Alma Celis Marquez born on November 22, 1981 (p. 6, rec.), and Vilma Celis Marquez born on February 3, 1983 (p. 7, rec.), are the children of Levi Q. Marquez and Alicia Celis. The records show that Alice and Alicia on one hand and Levy and Levi Marquez on the other hand have been used interchangeably.

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"In a 2nd Indorsement dated March 8, 1984, the undersigned referred the aforesaid complaint to respondent deputy sheriff for his comment within ten (10) days from receipt thereof (p. 8, rec.).

"After several requests for extension to file his comment, respondent submitted the same on May 10, 1984 (pp. 21-25, rec.), denying the charge of immorality and stating that he is happily married to his wife, Hilda Marquez; that he has no illicit relations with other women, particularly Alice Celis and denies being the father of the four (4) children with her (p. 21, rec.).

"Respondent moved for the dismissal of the aforesaid complaint on the ground that complainant has no legal capacity to file said complaint; that the complaint was filed purely to harass, ridicule, embarrass and malign his good name; and that the complaint states no valid cause of action against him (p. 22, rec.).

"On February 28, 1981 (p. 30, rec.), complainant submitted the affidavit of Alicia Celis stating among others that on November 14, 1983 she filed a complaint for abandonment and immorality against respondent Deputy Sheriff Levi Q. Marquez when he left their home in July 1983 and stopped giving financial support to her and her four (4) children with him; that she did not push through with said complaint because of respondent's promise to give a semi-monthly support to her and her said children but which, nevertheless, he failed to comply because, as she found out later, he had a new concubine named Enreta.

"On January 16, 1985, this administrative case was referred to the Acting Executive Judge, Regional Trial Court, Manila, for investigation, report and recommendation (p. 48, rec.) who, on April 9, 1985, likewise referred the same to Presiding Judge Alfin S. Vicencio of said court for the same purpose (p. 56, rec.).

"In his report and recommendation (pp. 66-67, rec.), Investigating Judge Vicencio said:

> 'On April 24, 1985, the parties were present, however, when evidence was called for, the complainant submitted to the Investigator an affidavit of desistance which, however, was not yet sworn to. The investigator warned the complainant that if she will not adduce evidence in support of her complaint, the case will be recommended for dismissal. The complainant offered no comment. Instead, she stated that she will return the affidavit of desistance duly subscribed and sworn to.

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'She submitted the affidavit as promised on April 26, 1985.

'It will be noted that the complainant was given all the opportunity to substantiate her letter-complaint. However, that opportunity was not availed of.

"In the light of all the foregoing, for failure of the complainant to adduce evidence in support of her complaint, the above-entitled case is hereby recommended for dismissal.

"We disagree with the findings of the Investigating Judge that complainant failed to adduce evidence in support of her complaint and with his recommendation that this administrative case be dismissed. While it is true that complainant filed an affidavit of desistance (p. 64, rec.) requesting for the dismissal of the complaint which she filed due to her hatred against respondent by reason of his arrogance and gross indifference to her and her daughter, which created a misunderstanding between them, she submitted therewith an 'Agreement for Support' dated April 24, 1985, entered into by and between Alicia Celis and respondent Levi Q. Marquez, stating that they lived as husband and wife since 1972 and out of this relationship, Alvin, Bernadette, Alma and Vilma, all surnamed Marquez, were born. Respondent promised therein to provide monthly support in the amount of ₱400.00, payable in ₱100.00 weekly to Alicia Celis for the sustenance and educational needs of said children.

"Complainant's desistance is not an obstacle to the imposition of disciplinary sanction upon respondent for the simple reason that the *agreement for support* itself supplied the best proof that respondent had indeed maintained illicit relations with Alice Celis who bore him four (4) children, namely: Alvin Celis Marquez, Bernadette Celis Marquez, Alma Celis Marquez and Vilma Celis Marquez notwithstanding the fact that he is legally married to his wife Hilda Marquez. Besides, respondent acknowledged the child Alvin Celis Marquez when he signed his name in the birth certificate of said child. Thus, respondent's allegation that the complaint states no cause of action against him is without legal basis.

"The contention of respondent that complainant is without legal personality to file the complaint is likewise without merit. Even anonymous complaints may be entertained in exceptional cases as where the charge could be fully borne by public records of indubitable integrity thus needing no corroboration by evidence to be offered

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by complainant (*Anonymous Complaint vs. Araula*, Adm. Matter No. 1571-CFI, February 7, 1978, 81 SCRA 483).

"Disgraceful or immoral conduct is a grave offense punishable by transfer or demotion in rank or salary from two to three grades or suspension for one year in its medium period; and forced resignation without prejudice to reinstatement in its medium period (CSC No. 8, Series of 1970).

"Respondent is a city employee because he was appointed by the City Mayor of Manila and is receiving compensation out of the city funds and, therefore, the power to investigate, suspend, discipline or remove him is lodged in the appointing power (*Amolador vs. Felicidario*, 84 SCRA 267, 273).

"While a deputy sheriff as an officer of the court whose duties form an integral part of the administration of justice, may be properly punished, short of dismissal or suspension from office, by the Tribunal which exercises administrative supervision over the judicial branch of the government, for any action committed in violation of the Rules of Court and which impedes and detracts from a fair and just administration of justice, respondent is charged with immorality, an offense punishable by the Civil Service Law and Regulations; hence, his authority to exercise the functions attendant to the office of a sheriff should be withdrawn, without prejudice to any administrative action which the Mayor of the City of Manila may take on the premises (*Amolador vs. Felicidario, Ibid.*).

"In view of the foregoing, it is recommended (1) that respondent Deputy Sheriff Levy Q. Marquez be found guilty of immorality and punished with a Fine equivalent to his salary for three [3] months; (2) that the authority of respondent Deputy Sheriff Levy Q. Marquez to exercise the functions attendant to the office of a sheriff be withdrawn effective immediately upon notice of the decision herein; (3) that the Executive Judge of the Regional Trial Court and Metropolitan Trial Court of Manila be directed to circularize the decision herein to all branches of said courts; and (4) that a copy of the Court's resolution herein be furnished to the City Mayor of Manila for whatever appropriate action he may take on the premises."

The Court hereby approves the foregoing report and recommendation.

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WHEREFORE, RESPONDENT LEVY Q. MARQUEZ IS HEREBY DIRECTED TO PAY A FINE EQUIVALENT TO HIS SALARY FOR THREE (3) MONTHS AND HIS AUTHORITY TO EXERCISE THE FUNCTIONS OF SHERIFF IS HEREBY WITHDRAWN EFFECTIVE IMMEDIATELY UPON RECEIPT HEREOF.

FURTHER, THE EXECUTIVE JUDGES OF THE REGIONAL TRIAL COURTS AND THE METROPOLITAN TRIAL COURTS OF METROPOLITAN MANILA ARE HEREBY DIRECTED TO CIRCULARIZE THIS DECISION TO ALL BRANCHES OF SAID COURTS AND A COPY OF SAID DECISION SHOULD BE FURNISHED THE CITY MAYOR OF MANILA FOR WHATEVER APPROPRIATE ACTION HE MAY TAKE IN THE PREMISES.

SO ORDERED.

Teehankee, Aquino, Melencio-Herrera, Plana, Escolin, Relova, Gutierrez, Jr., De la Fuente, Cuevas, Alampay, and *Patajo, JJ.*, concur.

Concepcion Jr., J., took no part.

Abad Santos, J., is on leave.

FIRST DIVISION

[G.R. No. L-34147. August 28, 1985]

TERESITA ALO and FEDERATION OF FREE WORKERS (FFW), *petitioners, vs.* **HON. VALERIO V. ROVIRA, Presiding Judge of the Court of First Instance, Branch IV, Iloilo City, GENOVEVA SO CHAN TOO, SY KIAN TIOK and the PROVINCIAL SHERIFF OF ILOILO,** *respondents.*