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WHEREFORE, the challenged Resolution of the Court of Appeals which dismissed the *Petition for Certiorari and Prohibition* filed by herein petitioner is *REVERSED* and *SET ASIDE*. The Court of Appeals is DIRECTED to reinstate the Petition and dispose of the same as the facts and the law may warrant.

SO ORDERED.

Mendoza, Buena, and *De Leon, Jr., JJ.,* concur.

Quisumbing, J., on official leave.

EN BANC

[A.M. No. 97-2-53-RTC. July 6, 2001]

RE: COMPLAINT OF MRS. ROTILLA A. MARCOS AND HER CHILDREN AGAINST JUDGE FERDINAND J. MARCOS, RTC, BR. 20, CEBU CITY

SYNOPSIS

Mrs. Rotilla A. Marcos and her children, Joshua Marcos and Hazel Faith Marcos Barliso, sent a handwritten letter dated December 9, 1996 addressed to Chief Justice Andres Narvasa complaining that Judge Ferdinand J. Marcos of the Regional Trial Court, Branch 20 of Cebu City was not giving them adequate financial support as his legitimate family. They prayed then that all the remuneration from the Supreme Court due to Judge Marcos be directly released to Mrs. Marcos to prevent his mistress from getting them. In his comment, Judge Marcos denied his failure to support complainants. He also denied having a mistress. And he further alleged that his wife and children had already signed a letter withdrawing their letter/complaint against him and that he signed a letter of undertaking to give all the checks due him from the Supreme Court to his wife. Thus, he prayed for the dismissal of the complaint against him. When the matter was referred to

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the Office of the Court Administrator, Deputy Court Administrator Bernardo P. Abesamis recommended that the complaint be considered closed and terminated. However, the recommendation was not approved by the Court Administrator and the latter did not report the matter to the Court *En Banc*. The case remained suspended until Chief Justice Hilario G. Davide, Jr. reported to the Court *En Banc* on August 14, 2000 the scandalous incident he witnessed at the *Fun Run* sponsored by the Philippine Judges Association held on August 11, 2000, that is, when Judge Ferdinand J. Marcos attended the said occasion, he was accompanied by his *querida*, which Judge Marcos even admitted to him. In view of his admission, the Chief Justice recommended the referral of the case for investigation to the Office of the Court Administrator and the suspension from office of Judge Marcos. Consequently, the Court suspended Judge Marcos from office until further orders. In relation thereto, Justice Romulo S. Quimbo conducted an investigation. During the hearing, Mrs. Rotilla Marcos testified about the infidelity of her husband. She presented documents to support her claims. The matter of the illicit relationship between Judge Marcos and Maydelane Tacaldo was even published in the newspaper. On the other hand, Judge Marcos denied every allegation of his wife.

The Court ruled that keeping a mistress is certainly not an act one would expect of a judge who is expected to possess the highest standard of morality and decency. If a judge fails to have high ethical standards, the confidence and high respect for the judiciary diminishes as he represents the judiciary. Judge Ferdinand J. Marcos has demonstrated himself to be wanting of moral integrity. He has violated the Code of Judicial Conduct which requires every judge to be the embodiment of competence, integrity, and independence and to avoid the appearance of impropriety in all activities as to promote public confidence in the integrity and impartiality of the judiciary. The charge of immorality proven against respondent judge demonstrates his unfitness to remain in office and continue to discharge the functions and duties of a judge. Having tarnished the image of the Judiciary, respondent must be meted out the severest form of disciplinary sanction – dismissal from the service.

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SYLLABUS

1. **LEGAL AND JUDICIAL ETHICS; JUDGES; IMMORALITY PROVEN BY DIFFERENT DOCUMENTS THEY EXECUTED AS CO-OWNERS OF A VEHICLE.**— Although the Certification of Tenant was unsigned and did not cite Judge Marcos and Ms. Tacaldo as one of the tenants at Zosa Compound, the fact that they lived together was apparent in the different documents they executed pertaining to the Toyota Revo, for the address they both gave for these documents was Rodriguez St., Capitol Site, Cebu City. Zosa Compound, by the way, is located at Rodriguez St., Capitol Site, Cebu City. We are not swayed by the denials made by respondent judge that he and Ms. Tacaldo were the owners of a Toyota Revo. Judge Marcos and Ms. Tacaldo jointly bought a motor vehicle – a Toyota Revo – and had it registered in their names as co-owners. They obtained insurance for the same vehicle with them as joint beneficiaries. They executed a chattel mortgage over the same in favor of PCI Leasing and Finance, Inc. and when they finally sold the same vehicle on September 18, 2000 to Amina Advincula, they both signed the Deed of Sale as joint owners. These actions clearly indicate that they were the joint owners of the Toyota Revo.

2. **ID.; ID.; ID.; RESPONDENT JUDGE'S POSTURE THAT HIS WIFE IS ALSO GUILTY OF IMMORALITY DOES NOT EXCUSE NOR EVEN MITIGATE HIS ACTIONS.**— Respondent's posture that Mrs. Marcos is also guilty of immorality does not excuse nor even mitigate his actions. It is respondent's private action that is being investigated not his wifes's.

3. **ID.; ID.; ID.; BRINGING A MISTRESS TO PUBLIC FUNCTIONS IS NOT IN GOOD TASTE.**— We cannot gloss over the incident that happened during the Fun Run as recounted by Chief Justice Davide. Judge Marcos candidly and frankly admitted to the Chief Justice that he had been living with Ms. Tacaldo for the last three years as he was already separated from his wife. Bringing Ms. Tacaldo to public functions was not in good taste considering that Judge Marcos was still very much married even if he and his wife Rotilla were already living separately. He had no right to flaunt Maydelane Tacaldo as if she was his wife. This conduct is certainly unbecoming of a judge whose conduct must at all times be beyond reproach.

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4. **ID.; ID.; ID.; CODE OF JUDICIAL ETHICS; PERSONAL BEHAVIOR OF A JUDGE SHOULD BE FREE FROM APPEARANCE OF IMPROPRIETY.**— As held in *GALANG VS. SANTOS*, the personal behavior of a judge should be free from the appearance of impropriety, and his personal behavior, not only in the bench and in the performance of judicial duties, but also in his everyday life, should be beyond reproach. In *LEYNES VS. VELOSO,* it was held that if good moral character is required of a lawyer, with more reason is the requirement exacted of a member of the judiciary who at all times is expected to observe irreproachable behavior and is bound not to outrage public decency.

5. **ID.; ID.; ID.; ID.; KEEPING A MISTRESS IS CERTAINLY NOT EXPECTED FROM A JUDGE.**— Keeping a mistress is certainly not an act one would expect of a judge who is expected to possess the highest standard of morality and decency. If a judge fails to have high ethical standards, the confidence and high respect for the judiciary diminishes as he represents the judiciary.

6. **ID.; ID.; ID.; ID.; MORAL RIGHTEOUSNESS AND UPRIGHTNESS DEMANDED OF A JUDGE.**— No position exacts a greater demand on the moral righteousness and uprightness of an individual than a seat in the judiciary. A magistrate of the law must comport himself at all times in such a manner that his conduct, official or otherwise, can bear the most searching scrutiny of the public that looks up to him as the epitome of integrity and justice. The Court once again reminds all those who don judicial robes to maintain good moral character and at all times observe irreproachable behavior so as not to outrage public decency.

7. **ID.; ID.; ID.; ID.; DISMISSAL OF JUDGE WARRANTED ESPECIALLY WHEN IMMORALITY COMMITTED OPENLY AND FLAGRANTLY.**— Jurisprudence is rich in cases where the Court has inflicted on judges the punishment of dismissal for immorality especially when it is committed openly and flagrantly, causing scandal in the place where his court is situated. "*In Dy Teban Hardware and Auto Supply Co. vs. Tapucar* (102 SCRA 493 [1981], the Court laid down the rationale why every judge must possess moral integrity, thusly: "The personal and official actuations of every member of the judiciary must be beyond reproach and above suspicion. The faith and confidence of the people in the administration of justice can not be maintained if

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a judge who dispenses it is not equipped with the cardinal judicial virtue of moral integrity and if he obtusely continues to commit affront to public decency. In fact, moral integrity is more than a virtue; it is a necessity in the judiciary."

8. **ID.; ID.; ID.; ID.; ID.; DICIPLINARY ACTION OF DISMISSAL SANCTIONED IN CASE AT BAR.**— Judge Ferdinand J. Marcos had demonstrated himself to be wanting of moral integrity. He has violated the Code of Judicial Conduct which requires every judge to be the embodiment of competence, integrity, and independence and to avoid the appearance of impropriety in all activities as to promote public confidence in the integrity and impartiality of the judiciary. The charge of immorality proven against respondent judge demonstrate his unfitness to remain in office and continue to discharge the functions and duties of judge. Having tarnished the image of the Judiciary, respondent must be meted out the severest form of disciplinary sanction — dismissal from the service.

9. **ID.; ID.; AFFIDAVITS OF DESISTANCE LACKING PERSUASIVE VALUE.**— Herein respondent cannot find comfort in the "affidavit of desistance" signed by his wife and children. "Generally, the Court attaches no persuasive value to affidavits of desistance, especially when executed as an afterthought xxx. As held in *People v. Ubina*: It would be a dangerous rule for courts to reject testimonies solemnly taken before the courts of justice simply because the witnesses who had given them later on changed their mind for one reason or another; for such rule would make solemn trials a mockery and place the investigation of truth at the mercy of unscrupulous witness(es)." Again, in the case of *IMBING VS. TIONGSON,* the Court once more held that: "The fact that complainant has lost interest in prosecuting the administrative case against herein respondent judge will not necessarily warrant a dismissal thereof. Once charges have been filed, the Supreme Court may not be divested of its jurisdiction to investigate and ascertain the truth of the matter alleged in the complaint. The Court has an interest in the conduct of members of the Judiciary and in improving the delivery of justice to the people, and its efforts in that direction may not be derailed by the complainant's desistance from further prosecuting the case he or she initiated."

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DECISION

***PER CURIAM*:**

In a hand written letter dated December 9, 1996[1] addressed to the Honorable Andres Narvasa, Chief Justice of the Supreme Court, Mrs. Rotilla A. Marcos, the wife of Judge Ferdinand J. Marcos, and their children Joshua A. Marcos and Hazel Faith Marcos Barliso complained against Judge Ferdinand J. Marcos of the Regional Trial Court, Branch 20 at Cebu City, alleging that ever since Ferdinand J. Marcos was appointed judge of the Regional Trial Court at Cebu City, Branch 20, his family had never seen nor took hold of his cheques; that they have only been receiving a minimal amount which was insufficient for their education and for their sustenance; that they were made to believe that he was only receiving a small remuneration as an RTC Judge; that it was only in August 1996 when they got hold of his RATA, JDF and basic salary cheques; that these were not even enough to pay his obligations with the CFI Community Cooperative and other private persons; that he was enjoying his extra-ordinary allowance, local and city allowances, bonuses, amelioration pays, and 14th month pays; that he even got his second *quincena* of November direct in Manila when he was enjoying his one-week leave of absence with his mistress.

Mrs. Rotilla A. Marcos and her children Joshua and Hazel prayed that all the remuneration due Judge Marcos from the Supreme Court be directly released to Mrs. Marcos at the school where she has been serving for 20 years (the Abellana National School) to prevent his mistress from getting them. They added that Judge Marcos was still receiving local and city allowances and a salary from the Southwestern University where he teaches in the College of Law. They likewise stated that it would be advisable for him to resign from the bench, as reassigning him to other judicial regions would eventually deprive them of support for he will definitely take along his ambitious mistress, or she

[1] *Rollo*, pp. 3-4.

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would follow him and might pressure him to go into graft and corruption.

In the resolution, dated March 18, 1997, the Court required Judge Ferdinand J. Marcos to file his comment on the complaint.[2]

In his comment, dated May 15, 1997,[3] Judge Marcos denied his failure to support complainants and alleged that during the first few months of assuming his job on the bench, he faithfully and regularly gave to his wife the total amount of ₱15,000.00; that he alone spent for their daily transportation and for the daily miscellaneous expenses of their son, Joshua A. Marcos, a medical student at the time, notwithstanding the fact that his wife also earns a salary as a public school teacher; that the amount he gave to his wife was sufficient for her and their family's needs; that the loan contracted with the CFI Community Cooperative did not pose a serious problem to the financial standing of his family because it was made during his first five (5) months in the judiciary when he had not yet received his salary; that most of the proceeds of the said loan were for the tuition fee of their son Joshua; that said loan was payable in affordable monthly installments and that he hoped it would be fully paid before the end of the year 1997; that he was not indebted to any private person, not even when he was still a private law practitioner; that he had no idea why his wife thought that he would be better off resigning from the judiciary; that even if he were transferred to another sala his regular support to his family will continue; that the issue of his having a mistress is not true as he has never been linked extra-maritally with another woman; that his wife and children had already signed a letter withdrawing their letter/complaint against him; and he had signed a letter of undertaking to give all the checks due him from the Supreme Court to his wife. He prayed among other things, for the dismissal of the complaint against him as they were living in one roof as a family and as this administrative case is becoming a wedge of hostility between them.

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[2] *Ibid.*, p. 9.

[3] *Ibid.*, pp. 13-16.

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On July 29, 1997, this Court issued a resolution referring the matter to the Office of the Court Administrator for evaluation, report and recommendation.[4]

In his report dated October 17, 1997,[5] Deputy Court Administrator Bernardo P. Abesamis recommended that the complaint be considered closed and terminated, it appearing that the complaint against Judge Ferdinand Marcos was already threshed out and there being no more compelling reason to proceed against him. He based his report on the letter-withdrawal dated January 10, 1997 submitted by the complainants and the letter of undertaking signed by Judge Marcos.

In their letter/withdrawal dated January 10, 1997,[6] the complainants stated that they wanted to withdraw their letter/ complaint against Judge Marcos as he had made an undertaking that Mrs. Rotilla A. Marcos shall receive all the checks due him from the Supreme Court; and that the issue of the alleged mistress grew out of unconfirmed reports and had already been thoroughly discussed by the family council. They requested that the matter contained in their letter/complaint be treated as a closed matter.

On the other hand, Judge Ferdinand J. Marcos, in his letter of undertaking, offered no objection to his wife getting all the checks due him from the Supreme Court and gave her the authority to get them directly from the Supreme Court or from the Clerk of Court of RTC, Cebu City. He strongly denied having any relationship with any woman when he talked with his wife and children. His alleged relationship sprung from unconfirmed reports from the media.[7]

As the report of DCA Abesamis was not approved by the Court Administrator and the latter did not report the matter to the Court *En Banc*, the case remained suspended until the Honorable Chief

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[4] *Ibid.*, p. 17.

[5] *Ibid.*, p. 18-20.

[6] *Ibid.*, p. 29; Exhibit "I".

[7] *Ibid.*, p. 30; Exhibit "2".

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Justice Hilario G. Davide, Jr. reported to the Court *En Banc* on August 14, 2000, the scandalous incident he witnessed at the *Fun Run* sponsored by the Philippine Judges Association held on August 11, 2000. Among the RTC judges who attended and joined the *Fun Run* was Judge Ferdinand J. Marcos. A woman who was reported to be his *querida* accompanied him. Judge Marcos and the *querida* joined the Judges at the temporary place reserved for the Judges and during the latter's breakfast thereat were seated near each other.

Chief Justice Davide pulled Judge Marcos aside to validate the facts about the latter's illicit relationship with the woman. Judge Marcos admitted, among other things, that he had been living with the woman, Mae Tacaldo, for three (3) years already, and that he was separated from his wife. Judge Marcos was the one who supplied the name of the woman.

In view of this admission, the Chief Justice recommended the referral of the case for investigation to OCA Consultant, Justice Pedro Ramirez, and the suspension from office of Judge Ferdinand J. Marcos.

Adopting the recommendation of the Chief Justice, the Court issued a resolution on August 15, 2000 ordering the suspension of Judge Marcos from office until further orders from this Court, in view of the confirmed continuing illicit and scandalous relations between him and a certain Mae Tacaldo and the referral of the case to Justice Pedro Ramirez, Consultant, Office of the Court Administrator, for investigation, report and recommendation. But because Justice Ramirez had to leave for the United States of America, the matter was referred to Justice Romulo S. Quimbo, Consultant, Office of the Court Administrator.

Justice Quimbo issued notices to the parties that the case will be heard at the Office of the Executive Judge in Cebu City from November 13 to 15, 2000.[8]

On November 13, 2000, the case was called in the private chambers of the Executive Judge of Cebu City. Only the

[8] *Ibid.*, pp. 38-39.

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respondent and his counsel appeared because the notices did not arrive soon enough in Cebu City. For that reason, the Process Server of RTC, Cebu City, Branch 18, was requested to serve the notices on the complainants.

The next day, November 14, 2000, both parties appeared at the office of the Executive Judge. Complainant Rotilla Marcos came alone while respondent appeared with his counsel. Complainant manifested that her counsel was unavailable due to previous commitments. Counsel for the respondent begged to be excused as he also had personal commitments. Thus the case was reset for the next day.

On November 15, 2000, complainants presented Judge Meinrado Paredes of Branch 13, RTC, Cebu City. After he was discharged, complainant Rotilla Marcos took the stand herself. Since her testimony (direct examination) was not completed the hearing was continued the next day. Her direct testimony was completed on November 16, 2000 but her cross-examination was deferred to December 5, 6, and 7, 2000.

On December 5, 2000, respondent appeared without his counsel and personally cross-examined the complainant. After her testimony, complainants introduced four other witnesses, namely: Maximo Abing, Orencio Tarongoy, Leoncio M. Balangkig, and Lerma Eguia, all of whom appeared in obedience to subpoenas issued by the hearing officer-designate. These witnesses were presented principally to identify certain documents that were marked and later formally offered in writing.

Complainants' documentary evidence consisted of Exhibits "A" - picture of Maydelane Tacaldo, the alleged mistress of the respondent; "B" - the letter/complaint received by the Court on December 12, 1996;[9] "C" - RCPI telegram directing respondent to attend a PJA stay-in seminar on June 20-22, 1996 in Mandaluyong; "D" - Islacom Statement of Account dated June 3, 1996; "D-1" - address of respondent at 615 ZA P. del Rosario Extension, Cebu City; "E" - handwritten letter of one Mrs. E. Dandan, dated October 3, 1995 addressed to respondent demanding

[9] *Ibid.*, pp. 3-4.

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payment of the account of May in the sum of ₱11,400; "E-1" - a portion thereof; "F" - RCPI social telegram addressed to respondent purportedly from Mae Tacaldo; "F-1" - a portion thereof; "G" - Bankard Statement of Account dated September 10, 1997 addressed to respondent; "G-1" - page 2 thereof; "H" - unsigned Certification of Tenant; "I" - Invoice issued by Paramount General Insurance Corporation (Paramount, for brevity) for a "Toyota Revo" Model 1999 allegedly owned in common by respondent and Maydelane Tacaldo; "I-1" - portion showing the names and addresses of the insured as "Marcos, Ferdinand J. and Tacaldo, Maydelene B. of Rodriguez St., Zosa Compound, Capitol Site, Cebu City"; "I-2" - particulars of the vehicle insured; "J" - Order issued by respondent on January 24, 2000, in Civil Case No. CEB - 19070; "J-1", "J-2", "J-3", and "J-4" - portions thereof; "K" - October 28, 2000 issue of "THE FREEMAN"; "K-1" and "K-2" - portions thereof; "L" - October 20, 2000 issue of the "SUN STAR CEBU"; "L-1", "L-2", and "L-3" - portions bracketed; "M" -SUN STAR SUPER BALITA issue of October 20, 1996; "M-1" and "M-2" - portions thereof; "N" - October 28, 1996 issue of SUN STAR SUPER BALITA; "N-1" and "N-2" - portions thereof; "O" - SUN STAR issue of December 18, 1996; "O-1" and "O-2" - portions thereof; "P" - Affidavit of Bienvenido O. Marcos; "P-1" - paragraph 7 thereof; "Q" - Affidavit of Anacleta Marcos; "Q-1", "Q-2", and "Q-3" - portions thereof; "R" - Resolution of the Supreme Court *En Banc* dated August 15, 2000 in the present administrative matter;[10] "R-1" - portion thereof; "S" - Petition filed by respondent in Civil Case No. CEB- 25511 for the declaration of nullity of his marriage to complainant Rotilla C. Ares; "T" - Marriage Contract of complainant and respondent dated December 31, 1971; "U" - Subpoena *Duces Tecum* issued to PCI Leasing and Finance Inc.; "V" - Certificate of Registration No. 15676143 issued on August 4, 2000 in the name of respondent and Maydelane Tacaldo with address at Capitol Site, Cebu City; "V-1" - portion thereof; "W" - copy of Certificate of Registration of a "Toyota Revo" in the name of respondent and Maydelane Tacaldo with address at B. Rodriguez St., Capitol Site, Cebu City; "W-1" - portion showing owners' names; "X" - Motor Vehicle

[10] *Ibid.*, p. 33.

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Inspection Report *re*: "Toyota Revo"; "X-1" - portion regarding ownership; "Y" - Deed of Sale of one "Toyota Revo" executed by one Leticia Cabanes; "Y-1" - portion showing vendees being respondent and Maydelane B. Tacaldo; "Y-2" - date of execution; "Z" - PNP Motor Vehicle Clearance Certificate; "Z-1" - portion showing purpose of certificate; "AA" - Subpoena Duces Tecum issued to Paramount; "BB" - Invoice No. 135580 covering a "Toyota Revo"; "BB-1" - name and address of respondent as insured; "CC" - policy schedule; "CC-1" - name and address of respondent; "CC-2" - Private Car Policy No. CEB-PC-25687; "CC-3" - signature of Paramount's Cebu Service Office Manager; "DD" - Paramount's Memorandum showing change of mortgagee; "DD-1", "DD-2", and "DD-3" - portions of the same; "EE" - fax message received by Paramount *re*: inclusion of Maydelane Tacaldo as one of the insured; "FF" - Chattel Mortgage executed by respondent and Maydelane B. Tacaldo; "FF-1" - page 2 thereof; "FF-2", "FF-3", "FF-4", "FF-1-A", and "FF-1-B" - portions thereof; "GG" - Motion for inhibition of respondent in Civil Case No. CEB-19070; "GG-1", "GG-1-A", and "GG-2", - portions bracketed; "HH" - Comment of Atty. Francis Zosa on the motion for inhibition; "HH-1" and "HH-2" - portions of the same; "II" - Deed of Sale jointly executed by respondent and Maydelane B. Tacaldo conveying a "Toyota Revo"; "II-1" and "II-2" - portions thereof; "JJ" - correction made by Paramount as to who are the assured in CEB- PC-25687; "JJ-1" - the assured were the respondent and Maydelane B. Tacaldo; "KK" - Counter-Affidavit of complainant on the charge of adultery filed against her by the respondent; "KK-1" to "KK-10" - pages 2 to 11 thereof; "KK-11" to "KK-23" - annexes to Exhibit "KK"; "LL" - opposition to motion to disqualify Atty. Gloria Lastimosa-Dalawampu as counsel for Mrs. Marcos in Civil Case No. CEB-25511; "LL-1" - page 2 thereof; "LL-1-A" and "LL-2" - portions of the same.

From the evidence presented it appears that complainant Rotilla A. Marcos is married to the respondent. Their marriage was celebrated on December 31, 1971 at the First Baptist Church, Cebu City and was officiated by Asclepiades Curro, a Minister of the Gospel.[11] When they got married, Judge Marcos was waiting

[11] Exhibit "T".

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for the results of the Bar exams and did not have a job. Since she was already working as a teacher in Catmon she supported Judge Marcos. They stayed in the house of her grandparents. They have two children: Joshua who is now 28 years old and Hazel Faith who is 26 years old.

When he became a lawyer he did not go into private practice right away so she supported him and the children. In fact, he stayed home and looked after the children.

Judge Marcos became a member of the Judiciary in June 1993. He was appointed presiding judge of Branch 20 of the Regional Trial Court at Cebu City. After his appointment, she noticed a change in his conduct towards her. He became cold and no longer performed the usual acts of a husband, referring to sexual relations, because he was very busy. What's more they no longer slept in one room. In March 1996, they were living in San Jose Village, Lawaan 3, Talisay, Cebu.

In June 1996 she was informed through an anonymous letter written in the Cebuano dialect, about her husband's infidelity. While she could no longer produce the letter at the time of the trial, she could still remember its contents. In English it read: "You are a stupid wife. Until now, you have not learned that your husband has a mistress. If you don't believe me, go to the office of the RTC, Branch 20, right now. You go there-to Branch 20. Ask the people there if there is a convention in Manila to be participated in by RTC judges. He already bought two plane tickets."

Immediately she went to Branch 20 to inquire about the judges' convention in Manila. She found a telegram in Judge Marcos' attache case from a Mario Umali designating respondent as a participant in a "stay-in" seminar sponsored by PJA to be held at the Mandaluyong Justice Building on June 20 - 27, 1996.[12]

She inquired from Atty. Monalila Tecson, the Clerk of Court of Branch 20, about the convention (seminar). Atty. Tecson asked her if she was not informed of the convention to which she replied

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[12] Exhibit "C".

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in the negative. Atty. Tecson told her to ask her husband if he was going. She asked Judge Marcos that night. He told her that he was going and that it was exclusively for the judges. She told him not to go, as she was afraid he was going to take along another woman. He replied that he would not go. But, at dawn, he told her that he must leave as he had to get the supplies and equipment that would be distributed in the Supreme Court.

She never dared to find out if her husband was indeed with a woman when he went to attend the convention but she was sure there was a woman.

Complainant found other incriminating documents in the office of respondent. Somebody in Branch 20 gave her a Statement of Account from Islacom.[13]

The Islacom Statement of Account was dated June 3, 1996. It was addressed to Ferdinand J. Marcos at 615 ZA P. del Rosario Extension, Cebu City, and not to San Jose Village, Lawaan 3, Talisay, Cebu, where he and his family lived. They have never resided at 615 ZA P. del Rosario Extension, Cebu City, nor had they any telecommunication facility with Islacom. Judge Marcos neither has a cell phone nor a telephone line with Islacom.

Complainant searched for the address given in the Statement of Account. It took her two months to find it. She discovered that Maydelane (Mae) Tacaldo and her parents were living in that house. A Mrs. Jennylind Enriquez gave her the information. Mrs. Enriquez, one of her co-teachers, lives next door to the Tacaldos.

She confronted her husband in his office over the Islacom bill. He told her to stay for a while in the office, as he will go out for 20 minutes. She wanted to go with him but he refused to take her as the place was only near the office. He would consult somebody. When he came back, he told her that they would go to Islacom and declare that the cell phone was lost.

She insisted on a confrontation between her, Maydelane Tacaldo and her parents. The confrontation took place in the Social Hall of the Capitol. Maydelane, her parents, her brother and his wife,

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[13] Exhibit "D".

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Rotilla Marcos, her mother, her brother Jerry and his wife, and her sister were all present then. Rotilla Marcos asked Maydelane why the cell phone was in the name of Ferdinand J. Marcos but the billing address was that of the Tacaldos, and why she was using the cell phone of Judge Marcos. The latter said that they were friends. The latter did not reply when asked why Judge Marcos paid ₱9,000.00 for the cell phone's bill when they were only friends.

Complainant found inside respondent's attache case that was in his office a yellow sheet of paper, dated October 3, 1995, addressed to respondent. It was a bill for the payment of ₱11,400.00 for "May's Acct."

As she and Judge Marcos were still living together at the time, she kept her discovery a secret because she already had an inkling that he had a relationship with another woman.

She found a birthday card/social telegram [14] addressed to Judge Marcos inserted between the pages of a law book on a table in the latter's office. It read, among other things, "MT cares a lot, you know," and "It's wonderful to share my life with you." She discovered it two weeks after his birthday, which was July 7, 1996. She kept it with the other evidences. She did not show him the card, as it would precipitate another quarrel.

Further proof of her husband's infidelity was the Statement of Account issued by Bankard dated September 10, 1997.[15] One of the credit purchases was made at the Agencia Nina and Jewelry. She never saw the item purchased in the said shop. Neither was it given to her daughter. One of the "purchases" reflected in the Statement of Account was made at Cafe Laguna. There was no occasion when she dined at Cafe Laguna with her husband. Another item in the Statement of Account was groceries bought at Gaisano Metro. The groceries purchased at Gaisano Metro were not for their house, as respondent was no longer going home in 1997. Respondent judge left the conjugal home in 1997 and has not returned since then.

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[14] Exhibit "F".

[15] Exhibit "G".

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Rotilla Marcos found out where Judge Marcos was staying: at the Zosa compound located at Don Pedro Rodriguez St., Capitol Site, Cebu City. She went to the apartment he was renting. She saw Maydelane Tacaldo there but not Judge Marcos because she did not go inside. Maydelane Tacaldo left the apartment, in a car. She drove their (the Marcos) family car and the station wagon, at times.

She suspected that he lives there because she saw outside one of the rooms respondent's slippers, and empty water dispenser of a brand similar to what they have at their own place, and the laundered clothes (pants and polo shirts) of Judge Marcos hanging.

She asked the building administrator if her husband was living in the apartment she went to, and the latter replied in the affirmative. Judge Marcos and Maydelane were using *aliases* as the room was registered in the name of a Victorino Timol. She obtained a Certification of Tenant from the Zomer Development Company.[16] It was dated May 18, 1998, and showed that a Mr. Victorino Timol was an occupant and tenant of Amville-1 Bldg. located at Zosa Compound, Don Pedro Rodriguez St., Capitol Site, Cebu City from May 8, 1996 to October 14, 1997. Ma. Theresa Zosa, the General Manager of the said company, refused to sign it as she wanted to avoid trouble.

The matter of the illicit relationship between Judge Marcos and Maydelane Tacaldo was even published in the newspapers.

Complainant offered as exhibits certain clippings from local newspapers (Exhibits "K", "L", "M", "N", and "O") where the affair of respondent with Maydelane Tacaldo was mentioned. In Exhibit "K" (October 28, 2000 issue of The Freeman) former Executive Judge Priscila Agana was quoted as saying that respondent was not even discreet about his alleged illicit relationship and that other Judges were complaining of his behavior. In Exhibit "L" (October 28, 2000 issue of the Sun Star Cebu) Judge Agana was once more quoted as having said that she had warned respondent that his affair was going to destroy

[16] Exhibit "H".

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him and that the latter never kept his relations with the law student a secret.

After the complainants wrote a letter to the Supreme Court about Judge Marcos failure to give them support, the latter executed an authority for them to collect his salary from January 1997 up to January 1998. But he revoked the authority in February 1998. Since then they no longer received any support from him.

Complainant did not know that the reason why Judge Marcos stopped her authority from getting the checks was because he allegedly discovered that she had a paramour. She verbally complained to Judge Priscila Agana (former Regional Trial Court Executive Judge) about the stoppage of the checks. She did not complain to the Supreme Court because he told her that she was just an ordinary classroom teacher with a small salary and that he would use his power as a judge against her.

Mrs. Rotilla Marcos no longer lives in their conjugal home. The reason why she left was because respondent judge threatened to kill her.

Judge Meinrado Paredes, when called to testify, admitted knowing Maydelane Tacaldo, upon seeing her picture. He had seen her twice: the first time during the wake of the late Sandiganbayan Justice German Lee, and the second time at the convention of the Philippine Judges Association held in a hotel in Manila (Hyatt Regency) sometime in June, 1999. Both times he did not see her with a companion.

At the hotel lobby of the Hyatt Regency he saw her approaching a gathering of wives of some RTC judges. He knew her to be a law student. He did not think that she was a member of the Judiciary, the wife of a judge, or an employee of the court.

Complainants presented other witnesses who appeared and identified copies of documents, the originals of which were in their possession.

Maximo Abing, an account officer of the PCI Leasing and Finance, Inc. (PCI, for short), brought a photocopy of the certificate of registration (Exhibit "V") of a Toyota Revo with Motor No.

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7K-0279834 issued by the Land Transportation Office in favor of Judge Ferdinand J. Marcos and Maydelane Tacaldo, with residence at Capitol Site, Cebu City as joint owners.

Orencio Goles Tarongoy, an employee of the Land Transportation Office (LTO, for brevity), Cebu City, brought to the hearing and identified the following documents: (1) the office copy of Certificate of Registration No. 59442704 (Exhibit "W") issued by the LTO in the names of Judge Ferdinand J. Marcos and Maydelane Tacaldo with address at P. Rodriguez St., Capitol Site, Cebu City; (2) a Motor Vehicle Inspection Report (Exhibit "X") regarding a Toyota Revo owned by Judge Ferdinand J. Marcos and Maydelane Tacaldo of P. Rodriguez St., Capitol Site, Cebu City; (3) a Deed of Sale (Exhibit "Y") executed by one Leticia R. Cabanes on July 27, 2000 in favor of Judge Ferdinand Javier Marcos and Maydelane B. Tacaldo conveying a Model 1999 Toyota Revo; (4) a PNP Motor Vehicle Clearance Certificate (Exhibit "Z") covering a 1999 Toyota Revo owned by Leticia Cabanes, for the purpose of transferring the ownership thereof to Judge Ferdinand Javier Marcos and Maydelane B. Tacaldo.

Leoncio M. Balangkig, an employee of Paramount General Insurance Corporation brought to the investigation copies of certain documents which he identified, to wit: Exhibit "BB" as the invoice for the insurance coverage of a Toyota Revo issued in favor of Ferdinand Marcos with residence at P. Rodriguez St., Zosa Comp., Capitol Site, Cebu City; Exhibit "C" as the Policy Schedule forming part of the policy which was also issued in favor of the insured Marcos, Ferdinand of P. Rodriguez St., Capitol Site, Cebu City; Exhibit "DD" as an endorsement (No. 2603748 dated October 4, 2000) of the aforementioned policy No. CEB-PC-25687 that included the name of Maydelane B. Tacaldo as an insured party. An earlier endorsement (Exhibit "JJ", No. 2603400 dated July 25, 2000), gave the insured as "Marcos, Ferdinand J., and Tacaldo, Maydelane B." According to the witness, this change was made upon the advice of PCI Brokers. On cross-examination the witness reiterated that the change was occasioned by a verbal order they received from the PCI Brokers. He further admitted that he had no knowledge as to whether respondent was notified of the change.

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The Chattel Mortgage of the same Toyota Revo (Exhibit "FF") executed and signed by respondent and Maydelane B. Tacaldo, both residing at Zosa Cmpd., P. Rodriguez St., Capitol Site, Cebu City, in favor of PCI Leasing was likewise presented as evidence.

Lerma Eguia of PCI Equitable Insurance Broker, formerly PCI Broker, identified the Deed of Sale (Exhibit II) of the same Toyota Revo in favor of Amina G. Advincula. The same document appeared to have been signed by the respondent and Miss Tacaldo, and acknowledged by them before Notary Public Rolando C. Grapa, who entered it in his Notarial Register as Document No. 385, Page No. 78, Book No. 220, Series of 2000. Another document this witness identified was Exhibit " JJ" which was an endorsement issued by Paramount indicating therein the assured as "Marcos, Ferdinand J., and Tacaldo, Maydelene B."

Upon the other hand, respondent offered his oral testimony and identified and marked Exhibits "1" (affidavit of desistance executed by the complainants); "2" (letter of respondent directing the Clerk of Court to deliver all his checks to complainant); "3" to "3-Y" (savings account remittance slips to respondent's son Joshua); "4" (electric bill); "5" (PLDT bill); "6" (credit application submitted to PCI Leasing); "6-A" (address indicated therein); "6-B" (stamp of "closed account"); "7" to "7-TT" (postdated checks issued by Maydelane Tacaldo); "8" [representative (sic) complaint for adultery together with affidavits]; "9" (reply-affidavit filed with Provincial Prosecutor); "10" (amended complaint for declaration of nullity of marriage); "11" (Order dated February 22, 2000); "11-A" and "11-B" (portions thereof); "12" (promissory note dated August 22, 2000); "12-A" and "12-B" (portions thereof); "13" (original complaint for declaration of nullity in Civil Case No CEB-25511); "13-A" (portion thereof); "14" (letter/complaint to Provincial Prosecutor); "14-A", "14-B", and "14-C" (affidavits supporting his complaint) and "15" (certificate issued by Dr. Manuel Tornilla). These documents, however, were not formally offered nor transmitted to Justice Quimbo.

Respondent declared that, contrary to complainant's testimony, he was never remiss in the support of his family. He alleged that he had supported her and their children, except at the time that

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she abandoned the conjugal home in March 1998; that he was giving her ₱22,000.00, more or less, monthly; that the reason why Mrs. Marcos filed the letter/complaint against him was because she suspected that he was not giving her the correct amount since he did not show her the checks from the Supreme Court; that he revoked his undertaking to give to his wife all the checks due him from the Supreme Court because he discovered that she had a paramour, his cousin Mariano Marcos; that he alone supported their children and her daughter's family from 1998 until the time he was suspended; that he spent for the maintenance of their home by paying their electric and phone bills.

He presented evidence regarding the transmittal of funds to his son Joshua who was a medical student (Exhibits "3" to "3- Y"). While assigned in Toledo City, he stated that he was remitting to Joshua, a medical student, the sum of ₱12,000.00 monthly. When his son found a job in the year 2000, he reduced his monthly support to ₱4,000.00. To his daughter Hazel Faith, he gave ₱1,500.00 weekly while he was in Toledo City; but when he was transferred to Cebu City, he increased her weekly support to ₱2,000.00.

He averred that the jewelry he purchased at Agencia Nina in the amount of ₱5,000.00 was given to his daughter Hazel Faith Marcos as a birthday gift. The groceries bought at Gaisano Metro were bought and brought to their house in Talisay, Cebu, especially for his granddaughter. It was his practice, even when he was still a private practitioner, to purchase all the groceries for the needs of his family.

He never received any birthday card/social telegram because his Clerk of Court screened all his communications. As to the birthday card found tucked between the pages of a law book in his chambers, he denied that it came from Maydelane Tacaldo as her name did not appear in the card -only the initials M.T. His Clerk of Court, Monalila Tecson also has the initials M.T. but as his Clerk of Court, he didn't expect Monalila Tecson to send him a card with the dedication "M.T. cares a lot, you know," and "It's wonderful to share my life with you."

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He disclaimed any knowledge of the note found in his office requesting payment of May's account by a Mrs. Dandan. He replied that he did not know any Mrs. E. Dandan, nor the Bebot to whom the payment should be given. He had never incurred any unsettled account with anybody when he was still with Branch 20. He believed the note to be spurious and manufactured by his complainant-wife, it being undated and because he didn't recognize the penmanship. However, he admitted that the note was not in his wife's handwriting but surmised that it could have been the penmanship of the person who was asked by complainant-wife to write it.

He denied living in Zosa Compound, Don Pedro Rodriguez St., Capitol Site, Cebu City, as he has always lived in Talisay, Cebu where his conjugal home was situated. As to the claim that his slippers and empty plastic water container were found outside one of the rooms in the Zosa Compound, he contended that he usually didn't wear slippers and, if he did, his slippers were always left at home and in his chambers. There were many consumers of mineral water in the province of Cebu: not only in Talisay but also in Cebu City. He denied having any dealings with Techie (Ma. Teresa) Zosa of the Zosa Compound and using the *alias* Victorino Timol.

With regards to the news item[17] wherein Judge Agana was quoted to have said that he was not even discreet about his alleged illicit relationship, he believed this to be not true because Judge Agana had never investigated him for any wrongdoing.

He denied that he was the one referred to in the news item that came out in the Sun Star Super Balita.[18] He likewise denied that he and Maydelane Tacaldo lived together in Toledo City where he was transferred from July 1997 to September 1999. When he had to stay overnight in Toledo City he usually stayed in the house of his Process Server, an Arthur Camonggan.

The Tacaldo family purchased the motor vehicle, Toyota Revo, as they wanted to have a "for-hire" motor vehicle plying Cebu

[17] Exhibit "K".

[18] Exhibit "M".

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City and Toledo City. The Tacaldos requested him, being a close friend, to have his name included in the registration of the motor vehicle. Since he was a judge in Toledo City, he could help the Tacaldos get a slot in the Coop Multi-Purpose, a cooperative that accepts motor vehicle units for plying the Toledo, Balamban, and Cebu City routes.

As the registered owner of a motor vehicle, he was aware that if the vehicle figured in an accident or there was a damage caused to a third party, he as the owner would be held responsible. He averred that he felt safe because the vehicle was insured. Though the car was insured it did not cover damages to third parties. He was likewise aware that if there would be a foreclosure of the chattel because the chattel mortgage was not sufficient, or if the promissory note was not paid, he would be held liable. He put himself at risk because he wanted to accommodate the Tacaldos because they are very close family friends.

The down payments for the purchase of the motor vehicle came from the Tacaldos. The address at P. Rodriguez, Zosa Compound, Cebu City was the address of Miss Tacaldo. In some of the documents, like the credit application submitted before PCI Leasing and the promissory note he executed with the same company, he gave his address as San Jose Village, Lawaan 3, Talisay, Cebu.

The address in the Deed of Sale over the Toyota Revo, Model 1999, was that of Miss Tacaldo, not his. He and Maydelane Tacaldo did not jointly own the motor vehicle, although it appears on paper that it was registered in both their names but he had no hand in the preparation of the insurance policy nor of the policy schedule. Thus, he was not aware that his address was shown to be at Zosa Compound, Capitol Site, Cebu City. He did not have it changed as it was only during the hearing that he first saw the insurance policy.

The name of Miss Tacaldo appeared in the documents as a guarantee that the Tacaldos have invested in said motor vehicle. In fact, Miss Tacaldo issued several checks to guarantee payment of the balance of ₱300,000.00.

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The plan to have the motor vehicle unit ply Toledo, Balamban to Cebu City was aborted because after his suspension, the vehicle was shown on television. The Tacaldo family was afraid that the motor vehicle might be involved in a case between him and the complainants.

He denied having an illicit relationship with Miss Tacaldo. He stressed that his wife had a paramour as early as March 1998 and he had told her that he would file the corresponding adultery cases once he had sufficient evidence against her and her paramour. And this he did. He filed 13 counts of adultery cases against his wife with the Municipal Trial Court of Balamban, Cebu and 21 counts of adultery before the Office of the Provincial Prosecutor. All these cases, including the Declaration of Nullity of Marriage, were filed only after the Court suspended him on August 15, 2000.

He denied maltreating his wife. If he had beaten her, she would have been hospitalized, as he has a bigger build than her.

He was suffering from Diabetes Mellitus, Type II, and he was already insulin-dependent. He was diagnosed with diabetes in 1992. As a diabetic, most of his vital organs were affected, especially his sexual capacity. He was already sexually impotent as early as 1993, when he was first appointed to the Judiciary. His sexual impotency was complete and he could not have sex anymore. He was being treated for diabetes and sexual impotency. A medical certificate issued by Dr. Manuel Tornilla, dated December 6, 2000, stated, among others, that Judge Marcos had been under his (Dr. Tornilla) medical professional care since September 15, 1995 up to that time, and he has been diabetic since 1992, and was on maintenance medication.

His wife was upset with his physical condition but he could not do anything about it because his diabetes caused his sexual impotency.

In Civil Case No. CEB-19725, a motion for inhibition was filed which was denied. In his order dated February 22, 2000, he denied the motion for reconsideration because it was not true that he was living in the property of Atty. Zosa.

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While Maydelane Tacaldo was present during the Fun Run in Cebu City, she was not with him. Chief Justice Hilario G. Davide, Jr. confronted him and asked him whether Maydelane Tacaldo had a job and whether he had a child with her. He replied that he didn't know if she had a job and that he didn't have a child with her. The Chief Justice told him, "That is bad for the judiciary." Before he was able to explain the Chief Justice had already left. The Chief Justice did not ask him whether that woman who went there was with him.

He did not see Maydelane Tacaldo at the convention in June 1996. He first met her at a seminar of Judges at the penthouse of the San Miguel Corporation in Mandaue City. She was then the secretary of Judge Vestil.

He was a friend of Maydelane Tacaldo's father. The Tacaldos lived somewhere near Aznar Coliseum but he had never visited their house.

The Islacom Statement of Account was mistakenly sent to him, as it should have been sent to a certain Urgello. He didn't have an account with Islacom. Neither did he have a cell phone although he had, at one point, entertained the idea of buying one. When he went to the Islacom office regarding the allegedly erroneous billing, he did not ask as to who the real account holder was. All he did was to execute an Affidavit of Loss, per advice of Islacom.

Respondent admitted that a confrontation occurred between him. Maydelane Tacaldo, the parents of Maydelane, his wife, and the brothers and sisters of his wife because of the Islacom Statement of Account. He didn't know if Maydelane Tacaldo used the cell phone because during the confrontation, Miss Tacaldo denied she had a cell phone. The father of Maydelane also said he did not see his daughter with a cell phone. Miss Tacaldo expressly denied having any relationship with him. He also told the group during the confrontation that he was not related to her, in any way. Complainant-wife instigated the confrontation.

He never received the amount of more than ₱500,000.00 from the sale of the Toyota Revo. The buyer paid ₱300,000.00 loan to PCI and ₱250,000.00 to the Tacaldos.

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We agree with and therefore uphold the findings and conclusions of Justice Romulo Quimbo, as contained in his Report. We find the details of his findings amply supported by the evidence on record leaving us no doubt in our minds that a very special relationship existed between Judge Ferdinand J. Marcos and Maydelane Tacaldo (*a.k.a.* Mae Tacaldo) - that their illicit relationship started even before he separated from his wife Rotilla Marcos in 1997.

Consider the following evidence:

The Islacom Statement of Account dated June 3, 1996 was addressed to Judge Marcos not in his conjugal dwelling at San Jose Village, Lawaan 3, Talisay Cebu, but at 615 ZA P. del Rosario Ext., Cebu City that Mrs. Marcos later discovered to be the residence of Maydelane Tacaldo. While Judge Marcos denied owning a cell phone there is an improbability that Islacom would send a phone bill to him if he were not the real owner thereof.

Service providers like phone companies rely on the information given by the applicant desirous of its services. Islacom would not have sent Judge Marcos a Statement of Account if he did not apply for a phone line nor sent it to an address he did not furnish them.

If he did not really own the cell phone was it not expected of him, being a judge and all, to have stood his ground and insisted that as he did not own nor lose a cell phone, it is preposterous of him to execute an Affidavit of Loss.

Moreover, we find it hard to believe that he would have been satisfied with an explanation that the bill was erroneously sent to him without raising hell, so to speak, in finding out the identity of the Islacom employee who was at fault, especially so when this Statement of Account was the catalyst in the confrontation between him, his wife Rotilla and Ms. Tacaldo.

Someone with the initials M.T. sent Judge Marcos for his birthday on July 7, 1996, the social telegram/birthday card, but was delivered on July 5, 1996. This person could be Maydelane Tacaldo or Monalila Tecson. Although Judge Marcos' Branch Clerk of Court has these initials we, as well as Judge Marcos,

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do not believe that she would send Judge Marcos a card with the greeting - "It is wonderful to share my life with you." -and ending it with - "MT cares a lot, you know." Only a person who is truly intimate with Judge Marcos would send such a card.

We do not put any trust in Judge Marcos's denials that he had never seen said card. The book was found tucked between the pages of a law book lying on top of his office table. He is the most logical person to have inserted said card in the law book.

The Bankard Statement of Account dated September 10, 1997 reflected that Judge Marcos bought, presumably, jewelry/ies at the Agencia Nina & Jewelry, and groceries at the Gaisano Metro, and dined at Cafe Laguna.

Mrs. Marcos denied receiving jewelry/ies and dining out with Judge Marcos at the said restaurant. She testified that her daughter also did not receive jewelry/ies from her father. They also did not receive any groceries from Judge Marcos, as he was no longer going home then.

Complainant Mrs. Rotilla Marcos declared that she searched for the apartment where her husband was staying. When she found it she saw her husband's slippers and laundered clothes outside the place. Having been married to him for about 26 years she would have known her husband's preferences as to wearing apparel and personal items, and would have been able to recognize them upon seeing them.

In Civil Case No. 19070, a motion for respondent to inhibit himself was filed based on the fact that he was residing in one of the units in the Zosa Compound that belonged to Atty. Zosa, counsel for one of the parties. Atty. Zosa, in his comment, did not categorically deny the allegation. Neither did respondent, in his Order denying the motion, categorically deny the allegation.

Although the Certification of Tenant was unsigned and did not cite Judge Marcos and Ms. Tacaldo as one of the tenants at Zosa Compound, the fact that they lived together was apparent in the different documents they executed pertaining to the Toyota Revo, for the address they both gave for these documents was Rodriguez

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St., Capitol Site, Cebu City. Zosa Compound, by the way, is located at Rodriguez St., Capitol Site, Cebu City.

We are not swayed by the denials made by respondent judge that he and Ms. Tacaldo were the owners of a Toyota Revo.

Judge Marcos and Ms. Tacaldo jointly bought a motor vehicle - a Toyota Revo - and had it registered in their names as co-owners. They obtained insurance for the same vehicle with them as joint beneficiaries. They executed a chattel mortgage over the same in favor of PCI Leasing and Finance, Inc. and when they finally sold the same vehicle on September 18, 2000 to Amina Advincula, they both signed the Deed of Sale as joint owners. These actions clearly indicate that they were the joint owners of the Toyota Revo.

We are likewise not persuaded by the averment made by Judge Marcos that he accommodated the Tacaldos in their desire to get a slot in the cooperative because they are very close family friends. If they are indeed close, it is surprising to hear that he had never been to the house of the Tacaldos. In fact, he was not even sure as to the exact location of the Tacaldo residence.

Respondent judge wanted us to believe that if his name was put in the motor vehicle's registration, the Tacaldos' entry in the cooperative's business of running public utility vehicles would be assured. He went to extraordinary lengths to help the Tacaldos by having the vehicle registered in his and Ms. Tacaldo's names.

There is nothing in the records to show that it was essential for respondent to be registered as an owner in order that the motor vehicle could ply the Toledo City - Cebu City routes. A simple phone call/oral request by Judge Marcos to the cooperative officers would have been sufficient, to our mind, to allow the Tacaldos' entry to the cooperative business of transporting passengers.

Respondent's posture that Mrs. Marcos is also guilty of immorality does not excuse nor even mitigate his actions. It is respondent's private action that is being investigated not his wife's.

We cannot gloss over the incident that happened during the Fun Run as recounted by Chief Justice Davide. Judge Marcos

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candidly and frankly admitted to the Chief Justice that he had been living with Ms. Tacaldo for the last three years as he was already separated from his wife. Bringing Ms. Tacaldo to public functions was not in good taste considering that Judge Marcos was still very much married even if he and his wife Rotilla were already living separately. He had no right to flaunt Maydelane Tacaldo as if she was his wife. This conduct is certainly unbecoming of a judge whose conduct must at all times be beyond reproach.

As held in *GALANG VS. SANTOS*,[19] the personal behavior of a judge should be free from the appearance of impropriety, and his personal behavior, not only in the bench and in the performance of judicial duties, but also in his everyday life, should be beyond reproach.

"The Code of Judicial Ethics mandates that the conduct of a judge must be free of a whiff of impropriety not only with respect to his performance of his judicial duties, but also to his behavior outside his sala and as a private individual. There is no dichotomy of morality: a public official is also judged by his private morals. The Code dictates that a judge, in order to promote public confidence in the integrity and impartiality of the judiciary, must behave with propriety at all times. As we have very recently explained, a judge's official life cannot simply be detached or separated from his personal existence. Thus: Being the subject of constant public scrutiny, a judge should freely and willingly accept restrictions on conduct that might be viewed as burdensome by the ordinary citizen. A judge should personify judicial integrity and exemplify honest public service. The personal behavior of a judge, both in the performance of official duties and in private life should be above suspicion."[20]

In *LEYNES VS. VELOSO*,[21] it was held that if good moral character is required of a lawyer, with more reason is the requirement exacted of a member of the judiciary who at all times

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[19] 307 SCRA 582 [1999].

[20] *Castillo vs. Calanog, Jr.*, 199 SCRA 75 [1991].

[21] 82 SCRA 325 [1978].

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is expected to observe irreproachable behavior and is bound not to outrage public decency.[22]

Keeping a mistress is certainly not an act one would expect of a judge who is expected to possess the highest standard of morality and decency. If a judge fails to have high ethical standards, the confidence and high respect for the judiciary diminishes as he represents the judiciary.

Jurisprudence is rich in cases where the Court has inflicted on judges the punishment of dismissal for immorality especially when it is committed openly and flagrantly, causing scandal in the place where his court is situated.

"In *Dy Teban Hardware and Auto Supply Co. vs. Tapucar* (102 SCRA 493 [1981]), the Court laid down the rationale why every judge must possess moral integrity, thusly:

"The personal and official actuations of every member of the judiciary must be beyond reproach and above suspicion. The faith and confidence of the people in the administration of justice can not be maintained if a judge who dispenses it is not equipped with the cardinal judicial virtue of moral integrity and if he obtusely continues to commit affront to public decency. In fact, moral integrity is more than a virtue; it is a necessity in the judiciary."[23]

No position exacts a greater demand on the moral righteousness and uprightness of an individual than a seat in the judiciary. A magistrate of the law must comport himself at all times in such a manner that his conduct, official or otherwise, can bear the most searching scrutiny of the public that looks up to him as the epitome of integrity and justice.[24]

The Court once again reminds all those who don judicial robes to maintain good moral character and at all times observe irreproachable behavior so as not to outrage public decency.[25]

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[22] *Castillo vs. Calanog, Jr.*, 199 SCRA 75, 87 [1991].

[23] *Talens-Dabon vs. Arceo*, 259 SCRA 354, 367 [1996].

[24] *Cortes vs. Agcaoili*, 294 SCRA 423 [1998].

[25] *Naval vs. Panday*, 321 SCRA 290 [1999].

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Herein respondent cannot find comfort in the "affidavit of desistance" signed by his wife and children.

"Generally, the Court attaches no persuasive value to affidavits of desistance, especially when executed as an afterthought xxx. As held in *People v. Ubina*:[26] It would be a dangerous rule for courts to reject testimonies solemnly taken before the courts of justice simply because the witnesses who had given them later on changed their mind for one reason or another; for such rule would make solemn trials a mockery and place the investigation of truth at the mercy of unscrupulous witness(es)."[27]

Again, in the case of *IMBING VS. TIONGSON*,[28] the Court once more held that:

"The fact that complainant has lost interest in prosecuting the administrative case against herein respondent judge will not necessarily warrant a dismissal thereof. Once charges have been filed, the Supreme Court may not be divested of its jurisdiction to investigate and ascertain the truth of the matter alleged in the complaint. The Court has an interest in the conduct of members of the Judiciary and in improving the delivery of justice to the people, and its efforts in that direction may not be derailed by the complainant's desistance from further prosecuting the case he or she initiated."

Judge Ferdinand J. Marcos has demonstrated himself to be wanting of moral integrity. He has violated the code of Judicial Conduct which requires every judge to be the embodiment of competence, integrity, and independence and to avoid the appearance of impropriety in all activities as to promote public confidence in the integrity and impartiality of the judiciary.

The charge of immorality proven against respondent judge demonstrates his unfitness to remain in office and continue to discharge the functions and duties of a judge.

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[26] 97 Phil. 515 cited in *PLDT vs. NLRC*, 152 SCRA 702, 707 [1987] and *People vs. Galicia*, 123 SCRA 556 [1983].

[27] *Castillo vs. Calanog*, 199 SCRA 75 [1991].

[28] 229 SCRA 691 [1994].

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Having tarnished the image of the Judiciary, respondent must be meted out the severest form of disciplinary sanction - dismissal from the service.

WHEREFORE, *IN VIEW OF THE FOREGOING*, respondent judge Ferdinand J. Marcos of the Regional Trial Court of Cebu City is *DISMISSED* from the service, with prejudice to his reinstatement or appointment to any public office including government owned or controlled corporations, and forfeiture of his retirement benefits, if he is entitled to any.

This decision is immediately executory.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Kapunan, Mendoza, Pardo, Buena, De Leon, Jr., and *Sandoval-Gutierrez, JJ.*, concur.

Melo, J., in the result.

Panganiban, Quisumbing, and *Ynares-Santiago, JJ.*, on official business.

Gonzaga-Reyes, J., on leave.

SECOND DIVISION

[G.R. No. 132318. July 6, 2001]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **FERNANDO MUERONG *y* FAJARDO,** *accused-appellant.*

SYNOPSIS

Fernando Muerong was charged with the crime of murder. Prosecution evidence showed that at 4:00 o'clock in the afternoon of January 13, 1996, Ricardo Madriaga, Sergio Cadiente, Florante