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[A.M. No. SCC-00-5. November 29, 2000]

SALAMA S. ANSA, *complainant, vs.* **JUDGE SALIH MUSA, Shari'a Circuit Court, Buluan, Maguindanao,** *respondent.*

SYNOPSIS

Complainant Ansa charged respondent Judge with gross immorality. Allegedly, respondent made amorous advances to her which she initially discouraged. However, with a promise of making her his wife and succumbed to his desires. Respondent never made good his promise and even insulted her. Thus, complainant filed this case against him.

Respondent judge denied all the allegations of complainant and disowned the notes and letters presented by the latter as evidence. The Court, however, found them convincing proof of respondent's offensive conduct, a violation of the Code of Judicial Conduct. Not only did he transgress the norm of decency expected of every person but he failed to live up to the high moral standard expected of a member of the Judiciary. Noteworthy, what aggravated respondent's offense is that he was the immediate supervisor of the complainant. Thus, the Court found the dismissal of respondent judge the proper penalty to be imposed.

SYLLABUS

1. **JUDICIAL ETHICS; JUDGES; CODE OF JUDICIAL CONDUCT; WHEN JUDGE TOOK ADVANTAGE OF HIS FEMALE EMPLOYEE.—** We have gone over the testimonies as well as the notes and letters on record and find them convincing proof of his offensive conduct. Respondent's bare denials and unproven allegations of forgery cannot prevail over the positive evidence submitted by complainant. Respondent's conduct, in our view, violated the Code of Judicial Conduct. Not only did he transgress the norms of decency expected of every person but he failed to live up to the high moral standard expected of

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a member of the Judiciary. Noteworthy, what aggravates respondent's offense is that he was the immediate superior of the complainant. Instead of acting with appropriate regard toward his female employee, he took advantage of his position to prey on her innocence and weakness. Then he refused to right the wrong he has done, but instead added insult to the injury of complainant. This conduct of a superior officer in relation to a subordinate employee mocks the trust and confidence she has placed on him in the concept of one in *loco parentis*.

2. **ID.; ID.; GROSS IMMORALITY; MAKING SEXUAL ADVANCES ON A SUBORDINATE CONSTITUTES GROSS IMMORALITY; DISMISSAL FROM SERVICE, WARRANTED.**— In *Dawa vs. De Asa*, we dismissed a judge for making sexual advances on three of his subordinates. In *Simbajon vs. Esteban*, we dismissed a judge for making sexual advances on one of his female subordinates. Respondent's conduct is not less reprehensible than those involved in said cases. As borne by the records respondent, despite being rejected twice by the complainant, persisted in his lustful quest until her complete surrender to him, thereby going far beyond the bounds of decency and morality expected of a judge. But his unscrupulous conduct did not end there: he dashed her hopes of an honorable marriage. Thus he has shown himself unworthy of the judicial robe and the place of honor reserved for the guardian of justice in a civilized community. [W]e find *JUDGE SALIH MUSA* guilty of Gross Immorality. He is hereby *DISMISSED* from the service with forfeiture of all benefits and with prejudice to re-employment in any other branch, instrumentality or agency of the government, including government-owned and controlled corporations.

APPEARANCES OF COUNSEL

Pama L. Muti for respondent.

R E S O L U T I O N

***PER CURIAM*:**

In a verified complaint dated December 27, 1996, complainant Salama S. Ansa charged respondent Judge Salih Musa of the

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Shari'a Circuit Court, Buluan, Maguindanao, with Gross Immorality.

Complainant is a court stenographer assigned at the Sharia's Court, Midsayap, Cotabato. In her affidavit-complaint she alleged that prior to her present assignment, she was assigned at the Sharia's Court of Isulan, Sultan Kudarat. She was under the supervision of respondent who was then the Clerk of Court and at the same time an ULAMA. Sometime in June 1994, respondent made amorous advances towards her. Finding the behavior of respondent disgraceful and immoral since he was a married man, she took courage in telling him, "*Hindi kita maaring patulan, sir, niresperto kita, hindi lamang na dahil "Boss" kita kundi sa iyong pagkaulama, mahiya ka naman sa akin at lalo na sa mga tao.*"[1] Respondent ignored her and persisted in his amorous advances. He told her that he knew the law, and there were no legal impediments to their marrying so she should not worry that the affair was immoral. As time went by, she succumbed and gradually gave in to respondent's insistence culminating in their trysts in hotels, lodges, and theaters. Their affair continued until respondent was appointed as Shari'a judge. Since respondent did not try to right things by marrying her and making her one of his wives, she decided to end the relationship, but she was appeased by respondent. Their affair continued but she realized he had no intention of rectifying the situation he had put her in. She realized she was just going to be the "other woman." Deeply disappointed she sought the help of a mediator but instead respondent insulted her. She filed the complaint against respondent, charging him with gross immorality. She asked the Court to punish respondent accordingly.

In his Comment dated May 28, 1997,[2] respondent judge strongly and vehemently denied the charges. He averred that he did not and had never taken advantage of his public position and moral influence, nor made amorous, disgraceful and immoral

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[1] *Rollo*, p. 3.

[2] *Id.* at 21-22.

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advances on complainant. He did not write any note, memo or letter to complainant inviting her to hotels, lodges and theaters to tryst with her. He did not cajole her to become his so-called "other woman." He claimed that the accusations were the product of her sick mind and the notes and letters all fabricated and forged.

On July 20, 1998, the Court referred the complaint to Executive Judge Santos Adiong, Regional Trial Court, Marawi City, Branch 8, for investigation, report and recommendation.

In his Report dated June 1, 2000, the investigating Judge reported that:

"Despite all the opportunities and time accorded, respondent Musa did not present any evidence to refute complainant's allegations. He only appeared once before the investigating judge. However, in his comment dated May 28, 1997, the respondent judge strongly and vehemently denied the imputations against him but failed to offer any evidence to support such denial.

Complainant's testimony, though uncorroborated, appears to be credible and is supported by substantial evidence.

Complainant would not have publicly disclosed their immoral affair with the respondent and in the process risk undergoing all the troubles and humiliations attendant thereto if her motive was not to bring to justice the man who brings dishonor to her and her family. It would be highly improbable for her to fabricate her charge for no reason at all.

Complainant's determination and courage in coming and appearing before the undersigned all the way from far away Midsayap, Cotabato (a day's travel by land) taking all the risks and dangers along the Narciso Ramos Highway passing through rebel infested and lawless elements areas cannot just be ignored. She appeared no less than three (3) times while respondent appeared only once. She also incurred so much expenses in so appearing.

Respondent's love letters or love notes to complainant (Exhibits "C" to "O" inclusive) are more than sufficient to prove that there exists a mutual love affair between then and that respondent, a married man, took advantage of his official position and used his influence and moral ascendancy over the complainant as her subordinate, in

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attaining his amorous advances towards her to the extent of making her fall in love with him.

Considered likewise is Exhibit "P" which is respondent's letter to Judge Kambal informing the latter on his side to complainant's report dated November 1, 1996 and that complainant even sought the amicable settlement of her problem by asking Judge Kambal to negotiate the respondent to answer the wrong he had done by marrying complainant."[3]

Judge Adiong concluded that there was sufficient evidence to hold respondent liable for gross immorality. He recommended that Judge Salih Musa be suspended from the service for a period of three (3) months.

Indeed, there is sufficient basis for Judge Adiong's conclusion. We have gone over the testimonies as well as the notes and letters on record and find them convincing proof of his offensive conduct. Respondent's bare denials and unproven allegations of forgery cannot prevail over the positive evidence submitted by complainant. We agree with the investigating Judge that respondent is guilty. However, we are unable to agree that respondent be meted only the penalty of three (3) months suspension from office, for his offense is serious and deserves a graver penalty.

Respondent's conduct, in our view, violated the Code of Judicial Conduct. Not only did he transgress the norms of decency expected of every person but he failed to live up to the high moral standard expected of a member of the Judiciary. As well said in *Junio vs. Rivera, Jr.*:[4]

"All judges in all levels of the judicial hierarchy, from this Court down to the Municipal or Metropolitan Trial Courts, are bound to observe the above exacting standards. There is, however, a special reason for requiring compliance with those standards from those who, like respondent Judge Rivera, are Municipal or Metropolitan judges and are accordingly "frontliners" of the judicial department. As such,

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[3] Report, pp. 3-4.

[4] 225 SCRA 688, 706-707 (1993).

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a Municipal (or Metropolitan) Judge is the most visible living representation of the country's legal and judicial system. He is the judicial officer who on a day-to-day basis deals with the disputes arising among simple, rural people who comprise the great bulk of our population. He is the judicial officer who comes into closest and most frequent contact with our people. The judiciary as a whole and its ability to dispense justice are inevitably measured in terms of the public and private acts of judges in the "grass roots" level, like respondent Judge Pedro C. Rivera, Jr. It is essential, therefore, if the judiciary is to engage and retain the respect and confidence of our nation, that this Court insist that municipal judges and all other judges live up to the high standards demanded by our case law and the Code of Judicial Conduct and by our polity."

Noteworthy, what aggravates respondent's offense is that he was the immediate superior of the complainant. Instead of acting with appropriate regard toward his female employee, he took advantage of his position to prey on her innocence and weakness. Then he refused to right the wrong he has done, but instead added insult to the injury of complainant. This conduct of a superior officer in relation to a subordinate employee mocks the trust and confidence she has placed on him in the concept of one in *loco parentis*.

In *Dawa vs. De Asa*,[5] we dismissed a judge for making sexual advances on three of his subordinates. In *Simbajon vs. Esteban*,[6] we dismissed a judge for making sexual advances on one of his female subordinates. Respondent's conduct is not less reprehensible than those involved in said cases. As borne by the records respondent, despite being rejected twice by the complainant, persisted in his lustful quest until her complete surrender to him, thereby going far beyond the bounds of decency and morality expected of a judge. But his unscrupulous conduct did not end there: he dashed her hopes of an honorable marriage. Thus he has shown himself unworthy of the judicial robe and the place of honor reserved for the guardian of justice in a civilized community.

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[5] 292 SCRA 703 (1998).

[6] 312 SCRA 192 (1999).

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WHEREFORE, we find *JUDGE SALIH MUSA* guilty of Gross Immorality. He is hereby *DISMISSED* from the service with forfeiture of all benefits and with prejudice to re-employment in any other branch, instrumentality or agency of the government, including government-owned and controlled corporations. Upon his receipt hereof, he is enjoined to cease and desist from performing any and all acts pertaining to his office immediately.

SO ORDERED.

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

FIRST DIVISION

[G.R. No. 109557. November 29, 2000]

JOSE UY and his Spouse GLENDA J. UY and GILDA L. JARDELEZA, *petitioners, vs.* **COURT OF APPEALS and TEODORO L. JARDELEZA,** *respondents.*

SYNOPSIS

Petitioner Gilda L. Jardeleza instituted before the Regional Trial Court of Iloilo a petition to declare her husband Ernesto Jardeleza, Sr. incapacitated, in view his comatose condition, and to authorize her to assume sole powers of administration of their conjugal properties and to dispose the same, with the approval of the court, to their daughter and son-in-law, her co-petitioners herein, to defray the mounting expenses for treatment and hospitalization of her incapacitated husband. After hearing, the RTC granted the petition and made a pronouncement that the petition filed by petitioner was pursuant to Article 124 of the Family Code, and that the proceedings thereon are governed by the rules on summary proceedings sanctioned under