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FIRST DIVISION

[A.M. No. MTJ-99-1211. January 28, 2000]

ZENAIDA S. BESO, *complainant, vs.* **Judge JUAN DAGUMAN, MCTC, Sta. Margarita-Tarangan-Pagsanjan, Samar,** *respondent.*

SYNOPSIS

Respondent judge, whose jurisdiction covers the municipality of Sta. Margarita-Tarangan - Pagsanjan, Samar was charged by complainant with solemnizing marriage outside his jurisdiction. She alleged that her marriage with Bernardito A. Yman was celebrated at respondent's residence at Calbayog City and that respondent failed to register their marriage contract with the Office of the Local Civil Registrar. Respondent, for his defense, claimed good faith that he did so upon the request of complainant and her fiance as complainant, an overseas worker, must fly to Manila for abroad the following day and that he believed complainant deserved more ordinary official attention as an overseas worker and that the loss of the 3 remaining copies documents was the cause for his failure to register the marriage. The Office of the Court Administrator, to which the case was referred to for investigation, report and recommendation, found respondent guilty of non-feasance in office and recommended a fine of ₱5,000.00.

The Court ruled that marriage may be solemnized by any incumbent member of the judiciary within the court's jurisdiction. However, marriage can be held outside the judge's jurisdiction where any of the contracting parties is at the point of death, where the place of marriage is located in remote places in accordance with Article 29 of the Family Code or upon the written sworn request of both parties. None of the exceptions applies in this case. Further, a judge should exercise extra care in the celebration of marriage and must ensure that the event is properly documented. His failure to register the marriage on the ground that the documents were lost is not a valid justification. It manifested that respondent was less than conscientious in handling official documents. Thus, respondent's failure to register the marriage and the solemnization of the marriage outside his

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jurisdiction constitutes non-feasance in office. Respondent was FINED ₱5,000.00 and STERNLY WARNED that a repetition of the same or similar infractions will be dealt with more severely.

SYLLABUS

1. **CIVIL LAW; FAMILY CODE; MARRIAGE; A SOCIAL INSTITUTION.**— *Jimenez v. Republic* underscores the importance of marriage as a social institution thus: "[M]arriage in this country is an institution in which the community is deeply interested. The state has surrounded it with safeguards to maintain its purity, continuity and permanence. The security and stability of the state are largely dependent upon it. It is the interest and duty of each and every member of the community to prevent the bringing about of a condition that would shake its foundation and ultimately lead to its destruction."

2. **ID.; ID.; ID.; INSTANCES WHERE SOLEMNIZATION BY A JUDGE MAY BE MADE OUTSIDE HIS JURISDICTION.**— Articles 7 and 8 of the Family Code clearly states, a marriage can be held outside the judge's chambers or courtroom only in the following instances: 1.] at the point of death; 2.] in remote places in accordance with Article 29, or 3.] upon the request of both parties in writing in a sworn statement to this effect.

3. **ID.; ID.; ID.; ID.; CASE AT BAR.**— In this case, there is no pretense that either complainant Beso or her fiance Yman was at the point of death or in a remote place. Neither was there a sworn written request made by the contracting parties to respondent Judge that the marriage be solemnized outside his chambers or at a place other than his sala. What, in fact, appears on record is that respondent Judge was prompted more by urgency to solemnize the marriage of Beso and Yman because complainant was "[a]n overseas worker, who, respondent realized deserved more than ordinary official attention under present Government policy." Respondent Judge further avers that in solemnizing the marriage in question, "[h]e believed in good faith that by doing so he was leaning on the side of liberality of the law so that it may not be too expensive and complicated for citizens to get married."

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4. **JUDICIAL ETHICS; JUDGES; NOT ONLY BOUND BY OATH TO APPLY THE LAW BUT MUST ALSO BE CONSCIENTIOUS AND THOROUGH IN DOING SO.**— A person presiding over a court of law must not only apply the law but must also live and abide by it and render justice at all times without resorting to shortcuts clearly uncalled for. A judge is not only bound by oath to *apply* the law; he must also be *conscientious* and *thorough* in doing so. Certainly, judges, by the very delicate nature of their office should be more circumspect in the performance of their duties.

5. **ID.; ID.; PRESUMED TO KNOW CONSTITUTIONAL LIMITS OF HIS JURISDICTION.**— A judge is, furthermore, presumed to know the constitutional limits of the authority or jurisdiction of his court.

6. **ID.; ID.; SOLEMNIZATION OF MARRIAGE; MUST OBSERVE EXTRA PRECAUTION TO ENSURE EVENT IS PROPERLY DOCUMENTED.**— From the nature of marriage, aside from the mandate that a judge should exercise extra care in the exercise of his authority and the performance of his duties in its solemnization, he is likewise commanded to observe extra precautions to ensure that the event is properly documented in accordance with Article 23 of the Family Code.

7. **ID.; ID.; ID.; ID.; CASE AT BAR.**— We agree with the evaluation of the OCA that respondent Judge was less than conscientious in handling official documents. A judge is charged with exercising extra care in ensuring that the records of the cases and official documents in his custody are intact. There is no justification for missing records save fortuitous events. However, the records show that the loss was occasioned by carelessness on respondent Judge's part.

8. **ID.; ID.; MUST ADOPT A SYSTEM OF RECORD MANAGEMENT.**— Judges must adopt a system of record management and organize their dockets in order to bolster the prompt and efficient dispatch of business.

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DECISION

YNARES-SANTIAGO, *J.*:

In this administrative complaint, respondent Judge stands charged with Neglect of Duty and Abuse of Authority. In a Complaint-Affidavit dated December 12, 1997, Zenaida S. Beso charged Judge Juan J. Daguman, Jr. with solemnizing marriage outside of his jurisdiction and of negligence in not retaining a copy and not registering the marriage contract with the office of the Local Civil Registrar alleging —

"a. That on August 28, 1997, I and my fiancee (*sic*) BERNARDITO A. YMAN got married and our marriage was solemnized by judge (*sic*) Juan Daguman in his residence in J.P.R. Subdivision in Calbayog City, Samar; xxx

b. That the ceremony was attended by PACIFICO MAGHACOT who acted as our principal sponsor and spouses RAMON DEAN and TERESITA DEAN; xxx

c. That after our wedding, my husband BERNARDITO YMAN abandoned me without any reason at all;

d. That I smell something fishy; so what I did was I went to Calbayog City and wrote the City Civil Registrar to inquire regarding my Marriage Contract;

e. That to my surprise, I was informed by the Local Civil Registrar of Calbayog City that my marriage was not registered; xxx

f. That upon advisement of the Local Civil Registrar, I wrote Judge Juan Daguman, to inquire;

g. That to my second surprise, I was informed by Judge Daguman that all the copies of the Marriage Contract were taken by *Oloy* (Bernardito A. Yman);

h. That no copy was retained by Judge Daguman;

i. That I believe that the respondent judge committed acts prejudicial to my interest such as:

1. Solemnizing our marriage outside his jurisdiction;

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2. Negligence in not retaining a copy and not registering our marriage before the office of the Local Civil Registrar."

The Affidavit-Complaint was thereafter referred to respondent Judge for comment.

In his Comment, respondent Judge averred that:

1. The civil marriage of complainant Zenaida Beso and Bernardito Yman had to be solemnized by respondent in Calbayog City though outside his territory as municipal Judge of Sta. Margarita, Samar due to the following and pressing circumstances:

1.1. On August 28, 1997 respondent was physically indisposed and unable to report to his station in Sta. Margarita. In the forenoon of that date, without prior appointment, complainant Beso and Mr. Yman unexpectedly came to the residence of respondent in said City, urgently requesting the celebration of their marriage right then and there, first, because complainants said she must leave that same day to be able to fly from Manila for abroad as scheduled; second, that for the parties to go to another town for the marriage would be expensive and would entail serious problems of finding a solemnizing officer and another pair of witnesses or sponsors, while in fact former Undersecretary Pacifico Maghacot, *Sangguniang Panglunsod* [member] Ramon Dean were already with them as sponsors; third, if they failed to get married on August 28, 1997, complainant would be out of the country for a long period and their marriage license would lapse and necessitate another publication of notice; fourth, if the parties go beyond their plans for the scheduled marriage, complainant feared it would complicate her employment abroad; and, last, all other alternatives as to date and venue of marriage were considered impracticable by the parties;

1.2. The contracting parties were ready with the desired cocuments (*sic*) for a valid marriage, which respondent found all in order.

1.3. Complainant bride is an accredited Filipino overseas worker, who, respondent realized, deserved more than ordinary official attention under present Government policy.

2. At the time respondent solemnized the marriage in question, he believed in good faith that by so doing he was leaning on the side of liberality of the law so that it may be not be too expensive and complicated for citizens to get married.

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3. Another point brought up in the complaint was the failure of registration of the duplicate and triplicate copies of the marriage certificate, which failure was also occasioned by the following circumstances beyond the control of respondent:

3.1. After handing to the husband the first copy of the marriage certificate, respondent left the three remaining copies on top of the desk in his private office where the marriage ceremonies were held, intending later to register the duplicate and triplicate copies and to keep the forth (*sic*) in his office.

3.2. After a few days following the wedding, respondent gathered all the papers relating to the said marriage but notwithstanding diligent search in the premises and private files, all the three last copies of the certificate were missing. Promptly, respondent invited by subpoena xxx Mr. Yman to shed light on the missing documents and he said he saw complainant Beso put the copies of the marriage certificate in her bag during the wedding party. Unfortunately, it was too late to contact complainant for a confirmation of Mr. Yman's claim.

3.3. Considering the futility of contracting complainant now that she is out of the country, a reasonable conclusion can be drawn on the basis of the established facts so far in this dispute. If we believe the claim of complainant that after August 28, 1997 marriage her husband, Mr. Yman, abandoned her without any reason xxx but that said husband admitted "he had another girl by the name of LITA DANGUYAN" xxx it seems reasonably clear who of the two marriage contracting parties probably absconded with the missing copies of the marriage certificate.

3.4. Under the facts above stated, respondent has no other recourse but to protect the public interest by trying all possible means to recover custody of the missing documents in some amicable way during the expected hearing of the above mentioned civil case in the City of Marikina, failing to do which said respondent would confer with the Civil Registrar General for possible registration of reconstituted copies of said documents.

The Office of the Court Administrator (OCA) in an evaluation report dated August 11, 1998 found that respondent Judge "... committed non-feasance in office" and recommended that he be fined Five Thousand Pesos (₱5,000.00) with a warning that

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the commission of the same or future acts will be dealt with more severely pointing out that:

"As presiding judge of the MCTC Sta. Margarita Tarangnan-Pagsanjan, Samar, the authority to solemnize marriage is only limited to those municipalities under his jurisdiction. Clearly, Calbayog City is no longer within his area of jurisdiction.

Additionally, there are only three instances, as provided by Article 8 of the Family Code, wherein a marriage may be solemnized by a judge outside his chamber[s] or at a place other than his sala, to wit:

(1) when either or both of the contracting parties is at the point of death;

(2) when the residence of either party is located in a remote place;

(3) where both of the parties request the solemnizing officer in writing in which case the marriage may be solemnized at a house or place designated by them in a sworn statement to that effect.

The foregoing circumstances are unavailing in the instant case.

Moreover, as solemnizing officer, respondent Judge neglected his duty when he failed to register the marriage of complainant to Bernardito Yman.

Such duty is entrusted upon him pursuant to Article 23 of the Family Code which provides:

> "*It shall be the duty of the person solemnizing the marriage* to furnish either of the contracting parties the original of the marriage certificate referred to in Article 6 and *to send the duplicate and triplicate copies of the certificates not later than fifteen days after the marriage, to the local civil registrar of the place where the marriage was solemnized.* xxx" (italics ours)

It is clearly evident from the foregoing that not only has the respondent Judge committed non-feasance in office, he also undermined the very foundation of marriage which is the basic social institution in our society whose nature, consequences and incidents are governed by law. Granting that respondent Judge indeed failed to locate the duplicate and triplicate copies of the marriage certificate,

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he should have exerted more effort to locate or reconstitute the same. As a holder of such a sensitive position, he is expected to be conscientious in handling official documents. His imputation that the missing copies of the marriage certificate were taken by Bernardito Yman is based merely on conjectures and does not deserve consideration for being devoid of proof."

After a careful and thorough examination of the evidence, the Court finds the evaluation report of the OCA well-taken.

Jimenez v. Republic[1] underscores the importance of marriage as a social institution thus: "[M]arriage in this country is an institution in which the community is deeply interested. The state has surrounded it with safeguards to maintain its purity, continuity and permanence. The security and stability of the state are largely dependent upon it. It is the interest and duty of each and every member of the community to prevent the bringing about of a condition that would shake its foundation and ultimately lead to its destruction."

With regard to the solemnization of marriage, Article 7 of the Family Code provides, among others, that —

"ART. 7. Marriage may be solemnized by:

(1) Any incumbent member of the judiciary *within the court's jurisdiction*; xxx" (Italics ours)

In relation thereto, Article 8 of the same statute mandates that:

ART. 8. The marriage shall be solemnized publicly in the chambers of the judge or in open court, in the church, chapel or temple, or in the office of the consul-general, consul or vice-consul, as the case may be, and not elsewhere, *except in cases of marriages contracted at the point of death or in remote places in accordance with Article 29 of this Code, or where both parties request the solemnizing officer in writing in which case the marriage may be solemnized at a house or place designated by them in a sworn statement to that effect."* (Italics ours)

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[1] 109 Phil. 273 [1960].

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As the above-quoted provision clearly states, a marriage can be held outside the judge's chambers or courtroom only in the following instances: 1.] at the point of death; 2.] in remote places in accordance with Article 29, or 3.] upon the request of both parties in writing in a sworn statement to this effect.

In this case, there is no pretense that either complainant Beso or her fiance Yman was at the point of death or in a remote place. Neither was there a sworn written request made by the contracting parties to respondent Judge that the marriage be solemnized outside his chambers or at a place other than his sala. What, in fact, appears on record is that respondent Judge was prompted more by urgency to solemnize the marriage of Beso and Yman because complainant was "[a]n overseas worker, who, respondent realized deserved more than ordinary official attention under present Government policy." Respondent Judge further avers that in solemnizing the marriage in question, "[h]e believed in good faith that by doing so he was leaning on the side of liberality of the law so that it may not be too expensive and complicated for citizens to get married."

A person presiding over a court of law must not only apply the law but must also live and abide by it and render justice at all times without resorting to shortcuts clearly uncalled for.[2] A judge is not only bound by oath to *apply* the law;[3] he must also be *conscientious* and *thorough* in doing so.[4] Certainly, judges, by the very delicate nature of their office should be more circumspect in the performance of their duties.[5]

If at all, the reasons proffered by respondent Judge to justify his hurried solemnization of the marriage in this case only tends to degrade the revered position enjoyed by marriage in the hierarchy of social institutions in the country. They also betray respondent's cavalier proclivity on its significance in our culture which is more disposed towards an extended period of

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[2] *Ortiz v. Palaypon*, 234 SCRA 391 [1994].

[3] *Caram Resources Corp. v. Contreras*, 237 SCRA 724 [1994].

[4] *Benjamin, Sr. v. Alaba*, 261 SCRA 429 [1996].

[5] *Galvez v. Eduardo*, 252 SCRA 570 [1996].

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engagement prior to marriage and frowns upon hasty, ill-advised and ill-timed marital unions.

An elementary regard for the sacredness of laws — let alone that enacted in order to preserve so sacrosanct an inviolable social institution as marriage — and the stability of judicial doctrines laid down by superior authority should have given respondent judge pause and made him more vigilant in the exercise of his authority and the performance of his duties as a solemnizing officer. A judge is, furthermore, presumed to know the constitutional limits of the authority or jurisdiction of his court.[6] Thus respondent Judge should be reminded that —

> A priest who is commissioned and allowed by his ordinary to marry the faithful, is authorized to do so only within the area of the diocese or place allowed by his Bishop. An appellate court justice or a Justice of this Court has jurisdiction over the entire Philippines to solemnize marriages, regardless of the venue, as long as the requisites of the law are complied with. *However, Judges who are appointed to specific jurisdictions may officiate in weddings only within said areas and not beyond.* Where a judge solemnizes a marriage outside his court's jurisdiction, there is a resultant irregularity in the formal requisite laid down in Article 3, which while it may not affect the validity of the marriage, may subject the officiating official to administrative liability.[7]

Considering that respondent Judge's jurisdiction covers the municipality of Sta. Margarita-Tarangan-Pagsanjan, Samar only, he was not clothed with authority to solemnize a marriage in the City of Calbayog.[8]

Furthermore, from the nature of marriage, aside from the mandate that a judge should exercise extra care in the exercise of his authority and the performance of his duties in its

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[6] *Guieb v. Fontanilla*, 247 SCRA 348 [1995].

[7] *Navarro v. Domagtoy*, 259 SCRA 129 [1996], citing Art. 4 Family Code; italics supplied.

[8] See Sempio-Diy A.V. *Handbook On The Family Code Of The Philippines*, 1988 ed., p. 70.

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solemnization, he is likewise commanded to observe extra precautions to ensure that the event is properly documented in accordance with Article 23 of the Family Code which states in no uncertain terms that —

> ART. 23. — *It shall be the duty of the person solemnizing the marriage* to furnish either of the contracting parties, the original of the marriage contract referred to in Article 6 and to *send the duplicate and triplicate copies of the certificate not later than fifteen days after the marriage, to the local civil registrar of the place where the marriage was solemnized. Proper receipts shall be issued by the local civil registrar to the solemnizing officer transmitting copies of the marriage certificate. The solemnizing officer shall retain in his file the quadruplicate copy of the marriage certificate, the original of the marriage license* and, in proper cases, the affidavit of the contracting party regarding the solemnization of the marriage in a place other than those mentioned in Article 8. (Italics supplied)

In view of the foregoing, we agree with the evaluation of the OCA that respondent Judge was less than conscientious in handling official documents. A judge is charged with exercising extra care in ensuring that the records of the cases and official documents in his custody are intact. There is no justification for missing records save fortuitous events.[9] However, the records show that the loss was occasioned by carelessness on respondent Judge's part. This Court reiterates that judges must adopt a system of record management and organize their dockets in order to bolster the prompt and efficient dispatch of business.[10] It is, in fact, incumbent upon him to devise an efficient recording and filing system in his court because he is after all the one directly responsible for the proper discharge of his official functions.[11]

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[9] *Sabitsana v. Villamor*, 202 SCRA 435 [1991], citing *Longboan v. Polig*, 186 SCRA 567 [1990].

[10] *Bernardo v. Judge Amelia A. Fabros,* AM No. MTJ-99-1189, 12 May 1999.

[11] *OCA v. Judge Francisco D. Villanueva*, 279 SCRA 267 [1997], citing *Agcaoili v. Ramos,* 229 SCRA 705 [1994]; see also *OCA v. RTC Judge Amelita DK Benedicto,* 296 SCRA 62 [1998]; *Mamamayan ng Zapote I, Bacoor, Cavite v. Balderian*, 265 SCRA 360 [1996]; *Celino v. Abrogar*, 245 SCRA 304 [1995].

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In the evaluation report, the OCA recommended that respondent Judge be fined Five Thousand Pesos (₱5,000.00) and warned that a repetition of the same or similar acts will be dealt with more severely. This Court adopts the recommendation of the OCA.

WHEREFORE, in view of all the foregoing, respondent Judge is hereby *FINED* Five Thousand Pesos (₱5,000.00) and *STERNLY WARNED* that a repetition of the same or similar infractions will be dealt with more severely.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Puno, Kapunan, and *Pardo, JJ.*, concur.

EN BANC

[A.M. No. P-93-985. January 28, 2000]

MARTA BUCATCAT, *complainant, vs.* **EDGAR BUCATCAT and GENE JARO,** *respondents.*

SYNOPSIS

This is an administrative complaint for immorality filed by Marta Bucatcat against her husband, Edgar Bucatcat, and Gene S. Jaro, court interpreter and Clerk of Court, respectively of the Third Municipal Circuit Trial Court of Gandara, Samar. Complainant averred that she is the legal wife of respondent Bucatcat but they had been separated for several years now. She claimed that respondents are having an illicit relationship with each other. Moreover, respondents allegedly have two children together, and respondent Jaro, at the time of filing of the complaint, was pregnant with their third child. Respondents filed their respective counter affidavits denying the charges