

## **FIRST DIVISION**

**[ A.M. No. P-19-4020 [Formerly OCA I.P.I. No. 03-1824-P], November 28, 2019 ]**

**ELIZABETH D. GADONG, PETITIONER, VS. JOSEPHINE BUTLIG,  
COURT STENOGRAPHER I, MUNICIPAL CIRCUIT TRIAL COURT-  
MARGOSATUBIG, ZAMBOANGA DEL SUR, RESPONDENT.**

### **DECISION**

**LAZARO-JAVIER, J.:**

Respondent Josephine Butlig, Court Stenographer I, Municipal Circuit Trial Court, Margosatubig, Zamboanga del Sur, is charged with immorality for allegedly engaging in an illicit relation with Leopoldo Gadong, husband of complainant Elizabeth Gadong.

In her Sworn-Complaint<sup>[1]</sup> dated November 14, 2003 filed before this Court, Elizabeth alleged that on April 22, 2002, around 4 o'clock in the afternoon, her husband Leopoldo arrived home from a weeklong vacation in Iloilo City. He left his cellphone on top of the living room table before going to sleep. Elizabeth's sister Rosamie picked up the cellphone to play a game, but immediately handed it to Elizabeth when she discovered love messages from "Joy," Josephine's nickname.<sup>[2]</sup>

Elizabeth confronted Leopoldo who could not explain the text messages. She then called Josephine about the issue, but the latter denied sending love messages to Leopoldo. Josephine claimed that someone had borrowed her cellphone and used it to send them. Unconvinced, Elizabeth invited Josephine to meet her at the plaza.<sup>[3]</sup>

There, around 7 o'clock in the evening, she showed Josephine the text messages. The latter again denied sending them to Leopoldo and said she had been using the phone of her sister-in-law Edida Butlig. Shortly after, Leopoldo arrived. Elizabeth confronted both of them, but the two (2) strongly denied having an affair.<sup>[4]</sup>

On May 22, 2002, Elizabeth went to the Government Service Insurance System - Pagadian City Branch to follow-up her loan. She looked outside from the third floor of the building and was surprised to see their family van parked near the stairs of Plaza Luz. She also saw a woman wearing a dark blue uniform follow her husband inside the van. She immediately went down the building to follow them but was unable to reach the van on time. Thus, she boarded a tricycle and instructed the driver to follow the van.<sup>[5]</sup>

When the van parked near Hiker's Palace, Elizabeth told the tricycle driver to stop in front of the building. She then started hitting the side mirror of the van, forcing Leopoldo to open the door. She saw Josephine seated beside her husband. Josephine tried to get out of the vehicle but Leopoldo told her to stay inside. When Elizabeth confronted them, Josephine told her that she rented the van for Php200.00 because she had to go to the Provincial Jail. Later, Josephine changed

her alibi and said they were on their way to Macasing to settle the reckless imprudence case that one of her relatives filed against Leopoldo.<sup>[6]</sup>

On April 3, 2003, Elizabeth called Edida to arrange a meeting at the Cathedral. There, Elizabeth told Edida that Leopoldo and Josephine were having an affair. Edida replied that she, too, was growing suspicious because she has seen Leopoldo go into Josephine's house twice.<sup>[7]</sup>

On October 28, 2003, around 2 o'clock in the afternoon, somebody informed Elizabeth that Leopoldo and Josephine were together in an apartment unit below the Arro Calibration Center in Pagadian City. Immediately, she and her daughter Ma. Eleosa went to the said place. She knocked on the door and was greeted by Leopoldo. From the doorway, she saw Josephine at the corner of the room, naked and holding her bag to cover her breasts. She rushed inside and pulled Josephine's hair, while Ma. Eleosa took pictures. Josephine, however, grabbed the camera and destroyed it. Leopoldo intervened and told Josephine to wait in the comfort room. Meanwhile, Elizabeth instructed her daughter to call the police.<sup>[8]</sup>

A few minutes later, policemen arrived and brought Leopoldo and Josephine to the police station. There, Josephine, on bent knees, promised to end her affair with Leopoldo.<sup>[9]</sup>

In her Comment<sup>[10]</sup> dated February 12, 2004, Josephine denied the charge. She stated that she came to know Leopoldo sometime in 2001 due to a vehicular accident which involved him and a relative of hers. Leopoldo sought her assistance to reach a settlement. From then on, Leopoldo would frequent the court to see her, to the extent of following her around like an *"asong ulol."*<sup>[11]</sup>

Although Leopoldo was persistent in courting her, her conscience dictated that she be faithful to her marital vows. This was known to her co-employees to whom she confided in about her situation. At times, she would even ask them to keep her company to discourage Leopoldo from stalking her. On several occasions, she even reported Leopoldo's stalking to the police station at Margosatubig, Zamboanga del Sur.<sup>[12]</sup> She denied ever sending love messages to Leopoldo.<sup>[13]</sup>

As for the October 28, 2003 incident, Elizabeth lied when she claimed she caught her and Leopoldo in a compromising situation. What truly happened was Leopoldo forcibly took her handbag containing her money and cellphone and deceived her into following him to an apartment unit below the Arro Calibration Center. Inside the apartment unit, Leopoldo made sexual advances on her but she resisted. Leopoldo nevertheless succeeded in tearing the blouse she was wearing. A few minutes later, Elizabeth and Ma. Eleosa arrived and mauled her.<sup>[14]</sup>

Because of what happened, she filed criminal cases before the City Prosecutor's Office of Pagadian City for robbery against Leopoldo, and for physical injuries and slander against Elizabeth and Ma. Eleosa. The present administrative complaint is Elizabeth's way of pressuring her to withdraw these criminal cases.<sup>[15]</sup>

In her Reply dated March 24, 2005, Elizabeth maintained that everything she said about respondent was true and that her husband even admitted his illicit affair with respondent.<sup>[16]</sup>

Josephine was merely using the criminal charges against her and her family as leverage to force her to withdraw the administrative complaint. Further, Josephine's alleged fidelity to her marital vows should not be believed because she had been separated from her husband for years and was reputed in the locality for indulging in dalliances with different men.<sup>[17]</sup>

Due to the conflicting allegations of the parties, the case was referred to the Executive Judge of the Regional Trial Court for Pagadian City, Zamboanga del Sur for investigation.<sup>[18]</sup>

### **First Investigation**

During the course of the investigation, Elizabeth testified on the allegations in her Sworn-Complaint.<sup>[19]</sup> On the other hand, Ma. Eleosa corroborated Elizabeth's allegations regarding the October 28, 2003 incident.<sup>[20]</sup>

Leopoldo himself also testified. He stated that while driving their family van one day, he met an accident which led to the filing of a case against him for reckless imprudence resulting to homicide. Josephine helped him reach a settlement for the case. Later, he courted her and they entered into a relationship in 2001. From then on, he would fetch Josephine from work to bring her home.<sup>[21]</sup>

On October 28, 2003, he and Josephine had a misunderstanding. He noticed that her cellphone was constantly ringing so he grabbed it. He chanced upon some text messages from another man which made him jealous. He then went ahead to the Arro Calibration Center with her phone and handbag to force her to follow him there. They finished their argument in the room he rented. To simmer down his temper, Josephine undressed. Suddenly, someone knocked on the door. When he opened it, his wife and daughter barged in. They saw Josephine naked, frantically trying to cover herself. A quarrel ensued.<sup>[22]</sup>

For her part, Josephine reiterated the defenses she raised in her Comment.<sup>[23]</sup> Her co-employees Rizalina Imbing, Jocelyn Palo and Victoria Bayawa testified that Leopoldo had been following Josephine wherever she went. He would even wait for hours in their office just to find an opportunity to accompany her home. Whenever Leopoldo was not able to chance upon Josephine at the courthouse, he would mess up her things on her table, without her consent and unmindful of other people inside the office.<sup>[24]</sup>

SPO4 Matias Cinco also testified for respondent. He stated that Josephine went to the police station at Margosatubig, Zamboanga del Sur, crying because Leopoldo kept on following her. She was feeling harassed so she sought help from the police. He had no knowledge of any relationship between Josephine and Leopoldo until the latter himself told him about it. He warned Leopoldo to stop harassing Josephine.<sup>[25]</sup>

### **First Report and Recommendation**

In his Report on the Investigation with the Corresponding Recommendation<sup>[26]</sup> dated May 10, 2005, Executive Judge Harun B. Ismael submitted the following findings and recommendations:

- a. Elizabeth's accusation that Leopoldo and Josephine were

having an illicit affair was not proven by hard evidence;<sup>[27]</sup>

- b. The October 28, 2003 incident at Arro Calibration Center should be regarded as a natural reaction of a person engrossed with jealousy;<sup>[28]</sup>
- c. Josephine was a victim of circumstances; she was merely duped by Leopoldo to follow him to the Arro Calibration Center to redeem her handbag and cellphone;<sup>[29]</sup> and
- d. Although the immorality charge against Josephine should be dismissed for lack of concrete evidence, a reprimand and a fine of five hundred pesos (Php500.00) should nevertheless be imposed against her for committing a disgraceful act.<sup>[30]</sup>

In a Memorandum dated November 16, 2005,<sup>[31]</sup> the Office of the Court Administrator (OCA) disagreed with these findings and recommended a reinvestigation. It noted that Judge Ismael dismissed the October 28, 2003 confrontation without delving deeper into the following issues:<sup>[32]</sup>

- a. Josephine did not seek help from nor report to the police the alleged snatching by Leopoldo of her cellphone and handbag;
- b. Despite Leopoldo's alleged sexual advances on Josephine on October 28, 2003, Josephine charged Leopoldo with robbery only, sans attempted rape, acts of lasciviousness, or forcible abduction;
- c. Judge Ismael failed to exert earnest efforts to compel the attendance of the wife and son of the apartment owner who were present during the October 28, 2003 incident to provide an unbiased version of the facts and accurately shed light on the incident;
- d. In one of her affidavits, Josephine admitted that the reckless imprudence case against Leopoldo was already settled in 2001. But during the investigation, witnesses testified that the two (2) were still seen together in 2002 and 2003; and
- e. Judge Ismael failed to reconcile his recommendation with his findings. He recommended the dismissal of the complaint for lack of concrete evidence and that respondent be absolved from the charges, yet recommended that respondent be reprimanded and be fined Php500.00 for committing a disgraceful act. He failed to specify which act of respondent he found disgraceful.

Following the recommendation of the OCA, the Court issued a Resolution dated January 25, 2006 remanding the case to Judge Ismael for further investigation. But

in view of Judge Ismael's retirement on June 6, 2006, the case was referred to the new Executive Judge, Rolando L. Goan.<sup>[33]</sup>

## **Second Investigation**

On February 5, 2015, during the second round of investigation, Elizabeth, Leopoldo, and Ma. Eleosa took the witness stand once again to identify their Judicial Affidavits.<sup>[34]</sup> But in a surprising turn of events, Elizabeth's position shifted. She portrayed herself as a jealous wife who mistakenly thought her husband Leopoldo was having an affair with Josephine.

Elizabeth's Judicial Affidavit was replete with recantations. On the alleged amorous text messages from Josephine which were stored in Leopoldo's cellphone, Elizabeth testified:

Q: Why did you file that Administrative Complaint against her?

A: I filed the Administrative case against the respondent because I got jealous with my husband when my sister Rosamie C. Dacalos referred to me the text messages from the cellphone of my husband which I mistakenly thought were amorous text messages coming from respondent.

Q: Why did you get jealous after reading those text messages?

A: Being a wife and a mother, I naturally felt jealous as I thought then that my husband had betrayed me and our daughter. It was only later that I learned that indeed my husband and respondent were texting each other but the sole reason was due to the case filed against my husband for Reckless Imprudence Resulting to Homicide wherein the victim happened to be the relative of the respondent.

XXXX

Q: You mean to say that only because they were texting each other that you got jealous and immediately concluded that they were having an illicit affair despite the fact that respondent was only trying to help your husband in that case wherein the victim was the relative of the respondent?

A: Yes, sir.<sup>[35]</sup>

On the May 24, 2002 incident:

Q: What happened when you were there?

A: xxx I later on saw my husband enter the driver's side of the van and he was followed by a woman who entered the passenger side.

Q: What did you feel when you saw this?

A: I again felt so jealous. I likewise felt exhilarated as I thought I now have proof that my husband is indeed philandering with