

THIRD DIVISION

[**A.M. No. P-11-2922 (formerly A.M. OCA IPI No. 03-1778-P), April 04, 2011**]

MARY JANE ABANAG, COMPLAINANT, VS. NICOLAS B. MABUTE, COURT APRIL 4, 2011 STENOGRAPHER I, MUNICIPAL CIRCUIT TRIAL COURT (MCTC), PARANAS, SAMAR, RESPONDENT.

DECISION

BRION, J.:

We resolve the administrative case against Nicolas B. Mabute (*respondent*), Court Stenographer I in the Municipal Circuit Trial Court (*MCTC*) of Paranas, Samar, filed by Mary Jane Abanag (*complainant*) for Disgraceful and Immoral Conduct.

In her verified letter-complaint dated September 19, 2003, the complainant, a 23-year old unmarried woman, alleged that respondent courted her and professed his undying love for her. Relying on respondent's promise that he would marry her, she agreed to live with him. She became pregnant, but after several months into her pregnancy, respondent brought her to a "*manghihilot*" and tried to force her to take drugs to abort her baby. When she did not agree, the respondent turned cold and eventually abandoned her. She became depressed resulting in the loss of her baby. She also stopped schooling because of the humiliation that she suffered.

In his comment on the complaint submitted to the Office of the Court Administrator, the respondent vehemently denied the complainant's allegations and claimed that the charges against him were baseless, false and fabricated, and were intended to harass him and destroy his reputation. He further averred that Norma Tordesillas, the complainant's co-employee, was using the complaint to harass him. Tordesillas resented him because he had chastised her for her arrogant behavior and undesirable work attitude. He believes that the complainant's letter-complaint, which was written in the vernacular, was prepared by Tordesillas who is from Manila and fluent in Tagalog; the respondent would have used the "*waray*" or English language if she had written the letter-complaint.

The complainant filed a Reply, insisting that she herself wrote the letter-complaint. She belied the respondent's claim that she was being used by Tordesillas who wanted to get even with him.

In a Resolution dated July 29, 2005, the Court referred the letter-complaint to then Acting Executive Judge Carmelita T. Cuares of the Regional Trial Court (RTC) of Catbalogan City, Samar for investigation, report and recommendation.

The respondent sought Judge Cuares' inhibition from the case, alleging that the Judge was partial and had bias in favor of the complainant; the complainant herself had bragged that she personally knew Judge Cuares. The Court designated Judge

Esteban V. dela Peña, who succeeded Judge Cuares as Acting Executive Judge, to continue with the investigation of the case.^[1] Eventually, Judge Agerico A. Avila took over the investigation when he was designated the Executive Judge of the RTC of Catbalogan City, Samar.

In his Report/Recommendation dated June 7, 2010,^[2] Executive Judge Avila reported on the developments in the hearing of the case. The complainant testified that she met the respondent while she was a member of the Singles for Christ. They became acquainted and they started dating. The relationship blossomed until they lived together in a rented room near the respondent's office.

The respondent, for his part, confirmed that he met the complainant when he joined the Singles for Christ. He described their liaison as a dating relationship. He admitted that the complainant would join him at his rented room three to four times a week; when the complainant became pregnant, he asked her to stay and live with him. He vehemently denied having brought the complainant to a local "*manghihilot*" and that he had tried to force her to abort her baby. He surmised that the complainant's miscarriage could be related to her epileptic attacks during her pregnancy. The respondent further testified that the complainant's mother did not approve of him, but the complainant defied her mother and lived with him. He proposed marriage to the complainant, but her mother did not like him as a son-in-law and ordered the complainant to return home. The complainant obeyed her mother. They have separated ways since then, but he pledged his undying love for the complainant.

The Investigating Judge recommends the dismissal of the complaint against the respondent, reporting that:

Normally the personal affair of a court employee who is a bachelor and has maintained an amorous relation with a woman equally unmarried has nothing to do with his public employment. The sexual liaison is between two consenting adults and the consequent pregnancy is but a natural effect of the physical intimacy. Mary Jane was not forced to live with Nicolas nor was she impelled by some devious means or machination. The fact was, she freely acceded to cohabit with him. The situation may-not-be-so-ideal but it does not give cause for administrative sanction. There appears no law which penalizes or prescribes the sexual activity of two unmarried persons. So, the accusation of Mary Jane that Nicolas initiated the abortion was calculated to bring the act within the ambit of an immoral, disgraceful and gross misconduct. Except however as to the self-serving assertion that Mary Jane was brought to a local midwife and forced to take the abortifacient, there was no other evidence to support that it was in fact so. All pointed to a harmonious relation that turned sour. In no small way Mary Jane was also responsible of what befell upon her.^[3]

The Court defined immoral conduct as conduct that is willful, flagrant or shameless, and that shows a moral indifference to the opinion of the good and respectable members of the community.^[4] To justify suspension or disbarment, the act