

SECOND DIVISION

[A.M. No. SCC-03-08, June 16, 2003]

ERMELYN A. LIMBONA, COMPLAINANT, VS. JUDGE CASAN ALI LIMBONA, SHARI'A CIRCUIT COURT, TAMPARAN, LANA DEL SUR, RESPONDENT.

R E S O L U T I O N

QUISUMBING, J.:

This administrative complaint^[1] filed on June 5, 2000 by the complainant Ermelyn A. Limbona charges respondent Judge Casan Ali Limbona, Shari'a Circuit Court, Tamparan, Lanao del Sur, of Grave Misconduct and Conduct Unbecoming a member of the Philippine Bar and Officer of the Court.

Complainant alleged that she is married to the respondent judge. She said she first met him sometime in 1992 and they had an affair. At that time, respondent was jobless and relied upon her for support. When she was seven months pregnant, respondent — on the pretext of securing money — left her for Marawi City and never returned. Thus, she was forced to raise their child with the help of her sister and brother-in-law.^[2]

On November 25, 1998, they met again. Respondent was then applying for appointment as a Regional Director of the Department of Natural Resources. They resumed their relationship, until they got married on January 17, 1999. On April 27, 2000, however, respondent left her again, this time without a word. She later discovered that the respondent returned to live with his former wife whom he had divorced in front of her (complainant), pursuant to the Code of Muslim Personal Laws.^[3]

In her complaint, she further alleged that the respondent filed his candidacy for party-list representative in the 1998 elections without ceasing to perform his judicial functions, and thus regularly collected his salary.^[4]

In his letter^[5] dated October 18, 2000, respondent submitted the complainant's affidavit of desistance^[6] and adopted *in toto* her averments. In her affidavit, complainant stated that she filed the complaint because of the marital rift between her and respondent judge, and because she wanted an advantageous settlement of matrimonial feud under Islamic practice. She declared that the elders, whom she and respondent both chose, already accepted her apology. In accordance with Muslim traditions and cultural practices, she said a proper Muslim settlement of marital feud was arrived at and that both of them are now living in "a cordial, supportive, and happy environment." Finally, complainant declared that she was no longer interested in pursuing the case against respondent.^[7]

Adopting the recommendations of the Office of the Court Administrator (OCA), this Court resolved on December 5, 2001^[8] to refer this case to the Executive Judge of the Shari'a District Court of Lanao del Sur for further investigation, report and recommendation and for determination from the Commission on Elections whether the respondent was indeed a candidate during the 1998 elections.

On July 31, 2002, Datu Ashary M. Alauya, Clerk of Court VI of the Fourth Shari'a Judicial District, Marawi City, informed this Court of the failure of Judge Bensaudi Arabani to assume office as acting presiding judge of that court. Hence, the clerk had to return the records of this case to this Court for lack of an investigating officer.^[9]

By Resolution^[10] of August 21, 2002, this Court referred the case to a consultant of the OCA for evaluation, report and recommendation.

In its report,^[11] the OCA, through the Hearing Officer Designate Justice Romulo S. Quimbo, stated that the matter of the respondent judge having filed his candidacy in the 1998 elections, while still receiving his salaries as a judge, is currently the subject of Administrative Matter No. SCC-98-4 pending before the Third Division of this Court. Consequently, the OCA recommended that the instant case be consolidated with that other administrative matter pending before said Division. As regards the charge that the respondent committed grave misconduct unbecoming of a member of the Philippine Bar and an officer of the court, the OCA observed that the complainant failed to substantiate her allegations. The OCA recommended that her complaint be dismissed.

The recommendations of the OCA are well-founded.

Administrative proceedings are not strictly bound by formal rules on evidence, but the liberality of procedure in administrative actions is still subject to limitations imposed by the fundamental requirement of due process.^[12] Even in an administrative case, the Rules of Court require that if the respondent judge should be disciplined for grave misconduct or any graver offense, the evidence against him should be competent and should be derived from direct knowledge.^[13] The judiciary to which the respondent belongs demands no less. Before any of its members could be faulted, competent evidence should be presented, especially since the charge is penal in character.^[14]

After carefully reviewing the records of this case, this Court is convinced that there is utter lack of evidence to support the charge of grave misconduct. In administrative proceedings, complainants have the burden of proving by substantial evidence the allegations in their complaints.^[15] Yet, despite due notice^[16] to her, complainant failed to attend the hearings before the OCA, much less offer evidence in support of her complaint.^[17] In fact, the complainant recanted her allegations in her complaint through an affidavit of desistance, which the respondent judge presented to the OCA by way of comment. Nor is there independently verifiable proof of the respondent judge's alleged misconduct. Thus, we are constrained to dismiss complainant's principal charge against respondent for grave misconduct.

As to the other charge, that the respondent judge continued to perform his functions