

EN BANC

[A.M. No. P-02-1588, August 12, 2003]

**RUBY M. GONZALES, COMPLAINANT, VS. ALMA G. MARTILLANA,
PROCESS SERVER, REGIONAL TRIAL COURT OF BALER, AURORA,
BRANCH 96, RESPONDENT.**

RESOLUTION

PER CURIAM:

In the complaint filed originally by complainant and later amplified by the letter-complaint of the presiding judge of the Regional Trial Court of Baler, Process Server Alma G. Martillana stands charged of disgraceful and immoral conduct.^[1]

In her complaint dated March 3, 2000, complainant Ruby M. Gonzales averred that she is married to Jaime D. Gonzales, while respondent Alma G. Martillana is married to Rogelio H. Martillana. Despite this fact, according to the complainant, Alma and Jaime were cohabiting under scandalous circumstances, and that out of their union were born two children, namely, Jamie G. Martillana and Jimbo Jaime G. Gonzales.^[2]

In support of her complaint, Ruby M. Gonzales submitted a copy of her Marriage Contract^[3] with Jaime D. Gonzales. She also presented a certification^[4] from the Office of the Civil Registrar of Baler, Aurora, dated December 20, 1999, attesting to the fact of birth of Jamie G. Martillana on January 8, 1991. A similarly dated certification^[5] from the same office attesting to the birth of Jimbo Jaime G. Gonzales on September 5, 1993 was also submitted. With respect to Jamie G. Martillana, the named parents were one Alma T. Galban^[6] and Rogelio H. Martillana,^[7] while Jimbo Jaime G. Gonzales' parents were reportedly Jaime D. Gonzales and one Emilia T. Galban.^[8]

On March 17, 2000, the complainant withdrew her complaint,^[9] however, with the statement that it was just the unintended product of hearsay and rumors, with neither factual nor legal basis therefor.^[10]

Meanwhile, on March 24, 2000, the respondent filed her Answer.^[11] She claimed that Jamie G. Martillana was her child with her husband, Rogelio, to whom she had been married since 1983. She denied being the mother of Jimbo Jaime G. Gonzales, pointing out the Civil Registrar's certification indicated that the mother is Emilia T. Galban, not Alma G. Martillana. Alma denied that she was Emilia T. Galban. Respondent also denied the cohabitation charge, describing it as the product of the filthy minds of persons whose interests were focused on prurient rumors prevalent in Baler.^[12]

Despite complainant's desistance, then Executive Judge Rebecca R. Mariano of the RTC of Baler, set the matter for hearing, pursuant to the Rule^[13] that withdrawal of the complaint does not necessarily discharge the respondent from administrative liability. At said proceedings, complainant testified that her Complaint had been actually prepared by one "Marilyn" who made her understand that she would only be a witness, not the complainant in the case. "Marilyn" was later identified to be Marilyn Moral, an employee of the RTC of Baler, who had charged Alma Martillana with grave slander before the Municipal Circuit Trial Court of Baler-San Luis.^[14] As a result of the hearing, Judge Mariano recommended to the Office of the Court Administrator (OCA) that the administrative charge be immediately dismissed.^[15]

When called upon by the OCA to comment on the charge, respondent reproduced the averments in her Answer, claiming that all the material allegations against her were totally baseless, without a shred of evidence in their support.^[16] She reiterated that the imputation in the complaint that both Jamie G. Martillana and Jimbo Jaime G. Gonzales were born of the cohabitation and illicit relationship between her and complainant's husband was purely a product of the imagination of filthy-minded persons.^[17]

The Office of the Court Administrator accepted Alma's explanations and recommended that the case be dismissed for lack of merit.^[18] The OCA noted that the apparent inconsistencies between the complainant's claim and the documentary evidence, and the respondent's vehement denial of the charges, put in serious doubt the veracity of the complainant's allegations. The OCA pointed out that administrative cases being penal in character, convincing proof is required for conviction.^[19]

But on January 17, 2002, Judge Armando A. Yanga, then acting as presiding judge of the RTC of Baler, Branch 66, filed a complaint-letter,^[20] with the OCA, strongly recommending that a formal administrative charge for immorality be filed against respondent. Judge Yanga averred that there had been a whitewash of the immorality charge during the investigation by Judge Mariano, since it was made to appear that the respondent had abandoned her paramour before she entered the judiciary in 1996 and therefore was not guilty of any immoral acts. He likewise stated that the case record on the immorality charge disappeared from the official files of the court when Judge Rebecca R. Mariano transferred to the RTC of Makati City on June 30 2001.^[21] Judge Yanga alleged that respondent Alma Martillana, the Process Server of Branch 96, was still cohabiting with Jaime Gonzales, openly living as man and wife at Burgos St., Poblacion, Baler, Aurora.

Judge Yanga also called the OCA's attention to respondent's Sworn Statement of Assets and Liabilities and Net Worth,^[22] as required by R.A. 6713, date March 8, 1999, where respondent listed the names of her four unmarried children below 18 years of age, which included Jamie and Jimbo Jaime, but conveniently omitted their family names. Judge Yanga further averred that after verification with the Office of the Civil Registrar of Baler, he found that Emilia T. Galban and Alma Galban are actually one and the same person.^[23]

To support his charges, Judge Yanga attached complainant Ruby Gonzales' Sworn

Statement,^[24] which substantially restated her allegations in her original Complaint. Ruby further declared that she had personally gone to Alma's house to determine if she was still living with Jaime, and she discovered that both were still living together. Ruby again submitted her marriage certificate^[25] and a certification^[26] from the Office of the Civil Registrar of Baler showing that she had three children with her husband, Jaime Gonzales. She also attached the certification from the same office of the birth of two illegitimate children of her husband with respondent - Jamie and Jimbo Jaime.^[27]

Judge Yanga recommended that the immorality charge against respondent be resolved if only to deter other court employees from being tempted to engage in similar acts, to set an example to all court employees, and show the public at large that immorality cannot and will not be tolerated in the judiciary.^[28]

Pursuant to the recommendation of the OCA,^[29] we referred the case on May 28, 2002 to a judge from another station - executive Judge Erlinda Pestaño-Buted of the RTC of Palayan City - for investigation, report and recommendation. Judge Pestaño-Buted's investigation established that the illicit relationship between Jaime and Alma began in 1989 and they started living together in 1991; and that as a result of their relationship, two (2) children - Jamie and Jimbo Jaime were born; and that the affair was continuing even at the time of the investigation.^[30] Judge Pestaño-Buted recommended that respondent be suspended for one year without pay.

The OCA in its report^[31] concurred with the findings of the investigating judge. But it recommended that the penalty be modified from a suspension for one (1) year without pay^[32] to a suspension for a period of six (6) months without pay with a stern warning that subsequent violations of similar nature shall be dealt with more severely.^[33] The OCA considered the current show of desistance of the respondent from living with private complainant's husband as a desire to reform, but there is no assurance, in OCA's view,^[34] about the permanence of their illicit relationship's severance.

We find no reason to overturn the documented findings of Judge Pestaño-Buted as confirmed by the OCA. There is no reasonable doubt, based on the evidence on record, that respondent is guilty of the charges filed by Ruby Gonzales and by Judge Yanga. Disgraceful and immoral conduct was committed not only once, nor twice, nor thrice but repeatedly over the years in the eyes of the public and under the noses of the judges concerned. Under investigation, she admitted having an illicit relationship with the complainant Ruby Gonzales' husband, notwithstanding that she is married to Rogelio Martillana. She likewise admitted that said affair resulted in two illegitimate issues. While this sordid affair began in 1989, it was continuing up to the time of the filing of the original complaint of Ruby Gonzales and later in the letter-complaint of Judge Yanga. Even up to the time of the investigation conducted by Judge Mariano and later Pestaño-Buted, the offense repeatedly took place. In other words, at the time the respondent assumed her post, she was already engaged in an illicit relationship, which was publicly carried on during the period of her employment as Process Server of RTC, Branch 96, Baler, Aurora.

We must again stress that although every office in the government service is a public trust, no position exacts a greater demand for moral righteousness and