

SECOND DIVISION

[A.M. No. MTJ-99-1233 (Formerly OCA IPI No. 97-454-MTJ), December 08, 2003]

ROSARIO D. ADRIANO, COMPLAINANT, VS. JUDGE FRANCISCO D. VILLANUEVA, METC, BRANCH 36 QUEZON CITY, RESPONDENT.

RESOLUTION

AUSTRIA-MARTINEZ, J.:

This resolves the administrative case against Judge Francisco D. Villanueva of the Metropolitan Trial Court of Quezon City for immorality. It stemmed from a sworn letter-complaint^[1] filed by Rosario D. Adriano charging respondent with gross ignorance of the law, knowingly rendering an unjust judgment, grave abuse of discretion and conduct unbecoming a trial judge which was docketed as A.M. No. MTJ-99-1232 (formerly OCA IPI No. 97-454-MTJ) and cohabitation with a woman not his wife which remained as part of OCA IPI No. 97-454-MTJ.

The letter-complaint claims that respondent, in acquitting accused Fe Floro Valino^[2] of charges of misrepresenting and recording her name in the death certificate as the wife of the deceased husband of herein complainant, countenanced the criminal acts subject of the case; that respondent's leniency towards the accused who was the mistress of her deceased husband, may have been brought about by his own practice of cohabiting with a woman who is not his legal wife, which constitutes conduct unbecoming a judge.

Complainant did not identify the name of respondent's alleged mistress in her letter-complaint but specified that respondent and his mistress are cohabiting at No. 1 Hanna Street, Fil-Invest, Batasan, Quezon City.

On January 13, 1998, the Court Administrator required respondent to submit his Answer to the letter-complaint within ten days from notice.

On February 27, 1998, respondent filed his Answer contending that "the complaint that he does not live with his legal wife, is unfounded and without basis." He attached the Affidavit of Merit executed by his wife Violeta Jara Villanueva, stating that "her husband has no mistress and is not living with any mistress elsewhere."^[3]

As a reply to respondent's Answer, complainant sent a letter dated March 18, 1998 wherein she invited the Court's attention to the fact that respondent's given address, which is No. 1 Hanna St., Filinvest, Batasan, Quezon City, is different from his wife's address stated in her affidavit, which is No. 12 Sangumay St., Mindanao Ave. Subd., Quezon City, thus attesting to the fact that respondent is living separately from his legal wife.^[4]

In a Memorandum dated September 9, 1999, the then Court Administrator Alfredo L. Benipayo recommended that –

x x x

x x x

x x

x

3. the matter of whether respondent Judge is cohabiting with another woman not his wife subject matter of complaint Rosario D. Adriano's sworn complaint dated October 18, 1997, be re-docketed as an administrative matter separate from this case, be investigated and, if found true, he should be dealt with accordingly.^[5]

Consequently, on October 18, 1999, the Court directed the Office of the Court Administrator to docket the complaint charging respondent with cohabiting with a woman not his wife as a separate administrative matter and to raffle the case anew. Accordingly, the complaint for immorality was docketed as A.M. No. MTJ-99-1233, the present case; but it is only after February 16, 2000, that herein case was re-raffled.^[6]

The OCA, in its Memorandum, dated August 29, 2002, reported as follows:

Lastly, with regard to the charge of conduct unbecoming of a trial judge, this Office admits that complainant's evidence is purely circumstantial when she offered proof that respondent and his paramour are both residing at: "No. 1 Hanna St., Filinvest, Batasan, Quezon City." while respondent's legal wife resides at: "No. 12 Sangumay St., Mindanao Avenue Subd., Quezon City" as shown in the affidavit. However, this is not the first time that respondent was accused of the same offense. *In the case of NBI vs. Judge Villanueva [A.M. No. MTJ-99-1207, 21 November 2001], the Honorable Court pronounced respondent **guilty of immorality** for having extra-marital relations with a certain Marian Herrera whom he was illicitly living with at the address known as: "No. 1 Hanna St., Fil-Invest, Batasan, Quezon City."* The Honorable Court imposed upon respondent the penalty of fine in the sum of P40,000.00 pesos since "*respondent has already retired, he can no longer be dismissed or suspended.*" Although under Rule 140 of the Rules of Court, immorality is considered a serious charge with an imposable penalty of either dismissal or suspension from the service, respondent's retirement renders the penalty of either dismissal or suspension moot and academic. Due to the foregoing decision, this Office has no recourse but to dismiss complainant's charge of conduct unbecoming of a trial judge.^[7] [Italics supplied]

and recommended the dismissal of herein administrative matter for having been moot and academic in view of the decision rendered in A.M. No. MTJ-99-1207, entitled, *NBI vs. Judge Villanueva*.^[8]

Likewise found in the records of the above-entitled case is a Resolution dated December 9, 2002, issued by the Court in Adm. Matter No. 11015-RET., to wit:

Considering the letter dated 3 July 2002 of Hon. Francisco D. Villanueva, former Judge, MTC, Quezon City, requesting the release of his compulsory retirement benefits and the retention of a considerable