

THIRD DIVISION

[A.M. No. P-91-642, June 06, 2001]

SOLEDAD LAURO, COMPLAINANT, VS. EFREN LAURO, SHERIFF IV, REGIONAL TRIAL COURT, OFFICE OF THE CLERK OF COURT, BUTUAN CITY, RESPONDENT.

D E C I S I O N

VITUG, J.:

A complaint for immorality against Efren Lauro, Sheriff IV of the Office of the Clerk of Court, Regional Trial Court of Butuan City, filed by complainant Soledad Lauro, his legal wife, charged respondent with having illicit relations with Nida Escolin Montante.

Respondent, in his comment, denied the charge. He claimed that it was complainant who had, in fact, been having illicit relations with a certain Opiniano Silva whom she even brought home to live with the family that constrained respondent to leave the conjugal abode.

Complainant, in her reply, denied respondent's allegation and explained that Opiniano was a distant relative by affinity whom she merely allowed to rent a room in their house in order to augment the family income. Complainant averred that her husband instead left their conjugal dwelling because of a complaint she had filed against him before the Butuan City police station relative to a previous relationship with one Cristina Caldoza. In order to prove the illicit relationship between respondent and Nida Montante, complainant submitted a receipt from Jumilan Marketing Corporation and a Statement of Account of Otis Enterprises, where Nida Montante signed her name as Nida Lauro. Nida also identified herself in her Voter's Affidavit filed with the Comelec as being Nida Lauro and the spouse of Efren Lauro.

The Court, in its Resolution, dated 22 March 1993, referred the case to Judge Rosarito F. Dabalos of the Butuan Regional Trial Court for investigation, report and recommendation.

In his report, dated 14 January 2000, following his investigation, Judge Dabalos discoursed thusly:

"x x x However, it is important to evaluate in this case the effect as to the receipt of Jumilan Marketing Corp. (Exhibit A) the statement of Accountant of New Butuan Otis Enterprises Inc. (Exhibit B) for goods taken on credit by Nida S. Montante under a Credit Card in the name of respondent and the COMELEC 'Voter's Affidavit' executed by Nida S. Montante (Exhibit C) wherein it is stated and appeared that Efren Lauro is her husband, which Exhibits bear the name and/or signatures of 'Nida Lauro' (Exhibits A-1, B-2 and C-2) and the kind of treatment respondent

gave to the child of Nida S. Montante.

"Respondent in his evidence claims that Nida S. Montante is his household help who washed his clothes and prepared his food as complainant had abandoned their conjugal dwelling. Respondent denied that Nida S. Montante is his paramour.

"Respondent in effect admitted that the woman Nida S. Montante is the same woman who lived with him and the same woman whose name appeared and signed Exhibits A, B and C as 'Nida Lauro.' The explanations of the respondent on Exhibits A, B and C as to why Nida S. Montante signed them as 'Nida Lauro' do not inspire belief. If it is true that respondent authorized Nida S. Montante to get goods on credit using his credit card from Otis Enterprises Inc., for convenience, why did Nida sign Exhibit B as 'Nida Lauro' and not her true name, Nida S. Montante? On Exhibit A, who caused the name of Nida Lauro to be typewritten on it and why did Nida did not protest but signed it using the name 'Nida Lauro.' With regards to Exhibit C, where Nida S. Montante stated that her husband is Efren Lauro (Exh. C-3) respondent maintain that this was due to inadvertence on the part of Nida S. Montante that Nida S. Montante executed later another Voter's Affidavit (Exhibit 11) where it is stated that her civil status is 'widow' and the name of respondent do not appear anymore as her husband. To the undersigned the execution of Exhibit 11 was only an after thought and a futile attempt to destroy the adverse effect of Exhibit C. The Voter's Affidavit marked Exhibit C was executed and/or placed under oath on '12/7/86' but this administrative complaint was filed only on November 6, 1991 and the Voter's Affidavit marked Exhibit 11 was executed or placed under oath on a much later date of '1-28-95.' The behavior of the respondent in giving money to the child of Nida S. Montante and not giving money to his own grandchild, a child of his daughter, Maria Estrella Lauro-Demicillo, indicated that respondent had a special feeling and gave special treatment to Nida S. Montante and the latter's child coupled with the fact that respondent had provided Nida S. Montante with capital so that she can put up her own store.

"Although there is no direct evidence as to any specific immoral acts against the respondent but there are ample circumstantial evidence will show against him. From the actuations of Nida S. Montante behaving like a wife of the respondent, it can only be concluded that in fact and in reality respondent has been treating considering and living with Nida S. Montante as his wife indulging and enjoying the marital privilege of sex. Because of these respondent's treatment and actuation, Nida S. Montante is made to believe and feel, and lead her to conclude that she is the wife of respondent. The actuations of the respondent towards Nida S. Montante and to her child, the actuations of Nida S. Montante behaving like the wife of respondent would not have manifested if they have no romantic but only platonic relationship.

"This case not being a criminal case, it does not need proof beyond reasonable doubt, only preponderance of evidence is sufficient. Every government employee, like Caesar's wife, must be above-suspicion.