

EN BANC

[A.M. No. MTJ-99-1207, November 21, 2001]

**NATIONAL BUREAU OF INVESTIGATION, COMPLAINANT, VS.
JUDGE FRANCISCO D. VILLANUEVA, METROPOLITAN TRIAL
COURT OF QUEZON CITY, BRANCH 36, RESPONDENT.**

DECISION

PANGANIBAN, J.:

The conduct and behavior of those connected with an office charged with the dispensation of justice must always be beyond reproach. They must be free of impropriety, not only with respect to the performance of their judicial duties, but also in relation to their behavior outside the courtroom.

The Case

The administrative charge before us was triggered by a letter^[1] from then Director Santiago Y. Toledo of the National Bureau of Investigation (NBI), recommending the prosecution of Judge Francisco D. Villanueva (Branch 36, Metropolitan Court of Quezon City) and three others for illegal recruitment under Republic Act (RA) 8042 and white slave trade under the Revised Penal Code in relation to RA 7610. The letter also charged respondent with immorality, alleging that Marian Herrera was his live-in partner.

At the recommendation of then Court Administrator Alfredo L. Benipayo, the Court in a Resolution dated June 8, 1999, resolved to suspend respondent until further orders.

After receiving the counter-affidavits of Judge Villanueva and his co-respondents in the NBI investigation, which he adopted as his answer/comment in this administrative case, the Court referred the matter to former Court of Appeals Justice Pedro A. Ramirez -- consultant of the Office of the Court Administrator (OCA) -- for investigation, report and recommendation.

The Facts

The investigation on the matter began on August 24, 1999 and continued until April 19, 2001. Complainant presented four witnesses: Jobeth Diocales; Janet Ramas; Juvylyn Requilmen; and NBI Supervising Agent Julma Dizon Dapilos, executive officer of the Anti Child Abuse Division (ACADED) of the NBI. The defense, on the other hand, called eight witnesses: Judge Francisco D. Villanueva himself, Marlyn Sumadilla, Mrs. Violeta Jarra Villanueva (wife of respondent), Nitz Tao, Andres C. Torres-Yap, Felilu Amon Ying, Oscar Inocentes and Justice Catalino R. Castaneda Jr.

In his Report, Justice Ramirez summarized the facts as follows:

"As testified by Jobet Diocales, Janet Ramas and Juvylyn Requilmen[,] it was Marlyn Sumadila and Joy Elardo who recruited and brought them from Tagum to Manila where they arrived by airplane early in the morning of January 19, 1999. It was Marian Herrera and her brother Paolo who met them at the airport and brought them to the house of Marian's live-in partner Judge Francisco Villanueva at No. 1 Hanna Street, Fil-Invest Batasan, Quezon City. Next morning at breakfast about 7:00 o'clock, Jobet, Janet and Juvylyn met respondent Judge Villanueva who was introduced to them by Marian, 'Ito and asawa ko Judge Francisco Villanueva at ito naman yong mga talent na galing Davao.' Addressing Marian, respondent Judge Villanueva said, 'Love, x x x an[g] babata pa [n]ila. Hindi pa sila p'wedeng makapunta sa Japan. Gawin nalang natin silang Dance Instructor.' On January 21, 1999, after coming from Divisoria to buy clothes to wear as dance instructors, the three girls were brought by respondent Judge first to Ihaw-Ihaw then to the house at Matalino Street, Quezon City that he (respondent Judge Villanueva) and Marian owned. In the evening of that day Jobet saw respondent Judge Villanueva and Marian asleep together. Awakened, Marian upon seeing her, told Jobet to massage respondent Judge which she did assisted by Juvylyn. In the evening of January 23, 1999 Jobet, Janet and Juvylyn were brought by Marian and respondent Judge to Bodega Nightclub where they started working as GROs. There they worked for two nights only because they could not stand the vulgarity of their companions. 'Binastos po ako ng customer,' said Janet. She could not stand the laughter at them, said Juvylyn. According to Jobet customers touched her legs and shoulders and kissed her. Janet said she was touched from the shoulders down to her thighs and was kissed.

"After the three girls[:] Jobet Diocales, Janet Ramas and Juvylyn Requilmen stopped working as GROs at Bodega Night Club, on [January] 26, 1999, Marian Herrera and respondent Judge fetched them from his (respondent Judge's) condominium at Murphy, Socorro, Cubao, Quezon City and brought the three girls to KTV Night Club in Timog, Quezon City where they worked as GROs for about a week. After January 29, 1999, when she (Janet) was 'binastos x x x nang customers,' all three girls stopped working at KTV Night Club which angered respondent Judge. In the evening of February 11, 1999, Jobet Diocales and Janet Ramas were rescued by the NBI team at respondent Judge's condominium at 15th Avenue, Murphy, Socorro, Cubao, Quezon City. Juvylyn Requilmen was rescued by the same team at Ihaw-Ihaw Balot-Balot Restaurant owned by Marian Herrera and respondent Judge.

"Respondent Judge denied having any amorous relation with Marian Herrera. According to him[,] she is but his distant relative on his mother's side. He was but a business adviser to her[,] which his wife Violeta confirmed. He did not have anything to do with the three girls' (Jobet, Janet and Juvylyn) stay at the condominium owned by Marian and their employment as GROs. Neither did he sleep there."^[2]

Recommendation of the OCA Consultant

In his Report to the Court dated April 19, 2001, the OCA consultant said that

respondent's denial could not prevail over the positive and clear adverse testimony of the three young women. Their version was more credible, considering that they had no motive to falsify their declarations. He recommended that respondent be held administratively liable for serious misconduct arising from violation of RA 7610.

The OCA investigator also found a clear indication of an illicit amorous relation between Marian Herrera and respondent, who was still married to Violeta Jarra Villanueva. He pointed out that such extramarital relation constituted immorality -- a serious charge under Section 8, Rule 140 of the Revised Rules of Court, the penalty for which is dismissal from the service.

The OCA consultant also reported that this Court administratively disciplined respondent three times as follows: (1) in AM No. MTJ-96-1107, he was reprimanded for failure to secure a written permission from the Supreme Court to engage in business; (2) in AM No. MTC-99-1227, he was found guilty of abuse of authority and ordered to pay a fine of P2,000; and (3) in AM No. MTJ-00-1245, he was found guilty of serious misconduct and/or inefficiency in violation of the Canons of Judicial Ethics, fined P10,000, and suspended for one year without pay. The penalties in the last two were each accompanied by a stern warning that a repetition of the same or similar infractions would be dealt with more severely.

The Court's Ruling

The Court agrees with the recommendation of Justice Ramirez that respondent is administratively liable for immorality and unbecoming conduct, but not for gross or serious misconduct.

Respondent's Administrative Liability

The evidence shows that respondent is not the owner of any of the establishments involved in this case. Moreover, there is no showing that the three alleged victims were being forced to work as "guest relations officers" (GROs) or that their private parts were fondled by customers. As testified to by the three young women, they had voluntarily gone with respondent to the night clubs to seek jobs. They needed no prior encouragement in spending all the money handed to them by Marian Herrera or in splurging on clothes and make-up to equip themselves for night club jobs.

Furthermore, the three "victims" were free to enter and leave the condominium where they resided.^[3] They went to the disco only whenever they wanted to.^[4] It is clear from their testimonies that they were not forced to do anything against their will. They were free to change their jobs, as they did twice later. They were allowed to leave their place of residence or work^[5] anytime, as they in fact also did whenever they went to the discos and when they were "rescued." The evidence clearly shows that they were merely fetched -- two from the condominium where they were staying while looking for more acceptable jobs, and the third from the *Ihaw-Ihaw Balot-Balot* Restaurant, where she was already working as a cashier. The three alleged "victims" were not in need of any rescuing, for they were not in detention at the time they were fetched.

The above notwithstanding, respondent cannot be excused for his deeds. "The

Canons of Judicial Ethics requires a judge to keep himself free from any appearance of impropriety. His personal behavior, not only while in the performance of official duties but also outside the court, must be beyond reproach, for he is -- as he is so aptly perceived to be -- the visible personification of law and of justice. A judicial office circumscribes a personal conduct and imposes a number of inhibitions, whose faithful observance is the price one has to pay for holding an exalted position."^[6]

Though he denies encouraging the three young women to apply for jobs as GROs, his actions loudly speak otherwise. It is undisputed that he accompanied them to the Bodega Night Club one night in January 1999.^[7] He introduced^[8] them to the operator, Andres C. Torres-Yap, and informed the latter that the women were looking for jobs. Respondent also accompanied them when they applied at the KTV night club, where they eventually worked as GROs from January 26, 1999 to January 29, 1999.^[9]

By his acts, respondent clearly facilitated the employment of the three young women as GROs. Our present society considers their work as morally wrong. By facilitating the employment of the three in a night club as such, he was placing the then impressionable minors directly on a path of moral decay. He was exposing them to a seedy world where the practice of offering one's flesh in exchange for money was thrust right in front of their faces.

Furthermore, by his careless acts, respondent opened himself to the charges of white slave trade and violation of RA 7610. Such acts are unacceptable, because "no position exacts a greater demand on moral righteousness and uprightness than a seat in the judiciary. High ethical principles and a sense of propriety should be maintained, without which the faith of the people in the judiciary so indispensable in an orderly society cannot be preserved."^[10] In sum, his actions show conduct unbecoming his office.

The Court does not agree with the OCA consultant that the said acts of respondent constitute serious misconduct in office. "Serious misconduct is such misconduct which affects a public officer's performance of his duties as such officer and not only that which affects his character as a private individual. For serious misconduct to warrant dismissal from the service, there must be reliable evidence showing that the judicial acts complained of were corrupt or inspired by an intention to violate the law. It must (1) be serious, important, weighty, momentary, and not trifling; (2) imply wrongful intention and not mere error of judgment; and (3) have a direct relation to and be connected with the performance of his official duties."^[11]

In this case, the acts complained of are not connected with the performance of respondent's official duties; thus, they cannot be considered serious or gross misconduct. However, such acts are violations of the Code of Judicial Conduct, specifically Canon 2 which states that "[a] judge should avoid impropriety and the appearance of impropriety in all activities."

In the matter of immorality, we agree with the findings of the OCA consultant. *First*, the evidence clearly shows that respondent and Marian Herrera were lovers because respondent was found sleeping inside the same bedroom occupied by Herrera at No. 1 Hanna Street, Fil-Invest, Batasan, Quezon City. *Second*, they were cohabiting in the same house in the aforementioned address. *Finally*, respondent never denied

that he was the husband of Herrera when he was introduced to complainant's witnesses. The testimonies on this point were spontaneous, clear and consistent. Pertinent portions of the testimony of Jobeth Diocales are reproduced hereunder:

Q When you reached Manila on January 19, 1999 at 1:30 a.m., was there anybody who pick you up from the airport?

A Tita Marian Herrera and her brother Paolo, ma'am.

Q And where did you proceed from the airport?

A In the house of Judge Francisco Villanueva and Tita Marian, ma'am.

COURT:

Q Who's this Tita Marian you're talking about?

A Live-in partner of Judge, sir.

Q Do they live in the same house?

A Yes, ma'am.

Q Can you tell us exactly where this house is?

A No. 1 Hanna Street, Fil-Invest, Batasan, Quezon City, ma'am.

Q You said that it was Ate Marian and her brother Paolo who picked you up from the airport and you proceeded to 1 Hannah Street. You said also that it was the house of Judge Villanueva and Marian Herrera?

A Yes, ma'am.

Q When you arrived in 1 Hanna Street, was the Judge there?

A Yes, he's sleeping and in the morning at 7:00 o'clock Ate Marian introduced Judge Villanueva to us as her husband, ma'am.

Q And what if any did Judge Villanueva tell upon seeing you?

A `Good Morning', ma'am.

Q Aside from that, any other thing?

A Invited us for breakfast, ma'am.

Q What else if any?

A He said we are of minor age and we could not go to Japan, ma'am.

Q Why not according to him?

A He said `Love' referring to Ate Marian. `Ang babata pa nila. Hindi pa sila p'wedeng makapunta ng Japan. Gawin na lang natin silang Dance Instructor.'^[12]

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Q So, let's make this clear, from the time you arrived in Manila on January 19 up to the time according to you, you were