

## **EN BANC**

**[ A.M. No. MTJ-94-923, September 10, 1999 ]**

**ELENA E. JABAO, COMPLAINANT, VS. JUDGE MELCHOR E.  
BONILLA, RESPONDENT.**

**[A.M. NO. MTJ-95-11-125-MCTC. SEPTEMBER 10, 1999]**

**JUDGE MELCHOR E. BONILLA, COMPLAINANT, VS. ELENA E.  
JABAO, RESPONDENT.**

### **D E C I S I O N**

#### **PER CURIAM:**

Before us are the 1) Administrative Complaint dated January 8, 1994 docketed as A.M. No. MTJ-94-923 filed by Elena E. Jabao, Branch Clerk of Branch 16, MCTC, Jordan-Buenavista-Nueva Valencia, Guimaras against her immediate superior Judge Melchor E. Bonilla, Presiding Judge of the same branch of the said MTCC for falsification of public document, graft and corruption, dishonesty, gross misconduct, grave abuse of authority and immorality; and the 2) Complaint dated January 13, 1994 filed by Judge Bonilla against the Branch Clerk of Court of his sala, Elena Jabao, docketed as A.M. No. 95-11-125 for dishonesty, disloyalty, abuse of confidence, gross insubordination and conduct unbecoming a Clerk of Court.

Elena Jabao alleges in her Complaint that Judge Bonilla committed the following unlawful acts:

1. That Judge Bonilla forged the signatures of the named notaries public in the affidavits of cohabitation required of marriages solemnized under Art. 34 of the Family Code to dispense with the required marriage license for a fee commonly known as the "package deal";
2. That without proper authorization from this Court, Judge Bonilla notarized documents beyond the territorial jurisdiction of his official station. Further he instructed the Clerk of Court, Jabao not to report the number of marriages solemnized nor the documents notarized by the respondent judge to the City Treasurer's office;
3. That he falsely stated in several decisions he rendered regarding violations of Bureau of Fisheries Administrative Orders on illegal fishing that the accused pleaded "guilty" with the assistance of counsel when no such counsel was present during arraignment to assist the accused in making his plea. Jabao also alleged that Judge Bonilla misappropriated the fishes confiscated from the alleged

violators;

4. That he is maintaining an illicit affair with the court stenographer, Mila Alerta.

On the other hand, Judge Bonilla alleged in his Complaint against Jabao that the unfounded allegations made by Jabao undermined the public's trust and confidence in the judiciary and tarnished Judge Bonilla's reputation. He added that Jabao did not report for work in spite of notice that her application for vacation leave was disapproved by Judge Bonilla.

The contentions of both parties as summarized by the Court Administrator in his memorandum are as follows:

"In answer to the complaint of his clerk of court, respondent (Judge Bonilla) declared that:

1. While all the charges against him are serious, they are not supported by evidence; the charge of falsification before the Office of the Provincial Prosecutor of Guimaras was not acted upon for want of probable cause, because mere discovery of difference between two (2) signatures is not proof of falsification or forgery;
2. Complainant Jabao had been a Clerk of Court for eighteen (18) years. As such, she cannot easily yield to his instructions to falsify court records and then keep the matter to herself for years without telling anybody about it. Her accusations have no basis since it is she who prepares the monthly reports, keeps the records of marriages, notarial documents and other court records while he just signs these to certify their correctness as he has trust and confidence in her;
3. At the beginning, he was hesitant to notarize a document presented to him but it was Jabao who assured him that he has authority from the Supreme Court. She then presented to him several documents notarized by then Acting Presiding Judge Ernesto Mediodia and duly entered in the Notarial Register as inspected by RTC Judge Julio Villanueva on 13 November 1991. But later on, with the presence of new lawyers commissioned as notaries public for Guimaras, he stopped notarizing documents;
4. The Rules of Court do not require that arraignment of cases must always be calendared for hearing nor held in the courtroom, for this can be held in court chambers, as long as the same is open to the public. The Presiding Judge himself, without the presence of the Clerk of Court, can arraign the accused;
5. He does not collect attorney's fees nor appropriate for himself the confiscated fish, for the media and NGOs closely monitor the actions of judges nowadays;

6. He is not a fool to conduct an illicit relationship with his neighbor and court employee Mila Alerta. The latter is happily married to Jimmy Alerta who is also his trusted man and househelper; and
7. The charges of Jabao are not of her own making as she is being used by three (3) disgruntled individuals in Guimaras who want to destroy the justice system in the province.

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Elena Jabao submitted her answer to Judge Bonilla's complaint dated 2 May 1994, stating among others that:

1. The complaint of Judge Bonilla was pure fabrication and concoction, filed against her to retaliate for the charges she filed against him;
2. The complaint did not describe specific instances of her alleged dishonesty, disloyalty, abuse of confidence, gross insubordination and conduct unbecoming a Clerk of Court;
3. In public service, loyalty is to the Republic of the Philippines, the Constitution and its duly constituted authorities and not to the judge, who in this case is her superior, for he is abusive and does not act in accordance with law;
4. She filed her complaint to bring the matter to the attention of proper authorities so that the integrity and prestige of the judiciary may be preserved;
5. Certification from five (5) judges she worked with during her eighteen (18) years of service show that she is not wanting in her performance as Clerk of Court;
6. Respondent judge showed vindictiveness by recalling his earlier approval of her vacation leave, after he learned that she filed a criminal complaint against him, and after Mila Alerta, his paramour, failed to convince her to withdraw the complaint;
7. Respondent judge practices law at his private office at Sto. Rosario, Buenavista, Guimaras with Mila Alerta, his former private secretary, now court stenographer of the court; and
8. Concerning the Judiciary Development Fund she could not remit the same because, Judge Bonilla did not turn over to her the amounts corresponding to the JDF for 1992-1993 as well as the notarial fees he collected from the time he

assumed office up to January 1994. These documents are still in his possession including the notarial books of the court, and the amount of P2,550.00 which she advanced to cover up for these fees were never reimbursed to her by the judge.”

On February 28, 1994 the Court Administrator referred both complaints to Executive Judge Tito Gustilo of the Regional Trial Court, Iloilo City for investigation and report. On June 18, 1998 Executive Judge Gustilo filed his report with the following findings

1. Both Atty. Pedrito A. Gianzon and Atty. Zacharias Bedona, Jr. testified under oath during the investigation that their commissions are only for the City and Province of Iloilo and that they never signed nor notarized Affidavits of Cohabitation. Therefore, their signatures appearing in the Affidavits used by respondent Judge Bonilla in solemnizing marriages exempt from license were forged;
2. While Judge Bonilla had no authority from the Court to act as notary public, yet he notarized the questioned affidavits, using his court seal;
3. Atty. Gianzon and Atty. Bedona, Jr. also testified under oath that they never appeared in court and represented any of the accused during the arraignment of cases involving violations of the Fisheries Law, contrary to the claim of Judge Bonilla;
4. Complainant Jabao failed to satisfactorily establish the charge of immorality against Judge Bonilla as well as the falsification of documents allegedly done by Court Stenographer, Mila Alerta; and
5. Judge Bonilla filed the case against Jabao to get even with her.

The Investigating Judge concluded that Judge Bonilla committed falsification of public documents by making it appear that Atty. Gianzon and Atty. Bedona, Jr. notarized the Affidavits of Cohabitation required under Article 34 of the Family Code to be able to solemnize marriages without need of a marriage license when they did not so notarize the documents, and by making it appear in his decisions in criminal cases for violation of the Fisheries Law that the accused entered a “plea of guilty” with the assistance of Atty. Bedona, Jr. when the latter never appeared and represented the accused. By reason of these transgressions, Judge Gustilo recommended the severest administrative sanction, short of dismissal from the service against Judge Bonilla. He also found that a dismissal of the administrative complaint of Judge Bonilla against Jabao would be appropriate, there being no evidence to sustain liability.

On March 29, 1999 the Office of the Court Administrator filed its Memorandum containing the following findings:

“Respondent judge had no authority to notarize documents even as ex-officio Notary Public. His explanation that he merely followed the practice