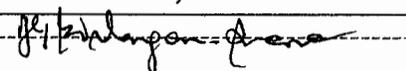


A.M. No. MTJ-10-1755 [Formerly OCA-I.P.I. No. 08-2011-MTJ] – *WILFREDO F. TUVILLO, Complainant, v. HENRY E. LARON, Presiding Judge, Metropolitan Trial Court, Branch 65, Makati City, Respondent.*

A.M. No. MTJ-10-1756 [Formerly OCA-I.P.I. No. 08-2017-MTJ] – *MELISSA J.F. TUVILLO, a.k.a. MICHELLE JIMENEZ, Complainant, v. HENRY E. LARON, Presiding Judge, Metropolitan Trial Court, Branch 65, Makati City, Respondent.*

Promulgated:

October 18, 2016

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## D I S S E N T

**BERSAMIN, J.:**

The Majority today vote to reject the charge of unexplained wealth brought against respondent Judge Henry E. Laron, Presiding Judge of Branch 65, Metropolitan Trial Court, in Makati City, but recommends his immediate dismissal from the Judiciary for immorality and gross misconduct.

I respectfully **DISSENT** as to the penalty of dismissal, which I consider to be too harsh, and as to the finding of gross misconduct.

### The Case

Before us are the consolidated administrative cases filed against the respondent initiated by Wilfredo Tuvillo, charging immoral conduct, and by Melissa Tuvillo, charging unexplained wealth and immorality.

### Salient Facts of the Case

In his *Complaint Affidavit* filed on June 3, 2008,<sup>1</sup> complainant Wilfredo Tuvillo stated that he had been a seafarer for more than 20 years; that in 2005, a case was filed against his wife, Melissa Tuvillo, in the Makati MeTC; that he came to know respondent only because his wife had sought the latter's help for the expeditious resolution of her cases; that the

<sup>1</sup> *Rollo*, pp. 24-27.

respondent abused his wife's innocence and trust by extorting money from her to the point that their savings and properties were dissipated; that in spite of all the money that the respondent received, the cases of his wife were not settled; and that the respondent also transgressed the sanctity of their marriage and their family.

In her *Complaint Affidavits* dated May 14, 2008<sup>2</sup> and July 31, 2008,<sup>3</sup> complainant Melissa Tuvillo alleged that the respondent amassed unexplained wealth in the form of a fully-furnished house and lot worth at an estimated cost of ₱9,000,000.00 in Filinvest II, Batasan Hills, Quezon City,<sup>4</sup> and a Nissan Patrol vehicle; that the respondent sent his children to exclusive private schools;<sup>5</sup> that he owned several expensive pieces of furniture and paintings;<sup>6</sup> that he solicited and got money from her for his cellular phone loads, gasoline expenses and monthly groceries;<sup>7</sup> that her husband was a seafarer, by reason of which she regularly received a monthly remittance of US\$2,000.00 in addition to her own income;<sup>8</sup> that in the third week of October 2005, a certain Prosecutor Giorsioso introduced her to the respondent in relation to her criminal cases pending in the Makati MeTC;<sup>9</sup> that such first meeting was succeeded by other meetings, one of which was in the second week of November 2005, when he kissed her on the cheek;<sup>10</sup> that such kissing later on became a regular habit every time she visited him;<sup>11</sup> that on November 28, 2005, their first sexual congress occurred in his office; that several more sexual congresses occurred between them either in his office or at the Silver Place Hotel near the Makati City Hall;<sup>12</sup> that he also sometimes slept in her Antipolo house and in her condominium unit in Makati City;<sup>13</sup> that he asked money from her every month and whenever he needed it; that she gave him US\$1,000.00 of the US\$2,000 monthly remittances from her husband;<sup>14</sup> that the respondent also borrowed money from her, including \$800.00 to pay his executive check-up at St. Luke's Hospital, ₱20,000.00 to defray his birthday treat for his office staff, ₱25,000.00 for his birthday celebration at Firewood, Mandaluyong City, \$2,000.00 as pocket money when he went on a study grant to Canada, and \$700.00 when he went on a study grant to Baguio City;<sup>15</sup> that he hurt her physically and threatened to divulge their relationship to her husband if she refused to give in to his demands for money; that only two of her four cases

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<sup>2</sup> Id. at 11-14.

<sup>3</sup> Id. at 36-38.

<sup>4</sup> Id. at 11.

<sup>5</sup> Id. at 11-12.

<sup>6</sup> Id. at 11.

<sup>7</sup> Id. at 18.

<sup>8</sup> Id. at 36.

<sup>9</sup> Id.

<sup>10</sup> Id.

<sup>11</sup> Id. at 36-37.

<sup>12</sup> Id. at 37.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> Id.

were ultimately settled; and that she lost her husband as well as the respect of her family and friends because of their illicit affair.

In his *Comment*, the respondent admitted having developed an “intimate personal attachment to each other” with Melissa,<sup>16</sup> but denied her other allegations. Anent the charge of unexplained wealth, he asserted that he had purchased the new house in Quezon City partly from the proceeds of the sale of his own townhouse and from the proceeds of his loan from the Land Bank;<sup>17</sup> that the pieces of furniture in his residence were earned by his wife who was a dealer of wooden furniture; that he had acquired the Nissan Patrol second-hand with money borrowed from his father;<sup>18</sup> and that he sent his children to school with the use of the educational plans he had bought for them.<sup>19</sup>

On the charge of immorality and gross misconduct, the respondent averred that he did not promise to help her with her cases; that he did not have sexual congress with her in his office; that he did not demand or receive money from her,<sup>20</sup> having paid his executive check-up at the St. Luke’s Hospital with his own funds;<sup>21</sup> and that he did not oblige her to pay for the office dinner on the occasion of his birthday.

The respondent denied that the Tuvillos’ real properties had been sold because of him. He insisted that she had told him that her husband had died in China.<sup>22</sup> He contended that Wilfredo could not have written the letter dated August 8, 2008 to the Judicial and Bar Council because he was not in the country at that time;<sup>23</sup> that it was not Wilfredo who had signed the complaint; that she was conducting a demolition job against him;<sup>24</sup> that he had reason to believe that she was responsible for the same because he had received text messages from anonymous senders warning him of such demolition job against him; that the threats and harassment against him started after he had decided to keep distance between him and Melissa; that even their telephone line at home was tapped;<sup>25</sup> and that she had gotten hold of his contacts list and had then sent damaging text messages to persons found in the list.

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<sup>16</sup> Id.

<sup>17</sup> Id. at 20.

<sup>18</sup> Id. at 22.

<sup>19</sup> Id. at 23.

<sup>20</sup> Id.

<sup>21</sup> Id. at 24.

<sup>22</sup> Id.

<sup>23</sup> Id. at 62.

<sup>24</sup> Id.

<sup>25</sup> Id. at 64.

### **Recommendation of the Court Administrator**

After his own investigation, Court Administrator Jose P. Perez, now an illustrious Member of the Court, recommended that the respondent be held guilty only of conduct unbecoming of a judge and fined in the amount of ₱10,000.00; and that the consolidated charges of immorality and unexplained wealth be dismissed for being unsubstantiated.

### **Recommendations**

I agree that the charge of unexplained wealth was successfully disputed by the respondent; hence, the charge is being properly dismissed.

I agree, too, that there was adequate basis for concluding that the respondent and Melissa had a romantic affair that constituted immorality that is sanctionable under our canons of judicial conduct, but I am constrained to differ from the Majority on the appropriate penalty to be meted on the respondent. He should not be dismissed from the service, but should only be condignly punished with suspension from the service without pay, or fined.

I respectfully differ on the finding of gross misconduct against him. I humbly submit that this charge was unfounded, and, therefore, I urge that the Court dismiss the charge for insufficiency of evidence.

### ***Re: Judge Laron's Alleged Gross Misconduct***

The charge of gross misconduct against the respondent was not competently established.

First of all, Melissa claimed that she had come to meet the respondent for the first time in November 2005 with the help of the public prosecutor because she was looking for someone who could help her with her pending cases in the Makati Metropolitan Trial Court. The respondent strongly denied her claim, however, averring that he did not know of the various cases pending against her when she was first introduced to him, and insisting that he came to know of such cases only after a month following the first meeting. I feel that we should be more circumspect in accepting her claim. To start with, she did not even present the public prosecutor who had arranged that first meeting between her and the respondent to corroborate her version. Moreover, none of her cases was assigned to his court, and he acted in two of such cases only as a pairing judge. Also, the dismissals of most of her pending cases had been upon the joint instance of the parties

(*i.e.*, Melissa and the Prosecution), debunking her statement that he had intervened with his co-judges in her behalf.

Secondly, Melissa charged that the respondent had physically maltreated her whenever she could not give him the money he demanded; and that she had lost her family's possessions just to satisfy the respondent's immodest demands, to the point of claiming that she had given to him half of her monthly remittance (*i.e.*, \$1,000.00) out of fear that he would disclose their illicit affair to her husband. But her charges – which were not even supported by evidence other than her self-serving allegations – were highly improbable for being inconsistent with human nature and daily experience. For one, it was highly unnatural for her *to be intimidated* into giving to him so much if she had her young children and a household to take care of on a daily basis. There was certainly something amiss with her if she had given him half of her \$2,000.00 monthly remittance with such regularity just to indulge the respondent. As to his supposed threats of exposing their romantic relationship to her husband, this seems illogical and highly unlikely in the face of the reality that he had much more to lose from making good such threats. Verily, while she would lose her husband and the affection of her family and relatives, he would lose not only the affection of his own wife and their family but also his professional life and his budding career in the Judiciary.

And, thirdly, Melissa's unilateral portrayal of the respondent as a poor leech-like opportunist and a violent person should not be accepted without question. We should look for her motivations in suddenly denouncing him before the Court for supposedly committing so many grave sins. In my view, she was either a spurned woman who could not accept his rejection of her, or someone looking for a plausible scapegoat on whom to lay the blame for her unexplainable loss of the family possessions and wealth by her own profligacy and recklessness. Either of these scenarios seems to make more sense than her unproved charges of gross misconduct considering that the two administrative complaints subject of these consolidated cases were simultaneously filed in the middle of 2008 right at the time that her husband had returned to the country and could have discovered their depleted resources and rightly demanded that she should account for them.

### **Judge Laron's Explanations Should Be Carefully Studied And Considered**

The appreciation of facts in these cases should not be solely based on the complainants' affidavits and complaints. The charges of gross misconduct should be appreciated in the context of the *probable* ill motives of Wilfredo and Melissa for bringing their charges. We should be cautious before condemning the respondent to suffer any penalty.

The complainants' convoluted and improbable tale of woe begs us to listen to the respondent's side of the story. *Audi alteram partem*.<sup>26</sup> This is what we should now do in this adjudication.

For the direct appreciation of every Member of the Court, therefore, I am quoting the succinct explanations tendered by the respondent in his *Comment*,<sup>27</sup> and let us reflect on his explanations to determine whether he uttered the truth, or prevaricated; and whether or not it was Melissa who was duplicitous in her attempt to cover the truth with her concocted tale against him, to wit:

1. The charges against me by Ms. Tuvillo are full of allegations which are distortions of the truth. This is not the first charge against me by this person. It speaks of her propensity to present lies in order to put me to shame, public ridicule or contempt, and as part of the demolition job against me.

2. She was introduced to me in November 2005. In December 2005, she informed me about her problems about a vehicular accident and the cases against her for bouncing checks. I never told nor promised her that I can help regarding her bouncing checks cases.

3. The allegations in no. 7 of the complaint affidavit are not correct. She could have mentioned again the cases against her but I never promised any help. We merely shook hands after the conversation.

4. There is absolutely no truth to the allegations in no. 8 of the complaint affidavit. November 28, 2005 is a Monday. For that Monday, I conducted hearings in civil cases in the morning in my court and criminal cases in the afternoon in the pairing court, Branch 66. From July 2005 to May 2006, I presided over my pairing court, holding hearings on Monday afternoon and Wednesday morning, aside from resolving incidents/matters, in addition to my duties in my Branch. **In the court at the old building (Chateau), at all times, the door of the chambers is always open, not only because the lock of the same was destroyed, but also it is my habit not to close such door when I am around. Also, there are only two aircon units in our office, one in the courtroom and one in the chambers. The door in the chambers to the staff room is always open so that staff could also have cool air in their room. The refrigerator and the coffee maker of the branch are inside the chambers that the staff go in and out freely when they need something.** Further, on top of the table in the chambers is a thin glass. The affidavits of Lylanie Cayetano, Nelia Nanat, and joint affidavit of Amabelle Feraren and Nelly Montealegre, are attached hereto as Annexes "A", "B" and "C", respectively.

5. Same with the allegations in No. 8, what were stated in no. 9 are pure lies. **In the Chateau, what divides the chamber and the staff room is a mere plywood and an open door. As earlier stated, the door between the chambers and the staff room is always open. Thus, the**

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<sup>26</sup> Translated: *The other side should be heard.*

<sup>27</sup> *Rollo*, pp. 58-65.

**allegation about December 15, 2005, a Thursday, and her account of “several times” is impossible. To her allegation about December 3, 2005, I never went to the office on that day; as I only report on Saturdays if the branch is on duty. Even when we transferred to the new City Hall building, the door of the chambers is always open when I am around, even if I have visitors. Her allegation about Silver Place Hotel is another lie. There is also no truth that sometimes I sleep in her Antipolo house and almost daily in the Pasong Tamo condo; I always sleep with my wife in our house (see affidavit of Imelda B. Laron attached hereto as Annex “D”). Ms. Tuvillo’s narrations are but a product of her imagination, her propensity to concoct lies.**

6. The allegations in no. 10 of the complaint affidavit are absolutely lies. I never asked nor obliged her to give me money, \$1,000 monthly from November 2005 to February 2008 as she stated. I never received such amount from her. She claimed to have a monthly allotment of \$2,000.00, it is out of logic to throw away half of it and take only half for her family.

To reiterate my comment in OCA IPI No. 08-2017-MTJ, **I was the one who paid for my executive check-up at St. Lukes Hospital, I did not borrow from her. The dinner for my birthday in July 3, 2006 was just for my staff in Branch 65 and the pairing court (Branch 66) and around ten guests; she showed up but I did not ask her for money for my birthday and I did not obliged (sic) her to pay for the bills.**

7. Another lie is her allegations in no. 11 of the affidavit complaint that I asked for \$2,000.00 and \$700.00 for the Canada trip and Baguio seminar, respectively. As I have stated in my Comment in OCA IPI No. 08-1017-MTJ, I did not ask for, and she did not give me, money in such occasions. As also stated in the same Comment, there is no truth to her claim that I hurt her and threatened to blackmail her when she refused to give money.

**8. I never interceded in the cases against her. The case she mentioned which I resolved was the one in my pairing court, Branch 66, which was dismissed upon motion filed by the parties.**

9. Her description about the incident in the presence of Atty. Laguilles is inaccurate. **I requested Atty. Laguilles not to go out of the room so he could hear what she might say, as she and/or her cohorts had previously scattered information which maligned me. I did not shout at her, she was the one who boasted that she will file cases against me. I did not call her tarantado, she was the one who shouted such word to me. She was the one who acted to put up a scandalous scene in my office in the presence of my staff.** The affidavit of Ma. Anicia Razon and the joint affidavit of Nelly Montealegre, Amabelle Feraren, Liezl Mandin, Arlen Quirante, Lylanie Cayetano, Nelia Nanat and Michelle Grace Malonzo are attached hereto as Annexes “E” and “F”, respectively.

10. To the allegation that she lost her husband, here is a text message passed to me on August 13, 2008 from her number (+639174794034):

Sweet na cut line tatawag ka pa ba? Tawag ka lng para malibang ang pananakit ng sikmura ko..Ingat at wag mambababae.kung d mapigilan INGAT lng mabuti. Alam mo kung anong ibig kung sabihn. Nakausap kuna may ari ng SCANMAR.2loy ang movilization by Nov.My 15% ncrease sa boung sahod mo at 50% bstat pa absorb or maiwan ka dyan. Madami bnefit.na inilatag sakin..Wag kana muna Umuwi.Pagbigyan natn Scanmar kaht another 3 mnths.Xtension lang. Then lipat kana ky captain Paulin.Mas matsas pa dn offer sau dun! Biro mo 7,500\$ sa scanmar pwede na dn kc madami bnefit at malapit pa ofic d2 sa scol mga bata.Andyan na pala tao na nag join.Kunin u agad ung pnadala ko,ma22wa ka sa.San Mateo yan. Tmbrland retirement lot mo.dream mo d ba mgkaron farm lot, yan na un! D ba nakwn2 ko sau 2mama ng lottery c james.Eh ang bakla ask nya ako ano gus2 ko ko balato, e ngbro lng naman ako Yun! Tino2o nga.. Sana kuna ikwn2 lahat. Wag kana muna Umuwi ako na lang ulit pupunta sau..lagi ko cnasabi sau para sa mga anak mo at sau gnagawa ko kaya ayaw na naman kita pauwiin..Ung 2ngkol sa pagka kapitan mo wag kana dn mag alala my order na na dina kylangan mag take ng Exam mga chfmate. Sa Nov. Din ang effctvty and kylangan lang Training 80,Th lng ang bbyaran sa lahat. Pero inilalaban dn na Ma eliminate ung MLC nay an!. Cge na Mag ingat ka at Wag mang agrabyado ng BABAE at wak ka mag bago, at asahan mo lagi ako and2 magngng ka2wang at mag aalaga sau.Bastat Magpaka bait ka.D ba motto ko yun.D baling ako ang Salbahe was lng ikaw,at d baling ako ang Mag Sinungaling was lng din ikaw.Kc lahat ng gnagawa my Dahilan.Hay Buhay nga naman!@

("sweet" refers to her husband.) Is this the message to a husband she claimed she lost? Definitely not.

If ever she still has unsettled cases, it was her sole decision and style not to settle the same. I never promised her anything about her cases. It appears that the cases against her for violation of BP 22 in MeTC Makati City are: Crim. Case Nos. 341616-17 (two counts for P20,000.00 each filed on June 27, 2005), Crim. Case Nos. 344609-10 (two counts for P19,377.00 each, filed on October 2005), and Crim. Case No. 354008-09 (two counts of P24,620.00, filed on October 2007). Is it not logical to just settle the cases rather than to always give money to someone so this person will settle the cases? Is it not ludicrous for her to go through all the trouble and risk of giving money always to me when she could have directly dealt with her cases by settling the sad amounts?

Much has to be known why she wants the cases for BP 22 to remain pending, even if she can and is able to settle the cases.

If ever she sold her house and lot in Taguig City and the two vehicles she mentioned, it was her own decision to do so, but not because I extorted from her. As I have stated in par. 7 of my comment in OCA-IPI No. 08-2017-MTJ dated 21 July 2008, assuming that she sold her property located at Taguig City, she did that for reasons only known to her, but not because I was asking for her money.

11. As I have stated before, at about the time of the elections in May 2007, she told me that her husband Wilfredo died while he and she was in China. (sic) I was surprised upon receipt of the complaint in OCA IPI No. 08-2011-MTJ "signed" by Wilfredo Tuvillo.

**In a text message to me on March 19, 2008 from her number (+639174794034), it was stated:**

**"Namatay nanay W.Kanina lam.'Nagulat lahat. Biglaan ulit wala pa lyear cya naman."**

**(She was referring to the death of the mother of Wilfredo Tuvillo [W] which happened less than a year from the "death of Wilfredo").**

A check with the Bureau of Immigration record of Wilfredo shows that he arrived in the Philippines on May 17, 2007 (immediately after the elections) and left the country on June 9 of the same year.

For the year 2008, the record of Wilfredo shows that he arrived on March 24, 2008 and left the country on May 17, 2008. She coincided the presence of Wilfredo in the Philippines with the filing of the complaint verified by "Wilfredo" on May 15, 2008. The truth is it was not Wilfredo Tuvillo who signed such complaint.

**In a letter allegedly written and sent by "Wilfredo Tuvillo" to the Judicial and Bar Council, dated '8<sup>th</sup> day of August 2008", a time when he was not in the Philippines, "he" made allegations against my application with the Regional Trial Court of Mandaluyong City. Such letter was submitted to the JBC after my name was read by her and/or her cohorts as included in the publication for applicants. The immigration record taken on August 28, 2008 shows that he was in the country on March 24, to May 17, 2008 only.**

**A text message from +639174916604 passed to me on August 10, 2008 states:**

**"Bunso is the Jack of all trades of our GROUP.Gaya ng gnagawa sau ngaun.Iisa lng ang kumikilos si bunso lng.wala ng iba. Tip ko yan sau Panyero.Walang WILFREDO"**

("Bunso" refers to Melissa Tuvillo, that is her name in what she calls her group.)

The immigration records of Wilfredo Tuvillo for the years 2007 and 2008 and the letter allegedly signed by "Mr. Tuvillo" on August 8, 2008 are attached hereto as Annexes "G", "H" and "I", respectively.

12. In her desire to distort the truth, she stated that I took advantage of her so that I could gain profit. I did not do any damage to her as she always claimed. In presenting her "facts", she has always casted aspersions on my person, these could be seen upon a closer look at her statements submitted to this Office. In an attempt to discredit me, she resorted to fabrications and prevarication. Here is a text message to me from her number (+639065594387) on July 18, 2008:

“Kylangan lng mapaniwala ko cla na wala ako pera.walang wala..Yan palagi sabhn nyo.Yun and cnasbi nya daw palagi MADRAMA ako.Pwes ggawin ko nga.Palibhasa gawain ny”

A text message to me from her number (+639174794034) on August 17, 2008 reads:

“Bntayan mo lang ang mga icnasagot at cnasabi.Wag lng malaman na iisa ang kumikilos.Kylangan lagi ipaalam so lahat magtatanong na agrbyado ung”

**On October 17, 2008, (days after I received the Complaint Affidavit dated 31 July 2008 and filed a motion for extension to file comment), I received a text message from +639158228039 stating:**

**“Wag muna sagutin yan! Para d na lumala ng lumala.”**

**These messages show that a demolition job has been set up against me.** Her allegations were presented to portray that she is grieving and down, as can be seen in the first two text messages, so as to merit sympathy. Then in the third text message, she and/or her cohorts do not want me to put a defense and coupled it with a threat.

13. In the year 2007, she even told me about at least three incidents in that year wherein she was a victim of hold-up. She stated that these happened in the corner of J.P. Rizal and F. Zobel Streets in Makati City, inside the ladies comfort room at the ground floor of the Makati City Hall Building, and in Quezon City. I consider such incidents involving a single person and which “happened” in a year to be strange; it is also odd that one incident happened inside the City Hall of Makati.

**Worth to note is an e-mail message about the names she has been using, to wit: *Mishelle Jimenez, Catherin Lopez, Socorro Rodrigo, Rowena Divina, Mishelle Mijares, Liza Geneta, Mary Borchers, etc.***

14. **Threats and harassment against me started when I distanced myself from her, these continue up to the present, in text messages. I received text messages insisting that I must talk to her I realized that she wants me to be associated with her, there is no reason for me to submit to what she wants.**

**Even the telephone line in my residence was tapped; I received text messages from her cellphone number the contents/subject of which pertain to conversations I previously had with certain persons.**

The acts of tapping our telephone line, getting into our Contacts list and sending messages to persons listed therein, distributing mails/e-mail to certain persons, and alleging fabrications to put me to shame, public ridicule and content, and the lies from her, will show that there is ill-motive on the part of Melissa Tuvillo and/or her cohorts and predeterminate plan to put me in jeopardy. (Emphasis supplied)

As the above-quoted portions of his *Comment* shows, the respondent thoroughly and credibly bebunked the many attributions to him of

misdemeanor and misconduct, like committing physical abuse and extortion against Melissa, and aiding her or intervening in her behalf with his co-judges in the Makati MeTC. His detailed explanations reflected candor and sincerity, indicating the absence of prevarication and duplicity.

I do not wonder, therefore, that then Court Administrator Perez submitted the following well-studied evaluation and rational conclusions on the charge of gross misconduct in his report and recommendation dated December 22, 2009,<sup>28</sup> to wit:

**EVALUATION:** x x x

x x x x

Well-settled is the rule that evidence to be believed must not only proceed from the mouth of a credible witness, but it must be credible in itself – such as the common experience and observation of mankind can approve as probable under the circumstances. (*People vs. Ricamora*, G.R. No. 168628 [December 6, 2006]); (*People vs. Garin*, G.R. No. 139069 [June 17, 2004]).

We have no test of truth of human testimony, except its conformity to our knowledge, observation and experience. Whatever is repugnant to these belongs to the miraculous and is outside of judicial cognizance.

x x x x

**As to complainant Melissa’s claim that respondent took advantage of his position, frequently demanding and receiving pecuniary gain from complaint, we also find these claims unworthy of belief. Under Section 3 (d) of Rule 131 of the Revised Rules on Evidence, it is presumed that every person takes ordinary care of his concerns. It is hard to believe that a businesswoman and a general manager of a local employment agency can be so “abused of her innocence” that she would unhesitantly give away half of her monthly allotment of US\$2,000 from the hard labors of her husband overseas just to satisfy the caprices of the respondent. Such allegations of the complainant totally run counter to common human experience and observation. It was likewise unbelievable that on top of giving away half of her monthly allotment from her husband, complainant even went to the extent of selling their conjugal house and two motor vehicles just only to give in to respondent's demands.**

**More importantly, not a scintilla of competent and credible evidence was adduced to support the claims of the complainant.** It is a basic rule in evidence that a party must prove his affirmative allegations. Certainly, he who asserts not he who denies must prove (*Martin vs. Court of Appeals, et al.*, G.R. No. 82248 [January 30, 1992])

**Although complainant attached an alleged deposit slip to the dollar account of the respondent, that can hardly prove the alleged**

<sup>28</sup> Id. at 108-118.

**demands for money of the respondent as there is no showing that it was complainant who made the deposit as demanded by respondent.**

**The claim of complainant Melissa that she was maltreated by respondent if she could not produce the amount demanded cannot be given credence for being bare, self serving and uncorroborated. There is no evidence at all to prove that respondent inflicted physical harm upon complainant. No medical certificate was adduced by the complainant in support of her claim of maltreatment. The fact also that complainant Melissa did not file any criminal complaint for physical injuries against the respondent betrays her allegation of physical harm inflicted by the respondent.**

**The statements of the children of the complainants cannot also help establish the alleged physical punishment being inflicted upon complainant Melissa as the same is admittedly hearsay. Moreover, it is likewise relevant to note that in the joint affidavit of the children of the complainants, they refer to a "certain Tito Henry Laron, which gives the impression that they do not know personally the person referred to as "certain" Tito Henry Laron. The same is true with the affidavit of the caretaker of the complainants in their house in Antipolo City. She could not have positively identified the respondent as the one who frequently slept at the complainant's house in Antipolo City as there is no showing that she personally knows the respondent.**

**As to the alleged unexplained wealth of the respondent, suffice it to say that just like any other allegations of the complainant Melissa, the same is completely bare, self serving and uncorroborated. No evidence was presented by complainant to prove that respondent was living beyond his means. Moreover, the material allegations of the complainant were convincingly refuted by the respondent with independent and competent evidence thereby clearly showing that the complaint for unexplained wealth is merely concocted.**

**As to complainant Wilfredo Tuvillo, the same cannot be considered for being purely hearsay as it was completely anchored on the complaint of his wife, complainant Melissa Tuvillo, of which he has no personal knowledge of and which nonetheless has been fully passed upon above.**

Be that as it may, we are not suggesting in any way that the allegations against respondent judge are untruthful or fictitious, but rather we are inclined to dismiss the case for failure of the complainants to prove satisfactorily the charges of immorality and unexplained wealth against respondent judge. However, respondent judge cannot be completely exonerated because at the very least, complainants were able to prove and as admitted too by respondent judge, that there existed between the complainant Melissa Tuvillo and respondent judge "an intimate personal attachment to each other". The act of respondent judge who is a married man of having "an intimate personal attachment" with complainant Melissa Tuvillo, who herself is married, does not necessarily constitute immorality but certainly suggests an appearance of impropriety and unbecoming conduct and thus, exposes respondent judge to administrative culpability.

Such behavior constitutes a light offense punishable by a fine not less than ₱1,000.00 but not more than ₱10,000.00. (*Rule 140, Secs. 10 and 11, RULES OF COURT*.) In light of the circumstances affecting not only the reputation of Judge Laron himself but the image and reputation of the whole judiciary as well, we find it reasonable to impose upon him the maximum fine of ₱10,000.00.

“A magistrate is judged not only by his official acts but also by his private morals, to the extent that such private morals are externalized. He should not only possess proficiency in law but should likewise possess moral integrity for the people look up to him as a virtuous and upright man.” (*Tan v. Pacuribot, A.M. No. RTJ-06-1982 [December 14, 2007]*)

**RECOMMENDATION:** Respectfully submitted for the consideration of the Court are our recommendations:

- 1) that these cases be **RE-DOCKETED** as regular administrative matters;
- 2) Hon. Henry E. Laron, Presiding Judge, Metropolitan Trial Court, Branch 65, Makati City be found guilty of Unbecoming Conduct and be fined the amount of ₱10,000.00;
- 3) that these consolidated cases for Immorality and Unexplained wealth be dismissed for being unsubstantiated.<sup>29</sup>

The Majority should give due regard to the well-considered appreciation and conclusions by the Court Administrator. I do not see any good reason why we should not. Accordingly, we should *not* punish the respondent for gross misconduct for lack of evidence.

### **Proper Penalty for the Charge of Immorality**

The respondent cannot anymore undo or erase his past with Melissa. Had he resisted the temptation and fought his very human needs and urges, he would not now be having these cases against him. What was done is done.

No offense by the respondent should go unsanctioned because the law will be less in the eyes of the people otherwise. It is punishment that is one of the major moving factors for the people do what is legal and proper, and for individuals to keep within the bounds of what is right and just. But the punishment should not exceed what is condign and commensurate to the act or omission, and should be meted in consideration of all the circumstances that have affected the offense as well as the offender. This is the reason why the Court has calibrated the sanctions to be prescribed on members of the

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<sup>29</sup> Id. at 114-118.

Bench and the Bar who have erred with a view to serving the essence of justice and equity in administrative proceedings.

Accordingly, we have consistently mitigated or aggravated the sanctions after duly taking into good account all the known circumstances surrounding the offenses and the offenders, including those personal to the respondents or relevant to the charges notwithstanding that some of the circumstances may not have been expressly recognized in the relevant administrative rules. Indeed, we have looked at the peculiar factual milieu of every case, the acts or omissions of the respondents, their previous transgressions, their notable contributions to the legal profession as well as to the Judiciary, their judicial and non-judicial backgrounds, and many others like length of service, remorse, family circumstances, ages and even humanitarian and equitable matters. The objective for doing so has always been to make the sanctions not only correct and commensurate but just and fair as well. As such, any tailor-fitting of the sanctions imposed on the respondent will not be unprecedented.

The respondent should be favored with the mitigating circumstances of voluntary admission of the immorality that reflected his genuine remorse, his commission of the offense for the first time, and his long years of service in the Judiciary (*i.e.*, nearly 12 years, having been appointed on December 1, 2004 as MeTC Judge in Makati City, Branch 65). In addition, we should weigh the fact that he has no record of other administrative charges.

The respondent was not an automaton, but was of flesh and blood, a descendant of Adam who fell prey to temptation and engaged in consensual romantic relationship with an adult. We should also consider this circumstance, and be more understanding of his weakness. Doing so would not be the first time for the Court. The heavy hand of the Court should be stayed, and instead we should desist from imposing the extreme penalty of dismissal from the service. Although we should not be too tolerant, we should not also be too harsh. In *Viojan v. Duran*,<sup>30</sup> an administrative case against a sitting Justice of the Peace who had consensual sexual intercourse with a married woman, the investigating district judge submitted a report and recommendation for the suspension of the respondent judge for a period of three months through the Secretary of Justice for the consideration of the President who would be acting on the recommendation. The erudite report and recommendation of the investigating district judge justly recognized the human weakness that had intervened on the occasion of the commission of the sin by the respondent through the following passages, which we should bear in mind in meting the penalty to be justly imposed on the respondent herein, to wit:

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<sup>30</sup> Adm. Case No. 248, February 26, 1962, 4 SCRA 390.

“The respondent has committed an act of immorality. The flesh is weak. But man should possess that consciousness to do the right and avoid the wrong. And one who has taken the oath of public service to dispense with justice, should be more possessed of the courage and the will to overcome the weakness of the flesh. Since the dispensation of justice has to originate from sound moral consciousness, one who lacks it, or has shown to be wanting of it, cannot offer the guaranty required for the performance of a just dispensation. A magistrate has to live by the example of his precepts. He cannot judge the conduct of others when his own needs judgment. It should not be ‘do as I say and not what I do.’ For then the court over which he is called to preside will be a mockery, one devoid of respect. Hence, the necessity for the magistrate to possess enough fortitude to subdue his passion for wrong.

“There is, therefore, no question that for the immorality he committed within the territory of his jurisdiction as a Justice of the Peace, the respondent should be punished. **But, considering the tempting circumstances which surrounded him for that length of time, which circumstances, were indirect invitations, his falling to sin should not be dealt with severity. Few men, and very few indeed, could have resisted that temptation; could have the moral strength, the spiritual energy to impose on his weaker self the will to ignore such enticement. Although we want to count the respondent among these few, yet it would be too much wishing to expect him to be among them before he learns the hard lesson brought about by repentance. This misstep, the first that he committed, should not be taken as the measure of his whole conduct. He should be given the chance after now to benefit himself out of his stumble. For after all, it was rightly said that ‘without an element of the obscene, there can be no true and deep aesthetic or moral conception to life.’<sup>31</sup>**

Given all the foregoing, the ultimate penalty of dismissal from the service is too harsh a penalty. I am inclined to impose the penalty of **suspension from office for three years**. The Court has to exercise compassion in favor of the respondent. Let us not forget that the petitioner did not exactly come to the court with clean hands herself.

### **Re: Application of A.M. No. 02-9-02-SC**

A.M. No. 02-9-02-SC, which took effect on October 1, 2002, relevantly states:

Some administrative cases against Justices of the Court of Appeals and the Sandiganbayan; judges of regular and special courts; and court officials who are lawyers are based on grounds which are likewise grounds for the disciplinary action of members of the Bar for violation of the Lawyer's Oath, the Code of Professional Responsibility, and the Canons of Professional Ethics, or for such other forms of breaches of conduct that have been traditionally recognized as grounds for the discipline of lawyers.

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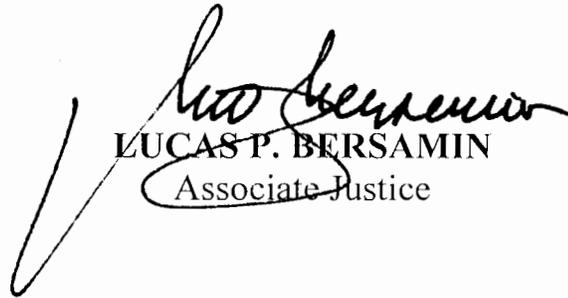
<sup>31</sup> Id. at 392.

In any of the foregoing instances, the administrative case shall also be considered a disciplinary action against the respondent Justice, judge or court official concerned as a member of the Bar. The respondent may forthwith be required to comment on the complaint and show cause why he should not also be suspended, disbarred or otherwise disciplinarily sanctioned as a member of the Bar. Judgment in both respects may be incorporated in one decision or resolution.

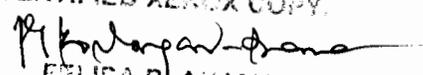
Given that immorality is also a ground for disciplinary action against lawyers, the respondent may also be considered as subject to disciplinary action as a member of the Bar.

However, this rule only goes as far as treating the complaint as both a disciplinary action against him as a judge and as a lawyer, and does not in any way dispense with or set aside the respondent's right to due process. As such, his disbarment as an offshoot of A.M. No. 02-9-02-SC without requiring him to comment on the disbarment is violative of his right to due process.

I vote to **DISMISS** the charge of gross misconduct, and to impose on the respondent the penalty of suspension from office for three years.



LUCAS P. BERSAMIN  
Associate Justice

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