

LACSAMANA, Aniceta B.

Re: Disgraceful and Immoral Conduct,
Conduct Prejudicial to the Best
Interest of the Service

X - - - - - X

RESOLUTION NO. 992643

Aniceta B. Lacsamana, Teacher II of Sta. Rosa National High School, Barugo, Leyte, was formally charged by the Civil Service Commission-Regional Office (CSRO) No. VIII, Candahug, Palo, Leyte, with the offense of Disgraceful and Immoral Conduct and Conduct Prejudicial to the Best Interest of the Service. The Formal Charge reads, in part, as follows:

"1. That Aniceta Bere Mobilla had been admitted and confined in Tacloban City Hospital, Tacloban City, for two days (March 16-18, 1996) and had delivered a baby in the said hospital. Said fact was evidenced by the hospital clinical face sheet of Ms. Mobilla as furnished by Dr. Evelia A. Ligan, Chief of Hospital, Tacloban City Hospital, Tacloban City, in her letter dated January 7, 1997;

"2. That Mr. Manuel C. Novilla, an employee of DECS, Leyte Division, testified that he was the one who conducted the fact-finding investigation on the alleged acts of immorality committed by one Aniceta Lacsamana of Sta. Rosa National High School, Barugo, Leyte. He affirmed that during the said investigation, Ms. Lacsamana personally declared that she had an illicit relation with one Ramon Mobilla; that a child was born to them and was named Mhonette Grace Bere; that they are living together in the house of the mother of Ms. Lacsamana; that she is not legally separated with her first husband who is now a

resident of the U.S.A.; that they (Ms. Lacsamana and Mr. Mobilla) started their illicit relation sometime in 1992;

"3. That Rev. Father Ricardo D. Mendoza, Parish Priest of St. Joseph Parish, Barugo, Leyte, submitted to this Office a Baptismal Certificate containing the following facts, thus:

Name of Child : MHONETTE GRACE BERE

Date of Birth : March 16, 1996

Place of Birth : Barugo, Leyte

Date of Baptism : May 19, 1996

*Place of Baptism : St. Joseph Church
Barugo, Leyte*

Father : Ramon Mobilla

Mother : Aniceta Bere

"The foregoing facts and circumstances indicate that a prima facie case exists against Ms. Aniceta Lacsama for Disgraceful and Immoral Conduct and Conduct Prejudicial to the Best Interest of the Service."

X X X

Records show that upon receipt of an anonymous complaint against the alleged acts of immorality of Lacsamana, the Department of Education Culture and Sports (DECS) in Palo, Leyte immediately conducted a fact-finding investigation to determine the veracity of the same. Finding that there is truth to the allegations, Catalina D. Daffon, Assistant Schools Division Superintendent indorsed the said letter,

together with the result of the fact-finding investigation made by DECS, to CSCRO No. VIII for its evaluation and resolution. The anonymous letter reads, as follows:

"Kami an Parents Teachers Association nagkaurusa hin pagsurat ngan hi ha imo tungod hiton amon problema dida ha Sta. Rosa National High School, Barugo, Leyte kay diri kami naayon hiton eroestorya dida ha gawas hiton baryo tungod hin usa nga maestra nga may asawa nga aadto ha States, yana may-ada liwat asawa nga iba may anak nga babaye hadton Marso pag-anak ha City Hospital.

(We the Parents Teachers Association wrote you regarding a problem in Sta. Rosa National High School, Barugo, Leyte, relative to rumors circulating outside of our barrio, that one of the female married teachers, whose husband is in the United States has a live-in partner, with who she has a child, a baby girl born last March at City Hospital.)

An pakiana:

(We pose the following inquiry.)

"1. Kay ano nga na nakakag maestra man ini hiya nga dapat modelo man ini hiya ha mga maestra ug estudyante. Duduha iton iya asawa, kasal ha una ngan may komunikasyon pa tapos iba iton kalungon. Di ba ito immoral kon pagbasihan an balaod kon diri aksiyonan? Salit amo nga nagreklamo kami para kamo ha baro.

(1. Why is it that she is allowed to continue teaching, when she should be a model to her co-teachers and students? She is living with another man, when she is still married to her first husband, with whom she still maintains communication. It is not considered an immoral act and contrary to existing rules and regulations on government service? When will said laws be implemented if it will not be acted upon? This is the reason why we filed this complaint, so you will come to know.

"2. Iton naato hin principal di ba ito insubordination?"

(2. It is not that the act of going against the Principal of the School considered Insubordination?)

"3. Ano iton maupay nga paagi basi ito ma transfer o matanggal kay waray na dignidad iton eskwelahan. Gusto namon nga kamo iton mag aksiyon kay kamo la iton tama nga agencia nga kakadtoan.

(3. What is the best way that we can do so that this teacher will be transferred or dismissed from the service because the dignity of our school has been affected. We want that it is your agency that will act on this complaint, as it is the appropriate one.)

"Iton ngaran hini amo hi Aniceta B. Lacsamana. Lacsamana an apelyedo han una nga asawa, Mobilla iton iya ikaduha.

(The name of the teacher is Aniceta B. Lacsamana. The surname Lacsamana is that of her first husband while the surname of her second husband is Mobilla.)

In the fact-finding investigation conducted by the CSCRO No. VIII, a prima facie case was found to exist against Lacsamana. Hence the Formal Charge.

In her Counter-Affidavit, Lacsamana alleged thus:

"1. That I got married to Rio A. Lacsamana in civil and church ceremonies on 13 July 1981;

"2. That after two years of our marriage Rio Lacsamana left for Manila without my knowledge and consent;

"3. That from the time Rio A. Lacsamana left our conjugal home he never sent any letter to

herein affiant, and that he never communicated with herein affiant for fourteen years;

"4. That on 1-20 April 1995, I went in Manila in the company of Susan Bacayo to inquire on the whereabouts of Rio Lacsamana and that we were there, I was informed by Rosemarie A. Gabriel and Oscar Velasco who are first and second-degree cousins, respectively, of my husband Rio A. Lacsamana and whom I met at BLISS, UP Diliman, Quezon City, and they informed me that my husband Rio A. Lacsamana had gone to Seattle, Washington in the United States of America where Rio A. Lacsamana died;

"5. That subsequently, I filed a petition with the Regional Trial Court of Leyte for the presumptive death of my husband Rio A. Lacsamana;

"6. That consequently, Branch 6 of the Leyte RTC rendered a decision dated 7 July 1997, machine copy of which is hereto attached as Annex "1" of this Counter Affidavit, declaring he (sic) presumptive death of Rio A. Lacsamana;

"7. That on 17 July 1997 I and Ramon Mobilla of Brgy. Sta. Rosa Barugo, Leyte were married before the Mayor of Barugo, Leyte, and hereto attached as Annex "2" is our marriage contract."

Along with the foregoing counter-affidavit, Lacsamana submitted a copy of the Decision rendered by Judge Getulio M. Francisco, Presiding Judge of Branch 6- Regional Trial Court, Eight Judicial Region, Tacloban City, dated July 7, 1997, in the case docketed as Spl. Proc. Case No. 96-11-76 (**In Re Petition for Declaration of Presumptive Death of Rio Lacsamana, Aniceta Bere-Lacsamana, Petitioner**), which reads in part, as follows:

"This is a petition based on Article 41 of the Family Code which is subject to summary hearing for purposes of allowing the present spouse to remarry.

"From the allegations in the petition and the testimony of petitioner, it is the finding of this Court that Rio Lacsamana and the Petitioner Aniceta Bere-Lacsamana were married on

July 13, 1981 the marriage being solemnized by Mayor Tiu and the religious confirmation was made by Msgr. Estanislao Abarca. They stayed in Barugo, Leyte for about three years after their marriage. After about three years of living together Rio Lacsamana left the conjugal home for Manila without the knowledge of herein petitioner. The petitioner went to Manila and looked for her husband in different places specifically in his last known address but her husband was nowhere to be found. She inquired from the friends of her husband who could not tell her as to the whereabouts of Rio Lacsamana. The petitioner suffered the pains of being alone, abandoned by her husband without any valid reason at all. This situation lasted for fourteen (14) years and the petitioner, the present spouse entertained a well ground (sic) belief that her husband Rio Lacsamana is already dead, hence she filed this petition based on Article 41 of the Family Code.

"As gathered from the testimony of the petitioner, aside from her desire to protect (sic) her paraphernal property the petition would also legally define some painful uncertainties of her life and allow her to remarry should there be a possibility to do so. The period of fourteen (14) years without the husband to share with the petitioner in all her problems in the household is more than enough to allow the petitioner to look back her past which may be a lesson to her life and be allowed if God wills it to be (sic) given another chance to define her life as a wife and as a mother, if there is any opportunity.

"WHEREFORE, finding the petition to be well-taken, and based on Article 41 of the New Family Code, RIO LACSAMANA, husband of the herein petitioner is hereby declared presumptively dead.

Article 41 of the Family code reads, as follows:

"Article 41. A marriage contracted by any person during the subsistence of a previous marriage shall be null and void, unless before the celebration of the subsequent marriage,

the prior spouse had been absent for four consecutive years and the spouse present had a well-founded belief that the absent spouse was already dead. In case of disappearance where there is danger of death under the circumstances set forth in the provisions of Article 391 of the Civil Code, an absence of only two years shall be sufficient.

"For purposes of contracting the subsequent marriage under the preceding paragraph, the spouse present must institute a summary proceeding as provided for in this Code for the declaration of the presumptive death of the absentee, without prejudice to the effect of reappearance of the absent spouse."

During the pre-hearing conference, the prosecutor moved for the submission of the instant case for resolution. This is in view of the aforementioned Decision of the Regional Trial Court in favor of Lacsamana. Although Atty. Aurelio Mendoza, counsel for the respondent, concurred to said manifestation, he requested that he be given an opportunity to file a memorandum in behalf of herein respondent. The said Memorandum, states as follows:

X X X

"FACTS OF THE CASE

"Respondent Aniceta Lacsamana Mobilla and certain Rio Lacsamana from Luzon were married in civil and church ceremonies on 13 July 1981 in Barugo, Leyte.

"After two years of living together, Rio Lacsamana left their conjugal home for Manila without the knowledge of respondent Aniceta Lacsamana. The latter went to Manila searching for her husband in different places until she learned that her husband left for Seattle, Washington in USA where he allegedly died.

"That due to the long and continuous absence of Rio Lacsamana for 14 years, respondent filed a petition before the Regional Trial Court of Leyte for Declaration of Presumptive Death of Rio Lacsamana.

"Finding the petition to be sufficient in form and substance and after trial, the RTC of Leyte declared Rio Lacsamana presumptively dead pursuant to Article 41 of the New Family Code of the Philippines. On 17 July 1997 respondent and Ramon Mobilla were married before the Mayor of Barugo, Leyte as evidenced by a Marriage Contract extant in the records of the case. Four months before their marriage, a daughter by the name of Mhonette Grace Bere was born to said spouses.

X X X

"Respondent was a helpless and abandoned woman for 14 years by an irresponsible husband from Luzon. She suffered the excruciating pain of loneliness for being alone abandoned as she by her spouse without any valid reason whatsoever.

"The countervailing affidavit of Barangay Chairman Simeon Binay should be given due credence when he asserted unequivocally that the common-law relationship between respondent and Ramon Mobilla before their civil marriage on 17 July 1997 never scandalized the residents of Sta. Rosa, Barugo, Leyte. Lacsamana was not even known as the husband of respondent for he left his wife 14 years ago and has not been heard of.

"In fact, Rio Lacsamana was declared presumptively dead by the RTC of Leyte, thus, enabling respondent "to legally define some painful uncertainties of her life and allow her to remarry" (page 2, Decision, Spl. Proc. Case No. 96-11-76 found on records).

"As the court aptly stayed: "The period of 14 years without the husband to share with the petitioner all her problems in the household is more than enough to allow petitioner to look back her past which maybe a lesson to her life and be allowed if God wills is to be given another chance to define her life as a wife and as a mother, if there is any opportunity."

"Moreover, the conduct of respondent cannot be categorized as immoral because she acted in good faith with the firm belief that her husband is already dead as subsequently confirmed by the Regional Trial Court pursuant to Article 14 of the Family Code and in consonance with an earlier ruling of the Supreme Court in the case of Jones vs. Hortinguela (64 Phil. 179).

"The heart of the issue presented against respondent is her birth of a baby girl on March 18, 1996 at the Tacloban City Hospital.

"The law now recognizes and legitimizes a child conceived and born outside of wedlock upon subsequent marriage of their parents.

*"Art. 178 of the Family Code provides: **"Legitimation shall take place by a subsequent valid remarriage between parents."***

and

*"Art. 179 of the Family Code provides: **"Legitimated children shall enjoy the same rights as legitimate children."***

"But the law firmly strengthens the moral issues on the birth of the questioned child under Art. 180 of the Family Code when it provides that:

"The effect of legitimation shall retroact to the time of the child's birth.

-

". . . For legal purposes, the child was born a legitimate child, a morally upright child and not a scandalous offspring.

"The marriage performed by respondent to Ramon Mobilla erases any stigma of a fictional disgraceful act on the part of the parents including the birth of the child before marriage as provided by the Family Code.

X X X

"The more recent law (Family Code which took effect on August 4, 1988 erases immoral issues on a legitimated child due subsequent marriage of the parents . . .

"The present charge against respondent is based on Executive Order No. 292 issued in 1987.

*"Clearly, the Family Code in point of time prevails, as said law provides in Title XII that all laws, decrees, executive orders, proclamation, rules and regulations as part thereof, inconsistent herewith are hereby **REPEALED**.*

During the conduct of the investigation, the prosecution presented, among others, the following documentary evidence:

1. Letter Complaint signed by "Parents Teachers Association"
2. Letter-Indorsement of Assistant Schools Division Superintendent Catalina G. Daffon of DECS, Division of Leyte dated October 8, 1996;
3. Report of Investigation conducted by Dr. Manuel C. Novilla and Ms. Gina P. Diloy, both of DECS, Division of Leyte dated August 6, 1996;
4. Letter of Dr. Evelia A. Ligan, Chief of Hospital, Tacloban City Hospital, Tacloban City to Director

Dalisay C. Sevilla dated January 7, 1997;

5. Certified Photocopy of Admission and Discharge Record of Ms. Aniceta Mobilla;

6. Baptismal Certificate of Mhonette Grace Bere issued by Rev. Fr. Ricardo D. Mendoza, Parish Priest of St. Joseph Church, Barugo, Leyte;

7. Affidavit of Manuel Novilla dated February 19, 1997; and

8. Personal Data Sheet of Ms. Aniceta B. Lacsamana dated June 24, 1996.

For her part, respondent Lacsamana submitted the following pieces of evidence:

1. Counter-Affidavit of Aniceta Lacsamana dated June 15, 1998;

2. Decision of Judge Getulio M. Francisco, Branch 6, Regional Trial Court in Special Proceedings Case No. 96-1176 promulgated on July 7, 1997;

3. Certificate of Marriage of Ramon Mobilla and Aniceta Bere celebrated on July 17, 1997;

4. Affidavit of Simeon Binay dated June 15, 1998; and

5. Affidavit of Susan Bacayo dated June 15, 1998.

The Commission has defined Disgraceful and Immoral Conduct as an act which violates the basic norm of decency, morality and decorum abhorred and condemned by the society. It is that conduct which is willful, flagrant or shameless, and which shows a moral indifference to the opinions of the good and respectable members of the community.

On the other hand, Conduct Prejudicial to the Best Interest of the Service pertains to an act which resulted to an undue prejudice to the best interest of the service and the continued perpetuation of which

would create disorder in the stability of the bureaucracy

The Family Code of the Philippines has described marriage "*as a special contract permanent union between a man and a woman entered into in accordance with the law for the establishment of conjugal and family life. It is the foundation of the family and an inviolable social institution whose nature, consequences, and incidents are governed by law and not subject to stipulation xxx.*" Marriage creates a social status or relation between the contracting parties, in which not only they but the state as well are interested and involves a personal union of those participating in it of a character unknown to any other human relations. Indeed, marriage is not only sanctioned by codified laws and statutes but as well as those written only the hearts and conscience of the community. Thus, the act of having a child with a man other than the spouse, while there is still a validly existing union between a man and his wife, is an act which violates the basic norm of decency and morality.

The question now arises as to whether the act of the respondent of having a baby fathered by a man other than her husband, is constitutive of the offenses of Disgraceful and Immoral Conduct and Conduct Prejudicial to the Best Interest of the Service.

A close scrutiny of the records would show that although Lacsamana was married to her husband, Rio Lacsamana, on July 13, 1981, their physical union only lasted for a couple of years for the latter unilaterally decided to leave the conjugal dwelling and abandoned his responsibilities as a husband and a father to his young family. That for a period of fourteen (14) years, Lacsamana tried to locate the whereabouts of her husband. However, the same served futile, until such a time that she learned that her husband had allegedly died in the United States.

In the process of waiting for any news about her husband and fending for herself and her children, Lacsamana met another man. This relationship produced an offspring on March 16, 1996.

Nonetheless, it appears from the records that respondent did not intend to continue the relationship sans any legal color. Hence, a Petition for Declaration of the Presumptive Death of her husband (Rio Lacsamana) was filed before the Regional Trial Court (RTC) of Tacloban City, Branch 6-Eight (8th)

Judicial Region, docketed as Special Proceedings Case No. 96-11-76. Eventually, the RTC decided in her favor and declared that Rio Lacsamana is presumptively dead. Having been vested the right to re-marry, respondent married her paramour, Ramon Mobilla on July 17, 1997.

There is no question that being a part of the teaching profession, respondent carries with her the responsibility of not only teaching her wards but as well as living a decent and respectable life. From time immemorial, teachers have been placed in a pedestal and treated or perceived as role models in the community (though given a meager income). Thus, the commission of any misdemeanor would result in the condemnation/prosecution of the person concerned.

In the instant case, the Commission believes, however, that the respondent should be spared from any form of oppression caused by the birth of her child and her relationship with Mobilla.

Marriage is one of the basic civil rights of man, fundamental to his very existence and survival. Whether under the common law or civil law, upon marriage, the husband and the wife become one single moral, spiritual and social being, not only for the purpose of procreation but also for the purpose of mutual help and protection physically, morally and materially. Fourteen (14) years of abandonment by her husband is enough proof that Lacsamana was deprived of her right to enjoy her marital bliss and blessedness ordained in her marital vow. All she had is a life of anguish, both a father and mother to her young children and reared them single-handedly in the way responsible parents would do to their children.

Although the act of bearing a child outside a lawful marriage is frowned upon, respondent cannot be made to perpetually suffer the same when the incidents surrounding her case is not of her own doing. She did not abandon her duties and responsibilities as part of the union she forged with Rio Lacsamana. Instead, she was the one abandoned and left to look after herself. Further, she tried to rectify whatever wrong she had committed by removing all the legal impediments in her married life in accordance with law in order for her to be given a chance to finally enjoy the full benefits of marriage.

Having taken steps to correct whatever harm she had committed against the society, respondent is deemed to have observed the norms of conduct expected of her as a teacher and public servant.

WHEREFORE, Aniceta B. Lacsamana (now Aniceta B. Mobilla) is hereby exonerated of the charges of Disgraceful and Immoral Conduct and Conduct Prejudicial to the Best Interest of the Service.

Quezon City, December 02, 1999

(Sgd.) CORAZON ALMA G. DE LEON
Chairman

(Sgd.) THELMA P. GAMINDE
Commissioner

DID NOT PARTICIPATE
JOSE F. ERESTAIN, JR.
Commissioner

Attested by:

(Sgd.) ARIEL G. RONQUILLO
Director III