

## CONRADO S. ACUÑA, COMPLAINANT, VS. ISIDRO DUNCA AND TIMOTEO DAVID, RESPONDENTS.

*Adm. Case No. 138. May 31, 1961*

Ponente: NATIVIDAD, J.

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### NATIVIDAD, J.:

This is an administrative case instituted by the complainant, Conrado S. Acuña, to disbar the respondents, Timoteo David and Isidro Dunca, and to further secure the cancellation of the latter's commission as notary public on the ground that the first had prepared and the second had notarized an affidavit, Annex A to the complaint, purporting to be that of complainant's daughter, Adoracion Acuña, wherein she appears to have stated that she was determined to marry a man whom she knew to be already married to another woman.

We gave due course to the complaint and required the respondents to answer the same within ten days from notice. After respondents' answer had been filed, we referred the matter to the Solicitor General for investigation and recommendation. While the case was pending in the Office of the Solicitor General, the complainant filed a motion asking that the charge be dismissed, on the ground that its filing was due to a mere misunderstanding between his daughter Adoracion Acuña and the respondents, and that he is no longer interested in the prosecution of the case. Based on this motion, the Solicitor General recommended dismissal of the charge. This Court, however, in a resolution dated January 29, 1957, denied the Solicitor General's motion and ordered that the investigation of the charge proceed.

The case was properly investigated in the Office of the Solicitor General. Notice of the hearing was sent to all the parties concerned, and on the date set therefor the complainant and his daughter Adoracion Acuña and the respondents appeared. The complainant, however, confined himself to explaining why he filed the motion to withdraw his complaint, refused to make any further statement to substantiate its allegations and once more stated that he was no longer interested in the prosecution of the case. Adoracion Acuña, in turn, likewise refused to make any statement in substantiation of the allegations of her father's complaint, stating that she was already satisfied with the result of the bigamy charge filed against her and her co-accused Alfonso Eugenio of which they were both acquitted.

From the testimony of the respondents, the following facts appear proven: In the year 1947, Alfonso Eugenio and the respondents Isidro Dunca and Timoteo David had separate offices at the Chaco Building, Manila. Complainant's daughter Adoracion Acuña was at that time employed as secretary to respondent David. She fell in love with and became deeply intimate with Eugenio, who despite his marriage to Marta Cruz in 1932, was willing to marry Adoracion provided she subscribed to a written statement professing her knowledge of his marital status. Such an affidavit, he told her, would prevent her from charging him with bigamy. Desperately wanting a marriage certificate with which to appease her parents' wrath over her misdeeds, Adoracion sought the help of her employer. Respondent David, at first, refused to prepare the requested statement, and explained to her that such an affidavit would be immoral and illegal. Because however of Adoracion's insistent pleas and explanations that it was the only way by which she could be married to Eugenio and thus redeem her honor, finally respondent David

acceded to Adoracion's request and on May 31, 1947, he drafted the affidavit Annex A, which reads as follows:

"REPUBLIC OF THE PHILIPPINES  
}SS

IN THE CITY OF MANILA

AFFIDAVIT

"I, ADORACION S. ACUÑA, of age, single and residing at 1415 Miguelin, Manila, after having been duly sworn to in accordance with law, depose and say:

"That I know personally the status of ALFONSO H. EUGENIO, he being married in lawful wedlock with one Marta Cruz of Pasig, Rizal, with three children begotten of said marriage;

"That I am to contract marriage with the said ALFONSO H. EUGENIO in spite of my personal knowledge of the above marriage so as to show to society of our good intentions and further to hide my misdeeds from my parents;

"That I am executing this foregoing statements free from any force, duress or any intimidation from any person whosoever and that the same is my voluntary acts and deed;

"IN TRUTH OF ALL THE FOREGOING, I have hereunto affixed my hand below on this 31st day of May, 1947, in the City of Manila, Philippines.

(Sgd.) A. S. ACUÑA

Affiant

"Subscribed and sworn to before me on this 4th day of June, 1947, in the City of Manila, the affiant exhibiting her residence certificate No. A-2727772 issued in Manila, on May 27, 1947.

(Sgd.) ISIDRO T. DUNCA

Notary Public

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Adoracion signed this affidavit on that same date, and on that very day she and Eugenio were married. Four days thereafter, or on June 4, 1947, evidently upon the indication of Eugenio, Adoracion, accompanied by respondent David, approached respondent Dunca and asked him to notarize the affidavit. The latter acceded to the request.

Sometime in the year 1952, the complainant Conrado S. Acuña, evidently informed of the civil status of Alfonso Eugenio, filed a charge of bigamy against the latter. This sparked off a number of countercharges. Marta Cruz accused Adoracion Acuña and Alfonso Eugenio of bigamy; Eugenio filed against Adoracion Acuña a complaint for perjury. It developed, however, that Eugenio had divorced his first wife Marta Cruz during the Japanese occupation. As a consequence, Eugenio and Adoracion Acuña were both acquitted of the charge of bigamy.

That the affidavit Annex A is immoral is not disputed; and it is admitted fact that it was prepared for the signature of Adoracion Acuña by respondent Timoteo David and notarized by respondent Isidro Dunca. Their only explanation is that they did not have the courage to deny help to Adoracion Acuña who was an employee of the

former and a friend of the latter. It is, therefore, clear that the respondents, who are both members of the bar, have committed disgraceful acts which constitute gross misconduct in office and a violation of their oath of office as attorneys at law, for which they may be disciplined by this Court. Rule 127, sec. 25, Rules of Court; *Panganiban vs. Borromeo*, 58 Phil., 367. Upon the facts, however, we agree with the Solicitor General that they are entitled to a lenient treatment. We have no doubt that they committed the immoral acts charged, not for monetary considerations, but only out of pure generosity.

Wherefore, following precedents (*Panganiban vs. Borromeo*, *supra*), it is hereby decreed that the respondents, Attorneys Isidro Dunca and Timoteo David, be, as they are hereby, severely censured, with admonition that a repetition of the same or similar acts in the future will be dealt with more severely.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Paredes, Dizon and De Leon, JJ., concur.

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