

MERCEDES H. SOBERANO, COMPLAINANT VS. EUGENIO V. VILLANUEVA, RESPONDENT.*Adm. Case No. 215. December 29, 1962*

Ponente: CONCEPCION, J.

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On March 12, 1955, complainant Mercedes H. Soberano filed with this Court a petition alleging that, after inducing her to take part, in December 1951, in a fake wedding under the belief, on her part, that it was a genuine and valid one, respondent Eugenio V. Villanueva cohabited with her and later lived with her as husband and wife, as a consequence of which she bore him two (2) children, and that, subsequently, he abandoned her and their children, and praying, therefore, that he be disbarred. Soon thereafter, she filed a communication, dated March 21, asking that her petition be "shelved"; that no action be taken thereon "until after her mother have arrived and decided on the matter"; and that meanwhile "no person", not even respondent, be informed of said petition. This communication was followed by another, dated March 22, 1955, stating that complainant's mother had just arrived and that she (the mother) had "decided that the case must go on". On March 29, 1955, and, also, the next day, this Court received identical handwritten motions of the complainant, dated March 28, 1955, stating that the filing of said petition was "not sincerely" her "own wish" and had been "prompted by ill-advice unduly influencing" her, and "finally withdrawing" her complaint against respondent Villanueva. However, on April 2, 1955, complainant filed another "manifestation" praying that said motion for withdrawal of her petition be denied, respondent having secured the motion "by means of threats and intimidation".

In his answer respondent denied the main allegations of the petition, particularly those referring to the allegedly simulated marriage and to his having lived with complainant as husband and wife, although he admitted having been intimate with her. Upon investigation, the Solicitor General, to whom the matter was referred, filed the corresponding complaint for disbarment, which is a substantial reproduction of complainant's petition for disbarment. In his answer to this complaint, respondent reiterated the denials and allegations contained in his answer to said petition, and, in addition thereto, he set up "special defenses" as well as expressed the wish to present further evidence, which he was authorized to introduce and did introduce before an officer of this Court. After due hearing and the submission of memoranda, the matter was deemed submitted for decision.

The first question for determination is whether or not there has been a simulated marriage between the parties herein. The only evidence thereon is complainant's testimony. Although she introduced, by way of corroboration, the testimony of one Beatriz Juada, the latter merely claimed to have seen a printed form of marriage contract, with the names of the complainant and the respondent typewritten at the bottom thereof. Beatriz did not even notice whether or not there were signatures at the bottom of said instrument.

Upon the other hand, complainant's behavior belies her claim to the effect that, believing, in view of the alleged marriage ceremony in December 1951, that responded was her husband, she consented, to cohabit with him, and later lived with him as his lawful wedded wife. Indeed, in her letter (Exhibit 16) to respondent, dated January 23, 1955—or over three (3) years after the aforementioned ceremony—she reminded him of his unfulfilled promise to

marry her after he passed the bar examinations in 1954, thus leaving no room for doubt that she did not consider him as her husband and that there had been no fake wedding in 1951. Again, her letters to him, Exhibits 1, 26, 2, 3, 6 and 7, dated, respectively, July 19, and September 6, 10 and 12, 1950, and February 24, 1951, made reference to their trysts in hotels, to her delayed menstruation, to the possibility of her being in the family way and to the need of seeing a physician in connection therewith, and, accordingly, reveal clearly that intimate relations had existed between them even prior to December, 1951. What is more, her letter to him, Exhibit 9, dated October 1, 1951, contains expressions of such a highly sensual, tantalizing and vulgar nature as to render them unquotable and to impart the firm conviction that they must have had sexual intercourse so often that she felt no restraint whatsoever in writing him with impudicity.

In short, having possessed her at pleasure, without the benefit of clergy, it is most incredible that respondent would subsequently resort to a simulated wedding in order to cohabit with her. It is noteworthy, in this connection that September, 1953, she went to the National Bureau of Investigation and expressed the wish to file a complaint against respondent he having refused to acknowledge his offspring and failed to support her. When the Assistant Director of said office inquired whether respondent and she were married, her answer was in the negative. It is clear, therefore, that the alleged fake marriage was purely a figment of her imagination, without any factual basis whatsoever.

The next question is whether the extra-marital relations between the parties, before respondent's admission to the Bar, warrant disciplinary action against him. The rule on this point is set forth in the American Jurisprudence (Vol. 5, p. 416) from which we quote:

"An attorney may be disbarred or suspended for misconduct committed his admission to the Bar, and this notwithstanding that his certificate to practice was issued after a Board of Law Examiners, as required by law passed its judgment upon his moral character and standing. In order, however, to justify disbarment for breach of good faith committed before admission, the transaction or act must be so corrupt and false as to constitute a criminal act or so unprincipled as to be reprehensible to a high degree."

Intimacy between a man and a woman who are not married, especially in the light of the circumstances attending this case, is neither so corrupt as to constitute a criminal act nor so unprincipled as to warrant disbarment or disciplinary action against the man as a member of the Bar. This is particularly true in the case under consideration, for no less than the Executive Judge of the Court of First Instance of Negros Occidental, where respondent practices his profession, as well as Dean Jeremias Montemayor of the College of Law of the Ateneo de Manila, and the Hon. Guillermo Santos, formerly Chairman of the Agricultural Tenancy Commission, then Presiding Judge of the Court of Agrarian Relations and Judge of the Court of First Instance of Manila have vouched for good moral character of said respondent as a worthy and distinguished member of the Bar, attested by his subsequent election as president of the Negros Occidental Bar Association. Neither must we overlook the circumstance that, in view of the facts adverted to above and others revealed by the record—which, for obvious reasons, need not be set forth in this decision—it was rather difficult for respondent to marry complainant herein.

One other point should be disposed of. It is the allegation in complainant's "manifestation" of April 2, 1955, to the effect that her motion, dated March 28, 1955—finally withdrawing her petition for disbarment of respondent herein because said petition did "not sincerely" reflect her "own wish" and had been "prompted by ill-advice unduly influencing her"—had been secured by respondent through "threat and intimidation", and praying, therefore, that said motion be denied. Suffice it to say that the only proof in support of said "manifestation" is complainant's uncorroborated testimony, which is contradicted by respondent's testimony and deserves no credence, not only for the reasons pointed out above, but also, because said motion was twice handwritten in its entirety by complainant herein, and her penmanship thereon is as good and firm as that of her aforementioned letters, admittedly made

without any semblance of duress thus showing that there was no "threat and intimidation" when she prepared said motion.

In the light of the peculiar conditions obtaining in this case, the complaint against respondent herein is accordingly dismissed. It is so ordered.

Padilla, Bautista Angelo, Labrador, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

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