

RICARDA GABRIEL DE BUMANGLAG, COMPLAINANT, VS. ATTY. ESTEBAN T. BUMANGLAG, RESPONDENT.

Adm. Case No. 188. September 24, 1973

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

The Court finds that respondent has unquestionably failed to come up to the high standards of morality and integrity required of a member of the Bar. Since the continued possession of good moral character is a requisite condition for the rightful continuance in the practice of law and there has been a showing of its loss and of gross immoral conduct on the part of respondent, the Court orders respondent's suspension from the practice of law for a period of two (2) years.

The complaint to disbar respondent for immorality and deception was filed on September 16, 1954, alleging that for fifteen (15) years (from 1938 to 1953), respondent, being then single and taking advantage of complainant's trust and confidence, succeeded in having her live with him as a common-law wife in San Nicolas, Ilocos Norte and Manila on the false promise of marriage; that four (4) children were begotten to this relationship; that in 1953, respondent abandoned her and the children and took up permanent residence in Jolo, Sulu, where since 1947 he practiced law (and occupied the position of municipal judge first of Talipao and Maimbung, Sulu (February, 1947 to April 23, 1948) and later, of Pangutaran, Sulu (October 23, 1963 to November 24, 1972); that in January, 1954, respondent married Alicia Redoble, yet wired complainant to meet him in Manila and cohabited with her from February 25 to March 7, 1954 without informing her of his having already married another woman; and that subsequently, respondent abandoned her and stopped all regular support for her and his four children with her.

After respondent's answer, the Court referred on November 5, 1954 the complaint to the Solicitor-General for investigation, report and recommendation. The provincial fiscal of Ilocos Norte to whom the investigation had been indorsed by the Solicitor-General reported that he conducted the investigation ex-parte because respondent was not heard from despite notice sent to him at his known residence in Jolo, Sulu and filed his formal report of July 25, 1955 that the allegations of the complainant had been substantiated, enclosing therewith the transcript of his investigation.

The Solicitor-General, to afford respondent still another day in court initially set the case for hearing on September 14, 1964 but the hearings were postponed for a number of times at the instance of either or both of the parties, with the respondent failing to appear as he was then stationed as justice of the peace at Pangutaran, Sulu.

The Solicitor-General then forwarded the records to the provincial fiscal of Sulu for further investigation and primarily to hear respondent's side, but again respondent failed to appear before said investigating fiscal, claiming sickness. On November 22, 1966, the said fiscal finally returned the case to the Solicitor General, in view of respondent's manifestation for dismissal of the complaint with complainant having filed an affidavit of desistance on February 21, 1966.

On November 9, 1972, the Solicitor General filed his report finding sufficient ground for administrative action

and the Court per its resolution of November 22, 1972 required the Solicitor General to file the corresponding formal complaint under Rule 139, section 5, which the Court reiterated as per its resolution of January 29, 1973, notwithstanding the complainant's reluctance to testify pursuant to her affidavit of retraction or desistance of February 21, 1966 for "loss of interest."

The Solicitor-General's complaint filed on February 15, 1973 recites the relevant facts as substantiated by the evidence adduced in his investigation, as follows:

"1.

Complainant is of legal age, divorcee, with residence at 834 Alex, Lealtad, Sampaloc, Manila. Respondent is, likewise, of legal age, a duly enrolled member of the Philippine Bar, and is residing in Pangutaran, Sulu, where he may be served with all necessary processes of this Court;

"2.

On May 31, 1931, complainant married Pedro Ortega, such marriage having lasted from 1931 up to July 21, 1944, when it was dissolved through a divorce granted to the parties. A copy of the decree of divorce is attached hereto and made an integral part hereof as Annex A;

"3.

Respondent, who has known complainant since 1935, courted her on or about that year, and had sustained with her a more or less public illicit relationship beginning from 1938 up to July 1944. Out of this relationship four (4) children were begotten, namely, Quintin Esteban, born on September 25, 1940; Mariquita, born July 12, 1942; Eugenio Nieto, born July 20, 1944; and Elvira Perla, born January 28, 1947, all surnamed Gabriel, as evidenced by their birth certificates, attached hereto and made integral parts hereof as Annexes B, B-1, B-2 and B-3,[1] respectively;

"4.

After her divorce in 1944, complainant pleaded with respondent to legalize their relationship, but to no avail because the latter managed time and again to put her off;

"5.

From the time they began living together as husband and wife, respondent had supported his family with the help of complainant's father. After the latter died in 1945, respondent continued to support the family;

"6.

In 1953, respondent abandoned his family and left for Jolo, Sulu, where he has since then stayed permanently and practiced law. In January 1954, he married Alicia Redoble, and eventually stopped giving support to his children by complainant;

"7.

Sometime in February 1954 respondent went to Manila, wiring complainant beforehand to meet him at Calle Anacleto, Sta. Cruz, Manila. Notwithstanding his marital status, respondent brought her to a place in Kamuning, Quezon City, where they spent a week-long tryst; xxx xxx"

The Court finds that the foregoing facts were duly established at the ex-parte investigation conducted on July 20, 1955 by the Ilocos Norte provincial fiscal[2] as well as at the hearing conducted by Solicitor Celso Ylagan on September 4, 1967 in Manila, when for the first time respondent was present and complainant reiterated her testimony as to her 15-year relationship with respondent and the four children born to them. Although respondent manifested in the course of the hearing that complainant was there "to affirm her affidavit of retraction or desistance" and requested that "(it) be the only subject matter" taken up, Solicitor Ylagan denied the request expressing his belief "that this case should be resolved on the basis of such facts as are relevant." In overruling respondent's objections as "immaterial, impertinent and irrelevant" to the investigating solicitor's questions to complainant establishing the facts of her long relationship with respondent, their "living together (with) four children" as common-law spouses and his having provided them with regular support, Solicitor Ylagan correctly ruled that "the conduct of a lawyer, as a member of the bar, is determined by his actuations with regards to his relations with his family, the community, and the duly constituted authorities, including the discharge by him of his duties towards those who by law are entitled to his support, protection, and only (sic) recognition. One is responsible for the consequences of his acts, especially where he is a member of the bar whose respect for the law should be more stringent than that of an ordinary citizen."

What was noteworthy at the hearing is that respondent made no denial whatever of the material, pertinent and relevant facts reaffirmed by complainant which constituted the basis of her complaint against respondent, albeit she likewise reaffirmed her wish to desist from her complaint for alleged loss of interest claiming that she had been induced to file the same by Atty. Conrado Rubio (deceased) who bore a grudge against respondent. Indeed, respondent was hardly in a position to make any denial when even after his marriage to Alicia Redoble which he had kept secret from complainant, he had written her on May 25, 1954 asking for her help "not only for our sake but for the future of our Quintin, Aleli, Nieto and our sweet and lovely Elvira." [3]

The Solicitor General therefore submitted in his complaint that "(S)uch actuations of respondent, as aforeshown, do not only constitute gross misconduct and immorality offending public policy, morals, decency, and good customs, and are against the law, but evince also a perversity of character that renders him an unfit member of the Bar."

Respondent in his answer dated March 15, 1973 demonstrated a complete lack of candor towards the Court, entering a general denial of the specific allegations of the complaint and pleading "no knowledge or information to form a belief as to the truthfulness and veracity of said allegations." He cited complainant's desistance and prayed "that if the above answer is not enough to dismiss the case, the same should be set for trial immediately so that respondent can clear his name."

In its resolution of April 24, 1973, the Court accordingly "noted from respondent's answer that the same consists of a general denial of the specific allegations of the Solicitor General's complaint for alleged lack of sufficient knowledge and information on his part, even as to matters previously admitted by him at the investigation conducted by the Solicitor General, e. g. the fact of four children born out of his 'more or less public illicit relationship' with complainant from 1938 to July 1944. In view thereof, the Court RESOLVED, with reference to respondent's general prayer for immediate trial, to require respondent to submit within ten (10) days from notice a specific statement of the particular matters on which he wishes to present additional evidence besides that already presented at the Solicitor General's investigation. (Rule 139, sections 5, 6 and 7)."

Respondent having failed to file a statement of particulars, the Court set the case for hearing on August 27, 1973 and required the personal appearance of both parties. Respondent did file a belated manifestation dated June 18, 1973 joined by complainant wherein he did not help his cause any in pleading that "it is true respondent's answer consists of a general denial of the specific allegation of the Solicitor General because it is but natural and usually used by defendants and respondents in ordinary cases and it is the burden of proof on the part of the complainant to prove his (sic) allegations in the complaint," and asking, without complying with the Court's requirement that he state the particular matters on which he wished to present additional evidence "that the records be returned to the Solicitor-General's Office for trial of the case." Neither party appeared at the scheduled hearing of August 27, 1973 and the Court then declared the case submitted for decision.

Respondent has unquestionably failed to come up to the high standards of morality and integrity expected and required of a member of the Bar. It is elementary that the practice of law is not an absolute right and the continued possession of good moral character is a requisite condition for the rightful continuance in the practice of law. A showing of its loss and of gross immoral conduct on the part of a lawyer as in the present case requires suspension or disbarment, as provided by Rule 138, section 27.[4]

Considering altogether the pertinent facts and circumstances, a majority of the Court has voted to impose upon respondent a two-year suspension from the practice of law. In thus acting in a spirit of liberality (notwithstanding respondent's unworthy conduct of having dragged out this case for nineteen years) and in imposing this lighter penalty than that of disbarment imposed by the Court in previous cases of gross immoral conduct[5] the majority took into account the equivocal conduct of complainant, the fact that she herself was married to another and not free to marry respondent at the time her illicit relationship with respondent started in 1938 (when respondent had not yet been admitted to the Bar) and for many years after that until she secured in July 1944 a divorce decree from her husband Pedro Ortega from the Ilocos Norte court of first instance, and her plea of June 14, 1973 with the Court "(T)hat the parents of the above named respondent had shared much besides the respondent's salary allowance in the expenses of the education of Quintin, Mariquita, Nieto and Elvira who by now are all married and professionals and earning good income to support their families."

The Court did not take into account in determining his penalty his far from exemplary record as justice of the peace of the towns above-stated and for which he was the subject of numerous administrative complaints for other acts of gross misconduct in office. He was ordered removed from his first position of justice of the peace of Talipao and Maimbung, Sulu on April 23, 1948 (later reconsidered to "considered resigned" on December 28, 1953) and removed from his second position of justice of the peace of Pangutaran (to which he was appointed on October 23, 1963) with the acceptance of his resignation on November 24, 1972.

Two members of the Court, namely Justices Castro and Makasiar, voted for the disbarment of respondent, considering respondent's immorality as condemnable and deserving of the maximum penalty since he occupied the position of justice of the peace of Talipao and Maimbung during the period[6] and failed to keep faith with the rigid standards required of his position, as stressed by the Court in *Viojan vs. Duran*,[7] thus: "(U)ndoubtedly, respondent's immorality is condemnable. He is a Justice of the Peace and, as such, he is considered a high government official in the community of his assignment. Being in direct contact with the people thereof, he is expected to be above and beyond reproach, not only in his private, but also in his public or official conduct, dealings, and actuations. He ought to be a person of exemplary character, if not a model citizen - attributes so necessary if the citizenry are to keep faith in the proper and impartial administration of justice. By committing the immorality in question, respondent violated the trust reposed in his high office, and utterly failed to live up to the noble ideals and the strict standards of morality required of the law profession."

ACCORDINGLY, respondent is ordered suspended from the practice of law for a period of two (2) years

effective from his receipt of notice hereof.

Let copies of this decision be filed in respondent's personal record and furnished to the Integrated Bar of the Philippines. The clerk of court is directed to circularize notice of such suspension to the Court of Appeals and all courts of first instance and other courts of similar rank and all inferior courts in the province of Sulu, of which respondent is a resident.

Makalintal, Acting C.J., Zaldivar, Ruiz Castro, Fernando, Barredo, Antonio, and Esguerera, JJ., concur.
Makasiar, J., voted as stated in the opinion but was on leave at time of promulgating of this decision.

[1] The birth certificates record that the children are illegitimate children of complainant, but at the hearing of September 4, 1967 at the Solicitor-General's office it was brought out by complainant in the presence of respondent that the children were "recognized by the respondent," are "using his family name," and were regularly supported by him before he abandoned them in 1954. (at pp. 14-15 of transcript).

[2] Record, at p. 20 et seq.

[3] Exhibit B of Complaint.

[4] See *Royong vs. Oblena*, 7 SCRA 859 (1963); *Mortel vs. Aspiras*, 100 Phil. 586 (1956).

[5] *Almirez vs. Lopez*, 27 SCRA 169 (1969) and cases therein cited.

[6] From February 1947 until his removal for other gross misconduct was ordered under Presidential Adm. Order No. 53 dated April 23, 1948, which was later modified to "considered resigned without prejudice to reinstatement" under Presidential Adm. Order No. 260 dated Dec. 28, 1953.

[7] 4 SCRA 390, 395.

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