

EMERENCIANA V. REYES, PETITIONER VS. FELIPE C. WONG, RESPONDENT.

Adm. Case No. 547. January 29, 1975

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Felipe C. Wong, duly admitted in 1962 to the Bar, is sought to be disbarred for grave immorality by Emerenciana V. Reyes, who filed her sworn complaint on October 26, 1962 (pp. 1-4, rec.).

In his answer filed on December 17, 1962, respondent completely denied the charge, claiming that he and petitioner were merely friends (pp. 5-7, rec.).

On January 21, 1963, petitioner filed her reply to the answer of respondent, attaching thereto xerox copies of two letters written by respondent to her dated October 20, 1960 and December 14, 1960 (pp. 30-34, rec.) for comparison with the penmanship of the respondent in his answer sheets to the Bar questions in 1961 to disprove respondent's claim that he never wrote letters to petitioner. The aforesaid reply was forwarded to the Solicitor General, to whom the case was referred on December 28, 1962 for investigation, report and recommendation (pp. 10, 15, rec.).

After the submission of petitioner's evidence, respondent filed a motion to dismiss dated July 31, 1963, contending that in the light of the ruling of this Court in *Soberano vs. Villanueva* (Dec. 29, 1962, 6 SCRA 891-896), the evidence presented by the petitioner does not make out a case against him (pp. 67-70, 85-90, rec.). Respondent likewise filed on August 1, 1963 a motion for the cancellation of all scheduled hearings of the case until after the Court has resolved the said motion to dismiss (p. 85, rec.).

Petitioner in turn filed an opposition dated August 17, 1963 to the motion to dismiss, arguing that the *Soberano* ruling does not apply to her situation, because, unlike the complainant in said case, petitioner never doubted her marriage with respondent; and that respondent in fact wrote her numerous letters and sent her telegrams, all addressing her either as "E.R. Wong" or "Emerenciana R. Wong" (pp. 91-95, rec.).

To this opposition, respondent filed a reply dated August 28, 1963, substantially reiterating the same arguments contained in his motion to dismiss (pp. 96-100, rec.).

On June 9, 1972, then Assistant Solicitor General Jaime M. Lantin, now CFI Judge, issued an order resetting the case for hearing on June 20, 1972 (p. 58, rec.). The June 20, 1972 hearing was however postponed, and it was only on September 6, 1972 that the hearing of the case was continued but was again reset to October 18, 1972, upon motion of respondent so as to give him time to file a motion with this Court in connection with his 1963 motion to dismiss (pp. 61, 66-74, 82, rec.).

On September 13, 1972, respondent thus filed with this Court a motion reiterating his still unresolved 1963 motion to dismiss the case, adding that the Solicitor General had already reset the case for hearing; that subsequent to the filing of the present administrative case, petitioner herein filed with the Juvenile and Domestic

Relations Court of Manila a civil action against herein respondent, entitled "Emerenciana V. Reyes, plaintiff, versus Felipe C. Wong, defendant," Civil Case No. E-00454, For Recognition of Natural Children and Support; and that in the compromise agreement dated October 28, 1966 submitted in said case, respondent acknowledged that he is the father of the two daughters of petitioner and that he agreed to support these children, while petitioner in turn agreed to withdraw this administrative case against respondent, which compromise agreement was approved by the Juvenile and Domestic Relations Court on November 14, 1966 (pp. 105-108, rec.; p. 4, Report and Recommendation of the Solicitor General, p. 118, rec.).

On September 18, 1972, petitioner filed another pleading reiterating her opposition to the motion to dismiss of respondent (p. 109, rec.).

The aforesaid pleadings were referred to the Solicitor General (p. 110, rec.).

Before the Solicitor General could resolve the motion to dismiss, petitioner Emerenciana V. Reyes filed on November 21, 1972 an affidavit of desistance, requesting permission to withdraw the administrative complaint against respondent. Her affidavit, which was subscribed and sworn to before City Fiscal Manuel R. Maza of San Jose City, Nueva Ecija, stated that it would be for the good of her children that the administrative case against respondent be dismissed and terminated (p. 114, rec.; pp. 4-5, Report and Recommendation of the Solicitor General; p. 118, rec.).

Since withdrawal by a complainant in an administrative case does not ipso facto exonerate a respondent (Co. vs. Candoy, 21 SCRA 438, 442 [1967]; Mortel vs. Aspiras, 100 Phil. 586; Bolivar vs. Simbol, 16 SCRA 623, 628 [1966]) — especially so in this instant case where the withdrawal of the complainant case after she had rested her case - the Solicitor General did not act upon — petitioner's motion to withdraw; but instead proceeded to take up respondent's motion to dismiss.

With petitioner's desistance at this stage of the proceeding, and considering respondent's motion to dismiss, the question left for resolution is whether in the light of the evidence presented by petitioner, there is a prima facie case against respondent to warrant requiring respondent to present his evidence.

In his report and recommendation, the Solicitor General recommended that the present administrative case be dismissed in the light of the Soberano case (p. 118, rec.).

WE sustain the said recommendation of the Solicitor General, on the force of the Soberano ruling and on the fact that the evidence presented by the petitioner failed to disclose a case against respondent warranting disciplinary action.

As contained in the report and recommendation of the Solicitor General (pp. 1-3, 118, rec.), the evidence adduced by petitioner reveals that:

"Petitioner is a holder of the degree of Bachelor of Laws, graduating from the MLQ University in 1960 (pp. 21-22, t.s.n., May 28, 1963); in 1958 petitioner and respondent were classmates at the same university (p. 2, t.s.n., May 28, 1963); respondent began courting petitioner and finally won her love (p. 6, t.s.n., May 28, 1963); sometime in the first week of February, 1960, petitioner was requested to fill up and sign an application for marriage license (p. 4, t.s.n., May 28, 1963); later on, upon the request of respondent, petitioner also filled up and signed a marriage contract (pp. 4-5, t.s.n., May 28, 1963; pp. 38-39, t.s.n., May 31, 1963); thereafter, petitioner was shown by respondent the marriage contract, dated February 15, 1960, now allegedly signed by witnesses and the Honorable Arsenio Dizon as the solemnizing minister (pp. 4-5, t.s.n., May 28, 1963; p. 46, t.s.n., May 31, 1963); believing that petitioner was married to respondent, she went with him in hotels and had carnal knowledge with him (pp. 5-6, t.s.n., May 28, 1963); they lived together in an apartment at 1236 Isaac Peral, Manila, but moved out after some 4 months when respondent went to Zamboanga City to work at the

Bank of P.I. (pp. 6-7, t.s.n., May 28, 1963); while respondent was in Zamboanga City, petitioner gave birth to her first child on November 28, 1960 (p. 7, t.s.n., May 28, 1963); in July 1961, respondent was in Manila reviewing for the Bar Examinations which was to be held in August of that year (pp. 11-12, t.s.n., May 28, 1963); petitioner who was then in Munoz, Nueva Ecija, was called by respondent to Manila (p. 11, t.s.n., May 28, 1963); petitioner stayed at her sister's house in Pandacan where respondent used to visit her (pp. 11-13, t.s.n., May 28, 1963); after respondent took the Bar examinations, he left for Mindoro to help candidate Cesar Climaco in his senatorial campaign (pp. 13-14, t.s.n., May 28, 1963); on May 25, 1962, petitioner gave birth to her second child (p. 14, t.s.n., May 28, 1963); petitioner thereafter received news from her cousin in Zamboanga City that respondent had married someone else (p. 20, t.s.n., May 28, 1963); petitioner found out from the Local Civil Registrars of Manila and Bacoor, Cavite, that their alleged marriage was not registered (pp. 18-20, t.s.n., May 28, 1963)."

Quite clearly, petitioner's evidence discloses that petitioner voluntarily yielded to the carnal desire of respondent, with whom thereafter she freely lived as husband and wife without the benefit of marriage an illegitimate cohabitation that stemmed from love and mutual desire. In fact, in his letters to petitioner (Exhibits A, C, G, H, I, J, K, M, O, Q, R, T, U, V, W and AA), respondent manifested much concern for the health and well-being of petitioner and their Baby Sheila (p. 8, Report and Recommendation of the Solicitor General; p. 118, rec.). And in the compromise agreement embodied in the decision of the Juvenile and Domestic Relations Court in C.C. No. E-00454, respondent acknowledged that he is the father of the two natural children, Sheila Reyes Wong and Florinda (Thelma) Reyes Wong, and agreed to support them (p. 8, Report and Recommendation of the Solicitor General; p. 118, rec.). It was indeed a relationship that was devoid of deceit on the part of the respondent and a happy one until his sudden turnabout and marriage to another woman that compelled him to abandon petitioner and their children.

Petitioner's claim that she consented to live with respondent as husband and wife because she was made to believe by respondent that she was legally married to him — as she was made to sign by respondent an application for a marriage license and afterwards a marriage contract which later was shown to her complete with the alleged signatures of supposed witnesses and of a solemnizing officer allegedly in the person of no less than a member of the Supreme Court — is belied by the contents of her letter dated December 18, 1961 (Exhibit 2-H) to respondent, from which letter we can readily infer that she had knowledge of the legal infirmities of the said marriage contract. Said letter reads:

"Another thing that worry me so much is about our relationship at present. My family is in good faith about the legality of our marriage. If they'll discover the truth I don't know if what shall happen to both of us. I'm sure that they'll take some drastic action against you and I don't want this thing to happen.

"As I observed you even doubt the paternity of our children. I swear before God and before all that this children are yours. But if you don't like to recognize them as yours, nobody else can force you.

"In this situation of ours now, nobody can be blamed for it except the two of us.

"How can you expect me not to worry when in spite of our present situation we'll have another child?

"Have we not gone to the extent of committing this mistake, both of us will be happy. But now, its too late for us to repent.

"In spite of everything we can still remedy our situation if you'll only grant my request. All I want you to do is to come here before or on January in order to settle down everything smoothly." (Pp. 6-7, Report and Recommendation of the Solicitor General; p. 118, rec.).

The above-quoted portions of petitioner's letter to respondent show that petitioner was aware all the time of the nature of her relationship with respondent, foreclosing all doubts that the petitioner knowingly and freely lived

with respondent without the benefit of marriage (*Soberano vs. Villanueva*, 6 SCRA 893-894).

Furthermore, complainant was then in the fourth year in the School of Law, MLQ University. In the first year of the law course, she already knew the requisites and formalities of a valid marriage, which she took up again in Civil Law review in her senior year. Complainant could not have been so naive as to be easily deceived to believe that she was legally married to respondent, knowing fully well that no marriage ceremony was performed publicly, in the presence of witnesses and solemnizing minister, before whom the parties to the marriage are to declare that they take each other as husband and wife (Articles 55 & 57, New Civil Code). Petitioner should have realized that an Associate Justice of the Supreme Court would not have consented to taking part in the execution of a simulated or fictitious marriage contract. This circumstance alone should have put her on her guard and should have provoked her into further inquiry before submitting herself to the sexual passions of respondent, if she valued her honor and virtue as she now pretends.

Undoubtedly, the cohabitation of respondent with petitioner is immoral for lack of a valid marriage. But to be the basis of a disciplinary action, the act must not merely be immoral; it must be "grossly immoral" — "it must be so corrupt and false as to constitute a criminal act or so unprincipled as to be reprehensible to a high degree." (Section 27, Rule 138, New Rules of Court; *Soberano vs. Villanueva*, 6 SCRA 893, 895; *Mortel vs. Aspiras*, December 28, 1956, 100 Phil. 587, 591-593; *Royong vs. Oblena*, April 30, 1963, 7 SCRA 869-870; *Bolivar vs. Simbol*, April 29, 1966, 16 SCRA 623, 630; and *Quingwa vs. Puno*, February 28, 1967, 19 SCRA 439-440, 444-445). And the same must be established by clear and convincing proof, disclosing a case that is free from doubt as to compel the exercise by the Court of its disciplinary power (*Co vs. Candoy*, October 23, 1967, 21 SCRA 439, 442). Likewise, the dubious character of the act done as well as the motivation thereof must be clearly demonstrated (*Co vs. Candoy*, *supra*). The evidence adduced by petitioner lacks the quantity and quality required by the foregoing criteria.

All told, because of petitioner's active and voluntary participation in her illicit relationship with respondent, the latter's acts are not grossly immoral nor highly reprehensible. For as We have declared in *Soberano*:

"Intimacy between a man and a woman who are not married, x x x x 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 x x x" (p. 895)

It should be added that the decision of the Judge of the Juvenile and Domestic Relations Court embodied the compromise agreement between the parties herein under which respondent expressly acknowledged their two children and committed himself to support them.

WHEREFORE, this disbarment proceeding against respondent Felipe C. Wong is hereby dismissed.

Castro, (Chairman), Teehankee, Esguerra, and Muñoz Palma, JJ., concur.

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