

JOSE TOLOSA, COMPLAINANT, VS. ALFREDO CARGO, RESPONDENT.

Adm. Case No. 2385. March 08, 1989

Ponente: FELICIANO, J.

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FELICIANO, J.:

On 7 April 1982, complainant Jose Tolosa filed with the Court an Affidavit-Complaint dated 7 March 1982 seeking the disbarment of respondent District Citizens' Attorney Alfredo Cargo for immorality. Complainant claimed the respondent had been seeing his (complainant's) wife Priscilla M. Tolosa in his house and elsewhere. Complainant further alleged that in June 1981, his wife left their conjugal home and went to live with respondent at No. 45 Sisa Street, Barrio Tenejeros, Malabon, Metro Manila and that since then, has been living with respondent at that address.

Complying with an order of this Court, respondent filed a "Comment and/or Answer" dated 13 May 1982 denying the allegations of complainant. Respondent acknowledged that complainant's wife had been seeing him but that she had done so in the course of seeking advice from respondent (in view of the continuous cruelty and unwarranted marital accusations of affiant [complainant] against her), much as complainant's mother-in-law had also frequently sought the advice of respondent and of his wife and mother as to what to do about the "continuous quarrels between affiant and his wife and the beatings and physical injuries (sometimes less serious) that the latter sustained from the former." (Rollo, p. 8).

Complainant filed a Reply dated 16 June 1982 to respondent's "Comment and/or Answer" and made a number of further allegations, to wit:

- (a) That complainant's wife was not the only mistress that respondent had taken
- (b) That respondent had paid for the hospital and medical bills of complainant's wife last May 1981, and visited her at the hospital everyday;
- (c) That he had several times pressed his wife to stop seeing respondent but that she had refused to do so;
- (d) That she had acquired new household and electrical appliances where she was living although she had no means of livelihood; and
- (e) That respondent was paying for his wife's house rent.

Respondent filed a Rejoinder on 19 July 1982, denying the further allegations of complainant, and stating that he (respondent) had merely given complainant's wife the amount of P35.00 by way of financial assistance during her confinement in the hospital.

By a Resolution dated 29 July 1982, the Court referred this case to the Solicitor General for investigation, report and recommendation. The Solicitor General's office held a number of hearings which took place from 21 October 1982 until 1986, at which hearings complainant and respondent presented evidence both testimonial and documentary.

The Solicitor General summed up what complainant sought to establish in the following terms:

- "1. That respondent has been courting his wife, Priscilla (tsn, May 12, 1982, 9).
2. That he actually saw them together holding hands in 1980 in Cubao and Sto. Domingo, Quezon, City (tsn, pp. 13-15, May 12, 1983).
3. That sometime in June, 1982, his wife left their conjugal house at No. 1 Lopez Jaena Street, Galas, Quezon City, to live with respondent at No. 45 Sisa Street, Barrio Tenejeros, Malabon, Metro Manila (tsn, pp. 16-17, May 12, 1983).
4. That while Priscilla was staying there, she acquired household appliances which she could not afford to buy as she has no source of income (tsn, pp. 10-11, Sept. 10, 1985; Exh. 'M', 'N' and 'Q').
5. That when Priscilla was hospitalized in May, 1982, at the FEU Hospital, respondent paid for her expenses and took care of her (tsn. pp. 18-20, June 15, 1983). In fact, an incident between respondent and complainant took place in said hospital (tsn, pp. 5-8, Sept 20, 1983, Exhibits 'C' and 'C-1').
6. That an incident which was subject of a complaint took place involving respondent and complainant at No. 45 Sisa Street, Barrio Tenejeros, Malabon, Metro Manila (tsn, pp. 8-10, July 29, 1983 Exh. 'B', 'B-1' and 'K').
7. That again in Quezon City, incidents involving respondent and complainant were brought to the attention of the police (Exhibits 'F' and 'G'.)
8. That Complainant filed an administrative case for immorality against respondent with the CLAO, and that respondent was suspended for one year (Exhibits 'D' and 'E')." (Rollo, pp. 33-35).

Respondent's defenses were summarized by the Solicitor General in the following manner:

- "a) That Priscilla used to see respondent for advice regarding her difficult relationship with complainant; that Priscilla left complainant because she suffered maltreatment, physical injuries and public humiliation inflicted or caused by complainant;
- b) That respondent was not courting Priscilla, nor lived with her at No. 45 Sisa St., Tenejeros, Malabon, Metro Manila; that the owner of the house where Priscilla lived in Malabon was a friend and former client whom respondent visited now and then;
- c) That respondent only gave P35.00 to Priscilla in the FEU Hospital, as assistance in her medical expenses; that he reprimanded complainant for lying on the bed of Priscilla in the hospital which led to their being investigated by the security guards of the hospital;
- d) That it is not true that he was with Priscilla holding hands with her in Cubao or Sto. Domingo Church in 1980;
- e) That Priscilla bought all the appliances in her apartment at 45 Sisa Street, Tenejeros, Malabon, Metro Manila from her earnings;
- f) That it is not true that he ran after complainant and tried to stab him at No. 1 Galas St., Quezon City; that said incident was between Priscilla's brother and complainant;
- g) That it is also not true that he is always in 45 Sisa St., Tenejeros, Malabon, Metro Manila and/or he had a quarrel with complainant at 45 Sisa St., Malabon; that the quarrel was between Priscilla's brother, Edgardo Miclat, and complainant; that respondent went there only to intervene upon request of complainant's wife (see tsn, June 21, 1984)." (Rollo, pp. 35-37).

The Solicitor General then submitted the following

"FINDINGS

1. That complainant and Priscilla are spouses residing at No. 1 Lopez Jaena St., Galas, Quezon City.
2. That respondent's wife was their 'ninang' at their marriage, and they (complainant and Priscilla) considered respondent also their 'ninong'.
3. That respondent and complainant are neighbors, their residences being one house away from each other.
4. That respondent admitted that Priscilla used to see him for advice, because of her differences with complainant.
5. That Priscilla, in fact, left their conjugal house and lived at No. 45 Sisa St., Barrio Tenejeros, Malabon, Metro Manila; that the owner of the house where Priscilla lived in Malabon is a friend and former client of respondent.
6. That Priscilla indeed acquired appliances while she was staying in Malabon.
7. That incidents involving respondent and complainant had indeed happened.
8. That Priscilla returned to her mother's house later in 1983 at No. 1 Lopez Jaena St., Galas, Quezon City; but complainant was staying two or three houses away in his mother's house.
9. That complainant filed an administrative case for immorality against respondent in CLAO, where respondent was found guilty and suspended for one year." (Rollo, pp. 37-39).

In effect, the Solicitor General found that complainant's charges of immorality had not been sustained by sufficient evidence. At the same time, however, the Solicitor General found that the respondent had not been able to explain satisfactorily the following:

- "1. Respondent's failure to avoid seeing Priscilla, in spite of complainant's suspicion and/or jealousy that he was having an affair with his wife.
2. Priscilla's being able to rent an apartment in Malabon whose owner is admittedly a friend and former client of respondent.
3. Respondent's failure to avoid going to Malabon to visit his friend, in spite of his differences with complainant.
4. Respondent's failure to avoid getting involved in various incidents involving complainant and Priscilla's brothers (Exhs. 'B', 'B-1', 'F', 'G', '[G-1]' and '[I]').
5. Respondent's interest in seeing Priscilla in the evening when she was confined in the FEU Hospital, in spite again of his differences with complainant." (Rollo, pp. 39-40).

Thus, the Solicitor General concluded that respondent had failed "to properly deport himself by avoiding any possible action or behavior which may be misinterpreted by complainant, thereby causing possible trouble in the complainant's family," which behavior was "unbecoming of a lawyer and an officer of the court." (Rollo, p. 40). The Solicitor General recommended that respondent Atty. Alfredo Cargo be suspended from the practice of law for three (3) months and be severely reprimanded.

We agree with the Solicitor General that the record does not contain sufficient evidence to show that respondent had indeed been co-habiting with complainant's wife or was otherwise guilty of acts of immorality. For this very reason, we do not believe that the penalty of suspension from the practice of law may be properly imposed upon respondent.

At the same time, the Court agrees that respondent should be reprimanded for failure to comply with the rigorous standards of conduct appropriately required from the members of the Bar and officers of the court. As officers of the court, lawyers must not only in fact be of good moral character but must also be seen to be of good moral character and leading lives in accordance with the highest moral standards of the community. More specifically, a member of the Bar and officer of the court is not only required to refrain from adulterous relationships or the keeping of mistresses^[1] but must also so behave himself as to avoid scandalizing the public by creating the belief that he is flouting those moral standards.

ACCORDINGLY, the Court Resolved to REPRIMAND respondent attorney for conduct unbecoming a member of the Bar and an officer of the court, and to WARN him that continuation of the same or similar conduct will be dealt with more severely in the future.

Fernan, C.J., (Chairman), Gutierrez, Jr., Bidin, and Cortes, JJ., concur.

[1] Royong v. Oblena, 7 SCRA 869 (1963); Toledo v. Toledo, 7 SCRA 747 (1963).

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