

MAGDALENA T. ARCIGA, COMPLAINANT, VS. SEGUNDINO D. MANIWANG, RESPONDENT.

Adm. Case No. 1608. August 14, 1981

Ponente: AQUINO, J.

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AQUINO, J.:

Magdalena T. Arciga in her complaint of February 24, 1976 asked for the disbarment of lawyer Segundino D. Maniwang (admitted to the Bar in 1975) on the ground of grossly immoral conduct because he refused to fulfill his promise of marriage to her. Their illicit relationship resulted in the birth on September 4, 1973 of their child, Michael Dino Maniwang.

Magdalena and Segundino got acquainted sometime in October, 1970 at Cebu City. Magdalena was then a medical technology student in the Cebu Institute of Medicine while Segundino was a law student in the San Jose Recoletos College. They became sweethearts but when Magdalena refused to have a tryst with Segundino in a motel in January, 1971, Segundino stopped visiting her.

Their paths crossed again during a Valentine's Day party in the following month. They renewed their relationship. After they had dinner one night in March, 1971 and finding themselves alone (like Adam and Eve) in her boarding house since the other boarders had gone on vacation, they had sexual congress. When Segundino asked Magdalena why she had refused his earlier proposal to have sexual intercourse with him, she jokingly said that she was in love with another man and that she had a child with still another man. Segundino remarked that even if that be the case, he did not mind because he loved her very much.

Thereafter, they had repeated acts of cohabitation. Segundino started telling his acquaintances that he and Magdalena were secretly married.

In 1972 Segundino transferred his residence to Padada, Davao del Sur. He continued his law studies in Davao City. Magdalena remained in Cebu. He sent to her letters and telegrams professing his love for her (Exh. K to Z).

When Magdalena discovered in January, 1973 that she was pregnant, she and Segundino went to her hometown, Ivisan, Capiz, to apprise Magdalena's parents that they were married although they were not really so. Segundino convinced Magdalena's father to have the church wedding deferred until after he had passed the bar examinations. He secured his birth certificate preparatory to applying for a marriage license.

Segundino continued sending letters to Magdalena wherein he expressed his love and concern for the baby in Magdalena's womb. He reassured her time and again that he would marry her once he passed the bar examinations. He was not present when Magdalena gave birth to their child on September 4, 1973 in the Cebu Community Hospital. He went to Cebu in December, 1973 for the baptism of his child.

Segundino passed the bar examinations. The results were released on April 25, 1975. Several days after his oath-taking, which Magdalena also attended, he stopped corresponding with Magdalena. Fearing that there was something amiss, Magdalena went to Davao in July, 1975 to contact her lover. Segundino told her that they could

not get married for lack of money. She went back to Ivisan.

In December, 1975 she made another trip to Davao but failed to see Segundino who was then in Malaybalay, Bukidnon. She followed him there only to be told that their marriage could not take place because he had married Erlinda Ang on November 25, 1975. She was broken-hearted when she returned to Davao.

Segundino followed her there and inflicted physical injuries upon her because she had a confrontation with his wife, Erlinda Ang. She reported the assault to the commander of the Padada police station and secured medical treatment in a hospital (Exh. I and J).

Segundino admits in his answer that he and Magdalena were lovers and that he is the father of the child Michael. He also admits that he repeatedly promised to marry Magdalena and that he breached that promise because of Magdalena's shady past. She had allegedly been accused in court of oral defamation and had already an illegitimate child before Michael was born.

The Solicitor General recommends the dismissal of the case. In his opinion, respondent's cohabitation with the complainant and his reneging on his promise of marriage do not warrant his disbarment.

An applicant for admission to the bar should have good moral character. He is required to produce before this Court satisfactory evidence of good moral character and that no charges against him, involving moral turpitude, have been filed or are pending in any court.

If good moral character is a sine qua non for admission to the bar, then the continued possession of good moral character is also a requisite for retaining membership in the legal profession. Membership in the bar may be terminated when a lawyer ceases to have good moral character (*Royong vs. Oblena*, 117 Phil. 865).

A lawyer may be disbarred for "grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude". A member of the bar should have moral integrity in addition to professional probity.

It is difficult to state with precision and to fix an inflexible standard as to what is "grossly immoral conduct" or to specify the moral delinquency and obliquity which render a lawyer unworthy of continuing as a member of the bar. The rule implies that what appears to be unconventional behavior to the straight-laced may not be the immoral conduct that warrants disbarment.

Immoral conduct has been defined as "that conduct which is willful, flagrant, or shameless, and which shows a moral indifference to the opinion of the good and respectable members of the community" (7 C.J.S. 959).

Where an unmarried female dwarf possessing the intellect of a child became pregnant by reason of intimacy with a married lawyer who was the father of six children, disbarment of the attorney on the ground of immoral conduct was justified (*In re Hicks*, 20 Pac. 2d 896).

There is an area where a lawyer's conduct may not be in consonance with the canons of the moral code but he is not subject to disciplinary action because his misbehavior or deviation from the path of rectitude is not glaringly scandalous. It is in connection with a lawyer's behavior to the opposite sex where the question of immorality usually arises. Whether a lawyer's sexual congress with a woman not his wife or without the benefit of marriage should be characterized as "grossly immoral conduct" will depend on the surrounding circumstances.

This Court in a decision rendered in 1925, when old-fashioned morality still prevailed, observed that "the legislator well knows the frailty of the flesh and the ease with which a man, whose sense of dignity, honor and morality is not well cultivated, falls into temptation when alone with one of the fair sex toward whom he feels himself attracted. An occasion is so inducive to sin or crime that the saying 'A fair booty makes many a thief' or 'An open door may tempt a saint' has become general." (*People vs. De la Cruz*, 48 Phil. 533, 535).

Disbarment of a lawyer for grossly immoral conduct is illustrated in the following cases:

(1) Where lawyer Arturo P. Lopez succeeded in having carnal knowledge of Virginia C. Almirez, under promise of marriage, which he refused to fulfill, although they had already a marriage license and despite the birth of a child in consequence of their sexual intercourse; he married another woman, and during Virginia's pregnancy, Lopez urged her to take pills to hasten the flow of her menstruation and he tried to convince her to have an abortion, to which she did not agree. (*Almirez vs. Lopez*, Administrative Case No. 481, February 28, 1969, 27 SCRA 169. See *Sarmiento vs. Cui*, 100 Phil. 1102).

(2) Where lawyer Francisco Agustin made Anita Cabrera believe that they were married before Leoncio V. Ag-lubat in the City Hall of Manila, and, after such fake marriage, they cohabited and she later gave birth to their child (*Cabrera vs. Agustin*, 106 Phil. 256).

(3) Where lawyer Jesus B. Toledo abandoned his lawful wife and cohabited with another woman who had borne him a child (*Toledo vs. Toledo*, 117 Phil. 768. As to disbarment for contracting a bigamous marriage, see *Villasanta vs. Peralta*, 101 Phil. 313).

(4) The conduct of Abelardo Simbol in making a dupe of Concepcion Bolivar by living on her bounty and allowing her to spend for his schooling and other personal necessities, while dangling before her the mirage of a marriage, marrying another girl as soon as he had finished his studies, keeping his marriage a secret while continuing to demand money from the complainant, and trying to sponge on her and persuade her to resume their broken relationship after the latter's discovery of his perfidy are indicative of a character not worthy of a member of the bar (*Bolivar vs. Simbol*, 123 Phil. 450).

(5) Where Flora Quingwa, a public school teacher, who was engaged to lawyer Armando Puno, was prevailed upon by him to have sexual congress with him inside a hotel by telling her that it was alright to have sexual intercourse because, anyway, they were going to get married. She used to give Puno money upon his request. After she became pregnant and gave birth to a baby boy, Puno refused to marry her. (*Quingwa vs. Puno*, Administrative Case No. 389, February 28, 1967, 19 SCRA 439).

(6) Where lawyer Anacleto Aspiras, a married man, misrepresenting that he was single and making a promise of marriage, succeeded in having sexual intercourse with Josefina Mortel. Aspiras faked a marriage between Josefina and his own son Cesar. Aspiras wrote to Josefina: "You are alone in my life till the end of my years in this world. I will bring you along with me before the altar of matrimony." "Through thick and thin, for better or for worse, in life or in death, my Josephine you will always be the first, middle and the last in my life." (*Mortel vs. Aspiras*, 100 Phil. 586).

(7) Where lawyer Ariston Oblena, who had been having adulterous relations for fifteen years with Briccia Angeles, a married woman separated from her husband, seduced her eighteen-year-old niece who became pregnant and begot a child. (*Royong vs. Oblena*, 117 Phil. 865).

The instant case can easily be differentiated from the foregoing cases. This case is similar to the case of *Soberano vs. Villanueva*, 116 Phil. 1206, where lawyer Eugenio V. Villanueva had sexual relations with Mercedes H. Soberano before his admission to the bar in 1954. They indulged in frequent sexual intercourse. She wrote to him in 1950 and 1951 several letters making reference to their trysts in hotels.

One letter in 1951 contains expressions of such a highly sensual, tantalizing and vulgar nature as to render them un-quotable and to impart the firm conviction that, because of the close intimacy between the complainant and the respondent, she felt no restraint whatsoever in writing to him with impudicity.

According to the complainant, two children were born as a consequence of her long intimacy with the respondent. In 1955, she filed a complaint for disbarment against Villanueva.

This Court found that respondent's refusal to marry the complainant was not so corrupt nor unprincipled as to warrant disbarment. (See *Montaña vs. Ruado*, Administrative Case No. 507, February 24, 1975, 62 SCRA 382; *Reyes vs. Wong*, Administrative Case No. 547, January 29, 1975, 63 SCRA 667; *Viojan vs. Duran*, 114 Phil. 322; *Abaigar vs. Paz*, Administrative Case No. 997, September 10, 1979, 93 SCRA 91).

Considering the facts of this case and the aforecited precedents, the complaint for disbarment against the respondent is hereby dismissed.

SO ORDERED.

Barredo, (Chairman), Concepcion, Jr., Fernandez, and Guerrero, JJ., concur.
Abad Santos and De Castro, JJ., on leave.

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