

ANITA CABRERA, PETITIONER, VS. FRANCISCO AGUSTIN Y GARCIA, RESPONDENT.*A.C. No. 225. September 30, 1959*

Ponente: PADILLA, J.

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This is a complaint filed by Anita Cabrera charging Francisco Agustin y Garcia, a member of the bar, with immorality.

Sometime in April 1953 the respondent courted the complainant and proposed marriage. In July 1954 she accepted his proposal. On 27 November 1954 the affianced couple proceeded to Pasay City to obtain their respective residence certificates and thereafter repaired to the Office of the Local Civil Registrar at the City Hall of Manila to apply for a marriage license and in the room of Mr. Leoncio V. Aglubat both signed two sheets of paper (Exhibits A and B). Mr. Aglubat asked them whether they were willing to marry each other and in answer they said they were. From the room of Mr. Aglubat they entered another room and there a lady doctor took blood from them. After coming from the lady doctor's room, the respondent told the complainant that as they were already married they would go to Grace Park and call on his uncle to introduce her to him. He called a taxi to go there. In Grace Park they went to a house which she later on learned was the Venus Hotel. After the respondent had signed a book, he and the complainant went inside a room the door of which he closed. The respondent asked the complainant to have sexual intercourse with him for they were already married. Because of his insistence and assurance that they were already married, she gave in to his desire. From then on they continued to have sexual intercourse in the same place once a month for three consecutive months and in another hotel near the Espiritu Santo Church. Three days after the first contact, the respondent showed to her the report of her blood test and drew her attention to the fact that after the printed word "occupation" the handwritten word "bride" appears, which shows, according to him, that they were already married (Exhibit C). Sometime in January 1955 she asked the respondent why despite their marriage they had not yet lived as husband and wife. The respondent excused himself by saying that he was still waiting for the release of the result of the bar examinations. After he passed the bar examinations, the respondent gave her his diploma issued by the Clerk of the Supreme Court (Exhibit D) to show his affection to her. She then told him to settle down and he agreed to talk to her parents. Sometime in March he spoke to her father and the latter told him that as they were Catholics it would be better for them to, be married in the Catholic Church. He agreed, and on 26 April 1955 both went to the Office of the Local Civil Registrar at the City Hall in Manila to get the marriage license which they had applied for previously (Exhibit E). The respondent handed to the complainant the original copies of their applications for marriage license (Exhibits A & B); the marriage license (Exhibit E); a copy of the notice of publication of their applications for marriage license (Exhibit E-1); and the official receipt for the marriage license fee of P2.00 paid by the respondent (Exhibit E-2), with instructions to bring them to the Espiritu Santo Church after two weeks. On 2 May 1955 they went to the Espiritu Santo Church to make arrangement for their wedding, where the respondent filled out the blanks in a mimeographed questionnaire (Exhibit F), and set the date of the wedding on 15 May 1955, for which the fee charged was P22 (Exhibit G.) However, before the date set, the complainant received a letter from the respondent

withdrawing from their agreement to marry. She showed to her father the documents in her possession and he found out that they had not been married civilly. She confessed to him that she was on the family way. On 4 August 1955 she delivered at the Saint Mary's Hospital a baby girl whom she named Delia Agustin .(Exhibit H). On 9 June 1955 the respondent married Asuncion Talan.

The respondent admits his relationship with the complainant and acknowledges the child Delia Agustin as his own. His defense in breaching his promise to marry the complainant was that her family insisted on a pompous wedding, the expenses of which he had to defray; and that he noticed she was mentally deranged because she often smiled for no cause at all. He denies that he deceived her into believing that they had been married civilly to satisfy his carnal desire and insist that she submitted to his desire voluntarily.

The respondent's defense cannot be believed. If it were true that the complainant's family was insisting on a pompous wedding, then why should she choose a wedding at the Espiritu Santo Church for which the fee was P22? Moreover, the complainant knew that she was on the family way and any undue demand for a pompous wedding would thwart their plans. Foil that reason, she would be the first to oppose such a demand and prevail upon her family not to insist on it. Likewise, the respondent's claim that when the complainant's family insisted on a pompous wedding he suggested to her to elope cannot be true. In the condition the complainant found herself she would jump at the idea and grab the opportunity to save her from embarrassment.

The respondent's suspicion that the complainant was mentally deranged cannot withstand scrutiny, because if it were true that he suspected her to be so, why did he persist on having sexual intercourse with her? The truth is that all along he never intended to redeem, the complainant's honor. He had inveigled her into, believing that they had been married civilly to satisfy his carnal desire. He himself admits that what prompted him to offer and propose marriage to her was to satisfy such desire. On the other hand, the complainant has not gone far in educational attainment, having reached the first year of high school only, and does not have the slightest idea of a legal and valid marriage. Thus she fell an easy prey of a man like the respondent, a lawyer who knows the intricacies of the law and the way to extricate himself from the mess that he has brought about.

The respondent has not maintained the highest degree of morality and integrity, which at all times is expected of, and must be possessed by, members of the bar.¹ He is, therefore, disbarred from the practice of law and his name in the roll of attorneys stricken out.

Paras, C. J., Bengzon, Montemayor, Bautista Angelo, Labrador, Concepcion, Endencia, Barrera, and Gutierrez David, JJ., concur.

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