

ALFREDO A. MARTIN, PETITIONER, VS. ALFONSO FELIX, JR., RESPONDENT.

A.C. No. 2760. June 30, 1988

Ponente: PARAS, J.

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PARAS, J.:

Petitioner Alfredo A. Martin charges respondent lawyer Alfonso Felix, Jr. with grossly immoral conduct, malpractice/gross misconduct and willful disobedience to orders/injunctions.

From the records, it appears that this administrative complaint stemmed from the retention of respondent as counsel by petitioner's wife in the latter's civil action for legal separation and administrative cases before the Professional Regulation Commission.

For a better appreciation of these cases, certain background facts must be stated.

Sometime in 1980, Cecilia Zulueta de Martin (the wife of Alfredo A. Martin) with her brother-in-law, Col. Diosdado Salvador, sought the legal assistance of respondent who was then already a practicing lawyer. She specifically wanted respondent to file a case of legal separation against her petitioner-husband, in her behalf, based on alleged illicit affairs. Respondent initially dissuaded Cecilia Martin from filing the case.

In 1981 or a year later, Cecilia and her brother-in-law colonel again approached respondent and pressed for the filing of an action for legal separation alleging that at the time, her husband-petitioner was carrying on an extremely expensive affair with a woman named Noemi. Respondent again discouraged Cecilia from filing the case rationalizing to her that legal separation cases could be extremely painful and "whenever possible the infidelity of a husband should be tolerated rather than brought to Court."

However, in the later part of March, 1982, Antonio Zulueta whom respondent knew personally to be the father of Cecilia, asked respondent to handle the case of his daughter for legal separation. He informed respondent that because of petitioner's affair with his patient and relative by the name of Lita Evangelista, said petitioner had disappeared from the conjugal home for almost two weeks by then. Respondent consented to see her and thus entertained in his office Cecilia who brought along 157 documents and papers (annexed to respondent's comments as Annexes "A-1 to J-7").

Cecilia claimed before respondent that her husband had abandoned the conjugal home since March 18, 1982, leaving her and her two children with hardly any means of subsistence; that she did not know his whereabouts nor when he would reappear; that her two children were being threatened with kidnapping by one Carlos Evangelista, the husband of petitioner's alleged paramour; that when she went to her husband's office to find out if he was there, she came across about 157 letters, checks, pictures, cards and other papers which conclusively showed that petitioner had not only been involved in numerous affairs but had also been squandering the bulk of the conjugal partnership property on these affairs.

Respondent finally took up Cecilia's case and filed an action for legal separation before the then Court of First

Instance of Pasay. In the course of this case, respondent encountered some problems with the trial court's judge, Judge Manuel Valenzuela, for which reason, he had the case dismissed without prejudice. He refiled the legal separation case in the Pasig Court of First Instance which was later reassigned to the Makati Court of First Instance as a result of the judiciary reorganization.

Thereafter, respondent filed, for complainant Cecilia, another case (administrative) against her petitioner-husband before the Professional Regulation Commission. Complainant submitted to both the trial court and the Commission copies of the aforesaid Annexes "A-1 to J-7".

The authenticity of the subject annexes was established when, in a request for admission duly served on petitioner-physician, he responded under oath that said evidence were authentic.

The administrative case filed with the Professional Regulation Commission was consolidated with a similar case filed against petitioner by Carlos Evangelista, the husband of Lita Evangelista who was the alleged paramour of petitioner. The complainant also furnished the courts and the Professional Regulation Commission with the statements of petitioner made before Camp-Crame authorities and the Commission of Immigration admitting therein that Carlos Evangelista was looking for him because of his affair with the latter's wife, Lita Evangelista.

By December of 1984, due to the pressure caused by the above civil and administrative cases on petitioner, he reacted by filing nine criminal cases in mid-December against Cecilia and respondent herein for falsification of public documents before the City Fiscal of Manila (7 cases) and the Provincial Fiscal of Pasig (2 cases).

It appears, therefore, that the within complaint for disbarment was triggered off by respondent's retention and handling of the cases filed by Cecilia against her petitioner-husband.

Petitioner charges respondent with acts allegedly constituting grossly immoral conduct. Specifically, petitioner claims that respondent's wife, Maria Concepcion Aquino has to separate from respondent after she caught him in a compromising situation with her young nephew who then lived with the said spouses at the residence of respondent; that after the alleged separation, respondent began to maintain in his residence a Thai mistress named Vasana Sukapampatharan whom he calls "Vasna"; and that while the aforesaid immoral relationship was on-going respondent enticed and had sexual relations, characterized by abnormal sex acts, with his maid named Nemia Ramiro.

Petitioner likewise accuses respondent of having engaged in malpractice or gross misconduct allegedly for:

1. Using and submitting evidence (Annexes "A-1 to J-7") either prematurely or in defiance of certain court orders. More particularly, respondent allegedly made use as evidence of illegally seized personal properties, before the Professional Regulation Commission during the time that petitioner's "Motion to Return and Suppress" and "Motion for Issuance of a Writ of Preliminary Injunction or Temporary Restraining Order" were pending resolution by the then Court of First Instance of Rizal, Branch XXIX, in Civil Case No. PQ-9955-P for legal separation.
2. Filing of "Notice of Dismissal" of the aforesaid civil case after the trial court issued an Order dated October 19, 1982 restraining the plaintiff (Cecilia) or anybody acting in her behalf from using the subject personal properties for the hearings with the Board of Medicine scheduled on October 20, 1982 or any date thereafter. The notice of dismissal was allegedly made to render moot and academic the restraining order and the other pending incidents.
3. Submitting a "Supplementary Opposition To Defendant's Motion For Bill of Particulars" dated October 11, 1982 and prematurely attaching therewith xerox copies of seized personal properties subject of petitioner's

previous motion and injunction proceeding.

4. Filing a reviving "Motion" dated October 4, 1983, wherein respondent allegedly misrepresented to the Regional Trial Court, Branch CLVI at Pasig where Civil Case No. 7542 (the re-filed legal separation case) was pending, that this Court having issued a temporary restraining order on September 5, 1983 in G.R. No. 64902, Exhibits "A-1 to J-7" are deemed admitted by implied admission and the facts listed in the request for admission are likewise admitted, knowing fully that said restraining order was issued not because of respondent's alleged misrepresentation. The first "Motion" filed by respondent to consider as impliedly admitted by petitioner the subject documents or exhibits because of the latter's failure to admit or deny the same had been denied previously in the Order of July 25, 1983.

5. Filing in Makati Regional Trial Court Civil Case No. 48285 (now 7542) a "Submission of Admission of Evidence" dated November 6, 1984, after the admissions were made pursuant to respondent's request for admission in Manila Regional Trial Court Civil Case No. 82-13311 with the same parties. Respondent contended that although such admissions were made in the civil case with the Manila Regional Trial Court, the same might be used in the civil case with the Makati Regional Trial Court.

6. Using the admissions made in the Manila Regional Trial Court civil case in the administrative case pending with the Professional Regulation Commission (Board of Medicine) thru the filing of the aforesaid "Submission of Admission of Evidence."

7. Making repeated untruthful statements in a narration of facts or making perjured statements allegedly in at least nine specified pleadings.

Finally, petitioner charges respondent with having willfully disobeyed court orders and injunctions, allegedly committed in the following manner:

1. Against the Order of October 27, 1982 of the Manila Regional Trial Court in Civil Case No. 82-13311 restraining then defendant Cecilia from presenting and the Board of Medicine from receiving the questioned seized documents including Annexes "A-1 to J-7", respondent submitted a "Motion" for support before the Pasig Court of First Instance in Civil Case No. 4828 (now Makati Civil Case No. 7542) enclosing therewith the subject annexes.

2. In violation of the aforesaid order, respondent submitted in Manila Regional Trial Court Civil Case No. 82-13311 an "Opposition To Prayer For Preliminary Injunction" prematurely enclosing therewith the said annexes.

3. In defiance of the writ of preliminary injunction issued on February 10, 1983 by the Manila Regional Trial Court in Civil Case No. 82-13311, respondent used and marked the subject annexes during the November 22, 1984 trial on the merits held before the Makati Regional Trial Court in Civil Case No. 7542.

4. In violation of the temporary restraining order dated September 5, 1983, issued by this Court in L-64902 for the alleged purpose of maintaining the status quo of the parties, respondent filed a motion dated September 20, 1983, alleging therein that because of the temporary restraining order issued in 64902, (petition assailing the order and writ of preliminary injunction of the Regional Trial Court) the Board of Medicine has assumed the authority to admit the subject annexes or Exhibits "A-1" to "J-7".

5. In further violation of the aforesaid temporary restraining order, respondent filed an "Opposition To Appeal" dated October 20, 1983 wherein he allegedly misrepresented that the restraining order in effect authorized Cecilia Z. de Martin to present the questioned exhibits. The aforementioned pleadings were submitted to the Professional

Regulation Commission in Case No. A-125.

6. In complete disregard of the writ of preliminary injunction issued by the Manila Regional Trial Court, respondent enclosed the alleged prohibited or restricted documents with the petition for certiorari and prohibition filed before the Court of Appeals and attached the same to the petition for certiorari subsequently filed with this Court (64902).

7. In continued defiance of the above writ of preliminary injunction, respondent used the restricted exhibits or annexes as enclosures in four pleadings filed before the City Fiscal of Manila and the Makati Fiscal.

Respondent, in refuting the aforestated charges, tackles them point by point.

On the alleged grossly immoral conduct of respondent or "improper sexual conduct" as he puts it. —

1. Complainant claims that respondent indulged in sexual encounters with his maid named Nemia Ramiro, characterized by abnormal sex acts. While admitting that he had a maid by the name of Nemia sometime in 1983, respondent denies having had sexual relations (with pervert acts) with her and explains that the reason for her leaving his employ was her claim that she had been overworked. She stated so in her letter (Annex "CC") written in her own handwriting.

2. Respondent, even as he has not denied keeping a Thai woman in his residence named Vasana Sukapampatharan or Vasna, for short, justified the situation he is in and offers a lengthy explanation of the events that culminated in his present situation. In denying the accusation that respondent's wife, Maria Concepcion Aquino, had to separate from him after she caught him in a compromising situation with her young nephew who lived with them, respondent presents a detailed account of his private life. Thus, he painfully narrates:

"It is a fact that on June 24, 1954, I married Maria Concepcion x x x. At the time of our marriage, I believed her to be single and had no reason whatever to think that there was any impediment to our marriage.

"A year after our marriage, she advised me that after her father was arrested by the Americans and held in Japan and later in Iwahig, she had been expelled from the paternal house by her stepmother without a penny to her name and had eventually taken refuge in the house of her real mother and in order to help family finances, had worked as a waitress in one of the bars of Angeles. This I already had an inkling of and it did not surprise me. However, this time, about a year after the marriage, she told me something that I did not know, namely, that while working as a waitress, she had met an American officer by the name of Lt. Robert Tyree, had married him and had a child by him who was baptized Teodoro.

"I was of course, not in the least pleased by this news. However, I was very much in love with my wife and when she requested me to help the child and to do what I could to locate his father, I agreed.

"At that time, I was very young lawyer beginning in the profession. I did not have much money and I needed all I earned for the support of my family. Also, my connections were very limited and I did not know how to go about looking for one former American officer in the entire United States.

It was not till sometime in 1963 I think, that I was finally able in the course of a case to get to know a detective agency in the United States. I asked them to find Mr. Robert Tyree and eventually, either in the last months of 1963 or very early in 1964, they succeeded and we got in touch with him.

"Mr. Tyree had then married again nevertheless, he admitted that he had known Maria Concepcion x x x; that he recognized Teodoro as his son and that, he was willing to take the boy with him.

"We then negotiated with the American Embassy the citizenship of Teodoro so that he could leave for the United States to join his father which he did sometime thereafter.

"xxx xxx xxx

"In other words, on July 22, 1946, Maria Concepcion . . . married Robert Tyree who as of April 24, 1964 was still alive.

"xxx xxx xxx

"But that was not the end of it. After Theodore Tyree xxx was sent back to his father in the United States, Maria Concepcion xxx gave me another bit of news.

"She had been asking me to help a boy whose alleged name was Manuel Villanueva and whom (sic) she claimed was the son of a lavandera of the xxx family who had taken her in for a short while when her stepmother expelled her from the house in 1945. Since that was within my means, I had been helping the boy by paying for his studies in the Far Eastern University. Now that Teodoro was with his father, xxx (Maria) now told me that the boy was her son whom she had had by a subsequent affair with the deceased Chief of Police of Angeles, a gentleman by the name of Mr. Fe Lacson.

"According to my wife, after Mr. Tyree abandoned her, she had nowhere to go and Mr. Lacson helped her out.

"I decided that in view of all the foregoing the time had come to separate. However, I felt that since I was still young in the profession and had just begun my independent practice of law, it would be best to avoid an open scandal. This consideration was reinforced by the fact that my father was then in the Court of Appeals and had a fairly good chance of going to the Supreme Court as he eventually did. I was afraid that a scandal in the family would prove to be a blot on his record so all in all I thought it best to be as discreet as possible.

"Hence, using my wife's health as a pretext, I sent her first to the United States in 1965 to see her son and then to Spain where she has lived in almost continuous residence until now, having become a Spanish citizen.

"She asked me one last favor: that I give her son Manuel who after all was innocent my surname so that he could have a nominal (sic) affair. To this I agree." (pp. 17-21, Rollo)

By reason of the foregoing, respondent now submits that since the person he married on June 24, 1954, had contracted a previous marriage to Robert Tyree on July 22, 1946, and since Robert Tyree was still alive, his marriage to Maria Concepcion . . . was void ab initio without need of a judicial decree to that effect. Also, respondent contends that since the jurisprudence of this Court relieved him from the necessity of securing a judicial decree to declare the nullity of the subsequent marriage, he did not apply for the same that would have created a scandal and would have seriously affected the civil status of his three children by Maria.

To buttress the aforestated narration and allegations, respondent attached to his comments the following documents:

1. Annex DD — Certification of the Local Civil Registrar of Concepcion, Tarlac on the previous marriage of Maria Concepcion to Robert James Tyree on July 22, 1946.
2. Annex EE — Notarial certification of Mr. Tyree dated February 25, 1964 showing that he was still alive on that date and acknowledging his relationship with Maria and his fatherhood of their son Theodore Tyree.
3. Annex FF — Document from the General Services Administration of the US addressed to Mr. Tyree which confirms the fact that he was alive at the time.
4. Annex GG — Two-page letter written by Mr. Robert Tyree to his son Theodore.
5. Annex II — Handwritten statement of Maria Concepcion wherein she admits the truth of respondent's narration.

On the alleged malpractice or gross misconduct of respondent, he maintains that:

1. In Civil Case No. PQ-9966-P, (complainant) petitioner himself stated that while there was yet no order forthcoming from the court, respondent and his client Cecilia made use of the subject documents. By the very admission of complainant Dr. Martin, these documents were used when there was no order prohibiting Cecilia to use them and hence, she was at liberty to use them.

2. In the aforecited civil case for legal separation, respondent disclaims that the filing of the notice of dismissal after the issuance of the restraining order constituted malpractice. He invokes Section 1 of Rule 17 of the Rules of Court which allows the plaintiff to have an action dismissed at anytime before service of the answer or of a motion for summary judgment. Considering that no answer and no motion for summary judgment had been filed by then defendant Dr. Martin, Cecilia was entitled to have her case dismissed for any reason whatever. Thus, when she had her case dismissed by Judge Valenzuela without prejudice under the aforesaid rule, Cecilia merely exercised her rights and the exercise of such right cannot be considered malpractice.

3. It is not malpractice on respondent's part to submit to the presiding judge who was hearing the case for legal separation the documents marked as Exhibits "A-1 to J-7" because when the submission was made on October 11, 1982, the court had not yet issued a restraining order. It was only on October 19, 1982 that the order restraining the use of the annexes was issued.

4. When respondent refiled Cecilia's case for legal separation before the Pasig Regional Trial Court, there was admittedly an order of the Manila Regional Trial Court prohibiting Cecilia from using the documents Annex "A-1 to J-7". On September 6, 1983, however having appealed the said order to this Court on a petition for certiorari, this Court issued a restraining order on aforesaid date which order temporarily set aside the order of the trial court. Hence, during the enforceability of this Court's order, respondent's request for petitioner to admit the genuineness and authenticity of the subject annexes cannot be looked upon as malpractice. Notably, petitioner Dr. Martin finally admitted the truth and authenticity of the questioned annexes. At that point in time, would it have been malpractice for respondent to use petitioner's admission as evidence against him in the legal separation case pending in the Regional Trial Court of Makati? Respondent submits it is not malpractice.

Significantly, petitioner's admission was done not thru his counsel but by Dr. Martin himself under oath. Such verified admission constitutes an affidavit and, therefore, receivable in evidence against him. Petitioner became bound by his admission. For Cecilia to avail herself of her husband's admission and use the same in her action for legal separation cannot be treated as malpractice.

5. Respondent denies petitioner's accusation that he handled his wife's case and all other cases on a personal basis. Were it not for the strong intercession of her father and her brother-in-law colonel, he would not have taken Cecilia's case. Respondent claims that he handled the case on a professional level so much so that when petitioner wanted to compromise the cases, his own counsel even sought the intervention of one Antonio Miranda.

On his alleged willful disobedience of court orders and injunctions, respondent submits the following averments:

1. The alleged violations of the preliminary injunction of the Regional Trial Court of Manila were made the subject of another motion to punish respondents Cecilia Z. de Martin and her counsel for contempt of court before the Regional Trial Court of Manila; and, on May 3, 1985, petitioner herein even filed a supplementary petition to punish them for contempt of court with the same court. When petitioner failed to have the alleged acts declared as contumacious by the trial court, he came to this Court on a complaint for respondent's disbarment on the basis of the same alleged acts.

2. Petitioner has found himself confronted at every turn with Annexes "A-1 to J-7" the genuineness and authenticity of which he had admitted under oath. For this reason, respondent feels that petitioner wants to hit

back no matter how and the more scurrilously, the better.

In summation, respondent submits that the present complaint is purely and simply an act of reprisal on the part of the petitioner Dr. Martin. His wife, acting through her respondent-counsel, filed a case of legal separation against him and another case before the Professional Regulation Commission. He wanted to retaliate and so he filed nine (9) criminal cases against both his wife and respondent as her lawyer, and when seven (7) of these cases were dismissed by the City Fiscal of Manila and he could foresee the probable end of the other two, he filed this disbarment case.

Respondent now asks this Court to have this case dismissed, not only because it is unfounded but also for the general interest of all law practitioners. Respondent rationalizes that if a legal practitioner who files a case in the performance of his duty could be subjected to the kind of harassment which petitioner has subjected him to, the final result would be that very few lawyers could be found to undertake the representation of defenseless women like Cecilia Zulueta de Martin. Hence, he looks at this complaint as "an act of legal terrorism against a member of the bar which if tolerated would merely serve to discourage other members of the bar from taking up the unprofitable, laborious, and dangerous although honorable and indispensable task of defending helpless and discarded women."

In his "Consolidated Reply" to the comments of respondent, petitioner presents the same issues previously alleged in his complaint. In support of the alleged immoral relationship of respondent with "Vasna," the Thai woman, petitioner has attached to the reply two affidavits executed by Ramon Lava on October 19, 1984 and May 27, 1985. He has likewise attached thereto an affidavit dated November 6, 1984 allegedly executed by the maid Nemia Ramiro. (Pls. see Annexes "C", "D" and "E".)

Obviously as a rejoinder to the aforesaid consolidated reply, respondent filed a "Fabrication of Perjury by Dr. Alfredo Martin" wherein he challenges the veracity of statements contained in the two affidavits of Ramon Lava. Hence, respondent contends that upon receipt of petitioner's consolidated reply, he invited Ramon Lava and his brother, Lauro Lava (who are both his neighbors) to his house and thereupon asked Ramon Lava why he stated in his affidavit that he was told by Maria Concepcion Aquino that respondent was a sex pervert; that Ramon Lava then explained to him that he was a poor man and that Atty. Francisco Villa, assisted by Detective Martin, a brother of petitioner, had offered his financial assistance; and that he had actually received P7,000.00 from Dr. Martin himself in several installments; that said amount was paid in the office of Atty. Brion in exchange for his signing the two affidavits which were in English, a language which Ramon Lava did not understand well; that he agreed to sign the affidavits because of the financial assistance given him by petitioner; that Ramon Lava confirmed the foregoing in writing and in Pilipino which confirmation was also signed by Lauro Lava as witness to its execution; that on November 14, 1985, respondent submitted to this Court a pleading entitled "Subornation of Perjury on the Part of Petitioner Dr. Alfredo Martin" annexing thereto the handwritten statement of Ramon Lava; that neither Dr. Martin nor Attys. Francisco Villa or Galileo Brion denied respondent's statement in the aforesaid subornation of perjury thus admitting by their silence the truth of his averments; and, that to date, petitioner and his two counsel have not complied with this Court's resolution of January 13, 1986 requiring them to answer the respondent's allegations of subornation of perjury. Respondent finally submits that petitioner's failure to react on the charge of subornation of perjury when required to do so is another admission by silence.

In Administrative Case No. 2851

In her affidavit-complaint filed on February 20, 1986, complainant Maria Concepcion Aquino de Felix charges respondent counsel with gross immoral conduct for which she also seeks the disbarment of her husband. Complainant alleges that she and respondent were married on January 24, 1954; that they have four (4) children;

that in 1963, she caught respondent engaging in abnormal sexual relations with her nephew, the son of her half-sister who was then staying with the family; that another male relative confessed to complainant that he was, likewise, subjected to abnormal sexual acts by respondent; that subsequently complainant and her children resided in Spain on respondent's insistence; that respondent, who was left behind, brought a mistress named Vasana Sukapampatharan into the conjugal dwelling; that complainant returned to the country to verify the truth of respondent's infidelity; that she requested respondent to allow her to stay in the family residence but such request was denied; that complainant was forced to board with a friend in an apartment bereft of financial support from respondent; that she discovered that respondent and his mistress started living together in the family residence in 1977. Complainant further charges respondent and his mistress with concubinage. She finally accuses respondent of grave immoral conduct making him unfit to stay as a member of the Philippine Bar. Complainant states that she adopts the evidence of Dr. Alfredo Martin in A.C. No. 2760 as part of her evidence in this case.

In respondent's aforesaid fabrication of perjury by petitioner filed on March 7, 1986, he states that the allegations in Maria's complaint, particularly the alleged concubinage, being the same as those averments of petitioner in A.C. No. 2760, have already been properly answered in his "Comments" (not consolidated reply) previously filed in the first administrative case.

Aside from reiterating the detailed events leading to his separation from complainant Maria, respondent sheds more light on his relationship with her in justification of his behavior or lifestyle as a single person. Thus, respondent further narrates:

"To make a long story short, she 'pikoted' me. She made herself pregnant with my eldest son Alfonso and then appealed to my compassion not to bring an illegitimate child into the world and not to burden her who had already been rejected by her family because of her bastardly with the added stigma of being an unwed mother xxx. She was at that time living in a dormitory in Quiapo and paying her own expense out of a small salary of P150.00 a month that she was receiving from Atty. Santiago Artiaga. She made much of her helplessness and pleaded with me not to give her the last push over the brink. She pleaded with me further not to allow her personal history to be repeated in the life of my son whom she was bearing in her womb. I am a man with a very harsh exterior and a very compassionate heart and I agreed to Maria's plea and married her on January 24, 1954.

"xxx xxx xxx

"In addition to all that, Maria was subject to moods of black despair. She felt rejected . . . She wanted me to enter any of a number of 'get famous quickly' fields, to run for political office for which I have no taste, to promote myself which I despise and to do whatever was necessary to put her in the limelight. Thus, at a moment when our finances were at their lowest point, she nagged me into getting deeper into debt to buy her a two carat diamond ring on the ground that all her . . . half-sisters had them. To cap it all, she became a habitual drunkard."

"xxx xxx xxx

"I decided that in view of all the foregoing the time had come to separate. However, I felt that since I was still young in the profession and had just begun my independent practice of law, it would be best to avoid an open scandal. This consideration was reinforced by the fact that my father was then in the Court of Appeals and had a fairly good chance of going to the Supreme Court as he eventually did. I was afraid that a scandal in the family would prove to be a blot on his record so all in all I thought it best to be as discreet as possible.

"xxx xxx xxx

"More than that, since I am a compassionate man I can understand that all these things happened because Maria was cast off on the street by her stepmother . . . when she was defenseless, and later on by her American

husband. Hence, I have allowed Maria to live in one of my houses in Madrid and from time to time, I send her considerable sums of money to help her out in all the many emergencies that she manages to get into. For that matter, I am still supporting my three children by her either totally or partially although the youngest of them is twenty-eight years old.

"While in Spain, Maria proceeded to get herself involved first with a bankrupt marquis Felix Heredia de las Heras and later with a municipal judge Jesus Cuadrado Aparicio, one after the other. She received them in my house and when my children were in their way, she did not hesitate to put them in the street in the midst of winter so that she could have the flat to herself and her lover alone.

"xxx xxx xxx

Maria came back to the Philippines in 1977, in 1981 and in 1985. On all three occasions she attempted to persuade me to take her back. She spoke among others to Atty. de las Alas, to Mr. Mendieta and to Dr. Mentha who all refused to interfere. I refused even to think of living with her again in the same house.

"xxx xxx xxx

"I had already in a moment of indiscretion spoken to her of the present case and so she sought out Dr. Martin and on the morning of January 24, 1986 put herself on my way in the corridors of the Regional Trial Court of Makati, accompanied by Dr. Martin and his two learned counsels, Atty. Villa and Atty. Brion." (pp. 5, 9-12, Rollo)

In this second case, respondent filed a "Motion" dated April 29, 1986 praying therein that Adm. Case Nos. 2760 and 2851 (the present proceedings) be consolidated as having substantially the same parties and allegations and that the two pleadings he filed in Adm. Case No. 2760 ("Fabrication to Perjury by Dr. Alfredo Martin" and "Supplement to Fabrication of Perjury by Dr. Alfredo Martin") in response to the complaint-affidavit of Maria Concepcion Aquino, together with the hundred or so documents referred to or annexed to the aforesaid pleadings be accepted by this Court as his comments to her complaint-affidavit.

Acting on the above motion, this Court, in its resolution of June 18, 1986, ordered the consolidation of the two aforesaid cases. Hence, this single resolution of these administrative cases.

Impressed with merit, respondent's position in both cases should be sustained.

From the records, respondent has sufficiently established that Maria did not separate from him after the latter caught him in a compromising situation with her young nephew as alleged by both petitioner Dr. Martin and complainant Maria; the fact is that respondent chose to send her to the United States and Spain after he learned of Maria's prior marriage and illicit affairs in order to protect his family from any scandal.

It should be noted that in her complaint-affidavit, Maria never spoke of her having to separate from respondent. She plainly stated that she and her children resided in Spain on respondent's insistence. This jibes with respondent's assertion that when he could not take things any more, he thought it best that to avoid a scandal that would affect his practice of law and his family's reputation, he sent Maria as already stated abroad.

The claim of both complainants that respondent indulged in immoral and abnormal sexual acts with Maria's young nephew and her accusation that respondent engaged in perverted sexual acts with another male relative have not been substantiated or supported by any concrete evidence. Both complainants have not produced any testimony from the nephew and "another male relative" with whom respondent had alleged abnormal sexual relations. They have even failed to identify the alleged "young nephew" and "another male relative."

Very significant is the fact that while complainant Dr. Martin has accused respondent of enticing and having sex with his (respondent's) maid named Nemia, complainant Maria did not mention anything about said charge. In her

handwritten letter, Nemia stated that she left respondent's service because she was overworked. More than a year later, complainant Dr. Martin suddenly presents Nemia's affidavit dated November 6, 1984 attesting to respondent's alleged immoral relations with her. Between the letter and the affidavit, the former evidence becomes more credible than the latter considering that Nemia wrote the letter on July 23, 1984 or one year and nine months before Dr. Martin filed the complaint against respondent. Note that the complaint is dated April 25, 1985 and the affidavit was executed on November 6, 1984 or one year and four months after Nemia left her job with respondent. Certainly, complainant Dr. Martin must have gone out of his way to search for Nemia and to make her execute the affidavit. Considering the time frames as above indicated, it becomes apparent that the affidavit represents an afterthought on Nemia's part and, therefore, it is of doubtful veracity. Besides, if it were true that Nemia left because she was sexually abused by respondent, her initial reaction or impulse would have been to simply walk out and not bother to write a letter resigning from respondent's employ. Why did it take her more than a year to come out with her charge against respondent?

Significantly, the two affidavits of witness Ramon Lava which complainant Dr. Martin attached to his consolidated reply (Annexes "C" and "D") cannot be given credence for two strong reasons. Firstly, in his subornation of perjury and fabrication of perjury (on Dr. Martin's part) respondent has adequately established that affiant Ramon Lava admitted to his having been pressured into signing the documents. In his handwritten statement signed in the presence of his brother Lauro, Ramon Lava stated, by way of retraction, that he was a very poor man; that Atty. Francisco Villa assisted by Detective Martin (a brother of complainant Dr. Martin) offered him financial assistance; that he actually received P7,000.00 from Dr. Martin himself in several payments which were made in the office of Atty. Brion and that in exchange for the said amount, he was asked to sign and did sign the two affidavits prepared in English, a language he did not understand much. He agreed to sign the two documents because of his financial need. Respondent has attached the handwritten statement as Annex "22" to his subornation of perjury charge.

It should be noted that neither complainant Dr. Martin nor his counsel has attacked or disputed the retraction of Lava. They could have denied the same by answering or commenting on respondent's allegation of perjury as directed by this Court in its resolution of January 13, 1986 but they failed to do so and chose to remain silent. Complainant Dr. Martin, instead of refuting the subornation of perjury, submitted a comment to which he attached Maria's complaint-affidavit. This is obviously complainant-physician's way of dodging or sidetracking the issue of subornation and fabrication of perjury.

With respect to Maria's claim that respondent had been carrying on a criminal relationship with Vasna, the Thai woman, the records show that there is nothing bigamous in the said relationship considering that respondent was never legally married to Maria. For, respondent has sufficiently established that when Maria married him in June, 1954, the latter was still married to Robert Tyree when she married him on July 22, 1946 and who, as of April 24, 1964, was still alive and by whom she had a son named Teodoro whom Robert Tyree readily acknowledged and petitioned for to join him in the United States. Should anyone be accused of bigamy, it is Maria who contracted a second marriage while there was still a valid subsisting first marriage.

If at all, the relationship of respondent with Vasna may be immoral in the sense that they have been living together as husband and wife without the benefit of marriage. Such a relationship can neither be bigamous nor adulterous because the essential element of an existing valid marriage is lacking. Respondent is, for all legal purposes, still a single person. And considering what respondent went through with Maria, his common-law relationship with Vasna may even be termed as "tame." Be it noted that nothing in the records shows that respondent indulged in a long running affair with other women; it had been Vasna all along. For all his pained efforts to avoid scandalizing his family, respondent silently bore the consequences of the relationship with Maria

until complainant Dr. Martin forced him to expose the same.

Evidently, Maria's charge of respondent's gross immoral conduct and of his being a "sex pervert" are negated by at least 19 of over 50 letters written to respondent by Maria through the years. Thus, in said letters, Maria invariably states that respondent is a good man, that she loves him very much; that she thanks God for having come to know him; that she assures him of her eternal love; that she only thinks of him; that he is a skirt chaser (not a sex pervert) and thanks him for having done all he could to give her a home for so many years; that she wants to live with him as a servant regardless of whether he may have others; that she was ready to return whenever he so desired; that she urges him to live again with her; that respondent is a living saint; that she offers to return to respondent and desires to see him again; that she asks for his forgiveness; that she complains of his infidelity but even so states that she wants to live with respondent and that it was respondent who left her and even invites Vasna to live with her in Madrid.

Notably also, Maria had sent letters to Vasna acknowledging the latter's gifts; offering to buy gifts for Vasna and inviting respondent to bring Vasna to Spain. Of further significance is the letter of Maria written on April 6, 1982 wherein she tells respondent among others that "now that I am not emotionally involved with any one I can see things better and clearer. I admit I have made many unforgivable mistakes" and she goes on to speak of her "willingness to repay in any way the damage I have cost you and the children."

As correctly pointed out by respondent, the aforesaid letters are not letters a person writes to a man from whom she is separated because of his alleged disgusting sexual habits. Rather, these are letters of regret that a woman writes to a man on realizing that she has thrown away her best chance in life. As a desperate move, therefore, Maria sought the help of three people (Mentha, dela Alas and Mendieta) to work for a reconciliation with respondent.

From the foregoing, it appears that Maria perjured herself when she swore to the allegation that respondent is the father of Manuel who was born in May, 1949 and yet she admitted the fact that she first came to know respondent in June, 1953 at the Francisco Law School; when she falsely accused respondent of having a criminal relationship with Vasana Sukapampatharan; when she concealed the fact of her previous marriage to Robert Tyree before this Court; and when she alleged that she left respondent because of his alleged sexual habits when the truth appears to be that the latter asked her to leave him by reason of her personal history.

Significantly, this Court has, time and again, declared a conservative and cautious approach to disbarment proceedings like the instant case.

Thus, in *Santos vs. Dichoso* (Adm. Case No. 1825; 84 SCRA 622) and reiterated in *Noriega vs. Sison* (Adm. Case No. 2266; 125 SCRA 293) this Court ruled:

"In disbarment proceedings, the burden of proof rests upon the complainant, and for the court to exercise its disciplinary powers, the case against the respondent must be established by clear, convincing and satisfactory proof. Considering the serious consequence of the disbarment or suspension of a member of the Bar, this Court has consistently held that clear preponderant evidence is necessary to justify the imposition of the administrative penalty."

Again, in *Santos vs. Dichoso* (Adm. Case No. 1825; 84 SCRA 622) this Court defined the degree of proof necessary to disbar a lawyer. This Court held:

"The profession of an attorney is acquired after long and laborious study. It is a lifetime profession. By years of patience, zeal and ability, the attorney may be able to amass considerable means to support himself and his family, besides the honor and prestige that accompany his office and profession. To deprive him of such honored station in life which would result in irreparable injury must require proof of the highest degree, which

We find nowhere here. While courts will not hesitate to mete out proper disciplinary punishment upon lawyers who fail to live up to their sworn duties they will, on the other hand, protect them from the unjust accusations of dissatisfied litigants. The success of a lawyer in his profession depends almost entirely on his reputation. Anything which will harm his good name is to be deplored. Private persons, and particularly disgruntled opponents, may not, therefore, be permitted to use the courts as vehicles through which to vent their rancor on members of the Bar."

Clearly, in these cases, both complainants have failed to produce such degree of proof as to warrant the disbarment of respondent attorney. Neither is there sufficient evidence to warrant his suspension.

WHEREFORE, the complaints in these two administrative cases are hereby DISMISSED.

SO ORDERED.

Melencio-Herrera, Padilla, and Sarmiento, JJ., concur.

Yap, C. J., no part — complainant in Adm. Case No. 2851 was a former client.

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