

DELIA MURILLO, COMPLAINANT, VS. ATTY. NICOLAS SUPERABLE JR., RESPONDENT.*A.C. No. 341. March 23, 1960*

Ponente: MONTEMAYOR, J.

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Administrative Case No. 341 involves administrative charges for disbarment or disciplinary action filed by Delia Murillo against Atty. Nicolas Superable, Jr. The present proceedings for contempt are merely an incident arising from the said case.

In the administrative case, complainant Delia Murillo had written a letter to the Chief Justice, dated April 1, 1958, alleging that Superable employed her in his office, took advantage of her status as an employee, made love to her and even proposed marriage; that although she had informed him that she was a married woman, still he assured her that he being a lawyer with the necessary connections, they could arrange the matter and still marry each other; that he finally convinced her and because he was her employer, she finally gave herself up to him and they cohabited for some time, as a result of which cohabitation, a child was born, "who was named Nicolas Superable III, but that later on, he abandoned her, for which reason she filed the charges above-mentioned.

Upon receipt of her letter, this Court ordered Superable to file his answer. In the same, he admitted having employed Delia Murillo in his office. He claims that when she applied for the job, she introduced herself as an unmarried woman and because of that information, he really made love to her and even proposed marriage, but that some time in October, 1956, a friend of his informed and warned him that she was not single but was married to one Mr. Rosario, although they were living apart; that he also found out later that Delia had been maintaining intimate relations with other men, such as a certain Ricardo Macalla, an employee of the Tacloban Electric light and Ice Company. He flatly denied that he was the father of the child named Nicolas Superable III. In his answer Superable also voiced his suspicion that the complaint of Delia Murillo was instigated by the Tacloban Electric Light and Ice Company, which he had been attacking in his newspaper, the Eagle, a weekly paper published in Tacloban, Leyte, his attacks Slaving as their target the exorbitant rates charged by the company, the harsh and unreasonable practice followed by the same, such as, disconnecting the electric line to houses whose owners failed to pay their accounts at the end of the month. Superable also presented in support of his answer the affidavits of Enrique Militante and Segundino Villablanca.

Apparently satisfied with his answer, this Tribunal by resolution of May 26, 1958, dismissed the complaint of Delia Murillo for lack of merit. However, this dismissal did not end the case. It had its sequel.

On May 19, 1958, about seven days before the dismissal of the administrative case, Superable also wrote a letter to the Chief Justice, requesting that some sort of action be taken against Dodong R. Herrera, Noning Susaya and Frank Morada, all of Tacloban City, the first being the owner, proprietor, publisher and editor of the tabloid Eastern Star, a weekly published in Tacloban City, the second and third being the business manager and circulation manager, respectively, of said paper; Delia Murillo, the same complainant in the administrative case,

and Victoriano Chan, general manager of the Tacloban Electric Light and Ice Company. The burden of the letter was that on May 17, 1958, that is to say, two days before his letter and about nine days before the main case for disbarment or disciplinary action against him was dismissed, the persons above-mentioned had published in the Eastern Star the charges or complaint filed by Delia Murillo against him; that said publication was a violation of the Rules of Court, which considers private and confidential proceedings against an attorney; and that the publication had caused him mental anguish and suffering, besmirched his reputation and made him the object of public ridicule, besides reducing his clientele in his practice of law, at the same time causing him considerable embarrassment, both professionally and socially. Attached to said letter of Superable was a copy of the issue of the Eastern Star where the publication was made.

Acting upon the letter of Superable, this Tribunal by Resolution of June 9, 1958, ordered the five persons, Dodong Herrera, Noning Susaya, Frank Moraga, Delia Murillo and Victoriano Chan to show cause within ten days from notice why they should not be declared in contempt of court and punished accordingly. Pursuant to our resolution, the five respondents filed their answer on July 8, 1958, the first three admitting the publication but claiming that it was done only to help the court in arriving at a sound and correct determination of the main case, namely, the administrative charges against Superable; that the news item or publication was devoid of any editorial comment; that they were not aware of Section 10 of Rule 128 of the Rules of Court. Delia Murillo and Victoriano Chan denied any connection with the publication. On July 10, 1958, Dodong Herrera, Noning Susaya and Frank Morada filed a supplemental answer, and by our resolution of July 14, 1958, complaining Superable was required to file a reply to the answer and supplemental answer, which he did on October 29, 1958.

The contempt incident was set for hearing on December 3, 1958. On December 8, 1958, the five respondents filed a motion for postponement of the hearing, and the following day, they filed a motion for the appointment of a commissioner to hear the case, for the reason that it required the reception of evidence from both parties, and that considering the distance from Tacloban City, where they resided, to Manila, it was convenient and proper to hold the hearing in Tacloban.

By resolution of December 5, 1958, we denied the motion for postponement of hearing and both parties were given a period of twenty days within which to submit simultaneously their respective memoranda in lieu of oral argument. But upon consideration of the motion praying for the appointment of a commissioner to receive evidence, the Court resolved to give the movants twenty days within which to submit a deposition.

On December 26, 1958, complainant Superable filed his memorandum with several annexes, consisting mostly of issues of the newspaper Eagle, which he edited and published, and of the Eastern Star, edited and published by Dodong Herrera. On January 2, 1959, respondents filed their memorandum.

On December 13, 1958, both parties filed with this Court a "Notice to Take Deposition", wherein they agreed that Judge Eugenio N. Brillo of the Municipal Court of Tacloban City take the deposition mentioned by us in our resolution of December 5, 1958. At the taking of the said deposition before Judge Brillo on December 18, 1958, the parties and their counsel appeared and several witnesses testified, such as, Superable on his own behalf and his witnesses Segundo Villablanca and Rene Tan, as well as Generoso (Dodong) Herrera and Hermogenes Susaya. Documentary evidence was also submitted. The transcript of the proceedings had before Judge Brillo, consisting of 69 pages, was filed with us by Judge Brillo on January 2, 1959.

On January 20, 1959, Delia Murillo wrote a letter to the Chief Justice, attaching thereto some affidavits, asking that the complaint against Atty. Superable which, as already stated, had been dismissed, be reinstated and that a formal investigation be made so that she may be able to present her proof against him. By resolution of January 26, 1959, her request was denied.

We have carefully examined the different annexes and exhibits involved, the transcript of the proceedings had before Judge Brillo and the memoranda aforementioned. There is no question that pending determination by this Court of the main case for disbarment and disciplinary action against respondent Superable, on the basis of the letter of Delia Murillo to the Chief Justice, already mentioned, said charges were published in the Eastern Star, a weekly paper published, in Tacloban City and of general circulation in the province of Leyte, owned, published and edited by Dodong Herrera. In the issue of said Eastern Star of May 17, 1958, on the first page of the same, appears the headline—Lawyer Faces Disbarment Rap Filed by "Girl Friend", and under it the following:

"This is for lawyers only . . . but certainly not objectionable to non-lawyers and teenagers.

"In what is considered to be the first disbarment case in the history of the legal profession in the province of Leyte, the Supreme Court, in a resolution dated April 16, 1958, ordered Atty. Nicolas Superable, Jr., editor of the EAGLE tabloid, to answer within ten days upon receipt of said resolution the charges filed against him by one Delia Murillo of this city, for alleged immoral and unethical conduct unbecoming a lawyer.

"The Tribunal ordered Superable to answer the charges against him and 'not to file a motion to dismiss.'

"In a lengthy and pathetic letter to the Supreme Court, Miss Murillo recounted her bitter experiences with Superable. She stated that while she was employed as contributing editor of Superable's EAGLE and at the same time as Superable's secretary of the 'LEBAWA' (an organization of which Superable was the adviser) Superable made love to her and promised to bring her to the altar of matrimony. Believing in the sincerity of the lawyer's promises, Delia said, she eventually accepted him and 'had given him all the liberties that ho asked of her as a woman who had the misfortune of falling prey to his sugar-coated promises and assuring words of devotion until she finally begot a boy child who was incidentally named Nicolas Superable III.

"But according to Miss Murillo, Superable allegedly turned 'untrue' to his words and had abandoned her. Their child, she said, was disowned by the alleged father.

"In an interview with the STAR, Miss Murillo said that she will prosecute her case with all the means at her command in order to avenge her name which was brutally besmirched by her former 'friend'.

"Miss Murillo's letter to the Supreme Court follows; "

"The Honorable Chief Justice
Supreme Court, Manila

Dear Sir;

"Not knowing where to go, I have, addressed myself to you a very personal matter but which, I believe, affects the public interest, concerning as it does a member of the bar, Atty. Nicolas Superable, Jr., of Tacloban City.

"Briefly, here are the facts concerning the personal matter I am referring to.

'Atty. Nicolas Superable, Jr. employed me in the office of "The Eagle", a tabloid paper of which he was the editor. As an employee in said office, he gave me a press pass designating me as contributing editor. He also made me secretary of the 'LEBAWA', an organization of which lie was the adviser,

'Sometime in August 1956, probably taking advantage of our employer-employee relations, he proposed to me. Of course, I told him that I could not accept him because I was married already, although my husband and I had been separated since 1951 without the benefit of communication and without my knowing his whereabouts. In spite of this, however, he insisted that lie loved me and he assured me that in a matter of time, we could legally marry each other. On the strength of his assurances and, honestly believing in the sincerity of his purpose, I eventually accepted him giving him all the liberties that he asked of me as a woman who had the misfortune of falling prey to his sugar-coated promises and assuring words of devotion.

"For sometime, we cohabited, and going all the way as he had asked me to, as proof of my deep love for him, we finally begot one boy child on August 8, 1957 whom we incidentally named Nicolas Superable III.

'But, alas! he has proved untrue to his words and has abandoned me and our child, giving us only a token support of the measly sum of P57 since August, 1957 after my delivery up to December 1957. And, to cap it all, as if to add insult to injury, lie now has the temerity to disown the very child he has begotten of me.

'Now sir, perhaps I shall be overstating the obvious if I say that the conduct of Atty. Superable is highly unbecoming a member of the legal profession. Through your good offices I, therefore, humbly beseech the Honorable. Court to take some sort of disciplinary action against the oft-mentioned member of the Philippine Bar, Atty. Nicolas Superable, Jr. so that the same may yet serve as a strong moral deterrent to other members thereof whose immoral and unscrupulous bent may equal, if not transcend, that of the aforesaid attorney. Perhaps, it may also help purge the legal profession of some undesirable members who are more of a liability than an asset to this noble profession.

'In closing, I wish to express my appreciation for whatever action you will take in this matter.

(Sgd.) Delia Murillo' "

In our opinion, said publication violates the provision's of Rule 128, Section 10, which reads as follows:

"SEC. 10. Confidential—Proceedings against attorneys shall be private and confidential, except that the final order of the court shall be made public as In other cases coming before the court."

As early as January 27, 1922, this Tribunal had promulgated a resolution providing:

"That all proceedings looking to the suspension and disbarment of lawyers, and all proceedings looking to the suspension or removal of judges of first instance shall be considered confidential in nature until the final disposition of the matter." (Malcolm: Legal and Judicial Ethics, p. 94).

The purpose of this legal provision is "to enable the Supreme Court to make its investigation, free from any extraneous influence or interference, as well as to protect the personal and professional reputation of attorneys and judges from the baseless charges of disgruntled, vindictive, and, irresponsible clients and litigants." (Moran: Comments on the Rules of Court, Vol. III, 1957 ed., p. 676; In re Abistado, 57 Phil., 668, Santiago vs. Calvo, 48, Phil., 919.) The rule is also protective of the press for even a verbatim copy of the complaint against an attorney in a newspaper might be actionable. (Santiago vs. Calvo, 48 Phil., 919.) The rule, was, enforced against editors and reporters in a number of cases, (In re Lozano, 54 Phil., 801; In re Abistado, supra.)

According to the evidence before us, Delia Murillo gave Herrera a copy of her charges or complaint against Superable and asked him to publish the same in his paper, the Eastern Star. It is not exactly known what her motive was in wanting the publication made, but there is reason to believe that she wanted the community, specially the readers of the Eastern Star, to know the charges she was filing against Atty. Superable. She must have realized that her case could be decided and the relief sought granted, only by the Supreme Court, and that is why she addressed her letter of complaint to the Chief Justice. She knew she could not obtain this relief from anyone else, much less the newspaper or the readers thereof, and yet she wanted her charges to be made known to them. Evidently, she just wanted to embarrass Atty. Superable by letting the public know what kind of a lawyer and employer he was, according to her complaint. In other words, her motives for asking for the publication were not exactly good and above board. However, considering her station in life and ignorance of the consequences of her act, she deserves some consideration and leniency.

Not so with Generoso Herrera. It seems that he also had an axe to grind against Superable. The two were editing and publishing rival newspapers which must have been competing with each other for circulation, subscription

and advertisement. Herrera and Victoriano Chan were good friends. So, when Superable in his paper, the Eagle, attacked the Tacloban Electric Light and Ice Plant Company, managed by Chan, Herrera resented it and tried to defend his friend. Then we have the rivalry between Herrera and Superable in the election for officers of the Leyte Press Club. Herrera beat his rival and he was elected president of the club. So, when Delia Murillo gave him a copy of her complaint against Superable and asked if it could be published in his paper. The Eastern Star, Herrera was more than willing to accommodate her. The publication was not a simple, innocent and verbatim copy of the complaint, but it was embellished with a headline on the front page, and some comment not favorable to Superable. Herrera as owner, proprietor, publisher and editor of a newspaper, must have known the implications and consequences flowing from a publication of charges against a member of the legal profession. Even assuming that, as he claims, he was not aware of the provisions of the law which consider confidential the investigation of charges against a lawyer, which claim we are not quite ready to accept, nevertheless, he should have known better than to rush said charges into print. For this reason, his case is more serious than that of Delia Murillo.

In conclusion, we find both of them guilty of contempt of court. They are punished by the payment of a fine of ONE HUNDRED PESOS (P100.00) for Delia Murillo, and FIVE HUNDRED PESOS (P500.00) for Generoso Herrera, to be turned into the office of the clerk of court within a period of fifteen days from receipt of notice, with the admonition that if they fail to comply, further and more drastic action by the Court will be necessary.

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

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