

REMEDIOS RAMIREZ TAPUCAR, COMPLAINANT, VS. ATTY. LAURO L. TAPUCAR, RESPONDENT.

A.C. No. 4148. July 30, 1998

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PER CURIAM:

In a letter-complaint dated November 22, 1993, complainant Remedios Ramirez Tapucar sought the disbarment of her husband, Atty. Lauro L. Tapucar, on the ground of continuing grossly immoral conduct for cohabiting with a certain Elena (Helen) Peña under scandalous circumstances.[1]

Prior to this complaint, respondent was already administratively charged four times for conduct unbecoming an officer of the court. In Administrative Matter No. 1740, resolved on April 11, 1980, respondent, at that time the Judge of Butuan City, was meted the penalty of six months suspension without pay,[2] while in Administrative Matter Nos. 1720, 1911 and 2300-CFI, which were consolidated,[3] this Court on January 31, 1981 ordered the separation from service of respondent.[4]

Now he faces disbarment.

The records reveal the following facts:

From the Report and Recommendation of the Commission on Bar Discipline, it appears that complainant and respondent were married on October 29, 1953 at the Sacred Heart Roman Catholic Church in Quezon City. They established their residence in Antipolo, Rizal, where eight of their eleven children were born. In 1962 respondent relocated his family to Dadiangas, Cotabato (Now General Santos City), where his last three children were born and where he practiced his profession until his appointment as a CFI Judge in Butuan City on January 30, 1976.

In August, 1976, shortly after being appointed as CFI Judge, respondent began cohabiting with a certain Elena (Helen) Peña, in Nasipit, Agusan Del Norte. On December 28, 1977 Elena gave birth to their first child, named Ofelia Sembrano Peña.

In view of this cohabitation, a certain Atty. Tranquilino Calo filed an administrative complaint against respondent for immorality. After investigation, the penalty of suspension from office for a period of six months without pay was meted by this Court upon respondent.[5]

Despite this penalty, respondent still continued to cohabit with Elena, giving rise to another charge of immorality and other administrative cases, such as conduct unbecoming an officer of the court, and grossly immoral conduct. These cases were consolidated and after investigation, this Court ordered his dismissal and separation from the service.[6]

But his dismissal as a judge did not impel respondent to mend his ways. He continued living with Elena, which resulted in the birth on September 20, 1989, of their second child named Laella Peña Tapucar. Moreover, he completely abandoned complainant and his children by her.

Respondent later moved from Nasipit, Agusan del Norte back to Antipolo, Rizal, bringing along Elena and their

two children. And on March 5, 1992, respondent contracted marriage with Elena in a ceremony solemnized by Metropolitan Trial Court Judge Isagani A. Geronimo of Antipolo, Rizal. This was done while the respondent's marriage to complainant subsists, as nothing on record shows the dissolution thereof.

Complainant, in the meanwhile, had migrated to United States of America upon her retirement from the government service in 1990. However, her children, who remained in Antipolo, kept her posted of the misery they allegedly suffered because of their father's acts, including deception and intrigues against them. Thus, despite having previously withdrawn a similar case which she filed in 1976, complainant was forced to file the present petition for disbarment under the compulsion of the material impulse to shield and protect her children from the despotic and cruel acts of their own father. Complainant secured the assistance of her eldest daughter, Atty. Ma. Susana Tapucar-Baua, to represent her in this case.

Consistent with Section 20, Rule 139-B of the Rules of Court, the matter was referred to the Commission on Bar Discipline of the Integrated Bar of the Philippines for investigation, report and recommendation. After conducting a thorough investigation, the Commission through Commissioner Victor C. Fernandez recommended that respondent be disbarred, and his name be stricken off the roll of attorneys. Mainly, this was premised on the ground that, notwithstanding sanctions previously imposed upon him by the Honorable Supreme Court, respondent continued the illicit liaison with Elena.[7]

In his report Commissioner Fernandez noted that, instead of contradicting the charges against him, respondent displayed arrogance, and even made a mockery of the law and the Court, as when he said:

"I have been ordered suspended by Supreme Court for two months without pay in 1980 for having a mistress, the same girl Ms. Elena (Helen) Peña, now my wife. Being ordered separated in later administrative case constitute double jeopardy. If now disbarred for marrying Ms. Elena Peña will constitute triple jeopardy. If that's the law so be it." [8]

Based on said report, the Board of Governors of the Integrated Bar of the Philippines, passed on May 17, 1997, a Resolution adopting the Commissioner's recommendation, as follows:

"RESOLUTION NO. XII-97-97

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RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner in the above-titled case, herein made part of the Resolution/Decision as Annex "A"; and, finding the recommendation therein to be fully supported by the evidence on record and the applicable laws and rules, Respondent Atty. Lauro L. Tapucar is hereby DISBARRED and that his name be stricken off the roll of attorneys."

We find the Report and Recommendation of Commissioner Fernandez, as approved and adopted by the Board of Governors of IBP, more than sufficient to justify and support the foregoing Resolution, herein considered as the recommendation to this Court by said Board pursuant to Rule 139-B, Sec. 12(b), of the Rules of Court.* We are in agreement that respondent's actuations merit the penalty of disbarment.

Well settled is the rule that good moral character is not only a condition precedent for admission to the legal profession, but it must also remain intact in order to maintain one's good standing in that exclusive and honored fraternity.[9] There is perhaps no profession after that of the sacred ministry in which a high-toned morality is more imperative than that of law.[10] The Code of Professional Responsibility mandates that:

Rule 1.01. A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

Rule 7.03 A lawyer shall not engage in conduct that adversely reflects on his fitness to practice law, nor should he, whether in public or private life, behave in a scandalous manner to the discredit of the legal profession.*

As this Court often reminds members of the Bar, they must live up to the standards and norms expected of the legal profession, by upholding the ideals and tenets embodied in the Code of Professional Responsibility always. Lawyers must maintain a high standards of legal proficiency, as well as morality including honesty, integrity and fair dealing. For they are at all times subject to the scrutinizing eye of public opinion and community approbation. Needless to state, those whose conduct – both public and private – fails this scrutiny would have to be disciplined and, after appropriate proceedings, penalized accordingly.

Moreover, it should be recalled that respondent here was once a member of the judiciary, a fact that aggravates this professional infractions. For having occupied that place of honor in the Bench, he knew a judge's actuations ought to be free from any appearance of impropriety.[11] For a judge is the visible representation of the law, more importantly, of justice. Ordinary citizens consider him as a source of strength that fortifies their will to obey the law.[12] Indeed, a judge should avoid the slightest infraction of the law in all of his actuations, lest it be a demoralizing example to others.[13] Surely, respondent could not have forgotten the Code of Judicial Conduct entirely as to lose its moral imperatives.[14]

Like a judge who is held to a high standard of integrity and ethical conduct,[15] an attorney-at-law is also invested with public trust. Judges and lawyers serve in the administration of justice. Admittedly, as officers of the court, lawyers must ensure the faith and confidence of the public that justice is administered with dignity and civility. A high degree or moral integrity is expected of a lawyer in the community where he resides. He must maintain due regard for public decency in an orderly society.

A lawyer is expected at all times to uphold the integrity and dignity of the legal profession by faithfully performing his duties to society, to the bar, to the courts and to his clients.[16] Exacted from him, as a member of the profession charged with the responsibility to stand as a shield in the defense of what is right, are such positive qualities of decency, truthfulness and responsibility that have been compendiously described as "moral character." To achieve such end, every lawyer needs to strive at all times to honor and maintain the dignity of his profession, and thus improve not only the public regard for the Bar but also the administration of justice.

On these considerations, the Court may disbar or suspend a lawyer for misconduct, whether in his professional or private capacity, which shows him to be wanting in moral character, in honesty, probity, and good demeanor, thus proving unworthy to continue as an officer of the court.[17]

The power to disbar, however, is one to be exercised with great caution, and only in a clear case of misconduct which seriously affects the standing and character of the lawyer as an officer of the Court of and member of the bar.[18] For disbarment proceedings are intended to afford the parties thereto full opportunity to vindicate their cause before disciplinary action is taken, to assure the general public that those who are tasked with the duty of administering justice are competent, honorable, trustworthy men and women in whom the Courts and the clients may repose full confidence.

In the case of *Obusan vs. Obusan, Jr.*,[19] a complaint for disbarment was filed against a member of the bar by his wife. She was able to prove that he had abandoned his wife and their son; and that he had adulterous relations with a married but separated woman. Respondent was not able to overcome the evidence presented by his wife that he was guilty of grossly immoral conduct. In another case,[20] a lawyer was disbarred when he abandoned his lawful wife and cohabited with another woman who had borne him a child. The Court held that respondent

failed to maintain the highest degree of morality expected and required of a member of a bar.

In the present case, the record shows that despite previous sanctions imposed upon by this Court, respondent continued his illicit liaison with a woman other than lawfully-wedded wife. The report of the Commissioner assigned to investigate thoroughly the complaint found respondent far from contrite; on the contrary, he exhibited a cavalier attitude, even arrogance; in the face of charges against him. The IBP Board of Governors, tasked to determine whether he still merited the privileges extended to a member of the legal profession, resolved the matter against him. For indeed, evidence of grossly immoral conduct abounds against him and could not be explained away. Keeping a mistress, entering into another marriage while a prior one still subsists, as well as abandoning and/or mistreating complainant and their children, show his disregard of family obligations, morality and decency, the law and the lawyer's oath. Such gross misbehavior over a long period of time clearly shows a serious flaw in respondent's character, his moral indifference to scandal in the community, and his outright defiance of established norms. All these could not but put the legal profession in disrepute and place the integrity of the administration of justice in peril, hence the need for strict but appropriate disciplinary action.

IN VIEW THEREOF, respondent Atty. Lauro L. Tapucar is hereby DISBARRED. The Clerk of Court is directed to strike out his name from the Roll of Attorneys.

SO ORDERED.

Narvasa, C.J., Regalado, Davide, Jr., Romero, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Martinez, and Quisumbing, JJ., concur.

Bellosillo, no part due to personal relationships.

Purísima, J., no part.

[1] Rollo, pp. 2-8.

[2] Records, p.2; Rollo, p.3.

[3] Dy Teban Hardware & Auto Supply Co. v. Tapucar, 102 SCRA 493 (1981).

[4] Ibid., p.510.

[5] Administrative Matter No. 1740 (Tranquilino Calo, Jr. v. Judge Lauro Tapucar) April 11, 1980.

[6] Supra 3 at p.510.

[7] Report of Commissioner Fernandez, Commission on Bar Discipline, IBP, p.4.

[8] Records of the Case-IBP, Vol. II, p.101, par. 3(b) (emphasis supplied).

* b) If the Board, by the vote of a majority of its local membership, determines that the respondent should be suspended from the practice of law or disbarred, it shall issue a resolution setting forth its findings and recommendations which, together with the whole record of the case, shall forthwith be transmitted to the Supreme Court for final action."

[9] Rayos-Omboc v. Atty. Rayos, Adm. Case No. 2884, January 28, 1998; Leda v. Tabang, 206 SCRA 395 (1992); People v. Tuanda, 181 SCRA 692 (1990); Melendrez v. Decena, 176 SCRA 662 (1989).

[10] Ruben Agpalo, Legal Ethics, 4th ed. (1989), p.22.

* Emphasis supplied.

[11] Ernesto Pineda, Legal & Judicial Ethics, 1994 ed., p.336, citing Luque v. Kayanan, 29 SCRA 165; Otero v. Esguerra, 57 SCRA 57; Jugueta v. Boncaros, 60 SCRA 27.

[12] Ruben Agpalo, Legal Ethics, 4th ed. (1989), p.454.

[13] Ibid., p.465.

[14] Rule 1.01 - A judge should be the embodiment of competence, integrity and independence.

Rule 2.01 - A judge should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary. (*Italics ours*)

[15] Office of the Court Administrator v. Estacion, Jr., 247 SCRA 503 (1995).

[16] Nadayag v. Grageda, 237 SCRA 202 (1994); Marcelo v. Javier, Sr., 214 SCRA 1 (1992).

[17] Sec. 27, Rule 138, Revised Rules of Court.

[18] Siervo v. Infante, 73 SCRA 35; Andres v. Cabrera, 127 SCRA 802.

[19] Obusan vs. Obusan, Jr., 128 SCRA 485, 487.

[20] Toledo v. Toledo, 117 Phil. 768.

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