

JOVITA BUSTAMANTE-ALEJANDRO, COMPLAINANT, VS. ATTYS. WARFREDO TOMAS ALEJANDRO AND MARICRIS A. VILLARIN, RESPONDENTS.

A.C. No. 4256. February 13, 2004

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PER CURIAM:

This is an administrative case filed in 1994 by Jovita Bustamante-Alejandro charging respondents Atty. Warfredo Tomas Alejandro and Atty. Maricris A. Villarin with bigamy and concubinage.

Complainant alleged that respondent, Atty. Warfredo Tomas Alejandro, is her husband; that they were married on March 3, 1971 at Alicia, Isabela, as evidenced by their Marriage Contract;^[1] that she bore him three (3) sons, namely, Dino, Eric, and Carlo, born in 1971, 1973, and 1978, respectively, as evidenced by their respective Certificates of Live Birth;^[2] that respondent abandoned her and their children in 1990 to live with his mistress, respondent Atty. Ma. Cristina Arrieta Villarin,^[3] at 27-C Masbate St., Quezon City; that respondents have since then been publicly representing themselves as husband and wife; that respondent Atty. Villarin gave birth to Paolo Villarin Alejandro on January 17, 1992 as a result of her immoral and scandalous relationship with complainant's husband whom she named as the father of her son in the latter's Certificate of Live Birth;^[4] and, that in said Certificate of Live Birth, respondent Atty. Villarin identified herself as "Ma. Cristina V. Alejandro" having been married to Atty. Alejandro on May 1, 1990 at Isabela Province. Complainant alleged that she filed this administrative complaint when she learned that her husband has been nominated as a regional trial court judge. She insists that he is not fit to be a judge considering that he, and co-respondent Atty. Villarin, do not even possess the basic integrity to remain as members of the Philippine Bar.

We required respondent to comment on the administrative complaint in our Resolution dated July 4, 1994. When copies of our resolution and of the complaint and its annexes addressed to respondent Atty. Alejandro at 27-C Masbate St., Quezon City were returned unserved with notation "moved," we required complainant to submit the correct and present address of her husband.^[5] No similar return of service with respect to respondent Atty. Villarin appears on the record.

In an Ex-Parte Manifestation and Motion dated December 5, 1994, complainant insisted that her husband's correct address remains to be 27-C Masbate St., Quezon City; that it was him who told the postman that he had already moved; and, that any subsequent service by mail will result in the same failure as respondent will either refuse service or misrepresent a change of address again. Complainant therefore asked that copies of the complaint and Court resolution requiring comment be served personally upon her husband by the Court's process servers. We noted and granted the prayer.^[6] However, when the Court's process server attempted to effect personal service on February 16, 1995, respondent Atty. Alejandro was allegedly out of the house and his house helper refused to accept service. Consequently we considered the copies as having been served upon respondent Atty. Alejandro in our Resolution of July 31, 1996,^[7] and required him to show cause why he should not be disciplinary dealt with or held in contempt for his continued failure to file comment, and to file such comment, considering the considerable length of time that has lapsed since he has been first required to do so. Respondent

Atty. Alejandro failed to comply. Hence, we fined him P1,000.00 and directed that he file the required explanation and comment on the administrative complaint.[8]

When copies of both resolutions were again returned unserved with postal notations “moved,” we required complainant anew to submit the correct and present address of respondents, within ten (10) days from notice, under pain of dismissal of her administrative complaint.[9] In a handwritten letter dated September 10, 1998, complainant disclosed respondents’ present address as “12403 Dunlop Drive, Houston, Texas.”[10]

We referred this case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation, within ninety (90) days from notice, in our Resolution of March 17, 2003.

In a Report dated August 26, 2003, IBP Commissioner Milagros V. San Juan recommended that both respondents be disbarred on the following rationalization:

In its Resolution dated 31 July 1996, the Supreme Court (Second Division) ruled that respondent Atty. Alejandro was deemed served a copy of the instant administrative complaint and of the Court’s Resolution dated 4 July 1994, by substituted service pursuant to Rule 1, Section 6 of the Rules of Court.

In the earlier Resolution of the Supreme Court dated 4 July 1994, respondents Atty. Alejandro and Atty. Villarin were directed to file their Comment on the instant Complaint within ten (10) days from notice of said Resolution. To date, no Comment has been filed by either respondent Atty. Alejandro or Atty. Villarin. x x x

Complainant submitted a photocopy of the Marriage Contract (Annex A of the letter-complaint) between herself and respondent Atty. Alejandro executed on 3 March 1971. Complainant also submitted photocopies of the Birth Certificates (Annexes B to D of the letter-complaint) of the children born out of her marriage to respondent Atty. Alejandro. These documentary evidence submitted by complainant clearly show that there was and is a valid and subsisting marriage between herself and respondent Atty. Alejandro at the time she filed the instant administrative complaint against said respondent, her husband.

In support of her charge of bigamy and concubinage against respondents Alejandro and Villarin, complainant submitted a photocopy of the Birth Certificate (Annex E of the letter-complaint) of one Paolo Villarin Alejandro. The said Birth Certificate states that the mother of said Paolo Villarin Alejandro is “Ma. Cristina Arrieta Villarin”, while his father is one “Walfredo Tomas Alejandro”. Said Birth Certificate also states that the parents of Paolo Villarin Alejandro were married on May 1, 1990 in Isabela Province.

Given the Birth Certificate of Paolo Villarin Alejandro (Annex E of the letter-complaint), and considering the failure of respondents Atty. Alejandro and Atty. Villarin to deny the charges of complainant, it is submitted that there is sufficient evidence on record which establishes the immoral/illicit relationship between respondents Atty. Alejandro and Atty. Villarin. However, there is no evidence on record which would establish beyond doubt that respondent Atty. Alejandro indeed contracted a second marriage with Atty. Villarin while his marriage to herein complainant was subsisting. Thus, it is recommended that as prayed for by complainant, respondents Atty. Alejandro and Atty. Villarin be disbarred for willful violation of Rule 1.01 of the Code of Professional Responsibility.

The IBP Commission on Bar Discipline adopted and approved the above report and recommendation in its Resolution No. XVI-2003-169 dated September 27, 2003.

We agree with the IBP recommendation with respect to respondent Atty. Alejandro.

Indeed Rule 1.01, Canon 1 of the Code of Professional Responsibility provides –

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

Thus we have in a number of cases[11] disciplined members of the Bar whom we found guilty of misconduct

which demonstrated a lack of that good moral character required of them not only as a condition precedent for their admission to the Bar but, likewise, for their continued membership therein. No distinction has been made as to whether the misconduct was committed in the lawyer's professional capacity or in his private life. This is because a lawyer may not divide his personality so as to be an attorney at one time and a mere citizen at another.[12] He is expected to be competent, honorable and reliable at all times since he who cannot apply and abide by the laws in his private affairs, can hardly be expected to do so in his professional dealings nor lead others in doing so. Professional honesty and honor are not to be expected as the accompaniment of dishonesty and dishonor in other relations.[13] The administration of justice, in which the lawyer plays an important role being an officer of the court, demands a high degree of intellectual and moral competency on his part so that the courts and clients may rightly repose confidence in him.[14]

In the instant case, sufficient evidence was presented to show that respondent Atty. Alejandro, while being lawfully married to complainant, carried on an illicit relationship with another woman, co-respondent Atty. Villarín. Although the evidence presented was not sufficient to prove that he contracted a subsequent bigamous marriage with her, the fact remains that respondent Atty. Alejandro exhibited by his conduct a deplorable lack of that degree of morality required of him as a member of the Bar. We have already held that disbarment proceedings is warranted against a lawyer who abandons his lawful wife and maintains an illicit relationship with another woman[15] who had borne him a child.[16] We can do no less in the instant case where respondent Atty. Alejandro made himself unavailable to this Court and even fled to another country to escape the consequences of his misconduct.

The same penalty however cannot be imposed on respondent Atty. Villarín. It is noted that our Resolution dated July 4, 1994 requiring comment on the administrative complaint was never "deemed served" upon her, in the same way that it was upon Atty. Alejandro. In fact, it does not appear that copies of the administrative complaint, its annexes, and of our resolution requiring comment were even sent to her. Although sent at the address she allegedly shared with co-respondent Atty. Alejandro, the envelope bearing the copies was addressed to the latter only.[17] That was why when both service by registered mail and personal service failed, the copies were deemed served solely upon Atty. Alejandro.[18]

The IBP for its part attempted to serve copy of the complaint upon Atty. Villarín with directive for her to file answer. It is noted however that the same was sent to respondent's old address at 27-C Masbate St., Quezon City, not "12403 Dunlop Drive, Houston, Texas," which was respondents' new address on record supplied by the complainant. The return of service therefore showed the postal notation "moved." Considering the serious consequences of disbarment proceedings, full opportunity upon reasonable notice must have been given respondent to answer the charge and present evidence in her behalf. It is only in clear cases of waiver that an administrative case be resolved sans respondent's answer.

WHEREFORE, for Gross Immorality, respondent Atty. Warfredo Tomas Alejandro is **DISBARRED** from the practice of law, to take effect immediately upon his receipt of this Decision. Let copy of this Decision be attached to Atty. Alejandro's personal record in the Office of the Bar Confidant and a copy thereof be furnished the Integrated Bar of the Philippines.

The complaint against respondent Atty. Maricris A. Villarín is **REFERRED BACK** to the Integrated Bar of the Philippines for further appropriate proceedings.

SO ORDERED.

Davide, Jr., C.J., Puno, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.

[1] Exhibit “A”; Rollo, p. 2.

[2] Exhs. “B,” “C” and “D”; Id. at 4-6.

[3] Respondent’s name appears in the Roll of Attorneys as “Atty. Maricris A. Villarin.”

[4] Exh. “E”; Id. at 7.

[5] Resolution dated November 9, 1994; Id. at 18.

[6] Resolution dated January 30, 1995; Id. at 21.

[7] Id. at 24.

[8] Resolution dated February 23, 1998; Id. at 35.

[9] See Resolutions dated June 18, 1997 and July 22, 1998; Id. at 32 and 41.

[10] Id. at 44.

[11] *Rivera v. Corral*, 384 SCRA 1 (2002); *Rural Bank of Silay, Inc. v. Pilla*, 350 SCRA 138 (2001); *Paras v. Paras*, 343 SCRA 414 (2000); *Calub v. Suller*, 323 SCRA 556 (2000); *Tucay v. Tucay*, 318 SCRA 229 (1999); *Nakpil v. Valdes*, 286 SCRA 758 (1998); *Cordova v. Cordova*, 179 SCRA 680 (1989); *Pomperada v. Jochico*, 133 SCRA 309 (1984).

[12] *In re Almacen*, 31 SCRA 562, 581 (1970).

[13] *Lizaso v. Amante*, 198 SCRA 1, 11 (1991).

[14] *Paras v. Vailoces*, 1 SCRA 954, 957 (1961).

[15] *Tucay v. Tucay*, 318 SCRA 229 (1999); *Obusan v. Obusan, Jr.*, 128 SCRA 485 (1984).

[16] *Narag v. Narag*, 291 SCRA 451 (1998); *Toledo v. Toledo*, 7 SCRA 757 (1963).

[17] Rollo, p. 17.

[18] See Resolution dated July 31, 1996; Id. at 24.

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