ELPIDIO P. TIONG, COMPLAINANT, VS. ATTY. GEORGE M. FLORENDO, RESPONDENT.

A.C. No. 4428. December 12, 2011

Ponente: PERLAS-BERNABE, J.

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PERLAS-BERNABE, J.:

Before the Court is an administrative complaint[1] for disbarment filed by Elpidio P. Tiong against Atty. George M. Florendo for gross immorality and grave misconduct.

The facts of the case are as follows:

Complainant Elpidio P. Tiong, an American Citizen, and his wife, Ma. Elena T. Tiong, are real estate lessors in Baguio City. They are likewise engaged in the assembly and repair of motor vehicles in Paldit, Sison, Pangasinan. In 1991, they engaged the services of respondent Atty. George M. Florendo not only as legal counsel but also as administrator of their businesses whenever complainant would leave for the United States of America (USA).

Sometime in 1993, complainant began to suspect that respondent and his wife were having an illicit affair. His suspicion was confirmed in the afternoon of May 13, 1995 when, in their residence, he chanced upon a telephone conversation between the two. Listening through the extension phone, he heard respondent utter the words "I love you, I'll call you later". When confronted, his wife initially denied any amorous involvement with respondent but eventually broke down and confessed to their love affair that began in 1993. Respondent likewise admitted the relationship. Subsequently, at a meeting initiated by respondent and held at the Salibao Restaurant in Burnham Park, Baguio City, respondent and complainant's wife, Ma. Elena, confessed anew to their illicit affair before their respective spouses.

On May 15, 1995, the parties met again at the Mandarin Restaurant in Baguio City and, in the presence of a Notary Public, Atty. Liberato Tadeo, respondent and Ma. Elena executed and signed an affidavit[2] attesting to their illicit relationship and seeking their respective spouses' forgiveness, as follows:

> "WE, GEORGE M. FLORENDO, a resident of Baguio City and of legal age and MA. ELENA T. TIONG, likewise a resident of Baguio City, of legal age, depose and state:
>
> We committed adultery against our spouses from May 1993 to May 13, 1995 and we hereby ask forgiveness and assure our spouses that this thing will never happen again with us or any other person. We assure that we will no longer see each other nor have any communication directly or indirectly. We shall comply with our duties as husband and wife to our spouses and assure that there will be no violence against them. That any behaviour unbecoming a husband or wife henceforth shall give rise to legal action against us; We shall never violate this assurance;
>
> We, the offended spouses Elizabeth F. Florendo and Elpidio Tiong forgive our spouses and assure them that we will not institute any criminal or legal action against them because we have forgiven them. If they violate this agreement we will institute legal action.

> This document consists of four (4) typewritten copies and each party has been furnished a copy and this document shall have no validity unless signed by all the parties.
>
> IN WITNESS WHEREOF, we have set out hands this 15th day of May 1995 at Baguio City, Philippines.
>
> (SIGNED)
> GEORGE M. FLORENDO
>
> (SIGNED)
> ELPIDIO TIONG
>
> (SIGNED)
> MA. ELENA T. TIONG
>
> (SIGNED)
> ELIZABETH F. FLORENDO"

Notwithstanding, complainant instituted the present suit for disbarment on May 23, 1995 charging respondent of gross immorality and grave misconduct. In his Answer[3], respondent admitted the material allegations of the complaint but interposed the defense of pardon.

In the Resolution[4] dated September 20, 1995, the Court resolved to refer the case to the Integrated Bar of the Philippines (IBP) for investigation and decision.

Finding merit in the complaint, the Commission on Bar Discipline (CBD), through Commissioner Agustinus V. Gonzaga, submitted its Report and Recommendation[5] dated September 21, 2007 for the suspension of respondent from the practice of law for one (1) year, which was adopted and approved by the IBP Board of Governors in its Resolution[6] dated October 19, 2007. Respondent's Motion for Reconsideration[7] therefrom was denied in the Resolution[8] dated June 26, 2011.

Hence, the instant petition on the sole issue - whether the pardon extended by complainant in the Affidavit dated May 15, 1995 is sufficient to warrant the dismissal of the present disbarment case against respondent for gross immoral conduct.

After due consideration, the Court resolves to adopt the findings and recommendation of the IBP-CBD except as to the penalty imposed.

The pertinent provisions in the Code of Professional Responsibility provide, thus:

> "CANON 1 - A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND LEGAL PROCESSES.
>
> Rule 1.01. - A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.
>
> xxxx
>
> CANON 7 - A LAWYER SHALL AT ALL TIMES UPHOLD THE INTEGRITY AND DIGNITY OF THE LEGAL PROFESSION AND SUPPORT THE ACTIVITIES OF THE INTEGRATED BAR.
>
> xxxx
>
> Rule 7.03. - A lawyer shall not engage in conduct that adversely reflects on his fitness to practice law, nor shall he, whether in public or private life, behave in a scandalous manner to the discredit of the legal profession."

It has been consistently held by the Court that possession of good moral character is not only a condition for admission to the Bar but is a continuing requirement to maintain one's good standing in the legal profession. It is

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the bounden duty of law practitioners to observe the highest degree of morality in order to safeguard the integrity of the Bar.[9] Consequently, any errant behaviour on the part of a lawyer, be it in his public or private activities, which tends to show him deficient in moral character, honesty, probity or good demeanor, is sufficient to warrant his suspension or disbarment.

In this case, respondent admitted his illicit relationship with a married woman not his wife, and worse, that of his client. Contrary to respondent's claim, their consortium cannot be classified as a mere "moment of indiscretion"[10] considering that it lasted for two (2) years and was only aborted when complainant overheard their amorous phone conversation on March 13, 1995.

Respondent's act of having an affair with his client's wife manifested his disrespect for the laws on the sanctity of marriage and his own marital vow of fidelity. It showed his utmost moral depravity and low regard for the ethics of his profession.[11] Likewise, he violated the trust and confidence reposed on him by complainant which in itself is prohibited under Canon 17[12] of the Code of Professional Responsibility. Undeniably, therefore, his illicit relationship with Ma. Elena amounts to a disgraceful and grossly immoral conduct warranting disciplinary action from the Court.[13] Section 27, Rule 138 of the Rules of Court provides that an attorney may be disbarred or suspended from his office by the Court for any deceit, malpractice, or other gross misconduct in office, grossly immoral conduct, among others.

Respondent, however, maintains that he cannot be sanctioned for his questioned conduct because he and Ma. Elena had already been pardoned by their respective spouses in the May 15, 1995 Affidavit[14].

The Court disagrees.

It bears to stress that a case of suspension or disbarment is sui generis and not meant to grant relief to a complainant as in a civil case but is intended to cleanse the ranks of the legal profession of its undesirable members in order to protect the public and the courts. It is not an investigation into the acts of respondent as a husband but on his conduct as an officer of the Court and his fitness to continue as a member of the Bar.[15] Hence, the Affidavit dated March 15, 1995, which is akin to an affidavit of desistance, cannot have the effect of abating the instant proceedings.[16]

However, considering the circumstances of this case, the Court finds that a penalty of suspension from the practice of law for six (6) months, instead of one (1) year as recommended by the IBP-CBD, is adequate sanction for the grossly immoral conduct of respondent.

WHEREFORE, respondent ATTY. GEORGE M. FLORENDO is hereby found GUILTY of Gross Immorality and is SUSPENDED from the practice of law for SIX (6) MONTHS effective upon notice hereof, with a STERN WARNING that a repetition of the same or similar offense will be dealt with more severely.

Let copies of this Decision be entered in the personal record of respondent as a member of the Philippine Bar and furnished the Office of the Bar Confidant, the Integrated Bar of the Philippines and the Court Administrator for circulation to all courts in the country.

SO ORDERED.

Velasco, Jr., (Chairperson), Peralta, Abad, and Mendoza, JJ., concur.

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[1] Rollo, Vol. I, pp. 1-4.

[2] Id., p. 5.

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[3] Id., pp. 13-14.

[4] Id., p. 18.

[5] Id., Vol. III, pp. 2-10.

[6] Id., p. 1.

[7] Id., pp. 11-14.

[8] Id., p. 21.

[9] Advincula vs. Macabata, A.C. No. 7204, March 7, 2007, 517 SCRA 600.

[10] Rollo, Vol. I, p. 13.

[11] Guevarra vs. Eala, A.C. No. 7136, August 1, 2007, 529 SCRA 1.

[12] "CANON 17. A LAWYER OWES FIDELITY TO THE CAUSE OF HIS CLIENT AND HE SHALL BE MINDFUL OF THE TRUST AND CONFIDENCE REPOSED IN HIM."

[13] Samaniego vs. Ferrer, A.C. No. 7022, June 18, 2008, 555 SCRA 1.

[14] Supra note 2.

[15] Supra note 13.

[16] Garrido vs. Garrido, A.C. No. 6593, February 4, 2010, 611 SCRA 508.

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