

CARMELITA I. ZAGUIRRE, COMPLAINANT, VS. ATTY. ALFREDO CASTILLO, RESPONDENT.

A.C. No. 4921. August 03, 2005

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PER CURIAM

In the Decision dated March 6, 2003, the Court found respondent Atty. Alfredo Castillo guilty of Gross Immoral Conduct and imposed upon him the penalty of Indefinite Suspension.[1] Respondent, who was already married with three children, had an affair with complainant between 1996 to 1997, while he was reviewing for the bar until before the release of the results thereof. Complainant got pregnant and respondent, who was then already a lawyer, executed a notarized affidavit acknowledging the child as his with a promise to support said child. Upon the birth of the child, however, respondent started to refuse recognizing the child and from giving her any form of support.

On April 11, 2003, respondent filed a motion for reconsideration seeking compassion and forgiveness from this Court. He submitted certificates from government and civic organizations appreciating his services as a lawyer, certificates of attendance from religious groups, and certificates of good moral character from judges and lawyers in Occidental Mindoro.[2]

On July 8, 2003, the Court required complainant and the IBP to file comment thereon.[3]

On August 11, 2003, the IBP Occidental Mindoro Chapter issued a Resolution (No. 01-2003) recommending the exoneration of respondent from administrative liability. It stated that the suspension of respondent, who has served as Clerk of Court, Public Attorney and 3rd Assistant Provincial Prosecutor, would cause a great loss to the community; that respondent has shown integrity and moral uprightness in the performance of his official functions; that the acts imputed to him may be attributed to his "youthful indiscretion period"; and that respondent has mended his ways after taking his oath as member of the bar.[4]

The IBP, through Director for Bar Discipline, Rogelio Vinluan, gave its Comment dated August 15, 2003, stating that the motion for reconsideration should be denied until respondent admits the paternity of the child and agrees to support her.[5]

On August 17, 2003, complainant submitted her Comment stating that respondent's motion for reconsideration should be denied since respondent has not truly repented as he is still not supporting his child.[6]

On August 25, 2003, respondent's wife, Livelyn Castillo, submitted a handwritten letter stating that respondent is loving and ""maasikaso"" and while it is true that respondent had an affair with complainant, such was only because of human frailty. She claims that complainant threatened to file the present case after respondent ended their illicit affair. Complainant also used threat to compel respondent to sign the affidavit of acknowledgement and support. Livelyn further avers that respondent is the sole breadwinner of the family and that their family will be gravely affected by his suspension.[7]

On August 28, 2003, respondent filed a Reply to the Comment of the IBP stating that if the acts acknowledging and giving support to the child of the complainant are the proofs of his remorse, then he shall comply unconditionally.[8]

On September 23, 2003, the Court required complainant to file comment on Livelyn's letter.[9]

On January 13, 2004, complainant's counsel said that while he sympathizes with Livelyn and her children, respondent has not taken any move to support complainant and her child to repair the damage done to them.[10]

On March 3, 2005, respondent, in his Reply to complainant's Comment, reiterated his willingness to support the child if only to show his remorse. He attached a photocopy of post dated checks addressed to complainant for the months of March to December 2005 in the amount of P2,000.00 each.[11]

On March 4, 2005, Livelyn Castillo, sent another handwritten letter expressing that it is unfair for her and her three children that respondent had to support complainant's daughter when it is not clear who the child's father is. Livelyn argues that complainant should have filed a case for support where the paternity of the child could be determined and not use the present administrative case to get support from respondent.[12]

On April 11, 2005, Atty. Luzviminda Puno sent a letter to the Office of the Provincial Prosecutor of Occidental Mindoro, asking whether or not respondent is still connected with said office despite having been indefinitely suspended by this Court. It replied on May 10, 2005 that respondent is still connected with their office; that he has been regularly receiving his salary and benefits; and that this was the first time that they received communication concerning respondent's administrative case.[13]

Respondent gave his Comment dated May 9, 2005 stating that he continued to discharge his duties and received salary and benefits in connection therewith since he filed a timely motion for reconsideration thus the case has not yet attained finality.[14]

In view of respondent's show of repentance and active service to the community, the Court deems it just and reasonable to convert the penalty of indefinite suspension to a definite period of two years suspension.

WHEREFORE, respondent's motion for reconsideration is GRANTED. The indefinite suspension imposed on him by the Court in its Decision dated March 6, 2003 is REDUCED to TWO YEARS suspension effective from date of receipt of herein Resolution.

Complainant's further claim for support of her child should be addressed to the proper court in a proper case.

Let a copy of this Resolution be attached to Atty. Castillo's record in the Office of the Bar Confidant and a copy thereof be furnished the IBP, all courts throughout the country and the Department of Justice including the Office of the Provincial Prosecutor of Occidental Mindoro.

SO ORDERED.

Puno, Quisumbing, Sandoval-Gutierrez, Carpio, Austria-Martinez, Carpio Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, and Garcia, JJ., concur.

Davide, Jr., CJ., and Panganiban, JJ., join J. Santiago in her dissenting opinion.

Ynares-Santiago, J., see dissenting opinion.

[1] The fallo reads as follows:

ACCORDINGLY, in view of the foregoing, the Court finds respondent GUILTY of Gross Immoral Conduct and ordered to suffer INDEFINITE SUSPENSION from the practice of law.

Let a copy of this Decision be attached to Atty. Castillo's personal record in the Office of the Bar Confidant and a copy thereof be furnished the IBP and all courts throughout the country.

SO ORDERED.

[2] Rollo, pp. 154-175.

[3] Id., p. 145.

[4] Id., p. 192.

[5] Id., pp. 184-185.

[6] Id., p. 179.

[7] Rollo, pp. 147-150.

[8] Id., pp. 183-183a.

[9] Id., p. 177.

[10] Id., p. 218.

[11] Id., p. 231.

[12] Id., pp. 237-239.

[13] Id., p. 242.

[14] Id., p. 244.

DISSENTING OPINION

YNARES-SANTIAGO, J.:

For resolution is the Plea for Reconsideration[1] filed by Atty. Alfredo A. Castillo of the March 6, 2003 Decision[2] finding him guilty of Gross Immoral Conduct and suspending him indefinitely from the practice of law.

Atty. Castillo claimed that for the past years, he received commendations for exemplary performance and contributions to public service and that he and his wife have been active in church. His employment as Assistant Provincial Prosecutor of Occidental Mindoro is their only source of income and suspending him from the practice of law would affect his children. He insisted that the Court consider the sanctity of the family in imposing the penalty.

The IBP however prayed that the plea for reconsideration be denied because he had not really mended his ways since he continues and still fails to recognize and support his child.[3]

The Office of the Provincial Prosecutor of Occidental Mindoro informed this Court that Atty. Castillo continued to discharge his functions and had been regularly receiving his salary and other benefits despite being indefinitely suspended. According to Atty. Castillo, his indefinite suspension is not yet final in view of the pending motion for reconsideration.

The majority would grant Atty. Castillo's plea for reconsideration and reduce his penalty to two (2) years

suspension in view of respondent's "show of repentance and active service to the community."

With due respect, I beg to disagree.

In the March 6, 2003 Decision, the Court indefinitely suspended Atty. Castillo based on its finding that he was grossly immoral. He was also found to be unscrupulous because, after executing a notarized affidavit wherein he recognized and undertook to give support to his child with Zaguirre, and his incriminating handwritten letter where he bargained with Zaguirre concerning the monthly support of the child,[4] he subsequently denied his paternity and reneged on his promise to give support. The Court was appalled at the reprehensible and amoral attitude of Atty. Castillo when he justified his liaison with Zaguirre as merely the product of man's polygamous nature.

The Court suspended Atty. Castillo until such time that he is able to show, to the full satisfaction of the Court, that he had instilled in himself a firm conviction of maintaining moral integrity and uprightness required of every member of the profession.

I agree with the IBP's finding that Atty. Castillo has not mended his ways because he continues and still fails to recognize and support his child with complainant. He has not shown remorse for having maintained an affair with Zaguirre and fathering her child.

Admittedly, he received commendations for his exemplary performance and contributions to public service. Unlike the majority though, I hesitate to conclude that these commendations adequately proved respondent's repentance. Aside from the self-serving statement that "he has mended his ways and suffered so much because of the embarrassment, ridicules and dislikes brought about by this event, especially to his family",[5] there is absolutely no proof of respondent's remorse. Besides, a lawyer must not only be exemplary in his public life, but equally important, he must also be morally upright in his personal life.

I am distressed to note that in the pleadings submitted by respondent and his wife, they make it appear that they are the aggrieved party. Thus, they claimed that if we "prolong these agonies, it will not only add anguish and anxiety but also physical economic hardship upon the respondent and indirectly to his family which they already suffered and still suffering".[6]

It must be emphasized that to this date, respondent has not yet served his penalty. Aside from a short leave of absence, he continued to practice his profession and regularly received his salary and other benefits. So what economic hardship is he talking about?

As early as August 28, 2003, respondent admitted that acknowledging complainant's daughter and giving support remain his undertakings. He even volunteered to comply unconditionally if they are the required proofs of his remorse.[7] He professed that he did not disown his responsibility to give support.

If, indeed, respondent was so remorseful and willing to comply unconditionally with his own undertaking, why then did he wait until after the lapse of one (1) year and seven (7) months before attempting to give support to complainant's daughter. It was only on March 31, 2005, that respondent furnished us with photocopies of ten (10) postdated checks payable to Zaguirre at P2,000.00 each.[8] He failed to mention or offer a concrete or permanent settlement.

In his Plea for Reconsideration, Atty. Castillo also claims that:

The respondent is now living in peace and happiness with his family. The darkness of the past has been buried beneath the earth a long time ago.[9]

I am perplexed how Atty. Castillo can claim that he is now "living in peace and happiness with his family" while

complainant Zaguirre and her daughter are encountering hardships brought about by his non-support.

It is also revolting and ridiculous for respondent to remind this Court in his Plea for Reconsideration, that suspending him from the practice of law would affect his children and that we should consider the sanctity of the family in imposing the penalty. It must be mentioned, lest respondent has forgotten, that he was the one who undermined the sanctity of marriage and family when he maintained an illicit affair with another woman during the subsistence of his marriage. Respondent invokes the sanctity of marriage, yet his acts prove otherwise.[10] The moral delinquency that affect the fitness of a member of the bar to continue as such includes conduct that outrages the generally accepted moral standards of the community, conduct for instance, which makes a mockery of the inviolable social institution of marriage.[11]

Initially, the Court suspended Atty. Castillo until such time that he is able to show, to the full satisfaction of the Court, that he had instilled in himself a firm conviction of maintaining moral integrity and uprightness required of every member of the profession. To date, I find no evidence of remorse or sincere repentance of respondent. There is a dearth of evidence that he has instilled in himself a firm conviction of maintaining moral integrity and uprightness required of every member of the legal profession.

As held in *Delos Reyes v. Aznar*:[12]

It is the duty of a lawyer, whenever his moral character is put in issue, to satisfy this Court that he is a fit and proper person to enjoy continued membership in the Bar. He cannot dispense with nor downgrade the high and exacting moral standards of the law profession (*Go v. Candoy*, 21 SCRA 439 [1967]). As once pronounced by the Court:

"When his integrity is challenged by evidence, it is not enough that he denies the charges against him; he must meet the issue and overcome the evidence for the relator (*Legal and Judicial Ethics*, by Malcolm, p. 93) and show proofs that he still maintains the highest degree of morality and integrity, which at all times is expected of him. xxx In the case of *United States v. Tria*, 17 Phil. 303, Justice Moreland, speaking for the Court, said:

"An accused person sometimes owes a duty to himself if not to the State. If he does not perform that duty he may not always expect the State to perform it for him. If he fails to meet the obligation which he owes to himself, when to meet it is the easiest of easy things, he is hardy indeed if he demand and expect that same full and wide consideration which the State voluntarily gives to those who by reasonable effort seek to help themselves. This is particularly so when he not only declines to help himself but actively conceals from the State the very means by which it may assist him" (*Quingwa v. Puno*, 19 SCRA 439 [1967]).

ACCORDINGLY, I vote to deny Atty. Alfredo A. Castillo's Plea for Reconsideration. His INDEFINITE SUSPENSION must now immediately take effect.

[1] Rollo, pp. 154-159.

[2] *Id.* at 135-144.

[3] *Id.* at 184-185.

[4] The letter dated March 12, 1998 reads in part:

"Ayoko ng umabot tayo sa kung saan-saan pa. All your officemates, e.g., Ate Ging, Glo, Guy and others (say) that I am the look alike (sic) of your daughter.

Here's my bargain. I will help you in supporting your daughter, but I cannot promise fix amount for monthly support of your daughter. However it shall not be less than P500 but not more than P1,000.00."

[5] Rollo p. 158.

[6] Id.

[7] Id. at 183.

[8] Id. at 231.

[9] Id. at 158.

[10] *Narag v. Atty. Narag*, 353 Phil. 643, 663 [1998].

[11] Id.

[12] Adm. Case No. 1334, 28 November 1989, 179 SCRA 653, 658-659.

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