

FLORENCE TEVES MACARRUBO, THE MINORS JURIS ALEXIS T. MACARRUBO AND GABRIEL ENRICO T. MACARRUBO AS REPRESENTED BY THEIR MOTHER/GUARDIAN, FLORENCE TEVES MACARRUBO, COMPLAINANT, VS...

A.C. No. 6148 (CBD 00-734-A). February 27, 2004

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PER CURIAM:

Florence Teves Macarrubo (complainant), by herself and on behalf of her two children, filed on June 6, 2000 a verified complaint[1] for disbarment against Atty. Edmundo L. Macarubbo (respondent) with the Integrated Bar of the Philippines (IBP), docketed as CBD Case No. 00-734-A, alleging that respondent deceived her into marrying him despite his prior subsisting marriage with a certain Helen Esparza.

Detailing the circumstances surrounding respondent's complained act, complainant averred that he started courting her in April 1991, he representing himself as a bachelor; that they eventually contracted marriage which was celebrated on two occasions administered by Rev. Rogelio J. Bolivar, the first on December 18, 1991[2] in the latter's Manila office, and the second on December 28, 1991[3] at the Asian Institute of Tourism Hotel in Quezon City; and that although respondent admitted that he was married to Helen Esparza on June 16, 1982, he succeeded in convincing complainant, her family and friends that his previous marriage was void.

Complainant further averred that respondent entered into a third marriage with one Josephine T. Constantino; and that he abandoned complainant and their children without providing them any regular support up to the present time, leaving them in precarious living conditions.

Complainant submitted documentary evidence consisting of the marriage contract between respondent and Helen Esparza[4] and that between her and respondent,[5] and photographs[6] of their (complainant and respondent) nuptials and of captured moments in their life as a couple and a family.

Copy of the complaint could not be immediately served upon respondent owing to the difficulty of locating him.[7]

Complainant later filed a Manifestation[8] before the IBP, furnishing therein respondent's address where he supposedly resided with his third wife Jo T. Constantino-Macarubbo. The IBP Commission on Bar Discipline thereupon thrice[9] required respondent to file his Answer. He failed to do so, however, on motion of complainant,[10] he was declared in default.[11] Complainant was thus allowed to present evidence ex parte.

The IBP Investigating Commissioner came out with a Report and Recommendation on January 22, 2001.[12]

By Resolution of May 26, 2001,[13] however, the IBP Board of Governors remanded the case to the Investigating Commissioner to "ensure proper notice or another opportunity to serve notice to the respondent." Subsequently or on September 5, 2001, respondent filed a Manifestation/Ex Parte Motion to Re-Open Proceedings[14] which was granted.[15]

By Comment of October 18, 2001,[16] respondent denied employing deception in his marriage to complainant, insisting instead that complainant was fully aware of his prior subsisting marriage to Helen Esparza, but that she dragged him against his will to a “sham wedding” to protect her and her family’s reputation since she was then three-months pregnant.

Respondent submitted in evidence the final and executory October 30, 2000 Decision of Branch IV of the Regional Trial Court (RTC) of Tuguegarao City in Civil Case No. 5617, “Edmundo L. Macarubbo v. Florence J. Teves,”[17] declaring his marriage to complainant void ab initio. He drew attention to the trial court’s findings on the basis of his evidence which was not controverted, that the marriage was indeed “a sham and make believe” one, “vitiating by fraud, deceit, force and intimidation, and further exacerbated by the existence of a legal impediment” and want of a valid marriage license.

Respondent also submitted a certification from the National Statistics Office that complainant’s name does not appear in the National Index of Marriages for Bride;[18] another certification from the National Statistics Office-Office of Civil Registrar General that it has no record of the December 28, 1991 marriage of complainant and respondent;[19] and an attestation from the Office of the Municipal Civil Registrar of Bacoor, Cavite that Marriage License No. 772176221 which was used in complainant and respondent’s marriage is not on file in its records.[20]

Admitting having sired complainant’s two children, Juris Alexis and Gabriel Enrico, respondent denied ever abandoning them.

In his Supplemental Comment,[21] respondent claimed that he left complainant and their two children with her consent after explaining to her that the pain and shame of living in sin and ridicule was unbearable.

To refute the charge that he had abandoned complainant and their two children, he presented copies of fully paid educational plans[22] for the high school and college education of the children; a Philippine National Bank check dated January 18, 1999 for P22,556.33 representing his payment of the final amortization of his car which has been in complainant’s possession since 1997;[23] a copy of a petition of complainant in a civil case filed against respondent with the Quezon City RTC, for judicial authorization to sell certain properties of respondent, wherein she admitted that respondent issued three postdated checks in the amount of P2,000.00 each for his children’s allowance covering the period October 1999 to December 1999;[24] and copy of his August 9, 1999 letter to complainant demanding custody of his children, he having been barred from seeing them, as well as the return of his personal properties in complainant’s possession.[25]

To disprove that he is of depraved moral character, respondent submitted certifications from the Office of the Bar Confidant,[26] Office of the Ombudsman,[27] Department of Justice,[28] and the Philippine National Police in his hometown in Enrile, Cagayan[29] that he has no cases of any nature pending with them. And he too submitted letters from the Department of Interior and Local Government[30] and the Metro Manila Development Authority[31] addressed to him to show that he is a civic-spirited person.

Finally, respondent, in his Supplemental Comment, raised the additional defenses that the judicial decree of annulment of his marriage to complainant is *res judicata* upon the present administrative case; that complainant is in estoppel for admitting her status as mere live-in partner to respondent in her letter to Josephine T. Constantino;[32] and that she resorted to forum-shopping in bringing both this administrative action and the civil case with the Quezon City RTC.

Stressing that he had always been the victim in his marital relations, respondent invoked the final and executory August 21, 1998 Decision of Branch 158 of the Pasig City RTC in JDRC Case No. 4320, “Edmundo L.

Macarubbo v. Helen C. Esparza,”[33] declaring his first marriage void on the ground of his wife’s psychological incapacity.

After hearing during which both complainant and respondent took the witness stand, the Investigating Commissioner rendered a Report and Recommendation[34] the dispositive portion of which reads:

WHEREFORE, premises considered, it is recommended that respondent Atty. Edmundo L. Macarrubo be SUSPENDED FOR THREE MONTHS for gross misconduct reflecting unfavorably on the moral norms of the profession. Moreover, it must likewise be impressed on respondent that he should comply with the moral and legal obligations incumbent upon him as a father of the children as a result of his relationship with complainant. (Underscoring supplied)

The IBP Board of Governors subsequently passed Resolution No. XV-2003-351[35] which adopted and approved the Report and Recommendation of the Investigating Commissioner.

The final disposition of the present administrative case is now before this Court.

It appears that respondent began his legal career in 1986 as Legal Officer of the Department of Education, Culture and Sports after which he became Supervising Civil Service Attorney of the Civil Service Commission.[36] He later became an Ombudsman Graft Investigation Officer, then a State Prosecutor of the Department of Justice, before finally bowing out of public service after about 14 years or in July 2000 to engage in private practice.[37]

The rule that a lawyer may be disciplined or suspended for any misconduct, whether in his professional or private capacity, which shows him to be wanting in moral character, in honesty, in probity and good demeanor, thus rendering him unworthy to continue as an officer of the court[38] bears reiterating.

Upon the evidence on record, respondent is indeed guilty of gross misconduct in his private affairs which warrant disciplinary action by this Court as the guardian of the purity and integrity of the legal profession.

The incontrovertible facts show that while respondent had a subsisting marriage with Helen Esparza with whom he had two children,[39] he entered into a second marriage with complainant.

While the marriage between complainant and respondent has been annulled by final judgment, this does not cleanse his conduct of every tinge of impropriety. He and complainant started living as husband and wife in December 1991 when his first marriage was still subsisting, as it was only on August 21, 1998 that such first marriage was annulled, rendering him liable for concubinage.[40] Such conduct is inconsistent with the good moral character that is required for the continued right to practice law as a member of the Philippine bar.[41] It imports moral turpitude and is a public assault upon the basic social institution of marriage.[42]

Even assuming arguendo that respondent was coerced by complainant to marry her, the duress, by his own admission as the following transcript of his testimony reflects, ceased after their wedding day, respondent having freely cohabited with her and even begot a second child by her.

x x x

ATTY. PAGUIA [Complainant’s Counsel]

Q: Are you claiming that the complainant coerced you again to marry her?

A: Yes, I was.

Q: Did she use a gun to coerce you?

A: A lot of people appearing around and a lot of bad mouth from her, threats to sue me and to even kill me by people around.

Q: So insofar as you are concerned the complainant committed a crime of coercion against yourself?

A: Yes.

Q: And is it correct for me to say that you did not file any case before the Prosecutor's Office.

A: I reported that matter to the police.

COMMISSIONER CONCEPCION —

Q: In what way did M[s]. Florence Teves coerce you?

A: She placed me in a place where she could guard me and she treated (sic) to sue me, destroy my career. And at the time of the marriage she sent people to fetch me from my place to be there. And there are a lot of people with strange faces.

ATTY. PAGUIA —

Q: How many days or hours did this coercion last?

A: That's continuing.

Q: From what day to what day?

A: It's started when she said she was pregnant until the date of the alleged marriage.

Q: Can you tell the Honorable Commission who got her pregnant at that time?

A: Although there was a carnal knowledge once.

Q: Of course you know that the complainant delivered the child after your marriage, is it not?

A: Yes, six months after because she was already pregnant three months during that time already.

Q: Can you tell the Honorable Commission what is the name of the child was (sic)?

A: Juris. I recognized the children. There's no problem about that. I gave them educational plan, I gave them support.

Q: After the first child you continued living with the complainant, is it not?

A: Intermittently I get out and then she would call pagka't may sakit yong bata so I have to go back.

Q: Of course it was your responsibility as father to the child to see the condition of the child?

A: Yes, that's why whenever she comes and tells me that the child is sick I go there.

Q: After your wedding with the complainant can you tell the Honorable Commission where you resided?

COMMISSIONER CONCEPCION —

Q: When you say where you resided, both of them?

ATTY. PAGUIA: Yes, Your Honor.

A: In the residence of Florence.

ATTY. PAGUIA —

Q: How long did you live with the complainant after your wedding?

A: Intermittently again few months then I get out then when the child is sick I have to visit.

COMMISSIONER CONCEPCION —

Q: When you say intermittently you don't stay there?

A: Not permanently.

ATTY. PAGUIA —

Q: How often did you come home to the residence of the complainant?

A: Whenever she call that the child is sick.

Q: So you live (sic) with her up to what year?

A: Intermittently 1995.

Q: You mentioned that you have two children with the complainant?

A: Yes.

Q: Can you remember when your second child with the complainant was born?

A: I cannot remember.

Q: Do you know how old the second child with the complainant is?

A: I guess six or seven.

Q: What is his name?

A: Mico.

Q: Who provided the support for these children from the time they were born up to the present?

A: When I was there I gave for their subsistence.

Q: Will you please tell the Commission how much was that?

A: I buy groceries for them and I gave also for their leisure and for their education.

Q: When you gave this support during the intermittently that you had with them?

A: Intermittently also.

Q: Roughly, Compañero, can you tell the Honorable Commission from that time they were born to this time how much you were giving them?

A: I cannot compute.

COMMISSIONER CONCEPCION —

Q: What about on a monthly basis, do you recall?

A: I cannot compute although when I left with her consent in 1997 I left valuables in the amount of P400,000.00.

Q: When you say with her consent, did you tell her that you are leaving?

A: Yes, Your Honor, she agreed because I said I can no longer bear living with sin.

x x x[43] (Emphasis and underscoring supplied)

The saying that photographs do not lie could not be any truer in those submitted in evidence by complainant which show a typical happy family with respondent essaying out his role as a husband to complainant and a father to their two kids. Respondent cannot thus take refuge in the earlier mentioned finding in the decision of

Tuguegarao City trial court in the annulment case he filed against complainant. The decision, rendered in default of complainant, cannot serve as res judicata on the final resolution of the present case. As this Court held in *In re Almacen*,^[44] a disbarment case is sui generis for it is neither purely civil nor purely criminal but is rather an investigation by the Court into the conduct of its officers. Thus, if the acquittal of a lawyer in a criminal action is not determinative of an administrative case against him,^[45] or if an affidavit of withdrawal of a disbarment case does not affect its course,^[46] then the judgment of annulment of respondent's marriage does not also exonerate him from a wrongdoing actually committed. So long as the quantum of proof — clear preponderance of evidence — in disciplinary proceedings against members of the bar is met, then liability attaches.^[47]

The disturbing fact that respondent was able to secure the annulment of his first two marriages and is in the process of procuring the annulment of his third bears noting. Contrary to the finding of the Investigating Commissioner, respondent, by his own admission, contracted a third marriage:

x x x

ATTY. PAGUIA —

Q: After getting married to the complainant is it a fact that you entered into a third marriage to one Josephine Constantino?

A: I think that is . . .

Q:

I will reform, Your Honor. Do you know a person by the name of Josephine Constantino?

A: Yes

Q:

What relation if any do you have with her?

A:

I am separated to her since 2000.

COMMISSIONER CONCEPCION —

Q:

Were you married to Josephine Constantino?

A:

Yes, but it's in the process of annulment.

x x x^[48] (Emphasis and underscoring supplied)

In both his marriages to his first wife and to complainant, respondent claimed that he was made to enter into the marital union against his will. That claim is an affront to the intelligence of the members of this Court to distinguish fact from fiction, reality from fantasy. It is not easy to believe that a lawyer like respondent could easily be cowed to enter into any marriage. One incident of a “shotgun marriage” is believable, but two such in succession would tax one’s credulity. And then, there is a third marriage to Josephine T. Constantino which is again the subject of another annulment case. It would not come as a surprise if in that pending case, he would again put blame on his third wife in order to send the marriage to oblivion.

Respondent here has exhibited the vice of entering into multiple marriages and then leaving them behind by the mere expedient of resorting to legal remedies to sever them. The impact of respondent’s conduct is incalculable upon his ex-wives as well as the children he had by them, their lives having been dislocated beyond recall.

Respondent’s assertion that he has not failed to support his children by complainant is not totally supported by the evidence on record. He may have secured educational plans for them and doled out some sums of money in the past, but it appears that he has failed to provide them regular, monthly support. In fact, he admitted that even before he left complainant’s residence in 1995, he was only giving intermittent support to his children with her.[49]

Such pattern of misconduct by respondent undermines the institutions of marriage and family, institutions that this society looks to for the rearing of our children, for the development of values essential to the survival and well-being of our communities, and for the strengthening of our nation as a whole. This must be checked if not stopped.

As officers of the court, lawyers must not only in fact be of good moral character but must also be perceived to be of good moral character and must lead a life in accordance with the highest moral standards of the community.[50] The moral delinquency that affects the fitness of a member of the bar to continue as such, including that which makes a mockery of the inviolable social institution of marriage,[51] outrages the generally accepted moral standards of the community.

In sum, respondent has breached the following precepts of the Code of Professional Responsibility:

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

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.

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.

There can then be no other fate that awaits respondent, as a consequence of his grossly immoral conduct, than to be disbarred or suspended from the practice of law.[52] The penalty of 3 months suspension recommended by the IBP is, not commensurate to the gravity of his conduct.

WHEREFORE, respondent Edmundo L. Macarubbo is found guilty of gross immorality and is hereby DISBARRED from the practice of law. He is likewise ORDERED to show satisfactory evidence to the IBP Commission on Bar Discipline and to this Court that he is supporting or has made provisions for the regular support of his two children by complainant.[53]

Let respondent’s name be stricken off the Roll of Attorneys.

SO ORDERED.

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

Puno, J., on leave.

[1] Exhibit “B,” Rollo, Vol. 1 at 34-38.

[2] Exhibit “D,” Rollo, Vol. 1 at 40.

[3] Exhibit “E,” id at 41.

[4] Exhibit “C,” id at 39.

[5] Exhibits “D” and “E,” id. at 40-41.

[6] Id. at 42-55.

[7] Vide complainant’s letter to the IBP’s Commission on Bar Discipline describing the circumstances behind the inability to serve the administrative complaint upon respondent at Rollo, Vol. 1 at 10-11.

[8] Id. at 18-19.

[9] Id. at 13-14 and 17.

[10] Id. at 26.

[11] Id. at 28.

[12] Investigating Commissioner’s Report and Recommendation, Rollo, Vol. 3 at 3.

[13] Rollo, Vol. 1 at 56.

[14] Id. at 58-60.

[15] Vide October 12, 2001 Order by the Investigating Commissioner, Rollo, Vol. 1, at 89.

[16] Rollo, Vol. 1 at 90.

[17] Rollo, Vol. 2 at 34-37.

[18] Exhibit “16,” Rollo, Vol. 2 at p. 38.

[19] Exhibit “17,” id at 39.

[20] Exhibit “18,” id. at 40.

[21] Rollo, Vol. 1 at 108-112.

[22] Exhibits “9,” “9-c,” “9-f,” “9-I,” Rollo, Vol. 2 at 16, 19, 22 and 25.

[23] Exhibit “10,” id. at 28.

[24] Exhibit “11,” id. at 29.

[25] Exhibit “12,” id. at 30-31.

[26] Exhibit “1,” Rollo, Vol. 2, at 7.

- [27] Exhibit “3,” id. at 9.
- [28] Exhibit “4,” id. at 10.
- [29] Exhibit “6,” id. at 12.
- [30] Exhibit “7,” id. at 13-14.
- [31] Exhibit “8,” id. at 15.
- [32] Exhibit “13,” id. at 32.
- [33] Exhibit “19,” id. at 42-46.
- [34] Investigating Commissioner’s Report and Recommendation, Rollo, Vol. 3 at 9.
- [35] Notice of Resolution, Rollo, Vol. 3.
- [36] Exhibit “5,” Rollo, Vol. 2 at 11.
- [37] Rollo, Vol. 1 at 119.
- [38] *Ducat, Jr. v. Villalon, Jr.*, 337 SCRA 622 [2000].
- [39] TSN, February 15, 2002 at 18.
- [40] Vide Revised Penal Code, Article 334 where concubinage is committed also by a husband who cohabits with a woman who is not his wife in any other place.
- [41] *Laguitan v. Tinio*, 179 SCRA 837 [1989].
- [42] *Supra*.
- [43] TSN, February 15, 2002 at 32-43.
- [44] 31 Phil. 562 [1970].
- [45] *Calub v. Suller*, 323 SCRA 556 [2000].
- [46] *Rayos-Ombac v. Rayos*, 285 SCRA 93 [1998].
- [47] *Pimentel, Jr. v. Llorente*, 339 SCRA 154 [2000].
- [48] TSN, February 15, 2002 at 45-46.
- [49] TSN, February 15, 2002 at 42.
- [50] *Brientos v. Daarol*, 218 SCRA 30 [1993].
- [51] *Cordova v. Cordova*, 179 SCRA 680, 683 [1989].
- [52] RULES OF COURT, Rule 138, Section 27.
- [53] Vide *Laguitan v. Tinio*, *supra*.

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