

EVANGELINE ARGAÑOZA, COMPLAINANT, VS. BENITO P. TUBACES, RESPONDENT.*Adm. Case No. 510. September 30, 1971*

Ponente: FERNANDO, J.

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Complainant Evangeline Argañoza sent a telegram to this Court on April 7, 1970 requesting that "the oath-taking of Atty. Benito P. Tubaces be held in abeyance." It was therein further stated that the reason relied upon was immorality and that a letter would follow. Subsequently, four days later, a letter duly subscribed and sworn by the complainant was received by this Court. It was therein alleged: "In 1966, I agreed to live with Benito who was then a sophomore student in Cebu and we had a child. Per his request, I left with our kid in July 1967 so he can muster the usual financial support from his parents. As agreed I sacrificed almost two years of painful seclusion although, I received constant communication from him as he likewise did from me. We saw each other again in 1968 when he came to Manila for his review and participation in the bar examinations. In November of the same year, however, he returned to his home province, leaving me and the kid behind giving flimsy excuse the uncertainty of his passing in the exams." [1] The next paragraph of such letter was worded thus: "He did flunk in the first exam and having decided to take the next, he further requested me to stop communicating with me until the examination was over. I wrote him several letters immediately after especially when I delivered our second baby but I constantly faced a blank wall. This never put me off, though. Instead, my eagerness to hear from him kept on mounting until that eventful day came the - release of the results of the bar examinations. He made the grade this time and I was no more glad than my folks. We sent him two congratulatory messages and again we were disappointed to hear no word from him." [2] This Court was likewise informed therein that they met accidentally, on which occasion she tried to convince him that they should live together but instead of agreeing, his proposal was just to get the two children to live with him and for them to separate for good. [3] She would plead then that "he be barred from membership in the Philippine Bar."

This Court, on April 16, 1970, resolved: " * * (a) to note the contents of the telegram of Evangeline Argañoza requesting that the oath-taking of Benito P. Tubaces be withheld on the ground of immorality; (b) to require that a copy of the letter of Evangeline Argañoza be sent to Benito P. Tubaces; and (c) to require respondent Tubaces to answer said letter-complaint, within 10 days from notice hereof." [4] Instead of answering, respondent Benito P. Tubaces waited until August 26, 1970 when he filed a petition alleging that complainant was retracting or withdrawing her complaint and that therefore he should be allowed to take the lawyer's oath. Enclosed in such petition is a letter signed Evangeline Argañoza where, after referring to the complaint filed by her against respondent, there was this declaration of retraction or withdrawal. Thus: "Without pressure nor influence exerted upon me, I voluntarily, irrevocably, and unconditionally retract or withdraw the said complaint on the ground that we have applied and was granted a marriage license having agreed to get married on December of this year. The marriage license was issued on the 21st day of August, 1970 by the Quezon City Civil Registrar." [5]

Then came the resolution of this Court of August 31, 1970 to the following effect: "Complainant is required to

comment, within 10 days from notice hereof, on the petition of the respondent with the latter's affidavit attached thereto, praying that he be allowed to take the lawyer's oath in view of the complainant's withdrawal of her complaint." [6] The reply of complainant was received on September 21, 1970. It was stated therein: "In reply thereto, I am hereby informing your good office that I am objecting to said lawyer's oath-taking of Mr. Benito P. Tubaces on grounds of immorality on one hand and deceit on the other. Accordingly, I hereby request that my letter dated August 26, 1970 to your Office be withdrawn and considered without force and effect. Evidently, I am reviving my complaint against Mr. Benito P. Tubaces on grounds of immorality because of his refusal, upon my request, to put in writing the fulfillment of his promise to marry me not later than December 21, 1971." [7] This Court, however, on September 28, 1970, considering the petition of respondent Tubaces praying that he be allowed to take the lawyer's oath in view of the withdrawal of the complaint filed against him and the comment therein, denied the petition, respondent being further required to file an answer on the charges lodged against him ten days from notice. There was a motion for the reconsideration of the above action taken by this Court filed by respondent on October 21, 1970, wherein he justified his failure to file an answer thus: "The petitioner, in view of the retraction or withdrawal of complainant, felt it needless to file his answer to her complaint as required by the resolution of this Court as there is no more to answer for the complaint was withdrawn and instead file this motion for reconsideration which filing is delayed because of the honest and innocent belief that the letter of withdrawal or retraction is already sufficient and will serve as petition of the undersigned to take the oath of attorney." [8] The prayer in such motion for reconsideration was a reiteration of his plea that he be allowed to take the oath of an attorney. The above motion for reconsideration was referred to complainant for comment in a resolution of October 26, 1970. The comment came on November 16, 1970, complainant "retracting or withdrawing [her] complaint against Mr. Tubaces on the reasons stated in [her] letter of withdrawal and [interposing] no objection to his oath-taking in the earliest time possible, as prayed for in his motion." [9]

Both complainant and respondent were required by resolution of this Court of November 18, 1970 to appear personally before it on December 16, 1970. Both complainant and respondent duly appeared and informed the Court that they had settled their differences and were intending to get married. Five days later, on December 21, 1970, in a pleading filed with this Court by respondent, there was an allegation of such marriage having taken place on December 18, 1970 with City Judge Oscar A. Inocentes of Quezon City having performed the ceremony, a photostat copy of the marriage contract accompanying such manifestation. To satisfy itself, this Court resolved, on January 5, 1971, to require that both complainant and respondent appear before it on Monday, February 22, 1971. At such a date, the parties appeared before this Court with the additional information that they intended to get married in a religious ceremony, such a marriage to take place on March 1, 1971 in the Immaculate Conception Parish Church with Rev. Fr. Emilio Castro officiating. A photostat copy of the marriage contract was submitted by complainant and respondent in an urgent joint motion praying that the respondent be allowed to take the oath of attorney, filed with this Court on March 3, 1971. Included in such motion is a photostat copy of the marriage contract resulting from the religious ceremony.

This Court takes due cognizance that respondent Benito P. Tubaces appears to have mended his ways and that a satisfactorily long period had elapsed from the time the results of the 1969 bar examinations were announced on March 5, 1970. Under the circumstances, it is of the opinion that his plea to be allowed to take the lawyer's oath may be favorably acted on. Respondent is admonished to be duly mindful of the standard of rectitude to which a member of the bar is expected to live up to. The delay in his being duly admitted to the practice of his profession, a matter traceable solely to his far-from-exemplary conduct, ought to admonish him to observe with fidelity its canons of behavior. He must by this time be fully cognizant that a failure to do so would be sufficient cause for the appropriate disciplinary action.

WHEREFORE, the urgent joint motion of March 3, 1971, praying that respondent Tubaces be allowed to take the

lawyer's oath, is granted.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

[1] Letter of Complainant dated April 8, 1970.

[2] Ibid.

[3] Ibid.

[4] Resolution dated April 16, 1970.

[5] Letter of Complainant dated August 26, 1970.

[6] Resolution dated August 31, 1970.

[7] Letter of Complainant dated September 19, 1970.

[8] Motion for Reconsideration dated October 21, 1970.

[9] Letter of Complainant dated November 16, 1970.

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